

DET KONGELIGE DEPARTEMENT
FOR HANDEL, SJØFART, INDUSTRI, HÅNDVERK OG FISKERI

NORGES SVALBARD- OG ISHAVS-UNDERSØKELSER
LEDER: ADOLF HOEL

SKRIFTER OM SVALBARD OG ISHAVET

Nr. 36

GUSTAV SMEDAL

ACQUISITION OF SOVEREIGNTY
OVER POLAR AREAS



OSLO
I KOMMISJON HOS JACOB DYBWAD
1931

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Translated from Norwegian by

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Introduction.

To define the conception of Polar Regions in such a manner that no objection can be raised is a very difficult task; nor shall we attempt to do so; for our presentment of the question does not require us to find a definition that would be acceptable to all. It is sufficient to make clear the sense in which the conception will be applied in this book.

It should be mentioned at once that many attempts have been made to define this conception.¹ At first glance the polar circles would seem to give a good clue to the solution of the question. It should, however, be noted that these circles are astronomical lines, giving no exact guide to climatic conditions. To the north of the northern polar circle there are several regions having a temperate climate, and between both polar circles there are many regions with a polar climate. Those who have essayed to define the polar regions have also laid decisive stress on the limits of floating ice, the areas between the Poles and these limits being the polar regions. Against this definition, which is particularly unsatisfactory as regards the Arctic regions, various objections have been raised; we shall, however, not enter upon them here.

In defining the polar regions we will adhere to the theory put forward by the English geographer, Rudmose Brown². He points out that it is a peculiarity of these regions that they are either completely treeless or, at any rate, devoid of what may be called a close tree growth. The areas in the northern hemisphere lying to the north of the limit of timber, and the areas in the southern hemisphere lying to the south of that limit, are therefore the polar regions.

If we build on this definition we find that the northern polar region includes Novaya Zemlya, Franz Josef Land, Svalbard, Greenland, and the other islands of the Arctic Ocean; also Labrador, Northern Canada and Alaska, the northern coasts of Siberia and Europe with the White Sea as the western boundary. The southern polar region includes the Antarctic Continent and adjacent islands, such as Graham Land, the

¹ Rudmose Brown, 1927, p. 1—4.

² Rudmose Brown, 1927, p. 2.

South Shetlands, South Orkneys, South Georgia and South Sandwich, Bouvet, the Crozets, Kerguelen, Macquarie, and Peter I. Island.

For the present purpose we shall adopt this delimitation of the polar regions with one exception; that is to say, we shall exclude from the northern polar region the American, Asiatic, and European Continents.

In the distribution of sea and land there is a considerable contrast between the north and the south polar regions. The predominant feature of the latter is the great masses of land, most likely forming an unbroken continent, Antarctica, surrounded by the ocean on all sides. The size of this continent cannot be stated quite accurately, because vast parts of its coasts are not yet known. It is, however, quite clear that its land area is so enormous as to justify the application of the term continent. It is supposed that Antarctica is as large as Europe and Australia put together¹. The principal feature of the northern polar region is the vast ice-covered ocean girdled by continental land. In the north this ocean covers about the same space as does Antarctica in the south. The extent of the Arctic Ocean does not differ much from that of Antarctica².

From a legal point of view it is significant that the polar areas are, to a great extent, still *terra nullius*, and that they are either uninhabited or have only a scanty population. The fact that they are covered by ice to a considerable extent raises certain questions of a legal character, as we shall see later on.

Interest in the Arctic and Antarctic regions has for years been increasing. There are several reasons for this. First and foremost, attention has been directed to the economic importance of these regions. In particular, the Norwegian whaling operations in the Antarctic have attracted attention to the value of the Antarctic regions. At the same time a craving for acquisition of land in these parts of the world has arisen. A State securing land gives its subjects a safe basis for their hunting industry. In that way such a State will also frequently be able to control hunting operations and render them dependent upon licences and dues collected by itself. The British policy in Antarctic waters gives the best illustration of this.

Lately, the opinion has frequently been expressed that Antarctica contains valuable metals and minerals. This question has been discussed particularly in connection with the Australian expedition to Antarctica under the leadership of Sir Douglas Mawson (1929—30), and British, and especially American, newspapers have written a great deal about

¹ Gordon Hayes, 1928, p. 6—7.

² Rudmose Brown, 1927, p. 4 and 64.

it¹. Mr. Bruce, the Prime Minister of Australia, stated in a communication to the Australian Parliament on the 21st February 1929, relating to this expedition, which was working mostly between Ross Sea and Enderby Land, that one of the objects of the expedition was to investigate with regard to the economic resources of this area².

The Arctic regions, too, are of importance as hunting grounds. For the time being their prime value attaches to the sealing industry. Off the west coast of Greenland, and on the banks around Björnöya (Bear Island), unusually big catches of cod and halibut have recently been made, on a scale sufficient to attract international attention. On several Arctic islands fur-bearing animals are being hunted on a remunerative scale. Minerals and metals occur at several places in these regions. By way of example we may mention the coal deposits in Svalbard and the cryolite mines at Ivigtut in Western Greenland. From Canada information has been received that great hopes are being entertained of the exploitation of the occurrences of minerals on the islands north of Canada³.

The polar regions have gained a new significance through the development of aerial navigation. Plans have been worked out for establishing a permanent trans-Arctic air route from Europe and North America to Japan and China. Mr. W. Bruns, a German, proposed in 1919 to establish an aerial route from Amsterdam—Copenhagen—Leningrad—Archangel—the Arctic—Nome and to Unimak in the Aleutian Islands. From thence the route would continue either to San Francisco or to Yokohama. By choosing this route the travelling time would be brought down to one third of what it otherwise would be. The Russian Professor Breitfuss writes about this:

“The time has now arrived when the ancient dream of seafarers to voyage from Europe to China and India via the North Pole can be fulfilled. The only difference is that the journey will be made in another element and at a much higher speed”⁴.

Another scheme frequently discussed is to run one of the future air-routes between Europe and America across Greenland.

In most of what is now being written about polar conditions the mention of aviation and aviation schemes plays a considerable rôle.

¹ In this connection the Norwegian „Norvegia“-Expedition to Antarctica 1929—30, has also been mentioned. This expedition discovered a new territory between Kemp Land and Enderby Land, where the Norwegian flag was hoisted in 66° 33' S and 50° 40' E. New land was, as far as is known, also discovered from about 8° W to Coats Land.

² Australian Expedition, 1929.

³ Craig, 1923, p. 10 and p. 26—27; cp. Stefansson, 1928, p. 224—26.

⁴ Breitfuss, 1928, p. 24.

It may be that the importance of aviation in these regions is exaggerated¹.

However, it is certain that the acquisition of polar territory — with a view to utilizing it as bases for future air services — is very much to the fore².

Besides practical interests, also those of a scientific nature are connected with the polar regions. We need only mention that weather conditions in the temperate zone of the northern hemisphere are influenced by the meteorological conditions in the different parts of the Arctic regions. It has therefore been said that the programme of the future must be to “watch meteorological conditions and their alterations in Arctic regions by means of a wide network of stations capable of sending their daily observations by wireless to the centrals of the weather forecast service in our latitudes”³.

In the southern hemisphere similar conditions prevail. One of the objects of the above-mentioned Australian expedition is to throw more light upon the connection between the weather in Antarctica and the climatic conditions in Australia⁴.

The year 1932—33 will be a so-called international polar year, when scientists from the various countries will simultaneously investigate the geo-physical, including also the climatic, conditions in both polar regions.

A third independent cause of the increasing interest in polar regions may be mentioned. Here we find the only large land areas which are still No-man’s-land (*terra nullius*). The desire which exists in all strong political communities to extend their territories can be satisfied here. As these areas are, to great extent, not yet explored, expectations — not infrequently exaggerated — will easily be associated with them, which will further stimulate the desire for expansion.

Interest in the polar regions, whether it be due to practical or to scientific reasons, has during the last 25 years manifested itself politically very strongly. Thus, it may be mentioned that Denmark claims the whole of Greenland, although she has only taken possession of a comparatively small part of that enormous country. Canada holds that, on account of her geographical position, she has a right to the whole archipelago between her northern coast and the North Pole. Russia claims on the same basis all territories and islands between her Arctic coasts and the Pole. In Antarctica the British Empire has raised claims which, if justified, would make a material part of that continent a British dependency. We must go right back to the time of the great discoveries

¹ Cp. Pochhammer, 1928, p. 4—5.

² Lakthine, 1928, p. 6—16.

³ Fridtjof Nansen, *Utforskningen av Arktis*, „Tidens Tegn”, 10th December 1929.

⁴ Australian Expedition, 1929; cp. Taylor, 1928, p. 285—99.

in the fifteenth and sixteenth centuries to find claims which can be compared in extent with those being made nowadays in Arctic and Antarctic regions. We must, perhaps, also revert to that period to find claims as badly founded, although it must be admitted that examples of poorly substantiated territorial pretensions have not been lacking since those days.

It is obvious that this increased polar interest with its manifestations has been, and will be, a cause of conflicts or disagreements between different States as regards the polar territories. In Arctic regions there is, for instance, the dispute between Denmark and Norway about certain parts of Greenland, particularly East Greenland. The endeavours of Russia to appropriate Franz Josef Land may lead to a dispute with Norway, because Norwegian hunters, who discovered this archipelago, have hitherto been practically alone in exploiting it economically. From 1916 to 1924 there was a dispute between Russia and Great Britain about the sovereignty of Wrangel Island. This dispute, which reached an acute stage, ended in Great Britain relinquishing her claim to the island. On the other hand the United States, which is also interested in Wrangel Island, does not appear to have waived its claim¹. There are signs that a disagreement may arise also between the United States and Russia about Herald Island lying close by².

In the Antarctic regions, too, there are disputes. There is, for instance, a difference of opinion between Australia and France about the title to that part of the Antarctic Continent called Adélie Land³. In 1928, there was a dispute between Norway and Great Britain about Bouvet Island, with the result that Great Britain recognized the sovereignty of Norway. There is, however, no agreement between the two States as to areas in Antarctica discovered and taken possession of by Roald Amundsen on his expedition in 1910—12. It looks as if Argentina will claim the South Orkneys and that portion of Antarctica lying to the south of its territory⁴. If that happens Argentina will enter into a conflict with Great Britain, who regards these areas as part of the Falkland Islands Dependencies.

However, the most serious disagreements will apparently arise between the United States and Great Britain. On the occasion of Admiral Byrd's expedition, Great Britain sent a note to the United States on November 17, 1928, in which *inter alia* the expedition was offered every possible assistance in the event of its making use of British possessions in Antarctica. The British Government pointed out at the

¹ Wrangel Island, 1923, p. 440—44; Miller, 1925, p. 53, and 1928, p. 241; Lindley, 1926, p. 5; Lakhtine, 1928, p. 26—27, and p. 29—30; Keith, 1928, p. 335.

² Lakhtine, 1928, p. 30.

³ Lindley, 1926, p. 5; Rabot, 1928, p. 389; Charteris, 1929, p. 226—27.

⁴ "The Star", London, and "Evening News", London, 8th April 1929; Joerg, 1930, p. 36.

same time what these possessions were¹. The United States originally intended to contest the British claims of sovereignty in its reply. In view of the Naval Conference in London in 1930, however, the moment for doing so was not considered favourable. In its reply dated 15th November 1929, the United States merely acknowledged receipt of the British note and reserved the privilege of exchanging opinions at a later date². It may safely be assumed that the United States will then take up the questions on an entirely fundamental basis and call attention to the conditions which, in its opinion, must be fulfilled in order that the occupation of polar areas may be considered legally valid.

Most of the above-mentioned disputes concern the question of sovereignty. By sovereignty over a territory is meant the authority of the State to have control of, or to rule over, the territory and the persons and objects present there. Within the territory the State exercises its legislative power, its administration of justice, and its administrative authority. As a rule it has also the right to oppose the authority of foreign States on the territory³. The State has to a considerable degree the right to control access to the territory⁴, and it generally, has the right to reserve to itself and its citizens the use and exploitation of it. The control of the territorial sea is somewhat less comprehensive. Thus, foreign merchant ships have the right of innocent passage through it⁵.

The right conferred by territorial sovereignty, however, carries with it an obligation, namely the obligation to protect within the territory the rights of other States, and rights which citizens of these States may have there.

Sovereignty can only be exercised by a State, not by private persons or companies, *e. g.* colonization companies. This fact has not always been clearly recognized⁶. Colonists may, however, form their own State, and this State can then exercise sovereignty.

In former times sovereignty over a territory was frequently confused with right of dominion over it; and this confusion is sometimes still met with. These rights have, however, nothing to do with each

¹ "Evening News", London, 5th April, 1929; "Daily Dispatch", Manchester; "The Scotsman", Edinburgh; "Daily Herald", London, and "Daily News", London, 6th April 1929.

² "Post", Washington, D. C.; "Times", New York City, and "Sun", Baltimore, 29th November 1929; "United States Daily", Washington, D. C. 30th November 1929; Joerg, 1930. p. 35.

³ *Cp. v. Verdross*, 1925, p. 605.

⁴ *Cp. v. Liszt*, 1925, p. 126—27.

⁵ *Cp. Conférence pour la Codification du Droit International*, 1929, p. 71 and 75; Ræstad, 1930.

⁶ Heimburger, 1888, p. 44—77; Salomon, 1889, p. 163—88; Ræstad, 1925, p. 128.

other. As just mentioned, sovereignty is the right of the State to control or rule the territory. It is not necessary for the State to own land property; but this is not infrequently the case, and the State is then the landed proprietor in the same ways as are municipalities, companies, and private persons. A State may also own real property within the territory of another State¹.

Sovereignty over a territory may be acquired in different ways. Thus, an area already subject to sovereignty may be transferred by treaty. In such cases it has been said that the sovereignty is made over by one State to the other. This is not correct. A State always exercises solely its own sovereignty. In such a case the sovereignty has given way to a new right of sovereignty, but it has not been transferred².

An illustration of the acquisition of sovereignty by treaty is the passing over of Alaska from Russia to the United States in 1867. The compensation was 7 200 000 dollars. Mr. Seward, the American Secretary of State, carried the matter through in spite of the gibes of his countrymen. They did not understand why their government wanted this desert of earth and stone³. As all the world knows, Alaska has proved to be a most valuable land. In American quarters it has recently been stated, in connection with the discussions on the importance of Antarctica, that up to the end of 1928 the value of the production of gold, silver, and copper in Alaska was 630,731,014 dollars⁴.

Sovereignty may also be acquired over areas which are No-man's-land. It may, for instance, be effected by all the Powers interested agreeing that an area shall belong to one of the claimants. Such was the case with the Svalbard group of islands⁵. Cp. the Svalbard Treaty of 9th February 1920, especially Articles 1 and 10. The interested Powers recognized the sovereignty of Norway. Russia, who at that time had no opportunity of ratifying the treaty, has since declared that she recognizes the sovereignty of Norway.

The most important way in which sovereignty may be acquired over No-man's-land is by occupation. The principles applying to occupation are found in international law. Very few of them have been determined by convention. Most of them are to be found in the customary law of the community of nations. Customary law is used here in the

¹ Bluntschli, 1878, Sec. 277; Westlake, 1910, p. 86—89.

² Schätzel, 1924, p. 366.

³ Fleischmann, 1924, p. 22—23; A Hearing on House Resolution 149, Contemplated Flight of the "Shenandoah" to the North Polar Regions. Committee on Naval Affairs, House of Representatives, Washington, 1924, p. 452.

⁴ "Times", New York City, 22nd June 1929.

⁵ Wheaton, 1929, p. 338.

sense of all the legal convictions prevailing in the community of nations and having no title in treaties¹.

The doctrine of occupation raises many difficult questions, and it cannot be denied that it would have been an advantage if the principles had been laid down by treaty to a greater extent than is now the case. For instance, difficulties may be involved in ascertaining what is customary law in any particular case. One difficulty arises because States are apt to make more rigorous demands upon other States than they make upon themselves in cases where certain conditions have to be fulfilled². To some extent it may also be said that international law lacks definite rules for the solution of various questions arising in the case of occupation. With regard to polar lands the opinion has been argued that there are grounds for making allowances in the requirements which are otherwise made in the case of occupation in order that it shall hold good against foreign States.

Of the different ways in which sovereignty may be acquired over polar lands only the most important will be dealt with here *viz.*: Occupation. We would at once point out that, in our opinion, it is, broadly speaking, not the case that other rules than those applying to occupation in other parts of the world apply to occupation in polar regions. When the rules are to be applied in polar regions, however, questions of a special nature may arise. Our aim is to give a brief account of the general rules of occupation, laying particular stress upon the questions arising in connection with occupation in polar regions. Questions of minor importance to occupation of polar lands will either be mentioned in passing or left out altogether.

The problems of occupation will be dealt with in the first part of the book. In the second part an account is given of the so-called Sector Principle, which plays a prominent part in modern polar policy. In the third and last part the problem of East Greenland is considered. The international rules of occupation are there applied to a dispute still pending.

¹ Gjelsvik, 1915, p. 47—48.

² Cp. Wheaton, 1929, p. VIII.

Occupation.

A short historical review.

It was the great discoveries in the fourteenth and fifteenth centuries which confronted mankind with the problem of occupation. What action was necessary in order to acquire and support sovereignty in No-man's-land?

On account of the existing doubt and uncertainty Papacy came to play a prominent part. The Pope asserted the doctrine that the whole earth was the property of God, and that mankind only held it in usufruct. The Pope, being the representative of God, had the right of disposal of those parts of the globe which had not yet been taken possession of. His authority for so doing was also based on the pretension that it was his right and duty to attend to the conversion of the heathen¹. The Pope, who considered himself Sovereign of all land areas which were not ruled by Christian princes, conferred sovereignty by bull on whomever he pleased. In point of fact, sovereignty was conferred on the State whose subjects had made the discovery. Thus, on the 13th November 1344, Pope Clement VI conferred on Spain sovereignty over the Canary Islands, which had been discovered half a century earlier by Spanish navigators².

Sovereignty was, however, dispensed in this way not only over land already discovered. By a bull of 8th January 1454, Nicholas V, conferred upon the King of Portugal all the areas which had been discovered, or which in future might be discovered, on the west coast of Africa. The subjects of other States were forbidden, not only to enter these areas, but also to navigate in the ocean which surrounded them³. The most famous of these bulls was that issued by Alexander VI on the 4th May 1493 on the return of Columbus from his first voyage. The Pope conferred on the King of Spain and his descendants all lands lying to the west of an ideal line drawn from the North Pole to the South Pole, passing 100 leagues to the west of the Azores. The

¹ Goebel, 1927, p. 49—50.

² Salomon, 1889, p. 33—34.

³ Westlake, 1910, p. 96—97; Goebel, 1927, p. 51.

gift included the regions already discovered, as well as those not yet known. An exception was made only in respect of such lands as might have been seized by any other Christian prince prior to Christmas Day, 1492. The subjects of other States were not allowed to enter the domain of the King of Spain without special permission. The areas lying to the east of the said line belonged to Portugal. In this way the bull of 4th May 1493 divided the then known colonial world between Portugal and Spain¹.

The papal bulls may seem more irrational to-day than was the case when they were issued. At that time legal rules of occupation did not exist, and the need for obtaining peace and security when important discoveries had been made was gratified by the papal decisions, which in the beginning were respected. It could not be denied, however, that Portugal and Spain were being invidiously favoured. Before the end of the fifteenth century objections were made against the authority of the Pope in these questions. In the letters-patent granted by King Henry VII of England to Cabot, or rather CABOTO, and his sons on the 5th May 1496, they were commissioned to sail in eastern, western, and northern waters and to endeavour to discover all islands and lands belonging to heathen and infidel nations and "which were unknown to all Christians before this time". By this it was manifested that no regard was taken of the bulls, and that the rights acquired by the Portuguese and the Spaniards by their discoveries should be respected². It was principally the Protestant Powers which permitted themselves to dispute the right of the Pope; but also Catholic princes who had not been favoured with papal gifts were discontented. The King of France, Francis I, requested to be shown the will of Adam which deprived him of the right to acquire land in the New World³.

It may be said that from the sixteenth century a new view on these matters began to prevail. It was no longer the papal bulls, but discovery, to which importance was attached. Opinions differ as to what rights discovery gave⁴. The general opinion is that discovery under certain conditions could be taken as a basis of sovereignty.

Stress was laid on the date of the discovery, for it behoved the claimant to be the first in the field. Further, the discovery had to be made by a person who was authorized by a government to make discoveries, although it was not necessary for the authorized person to be

¹ Vattel, 1758, Volume I, Sec. 208; Bluntschli, 1878, p. 169; Phillimore, 1879, p. 332; Salomon, 1889, p. 35—38; Westlake, 1910, p. 96—97; Goebel, 1927, p. 52—53.

² Westlake, 1910, p. 97.

³ Fauchille, 1925, p. 687.

⁴ See Visscher, 1929, p. 741—42 and p. 753.

a subject of the State on behalf of which he acted¹. Caboto, for instance, was not an Englishman, but a Venetian. If the discoverer was an unauthorized private person who afterwards declared that it was his intention to acquire the land for his State, the latter's approval of the discovery was sufficient cause for claiming sovereignty. The assumption was that such approval was given before another State had acquired the areas in question². Yet this principle was not always respected. In some instances States claimed lands on the basis of entirely private discoveries. The principle was, however, correct in the said respect, for it implied that sovereignty could be acquired only by an act of State.

It is a question whether the discovery was not also required to be accompanied by an act of appropriation in order to furnish adequate proof of sovereignty. At any rate, it is certain that the States, in case of conflicts, fortified their title to discovered lands by saying that they had taken possession of them³. The jurists of that time displayed great activity in this direction; they sought an argument in favour of occupation in the doctrine of Roman law relating to possession. The stipulation which, in case of occupation, was made as regards possession, was, however, a modest one. A real or effective possession was not demanded: a fictitious or formal act of appropriation was sufficient. For instance, the royal ensign was displayed, or a cross, beacon, or other monument was raised on the shore as a proof of discovery. The ensign and the monument were proof both of the discovery and of the intention of the discoverer to acquire sovereignty for his king over the surrounding areas⁴. It was not demanded that the discoverer had been ashore at the discovered places. Some States claimed sovereignty over enormous areas, along the coast of which their ships had sailed, but where their mariners had not been ashore.

When occupation is based on discovery and an entirely fictitious act of appropriation, it is very difficult to state the boundaries of the areas occupied. It has at all times been a temptation for occupying States to make great claims on a basis which does not justify such claims⁵. A good illustration of this was England's claim of sovereignty to North America, which was based on the fact that Caboto in 1497 had sailed along the American coast from 56° to 38° N., although he had only been ashore at a few places⁶.

The view on occupation prevailing in this second period of which we are now speaking, largely facilitated the presentation of exaggerated

¹ Salomon, 1889, p. 69, and 106—07.

² Westlake, 1910, p. 101; Balch, 1910, p. 436.

³ Fauchille, 1925, p. 687.

⁴ Salomon, 1889, p. 74—75.

⁵ Cp. Wheaton, 1929, p. 352.

⁶ Cp. Fauchille, 1925, p. 687—88.

territorial claims. This was a great disadvantage of the system of the period. Both in this and the preceding period the rule was that all areas not belonging to Christian princes could be occupied.

In the eighteenth century the theory of occupation was brought a great step forward. It was denied that discovery and fictitious appropriation could prove sovereignty. In order that a State could be entitled to exclude other States from a territory it was required that it should have taken the territory into effective and real possession. Vattel wrote in 1758 the words afterwards so frequently quoted:

“Hence the Law of Nations will only recognize the *ownership* and *sovereignty* of a Nation over unoccupied lands when the Nation is in actual occupation of them (*réellement et de fait*), when it forms a settlement upon them (*formé un établissement*), or makes some actual use of them. In fact, when explorers have discovered uninhabited lands through which the explorers of other Nations have passed, leaving some sign of their having taken possession, they have no more troubled themselves over such empty forms than over the regulations of Popes, who divided a large part of the world between the crowns of Castile and Portugal”¹.

The claim which is here made to real appropriation had also been expressed earlier on certain occasions². When, for instance, Mendoza, the Ambassador of Philip II, in 1580 made complaints to Queen Elizabeth that the English had entered the areas which had been reserved to Spain, she answered that she did not know that the Spaniards had any right “to any places other than those they were in actual possession of; for that their having touched only here and there upon a coast, and given names to a few rivers and capes, where such insignificant things as would in no ways entitle them to a propriety further than in the parts where they actually settled and continued to inhabit”³.

The reply of Queen Elizabeth, however, was hardly an expression of the view of the age. She made a claim which one State could certainly present to others on political grounds, but which it was unwilling at that time to apply to itself.

The new views as to the conditions for occupation which asserted themselves in the eighteenth century first prevailed in literature. Practically all authors on international law required an effective act of appropriation. The States did not begin to put these new ideas into practice⁴ until later, and even then their application was marked by vacillation. A good many more years elapsed before the States generally

¹ Vattel, 1758, Volume I, Sec. 208.

² Cp. Goebel, 1927, p. 95—97.

³ Westlake, 1910, p. 104.

⁴ Fauchille, 1925, 688—89.

accepted the principle that an effective appropriation was necessary in order to prove sovereignty. Early in the nineteenth century, however, they began to enforce the principle in their mutual relations, and the principle was more and more frequently maintained as the century advanced. Some examples are given below:

During the course of negotiations in 1824 between the United States and Russia concerning their reciprocal rights in North-west America, the representative of the United States urged that "The Dominion cannot be acquired but by real occupation and possession, and an intention ("animus") to establish it is by no means sufficient"¹.

In 1852 there was a dispute between the United States and Peru concerning the Lobos Islands lying from 20 to 30 nautical miles from the coast of Peru. The United States maintained that as the islands were situated more than three nautical miles from land, Peru had a right to them only provided she had taken action there giving clear proofs of sovereignty. During these negotiations Peru proved that she had exercised jurisdiction on the islands for a long period. The United States then relinquished all claim to them².

In 1872 the United States urged that as Hayti had not taken the Island of Navassa in "real possession and use", and had taken no action there giving proof of jurisdiction, Hayti had no right to the island. The United States stated in one of its notes:

"The exercise of jurisdiction is one of the highest evidences of sovereignty; the extension of the laws of an empire over a colonial possession forms one of the chief muniments of the nation's title to sovereignty over the colony"³.

Between Italy and Switzerland, an old conflict concerning a small border district named Alpe Cravairola was settled in 1873 by arbitration. In the award it was stated that topographical and economical reasons went to show that the district ought to be assigned to Switzerland. As, however, Italy could claim some acts of sovereignty in Alpe Cravairola — Italian authorities had, for instance, assisted in the conveying of property — and these acts had met with no objections on the part of Switzerland, the district was awarded to Italy⁴.

In the case of arbitration in the 'seventies between Portugal and Great Britain concerning Delagoa Bay it was stated on the part of Great Britain:

"As far as the Governor of the fortress, in the name of his Sovereign, can and does exercise authority and jurisdiction, so far the country

¹ Lindley, 1926, p. 141; Wheaton, 1929, p. 341—43.

² Basset Moore, 1906, Volume I, p. 575—76, cp. p. 265—66.

³ — 1906, Volume I, p. 266—67.

⁴ La Fontaine, 1902, p. 201—09.

and its inhabitants are under the control and government of the country to which that fortress belongs.

That control and government cease at the moment and at the places where the jurisdiction no longer exists, and the authority no longer is or can be exercised”¹.

In 1877 the British Government urged against Portugal, on the occasion of a conflict relating to extensive parts of Central Africa, that they could not admit that the notion of sovereignty could be separated from the notion of a bona fide occupation and an actual jurisdiction of a lasting and unbroken character².

The conflicts which for years had taken place about the Sulu group of islands between Great Britain and Germany on the one side and Spain on the other, were brought to an end by a treaty of 7th March 1885, by which Great Britain and Germany recognized Spanish sovereignty over those parts of the group which had been effectively occupied³.

As will be seen from these examples there was no longer any talk of a fictitious act of appropriation being deemed sufficient to prove sovereignty. It was required that the areas over which a State claimed sovereignty should really be subject to the State. They should effectively be taken possession of, and this meant that the area had been placed under the control and administration of the State.

That this was the conception of occupation which had been reached, was confirmed by the African Conference which was opened at Berlin on 15th November 1884, in order to deal with some difficulties which had arisen in the Congo District⁴.

It was summoned at the instance of France and Germany. The States invited were the maritime States of Europe and the United States. One of the three questions before the Conference related to the conditions to be fulfilled in order that new occupations on the coasts of Africa might be regarded as effective.

It is not without interest to quote some lines from the instructions given by M. Ferry, the Prime and Foreign Minister of France, to Baron de Courcel, the French Delegate at the Conference. He first mentioned the doctrine which authors were agreed upon, *viz.* that sovereignty could be acquired by appropriation on the assumption that it was effective, “that is to say, combined with or followed by certain acts establishing the origin of an organization”.

And then he continued:

¹ Lindley, 1926, p. 142.

² — 1926, p. 143.

³ — 1926, p. 143; Calvo, 1888, p. 421—22.

⁴ Engelhardt, 1885, p. 3—4.

“The simple fact that an ensign, mark, or emblem is raised, is not sufficient to establish or to maintain a right to exclusive possession of a land . . .”

He stated that France had acted in conformity with these principles in the establishment of its colonies on the west coast of Africa. We have, he said:

“marked our appropriation by appointing at every place acquired by France a government representative with the title of Resident or Governor, who has had at his disposal a more or less considerable, armed force, and who has been vested with the same judicial power as a conciliation commissioner and who has been stationed at a fortified place”¹.

Baron de Courcel was given the task of urging at the African Conference the view on occupation here mentioned.

At the opening session of the Conference, the Delegate of Great Britain, Sir Edward Malet, stated that the preliminary information given concerning the item on the programme relating to occupation had not been sufficient to enable his Government to give him quite clear instructions; but, he said, if the question is generally

“to affirm for the future that the principles which have been un-animously laid down by jurists and judges in all countries shall be applied in practice, I have no hesitation in discussing the matter on this basis”².

The Conference adopted two stipulations regarding occupation contained in Articles 34 and 35 in the General Act of the Conference.

They run as follows:

Article 34.

Any Power which henceforth takes possession of a tract of land on the coasts of the African Continent outside of its present possessions, or which, being hitherto without such possessions, shall acquire them, as well as the Power which assumes a Protectorate there, shall accompany the respective act with a notification thereof, addressed to the other Signatory Powers of the present Act, in order to enable them, if need be, to make good any claims of their own.

Article 35.

The Signatory Powers of the present Act recognize the obligation to insure the establishment (“*l’existence*” in the French text) of authority in the regions occupied by them on the coasts of the African Continent, sufficient to protect acquired rights (*droits acquis*) and, as the case may be, freedom of trade and of transit under the conditions agreed upon.

¹ Livre Jaune, 1885, p. 52—53.

² — 1885, p. 63.

As will be seen, it was here required that the area intended to be occupied should be placed under the control of the occupying State. We will not, however, at this stage deal further with the contents of the two articles. Later, when considering each question of occupation, we shall approach the work of the African Conference. Some facts, however, should be mentioned at once. Art. 34 does not deal only with areas occupied, but also with areas over which a State assumes a protectorate. The intention was that the obligations placed upon an occupant by Article 35 should only apply in the former case¹. Whereas in the case of occupation an appropriation of No-man's-land is effected, the assumption with a protectorate is that the area over which a State assumes protection is already subject to sovereignty. What happens is that a weaker State requests the protection of a stronger State. The stipulations of the Conference about protectorates are now of no interest. Cp. the Convention of St. Germain, 10th September 1919, Article 10².

The rules of effective possession given by the African Conference were binding only on such Signatory Powers as ratified the Convention, and Powers which afterwards joined the Convention. The adopted rules applied only to new occupations on the coast of the African Continent³. Thus, the sphere of action of the rules was in effect strictly limited. Moreover, as by far the greater part of the coast of Africa had already been occupied at the time when the Conference was convened, it might be supposed that the rules would be of little practical importance⁴. However, that was not the fact; the rules were rightly construed as reflecting the demands as regards occupation then made by the law of nations⁵.

This appeared clearly at the meeting of the *Institut de Droit International* at Lausanne in 1888, where the problems of occupation were discussed. Prominent jurists from different countries agreed on a recommendation that rules similar to those adopted by the African Conference should apply in all cases of occupation without regard to where they took place. The Institute adopted more resolutions on occupation. The main resolution, Article I, was this:

“Occupation of a territory in order to acquire sovereignty cannot be recognized as effective unless it complies with the following conditions.

1. Appropriation made in the Government's name of a territory encompassed by certain limits (*enfermé dans certaines limites*).

2. Official notification of the act of appropriation.

¹ Livre Jaune, 1885, p. 215.

² Annuaire, 1889, p. 185—86.

³ Livre Jaune, 1885, p. 216—17 and 314.

⁴ — 1885, p. 213—14.

⁵ Fauchille 1925, p. 690.

The appropriation shall be made by the establishment of a responsible local authority furnished with sufficient means for the maintenance of order and for securing a regular exercise of its control within the boundaries of the occupied territory.

The notification of the appropriation may be made by publication in the form usually adopted in each State for the notification of official acts, as well as by the diplomatic means. It shall contain an approximate settlement of the limits of the occupied territory¹.

The Institute also discussed the consideration which is due to the native population in this matter. As previously mentioned, the opinion was for a long time held that territories not belonging to a Christian prince could be regarded as No-man's-land and occupied. When it was realized that this view was an unreasonable one, it was claimed that areas not belonging to a civilized State could be subject to occupation². A proposal had been presented to the Institute to the effect that a territory not under the sovereignty of one of those States "which form the community of nations" should be regarded as No-man's-land. Exception was taken in various quarters to the term "which form the community of nations" on the ground that there were political communities not belonging to the community of nations, but which, nevertheless, had a right to see their territory respected. The said proposal was therefore rejected³.

The view on occupation expressed by the African Conference and the *Institut de Droit International* has also been adhered to afterwards. We will quote some examples.

A short time after the African Conference, a dispute arose between Spain and Germany as regards the Caroline and Palaos Islands. The parties agreed to refer the matter to the Pope, Leo XIII. The Pope recommended that Spain, having discovered the islands in the sixteenth century and having accomplished a series of acts there for the good of the natives, should possess the sovereignty. As, however, the mediator was aware that the requirements of an effective occupation were not fulfilled by the said acts, he suggested that Spain should undertake the obligation "to establish on the group of islands as soon as possible a regular administration with sufficient power to secure order and acquired rights". He further suggested that Germany should be given complete freedom of trade in the islands. This recommendation was to some extent a compromise, and was adopted by both parties⁴. We shall revert to this case in another connection.

¹ *Annuaire*, 1889, p. 201—02.

² *Salomon*, 1889, p. 193—99.

³ *Annuaire*, 1889, p. 177—84.

⁴ *Calvo*, 1888, p. 418—25.

In 1887 and the following years there was a controversy between Portugal and Great Britain with reference to the region of Central Africa situated between the Portuguese possessions of Angola and Mozambique. Portugal maintained that the principle of effective occupation could not apply in this case, such principle applying only to occupations on the coasts of Africa. Lord Salisbury replied, however, that it had been admitted by all the parties at the African Conference that "a claim of sovereignty in Africa can only be maintained by real occupation of the territory claimed"; and he required an occupation of sufficient strength "to maintain order, protect foreigners, and control the natives". In another dispatch he wrote:

"The fact that the act of the Berlin Conference laid down conditions in Articles XXXIV and XXXV in relation to new occupations on the coasts of Africa, did not in any way affect the well-established principles of international law in regard to the occupation of lands in the interior"¹.

In the arbitration in 1899 between Great Britain and Venezuela, with reference to the boundary between British Guiana and Venezuela, the boundary line was drawn in such a way as to give to each party the territory over which it had been able to show the more effective control. At the same time due regard was given to the natural features of the country².

In another arbitration which took place in 1904, with reference to a controversy about the boundary between Brazil and British Guiana, stress was also laid on the principle of effective occupation³.

At the end of the Great War, the Allied Powers found, for different reasons, that it would be expedient to revise the stipulations adopted by the African Conference in 1884—85. On the 10th September 1919, a Convention was made at Saint-Germain-en-Laye between the United States, the British Empire, Belgium, France, Italy, Japan, and Portugal⁴. This Convention replaces the Berlin Convention as far as the said States are concerned. In the preamble of the new Convention it is stated that the territories in Africa which are here dealt with, "are now under the control of recognized authorities, are provided with administrative institutions suitable to the local conditions, and the evolution of the native populations continues to make progress". Article 10 of the Convention reads as follows:

"The Signatory Powers recognize the obligation to maintain in the regions subject to their jurisdiction an authority and police forces suffi-

¹ Lindley, 1926, p. 151.

² — 1926, p. 152—57.

³ — 1926, p. 157.

⁴ Société des Nations. *Recueil des Traités*. Volume VIII, 1922, p. 26—38.

cient to ensure protection of persons and of property and, if necessary, freedom of trade and of transit”.

This stipulation, which repeats the requirement of the African Conference as to the effectiveness of the occupation shall, according to Article I of the Convention, apply not only to the coastal lands of Africa, but also to the other territories in Africa dealt with in the Convention. A special arrangement for protectorates, which the African Conference had in view, is not mentioned in the new Convention.

In recent years there has been an interesting decision in a controversy between the United States and the Netherlands with reference to the sovereignty over the Island of Palmas (Miangas)¹. The arbitrator was the well-known Swiss jurist, Max Huber. His decision is dated 4th April 1928.

The United States, deriving its right from Spain, contended sovereignty over the island on the ground that it had been discovered by the Spaniards in the sixteenth century. The Netherlands based its claim of sovereignty on the exercise of sovereignty over the island from 1700 and onwards to modern times. There were thus two opposing claims based on two different titles, each of which was considered sufficient within its period to prove sovereignty.

The Arbitrator stated, *inter alia*:

“... Both parties are also agreed that a juridical fact must be appreciated in the light of the law contemporary with it, and not of the law in force at the time when a dispute in regard to it arises or falls to be settled . . .

As regards the question which of different legal systems prevailing at successive periods is to be applied in a particular case (the so-called intertemporal law), a distinction must be made between the creation of rights and the existence of rights. The same principle which subjects the act creative of a right to the law in force at the time the right arises, demands that the existence of the right — in other words, its continued manifestation — shall follow the conditions required by the evolution of law. International law in the nineteenth century, having regard to the fact that most parts of the globe were under the sovereignty of States members of the community of nations, and that territories without a master had become relatively few, took account of a tendency already existing and especially developed since the middle of the eighteenth century, and laid down the principle that occupation, to constitute a claim to territorial sovereignty, must be effective — that is, offer certain guarantees to other States and their nationals”².

¹ Permanent Court of Arbitration. Arbitral Award rendered between the United States of America and the Netherlands relating to the arbitration of differences respecting sovereignty over the Island of Palmas (or Miangas) 1928. The Arbitral Award is in the following chapters quoted as Arbitral Award, Palmas, 1928.

² Arbitral Award, Palmas, 1928, p. 26 and p. 27.

The arbitrator found it proved that the Netherlands for a long period had displayed State authority over the island. It was, for instance, established before the tribunal that Dutch authorities had regularly levied taxes on the natives¹. The Island of Palmas (or Miangas) was thereupon awarded to the Netherlands.

It will be seen from the above account that the opinion, which had been advanced in the eighteenth century, to the effect that an effective appropriation of a territory shall be a condition of its acquisition by occupation, has been accepted by the States belonging to the community of nations. The proof of this is found in international conventions, in statements of jurists, in contentions and arguments applied by States in their legal disputes and in arbitration awards.

Who can occupy and what territories can be occupied?

I. In the Introduction it was stated that States alone can exercise sovereignty. The consequence is that only States, by occupation, can acquire sovereignty. By occupation, sovereignty is extended over territories which were formerly not subject to it².

Each State has a right to expand its territory by occupation. Whether the State be Christian, civilized, or a member of the community of nations, is in this respect immaterial³. When we say States, we mean here independent States. The question whether so-called semi-sovereign States can make occupations shall not be dealt with here. It is not every form of Settlement that constitutes a State. A State presupposes a nation, a territory, and a power in the State. This is, however, not the place to detail the conditions to be fulfilled in order to accomplish the creation of a State.

II. We shall now deal with the question as to what territories can be occupied. These may be said to be territories that fulfil two conditions: 1. They must be unoccupied, and 2. International law must permit of their occupation.

Re. 1. As a contrast to the rule that each State has a right to occupy, there is the rule that territories belonging to a State cannot be made the object of occupation. Each State has, without regard to the religion or the state of development of its citizens, a right to see its territory respected. A country inhabited by people who have not yet created any State can be occupied. It is immaterial whether these

¹ Arbitral Award, Palmas, 1928, p. 54.

² Heilborn, 1924 a, p. 343.

³ Salomon, 1889, p. 21—25.

people are nomadic natives or European colonists who, for instance, have settled in a polar land¹.

If a State renounces for ever the exercise of sovereignty over a territory without this being transferred to any other State, the territory becomes No-man's-land and it can be occupied (dereliction). Display of State authority over a territory is, indeed, not only necessary in order to acquire sovereignty by occupation, but also in order to maintain an acquired sovereignty². Without regard to the manner in which sovereignty over a territory has arisen, it will be forfeited if the State ceases to exercise authority over the territory; e. g. if it withdraws its military power, its police inspection, or it discontinues the legal and administrative institutions which had formerly existed within the territory. The case is clearest if there is also a declaration of abandonment, but such a declaration is not necessary³. In the arbitration award mentioned above relating to the dispute between the United States and the Netherlands as to sovereignty over the Island of Palmas (or Miangas), it is stated:

"... The growing insistence with which international law, ever since the middle of the eighteenth century, has demanded that the occupation shall be effective, would be inconceivable, if effectiveness were required only for the act of acquisition and not equally for the maintenance of the right. If the effectiveness has, above all, been insisted on in regard to occupation, this is because the question rarely arises in connection with territories in which there is already an established order of things. Just as before the rise of international law, boundaries of lands were necessarily determined by the fact that the power of a State was exercised within them, so too, under the reign of international law, the fact of peaceful and continuous display is still one of the most important considerations in establishing boundaries between States"⁴.

An example of dereliction was Great Britain's abandonment of the Falkland Islands in 1774. The British military force here was recalled. Before the British officials departed, an inscription was placed on the fortress wall stating that the Falkland Islands rightly belonged to the King of Great Britain. As a proof hereof, it was further stated, this plate has been fitted and the ensign of his Britannic Majesty has been left flying as a sign of possession⁵. As will be understood, this is meant to express that Great Britain intended to preserve her sovereignty

¹ Heilborn, 1924 a, p. 343; Fauchille, 1925, p. 697; Oppenheim, 1928, p. 449.

² Salomon, 1889, p. 249; Fauchille, 1925, p. 718; Oppenheim, 1928, p. 456.

³ Heilborn, 1924 c, p. 229.

⁴ Arbitral Award, Palmas, 1928, p. 17; cp. Visscher, 1929, p. 740—41, and p. 754—58.

⁵ Goebel, 1927, p. 410; Cp. Langhans-Ratzburg, 1929, p. 1198—99.

over the islands. When a State, in fact, resigns from exercising sovereignty over a territory, it loses the sovereignty, even if it declares its intention to preserve it. This case can be compared with the dispute mentioned above between the United States and Russia in 1824, where the former country stated that "the dominion cannot be acquired but by a real occupation and possession, and an intention ("animus") to establish it is by no means sufficient"¹.

Another example of dereliction was Great Britain's relinquishment in 1667 of the West India Islands, St. Thomas and St. Johns, which were afterwards occupied by the Dano-Norwegian crown².

A merely passing discontinuance of the maintenance of State authority in a territory — such as, for instance, may occur by insurrection — does not imply that the territory can be considered to be without a master. This was decided in 1875, in the case of arbitration between Portugal and Great Britain with reference to Delagoa Bay³.

Re. 2. The high sea cannot be the subject of sovereignty, and the sea is therefore free. Different grounds have been given for this rule. Some authors have, for instance, said that sovereignty is precluded because the substance of the sea is elusive and evades possession⁴. This line of argument, however, leads too far, because it follows therefrom that a State cannot have sovereignty over sea territory either. All States, however, are agreed that sea territory is subject to sovereignty⁵. The whole tenor of this view is, moreover, false; for when speaking in international law of a State's possession of an area, one does not think of the substance of the area, but of the State's control over it⁶.

Other authors have urged that the high sea cannot be subject to sovereignty because no State can have disposal or control of it⁷. Thus, Heimbürger has said: "All the navies of the world put together would not be able to exercise an effective control of even a part of the vast ocean." This is a considerable exaggeration. A warship stationed within a certain area can control a part of the sea, and the more warships employed, the greater the area which can be controlled. Besides, consideration must be taken to the fact that it is no more necessary when dealing with sea areas than with land areas, that sovereignty can at any moment be exercised at every point of the area. It must be sufficient that the power of the State can be enforced to such an extent as to render a breach of it exceptional⁸.

¹ See p. 16.

² Matzen, 1895, p. 31.

³ Heilborn, 1924 c, p. 229; Schmitt, 1924, p. 223—24.

⁴ Jéze, 1896, p. 60—61.

⁵ Conference pour la Codification du droit international 1929, p. 17.

⁶ Heimbürger, 1888, p. 94—95; Westlake, 1910, p. 165, note 1.

⁷ Heimbürger, 1888, p. 95; Westlake, 1910, p. 164—65.

⁸ Lindley, 1926, p. 60; Arbitral Award, Palmas, 1928, p. 18.

The principle that the high sea cannot be rendered susceptible of sovereignty is warranted by a positive usage in international law. The States are agreed that it is to the advantage of all that the navigation of the sea should not be hampered and that the use and the exploitation of it should be open to all. The law of nations, therefore, excepts the open sea from the areas that are open to acquisition¹.

In the polar regions the sea is frequently covered with ice and the question then arises whether this ice can be occupied. The question has often been discussed.

It might be said that as the ice covers the sea and is composed of water, the ice should be submitted to the same principle as applies to the sea, and that it can, therefore, not be the object of a State's sovereignty. To decide the matter in this way, however, is a little too one-sided. It cannot be denied that ice is different from water, and the considerations that have caused the open sea to be excepted from acquisition of sovereignty do not apply in the same degree as regards all ice areas. There is reason to take into consideration the character of the ice area, when the question arises.

When dealing more fully with this question, it will be more practical to look at the Arctic and Antarctic areas separately.

In the Arctic Ocean the ice may be divided into three classes. In fjords and bays and close to the coast, there is in winter the fast-ice which has frozen there and which in most cases melts the next summer. Beyond we find the drift ice, which is often divided into two classes — common drift ice and Arctic drift ice. The Russian oceanographer, N. A. Transehe, says on this point:

“The main mass of ice that fills the central and largest part of the Arctic Sea, constitutes the Arctic Pack. It occupies about 70 per cent of the whole conventional area of the Arctic Sea. The two other classes occupy concentric belts around the Arctic Pack — the fast-ice, the outer belt, and the pack ice, the belt between the fast-ice and the Arctic Pack. The pack ice in winter occupies about 25 per cent of the conventional area of the Arctic Sea, and the fast ice about 5 per cent.”²

It is of interest to ascertain the ratio of ice cover to open water in these regions. In the summer of 1899, the Russian Admiral, Makarov, made surveys north of Svalbard in order to determine the ratio of the area of open water to continuous ice cover in the Arctic Pack. As far as we know, this is the only work of the kind carried out in this belt of pack ice. He made two surveys, one on the 19th August in lat. 80° 44' N and long. 9° 5' E; the other on the 27th August in lat. 81° 22' N and long. 18° 0' E. The first survey showed that the water area amounted to 18

¹ Lindley, 1926, p. 60—61; Wheaton, 1929, p. 359—60.

² Transehe, 1928, p. 92—94.

per cent of the total area; the second showed 28 per cent. The surveys were made in the outskirts of the Arctic Pack, and Makarov was of opinion that under normal conditions the Arctic Pack would, in summer time, have a water area of 10 per cent.

This figure seems to be too high. As one approaches the centre of the Arctic Sea, there is less and less open water, but channels in the ice are found everywhere within the area of the Arctic Pack, both summer and winter.

In his comment on the investigations of Makarov, Transehe states:

“If we accept the area of open water in the Arctic Pack in summer, according to Makarov, as equal to 10 per cent, we may conclude with confidence that in the pack-ice region in summer, which then occupies the whole space between the coast and the edge of the Arctic Pack (since fast-ice does not exist in summer), this ratio of open water is considerably higher . . .”

With regard to the coastal waters he says:

“It is no exaggeration to say that in the coastal belt of Arctic Eurasia, for instance — with the exception of the particularly unfavourable places where ice masses accumulate — as in Long Strait between Wrangel Island and the mainland, Tsesarewich Alexei Strait between Northern Land and Cape Chelyuskin, the region of the Taimyr skerries, and the southern part of the Kara Sea — the water area in summer (August) along the whole distance between Bering Strait and Novaya Zemlya amounts on the average to nearly 50 per cent of the total area”¹.

Outside the bounds of the immobile ice cover which forms along the coasts during the winter, the ice in the Arctic Sea is constantly drifting all the year round². Whether the motion is due to currents or whether it is caused by winds, is a question we shall not enter upon. The ice has a rough surface. The floes of ice press against each other and between them are frequently formed channels which may sometimes be of a considerable size. All Arctic explorers who have forced their way over the pack-ice have been detained by open water. Peary, for instance, was once delayed a week by a large sheet of water³. Ordinary navigation in these regions is impossible, but there are examples of particularly strongly built ships having covered large distances in the Arctic floating ice. This was, for instance, the case with the “Fram”.

It should be mentioned in this connection that Professor Samoilowitsch, who was the leader of the “Krassin” Expedition in 1928, proposed that the “Krassin” should be fitted for liquid fuel, and that she should then be used for a polar expedition. He is of opinion that

¹ Transehe, 1928, p. 105.

² Kolchak, 1928, p. 137.

³ Gordon Hayes, 1929, p. 58.

the "Krassin" is strong enough to force her way through the Polar Basin proper¹.

The idea of using a strong ice-breaker for traversing the Polar Sea has formerly been advanced by Adolf Hoel, Lecturer of Geology at the University of Oslo, and the founder and leader of *Norges Svalbard-og Ishavs-undersøkelser*; Captain Sigurd Scott-Hansen, Norwegian Navy; Captain Otto Sverdrup, and others.

On the basis of what is stated above regarding the character of the ice which partly covers the Arctic Ocean, we are of opinion that this ice can not be rendered susceptible of sovereignty. It is not natural to compare this ice-cover to solid land. If, for instance, we look at the photograph which was taken of the North Pole from the airship "Norge" on the 12th May 1926, we see without a doubt that the photograph represents sea and not land².

The view that the ice covering the Arctic Ocean cannot be occupied, has been expressed by States having interest in these regions. When Peary, in 1909, returned from his last expedition and telegraphed to President Taft: "I have the honour to place the North Pole at your disposal", the United States advanced no claim of sovereignty over the Pole. The reason for this was that they were of opinion that the Pole, being situated in the sea, could not be the subject of sovereignty³.

Before Roald Amundsen made his polar flights in 1925 and 1926, he was authorized to take into possession on behalf of Norway any land he might discover, but not areas of ice in the Polar Sea.

In the famous Decree of the Soviet Union of 15th April 1926, "all lands and islands" situated in the Arctic Sea between the coasts of the Soviet Union and the North Pole, were declared to belong to the Soviet Union. Some Russian authors have made an attempt to interpret the term "lands and islands" in such a manner as to include also ice areas⁴. This is, however, an entirely incorrect interpretation.

In this connection it should also be mentioned that the proposal made by Poirier, the Canadian Senator, in 1907, was to the effect that Canada should declare that it took into possession the "lands and islands" lying between its northern coast and the North Pole⁵; nor can statements on this question which have since been made in Canadian quarters be rightly interpreted to mean that Canada claims areas of ice in the sea.

The reasons why sovereignty over the ice in the Arctic Sea cannot be admitted, are making themselves felt in the same degree with regard

¹ Samoilowitsch, 1929, p. 398—400.

² The photograph is also reproduced in *Problems of Polar Research*, 1928, p. 94.

³ Regarding this incident, see Waultrin, 1909, p. 652—54.

⁴ See Lakhtine, 1928, p. 37.

⁵ Debates of the Senate of the Dominion of Canada 1906—7, 1907, p. 266.

to corresponding formations of ice in the Antarctic regions. Moreover, floating ice is here sometimes met with so far north, and under such conditions, that the question of sovereignty can hardly be raised.

Along the coasts of the Antarctic Continent, there is a special formation of ice generally called shelf-ice, or, the Barrier. It stretches from the land towards the sea. Its height varies from some few feet to over a hundred feet above the level of the sea, but it is usually of about the latter dimension. Its surface is approximately horizontal, but it terminates on the sea side in vertical cliff faces¹. It is a question whether the Barrier is afloat or resting on solid ground. The question cannot be answered generally, as there are a series of barriers, most of which are not yet sufficiently explored.

The best known of the barriers is the Ross Barrier. Its area is very nearly the same as that of the North Sea, reckoning the latter from the Shetland Islands to the Strait of Dover. The greater part of this Barrier is supposed to be afloat². Its average thickness has been estimated at 400 feet. The Barrier is moving slowly northwards. The advance of the edge, however, is partly neutralized by the fact that large slices of ice break away at times and go adrift. Gordon Hayes states in his book "Antarctica":

"Captain Scott made two careful surveys of the Edge, in 1902 and 1911. From these it is clear that, during the nine years, the greater part of the Barrier had advanced, probably at a rate of about a mile a year. A much shorter length of the Edge had receded; but this recession was less than the distance advanced. There are at least two fixed points, *viz.* Discovery Inlet and the Bay of Whales, where neither advance nor recession is appreciable."³

If we now raise the question whether the Ross Barrier can be subjected to sovereignty, then the question is least difficult to answer with regard to that part of the Barrier which rests on solid ground. It must be put on a par with a land territory, and it can be occupied. Doubts arise when the question affects that part of the Barrier which is afloat. We are of opinion that since there is no natural border line between the two parts of the Barrier, and as the latter appears externally as a whole, the same principle should apply to the whole extent of the Barrier.

In appearance it resembles a land territory rather more than a sea territory. At the Barrier edge all navigation obviously ceases. In this instance it is difficult to plead the considerations that have formed the rule that the sea cannot be made subject to the sovereignty of a State. We are, therefore, of opinion that good reasons favour the view

¹ Gordon Hayes, 1928, p. 15—16.

² Gordon Hayes, 1928, p. 54.

³ Gordon Hayes, 1928, p. 55—56.

that the Ross Barrier should be regarded as land and can be the object of sovereignty.

The question thus raised is not without practical importance. If a State takes effective possession of Ross Barrier, it will be able to reserve for its subjects the right of whaling within a reasonable territorial limit. At present the Ross Barrier is not submitted to sovereignty, and all nations must therefore have the right to carry on whaling up to the very edge of the Barrier.

What has been said above on the question of sovereignty in respect of Ross Barrier, applies also to other barriers resembling the Ross Barrier.

The question whether ice areas covering the sea can be occupied has often been dealt with in the literature of international law.

Rolland maintains, for instance, that a permanent surface of ice extending from the coast out towards the sea should be considered a continuation of the land and can be submitted to sovereignty¹. Waultrin and Balch are of the opinion that sovereignty can be acquired over immobile ice². Scott holds that a floating field of ice is not capable of being submitted to sovereignty, but he does not seem to have thought of the barriers³. Lindley does not find any reason for excepting from occupation the regions around the two Poles⁴. Clute is of opinion that even if large areas of the Arctic Sea are frozen up, it must still be regarded as an open sea and cannot be submitted to sovereignty⁵. Oppenheim mentions the question whether the North Pole can be occupied. In his opinion it must be answered in the negative "as there is no land on the North Pole"⁶. Breitfuss suggests the division of the Arctic Ocean between five polar States, and recommends that their sovereignty shall not only include the land and islands lying there, but also, to a certain extent — to be decided by international agreement — "the areas of the sea which are covered with ice fields"⁷. Lakhtine, who also gives an opinion especially on the Arctic Sea, says that the sea areas covered with more or less immobile ice fall within the sovereignty of the polar States⁸.

Pearce Higgins who has published the latest edition of Hall's book: "A Treatise on International Law", and also Fauchille, hold the

¹ Rolland, 1904, p. 340—42.

² Waultrin, 1909, p. 655—56; Balch, 1910, p. 434—35.

³ Scott, 1909, p. 938.

⁴ Lindley, 1926, p. 6.

⁵ Clute, 1927, p. 21.

⁶ Oppenheim, 1928, p. 450.

⁷ Breitfuss, 1928, p. 27.

⁸ Lakhtine, 1928, p. 40.

view that, as it is impossible to settle permanently in the polar regions proper, sovereignty cannot be acquired over them¹. The opinion that and areas in the polar regions cannot be submitted to sovereignty is, however, without any foundation. The fictitious occupations made by several States in Antarctica is a proof hereof. That it may be difficult to settle permanently in the immediate vicinity of the South Pole, is a case apart. It may also be difficult to settle permanently in the Sahara or in the upper parts of the high chains of mountains in Asia or South America, but it is not denied for that reason that a State may possess sovereignty over this desert and these mountain tracts.

Effective Possession.

By occupation a state aims at the reservation, to a greater or lesser extent, of an area for itself and its subjects. It wants in a corresponding degree to exclude others. It is, however, unreasonable that this should be permitted to a State, except in a territory where it really has established itself. International law has, therefore, laid down the rule that a State must take effective possession of a territory when it wants to occupy it, that is to say, it must bring the territory under its control and administration. It must be willing to maintain order, organisation, and administration of justice². Subjects of other States may enter the territory and require legal protection during their stay. As their own State is not allowed to exercise authority in the territory, it is reasonable to demand of the occupying State that it maintains an orderly state of things. This is what Germany, for instance, required of Great Britain in 1883, during a controversy with reference to a considerable area in Africa over which the latter country claimed sovereignty³.

If a State wishes to acquire sovereignty over a territory it cannot evade the obligations involved⁴.

If no State is willing to undertake the control of a territory and of those living there, the territory ought to remain a No-man's-land. Generally speaking, all nations will then have the same right to use it and to exploit it, and the persons living there will be under the protection of their own country⁵.

It has been stated with regard to occupation of polar areas, that it is not justifiable to maintain the demand for effective possession⁶.

¹ Hall, 1924, p. 125, note 1; Fauchille 1925, p. 658.

² Ræstad, 1925, p. 129.

³ Lindley, 1926, p. 143; cp. Salomon, 1889, p. 332; Westlake, 1910, p. 110,

⁴ Westlake, 1910, p. 111; Oppenheim, 1928, p. 456; Arbitral Award, Palmas, 1928 p. 17.

⁵ Heilborn, 1924 a, p. 344.

⁶ Lakhtine, 1928, p. 32.

In such cases there should be reason to be content with a more moderate demand. The French jurist, Waultrin, states for instance:

“Discovery and notification to the Powers would appear to constitute for a long period sufficient legitimation of acquisition of polar lands. Effective occupation should only be added in cases where persons belonging to another nation than the subjects of the state having the sovereignty, make objections or request exploitation”¹.

What is here stated in the first sentence is undoubtedly invalidated in the second. An occupation which cannot be maintained when objections are made, is indeed no valid occupation. The statements of Waultrin are not very clear, but it appears to be his opinion that in polar regions the demand for effective possession should be waived, and that, in the main, discovery and notification should be sufficient.

There is every reason to dissociate oneself altogether from this opinion, which lacks foundation in international law. The demand for effective possession is one which must be made by occupation in all latitudes. The polar regions are not excepted from the rule². Waultrin supports his opinion by saying *inter alia* that the polar regions are in the initial stage of their colonization and that man, in relation to them, is at the same stage “where our ancestors were when competition for the colonies began”. This, however, cannot justify the application of rules which resemble those which were in force in respect of occupation at the time of the great discoveries. The progress made by international law since then must, of course, be insisted upon.

When, therefore, effective possession is rightly demanded also in polar regions as a condition of occupation it should be realized that the remedies necessary for submitting a territory to the control of a State, will not be the same in all cases³. The remedies can be adapted to the circumstances at each place. It is significant that it is said in the preamble of the convention of Saint-Germain-en-Laye that the territories in question, now “are provided with administrative institutions suitable to the local conditions”⁴.

As a rule, more is required for exercising control in densely peopled territories than in territories sparsely peopled or uninhabited. The African Conference in 1884—85, and the *Institut de Droit International* in 1888, had more particularly in view territories with a great native population. Both of them argued that a relatively elaborate local administration was necessary. Otherwise, it is obvious that if a local authority is to be able to command respect for acquired rights and freedom of trade and transit, and to maintain order in territories with

¹ Waultrin, 1909, p. 658.

² Balch, 1910, p. 441; Heilborn, 1925, p. 278—79.

³ Jéze, 1896, p. 237.

⁴ Société des Nations, Recueil des Traités. Volume VIII, 1922, p. 26.

perhaps a large and warlike native population, it would be necessary to furnish it with considerable engines of power. The letter from M. Ferry, the Prime and Foreign Minister of France, to Baron de Courcel, which has previously been mentioned, is so far illustrative. Ferry reminds us that France, in its possessions on the west coast of Africa, has appointed a government representative who has had a military force at his command, and who has lived at a fortified place.

For occupation in polar regions there will not at present be any question of using military force. These regions are so sparsely peopled that orderly conditions can be maintained by much more simple measures. It should be noted that, in respect of effectiveness, it is never required of the occupying State that it should be able to exclude others from the territory by force. The use of military force is of importance only for the maintenance of civil order¹.

Nor will it be necessary in polar regions to make use of so great a civil administration as is required in densely peopled regions. In this respect, however, all polar regions cannot be treated alike. If, for instance, people settle in large numbers around valuable mineral occurrences, more men in charge will be necessary at such places than in uninhabited regions².

As a rule, a State wishing to occupy a polar territory must be required to establish a local authority within the territory. It will, only as a mere exception, be possible to exercise efficient control over a polar territory from a country situated in the temperate zone. In certain cases a polar land can be controlled by an authority established in a neighbouring polar land. In this connection it should be observed that if a State takes efficient possession of a polar island which is generally regarded as belonging to a group of islands, it does not follow that the State, on that account, acquires sovereignty also over the other islands in this group. Its sovereignty is limited to the areas over which it exercises control³. However, here as elsewhere, regard must be paid to the fact that it is not necessary for the State to be able to make its authority felt at any time and at any place within the territory⁴. It may be asked whether it is not sufficient that the State holds supervision over a polar land, now and then, for instance, during certain summer months, assuming that the physical conditions bar access to the land during the other seasons of the year. The question should be answered in the negative. One thing is that it is unnecessary for State authority to be asserted without interruption in all parts of the land. Another thing is that the State is not represented in the territory

¹ Lindley, 1926, p. 140—41.

² Westlake, 1910, p. 111.

³ Arbitral Award, Palmas, 1928, p. 39—40, and Visscher, 1929, p. 745—46.

⁴ Westlake, 1910, p. 110—11; Arbitral Award, Palmas, 1928, p. 18; see *ante* p. 26

during the greater part of the year, and that it is then totally debarred from exercising supervision.

The demand for efficiency must not be impaired so as to become more a matter of form than of reality. If a polar land is to be occupied, it must, here as elsewhere, be required that the land is controlled permanently and efficiently by the occupying State. If this is not the case, other States are not bound to respect the so-called "occupation".

A good precedent of how to take effective possession of polar areas is Canada's handling of the Arctic islands lying north of its coasts. In 1922, the Canadian government sent an expedition to these regions under the leadership of J. D. Craig. In his report on the expedition, Craig says that:

"... the Department of the Interior, through its North West Territories Branch, organized an expedition in 1922, and the result was the establishment of police posts, customs houses, and post offices at various points throughout the North, the intention being to establish additional similar posts from year to year until there is assurance that Canadian laws and regulations will be well administered in the regions controlled by these outposts of civilization"¹.

In 1922 two posts were established, one in Craig Harbour on the south side of Ellesmere Island, and another at Pond Inlet on Baffin Island. The staff at the former post consisted of seven men under the command of a police inspector, and at the other of four men under the command of a police official of lower rank². In the summer of 1924 a new house was built farther north on Ellesmere Island at Kane Basin. It was intended that the police from Craig Harbour should use it when they inspected the land northwards to Kane Basin. In 1926 a post was established still further north on the same island at Flagler Bay, at 79° 4' N and 76° 18' W. At the same time plans were made for setting up similar posts on Melville Island and Bathurst Island³. These plans have not yet been carried into effect; but a police post has been established in Dundas Harbour on Devon Island and one at Cambridge Bay on Victoria Island. In addition, two police posts have been established on the southern part of Baffin Island⁴. Canada not only exercises control from the permanent land stations, but has also, to some extent, carried out supervision by means of a patrol vessel. Craig mentions, as an interesting instance, that a crime committed in these regions had been cleared up by Canadian police, that the offenders had been arrested, and that they would be sentenced by a Canadian

¹ Craig, 1923, p. 8.

² Craig, 1923, p. 23.

³ Miller, 1928, p. 238; cp. Craig, 1923, p. 24.

⁴ Map of the Northwest Territories, Department of the Interior, Canada, 1929.

court of justice which it was intended to send northwards in the summer of 1923¹. There is no reason to deny Canadian sovereignty over the territories which Canada has in this way really brought under its control and jurisdiction. The sovereignty does not, however, extend to the neighbouring territories, which are not submitted to control.

In Russian quarters it has been said that the Soviet Union exercises supervision equal to that of Canada over certain islands lying to the north of its continent². If that be the case, there is no obvious reason to dispute the sovereignty of the Soviet Union either.

Even if it is not an invariable rule that it is necessary to establish a local authority within the polar territory a State may desire to occupy, it must be an express condition that the territory be subject to an authority able to carry out an efficient supervision of it. This rule, however, is not maintained by some States. France, for instance, has by a decree of 21st November 1924, placed a part of the Antarctic Continent, Adélie Land, under the administration of the Governor General of Madagascar³. According to Art. I, Adélie Land and the Antarctic islands, Saint Paul, Amsterdam, Kerguelen and Crozet, "are attached to the Government General of Madagascar and form one of the administrative branches of this colony". The distance from the southern point of Madagascar to Adélie Island is about 8000 kilometers. It is self-evident that the Governor General, even with his best will, is unable to exercise any control over this part of Antarctica. No French official, as far as is known, ever set foot on Adélie Land, nor was the Frenchman, Dumont d'Urville, who discovered the land in 1840, and whose discovery is the basis of the French claim, ever ashore on the Antarctic Continent.

In the preliminaries of the decree it is stated:

"The scientific expeditions, which at the beginning of this century have been sent to the Austral Seas, have established that these dependencies of our dominion across the sea which have been neglected for a long time, might be an extremely valuable source of income to the fishing industry; . . .

In order to exercise the efficient and lasting control required when these national riches are exploited, it has proved necessary to provide for the administrative organization of these Austral islands and lands, and for that reason to effect their attachment to an already constituted colonial government".

As will be seen, the demand for efficient control is formally maintained. As, however, the administration of Adélie Land was placed under an authority unable to exercise any control over it, the demand as to efficiency was, in fact, set aside. This circumstance is not altered

¹ Craig, p. 19—20.

² Lakhtine, 1928, p. 25.

³ "Journal Officiel", 27th November 1924.

by the fact that France has issued statutory provisions with reference to Adélie Land, cp. Decree of 27th March 1924, by which the right of mining, hunting, and fishing within territorial waters is reserved to French subjects. The observance of these provisions is not controlled, and if they are infringed no attempt is made to enforce them. They are therefore quite futile”.

The arrangement which France made as regards Adélie Land had as a model the British provisions relating to Falkland Islands Dependencies and Ross Dependency. It was also directly occasioned by the British policy of annexation in Antarctic waters¹. By Letters Patent of 21st July 1908, and 28th March 1917, South Georgia, the South Orkneys, South Shetland, the Sandwich Islands, Graham Land, and a considerable sector of the Antarctic Continent were declared to be British and placed in charge of the Governor of the Falkland Islands. The Governor was to administer these dependencies and to make the necessary enactments. By an Order in Council of 30th July 1923, all islands and territories situated between 160° E and 150° W and to the south of the 60th degree of latitude were declared to be British dependencies and vested in the Governor General of New Zealand, who was furnished with administrative and legal power in these regions.

The demand as to efficient possession cannot be satisfied for the greater part of the territories in question. The distance from the Falkland Islands to Graham Land is about 1250 kilometers, and to the South Pole about 4250 kilometers. In this case Great Britain claims land, some of which is quite unexplored, has never been seen by any human being, and about the conditions of which there is no positive information. From the Falkland Islands no control can be exercised over these territories. The distance from Wellington, the capital of New Zealand, to Oates Land is about 3100 kilometers; to Ross Barrier about 4200 km, and to the South Pole about 5500 km. It is not easy to understand how any of these territories can be efficiently controlled by an administration stationed at Wellington. The arrangement which Great Britain and France have attempted here has been defended. Fauchille is of opinion that, as it is impossible in these regions to establish an administration on the spot, one must be content with such an arrangement as Great Britain has made with reference to the Ross Dependency². This argumentation is not a strong one. If a territory cannot be taken effective possession of, it must remain without a master. As previously stated, it should then be open to all nations, and there is no reason why it should be under the sovereignty of any one State³.

¹ Rabot, 1928, p. 389.

² Fauchille, 1925, p. 744—45.

³ Heilborn, 1925, p. 279; Oliver Mc Kee jr., “Is Findings Keepings in Antarctic?” “Evening Transcript”, Boston, 1st February 1930.

In American quarters the provisions relating to the Falkland Islands Dependencies have been severely criticized¹.

We have often stated that the claim to effective possession means that the State which wants to occupy a territory has to bring it under its control and administration. It might be asked whether it should not also be required that the State exploits the territory. This question has frequently been raised and opinions have differed². We do not believe that such a demand can rightly be made. The fear which has been expressed that a State can exclude others from a territory not used by itself is not justified, if the demand as to the efficiency of the occupation is maintained. A State having no real interests in a territory will not, in the long run, take upon itself the trouble and the expense connected with the exercise of an efficient control over it. It should also be taken into consideration that it may be very difficult to decide whether a territory is being used.

Another question has also been raised, namely, whether settling in a territory should not form a condition for the right to occupy it. As previously stated, it is not absolutely necessary that the persons who are in charge of a territory on behalf of a State are living within its boundaries. However, the immediate fact in one's mind when speaking about settling is that colonists established themselves in the territory. On this question the Secretary of State of the United States, Mr. Hughes, made a statement in 1924, which is of considerable interest. Captain Wilkes, of the U. S. Navy, had in 1840 discovered a considerable coastal tract of the Antarctic Continent, and this tract has been named Wilkes Land after him. In 1924 the question was raised in private quarters whether the State Department of the United States would not declare Wilkes Land to be American. Hughes answered, among other things, that:

"It is the opinion of this Department that the discovery of lands unknown to civilization, even when coupled with a formal taking of possession, does not support a valid claim of sovereignty, unless the discovery is followed by an actual settlement of the discovered country³.

Under the existing conditions the State Department refused to declare "that the United States had sovereignty over this island".

We do not think it justified to require that settling or colonization shall form a condition of occupation. It is quite another matter that, if colonists have settled in a territory — for instance, a polar land — this will be of great importance when the question of occupation of the

¹ Balch, 1910, p. 436—37; cp. Gordon Hayes, 1928, p. 364.

² Vattel, 1758, Vol. I, Sec. 208; Phillimore, 1879, p. 332—33; Salomon, 1889, p. 317; Jéze, 1896, p. 236—37; Heilborn, 1924 a, p. 344—45; 1924 c, p. 229; Fauchille, 1925, p. 744; v. Liszt, 1925, p. 160; Ræstad, 1925, p. 129—30; Lindley, 1926, p. 140—41.

³ Miller, 1928, p. 249—50.

land arises. If the colonists are subjects of the State wanting occupation this will be greatly facilitated; for the colonists may then be counted upon to at once respect the sovereignty of the State. Should there be any question as to how great a part of the land is occupied, the extent of the colonization will be a good starting point for the decision. If, on the other hand, the colonists are subjects of another State, they will be in a position to put obstacles in the way of an occupation. They may refuse, for instance, to obey the authority which is established in the territory, and perhaps form a State of their own.

In the course of time colonization by individual persons or companies has played a considerable part in occupation. The fact that the subjects of the State established themselves in a No-man's-land, does not give the State sovereignty over the land; but, as already mentioned, it acquires good terms if it wants to take possession of the land¹.

A State does not gain sovereignty over a No-man's-land by sending scientific expeditions to the land; nor by establishing wireless stations or scientific posts in the land. Such acts on the part of the State are, however, of importance if it wishes to acquire sovereignty. A wireless station is, for instance, an excellent point of support to a colonization. If its staff is given police authority, it will be able, on behalf of the State, to control the area around the station and in that way to bring the latter under the authority of the State. Scientific expeditions may yield a knowledge of the country which will stimulate and facilitate a colonization. Also acts which do not form an expression of sovereignty over the territory may become of importance in a dispute on sovereignty, because the court may be of opinion that weight should be attached to them for the sake of equity. This specially applies when the court is not bound in its decision to existing law, but is free to seek the most reasonable solution². In a sovereignty dispute it will therefore be in the interest of the State to be able to demonstrate the highest degree of activity in the disputed territory.

Formerly it was very strongly emphasized that an occupation should not be made secretly³. It should be made known. This demand had its particular significance at a time when sovereignty might be acquired by discovery and a merely formal act of appropriation. In modern times, when the State wanting to occupy a territory is required to exercise governing acts there and place it under its control, it is practically impossible to keep the occupation secret⁴. It is, however, a good rule

¹ Bluntschli, 1878, p. 169; Westlake, 1910, p. 102; Opet, 1924, p. 696.

² Cp. Arbitral Award 23rd October 1909, in the so-called Grisebå Case between Norway and Sweden. Agreements with foreign States, 1909, No. 7, p. 302—22.

³ Phillimore, 1879, p. 331—32; Westlake, 1910, p. 102—03.

⁴ Cp. Arbitral Award, Palmas, 1928, p. 59.

that when a State has resolved to incorporate a No-man's-land in its territory, it ought to express its will in an official declaration¹.

This rule has been followed by Norway, for instance. The royal resolutions about the annexation of Bouvet Island and Jan Mayen under Norwegian sovereignty have been notified.

Notification.

In Article 34 in the General Act of the African Conference, it is stated that any Power intending to occupy

“shall accompany the respective act with a notification thereof addressed to the other Signatory Powers of the present Act, in order to enable them, if need be, to make good any claims of their own”.

Also prior to this Conference occupations were notified on several occasions. It would, however, be an exaggeration to say that, at that time, a principle of international law existed demanding notification²; but the African Conference made notification obligatory with reference to new occupations on the coasts of the African Continent. As these coasts are occupied a long time ago, Article 34 has no longer any significance with regard to the territories for which it was given; nor was this stipulation repeated in the previously mentioned Convention of Saint-Germain-en-Laye dated 10th September 1919. It may, however, be a question whether it has become customary law since the African Conference, that notification shall be given when an occupation takes place; but this must be answered in the negative, because the opinion that the validity of an occupation depends on the fact that notification has been given is not sufficient warrant³.

Another matter is that, for several reasons, notification is advisable. When a State informs foreign Powers that it has occupied a territory, it thereby acquires proof that they have got knowledge of the occupation. If the Powers have then any objections, they must make them within a certain period. The period they are then allowed for lodging their protests is shorter than that which they could claim if they received no notification⁴. Should nothing be heard from them within the said period, they cannot afterwards lodge protests.

We shall now briefly present the most important of the rules which apply to notification.

When a State occupies a territory, the occupation should be notified as soon as possible. The African Conference used the term that

¹ Cp. Schätzel, 1924, p. 366.

² Engelhardt, 1885, p. 23; v. Liszt, 1925, p. 160; Lindley, 1926, p. 293—95.

³ Matzen, 1900, p. 65—66; Lindley, 1926, p. 295; Oppenheim, 1928, p. 452; *Arbitral Award, Palmas*, 1928, p. 59.

⁴ Lindley, 1926, p. 229 and 302.

occupation should be accompanied by a notification. This demand for expedition does not mean, however, that a late notification is without legal effect. Lindley mentions that Great Britain has allowed the following periods to elapse between the date of taking possession, or of establishing a protectorate, and the date of notification: Six days, eight weeks, ten weeks, twenty-four weeks, eighteen months¹. Norway's occupation of Jan Mayen was notified to foreign Powers immediately after it had taken place. On the other hand, the notification as regards Bouvet Island did not take place until ten months after the island had been submitted to Norwegian sovereignty².

A notification must be made direct to the governments concerned. Another thing is that use may be made of intermediaries in transmitting the notification³. The *Institut de Droit International* stated at its meeting in 1888 that notification might be made by publication in the form usually adopted by each State for the notification of official acts. An announcement in the Gazette of the country should thus be sufficient. However, this cannot be considered correct⁴. Fauchille entertains the idea that a notification might be addressed to the Secretariate of the League of Nations, which is obliged to make it known to the Governments. He refers to Article 18 in the Covenant of the League of Nations. In this Article there is hardly any justification for Fauchille's opinion; nor is it followed in practice.

The notification should describe the geographical situation and the boundaries of the occupied territories. In the Declaration of the *Institut de Droit International* in 1888, it was provided that the notification "shall contain an approximate settlement of the limits of the occupied territory". The African Conference had not adopted any resolution on this question, but it was discussed. The British Ambassador suggested a stipulation corresponding to that which was afterwards adopted by the Institute⁵. The examining Commission agreed that a notification implies „a definition more or less precise, of the situation of that territory". It was, however, found unnecessary to make any provision to this effect, as "the Powers interested could always demand such supplementary information as might appear to them indispensable for the protection of their rights and interests". After this the British Ambassador withdrew his motion⁶.

The attitude of the Powers receiving a notification may vary. If receipt is acknowledged without any reservation, this must generally be understood to mean that no objection will be made.

¹ Lindley, 1926, p. 296.

² Lovtidende, 1928, p. 544—45.

³ Rödiger, 1929, p. 185.

⁴ Fauchille, 1925, p. 739.

⁵ Livre Jaune, 1885, p. 214.

⁶ Livre Jaune, 1885, l. c.

If a Power preserves silence, it cannot, when a certain period has elapsed, protest against the occupation. It is on this point that the benefit of the notification is most obvious. The advantage, however, is somewhat reduced by the fact that international law does not fix the period which should apply. Fauchille has suggested a period of one year¹. This period will, in certain cases, be too short. The African Conference also dealt with this question. The idea of fixing a period of prescription was considered, but was dropped out of regard to international courtesy. The Commission mentioned above was of opinion that "a reasonable delay" should be granted². Seeing that no fixed period is established, it is not possible to come nearer to the solution of the question than the African Conference did. It is a matter of course that the time necessary will be different in the various cases. Occupation of a small polar island generally means less consideration than occupation of large polar territories. In the latter case, elaborate investigations may be appropriate, and a State must here also be given sufficient time to confer with other Powers on the subject.

There is also a third alternative: Objections may be lodged against the occupation, and the objections may be of different kinds. A State pretends, for instance, that it has itself the sovereignty over the occupied territory, or that its subjects have rights or interests there which the occupying State must bind itself to respect³. It must also be allowed to object to the occupation on the ground that the territory has not been taken effective possession of.

The significance of the notification does not merely lie in the fact that it shortens the period within which objections against occupation must be made if regard is to be taken of them, but it also contributes to elucidate the title to the occupation. It is an invitation to the Powers to lodge any objections they may have. Sometimes it will also be easier to settle a dispute at once, than it will be when some considerable time has elapsed and the occupying State has obtained a good foothold in its newly acquired land.

Extent of an Occupation.

By occupation a State acquires sovereignty only over the territory of which it has taken effective possession⁴. To this rule one exception is made. When a coast is occupied the occupying State obtains, without further ceremony, a sovereignty over the territorial waters and over the

¹ Fauchille, 1925, p. 740.

² Livre Jaune, 1885, 1. c.

³ Livre Jaune, 1885, p. 215.

⁴ Salomon, 1889, p. 328; Heilborn, 1924 a, p. 344; Fauchille, 1925, p. 733; Oppenheim, 1928, p. 453.

islands lying there¹. This principle was acknowledged in the decision in the case of *The Anna* (1805). This case was, however, of a somewhat exceptional nature, because the islands in question were formed by gravel and mud carried along by the Mississippi². That sovereignty shall include the islands in the territorial waters is based on the condition that they have not previously belonged to another State. If an island is situated partly within, and partly without, the territorial limit, the occupying State will not obtain sovereignty over such an island unless it takes effective possession of it³.

Formerly there was a tendency to give a State sovereignty not only over the territory which was occupied, but also over the territories around it. Many theories were put forward and they were frequently made the basis of extravagant claims. Most of these theories are now only of historical interest, but in order to give a general idea we will mention some of them here.

When a State occupied the mouth of a river it was contended that the State thereby acquired sovereignty over all the land through which the river and its tributaries flowed⁴. This rule was further extended so that the occupation of a coast included the interior country as far back as the watershed⁵. In the dispute between the United States and Spain in 1805, relating to the boundaries of Louisiana, the representatives of the United States stated that:

“When any European nation takes possession of any extensive sea-coast, that possession is understood as extending into the interior country to the sources of the rivers emptying within that coast, to all their branches and the country they cover; and to give it a right, in exclusion of all other nations, to the same”⁶.

Another theory gave a State occupying a coast sovereignty over the land within, to the point where the mountains began⁷. It was also contended that when a State took possession of a territory, it obtained sovereignty over the adjacent areas as being of importance for the occupying territory (“Doctrine of continuity”). Sometimes this principle was applied to such an extent that its absurdity was obvious to all. The British colonies on the east coast of North America generally had fixed limits in the coast line. Great Britain now contended that the

¹ Phillimore, 1879, p. 343—44; Salomon, 1889, p. 320—21; Westlake, 1910, p. 118; cp. *Arbitral Award, Palmas*, 1928, p. 39.

² Eisenträger, 1924, p. 57—58; Dickinson, 1929, p. 334—36.

³ Westlake, 1910, p. 120.

⁴ Fauchille, 1925, p. 728—29; Oppenheim, 1928, p. 453—54; Wheaton, 1929, p. 352—53.

⁵ Bluntschli, 1878, Sec. 282.

⁶ Basset Moore, 1906, I, p. 263.

⁷ Fauchille, 1925, p. 730—31.

land territory of such a colony extended inwards into the American Continent right back to the Pacific Ocean, and with a breadth corresponding to that of the coastal limits¹.

We will mention still another of these theories, which is of a certain topical interest. When a State occupied a coastal tract it was said that the sovereignty also extended to islands lying near the coast ("Doctrine of contiguity")². This theory was advanced partly from military reasons, and it is this doctrine which recurs in the sector principle. Canada and the Soviet Union say that they must have sovereignty of the islands to the north of their continents, because they cannot allow other Powers to obtain a foothold there. The theory of contiguity has, however, no title in modern international law. It was contested by the United States in the disputes with Peru, previously mentioned, with reference to the Lobos Islands and with Hayti about the Island of Navassa³. In the arbitral award relating to the sovereignty over the Palmas (or Miangas) Island, which is the most recent judgment in questions of occupation, it is stated:

"The title of contiguity, understood as a basis of territorial sovereignty, has no foundation in international law"⁴.

When the States, because of the demand for efficient occupation, were prevented from appropriating territories which they did not control, it became usual in the nineteenth century to conclude agreements relative to so-called "spheres of influence and interest". Such a sphere means a territory in which a foreign State is politically interested. A contributory cause of the making of such conventions was the desire to evade conflicts⁵. Two States, for instance, agreed on dividing an unoccupied territory between themselves in such a way that each of them renounced its exercise of political influence in the part of the territory which was reserved to the other party. Frequently, the territory was situated behind a coast already occupied, and it was then called *Hinterland*. This term is also used in order to designate any sphere of interest.

An agreement on a sphere of interest is only binding upon the contractive parties; it does not bind other States. Their right to make

¹ Basset Moore, 1906, p. 264—65.

² Basset Moore, 1906, p. 265—67.

³ See *ante* p. 17; cp. Visscher, 1929, p. 745.

⁴ Arbitral Award, Palmas, 1928, p. 60.

⁵ Heilborn, 1924 b, p. 550—52; Fauchille, 1925, p. 735—38; Oppenheim, 1928, p. 455—56; Wheaton, 1929, p. 353. Agreements of this kind may also relate to a territory which is not without a master, but we are not concerned with that matter here.

occupation in the territory made a sphere of interest, is not touched by the agreement.

An agreement respecting a sphere of interest may also be part of a more comprehensive convention between two States. An example of this was Denmark's transfer of its West-Indian Islands to the United States in 1916. As compensation the United States paid 25 million dollars and made the following declaration as regards Greenland:

"In proceeding this day to the Convention respecting the Cession of the signature of the Danish West-Indian Islands to the United States of America, the undersigned Secretary of State of the United States of America, duly authorized by his Government, has the honour to declare that the Government of the United States of America will not object to the Danish Government extending their political and economic Interests to the whole of Greenland".

As will be seen, the declaration is to the effect that Denmark may extend the territory in Greenland submitted to its sovereignty, without meeting any opposition on the part of the United States. In other words, the United States engaged to consider as a Danish sphere of interest the portions of Greenland not subject to sovereignty¹. It is a matter of course that the freedom of action of other States in Greenland is not affected by this declaration.

It has been said that when a State takes effective possession of a territory, it should have a preferential right to bring neighbouring territories under its sovereignty². Fauchille is of opinion that a State which notifies an occupation should at the same time define the boundaries within which it contemplates extending its sovereignty afterwards. In the course of a short period, for instance three years, Fauchille will give the State a preference to make occupations within these boundaries. If the territory has not been taken effective possession of at the expiration of that period, the other States may regard it as a No-man's-land. The opinion that a State, by occupying a territory, obtains a preferential right to occupy adjacent territories must be rejected because it lacks justification³.

From other quarters it has been urged that if no objections are made in such a case as mentioned above by the Powers receiving the notification, their silence should imply that they approve of the preferential right⁴. If the Powers are granted a reasonable time for con-

¹ Cp. *Betænkning*, 1916, Annex A, p. 132.

² Westlake, 1910, p. 104; Fauchille, 1925, p. 734—35.

³ Cp. *Annuaire*, 1889, p. 190—91.

⁴ Heilborn, 1924, p. 366; 1924 a, p. 345.

sideration, there seem to be good reasons in favour of this view. It must, however, also here be a condition that the notifying State takes the territory in question into effective possession in the course of a comparatively short period.

Obligation of the Occupying State to respect Acquired Rights and Interests in Occupied Territory.

It frequently happens that a No-man's-land is inhabited on coming under the sovereignty of a State. Natives and subjects of other States have perhaps settled there; they have carried on their industry there, and have acquired rights, e. g., the ownership and usufruct of real property. A foreign State may also have acquired real property in the territory. The question is now whether the occupying State is bound to respect these rights¹.

The African Conference dealt with the question in both the articles which were adopted on occupation. In Article 35 it is stated that one of the tasks of the local authority is to protect "acquired rights" (*droits acquis*). When it was pointed out that it had not been stated who could be the possessor of these rights, the German representative made the observation that the term "acquired rights" involves, of course, all rights which exist at the time when a new occupation takes place, without regard to whether the rights belong to persons or to governments". The French representative acquiesced in this remark, and said that when it was entered in the protocol all doubt as to the meaning would be excluded².

The second rule adopted by the Conference on this question is contained in Article 34, which lays down that the purpose of a notification is to enable the other Signatory Powers "if need be, to make good any claims of their own", (*réclamations*). It was stated by the Commission charged by the Conference with the examination of the draft of Articles 34 and 35, that reclamations could be based, not only on acquired rights in the strictest sense — rights of sovereignty and civil rights — but also on "already existing conditions, e. g. commercial conditions". A recommendation to replace the word "réclamations" by the term "prior rights" (*droits antérieurs*) was rejected on the ground that the term was "too restrictive"³.

¹ Cp. *Annuaire*, 1889, p. 192 and 202–03 (Article 5); Westlake, 1910, p. 109; Heilborn, 1924 a, p. 343–44; French decree, 30th December 1924, regarding various Antarctic possessions (Article 4); Ræstad, 1925, p. 25–26; Oppenheim, 1928, p. 456.

² *Livre Jaune*, 1885, p. 204.

³ *Livre Jaune*, 1885, p. 215.

In the case previously mentioned between Spain and Germany relating to the Caroline Islands and the Palaos Islands, Spain, who obtained sovereignty over the islands, had to engage to respect the rights and interests of German subjects. Spain thus recognized that German subjects had freedom of commerce and of fishing there¹.

It may be questioned to what extent an occupying State is bound to respect such interests as here mentioned. In polar areas the interests are mostly concerned with fishing and hunting. It cannot be supposed that these interests are protected to a greater extent than in relation to the operations which were carried on before the occupation². If these pursuits had then been carried on in a portion of the occupied area, it is in this portion that the fishermen and hunters are at liberty to continue their operations in the same manner as before. They are, for instance, not entitled after occupation to extend their operations to other portions of the area. For a State, whose subjects are carrying on in a polar area a hunting (fishing) industry capable of development, it will therefore be of interest to prevent the area passing under the sovereignty of another State.

The question of the protection of acquired rights and interests is at present of great importance in polar regions. If, for instance, the Soviet Union takes effective possession of Franz Josef Land, it is bound to respect the Norwegian fishing and hunting interests there. Norwegians possess economic interests in this group of islands far outweighing those of anyone else³.

East Greenland gives another and very interesting example of the importance of the question. Here, too, the Norwegians have the greatest economic interests. If East Greenland, as the result of a dispute about the sovereignty, is awarded to Denmark, we may assume that Norwegian economic interests will be protected at the same time to the extent mentioned above. At any rate, this must be assumed if the tribunal finds it proved that the Norwegian industrial operations were carried on before Denmark's acquisition of sovereignty. These operations began in the second half of the last century. If Denmark should obtain an award to the effect that East Greenland has been Danish since 1821, or 1819, or 1814, it may be asked whether Norwegian interests would be protected also in that case. In our opinion they would be, because these Norwegian activities have been pursued in the justified confidence of East Greenland being a No-man's-land, and they met with no resistance on the part of Denmark until 1921.

¹ Calvo, 1888, p. 421—24.

² Cp. Castberg, 1924, p. 40.

³ Norges Svalbard- og Ishavs-Undersøkelser, 1929, p. 22—33 and 34—39 a.

The case relating to the Carolines and the Palaos Islands dealt with somewhat similar conditions. German commercial enterprises had been started here in the belief that the islands were unoccupied. Although sovereignty over the islands was awarded to Spain on account of acts older than the German economic interests, the latter were nevertheless respected.

We may add that the opinion has been expressed on several occasions by responsible Danes that the Norwegian industrial activity in East Greenland is considered to be lawful. Mr. Stauning, the present Danish Prime Minister, stated, for instance, in 1924, that the attempt which had been made by Denmark in 1921 to close East Greenland, was "an infringement of old-established rights to fishing and hunting possessed by the inhabitants of Norway."¹ The Danish attempt to exclude the Norwegians from East Greenland has also been criticized in other countries than Denmark and Norway².

We have so far dealt with the example of East Greenland on the assumption that East Greenland will be awarded to Denmark. It is, however, very possible that the result of a dispute about sovereignty will be that Norway will be awarded sovereignty over certain parts of East Greenland. Norway must then, in these parts of the country, respect Danish rights and interests to the same extent as mentioned above.

Discovery and Fictitious Occupation.

The days have passed when the view was held that discovery alone, or connected with a fictitious occupation, was sufficient to establish sovereignty. It has, however, for a long time been a prevalent doctrine that a discovery under certain conditions gives the State, on behalf of which it has been made, a prior right to acquire sovereignty over the discovered land (Inchoate title). As long as the prior right is in effect, other States are not allowed to appropriate the land: this is reserved to the privileged State. If, however, the latter omits to take effective possession of the land during the time in which the prior right is valid, the land is again considered to be without a master and can be occupied by other States,

This doctrine has been supported especially by Anglo-Saxon jurists³. On the European Continent it has been received more reservedly⁴. It

¹ Folketingets Forhandling, 1924, p. 4967.

² Rudmose Brown, 1927, p. 171.

³ Phillimore, 1879, p. 329—30; Basset Moore, 1906, p. 258; Scott, 1909, p. 939; Westlake, 1910, p. 105; Hall, 1924, p. 126—27; Oppenheim, 1928, p. 451—52.

⁴ Salomon, 1889, p. 283; Fauchille, 1925, p. 718—21.

has been flatly denied that the doctrine has any foundation in international law¹; but it has its adherents also in those quarters².

It is obvious that it is not every discovery which gives such a prior right as here mentioned. The geographical discovery is, in itself, without legal significance³. In order that a question of prior right may be raised, it is necessary that the discovery is made by a person duly authorized by a State for this purpose, and that the discovered territory has been taken possession of in the name of that State⁴. (Fictitious possession). If the discoverer has had no authorization, it is assumed that this omission is made good when his action is afterwards approved by his Government within a reasonable time. It has also been said that a discovery should be notified in order to give a prior right⁵.

This cases raises a very difficult question, *viz.* for how long a time does the prior right continue? The law of nations does not give any definite answer to the question. Some jurists have suggested a period of 25 years, others have held the view that one year must be sufficient⁶. Most of them content themselves by saying that the prior right is valid for a reasonable time⁷.

There is obviously a great difference between a prior right lasting one year and another lasting 25 years. The risk of granting such a right increases with the duration of the period in which a State shall be permitted to assert the right. If this period be very long, the requirements in respect of effective occupation are weakened. There will then be territories which perhaps for years are not under the control of any State, but which, nevertheless, cannot be regarded as *Norman's-land*, because they are, so to speak, at the disposal of a single State⁸.

In the dispute between Norway and Great Britain concerning Bouvet Island, Great Britain claimed a right to the island on the basis of a "discovery" more than 100 years old. It was stated that the island, which had been discovered in 1739 by the Frenchman, Lozier Bouvet, had been re-discovered in December 1825 by the British Captain, George Norris, who had gone ashore and had taken possession of it

¹ Heilborn, 1924, p. 366.

² Visscher, 1929, p. 742—43.

³ Bluntschli, 1878, p. 169; Phillimore, 1879, p. 330; Westlake, 1910, p. 102; Opet, 1924, p. 696.

⁴ Phillimore, 1879, p. 329—30; Westlake, 1910, p. 101 and 105.

⁵ Jéze, 1896, p. 218.

⁶ Fauchille, 1925, p. 718 and p. 720—21.

⁷ Basset Moore, 1896, p. 263; Westlake, 1910, p. 105; Hall, 1924, p. 127; Oppenheim, 1928, p. 452.

⁸ Cp. Arbitral Award, Palmas, 1928, p. 27.

in the name of King George IV¹. Since that time nothing had been done on the part of Great Britain to occupy the island. As will be known, Great Britain waived her claim. It is, however, not without interest that the claim was raised.

The statement relating to Antarctica which the British Empire put forward at the Conference in London in 1926, is a particularly good example of the right which some States still consider themselves entitled to derive from discoveries. The statement runs as follows:

“The question of Antarctic exploration was discussed between representatives of the Governments interested. There are certain areas in these regions to which a British title already exists by virtue of discovery. These areas include:

1. The outlying part of Coats Land, *viz.* the portion not comprised within the Falkland Islands Dependencies.
2. Enderby Land.
3. Kemp Land.
4. Queen Mary Land.
5. The area which lies to the west of Adélie Land, and which on its discovery by the Australian Antarctic Expedition in 1912 was denominated Wilkes Land².
6. King George V Land.
7. Oates Land”³

The length of the coast lines of these lands is as follows⁴:

Coats Land (also the portion comprised within the Falkland Islands Dependencies)	Abt. 400 km
Enderby Land	” 550 ”
Kemp Land	” 350 ”
Queen Mary Land	” 600 ”
Wilkes Land	” 300 ”
King George V Land	” 850 ”
Oates Land	” 500 ”
In order to give a general idea it may be mentioned that the coast line of the Falkland Islands Dependencies has a length of	” 5800 ”
and of the Ross Dependencies	” 3000 ”

¹ Cp. Rabot, 1828, p. 388; as regards the history of the Island, see the chapter “Bouvetøens Historie” (the History of the Bouvet Island) of Bjarne Aagaard’s work “Fangst og Forskning i Sydishavet” (whaling and Research Work in the Antarctic) published in 1930; cp. Aagaard, 1928 and 1929, p. 65—81.

² This land must not be confused with that discovered by the American Wilkes in 1840; See *ante* p. 38.

³ Imperial Conference, 1926, Summary of Proceedings, p. 33—34.

⁴ The calculations have been made in a chart on the scale 1:1 200 000, published by the American Geographical Society of New York, 1928.

The title to the two last mentioned dependencies is, at any rate in part, based on discoveries. Thus the British Empire claims a coast line in Antarctica of about 12000 km. It is possible that only the tracts of the coasts are claimed with regard to the lands included in the statement of 1926. It is, however, not improbable that the title is intended to include also the territories behind the coasts even to the South Pole. If this be the case, the British claims taken together relate to an area making three-fourths of the Antarctic Continent¹.

Of the lands mentioned in the statement of 1926, Coats Land was discovered in 1904 by Dr. Bruce, Enderby Land in 1831 by Captain Biscoe, Kemp Land by another British sealing skipper in 1834, Queen Mary Land, Wilkes Land, and King George V Land, by Sir Douglas Mawson's Expedition in 1911—1914, and Oates Land by Scott's Expedition in 1911. We have not investigated whether these discoveries have been accompanied by a formal act of occupation, and whether they also otherwise satisfy the demands which must be made in regard to discoveries in order that they can form the basis of a prior right. We will assume that everything is in order in these respects. Even, however, on this assumption it is not correct to urge that discoveries as old as some of these are, and which have never been followed by any effective appropriation, shall continue to be a hindrance to occupation on the part of other States. Anyone urging this view diverges from the interpretation of prior right which has been asserted also by British jurists. In American quarters it has recently been said, with a certain amount of irony, that Great Britain seems to have forgotten Queen Elizabeth's reply to Mendoza².

In favour of a prior right it may be stated that equity or justice dictates that a State, on behalf of which a discovery is made, ought to have an advantage; but this view has not always any great weight. If, for instance, two States have each sent out an expedition, and these two expeditions discover independently the same land with an interval of one day, it cannot be said to be particularly reasonable that the State whose expedition arrived one day earlier than the other shall be entitled to exclude the other State from the discovered land for years, when it does not subsequently do anything further in the territory.

If a discovery is recognized as the basis of a prior right, it will be very difficult to limit the principle only to the case where the discoverer has, in fact, been ashore in the discovered territory. It is sometimes urged that a discovery made from the sea or from the air is sufficient to establish a prior right, even if the discoverer on that occasion was at a place lying comparatively distant from the discovered

¹ Hoel 1928, p. 82.

² Dr. Laura H. Martin, "Times", New York City, 5th January 1930. See p. 16 *ante*.

territory, and even if it was impossible for him to effect a landing in the territory.

Great Britain, for instance, bases her claim to King Edward VII Land on the fact that, in 1902, Captain Scott saw the land from the sea. He surveyed a portion of the coast, but on account of the ice conditions was unable to reach the shore¹. The first time the land was visited was in 1911, when a group from Roald Amundsen's Expedition under the leadership of Lieutenant Prestrud made a journey in sledges to that land from the Bay of Whales on the Ross Barrier. Lieutenant Prestrud took possession of the land in the name of the King of Norway on the 8th December 1911.

When Admiral Byrd had at the beginning of 1929 made his first flights in Antarctica and had discovered new land, the title of the United States to the new discovered territories was under discussion. A Scotch newspaper then stated with much justification that the merits of Admiral Byrd were limited to the fact that he had seen the new lands. "He has seen them", it was stated, "as we all have seen the moon."² That Byrd's Expedition did very valuable exploration work in Antarctica, is another matter.

As far as we are aware, there is no international decision of such a character that it may be said to establish, in a binding manner, that the discovery of a land gives the State, on behalf of which the discovery has been made, a prior right to appropriate the land. As international law does not fix the period during which a prior right can be enforced, neither should the right be recognized. A recognition would be tantamount to facilitating the abuse of power and the bringing about of conflicts.

When a State takes possession of an unoccupied territory by a fictitious appropriation, and it afterwards notifies this action, certain questions will arise. We will assume that the notification is to the effect that the territory in question has been taken possession of on a certain day and has been brought under the sovereignty of the notifying State.

The States receiving such a notification must be entitled to answer that they cannot acknowledge that a fictitious appropriation can establish sovereignty. If, however, they omit to answer during a reasonable period, it is natural that their silence should be taken to imply that they consent to the appropriation, subject to its being made effective. If an effective appropriation is not performed within such time as may be deemed sufficient for the purpose, then also the States which have made no objection to the notification must be allowed to regard the territory as No-man's-land. Whether, in that event, they should first

¹ Gordon Hayes, 1928, p. 144.

² "Dundee Courier and Advertiser", 6th April 1929.

warn the occupying State and allow the latter a period in which to effect the occupation, is a question which we shall not touch upon.

If a territory has been discovered at a time when international law held the view that discovery was sufficient to establish sovereignty, the question arises whether sovereignty over the territory continues to exist, even if the land is not taken effective possession of¹. This question should be answered in the negative. In support of this view we may mention the statements previously cited from the Arbitral Award concerning the sovereignty over the Island of Palmas (or Miangas)². In the dispute with reference to the Carolines and the Palaos Islands which has been mentioned several times, the sovereignty of Spain, based on a discovery in the sixteenth century, was apparently recognized on account of special conditions. The recommendation of the mediator was however further to the effect that Spain should be obliged in order to make the sovereignty efficient, "to establish on the group of islands as soon as possible a regular administration, with sufficient power to secure order and acquired rights."

¹ See Livre Jaune, 1885, p. 216—17; Salomon, 1889, p. 274—75; Westlake, 1910, p. 114; Heilborn, 1924 a, p. 345; Fauchille, 1925, p. 745—46.

² See *ante* p. 23—24 and p. 25; cp. Visscher, 1929. p. 740—41.

The Sector Principle.

General Remarks on the Sector Principle.

A sector in plane geometry signifies a part of the plane limited by a curve line and two straight lines proceeding from one point (the angular point) to the extreme points of the curve line. A special instance of this general definition is the sector of a circle which is a portion of the circle plane limited by two radii and the intercepted arc.

In spherical geometry, a sector is a part of the surface of a sphere limited by a piece of curve line and two great circles crossing each other and drawn through the extreme points of the curve line. When applied to the surface of the globe, a polar sector is a special instance of this general definition, limited by a piece of curve line, *e. g.* a coast line, and the meridians through the extreme points of the curve line. It is in this meaning that the word "sector" is applied in the conception of the sector principle. This principle is to the effect that, in certain cases, States are entitled to sovereignty over polar sectors.

The man generally credited with having called attention to this principle for the first time, is P. Poirier, a Canadian Senator. When on the 20th February 1907 he recommended in the Canadian Senate that Canada should declare it had taken possession of the lands and islands lying between its northern coast and the Pole, he accompanied his recommendation with a speech¹, in the course of which he said:

"We can establish a fourth ground for ownership for all the lands and islands that extend from the Arctic circle up to the North Pole. Last year, I think it was, when our Captain Bernier was in New York, a guest of the Arctic Club, the question being mooted as to the ownership of Arctic lands, it was proposed and agreed — and this is not a novel affair — that in future partition of northern lands, a country whose possession to-day goes up to the Arctic regions, will have a right, or should have a right, or has a right to all the lands that are to be found in the waters between a line extending from its eastern extremity north, and another line extending from the western extremity north. All the lands between the two lines up to the North Pole should

¹ Debates of the Senate of the Dominion of Canada, 1906--07, 1907, p. 266--73

belong and do belong to the country whose territory abuts up there. Now, if we take our geography, it is a simple matter”.

Poirier then dealt with the sectors which fell to “Norway and Sweden”, Russia, the United States, and Canada. He did not give Denmark any sector, presumably because Denmark does not extend to the Arctic circle and, therefore, in his opinion could not be regarded as a polar State. After having made this apportionment he continued:

“This partition of the polar regions seems to be the most natural, because it is simply a geographical one. By that means difficulties would be avoided, and there would be no cause for trouble between interested countries. Every country bordering on the Arctic regions would simply extend its possessions up to the North Pole.”

The idea expressed by Poirier has recently been followed in certain important acts of State. This will be dealt with in the next chapter. In literature the idea has so far not been much discussed. Poirier did not go particularly deeply into it. A more detailed exposition of the sector principle seemed to be appropriate now that the principle had begun to play an important part in the polar policy of the States. V. L. Lakhtine, a Russian author, has delivered such an exposition in his treatise: “The Title to the Arctic Polar Territories”. He has, however, not succeeded in motivating the sector principle in a satisfactory manner. Like Poirier, he deals with the principle with a particular view to the Arctic regions.

Before dealing with the reasons given in favour of the principle, it is natural to explain more closely the meaning of it. Poirier stated in his recommendation that Canada should declare that it had taken possession of lands and islands between its northern coast and the Pole. No difference was made between known and unknown territories. Thus, land areas not yet discovered at that time should also fall to the sovereignty of Canada. Also in the acts of State based on the principle no difference is made between discovered and undiscovered regions. The British Declaration about the Falkland Sector of 28th March 1917, relates to “all islands and territories whatsoever” in the sector. In the corresponding provisions regarding the Ross Sector of 30th July 1923, there is the term: “all the islands and territories”. The decree of the Soviet Union dated 15th April 1926, expressly states that also undiscovered land and islands lying in the sector of the Soviet Union are claimed in future. (*Toutes terres et îles découvertes ou qui pourraient être découvertes à l'avenir*).

It seems justified to assume that the said acts of State deal only with land territories in the respective sectors. In this respect the decree of the Soviet Union is quite clear, because the words lands and islands are used. The British Declarations of 1917 and 1923, used the word “territory”. By the term “islands and territories” must be meant islands and land territories. It was also in this meaning that the word

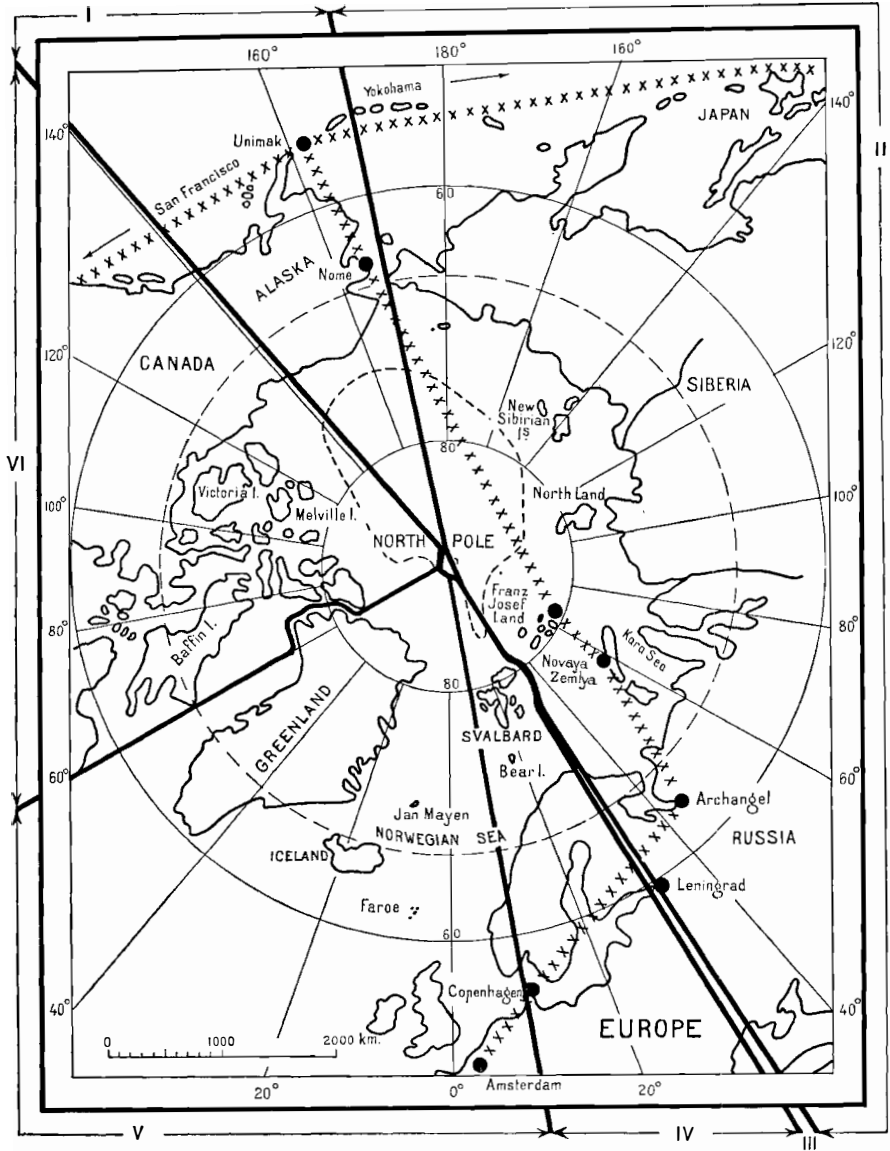


Fig. 1.

THE NORTH POLAR REGION

Sector division as proposed by V. L. Lakhtine

× × × × One of the practicable propositions for a transarctic air route

- | | |
|-------------------------|---------------------|
| I United States' Sector | IV Norwegian Sector |
| II Soviet Union | V Danish |
| III Finnish | VI Canadian |

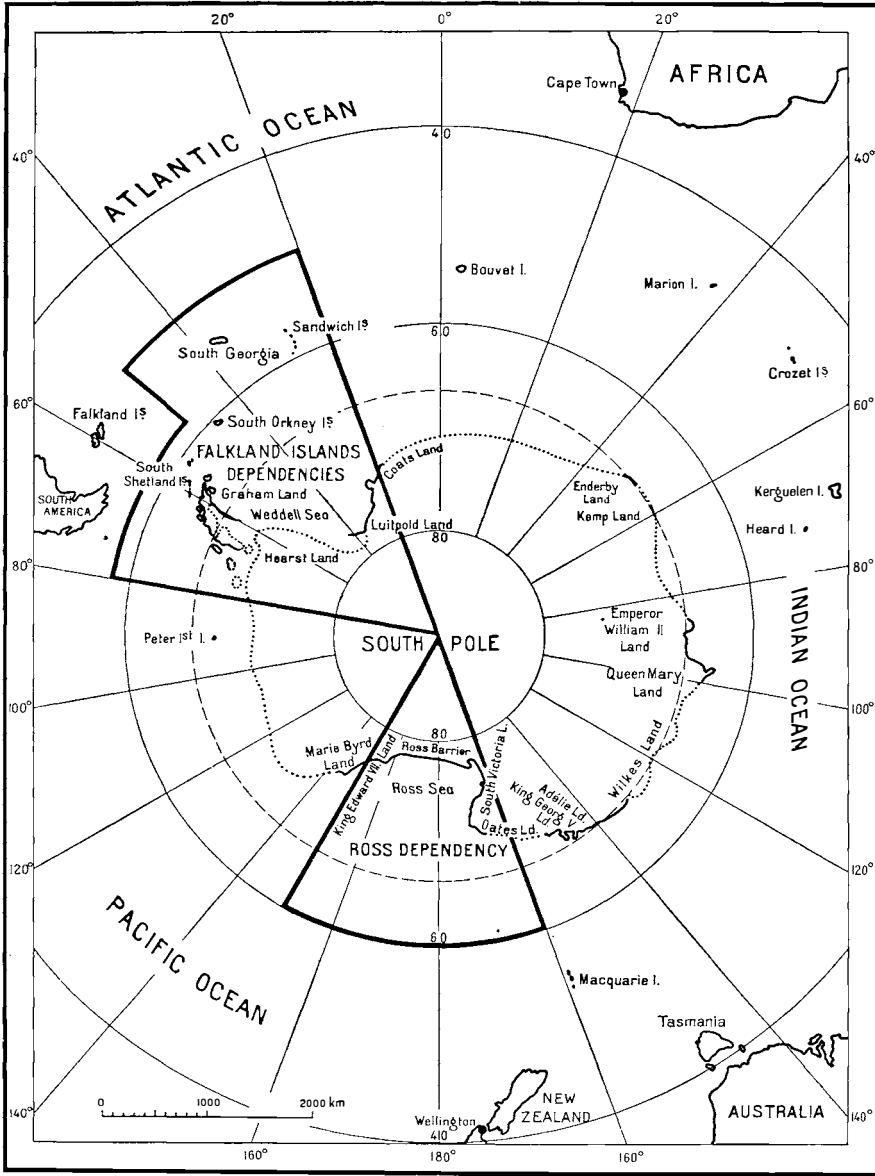


Fig. 2.
THE SOUTH POLAR REGION

was used in the Canadian House of Commons debates on the 1st and 10th June 1925, when a proposal to alter the legislation for the territories north of Canada, *i. e.* the Canadian sector, was under discussion¹.

Some Russian authors have urged that the sovereignty of the Soviet Union also includes the ice areas in the sector of the Union². As previously mentioned, however, it is not correct to place this construction on the Decree of 15th April 1926. Presumably the same authors will also give other sector States sovereignty over ice areas. Lakhtine goes to the length of giving the sector State the right to control hunting and fishing, even in the ice-free high seas of a sector³.

In this connection we may mention the British Regulations as regards control of Whaling in the Ross Sector. The regulations now in force are dated 24th October 1929 ("Ross Dependency Whaling Regulations, 1929")⁴. Whaling must not be carried on without a licence from the New Zealand Government, and a tax must be paid for the licence. Those infringing the Regulations are liable to heavy fines. According to the wording the Regulations of 1929 relate to the whole of the sea in the Ross Sector; but Norway, with its paramount economic interests in these regions, has received the assurance from Great Britain that the Regulations will only be applied to whaling in the territorial waters of the Ross Sector, the breadth of which is three nautical miles⁵. Moreover, Great Britain has recently made a declaration to the League of Nations to the effect that the breadth of the territorial sea subject to the sovereignty of the coastal State should be three nautical miles, and that the British Government does not claim any rights to the high seas beyond the limits of territorial waters. New Zealand has subscribed to this declaration⁶.

If a land lying in a sector was already subject to the sovereignty of another State at the time when the resolution respecting the sector was made, it may be taken that the sector State will not try, more than previously, to dispute this sovereignty. The Soviet Union Decree of 15th April 1926 says:

"As being territory of the Soviet Union are declared all lands and islands discovered, as well as those which may be discovered in future, and which at the time of the publication of this decree have not been recognized by the Government of the Soviet Union as the territory of a third State . . ." ⁷.

¹ Canada. House of Commons Debates, 1925, p. 3925—26, and p. 4237—38.

² Lakhtine, 1928, p. 37, 38, 40, and 46; Breitfuss, 1928, p. 27.

³ — 1928, p. 39.

⁴ "The New Zealand Gazette". 31st October 1929.

⁵ "Tidens Tegn", 19th November 1929.

⁶ Conférence pour la codification du droit international, 1929, p. 28 and 31; cp. p. 22.

⁷ Lakhtine, 1928, p. 31.

A small portion of the Svalbard Archipelago is situated in the Russian sector. The Soviet Union recognizes, however, the sovereignty of Norway also to this part of the Archipelago.

The sector State claims sovereignty over the lands lying in the sector and not belonging to other States, without regard to whether these lands have been taken effective possession of. Lakhtine has expressed this idea in the following terms:

“This investigation has made it clear that, independent of a *de facto* discovery of some polar land made by an expedition of one nationality or another, these lands actually belong, at the moment, to the polar States in the gravitation sectors of which these islands are situated, without regard to the fact that their occupation is effective . . .

The conclusion just come to shows even in respect of the discovered polar areas, and in consequence of their climatic peculiarities, that the doctrine of gravitation districts holds good, excluding the doctrine of appropriation and, therefore, not requiring occupation”¹.

Now, which States shall be entitled to enjoy the privileges of a sector State? As previously mentioned, Poirier would assign this right to the States whose territories are cut by the polar circle. Russian authors, e. g. Breitfuss and Lakhtine, will furthermore assign a sector to Denmark on account of its colonies in Greenland. The sector States in the Arctic region would then be the United States, Canada, Denmark, Norway, Finland, and the Soviet Union². In defining the sector, Poirier was of opinion that its straight lines should be drawn from the extreme eastern and western points of the territory to the Pole. Canada and the Soviet Union have in this manner defined the sectors they claim. This principle has also been made the basis of the entirely private proposals of a sector division of the Arctic regions, which have been made by Breitfuss and Lakhtine. Certain deviations from the principle have, however, been made.

Turning now to the Antarctic regions, we find that no State has a territory continuing so far to the south that it is cut by the polar circle; nor is there, so far to the south, any territory effectively taken possession of by any State. It should therefore not be possible to make a sector claim, if it be based on the same foundation as used in the Arctic regions.

The two sectors claimed by Great Britain are nominally attached to the Falkland Islands and New Zealand. Both these lands are, to their full extent, lying in the temperate zone. In the definition of the sectors no consideration has been taken to the eastern and western limits of the Falkland Islands and New Zealand. If that had been the

¹ Lakhtine, 1928, p. 33 and 34.

² Breitfuss, 1928, p. 28; Lakhtine, 1928, p. 44—45.

case, the sectors should have been made considerably narrower, and they would not then have included the territories over which it has evidently been the object to acquire sovereignty by this procedure. The two sectors have a detached position, without any geographical connection with the Falkland Islands and New Zealand. What may be referred to by Great Britain is discoveries in certain parts of the sectors. It therefore seems as if Great Britain has held the view that discoveries are a sufficient foundation for sector claims in these regions of the globe.

Different attempts have been made to justify the sector principle. Some authors have interpreted a sector as being a kind of Hinterland¹. Hinterland is generally understood to mean the land behind a coast, and not areas stretching from the continent towards the sea. As it cannot be admitted that a State having the sovereignty of a coast should thereby, without further ceremony, acquire the sovereignty of a "Hinterland", this view gives, in fact, no justification for the sector principle.

Miller, the American author, is of opinion that the title of the sector State to lands lying in the sector, is more correctly justified by the doctrine of contiguity or propinquity, than by the doctrine of Hinterland². He admits, however, that also this justification is not a strong one. It is this doctrine which forms the basis of the Russian declaration of 29th September 1916. It is stated in the declaration that several islands north of Siberia are considered to belong to the Russian Empire, because they form "the northern continuation of the Siberian continental shelf"³. The Soviet Union expresses itself in a somewhat similar manner in a memorandum dated 4th November 1924, relating to the same islands⁴.

We have mentioned before that there is no rule of international law to the effect that islands or lands lying outside territorial waters shall belong to a State, on account of the mere fact that they are situated near its territory⁵. As previously stated, the frequently quoted decision in the Palmas (or Miangas) case, dissociates itself very strongly from the doctrine that lands on account of their geographical situation shall be subject to a certain State. This award contains the following passage, which would seem to be intended particularly for those who maintain that a State can acquire sovereignty over a land without taking *de facto* control of it:

¹ See Lindley, 1926, p. 5—6 and p. 235.

² Miller, 1925, p. 56; 1928, p. 244; cp. Lakhtine, 1928, p. 34.

³ Lakhtine, 1928, p. 29 and p. 50—51; Breiffuss, 1928, p. 26; Miller, 1928, p. 241; cp. Geogr. Journal, London, 1923, Vol. 62, p. 442—43.

⁴ Lakhtine, 1928, p. 30 and p. 51—52.

⁵ See *ante* p. 44.

“The principle of contiguity, in regard to islands, may not be out of place when it is a question of allotting them to one State rather than to another, either by agreement between the Parties, or by a decision not necessarily based on law; but as a rule establishing *ipso jure* the presumption of sovereignty in favour of a particular State, this principle would be in conflict with what has been said as to territorial sovereignty and as to the necessary relation between the right to exclude other States from a region, and the duty to display therein the activities of a State”¹.

Besides, the doctrine of contiguity is so vague that it is totally unfit to form the basis of territorial claims. What does contiguity mean? Franz Josef Land lies 360 km. from Novaya Zemlya, 1250 km. from Russia (Cape Kanin) and 800 km. from Siberia (Cape Skura Tova). Nevertheless, the Soviet Union claims that group of islands. If lands existed in the sector of the Soviet Union lying still farther from its coasts these lands also would have been claimed, as the Soviet Union demands all lands and islands “up to the North Pole”. Also Canada claims all islands lying north of her territory and up to the Pole. As for the Antarctic regions, Great Britain has, as already pointed out, claimed lands lying, in part, some thousands of kilometers from the places to which the Falkland Sector and the Ross Sector have been given judicial attachment. It appears to us that the doctrine of contiguity cannot be applied, without irony, in support of the extensive claims hidden in the sector principle.

The main argument of Lakhtine in favour of the sector principle seems to be that an effective appropriation cannot be made in the polar regions². Also Poirier mentioned the difficulties thus involved³. The fact of the matter is that effective appropriation has been performed at several places in the polar regions. Thus, Denmark has under its control and administration certain portions of Greenland. In the same way Norway has acquired Jan Mayen, and Canada portions of the Archipelago north of its coasts. Lakhtine himself points out that the Soviet Union exercises a regular control over some polar islands⁴.

The fact that it may be difficult, or in some cases perhaps impossible, at present to take effective possession of a polar land, does not warrant a disregard of the rule in international law relating to occupation. The land must, in that event, continue to be unoccupied. No stipulations exist to the effect that every land shall be submitted to sovereignty, and neither is there any need for such stipulations⁵.

¹ Arbitral Award, Palmas, 1928, p. 39.

² Lakhtine, 1928, p. 18—19 and p. 32—34.

³ Debates of the Senate of the Dominion of Canada 1906—07, 1907, p. 268.

⁴ Lakhtine, 1928, p. 29.

⁵ See *ante* p. 37.

Lakhtine points to the fact that Great Britain and France have set aside the rule governing effective possession in Antarctica¹. The fact that a rule of law has been contravened by attempts to evade it does not, however, justify the conclusion that such a rule does not exist.

A very frequent argument is that the sector principle is practical². In deciding that question it is not sufficient to have regard to the fact that some States consider it practical or advantageous. These two terms may, in this case, be taken to amount to the same thing. The conclusive point is whether it is the opinion of the great majority of States. No one will be astonished at Canada and the Soviet Union being content with the system. They enjoy every advantage of it on account of their extensive coasts along the Arctic Sea. As regards the United States and Norway the case is different; for these countries have a relatively short boundary along the Arctic, and the sectors intended for them are therefore comparatively modest ones. According to the sector division proposed by Lakhtine, the sector of the United States will have a breadth of 28 degrees of longitude, that of Norway a breadth of 21 degrees, while the sector of Canada will make 81, and that of the Soviet Union 159 degrees of longitude. In the framing of the sector principle in the Arctic region, no account has been taken of the fact that the coast of a State bordering the Arctic is no gauge of its Arctic interests. Norway, for instance, has an extensive hunting (fishing) industry with great capabilities of development, and which would no doubt suffer considerably if the principle were to be carried into effect.

The parties on whom the greatest wrong would be inflicted by the sector principle are the States that are not bounded by the Arctic Sea. Any State whatsoever may, from scientific or economic reasons, be interested in having the sovereignty over an Arctic land, and it is quite illegitimate to exclude such a State from obtaining this on the pretence that its territory is not lying sufficiently far to the north³. Lakhtine objects to this view on the ground that the interests of these States in the Arctic can only be of an "imperialist character", and that the interests for this reason "cannot be recognized as being reasonable"⁴. However, it cannot in any way be admitted that a sector State, in looking after its economic and political interests in the Arctic, is performing an act of a more elevated or ideal character than any other State does in looking after its interests.

We have so far regarded the question of the practicability of the sector principle with reference to the Arctic regions. In the Antarctic

¹ Lakhtine, 1928, p. 19.

² Miller, 1925, p. 59—60; 1928, p. 247; Lindley, 1926, p. 5—6, and p. 235; Breitfuss, 1928, p. 28.

³ Waultrin, 1908, p. 417.

⁴ Lakhtine, 1928, p. 33, and 36.

regions the basis of sector claims, as previously mentioned, is not clear. If we assume discoveries to be a sufficient basis and let the States that can refer to discoveries plot their respective sectors on the map, we shall undoubtedly soon realize that the principle is not practical; for the sectors will, in part, cover each other. A territory may lie in more than one sector. Those States which have no discoveries to fall back upon, and which will be excluded from this sharing of Antarctica, will of a certainty also be of opinion that the sector principle is not a practical one.

Lakhtine urges that only the States bordering the polar regions have at their disposal sufficient experience to enable them to operate in these uninviting regions of the globe¹. Actually, this line of argument would result in the exploitation of polar regions being left to these States on an equal footing. As an example of how little other States are capable of operating in these regions he refers to the catastrophe of the Italian airship "Italia". Lakhtine's view of the question is too one-sided. States which cannot be called polar States have also played a very creditable part in the exploration of both polar regions. We need only mention the meritorious work done by France and Germany. Names such as Bouvet, Kerguelen-Tremarec, Dumont d'Urville, Charcot and Koldewey, Drygalski and Filchner, will for ever be identified with the exploration of these regions. On the other hand, when it is a question of the practical exploitation of polar regions, people living near these regions will naturally possess experience and knowledge frequently lacking with other people. There is, however, no reason why this advantage should be made still greater by means of a sector system.

In British quarters — Lindley — it has been said that the assignment of the Svalbard Archipelago to Norway is in conformity with the sector principle². This view is not correct. The greater part of the Archipelago is lying in a Norwegian sector; but parts of it are in a Finnish and a Russian sector: nor does the Svalbard Treaty contain anything in support of Lindley's view. It does not indicate why the Powers were agreed that the Archipelago ought to belong to Norway. Presumably it was good enough reason that Norway had the greatest economic interests in Svalbard, that most of the people living there were Norwegians, and that in the exploration of the Archipelago Norway had done better service than any other State. If any weight has been placed upon the location of Svalbard in relation to Norway, it must have been as a consideration of equity. It transpires both from the history of the Svalbard problem and from the wording of the Svalbard Treaty, that the opinion was not held that Norway had a legal claim to Svalbard on account of its location.

¹ Lakhtine, 1928, p. 47.

² Lindley, 1926, p. 5; cp. Joerg, 1930, p. 33.

The sector principle is not a legal principle having a title in the law of nations. This is partly admitted by those who uphold it¹. Nor should the principle be embodied in international law, for one reason because it aims at a monopoly which will doubtless delay, and partly prevent, an exploitation of the polar regions.

It is of interest to observe how States that claim sovereignty in sector areas nevertheless attempt to take charge of lands lying in these areas by effective occupation. By so doing they show they fully realise that a territorial sovereignty which they may rightly require to be respected by foreign States, must be based on a more solid foundation than the sector principle.

In the theory and practice of international law it is laid down that sovereignty over a No-man's-land must be acquired by occupation, if all the interested Powers are not agreed to place such a land under the sovereignty of a single State². As mentioned several times before, there is no valid reason for departing from this rule in the polar regions. In fact, it cannot be dispensed with, for it cannot be replaced by any other rule to which the comity of nations is willing to adhere. There can be no doubt that the States are unwilling to renounce in the polar regions the rule of occupation in favour of the sector principle.

Fauchille has tried to improve the sector principle by a recommendation to the effect that sectors shall not be allotted to States, but to continents³. The Arctic region ought, in his opinion, to be divided into an American, an Asiatic, and a European sector. He will reserve the exploitation of each sector to the States lying in that part of the world to which the sector belongs. By this recommendation the artificial and arbitrary feature of the sector principle is still further emphasized.

Sector Claims.

Arctic Regions.

1. Canada.

The previously mentioned proposal made by Poirier was not adopted. On behalf of the Canadian Government Mr. Cartwright, Minister of the Interior, dissociated himself from it. He did not believe, he stated, that it would be of any advantage to Canada or any other country "to assert jurisdiction" so far northwards. It was also clear from other statements that Cartwright was of opinion that Canada could not claim

¹ Lindley, 1926, p. 235; Miller, 1928, p. 244, cp. p. 247.

² Cp. Professor Frede Castberg: "Retten til polarlandene". (The Title to Polar Territories). "Aftenposten", 14th March 1929.

³ Fauchille, 1925, p. 659.

sovereignty over the regions between its northern coast and the Pole, without being willing at the same time to take over the control of these regions¹.

The point of view represented by Cartwright has not won the day. It is true that Canada has not claimed a sector by any official declaration, such as the Russian Decree of 15th April 1926, and the British Declarations of 1917 and 1923, relating to the Falkland sector and the Ross sector. Nevertheless, there can be no doubt that Canada claims sovereignty over the islands lying in the sector between its northern coast and the meridians of 60° and 141° W. The Canadian sector claim has been made in different ways and on several occasions. What is mentioned below will be sufficient to show that Canada is among the States claiming a sector.

In 1908—09, an official Canadian expedition was working under the leadership of Captain Bernier in the regions north of Canada². On that occasion, Canadian sovereignty was proclaimed over the whole Archipelago between 60° and 141° and up to the Pole. A report of it was engraved on a copper plate mounted at the winter quarters of the expedition on Melville Island³. Although this "formal appropriation" did not give Canada the sovereignty, it is of interest as reflecting a Canadian sector claim.

In 1921, Canada informed the Government of Denmark that any discoveries which Knud Rasmussen might make on his journey in regions north of Canada, would not be recognized as a basis of any territorial claims made by Denmark⁴. On a map published in 1923 by the Canadian Ministry of the Interior of "North West Territories" and "Yukon Territory", all islands north of Canada are designated Canadian territory. The map is annexed to Craig's report on the above-mentioned Canadian Expedition in 1921.

In Canada there is an institution named "The Geographic Board of Canada". Its object is to report on all questions relating to geographical names in the Dominion of Canada. Reports on the work of the Institution are made public. A report from 1924 contains a list of geographical names in the Archipelago north of Canada⁵.

On 1st June 1925, The Canadian House of Commons discussed a Bill providing that scientists and explorers wishing to work in the Northwest Territories must have a Canadian permit. "The Northwest Territories" include also the so-called District of Franklin where the

¹ Debates of the Senate of the Dominion of Canada, 1906—07, 1907, p. 273—74.

² Report on the Dominion of Canada Government expedition to the Arctic Islands and Hudson Strait on board the D. G. S. "Arctic", Ottawa, 1910.

³ Geogr. Journal, London, 1910, Vol. 35; cp. Markham, 1921, p. 362.

⁴ Miller, 1925, p. 50; 1928, p. 238; Lakhtine, 1928, p. 23.

⁵ Eighteenth report of the Geographic Board of Canada, 1924; cp. Nineteenth report, 1928, of the same Institution.

Arctic islands are situated. The Bill was passed. The Minister of the Interior, Mr. Stewart supported it thus:

“What we want to do is to assert our sovereignty. We want to make it clear that this is Canadian territory and that if foreigners want to go in there, they must have permission in the form of a licence”.¹

During the discussion of the Bill one of the members of the House stated:

“We claim right up to the North Pole.”

Mr. Stewart replied:

“Yes, right up to the North Pole.”²

The statements of the Canadian Minister of the Interior were commented on in the press of the United States. It appeared from the comments that the opinion in the United States was that the Canadian claim of sovereignty over all islands between Alaska and Greenland was not justified³.

Some days afterwards — on 10th June — Mr. Stewart defined in greater detail in the House of Commons, the area claimed by Canada. “We claim”, he said, “the whole area lying between 60° and 142° W.”⁴ The figure 142 must be due to a misunderstanding, it being the meridian 141° W which forms the frontier between Alaska and Canada. A portion of Northern Greenland lies west of 60° W. Canada, however, does not claim any part of Greenland. With this qualification the Canadian sector claim refers to the area between 60° and 141° W⁵.

In certain parts of “The Northwest Territories” hunting and fishing are reserved to Eskimos, Indians, and half-breeds. One of the areas reserved to these people is the so-called “Arctic Islands Preserve” which approximately coincides with the District of Franklin, and includes the islands north of Canada. “Arctic Islands Preserve” was established by an Order in Council of 19th July 1926. The regulations now in force with regard to hunting and fishing within this preserve are found in an Order in Council of 15th May 1929.

In favour of the Canadian sector claim, a special reason has been stated which does not apply to sector claims generally. Reference has been made to the Treaty between Russia and Great Britain of 1825 relating to the boundary line between Alaska and Canada, where the expression is used that the meridian 141° W shall be the boundary line

¹ Canada. House of Commons Debates, 1925, p. 3926.

² Canada. House of Commons Debates, 1925, p. 3925.

³ See, for instance, “New York Herald” and “Washington Post”, 3rd June 1925.

⁴ Canada. House of Commons Debates, 1925, p. 4238; cp. Keith, 1928, p. 335.

⁵ Cp. Order in Council of 15th May 1929, regarding Regulations for the Protection of Game in Northwest Territories, Sec. 39, “The Canada Gazette”, 25th May 1929.

“right up to the Arctic” (*jusqu’à la Mer Glacial*)¹. Whether this term means “to where the Arctic begins”, or, “as far as the Arctic extends”, is perhaps not quite clear; but the former interpretation seems to be the right one. If the term is understood to mean that a division of Arctic regions was made by the Treaty, the division was in that event a matter between Great Britain and Russia which foreign States are not bound to respect if they have not consented to it.

In American quarters it has been suggested that the Monroe Doctrine would stand in the way of, for instance, European States acquiring sovereignty over islands north of Canada. We shall not go into this question. It has at the same time been stated that it is natural to consider Canada as an American Power, although it is a member of the British Empire².

As mentioned before, Canada endeavours, without regard to the sector principle, to take charge of the islands north of its coast by effective occupation. It has been pointed out that, while in 1920 4 000 dollars was put down in the estimates of Canada for administration of “The Northwest Territories”, this item had increased to 300 000 dollars in the estimates for 1924³. This increase is certainly partly due to a greater interest in the Arctic Islands⁴.

2. *The United States of America.*

The United States has not claimed any sector. It has never claimed sovereignty over such land territories as may exist north of Alaska⁵. As previously mentioned, the sector principle does not give the United States any advantage. No land has yet been discovered between Alaska and the North Pole. It may also be assumed that it is not in the interest of the United States to recognize the sector principle in Antarctica.

With regard to Antarctica there is the statement previously quoted, made by Mr. Hughes, when he was the American Secretary of State. It appears from this pronouncement that the United States lays down rigorous demands as regards occupation of polar areas. This pronouncement is of importance beyond the particular case to which it refers, Mr. Hughes being one of the most highly reputed and influential jurists of the United States. He was formerly a member of the Permanent International Court at the Hague, and is now the President of the High Court of Justice of the United States.

¹ Miller, 1925, p. 58; 1928, p. 245—47.

² Miller, 1925, p. 51; 1928, p. 239—40.

³ Miller, 1928, p. 237; Lakhtine, 1928, p. 22.

⁴ Cp. Keith, 1928, p. 582.

⁵ Miller, 1925, p. 54; 1928, p. 242—43.

As regards the areas north of Alaska, certain statements were made in 1924 by the then American Secretary of the Navy, Mr. Denby. These statements confirm the correctness of the opinion mentioned, that the United States does not claim sovereignty over any Arctic sector. On the 19th January 1924, The Naval Committee of the House of Representatives discussed the question of sending the airship "Shenandoah" to the northern polar regions. Denby, Minister of Marine, was present and stated, *inter alia*, the following:

"The polar flight is undertaken by the United States Navy partly because of the known fact that there is an unexplored area directly north of Alaska in the polar region of 1 000 000 square miles . . . I think it must be perfectly clear to everybody that it is at least highly desirable that the United States should know what is in that region.

And, furthermore, in my opinion, it is highly desirable that if there is in that region land, either habitable or not, it should be the property of the United States. . . . And, for myself, I cannot view with equanimity any territory of that kind being in the hands of another Power . . .

One object of this proposed flight is to make sure whether or not there is land, and if there is, what its character is and, if possible, should there be land there, to add it to the sovereignty of the United States.

We go quickly upon this expedition, because if we do not go this year, it will not be any use to go at all. If we do not go, that entire region will be photographed and mapped and probably controlled by another Power within two years."¹

It is evident from these statements that Denby did not mean that the United States should have the sovereignty over this area on the basis of a sector principle. Fauchille quotes Denby's words incorrectly, and the reason is that he does not build on the shorthand report of the proceedings, but on an inaccurate newspaper notice. He quotes Denby as follows:

"Indeed, we cannot permit that the vast unexplored area of 1 000 000 square miles bordering the United States (Alaska) falls into the hands of another Power."²

Lakhtine, who probably builds on Fauchille, repeats Denby's words: "that the United States cannot permit etc."³ From this he draws the conclusion that the United States is claiming "the sector directly adjacent to Alaska."

¹ A Hearing on House Resolution 149. Contemplated Flight of the "Shenandoah" to the North Polar Regions. Committee on Naval Affairs. House of Representatives, 1924, p. 452—53.

² Fauchille, 1925, p. 661.

³ Lakhtine, 1928, p. 24.

3. *The Soviet Union.*

As we have seen, it was by a Decree issued by the Presidency of the Central Executive Committee of the Soviet Union dated the 15th April 1926, that the Soviet Union expressed itself in favour of the sector principle. In this Decree it is stated that lands and islands are considered to be the territory of the Soviet Union when they are

“lying between the north coast of the Soviet Union and the North Pole in the region limited by the meridian $32^{\circ} 4' 35''$ E (of Greenwich) cutting the east side of the Vaidaguba through the triangular mark on Cape Kekursky, and by the meridian $168^{\circ} 49' 30''$ W (of Greenwich) cutting the middle of the sound separating the Ratmanov and the Krusenstern Islands, both of which belong to the Diomedes Archipelago lying in Bering Strait.”¹

It may be said that this Decree had been prepared by the previously mentioned; declarations of the 29th September 1916, and the 4th November 1924². It has been said by Russian authorities that, in claiming a sector, the Soviet Union merely followed the example of Great Britain in the Antarctic regions³.

As a special argument in favour of the sector claim of the Soviet Union, reference has been made to the treaty between the United States and Russia of 1867. In this treaty it was stipulated that the boundary between the two States shall be the aforesaid meridian between the Islands of Ratmanov and Krusenstern in the Bering Strait, and it is stated with regard to this boundary that it “continues to the north in a straight line without limitation until it disappears in the Arctic”⁴ (*et remonte en ligne direct, sans limitation, vers le Nord, jusqu'à ce qu'elle se perde dans la Mer Glacial*). If this quotation is to be understood to mean that the two States on this occasion divided Arctic regions between them, this division is only binding upon the parties themselves. The somewhat similar stipulation in the Treaty of 1825 between Russia and Great Britain has already been mentioned.

The Soviet Union notified foreign Powers of the Decree of the 15th April 1926⁵. The notification received by Norway is dated 6th May 1926. We do not know what replies the Powers may have given. Norway's reply was sent on the 19th December 1928. It must be assumed that reservation has been made against the sector claim

¹ Breitfuss, 1928, p. 27.

² See *ante*, p. 60.

³ Breitfuss, 1928, p. 27.

⁴ Miller, 1928, p. 246—47; Lakhtine, 1928, p. 28.

⁵ Lakhtine, 1928, p. 31.

made by the Soviet¹. It is probable that a special reservation has been made with regard to Franz Josef Land.

This group of islands is located between 79° 50' and 81° 50' N and between 42° and 65° E, *i. e.* in the sector claimed by the Soviet Union. It is generally presumed that Franz Josef Land was discovered in 1873 by the Austro-Hungarian Polar Expedition in the "Tegetthoff"²; but this is not correct. The discovery took place as early as 1865, and was made by Norwegian sealers, namely Skipper Nils Fredrik Rønnebeck and Harpooner Aidijärvi, both of Hammerfest. They called the land North-East-Spitsbergen or Rønnebeck's land. The reason why this discovery was not made known immediately may be assumed to be that the discoverers regarded the land as a new sealing ground, which they wished to keep secret from their competitors. In this connection we may refer to the interesting report on Franz Josef Land issued by *Norges Svalbard- og Ishavs-undersøkelser* (Norwegian Exploration of Svalbard and the Polar Regions) in 1929³. The following particulars are taken, in part, from this report.

Franz Josef Land consists of about 75 islands, large and small, making together about 20 000 square kilometers. None of the islands can be called a main island around which the others are grouped. The Archipelago is situated on the same submarine shelf as Svalbard. Also geologically Franz Josef Land shows a close connection with Svalbard, while it is distinctly separated from Novaya Zemlya both geologically and geographically. About midway between the easternmost island of Svalbard, Kvitøya, and Franz Josef Land, lies Victoria Island. The distance from here to Kvitøya is about 80 km. and to Cape Harmsworth on Franz Josef Land about 100 km. Thus Franz Josef Land is 180 km. from Svalbard, while the distance to Novaya Zemlya is 360 km.

Practically all the economic interests connected with Franz Josef Land are in Norwegian hands. These interests comprise the hunting of seals, walruses, bears and foxes. Sometimes considerable numbers of white whale appear in the sounds when the ice breaks up in the spring.

The *Norges Svalbard- og Ishavs-undersøkelser* has prepared statistical data relating to the expeditions that have been to Franz Josef Land from 1865 to 1928, numbering 138. Of these, 110 are Norwegian, 12 Russian, 9 British, 3 American, 1 Italian, 1 Dutch,

¹ "Dagbladet", 11th November 1929. (Speech made by Mr. Mowinkel, the Norwegian Prime Minister).

² See, for instance, Rudmose Brown, 1927, p. 13; Lakhtine, 1928, p. 26.

³ *Norges Svalbard- og Ishavsundersøkelser*, 1929. The report is published in 1930 under the following title: "Gunnar Horn: Franz Josef Land, Natural History, Discovery, Exploration and Hunting". — *Skrifter om Svalbard og Ishavet*. No. 29. The figures mentioned in the text are partly taken from the 1930 edition.

1 French, and 1 Austro-Hungarian. The Russian expeditions have either been of a scientific character, or they have been sent out as relief expeditions. The great majority of the Norwegian expeditions have been sealing expeditions; some few of them have been scientific and relief expeditions.

The information given by Lakhtine on this point is entirely incorrect. He says, for instance, that the Archipelago during the last 25 years has been visited only by Russian expeditions¹. In actual fact, Franz Josef Land was visited during the years 1903—1927 by 69 Norwegian and 9 Russian expeditions. In 1928, 14 Norwegian and 2 Russian expeditions were there.

Franz Josef Land has rightly been regarded as a No-man's-land². The Soviet Union also has formerly construed the legal situation of the Archipelago in that way. It is true that the Russian flag was hoisted on the southwest point of Northbrook Island, Cape Flora, in 1914. This occurrence, which was not notified or followed by any real appropriation, was without legal significance. Miller points out that on two official maps published by the Soviet Union in 1923 and 1926, Franz Josef Land is not marked as Russian territory³. The latter map is dated 15th September 1926, and has thus been published after the Decree of 15th April of the same year. In a new edition of this map, dated 1st March 1929, Franz Josef Land is given the same colour as Russia⁴.

The Russian ice-breaker "Krassin" which, in the summer of 1928, took part in the search for the lost Italian Polar Expedition, called at two of the islands of Franz Josef Land, namely, Alexandra Island and Prince George Island. A landing was made at Cape Neale on Prince George Island. Here a depot was made, containing victuals and materials for building a small house. The stay at Cape Neale was very short. It has been said that during the stay here the flag of the Soviet Union was hoisted and the land taken possession of⁵. The correctness of this report has been doubted because a member of the expedition has stated that no such ceremony took place⁶.

If a formal appropriation was performed on that occasion, it must be assumed that a notification of it was not sent to foreign governments. The appropriation has, at any rate, not been notified to Norway. The publication of the incident in the official gazette of the Soviet Union,

¹ Lakhtine, 1928, p. 26.

² Rudmose Brown, 1927, p. 169; Miller, 1928, p. 241—42; Breitfuss, 1928, p. 28.

³ Miller, 1928, p. 242, Note 9. (In an atlas published by the Soviet Government in 1928, Franz Josef Land is not marked as Russian either).

⁴ Joerg, 1930, p. 32—33.

⁵ "Tidens Tegn", 27th September 1928; "Isvjestija", 14th July 1929; Samoilowitch, 1929, p. 376.

⁶ Norges Svalbard- og Ishavs-undersøkelser, 1929, p. 33.

"Isvjestija", cannot be regarded as a notification. The Soviet Union has not acquired any title to Franz Josef Land by a purely formal appropriation.

By a decree issued by the Council of People's Commissaries, on 7th March 1929, the necessary sum was provided for the erection of a wireless station and a geo-physical station on Franz Josef Land. On 23rd July 1929 the ice-breaker "Sedov" left Archangel with an expedition under the leadership of Professor O. J. Schmidt in order to erect these stations. It was intended to carry on, at the same time, scientific work on Franz Josef Land and in adjacent waters. On 28th July the expedition reached Hooker Island, and the following day the flag of the Soviet Union was hoisted ashore. The hoisting of the flag was performed to a salute of gunfire, and a document recording the incident was drawn up and was signed by Professor Schmidt amongst other members. According to "Isvjestija", Schmidt stated on this occasion that:

"The government of the Soviet Union has resolved to recognize Franz Josef Land with the entire polar sector as a part of the United Republics. By virtue of the authority conferred upon me, I declare Franz Josef Land to be a territory of the Soviet Union".

On 31st July of the same year the Soviet flag was hoisted on Cape Flora. These hoistings of the flag, which have not been notified, have no more legal importance than the formal appropriation in 1928.

The geo-physical station and the wireless station were both erected on Hooker Island. Here was also built a dwelling house. When the "Sedov" left Franz Josef Land at the beginning of September 1929, a wintering party consisting of seven men was left under the charge of the meteorologist, P. J. Iljashevitch. In the published report on the expedition it is stated that the "Sedov" passed through the Archipelago from south to north and that a number of islands were visited, even the most northern of them, Rudolf Island.

On 18th November 1929 the All-Russian Central Executive Committee and the Council of Peoples Commisaries issued a new decree relating to the administration of the islands in the Arctic. This decree deals also with Franz Josef Land. It appears from this document that the administration of these islands is entrusted to the Executive Committee for the Northern Region. Its work includes the organization of the defence of the islands, their colonization, and the exploitation of their resources. Article 9 states that regulations concerning entry to the islands are to be drawn up in a special Act.

As far as is known, the Soviet Union's plan is to build during the summer of 1930 a number of huts on Franz Josef Land. These huts are to facilitate the future exploration of the Archipelago. The alteration of the name of the Archipelago from Franz Josef Land to Michael Lomonosov Land has also been under consideration.

It seems obvious from what has been stated above that the object of the Soviet Union is to take effective possession of Franz Josef Land. So far, it can hardly be said that this object has been attained at other places than Hooker Island and in the areas of which the persons resident on this island may be able to take effective charge, it being assumed that such persons are authorized to represent the Soviet Union.

The rest of Franz Josef Land is legally still a No-man's-land. That this question also has its political side need not be stressed.¹

4. Finland.

By the Treaty of Dorpat, dated 14th October 1920, Finland was given an Arctic frontier, but this is a very short one. In a Finnish sector there is no land other than a small part of Svalbard belonging to Norway. As far as we know, Finland has made no sector claim. An eventual Finnish sector would lie between $32^{\circ} 4' 35''$ E and about 31° E².

5. Denmark and Norway.

The area left for a Danish and a Norwegian sector lies between about 31° E and 60° W. Neither of the two States has claimed a sector. It has, however, been mentioned how the area would, in such event, have to be divided between them. Lakhtine is of opinion that the sector between 31° E and 10° E should be allotted to Norway. The latter meridian cuts Norway a little west of Trondheim. Almost the whole of the Norwegian Sea would, with such a partition, lie in a Danish sector. To Norway such a boundary would be altogether unsatisfactory.

Lakhtine has assumed that the question of sovereignty over East Greenland has not formally been solved, "but in reality it does not give rise to any doubt" he says². In other words, he builds on the popular and incorrect supposition that East Greenland is Danish. Lakhtine has further assumed that Jan Mayen belongs to Norway, which it now does, but it did not in 1928 when Lakhtine published his treatise³. In his sector proposal he has not, however, attached any importance to the fact that Jan Mayen belongs to Norway.

His compatriot Breitfuss, however, stresses this fact. Building on the same assumptions as Lakhtine, *i. e.* that East Greenland is Danish and Jan Mayen Norwegian, he takes the meridian 10° W, running a little west of Jan Mayen, as forming the demarkation line between the two sectors⁴.

¹ Breitfuss, 1928, p. 27—28; Lakhtine, 1928, p. 21.

² Lakhtine, 1928, p. 44.

³ Lakhtine, 1928, p. 21.

⁴ Breitfuss, 1928, p. 25, and p. 28.

This latter boundary is also unsatisfactory to Norway, as practically all industrial activity in the waters between East Greenland and Norway is carried on by Norwegians. The question of drawing a boundary between a Danish and a Norwegian sector is presumably only of academic interest. If such a question should really arise, it must be assumed that stress will be laid upon the fact whether East Greenland is Danish and Norwegian, at the time when the demarkation line is to be decided.

Antarctic Regions.

We have previously dealt with the British sector claims in the Antarctic regions at such length that we can now refer to them quite briefly. In the Falkland Sector and the Ross Sector, Great Britain has sovereignty only over the lands of which it has taken effective possession. That this view is not strange to British reasoning, is obvious. This is exemplified in a leader in the Scotch newspaper "Dundee Courier and Advertiser" for 6th April 1929. First it states that a valid title to Norman's-land is acquired by "effective occupation", and in the following paragraph:

"How much of the Antarctic has Great Britain effectively occupied? To the best of our knowledge there is, on the Continent (not counting islands), only one spot of which this can be said".

The same article touches upon the disputes in Antarctica between the United States and Great Britain. It is held that if these disputes were brought before the Permanent International Court at the Hague, there would be

"good ground to suspect that the lawyer would make hash of all but a minute fraction of the claims on both sides".

One of those possessing the most comprehensive knowledge of Antarctic conditions, Gordon Hayes, the Englishman, also expresses doubt as to whether the British sector claims can be maintained. He states:

"But if an unfriendly Power required, for example, Graham Land, we should have difficulty in convincing an international court that we had occupied it, within the meaning of the law, by the Norwegian settlements on South Georgia or Deception Island¹".

Then, dealing with the problem more generally, he states:

"And some of the geographical boundaries of these dependencies, as they are now fixed, offer extremely thorny possibilities"².

Gordon Hayes further points out that due regard does not appear to have been taken to international courtesy when the boundaries of the two sectors were fixed. In this connection he mentions that in the

¹ Gordon Hayes, 1928, p. 360.

² Gordon Hayes, 1928, p. 361.

Falkland Sector there are lands discovered by Frenchmen, Norwegians, and Swedes, and that the Ross Sector includes, as British territories, nearly all Captain Amundsen's discoveries¹. We shall not go into the matter of Gordon Hayes' criticism, seeing that he deals here with questions that are not of a legal nature.

We will now submit a few remarks about each of the two sectors:

1. *The Falkland Sector.*

By Letters Patent of 21st July 1908, South Georgia, the South Orkneys, South Shetland, the Sandwich Islands, and Graham Land were made dependencies of the Falkland Islands. In Letters Patent of 28th March 1917, it is stated that as doubt has been expressed about the boundaries of these dependencies, they "shall be deemed to include, and to have included, all islands and territories whatsoever" between Long. 20° and 50° W, south of Lat. 50° S, and between 50° and 80° W, south of Lat. 58° S.

In the seas of the Falkland Sector, very remunerative whaling has for years been carried on, especially by Norwegians. In order to obtain a right to operate from land, or within the territorial limit, whaling companies have been obliged to have a British licence. The dues which have been paid have amounted to a very considerable sum. We must, however, not overlook the fact that British authorities have also had for their aim the preservation of the whale stock².

2. *The Ross Sector.*

By Order in Council of 30th July 1923, it was laid down that this sector should include all islands and territories between Long. 160° E and 150° W south of Lat. 60° S.

There is reason to believe that this resolution, like the one concerning the Falkland Sector, has in part been occasioned by a desire to control Norwegian whaling in Antarctic waters³. We have previously mentioned the British regulations concerning whaling in the seas of the Ross Sector (Ross Dependency Whaling Regulations). These Regulations are issued by the Governor General of New Zealand. Their validity has been doubted, it being stated that the Governor General had no authority to issue them⁴.

Since 1923 regular whaling has been carried on in Ross Sea. It was Captain C. A. Larsen, the well-known Norwegian whaler, who

¹ Gordon Hayes, 1928, p. 361—64.

² Risting, 1928, p. 346—47.

³ Rudmose Brown, 1927, p. 177; Breitfuss, 1928, p. 26; Hoel, 1928, p. 79.

⁴ Charteris, 1929, p. 228—31; cp. Keith, 1928, p. 792, p. 1039—40, and p. XLVII. See *ante*, p. 58.

initiated the operations. At present, one British and three Norwegian companies are at work there. One of the Norwegian companies, "Ross-havet" Ltd., has a British concession¹. Ross Sea must be considered to be part of the high sea, and it is not necessary to have a concession in order to carry on whaling there. We are also of opinion that whaling must be free within a distance of three miles from land, because Great Britain cannot rightly claim sovereignty over the lands bordering Ross Sea.

Sometimes we meet with the term "the Australian Sector"². It has been stated that this designation means the portion of Antarctica lying south of Australia and extending from Ross Sea to Enderby Land³. This sector includes also Adélie Land claimed by France. As far as we know, neither Great Britain nor Australia has made any official claim to such a sector.

¹ Risting, 1929, p. 108—31.

² Charteris, 1929, p. 226; cp. Lindley, 1926, p. 5.

³ Australian Expedition, 1929.

East Greenland.

East Greenland, with the exception of Angmagssalik, was in 1924 a No-man's-land.

The conflict between Denmark and Norway about East Greenland is a dispute as to sovereignty. During the negotiations between the two States in 1923—24, Denmark contended that East Greenland was Danish. The Norwegian standpoint was that East Greenland, with the exception of the Danish colony, Angmagssalik, was a No-man's-land. At the same time it was stated on the part of Norway that if the territory was to be subject to the sovereignty of any State, historic and economic reasons dictated that it should be declared Norwegian territory¹.

The Danish view was supported in different ways. The Treaty of Kiel and the negotiations with Norway in 1814—21 were quoted as one of the main arguments. In these negotiations, in which Denmark was backed up by the Great Powers, Norway was compelled to renounce its title to Greenland in favour of Denmark². As Denmark derives its title to Greenland from Norway, it is of interest to know how great a portion of Greenland was under Norwegian sovereignty. Denmark could not acquire, by the events mentioned, any greater title than Norway possessed.

In 1814—21, only West Greenland from the south point, Cape Farewell, to 73° N was placed under the administration of the Government and taken effective possession of. Here had been established several stations or colonies along the coast. The first one was Godthaab, founded in the 1720-ties by the Norwegian clergyman, Hans Egede.³ Other colonies were Jakobshavn (1741), Fredrikshaab (1742), Kristianshaab (1743), Klaushavn (1752), Fiskenaesset (1754), Sukkertoppen (1755), Holstensborg (1759), Egedesminde (1759), Upernivik (1771), and Godhavn (1773). As international law at the beginning of the nineteenth century required that an occupation, in order to be valid, should be based on effective appropriation, it was only the aforesaid portion of West Greenland which belonged to Norway.

¹ Cp. the Final Protocol agreed upon at the meeting of the Danish and Norwegian negotiators, 28th January, 1924.

² Smedal, 1928, p. 36—51.

³ See K. Honoré Petersen, "Træk av kolonien Godthaabs historie", 1928. Sydgrönlands Bogtrykkeri.

The theories previously mentioned relating to the extent of an occupation could not be advanced in favour of the view that the sovereignty of Norway also applied to parts of East Greenland. The doctrine that a State, occupying a coast obtains sovereignty over interior territory up to the watershed, or to the foot of the mountains, would not go farther than to recognize Norwegian sovereignty from the coast to the inland ice. The theory that a State, in such a case, obtains sovereignty over interior territory, right back to the opposite seaboard, has never been recognized¹.

In this connection it is natural to point to the size of Greenland. Its area is about 2,2 million square kilometers. It has recently been said in Danish quarters that Greenland, the biggest island in the world, is sufficiently large to contain all the countries of Western Europe: Iceland, Norway, Denmark, Great Britain and Ireland, Holland, Belgium, France, Switzerland, Portugal, and Spain, "and then there is still sufficient room left for the Cattedag seven times over²." It would be altogether unreasonable if a State, by annexing a portion of such a vast land, should obtain sovereignty over the whole country; nor did there exist any foundation for such a view in the early years of the nineteenth century.

During the negotiations in 1923—24, the representatives of Denmark supported the view that the whole of Greenland in 1814 was under sovereignty, by referring to a royal decree of 18th March 1776 placing an "Interdict against illegitimate trade in Greenland". This is not the place to construe the said decree. Let us however postulate that the decree is founded on the opinion that the whole of Greenland was under sovereignty. From this, however, it does not follow that the view was correct. It was, without doubt incorrect, because sovereignty was only exercised over a part of West Greenland. It should be observed that in 1814 East Greenland was practically an unknown land, considered to be almost inaccessible³.

Legal authorities in Denmark have urged that before 1814 Greenland was so much estranged from Norway that it might be doubtful whether the country, or rather parts of it, could be regarded, constitutionally, as a Norwegian dependency⁴. These doubts are not justified⁵. Even if one were to say that Denmark acquired the title to Greenland prior to 1814, Danish sovereignty would not, in that event, have included any greater portion of the country than that which was

¹ Basset Moore, 1906, p. 265.

² Rasmussen, 1927, p. 47.

³ Smedal, 1928, p. 27, and p. 34—35.

⁴ Matzen, 1895, p. 30—31.

⁵ Cp. Ræstad, 1923, p. 8—10.

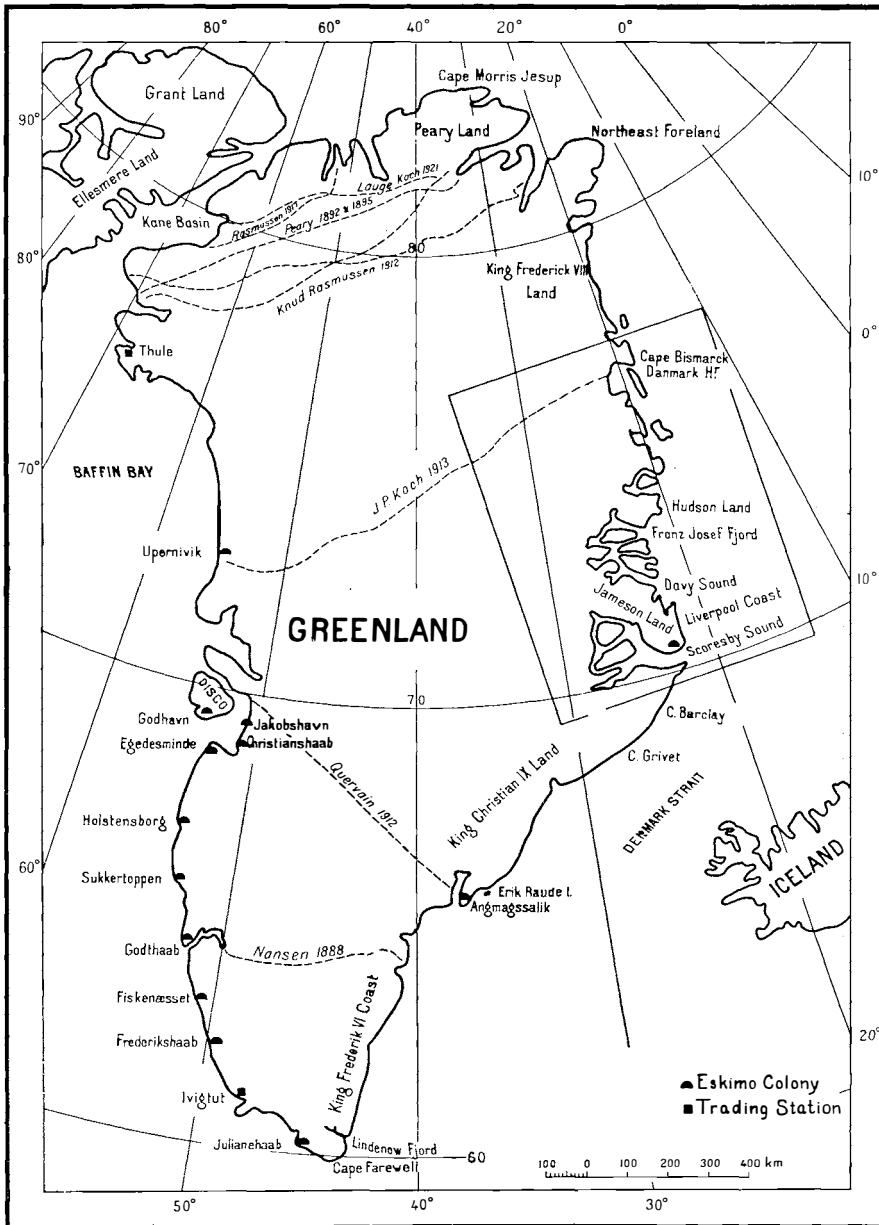
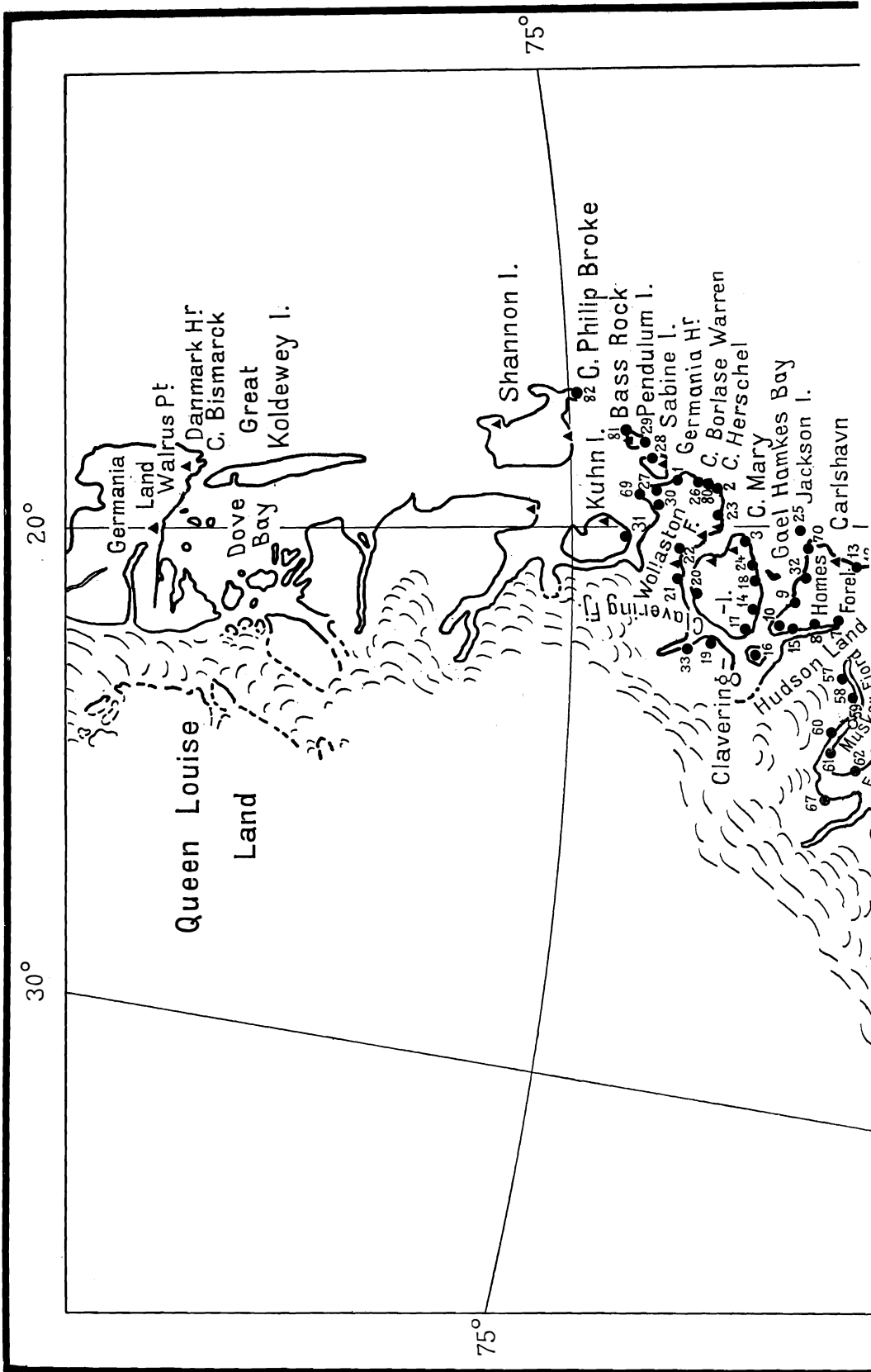
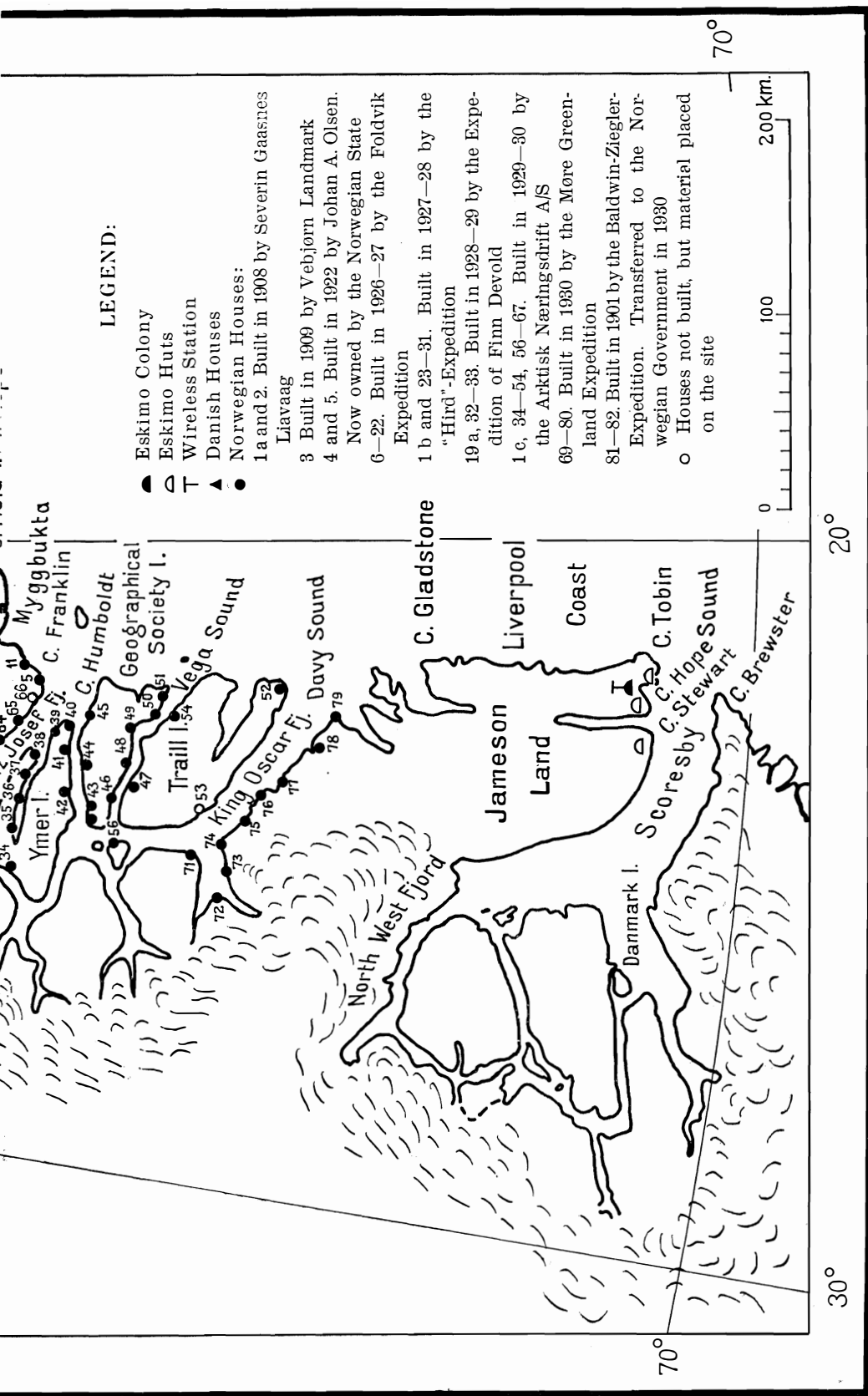


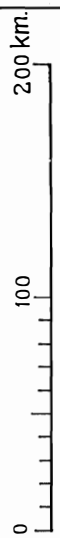
Fig. 3.
GREENLAND





LEGEND:

- Eskimo Colony
- Eskimo Huts
- ⊕ Wireless Station
- ▲ Danish Houses
- Norwegian Houses:
 - 1a and 2. Built in 1908 by Severin Gaasnes Liavaag
 - 3 Built in 1909 by Vebjørn Landmark
 - 4 and 5. Built in 1922 by Johan A. Olsen. Now owned by the Norwegian State
 - 6-22. Built in 1926-27 by the Foldvik Expedition
 - 1 b and 23-31. Built in 1927-28 by the "Hird"-Expedition
 - 19 a, 32-33. Built in 1928-29 by the Expedition of Finn Devold
 - 1 c, 34-54, 56-67. Built in 1929-30 by the Arktisk Næringsdrift A/S
 - 69-80. Built in 1930 by the More Greenland Expedition
 - 81-82. Built in 1901 by the Baldwin-Ziegler-Expedition. Transferred to the Norwegian Government in 1930
- Houses not built, but material placed on the site



20°

30°

70°

Fig. 4.

EAST GREENLAND FROM SCORESBY SOUND TO GERMANIA LAND.

Autumn 1930.

actually subject to sovereignty, *viz.*: West Greenland from Cape Farewell to 73° N.

Between 1814 and 1821, and in the negotiations with Norway in 1923—24, Denmark has on two occasions extended the area in Greenland over which it has sovereignty. The first extension took place in 1894, and related to the missionary and trading station of Angmagssalik, situated on the east coast in lat. 65° 36' N. The second extension related to the west coast from lat. 73° to 74° 30' N and took place in 1905. In the communications sent by the Government of Denmark to the Government of Norway in 1894 and 1905, the word "sovereignty", or any similar term was not used. The communications were in the nature of an intimation to the effect that the area of Danish administration in Greenland had been extended¹; yet, there can be no doubt that an extension of sovereignty was, in fact, made on both these occasions.

A succession of acts performed by Denmark are decidedly in conflict with the view that Denmark, by the events in 1814—21, acquired sovereignty over the whole of Greenland.

Reference may first be made to the "occupations" in Greenland in this and the preceding century. In 1829, Lieutenant W. A. Graah, Danish Navy, took possession of the southern part of the east coast and called it "Kong Fredrik VI's Kyst" (King Fredrik VI Coast)². In 1884, Lieutenant Gustav Holm, Danish Navy, on his famous umiak expedition along the east coast, reached a point a little farther north than Graah. On Eric the Red Island, near the Sermiligak Fjord, he took possession of the land and called it "Kong Christian IX's Land"³. When Lieut. Carl Ryder, Danish Navy, wintered in Scoresby Sound in 1891—92, he took possession on 26th May 1892 of the areas explored by him on behalf of the Danish State⁴. Lieut. G. Amdrup, Danish Navy, continued Holm's exploration of the east coast, and in 1899 and 1900 took possession of new areas in the tract between Angmagssalik and Scoresby Sound. These areas also received the name of "Kong Christian IX's Land"⁵. Finally, it may be mentioned that during Mylius Erichsen's so-called "Danmark"-Expedition to the northeast coast of Greenland in 1906—1908, the newly discovered land was taken possession of and called "Kong Fredrik VIII's Land"⁶.

¹ Indst. S. LXVI, 1923. Report from the Increased Committee on Foreign affairs and Constitution regarding the Greenland Question.

² Graah, 1832, p. 104—105, and "Meddelelser om Grönland" (Reports on Greenland). Volume 6, p. 10.

³ Holm, 1889, p. 94, and 142.

⁴ Ryder, 1895, p. 103.

⁵ Amdrup, 1902, p. 96, and 252—53.

⁶ Amdrup, 1913, p. 244.

There would be no sense in these acts of appropriation if they were not regarded as reflecting a desire to extend Danish sovereignty to areas which, at that time, were not under Denmark. The occupations have been published in "*Meddelelser om Grønland*" (Reports on Greenland), the Danish standard work on Greenland conditions, edited by "*Kommissionen for Ledelsen af de geologiske og geografiske Undersøgelser i Grønland*". (The Commission for the management of geological and geographical research in Greenland). It is reasonable to assume that they would not have been published in this work, if the Danish Government, at the time of the publication, had been of opinion that the whole of Greenland was Danish.

All the occupations mentioned are purely fictitious. They have not been notified to the interested Powers, and have not been followed by any real occupation. They are, therefore of no importance in international law. That competent authorities in Denmark are quite aware of this is apparent also from the fact that, in the report of the Danish Rigsdag relating to the sale of the West India Islands in 1916, the following statement made by the Danish Greenland explorer, J. P. Koch, has been included without reservation:

"Neither the uninhabited parts of the coasts of Greenland nor its desert interior became Danish, even if Danish explorers in their first enthusiasm on treading virgin soil did hoist the Danish flag, fire a festive salute, shout hurrah! and "take possession of the land". The greater part of Greenland is No-man's property. I think that the entire country ought to be Danish¹".

Another proof that it must have been clear to the Danish Government that Denmark did not obtain sovereignty over the whole of Greenland in 1814—21, is contained in Denmark's applications to several States with a view to securing recognition of Danish sovereignty over the whole of Greenland. The first application was made to the United States which, on 4th August 1916 in connection with Denmark's transfer of the West India Islands, gave the declaration quoted on page 45.

It has been alleged by a young Danish diplomat that this declaration does not relate to the question of an extension of sovereignty, but merely assents to the extension of the Danish prohibited area in Greenland. At the same time, the declaration should be considered as a renewed recognition of Danish sovereignty over the whole of Greenland².

That this contention cannot be maintained will appear from what took place before the declaration was given.

The Rigsdag Committee dealing with the sale of the West India Islands state in their report that when the American Government, in

¹ Betænkning 1916. Annex A, p. 136.

² Rasmussen, 1927 a, p. 662.

October 1915, again raised the question of such sale "the Danish Government gave America's application favourable consideration, yet at the same time expressed its desire to secure the co-operation of the United States in extending the sovereignty of the Danish State over Greenland so as to cover the whole of this dependency. The American Government at once expressed its willingness to comply with this wish¹".

During the negotiations which were then opened, the Danish Minister at Washington handed a Memorandum on the 27th December 1915 to Mr. Lansing, the American Secretary of State, in which it was stated:

. . . Out of regard for Danish sentiment in this matter and for the interests of the Eskimos, it is desirable that the Danish Government should extend its custody by State sovereignty (*udstrakte sin Omsorg ved Statens Overhøjhed*) so as to include the whole of Greenland" and "that the Danish Government is highly desirous of receiving a binding promise from the Government of the United States to the effect that no objection will be raised against the said extension of Denmark's custody and sovereignty so as to include the whole of Greenland²".

In the United States' draft treaty the stipulation relative to Greenland was worded otherwise than in the declaration finally agreed upon. The draft expressed the assumption that trade with Greenland was to be free. This wording was not accepted by Denmark. The declaration which was finally given, and which did not contain anything about freedom of trade and the closing of the country, was in agreement with the Danish proposal³.

It appears also from declarations given by other States that Denmark desired to obtain consent to an extension of Danish sovereignty in Greenland⁴. In 1920, for instance, the following declarations were given by France, Japan and Great Britain:

France:

"The French Government has no objection to the Danish Government extending its sovereignty to the whole of Greenland on the conditions envisaged in the note of the United States of 4th August 1916".

Japan:

"I have the honour to acknowledge the receipt of His Excellency the Minister of Denmark, Count P. Ahlefeldt-Laurvig's note, dated the 12th ultimo, relative to the recognition of the Danish sovereignty over Greenland.

¹ Betaenkning 1916, p. 28.

² Betaenkning 1916, Annex A. p. 44.

³ Betaenkning 1916, Annex A. p. 39—63; Smedal, 1928, p. 82—84.

⁴ Cp. Castberg, 1924 a, p. 258; Rasmussen, 1927 a, p. 656—57, p. 658 and 664.

I have further the honour to declare herewith, on behalf of the Imperial Government, that they have no objection to the Danish Government's extending their political and economic interests to the whole of Greenland".

Great Britain:

"His Majesty's Government recognize His Danish Majesty's sovereignty over Greenland, but, in view of its geographical proximity to the Dominion of Canada, His Majesty's Government must reserve their right to be consulted, should the Danish Government at any time contemplate alienation of this territory".

The French and the Japanese declarations were very similar to that of the United States. Danish sovereignty over the whole of Greenland was not recognized; but the two States bound themselves to consider as Danish spheres of interests the portions of Greenland that were not under any sovereignty. The British declaration went still further. The sovereignty of Denmark was recognized on the condition stated in the declaration. The fact that recognition was made conditional proves that, in the opinion of Great Britain, Denmark had not at that time sovereignty over the whole of Greenland.

It should also be mentioned that, in Danish legal theory, it has been urged down to quite recent years that the sovereignty of Denmark in Greenland was limited to the colonized parts of the country.

Thus Professor H. Matzen has written:

"The said boundary between Jutland and Schleswig is the only land frontier of the Danish State, leaving out of consideration the possible question of such a frontier which may arise in regard to the Danish dependencies in Greenland. The delimitation of these dependencies is not fixed by convention, but it is to be effected with due regard to the area which has been taken possession of in an internationally valid manner by the Danish State; the actual taking into possession being the fact upon which Denmark's title to the said country rests"¹. Professor Knud Berlin has expressed himself in similar terms in his book: "Danish Constitutional Law".

He states:

"Apart, at any rate, from Greenland — where the extension of the Danish dependencies must be determined according to the extent to which the Danish State, in an internationally valid manner, has taken possession of the land — the land area of the Danish State is otherwise bounded by the sea"².

¹ Matzen, 1895, p. 33—34.

² Berlin, 1916, p. 81.

He states further:

“The King must, therefore, in principle, be considered entitled to acquire new land in an internationally valid manner on his own account by colonization in No-man’s-land, for instance, in Greenland, as well as by conventions with foreign States”¹.

After the dispute about Greenland had arisen between Denmark and Norway, Professor Berlin, in an article on “The Constitutional Position of Greenland”, presented the view that the sovereignty of Denmark has included “everything which at any time would be regarded as belonging geographically to Greenland”². He states in this article that as the boundaries of Greenland, even up to very recent years, have been vague “to the north or northwest, because Greenland, as we know, has been regarded as a peninsula and not an island until very recent times . . . some land frontier or other in the northern or northwestern part had, of course, necessarily to be established”.

The statements from Danish legal theory quoted above should therefore, in Berlin’s opinion, only have reference to the boundaries of the country to the north and northwest.

It seems difficult to maintain this view. In the first place, the statements referred to from 1895 and 1916 contained nothing in support of it. Secondly, there is the fact that when Berlin’s book “Danish Constitutional Law” was published in 1916, the boundaries of the Greenland Continent were known. The northernmost point of the country, Cape Morris Jesup, had been reached by Peary on 13th May 1900. The last explored portion of Greenland was not the north, or the northwestern coast, but the northeastern coast, and the boundaries of the latter were known in 1908³. Berlin’s statement in 1916 that “the extent of the Danish dependencies must be determined according to the extent to which the Danish State in an internationally valid manner has taken possession of the land”, must therefore, necessarily bear reference to the entire Greenland territory.

The idea that Denmark has only possessed sovereignty over the parts of Greenland which have actually been occupied, is also met with in other Danish literature than that of a juridical character. This view has also been apparent in the title of books, e. g. in the known work of Rink: “Danish Greenland, its People and its Products”, London 1877.

The title of the great work: “Greenland in the two hundredth year after the landing of Hans Egede”, Copenhagen 1921, was originally

¹ Berlin, 1916, p. 91.

² Berlin, 1923, p. 216—18.

³ Cp. Amdrup, 1913, p. 11 and 36—37; Lauge Koch 1928, p. 253.

intended to read; "Danish Greenland etc.". The word "Danish" was omitted, because Denmark claimed sovereignty to the whole of Greenland in 1921¹. That the original intention was to include the word "Danish" in the title can be seen from the preface. This is evidenced also in the plates which have manifestly been printed before the decision as to the new title had been taken. At the foot of Plate I, Vol. I is printed "Danish Greenland I". The same words are printed at the foot of a series of other plates, e. g. Nos. 5, 13, 21, 25, 29, 33, in Vol. I. Also in Vol. II there are several plates with the same inscription. The work includes an atlas; and in the left upper corner of each map is printed "Danish Greenland".

The same view also appears to be reflected in Danish educational books. In a much used text-book on geography, it is stated with reference to the colonization of Greenland:

"Among the colonies should be observed Julianehaab, Godthaab, Godhavn on Disco Island, and Upernivik . . . Also on the east coast there is now a Danish Colony"².

We consider the facts stated above disclose that it must have been clear to the Danish Government that Denmark, by the events in 1814—1821, only acquired sovereignty over certain parts of Greenland.

In support of the view that the whole of Greenland was Danish, reference was made during the negotiations in 1923—24 to the Danon-Norwegian Treaty of Commerce dated 2nd November 1826. In Article 5 of that treaty, Greenland, Iceland, and the Faroe Islands are mentioned as Danish colonies, it being stated that some of the stipulations of the treaty do not apply to those lands. In Denmark's Treaty of Commerce with Great Britain of 16th June 1824, and with the United States of 26th April 1826, reservations were also made as regards Greenland, Iceland, and the Faroe Islands³. The reason was that the Danish trade monopoly was in force in these three countries.

It may generally be taken that, on the conclusion of a treaty of commerce, the contracting parties do not intend to make any statement about the relations of sovereignty to the lands mentioned in the treaty; nor is there in the present case anything indicating an intention to make a statement about the question of sovereignty, or that Norway has been willing to recognize Danish sovereignty over the whole of Greenland. Greenland was mentioned because the existing colonies at that time were in fact subject to Denmark.

¹ Cp. Wolgast, 1923, p. 147.

² Christensen, 1916, p. 77.

³ Rasmussen, 1927 a, p. 656—57.

That the Danish Government must also have had the same conception of the Treaty of Commerce of 1826 is shown by their application in 1919, with a view to obtaining Norway's recognition of Denmark's sovereignty to the whole of Greenland.

The second main argument pleaded by Denmark in support of the standpoint that the whole of Greenland was Danish, was a promise given by Mr. Ihlen, the Norwegian Minister of Foreign Affairs, on 22nd July 1919. Some days previously, on 14th July, the Danish Minister at Oslo had called upon Mr. Ihlen, and during the conversation he had mentioned that the Danish Government was endeavouring to get the sovereignty of Denmark to the whole of Greenland recognized by all interested Powers. On making Mr. Ihlen acquainted with the declaration of the American Government, he finally stated that the Danish Government trusted that the Norwegian Government would raise no difficulties in the arrangement of this matter.

Mr. Ihlen answered that the matter would be considered. In the course of a further conversation on 22nd July, Mr. Ihlen stated "that the Norwegian Government would raise no difficulties in the arrangement of this matter"¹.

After that, the question was not further referred to until the Danish Minister at Oslo, in a note dated 18th January 1921, requested a declaration in writing from the Norwegian Government to the effect that Norway recognized Denmark's sovereignty over the whole of Greenland. This request was repeated in a note of 29th April 1921. These notes show that the Danish Government found that the verbal statement of Mr. Ihlen, the Foreign Minister in 1919, was insufficient.

At that time, i. e. in 1921, it had become clear to the Norwegians that it was the intention of the Danish Government, not only to extend the sovereignty, but also the prohibitive system, to the whole of Greenland. The fact is that Denmark is shutting off from the outside world those parts of Greenland subordinate to it. A Danish author has therefore called Danish Greenland "A closed country like Tibet"².

The situation had thereby been altogether changed since the Danish Minister made his first application in 1919. In the course of the conversation in 1919 no mention had been made of Denmark's intention to close the country. It cannot be contended that the Norwegian Foreign Minister was bound to reckon with this possibility; for the reason given on the part of Denmark in support of their prohibitive measures is

¹ Indst. S. LXVI, 1923.

² Petersen, 1928, p. 10.

that it is necessary out of regard for the Eskimo population¹. Now on the east coast of Greenland, which is more than 2900 km in length, and where the most important industrial interests are in the hands of Norwegians, Eskimos lived only at Angmagssalik in 1919, and they numbered but 600². If an extension of Danish sovereignty really should result in their trying to close this coast, then it may well be said that the assumption on which the Norwegian Foreign Minister had promised to favour such a step had thereby ceased to exist.

The fear of the Norwegians that an extension of Danish sovereignty would be followed by the closing of East Greenland was fully justified. It appears that the idea had prevailed in leading circles in Denmark as early as 1916 that, when Danish sovereignty over the whole of Greenland had been recognized, the whole country ought to be closed. A short time after the declaration of the United States of 4th August 1916, the Danish Ministry of the Interior wrote to the Rigsdag Committee dealing with the questions relating to the cession of the West India Islands, that it must now: "be considered possible to have Greenland recognized as a Danish Dominion also by the other States. Such an arrangement must be deemed most desirable, because the Danish State will thereby secure far greater authority in all matters relating to Greenland than it now holds; for under existing conditions there is the risk of outside influence being exercised at any time, which, if things reached the worst, might nullify the results which this country (Denmark) has already attained in Greenland. Such an influence will be precluded beforehand if the whole of Greenland is recognized to be Danish and is included in the prohibited area". (*Afspærringen*)³.

The same authorities in Denmark were well aware that the closing of East Greenland would prejudice Norwegian industrial interests. A proof of this is a letter of 2nd November 1916, from *Det Grønlandske Selskab* (The Greenland Company) to the Danish Ministry of the Interior stating that:

"... The Danish State should therefore show such foresight as to secure these tracts as soon as possible, before other nations forestall it by taking permanent possession of the country, as has been done, for instance, with Spitsbergen.

A great part of this tract has, indeed, been taken formal possession of, on behalf of the Danish Crown, by the expeditions which have explored and surveyed the country; but it is a favourite ground for Norwegian hunters, who operate here practically every year, both on sea and on land; it is also known that private sportsmen have arranged

¹ Smedal, 1928, p. 57—65.

² "Meddelelser om Grønland". Volume 61, p. 597.

³ Letter of 3rd November 1916; Betaenkning, 1916, Annex A, p. 129—32.

hunting expeditions to these regions. The danger of a permanent settlement of aliens in these regions, which are relatively easy of access, is therefore great, and may presumably only be prevented by recognition of the tract as belonging to the Danish State"¹.

As matters had developed in 1921, the Norwegian Government refused to declare, in writing, that they recognized Denmark's sovereignty to the whole of Greenland. On the 10th May, 1921, the Danish Government thereupon intimated that they would rest satisfied with the verbal promise formerly given by the Norwegian Foreign Minister². On the same day the Danish Ministry of the Interior issued a proclamation to the effect "that the whole country is henceforward placed under the Danish colonies and stations and the Danish administration of Greenland". It was stated in a Danish note of 2nd July 1921 that the substance of this proclamation was to prohibit Danish, as well as alien subjects, from voyaging to or trading with Greenland or the appurtenant islands³.

As Denmark maintains the standpoint that, by the statement of Mr. Ihlen on 22nd July 1919, Norway had recognized Danish sovereignty over the whole of Greenland, the question of the significance of this statement arises⁴.

The Norwegian standpoint has always been that the application of the Danish Minister to Mr. Ihlen on the 14th July 1919, was a private application (*underhaands henvendelse*) in the nature of a feeler, made in order to obtain orientation as to the attitude of the Norwegian Government to the Danish Greenland schemes; further, that Mr. Ihlen's reply to the application was a private communication (*underhaands meddelelse*) for orientation, and not a binding declaration from the point of view of international law.

There is every reason to believe that this standpoint is correct.

First and foremost, the wording of the declaration speaks in favour hereof. As will be seen, Mr. Ihlen's reply was worded in a manner to show that no final arrangement had thereby been made. What he promised was that the Norwegian Government would raise no difficulties "in the arrangement of this matter". In other words, he held out prospects of a benevolent attitude on the question being raised at a later date⁵. The words used "in the arrangement of this matter", imply that the matter was not yet settled.

¹ Betaenkning, 1916, Annex A. p. 132—34.

² Indst. S. LXVI, 1923.

³ Indst. S. LXVI, 1923; Reports and Proclamations concerning the Administration of Greenland, 1921, p. 409—10.

⁴ Cp. Castberg, 1924, a.

⁵ Bull, 1929, p. 582.

It would have to be decided during ensuing negotiations how the matter should be settled. According to the form of the Danish inquiry, it might be a question either of giving a declaration like that of the United States, or of recognizing Denmark's sovereignty to the whole of Greenland. If Mr. Ihlen's reply was to be the last word in the matter, there would be complete obscurity as to what the Norwegian Government had consented to.

Ihlen's reply was given in quite general terms. The German Professor Wolgast, who has devoted considerable attention to the Greenland question, has pointed out that the reply should possibly be regarded as one of those unmeaning remarks common among diplomats when they do not wish to take up a definite attitude in regard to a question which is raised, although they wish to continue the deliberations on friendly terms¹.

It was, however, not only the wording of the declaration which should have made it clear to the Danish Minister and his Government that Ihlen's reply was a non-committal one from the point of view of international law. The concomitant circumstances pointed in the same direction: The matter was mooted for the first time on the occasion of the Minister's application; Mr. Ihlen's reply was given verbally, and it was given only eight days after the application.

As a rule, in a political question of importance the Government of a State, will not make any request to another State unless they have acquainted themselves beforehand as to its attitude on the question. A State does not like to run the risk of a refusal in respect of an official application concerning an important issue². The first application will, therefore, as a rule, be a verbal application for orientation and will be accepted as such.

Ihlen's reply was given verbally, and it was thereby emphasized that he considered the application of the Minister to be a private application, and that the answer was only a preliminary communication.

In legal literature it has been discussed whether a verbal declaration is internationally binding. Generally, the written form is used, but it is not out of the question for also a verbal declaration to be binding³. In more important deliberations, however, declarations will be given in writing⁴. The fact that no written reply is given to an inquiry on a matter of international importance will be a sign that the deliberations have not passed beyond a preliminary stage. The declarations procured by Denmark from other States in this matter have all been in writing. None of these States, however, has had interests to safeguard in

¹ Wolgast, 1923, p. 152 and 1924, p. 435; cp. Niemeyer, 1923, p. 131.

² Cp. Bull, 1929, p. 582.

³ Anzilotti, 1929, p. 260.

⁴ Cp. v. Frisch, 1925, p. 653.

Greenland to anything like the same extent as Norway. To Norway, the question of recognizing Danish sovereignty over the whole of Greenland was a matter of vital importance.

The Danish Minister who received the answer did not express any wish to have it in writing. This proves also that he was quite aware of the preliminary character of the communication.

Finally, the fact that Mr. Ihlen's reply was given only eight days after the conversation with the Minister shows that the reply should not be, or could not rightly have been, understood as final, because it is obvious that, before the Norwegian Government were able to decide the question here raised for the first time, investigations had to be made which would necessarily require more time than eight days.

It has recently been pointed out that Mr. Ihlen gave his reply to the Minister without the matter having been dealt with in any of the Bureaus of the Norwegian Foreign Ministry¹. From this fact it will be understood that it cannot have been his intention to give a declaration of internationally binding character.

Professor Sabanin has expressed the view that the Danish Government — "unquestionably, and probably knowingly and intentionally, have over-estimated Mr. Ihlen's declaration"². Otherwise, Sabanin seems to be of opinion that the declaration had a binding character.

If it be assumed that Minister Ihlen's reply should be looked upon as a binding declaration, the question arises whether he has bound the Norwegian State by it. It depends upon whether, in his capacity as Foreign Minister, he had authority to bind the State by declarations of this character.

According to Norwegian constitutional law, he had neither authority nor any right so to act. Pursuant to the Constitution, Articles 26 and 28, it rests with the King in Council to make agreements with a foreign State relative to the recognition of its sovereignty over territories that have hitherto been No-man's-land.

Although Mr. Ihlen, according to Norwegian constitutional law, lacked competence to bind the Norwegian State by his declaration, it is nevertheless a question whether, in his capacity as Foreign Minister, and according to existing international law, he had not competence to bind the State without regard to what is provided in Norwegian constitutional law.

However, this supposition cannot be accepted. The best of reasons go to show that a Foreign Minister does not bind the State which he represents, to a further extent than is established by the Constitution of the State. This view has, for instance, been expressed in Danish

¹ Professor Castberg, "Dagbladet", 16th April 1929.

² Sabanin, 1926, p. 34.

legal theory¹. At all events, no proof can be adduced of the positive existence in treaties or customary law of any rule to the contrary².

Irrespective of the construction that may be placed on Mr. Ihlen's reply, it was, as already stated, given on wrong assumptions. Seeing that Denmark intended to close East Greenland, the Danish Government ought to have made Ihlen aware of this. If that had been done, one may be quite sure that Ihlen would not have held out prospects of a benevolent consideration of the matter.

A former Danish Premier, Mr. Zahle, made a statement in 1923 and 1924 to the effect that Ihlen's promise to give benevolent consideration to the Greenland question, was in the nature of compensation given to Denmark in order that that country should support the Norwegian desire for sovereignty over Svalbard³. In 1923 a former Danish Foreign Minister, Erik Scavenius, expressed himself in similar terms⁴.

Minister Ihlen has emphatically denied the correctness of any such agreement (*av nogen indgaat kontrakt*)⁵. An agreement (contract) is also improbable because Denmark has not had economic interests of any kind in Svalbard during the present century.

The negotiations between Denmark and Norway in 1923—24 resulted in the East Greenland Convention of 9th July 1924. It has been said that this convention is based on the assumption of Danish sovereignty over East Greenland⁶. We will not deal at length with this question, as it has already been reported upon by Professor Castberg in his Treatise *Østgrønlandsavtalen* (The East Greenland Agreement)⁷.

It is beyond doubt that the intention of the two delegations of negotiators, and also of the Governments, was that the agreement should contain nothing relating to the question of sovereignty. As it proved impossible to arrive at an agreement respecting arrangements based on 1) Danish sovereignty over East Greenland, 2) Norwegian sovereignty over East Greenland and 3) East Greenland as a *terra nullius*, the Norwegian delegation proposed another alternative, to the effect that Denmark and Norway should conclude a convention relative

¹ Matzen, 1900, p. 148.

² Cp. Castberg and the literature cited by him, 1924 a, p. 262.

³ Folketingets Forhandling, 1923, p. 3932 and 1924, p. 4955.

⁴ Press reports, 3rd July 1923, published by the Ministry for Foreign Affairs.

⁵ The same press report.

⁶ Rasmussen, 1927 a, p. 676 et seq. Rasmussen was one of the secretaries of the Danish delegation. Before the agreement was approved, Dr. Raestad expressed his fears that it took Danish sovereignty for granted.

See Dr. Raestad's articles, "Tidens Tegn", 11th and 21st February 1924, and "Dagbladet" 13th March 1924.

⁷ Castberg, 1924; see also Bull, 1929, p. 585—605, where Bull opposed Rasmussen.

to the trade interests in East Greenland, without touching the question of sovereignty. This proposal was adopted by the Danish and Norwegian Governments, and the negotiations, which had been interrupted, were re-opened to be continued on this new basis¹.

The President of the Danish delegation, the well-known politician, L. C. Christensen, stated in the Folketing (Lower House of the Rigsdag) on 25th March 1924:

“The whole of this constitutional and international aspect of the matter has been laid aside. The only thing the Convention aims at is the solution of certain practical questions One will therefore look in vain in the Convention for anything relating to the questions in dispute, *viz.* sovereignty, or the Norwegian view that it (East Greenland) is *terra nullius*².

Now, it may of course happen that the intention of two contracting parties is not successfully reflected, and that an agreement may contain what it is not meant to contain. This, however, is not the case here. The provisions of the East Greenland Convention are compatible with the view that East Greenland is Danish, as well as with the view that East Greenland is *terra nullius*. Nothing can be concluded from the provisions as to the conditions of sovereignty. This is clearly acknowledged by the Danish Professor, Knud Berlin³.

Article 4 of the East Greenland Convention has been quoted in favour of the view that Danish sovereignty is assumed. In this article certain restrictions are made as to the right to occupy ground. Individuals and companies can only occupy for usufruct, not for ownership, and it must be presumed from Article 4 that the Danish, as well as the Norwegian State, is precluded from making occupations⁴.

It has been urged by Mr. Rasmussen, a Danish Secretary of Legation, that this article cannot be construed to mean that East Greenland is a *terra nullius*⁵. His argument is this:

In a *terra nullius*, everyone has the liberty to acquire by occupation the right of ownership in ground not already occupied by others. As Article 4 denies the Norwegian State and Norwegian individuals and companies such a right, it follows that East Greenland, according to the Convention, cannot be *terra nullius*, and as only Denmark claims sovereignty, the sovereignty must belong to this country.

This argument is, however, false; for the meaning of *terra nullius* is not that every one has full liberty to acquire ownership in ground

¹ St. prp. No. 30, 1924.

² Folketingets Forhandling 1924, p. 4935; cp. Wolgast, 1929, p. 858—59.

³ Berlin, 1924, p. 263—64.

⁴ Cp. Castberg, 1924 p. 29—31.

⁵ Rasmussen, 1927 a, p. 680. A similar interpretation has been expressed by Dr. Raestad in “Tidens Tegn”, 11th February 1924.

by occupation. That a land is *terra nullius* means that it is without a master; in other words, that it is not subject to the sovereignty of any State¹.

There is nothing to prevent a State limiting by treaty its own right and that of its subjects, to make civil occupations in a No-man's-land. Article 4 is, therefore, not incompatible with the Norwegian view that East Greenland is *terra nullius*. That applies also to the other stipulations of the Convention which fix certain bounds for freedom of activity, as a State must in all respects have the right to delimit the freedom of action of its subjects in a No-man's-land².

It has further been stated that the Convention requires supplementary provisions — among other things — as to maintenance of jurisdiction, and that this implies that it is one State that exercises jurisdiction and supplements the provisions through its legislation, and that this State has then the sovereignty³.

This assumption is false. There is nothing to prevent jurisdiction being exercised by several States. In a *terra nullius* each person living there is subject to the legislation and jurisdiction of his own country, and this legislation then supplements the Convention. The fact that the East Greenland Convention necessitates supplemental provisions is thus not incompatible with the view that East Greenland is *terra nullius*⁴.

One might ask whether the Convention does not assume that Denmark has the sovereignty over the Scoresby Sound District and over the neighbouring tract north of the Lindenow Fjord. This assumption cannot be accepted either.

The stipulation in Article 6 relating to Scoresby Sound, runs as follows:

“If the scheme which is in contemplation for the settling of Eskimos on Scoresbysund should be put into effect, nothing in the present Convention shall prevent the requisite area from being reserved for such settlement or the drawing up of such special instructions as may be necessary for the well-being of the native Greenland population”.

(As translated in League of Nations — Treaty Series, Vol. XXVII, No. 684).

It cannot be the meaning of the word “reserved” that the area is recognized as Danish, for in that case this area, like Angmagssalik,

¹ Cp. Castberg, 1924, p. 17.

² An example hereof is a provisional decree of 10th August 1928, which prohibited Norwegian subjects from “catching, pursuing, wounding or killing fur-seal, or contributing to such act, whether in Norwegian territory or not”. Cp. Act of 7th June 1929, No. 1.

³ Dr. Raestad, “Tidens Tegn”, 11th February 1924, and Rasmussen, 1927 a, p. 680.

⁴ Cp. Castberg, 1924, p. 13–16.

would have been excepted from the Convention. Cp. Article 1. The Russian author Breitfuss has misunderstood this stipulation. He has assumed that the Scoresby Sound District fell to Denmark by the East Greenland Convention¹.

The meaning of the Article must be supposed to be that, in the area mentioned, the Eskimo population shall have an exclusive right to hunting and fishing. According to the Article, rules about control of the intercourse between Eskimos and other people can be made, but these rules must not go further than "may be necessary for the well-being of the native Greenland population". There is, thus, no authority for introducing a complete closing off of the area.

In accepting Article 6 the Norwegian State has limited the freedom of action of its subjects within a certain area of East Greenland, but such a restriction is not, in itself, incompatible with the view that East Greenland is *terra nullius*.

It is a different matter that this Article gives Denmark liberty to colonize, practically undisturbed, a certain area and to submit this to Danish administration. This renders conditions favourable for an acquisition of sovereignty by effective appropriation. For this reason the stipulation in Article 6 is unfavourable for Norway.

The Eskimo settlement at Scoresby Sound was established in 1925. It cannot be seen that the boundaries of this settlement have yet been fixed and published, as is conditioned in the Final Protocol of the Convention². How these boundaries are to be drawn is somewhat vague³.

The question then arises as to what are the consequences of the boundary not yet having been determined. It must presumably be taken for granted that definite limits must exist if an area is to be reserved to the Eskimos. Until the boundaries have been drawn, Norwegians must be allowed to live and move freely everywhere in the Scoresby Sound District, and to perform the acts permitted by the East Greenland Convention.

With regard now to the nearest tract north of the Lindenow Fjord, it is stated in the Final Protocol that, for the protection of Eskimos there, special regulations required out of consideration for the life conditions of the native population may be issued. Here, however, Denmark is not permitted to establish any Eskimo settlement with boundaries which it may require to be respected. This stipulation also is not incompatible with the view that East Greenland is *terra nullius*,

¹ Breitfuss, 1928, p. 26.

² When the Folketing discussed the matter it was an admitted fact that the boundaries had to be drawn. Cp. Statements by Mr. Neergaard, former Prime Minister, Folketingets Forhandlinger 1924, II, p. 549.

³ Smedal, 1928, p. 107—08.

but the stipulation facilitates Denmark's liberty to bring this area under its dominion¹.

The East Greenland Convention does not apply to the whole of East Greenland, but to the tract from the Lindenow Fjord (60° 27' N.) to Nordostrundingen — the north-east corner — (81° N.), with the exception of Angmagssalik. The stipulations of the Convention do not apply to the parts of East Greenland lying south or north of this area.

What has been stated above may be summed up thus:

Denmark did not acquire sovereignty over East Greenland by the events in 1814—21. In 1895 Denmark secured control of Angmagssalik. Neither by the Treaty of Commerce of 1826, nor by the statement of Mr. Ihlen, the Foreign Minister, in 1919, nor by the East Greenland Convention of 1924, has Norway recognized Danish sovereignty over East Greenland. The declarations given by several States regarding an extension of Danish sovereignty to the whole of Greenland only bind the States which gave them. The other Powers are at liberty, and have the right, to compete with Denmark in the acquisition of sovereignty over East Greenland.

Here, however, the question arises whether the East Greenland Convention prevents Denmark and Norway from acquiring sovereignty over the areas covered by the Convention; but that cannot be supposed to be the case.

The Convention does not explicitly forbid acquisition of sovereignty, nor are its stipulations incompatible with the view that acquisition of sovereignty can be effected. It might, perhaps, be supposed that the fact that the Danish and the Norwegian States are not entitled to acquire ownership of ground, would prevent acquisition of sovereignty. This is, however, not the case, as sovereignty, as previously stated, has nothing to do with ownership of the ground². If either of the two States acquires sovereignty it must, however, respect the Convention as long as this is in force. Sovereignty is here, as elsewhere, obtained by an effective appropriation of the country. The result of the dispute between Denmark and Norway about East Greenland will thus depend upon which of the two States will be in a position to take effective possession of East Greenland.

There are signs indicating that also in Denmark they have begun to realize that this view is correct, according to international law. Above

¹ In 1925—26 two Danes and eight Greenlanders wintered at Lindenow Fjord in order to examine the possibilities for hunting there. It has been proposed to found a hunting base at the mouth of the Fjord. (Bendixen, 1929, p. 160—78). Lauge Koch has stated that a colony is reported to be already established at the Lindenow Fjord. (Lauge Koch, 1927, p. 234). This is a misunderstanding, as has been pointed out by Bendixen at the place cited here. Cp. Krabbe, 1929, p. 125.

² See *ante* p. 10—11.

all, the activity exercised and supported by the Danish State in East Greenland in recent years points in this direction. This activity will be dealt with later on. Then again, there are many pronouncements made by Danes closely connected with the Greenland question, which denote, more or less clearly, that the solution of the sovereignty question depends on Danish achievements in East Greenland.

The Danish Greenland explorer, Lauge Koch, stated in 1927:

"There are 17 years before the Convention is to be renewed. Let us hope that, in the course of that period, we can find the means and the men who will make it possible for us then to obtain the full sovereignty which all nations, except Norway, have already granted us over East Greenland"¹.

During the winter of 1928—29, Lauge Koch made preparations for a scientific expedition to East Greenland. In an interview he stated, as regards the significance of the expedition:

"Next summer an English expedition is likely to be sent to East Greenland, in addition to the former Norwegian expedition, the latter being a combined exploring and hunting expedition. Also in view of these plans, I am of the opinion that it is of *national* importance that a Danish expedition goes there now"².

Baron Cai Schaffalitzky de Muckadell states in his book *Grønland i Forvandlingens Tegn* (Greenland in the Sign of Change), published in 1929:

"We must, therefore, be prepared for the Norwegians settling around Hudson's Land. It is not likely to do much harm, except possibly to diminish the passage of bears down to Scoresby Sound; but from a national point of view it is a pity that it is not we who continue the activities of *Østgrønlandsk Kompagni* (The East Greenland Company). This year an expedition to East Greenland is being sent out from Denmark. The leader is the distinguished geologist and polar explorer, Lauge Koch, and we cannot be sufficiently grateful to the Carlsberg Funds and to the generous Danes in London who have financed the expedition, for their public-spiritedness. The continuance, however, ought to be secured by the State, so that the work may go on systematically during the years to come

So far, the Greenland Convention has done its part; it must now be the business of Denmark to make use of its time until the regular revision of the Convention in 1944, and to systematize the great work which has been going on in Greenland for about two centuries, so that we shall be able to maintain our full sovereignty over this land when that time comes"³.

¹ Lauge Koch, 1927, p. 235 and 237.

² "Berlingske Tidende", 8th March 1929. The italics are in the newspaper interview.

³ Schaffalitzky de Muckadell, 1929, p. 123—24.

O. Bendixen, late inspector in South Greenland, now Chairman of the Association *Det nye Grønland* (The New Greenland) and the author of *Grønland som Nybyggerland* (Greenland as a land of colonization), stated in April 1929 about the hunting company which Director Jennow was then forming:

"It must then be hoped that the East Greenland Hunting Company¹ will have a successful start and be arranged so as to survive, not only for the sake of the men who are supporting the enterprise, but just as much because every outcome of Danish activity on the disputed coast may be of importance when the question of sovereignty over East Greenland is raised anew in the near future"².

On the same occasion, Carl Thalbitzer, the known publicist on national economy, made the following statement:

"But apart from the economic side of the enterprise, the question arises as to *the national object* that may be presented by an appropriation of these tracts and by a scientific exploration of them. I think that *Danish* initiative of this kind deserves all possible support, not only materially but also nationally"³.

On the 10th July 1929, it was five years since a Danish expedition was sent to Scoresby Sound in order to prepare the previously mentioned settlement of Eskimos. On that occasion, Inspector Bendixen wrote:

"The Scoresby Sound Committee of 1924", met on 26th April 1924, and on the same day issued a proclamation to the Danish people in which they applied for financial support, and this appeal met with such great sympathy that in the short space of two months the expedition was secured and ready for departure in order to take effective possession of the great complex of fjords on behalf of Denmark

Everyone who has in some way or other contributed to, and supported, the establishment of the Scoresby Sound colony, can therefore review with satisfaction the work inaugurated five years ago. A viable Danish colony has been founded, and the importance of this will no doubt bear fruit on the day when the question of the sovereignty of Denmark over the whole of the east coast is taken up anew for discussion, when the convention with Norway expires in about fifteen years"⁴.

Director Jennow, the founder of *Østgrønlandsk Fangst-Kompagni Nanok A/S*, and some of the members of the Board of the Company,

¹ When constituted the company was named "Østgrønlandsk Fangst Kompagni Nanok A/S".

² "Morgenbladet" (D), 14th April 1929.

³ "Berlingske Tidende", 6th April 1929. The italics are Thalbitzer's.

⁴ "Morgenbladet" (D), 10th July 1929.

have pointed out in interviews that the hunting and colonizing activity to be carried on by the Company in East Greenland is of national importance¹. The Danish press not infrequently expresses the same view.

Danish and Norwegian Industry in East Greenland and the Economic Importance of the Country.

A little over 84 per cent. of Greenland is covered by inland ice². At some points the ice stretches right down to the sea, but in most places a belt of relatively ice-free land of varying breadth lies between the coast and the inland ice. Added to this there are the ice-free islands. On the east coast from the Lindenow Fjord to Nordostrundingen the extent of exposed land is 115 000 square km.³

The coast of Greenland is almost everywhere intersected by fjords, many of which run inland even to the inland ice. The southern part of the west coast is the most indented. The largest and most extensively branched fjords are found on the east coast between 70 and 75 degrees N. lat. Here are Franz Josef Fjord and Scoresby Sound, the latter extending about 350 km. into the country⁴.

East Greenland is a markedly mountainous country with an Arctic climate. Although the extreme southern point of the country, Cape Farewell, is situated in 59° 46' N, *i. e.* farther south than Oslo, it is not possible to cultivate the land even in the most southern part of East Greenland⁵. The prevalence of an Arctic climate so far to the south is primarily due to the ice-filled sea which surrounds the land and lowers the summer temperature.

Along the coast of East Greenland runs the so-called East-Greenland Polar Current coming from the great Polar Basin, and conveying considerable quantities of floating ice from this sea to the northern Atlantic. The ice carried along by the current, however, is not only from the Polar Basin; it also comes from the waters between Svalbard, Jan Mayen, and Greenland, where an extensive ice-cover is formed during the winter.

Access to East Greenland is made very difficult, even in summer, by floating ice. North of Cape Bismarck, in about 77° N. lat., it is practically impossible to get close to land. Those wishing to land between Cape Bismarck and Scoresby Sound usually approach the coast off the Shannon Island in about 75° N. lat. It happens in some years,

¹ "Danmarks Handels- og Sjøfartstidende", 27th June 1929. "Ekstrabladet", 2nd July 1929, and "Nationaltidende", 25th July 1929.

² Vahl, 1928, p. 181.

³ Vahl, 1928 a, p. 45.

⁴ Alwin Pedersen, "Nationaltidende", 17th September 1929.

⁵ Bendixen, 1927, p. 66—67.

however, to be easier to reach the shore at Scoresby Sound. To the south of this fjord ice conditions are again difficult. In the southern part of the east coast Angmagssalik is the point easiest of approach.

The present economic importance of East Greenland attaches to its hunting grounds. The animals hunted are particularly land and sea mammals.

Regarding Greenland as a whole, it must be said that this vast land is poor in terrestrial animal life. Of land mammals there are only eight species, *viz.* reindeer, musk-ox, polar hare, Lapland marmot, ermine, polar fox, polar wolf and Arctic bear¹.

Of these species the reindeer no longer exists in East Greenland. It has lived all along the east coast, but has disappeared in the course of the last decades. Some explorers have suggested that it has been extirpated by the polar wolf, and this is also the opinion of Norwegian hunters. Other explorers hold that the reindeer has crossed the inland ice to the west coast². This explanation, however, does not seem a very reasonable one.

The other seven species of land mammals all exist in East Greenland, but the musk-ox, Lapland marmot, ermine, and polar wolf are only found from Scoresby Sound northwards. The polar hare does not exist along the southern stretches of the east coast; it prefers the far north. The Arctic bear is also met with most frequently in the northern tracts of the east coast.

It is thus the northern part of East Greenland, particularly the tract from Scoresby Sound to Cape Bismarck, which provides the most valuable hunting grounds.

The aquatic fauna of Greenland is considerably more abundant than the land fauna. There are, for instance, in the sea around Greenland six species of seal and not less than sixteen species of whale. Off East Greenland sealing is at present of prime importance. The two species that preponderate in the catches are the Greenland or harp seal and the crested or hooded seal. The former is hunted in April and May in the "West Ice" around Jan Mayen, and the crested seal is caught from May to July in Greenland Strait, called by the Danes Denmark Strait. Here, only crested seals are hunted. Near Jan Mayen crested seals are hunted now and then, in addition to Greenland seals.

As a rule the catches are made beyond a distance of three nautical miles from the coast, but sealers operate also within this limit³. It depends upon ice conditions how near to the coast hunting can be carried on.

¹ Jensen, 1928, p. 18.

² Alwin Pedersen, 1926, p. 204—06.

³ Cp. Danish Act relating to Hunting, Fishing and Shooting in Greenland Waters of 1st April, 1925. Secs. 1, 2.

In the West Ice and the Greenland Strait Norwegians have been sealing since 1847¹. The annual value of the catches is considerable. During the negotiations with Denmark relating to the East Greenland Convention, this value was estimated to be about four million Kroner. As Norwegian sealing statistics are unfortunately somewhat incomplete, we are not in a position to give accurate figures showing the apportionment of seal catches within and beyond the distance of three miles². In the following, some information will be given about the sealing operations along and near the coast.

After hunting crested seal in the Greenland Strait, some of the vessels which have not got a full 'catch usually proceed northward along the east coast looking for walrus, bearded seal, bear, or musk-ox. Sometimes they also fish salmon. This supplementary catch, called "the make-up catch" is, usually effected north of Scoresby Sound and within the distance of three nautical miles. It is of less value than the crested seal catch, but is nevertheless of importance, because it not infrequently gives just that margin required to make the expedition a remunerative undertaking. We will name some instances:

"In 1899, the "Söstrene" of Tromsø proceeded to East Greenland after having finished hunting in the West Ice. She had a crew of 13 men. The master was Skipper Grödahl. The vessel reached Cape Hold with Hope, 11th July; Walrus Island, 20th July; Clavering Island, 21st July; Jackson Island, 3rd August; Franz Josef Fjord, 6th August, and Gaël Hamkes Fjord, 12th August. She left for Tromsø on the 19th August, and arrived there on the 6th September. The catch consisted of 79 musk-oxen, 2 live musk-calves, 23 bears, 70 bearded seals, 50 seals, and 80 barrels of blubber³.

From 1900—06, Peter S. Brandal of Sunnmøre (in Norway) hunted in East Greenland after operating in the West Ice. As a rule, he was in Greenland from the beginning of July to the middle of August. "The catch usually approximated 20—40 walruses, some barrels of salted salmon, 50 bears, bearded seals, and musk-oxen⁴".

"Johanna Schjelderup", motor cutter of Bodö, Skipper Johs. Antonsen, was hunting in the Greenland Strait in May 1919. "From there, due north to the Liverpool Coast, Clavering Fjord and Shannon Island; then back to Franz Josef Fjord, where the land-ice had now broken up. Then again proceeded northwards to Clavering Fjord and arrived at Tromsø on the 2nd August". The catch was 16 walruses, 19 bears and 20 musk-oxen (of which 4 live calves)⁵.

¹ Iversen, 1927, p. 12, Cp. p. 5.

² Smedal, 1928, p. 78.

³ Isachsen, 1922, p. 231—32.

⁴ Isachsen, 1922, p. 233.

⁵ Isachsen, 1922, p. 255.

Further, East Greenland is visited by people who winter there and hunt fur-bearing animals. This activity is of quite another character than the making up of a catch. The first Norwegian wintering expedition was made in 1893—94, with the schooner “Ino” of Christiania (Oslo), Peder Mikkelsen, Master. The crew wintered at Kulusuk in 65°30' N. The object of this expedition was, however, not only to hunt, but also to trade with the natives. The profits were poor¹.

The first wintering expedition exclusively engaged in hunting, and which built houses and lived ashore, went out from Sunnmøre. It numbered seven men who wintered from 1908—09. Their ship was the “Floren”, a smack, and the skipper and leader was Severin Gaasnes Liavaag. The area in which they hunted is situated between 74° and 75° N. A house was built on the east coast of Wollaston Foreland (1), and another at Cape Borlase Warren Borganes (2)². The former, called Koppernes House, fell into disrepair, but was re-built in 1928 by the “Hird” Expedition, of which further mention will be made below. The catch was 15 musk-oxen, 30 bears, 31 blue and 30 white foxes³.

Another expedition from Sunnmøre wintered in 1909—10. They used a motor cutter, the “7. juni”, Skipper Vebjörn Landmark. The expedition numbered six men and hunted in the tract between Sabine Island and Clavering Island. A house was built at Cape Mary on Clavering Island (3). There was later a dispute about this house and the one at Cape Borlase Warren, because they were used by the Danish Company mentioned below, *Østgrønlandsk Kompagni*. Both huts are now again in the possession of Norwegian hunters. The catch consisted of 8 musk-oxen, 6 bears, 30 blue and 70 white foxes, 4 walruses, and 25 bearded seals⁴.

The Norwegians were the first to hunt fur-bearing animals in East Greenland. It was not until 1919 that the Danes came on the scene. Previously, no independent Danish industrial activity had been carried on in East Greenland. In 1919, the later well-known company *Østgrønlandsk Kompagni* was founded. The share-capital was originally 300,000 Kroner; this was subsequently increased by 105,000 Kr., making the total of 405,000 Kroner. The Company established hunting stations at Denmark Harbour, Walrus Point, on Shannon Island, at Bass Rock, at Germania Harbour on Sabine Island, where the main station was erected, at Sandodden, Carlshavn, and Cape Hold with Hope. The two above-mentioned Norwegian huts at Cape Mary and Cape Borlase Warren were also used by the Company's men. The fate of the *Østgrønlandsk Kompagni* was a sad one. In the course

¹ Isachsen, 1922, p. 230.

² See map p. 80.

³ Helland 1911, p. 668.

⁴ Isachsen, 1922, p. 251.

of five years the Company had got through one million Kroner, and had to go into liquidation in 1924. The Danish State had advanced the Company money and had then an account against it of about 600,000 Kroner¹. The State, being at the same time a mortgagee, took over the hunting stations of the Company in East Greenland. Thus they are now owned by the Danish State.

Lauge Koch has explained the cause of the Company's collapse in the following way:

"The cost of administration in Denmark had been too great; most of the hunters sent to East Greenland had been attached to manorial estates, and, although there were many excellent men among them, they all entirely lacked practical experience. They were unable to use skis to any great extent, they had far from a sufficient number of dogs, and had no experience in driving dogs, and could thus only control small hunting fields"².

To everyone acquainted with the conditions in East Greenland, it is self-evident that the matter had been approached in the wrong way.

In 1922 the Norwegian wintering expeditions in East Greenland were continued. Skipper Johan A. Olsen, of Tromsøysund equipped that year an expedition in the motor cutter "Annie I"³. Olsen had bought the vessel and each of his companions had a share in the enterprise. The expedition, consisting of seven men, erected two huts. The main station was built at Myggbukta (4). Acting on instructions from the Geophysical Institute at Tromsø, they erected a wireless station here for the purpose of sending weather reports from East Greenland to Norway. It is, of course, of great importance that the fishermen along the west coast of Norway are warned against the storms coming from East Greenland. The Geophysical Institute was an official institution, the meteorological department of which was transferred on 1st July 1928 to *Værvarslingen for Nord Norge* (Weather Forecast Station of Northern Norway): The cost of erecting the wireless Station was defrayed by the Norwegian State⁴. The expedition also built another house at Cape Franklin, about 30 km. west of Myggbukta (5).

When the expedition left East Greenland in the summer of 1923, they had a catch valued at 3 to 4 thousand kroner per member. Unfortunately, the "Annie I" was crushed by the ice on the return voyage, and the whole expedition perished. The two houses they had erected were afterwards bought by the Norwegian State, who still owns them.

At the instance of the Geophysical Institute a new wintering expedition was sent to East Greenland in 1923. The expedition num-

¹ "Børsen", 24th July 1924; "Politiken", 16th April 1925; Lauge Koch, 1928, p. 254.

² Lauge Koch, 1928, p. 254—255. Further information regarding the methods by which the company was managed is given by Mikkelsen, 1925, p. 7.

³ Isachsen, 1925, p. 46—47.

⁴ The annual report of the Meteorological Institute 1923, p. 18.

bered six men, and used the motor cutter "Conrad Holmboe". The leaders were Mikal Olsen and B. H. Tollefsen. Their object was to relieve the members of the "Annie" Expedition in Myggbukta and to continue their work. However, the "Conrad Holmboe" stuck in the ice and did not reach its destination. After having drifted southwards for two months the vessel reached Iceland in a sinking condition, and the expedition had to be abandoned¹. In 1922 and 1923 ice conditions were exceedingly difficult along the east coast of Greenland.

In 1924 a new initiative was taken in Danish quarters. The previously mentioned expedition was then sent to Scoresby Sound in order to make preparations for receiving the Eskimo settlers. During the winter of 1924—25 the members of the expedition caught 53 blue and 41 white foxes, besides some bears and musk oxen². The Eskimo settlement was established in the summer of 1925, and when it had been in existence a little more than two years the Danish Scoresby Sound Committee issued a report on its development in the autumn of 1927³. As regards the catch during the first year, 1925—26, the report states:

" . . . That on the arrival of the "Gustav Holm" in the summer of 1926, the manager of the colony was able to report that hunting operations had given the following output: 115 bears (more than 200 seen), 71 foxes, 50—60 walruses, 10—12 narwhale, about 800 seals and, in addition, game birds, hares, etc.

Hunting conditions had thus been exceedingly favourable, considering that the hunters numbered only eleven. Moreover, the manager of the colony reported that they had found near the colony extensive fowling cliffs which would be a valuable source of food supply for the population.

In several places they had also found quite considerable coal beds by which the supply of fuel for the colony was ensured, and through which colonists could have considerable quantities of blubber set free for exchange".

As regards the catch in the second year, 1926—27, the report stated:

" . . . The hunting lists included, among other animals: 86 bears, 48 foxes — but it must be remembered that the Angmagssaliks⁴ are not fox hunters — 24 narwhale, 40 bearded seals and harp-seals, and more than 1000 common seals.

The weather was not, however, so favourable for hunting as during the preceding year, because immense masses of snow had fallen, hampering the Greenlanders in their expeditions.

¹ Isachsen, 1925, p. 41—44 and 97.

² Alwin Pedersen, 1927, p. 171.

³ "Nationaltidende", 28th October 1927.

⁴ Most of the Eskimos who were sent to Scoresby Sound were natives of Angmagssalik. See p. 207—08.

The occurrence of seal proved to be so great that the inhabitants of the colony could not consume all the meat thus obtained, and further, the industrial conditions were generally so good that the Greenlanders, unfortunately, did not find it necessary to prepare the skins of the killed seals for sale retail; and in that way some, but not by far all, of them were wasted, as the colonists need a great quantity of skins for their tents, etc."

The report also includes an interesting appraisal of hunting conditions at Scoresby Sound. It states that:

"The experienced manager of the colony could write as follows in an official report: A population at least as large as that of Angmagssalik must be able to live here and still be better off than in any other place in Greenland".

The population of Angmagssalik totals about 600. Statistical data completely corresponding to the above does not exist for the years 1927—28 and 1928—29. There is, for these years, a list of what has been "bought" from the Greenlanders by the Danes:

1927—28	1928—29
Approx. 2 000 kg. of blubber	Approx. 4 000 kg. of blubber
72 bear skins	72 bear skins
41 blue fox skins	74 blue fox skins
59 white fox skins	131 white fox skins
102 seal skins	257 seal skins
4 walrus skins	5 walrus skins

These figures do not represent the total catch, but only the quantity sold by the inhabitants. The figures stated for seal skins represent, for instance, only a fractional part of the catch of seals. In considering these figures, we must also bear in mind that the population at Scoresby Sound totals about 100 persons, and that only 10—12 of them are engaged in hunting¹.

In the summer of 1926, Lauge Koch, with some companions, arrived at Scoresby Sound. One of his objects was to explore the hunting grounds north of this fjord. The nearest districts proved a disappointment, but in return the districts farther north around Franz Josef Fjord abounded in game. Here one must, he says, "always carry a gun, even if one walks only five or ten minutes away from the tent"². He

¹ The figures for 1927—1928 and 1928—1929 have been kindly furnished the author by Baron Cai Schaffalitzky de Muckadell. Regarding hunting conditions at Scoresby Sound in recent years, information is found in Vaslev, 1929, p. 13—14, 18, 25, 41. Cp. also Sophie Petersen, "Nationaltidende", 9th September 1929, and Alwin Pedersen, "Morgenbladet" (D), 10th September 1929.

² Lauge Koch, 1927, p. 228 and 229.

says about these districts that they are "the great bear-hunting areas north of the colony", and that: "The discovery of this rich hunting field will, if properly used, certainly double the production of bear skins from the colony Scoresby Sound".

In the summer of 1926, a Norwegian expedition also came to East Greenland. It was the so-called Foldvik Expedition, named after the leader, N. Foldvik, assistant at the Geophysical Institute at Tromsø. The expedition comprised six members, including Candidate Hallvard Devold. As we shall subsequently point out in another connection, this expedition came to be of great importance, for it had a marked effect in hastening the development of the colonization work which had been commenced by Norwegians in 1922.

The Geophysical Institute had supplied the expedition with the necessary equipment for the re-opening of the wireless station in Myggbukta. The Institute had also loaned the expedition meteorological instruments, and Tromsø Museum had provided it with the necessary equipment for making various natural-history collections. The cost of all other equipment was defrayed by the members of the expedition themselves. They built 17 houses on Hudson Land, Clavering Island, and Wollaston Foreland (6—22). Some of these houses were built so that they could also be used for wintering. These are the so-called main stations (10 and 19). Generally, they have accommodation for five or six men and for stores of provisions and coal. The other houses, which are smaller, are built for the purpose of giving shelter for a shorter period during the hunting operations. These (the others) are called sub-stations. Ordinarily, they are furnished with plank-beds for two men, a small cooking stove with cooking vessels and a quantity of coal. The Foldvik Expedition was the first to introduce this arrangement with main and sub stations in Greenland on the lines used in Svalbard. The houses built by former Norwegian wintering expeditions must come under the category of main stations.

The Foldvik Expedition returned in 1928 bringing with them 2 live musk oxen, 18 bears, 25 blue and 260 white foxes and 7 polar wolves. The financial nett proceeds amounted to about 2 000 kroner per member per year¹.

In the summer of 1927 another Norwegian wintering expedition went to East Greenland. This expedition, numbering six members, was from Ålesund and had been equipped by Peter Røbek of Åsestranden. August Hansen of Tromsø was the leader. They sailed in the motor cutter "Hird", after which the expedition has been named the "Hird" Expedition. In the winter of 1927—28 the members lived in two houses built by themselves. One of them was situated on the south side of

¹ Hallvard Devold, 1928.

Clavering Island and was called Elvsborg (24). The other was built at Cape Herschel (23). They were both built as main stations. During the summer of 1928 the members of the expedition followed the procedure of the Foldvik Expedition and built some more houses. They erected one main station on Jackson Island (25) and five sub-stations on Wollaston Foreland (1 b, 30, 31, 26, 27); also one sub-station on Sabine Island (28), and one sub-station on Pendulum Island (29).

The expedition carried equipment for the laying out of fox farms in order to keep captured live foxes, which fetch a higher price than the skins. The first year the catch was about 20 bears and 75 live and killed foxes¹. The second year the result was far better. The "Hird" Expedition returned to Norway in the summer of 1929, and the total catch was then 2 live musk-oxen, 2 live polar bears, 40 skins of polar bears, 4 live foxes, 40 skins of blue foxes and 300 skins of white foxes².

In 1928 the Foldvik Expedition was relieved in Myggbukta by "The Norwegian East Greenland Expedition 1928—1930", whose object it was to continue the work of the Foldvik Expedition. The leader of this new undertaking was Finn Devold, the natural scientist, a brother of Hallvard Devold. The expedition numbered six members in all, three of whom had received a college education. The expenses of this expedition were, in part, paid by the State; several firms also contributed by supplying goods. The expenses not covered in this way have been paid by the members themselves. For the survey work the expedition had scientific instruments belonging to *Norges Svalbard- og Ishavsundersökelse*r. They also took over the wireless station and the meteorological instruments of the Foldvik Expedition. On the whole, the equipment of the expedition must be said to have been very good.

An interesting insight into the animal life of the country and the methods now employed by Norwegian hunters in East Greenland is given in the following extract from a wireless message which was sent to the "Tidens Tegn" by Finn Devold in February 1929³:

"The Foldvik Expedition, which returned in the same vessel in which we arrived, had done very respectable work, having built many houses at convenient distances, thus making a great hunting area accessible. We have now continued their work, so that at present we have at our disposal 22⁴ houses scattered over a distance of about 600 km. We have our trapping gear distributed over the whole of this area, and we look after it by continually driving with our dogs from house to house. Thus, our life is shaped something like that of a wandering hermit.

¹ Hallvard Devold, 1928.

² "Tidens Tegn", 11th September 1929.

³ "Tidens Tegn", 28th February 1929.

⁴ Should read 21 according to Foldvik.

We have also modernized the work by establishing a fox farm at our main station in Myggbukta, from which we anticipate good profits. Of breeding animals we can catch far more in the field than we have room for, and the question of food supplies does not involve any difficulty, as the country teems with game. Here are grouse and hares in abundance. When we are out game shooting, the big problem is not, as in Norway, whether we shall get a bag at all, but how much we are able to carry or how many cartridges we have with us.

Our most valuable quarry is the musk-ox, which is found here in large numbers. We meet with them everywhere, in herds of more than fifty. I should think there are more than 1 000 of them on Hudson Land alone. . . .

There are not many bears here, and the wolf, which gave the Foldvik Expedition a great deal of trouble, has left us alone. It is perhaps still too early for me to express an opinion on East Greenland as a hunting territory. The results of our and other Norwegian expeditions may have been due to favourable winters; but it is certain that, with the present rapid development of fox breeding in Norway, the importance of East Greenland will increase considerably; it might become a source for the supply of live blue and white foxes to all the farms in Europe. The country offers ideal conditions for people willing to settle here as fox breeders".

The 21 houses mentioned are the 17 houses built by the Foldvik Expedition (6—22), and, besides, the houses in Myggbukta (4), at Cape Franklin (5), at Cape Mary (3), and at Cape Borlase Warren (2). The size of the catch made by "The Norwegian East Greenland Expedition 1928—30" is not yet known. It has been stated in an article in the press, obviously written by a well-informed author, that the expedition had during the first year obtained a result as good as that of the Foldvik Expedition during a period of two years¹.

During the winter of 1928—29, steps were taken to establish a Danish as well as a Norwegian company, with the object of carrying on operations of different kinds in East Greenland.

The Norwegian company *Arktisk Naeringsdrift A/S* was founded on 24th June 1929. According to the articles the object is to "carry on hunting and mining operations in Arctic regions, and other operations connected therewith". The share capital amounts to Kr. 37 700. The members of the Board of the company are Kr. Fr. Brögger, Barrister, Oslo (President); Gustav A. Arentz, Director, Stavanger; J. Seiersted Bødtker, Director, Oslo; and Elias Nörve, Merchant, Aalesund. The Company's registered offices are at Oslo. In July 1929 the company sent a wintering expedition, numbering 10 men, to East Greenland in

¹ "Ålesunds Avis", 8th June 1929.

the well-known Arctic vessel "Veslekari", under the leadership of Hallvard Devold. As is usual with Norwegian hunting expeditions, the members have no fixed salary, but a percentage of the gross proceeds. This expedition intends being away for two years. Like the other Norwegian wintering expeditions, it will have its field of operation in the great fjord districts north of Scoresby Sound. At the same time it will try to extend the Norwegian hunting areas, both to the north and to the south; new huts will be built and farms for foxes and polar wolves will be established. The expedition had materials for erecting no less than 40 houses. This expedition has been got together by means of a subsidy from the Norwegian State. Subsidies have also been granted by interested private persons.

Four of the ten members of the expedition went ashore on Wollaston Foreland under the charge of Arnulf Gisvold, *i. e.* in the northern part of the Norwegian hunting area. The other six men, among them Hallvard Devold, landed on Ymer Island, lying south of the tracts where the Norwegian wintering expeditions have so far worked. The latter party built two main stations during the summer of 1929. One of them was put up at Cape Humboldt on Ymer Island (40), and the other on Geographical Society Island at Vega Sound (49). The intention is to build a series of sub-stations at Dusén Fjord on Ymer Island, Geographical Society Island, and Traill Island. In this way the Norwegian hunting area will extend to Davy Sound in the south¹. No reports have so far been received regarding the expedition.

Arktisk Naeringsdrift A/S has, as far as now can be judged, a bright future before it, provided the work is carried on cautiously and at the same time with foresight. It will be an advantage if the company can gradually acquire, at any rate the greater part of, the Norwegian hunting huts in the tract from Davy Sound to Sabine Island. It will then be possible to plan hunting operations within this vast area in a reasonable and economical manner, *e. g.* by changing hunting districts from one year to another, so as to prevent the stock of game being too heavily taxed in a single district. It will also be possible to prohibit certain hunting methods, *e. g.* the use of poison which reduces the stock, as all experience shows. It should also lie within the scope of the company's work to send trained fox minders over to East Greenland, as the breeding of foxes demands a special knowledge, which the majority of the men engaged in hunting do not possess. It is, further, of material importance to a good result of hunting operations to have

¹ In December 1930 the expedition of "Arktisk Naeringsdrift" had erected 35 houses in all. "Møre Greenland Expedition" which began activities in East Greenland in the summer of 1930 — after the publication of the Norwegian edition of this book — have erected 12 houses, mainly in the district south of Davy Sound. See map.

at disposal a sufficient number of strong and hardy dogs, for in winter the districts are surveyed by means of dogs and polar sledges. The problem of dogs is in East Greenland a very important one. There is every reason to believe that the leaders of the company are fully aware of the conditions here mentioned.

The plans which were under consideration at the same time for the founding of a Danish hunting company were at first given a somewhat chill reception, as it was feared that a new Danish company would not meet with any greater measure of success than did the *Østgrønlandsk Kompagni*¹. Some of the interested parties thought that a capital of one million kroner was necessary, and to this end an attempt was therefore made to interest the powerful Hudson's Bay Company in the hunting of fur-bearing animals in East Greenland. A contract was also sought with the English Oil and Mining Company Nobel with a view to starting mining operations in East Greenland². This scheme, which was also mentioned in the Norwegian press, has presumably been dropped for the time being³. The Prime Minister of Denmark, Mr. Stauning, has denied that the Danish Government, or any Danish public institution, has directly or indirectly carried on negotiations with the said foreign companies⁴.

It was on a more modest, but presumably also on a more reasonable basis that Director Jennow started the previously mentioned *Østgrønlandsk Fangst-Kompagni Nanok A/S*. Jennow's scheme aimed at hunting operations, particularly in respect of blue and white foxes, from the stations now owned by the Danish State but which formerly belonged to the *Østgrønlandsk Kompagni*, and which lie in the tract between Franz Josef Fjord and Denmark Harbour. It was intended also to investigate the possibilities of the east coast in regard to occurrences of metals and minerals. The capital Jennow required was Kr. 120 000⁵. The scheme was well received, but words of warning were also heard. The Danish Greenland explorer, Peter Freuchen, contended it was a drawback that the men who were going to be sent to Greenland were not hunters. "Granted that six of them were hunters with the former *Østgrønlandsk Kompagni*, they showed best there that they could achieve nothing", he stated⁶. Freuchen recommended

¹ "Berlingske Tidende", 21st January 1929.

² "Berlingske Tidende" and "Nationaltidende", 2nd April 1929.

³ See, for instance, "Aftenposten", 4th April 1929, and "Nationen", 8th April 1929. The matter gave rise to an exchange of views between the Prime Minister, Mr. Mowinkel, and Dr. Anton Mohr ("Aftenposten" 4th and 7th May 1929).

⁴ "Aftenposten", 6th May 1929.

⁵ "Nationaltidende", 6th April 1929 (article by Carl Thalbitzer); "Berlingske Tidende", "Nationaltidende" and "Socialdemokraten", 11th April 1929; "Morgenbladet" (D), 14th April 1929 (article by O. Bendixen).

⁶ "Politiken", 18th April 1929, Jennow's reply is found in "Politiken", 19th April 1929.

that they should "study under the Norwegians and otherwise work on an equal footing with them"¹.

After Jennow had given particulars of his scheme to the Greenland Committee of the Rigsdag², and the Danish State had given permission to use the above-mentioned stations³, the *Østgrønlandsk Fangst-Kompagni Nanok A/S* was founded at the end of June 1929. The statutes of the company state that the object is "to undertake a scientific as well as a practical investigation of the trading possibilities existing in East Greenland and along its coast; to exploit them, and to carry on trade and shipping". The share capital is Kr. 90 000, *i. e.* somewhat less than originally intended. In January 1930 the company reported that about Kr. 34 000 of the capital had been lost. The loss was due to the fact that this amount had been placed in another enterprise which had gone bankrupt. At the same time it was stated that the Board of the company had raised a certain sum, and that they would endeavour to increase the capital⁴.

As members of the Board were elected: Antonio de Coninck Smith, Director, Copenhagen, (President); Godfred Hansen, Captain, Danish Navy, Copenhagen; Bjarne Sigurd Nielsen, Merchant, Copenhagen; Eiler Ingerslev Baastrup, Director, Copenhagen; Sven Olaf Engelhardt, Solicitor, Copenhagen; and Henry Tuxen, Engineer, Hellerup per Copenhagen. The registered offices are at Copenhagen.

At the beginning of August 1929, the company sent a hunting expedition numbering 10 men to East Greenland under the leadership of Director Jennow⁵. Following the example of Norwegian expeditions the members were to have no fixed salary, but a percentage of the profits⁶. The expedition sailed to Greenland in the Norwegian sealer "Birkild", which had a Norwegian master and crew. The expedition is intended to last two years, but to meet all eventualities it was equipped for three years⁷. It will have its base on Sabine Island, where also *Østgrønlandsk Kompagni* formerly had its headquarters⁸. The expedition intends to erect two wireless stations, one at Walrus Point

¹ "Berlingske Tidende", 20th April 1929.

² "Nationaltidende" and "Socialdemokraten", 8th June 1929.

³ "Socialdemokraten", 12th June 1929.

⁴ "Morgenbladet" (D), 30th January and 5th April 1930.

⁵ The number of members has been given somewhat differently by the Danish press. In "Nationaltidende", 25th July 1929, Director E. I. Baastrup stated "that 10 men, and among those Jennow", were sent out.

⁶ Regarding the scale of pay, Mr. Jennow stated that the members "do not get anything until all expenses have been covered and 6% on the share capital has been reserved. In return they then get one half of the profits". ("Nationaltidende", 15th July 1929).

⁷ "Danmarks Handels- og Sjøfartstidende" 27th June 1929.

⁸ "Berlingske Tidende", 1st and 3rd August 1929.

and the other at Sandodden¹. The equipment for these stations has been loaned by the Danish Meteorological Institute. Before departure, Director Jennow stated:

“The economic basis of our company is solely the hunting of fur-bearing animals. Another thing is that we shall also do mineralogical research work, and it is not unlikely that this work will give results of significance to the result of the operations. Öresund’s Chemical Factories and the Cryolite Mining Company have a financial interest in the foundation of our company with this possibility in view, and they are sending a mineralogist, Mr. Bögvad, with us in order that he may examine certain occurrences of which we have got samples. As mentioned, however, this is only something we have in reserve — whether anything will come of it is not decisive — it does not figure in our calculations at all”².

There is no report on the hunting activity of the expedition available to date³. In 1930 East Greenland will be visited by a Danish and also a Norwegian expedition.

It has been known since 1822, when Scoresby was there, that there is coal at Scoresby Sound⁴. This is brown-coal of good quality⁵, and we have heard that it is of great use to the Eskimo settlement. During the last few years further new coal seams have been found⁶. Coal also occurs at other places on the east coast⁷, for instance, north of Shannon Island, where the occurrences are more extensive than at Scoresby Sound, “but”, Lauge Koch says, “there is no oil in these formations”, “and the seams are of such small size at the accessible places that an exploitation of them, beyond local consumption, would be quite impossible. Towards the north, where there are larger coal seams, there are such huge masses of ice at the coast that even a comparatively regular navigation is impossible”⁸.

It is a widespread opinion that cryolite should be found in East Greenland⁹. This mineral is preferentially employed in the manufacture of glassware, enamel, and aluminium. In West Greenland there is a

1 “Morgenbladet” (D), 26th June 1929. — In the spring of 1931, these stations had not yet been built.

2 “Nationaltidende”, 15th July 1929.

3 “Morgenbladet” (D), 5th April 1930.

4 Scoresby, 1823, p. 206, 222, 402 and 405.

5 Lauge Koch, “Berlingske Tidende”, 12th April 1929.

6 Alwin Pedersen, “Morgenbladet” (D), 10th September 1929.

7 Böggild, 1928, p. 246.

8 Lauge Koch, “Berlingske Tidende”, 12th April 1929. — In the summer of 1930, oil is said to have been found in East Greenland north of Scoresby Sound, in that part of the territory where Norwegian hunters have settled, *vide* “Stavangeren”, 12th Sept. 1930, and “Oil, Paint and Drug Reporter”, New York City, 15th Sept. 1930.

9 See, for instance, “Socialdemokraten” 11th April 1929.

very important occurrence of this mineral at Ivigtut, situated in $61^{\circ} 10' N$. The Cryolite Mine and Trading Company operating the mines at Ivigtut, pay a royalty to the Danish State on the cryolite that they export. This royalty has varied to some extent, but in recent years it has approximated the amount of two million kroner¹. Whether cryolite exists in East Greenland is, however, an open question, but that the question is receiving attention appears from the fact that the said cryolite company is financially interested in Director Jennow's enterprise.

It has also been thought possible that precious metals exist in East Greenland².

With regard to the several unknown possibilities, it is of course proper to maintain a certain scepticism. On the other hand, it would be wrong to shut one's eyes to the fact that a great land like East Greenland may contain resources which are not yet known. The country has not been explored to such an extent that the discovery of new things is improbable. In the spring of 1929, for instance, the Danish zoologist, Alwin Pedersen, discovered at the head of the Northwest Fjord at Scoresby Sound "a large ice-free land with an extremely rich animal life, particularly foxes, musk-oxen and bears"³. When Alwin Pedersen returned to Denmark in the autumn of 1929, he made many statements as regards the exceedingly rich and interesting animal life of this land⁴. The Norwegian scientific expedition working in East Greenland in the summer of 1929, and which will be dealt with later, ascertained in several places that lands which had formerly been supposed to be covered with ice, were in fact exposed, which means that here are probably new hunting grounds. The predominating part of East Greenland is still very incompletely known geologically. Also in this regard one should therefore be prepared for surprises.

It is likewise possible that the waters bordering East Greenland will prove to contain fish in such abundance as has formerly not been imagined. At Angmagssalik very good cod fishing has been carried on in recent years. In this connection it should be mentioned that two Norwegian scientists, in the summer of 1929, carried out various observations in the Greenland Strait where "very great quantities of cod fish were found, as also off the west coast"⁵.

¹ Smedal, 1928, p. 70. According to the supplementary agreement which was made in 1926 between the Danish State and the Cryolite Company, it is calculated that the annual royalties would amount to about two million kroner. See "Børsen", 23rd January 1926, and Schaffalitzky de Muckadell, 1929, p. 103.

² "Socialdemokraten", 11th April 1929.

³ "Nationaltidende", 28th May and 3rd June 1929.

⁴ "Berlingske Tidende", 9th and 10th September 1929; "Nationaltidende", 9th, 17th, and 18th September 1929; "Morgenbladet" (D), 10th September 1929.

⁵ "Tidens Tegn", 3rd September 1929. (Professor H. H. Gran).

With the exception of Eskimos at Angmagssalik and Scoresby Sound, only Danes and Norwegians are at present working in East Greenland and in East Greenland waters.

Scientific Expeditions and Exploration.

The Norwegians have been able to exploit East Greenland in far greater measure than the Danes. The main economic achievement of the Danes has been the *Østgrønlandsk Kompagni* which suffered heavy losses. The future will prove whether Director Jennow's company, partly organized on Norwegian lines, will succeed¹. Certainly, the Eskimo settlement at Scoresby Sound has fulfilled expectations. Hunting is, however, carried on here, as at Angmagssalik, by natives, and the good result is no proof of the ability of the Danes to exploit East Greenland by themselves.

Norwegian industrial activity in East Greenland and in East Greenland waters has been proceeding for years, and is carried on by people familiar with hunting conditions in Arctic regions. These operations give a relatively dependable annual income. It should be no discredit to the Danes that they are inferior to the Norwegians as hunters in Arctic regions. The geographical position of Denmark and Norway explains that a difference must exist in this respect. The inhabitants of Western and Northern Norway are compelled to some extent to turn to fishing and hunting, and in this province they have therefore considerable experience and practice. Owing to her geographical position, Denmark has other industries which are more natural to her population than hunting in polar regions².

If the ability of the Danes to turn East Greenland to practical account is small, it may, on the other hand, be rightly said that they have accomplished more than the Norwegians in the scientific exploration of the country. This circumstance may partly be explained by the fact

¹ The information before us as to the activity in the first year is not very favourable, cp. "Ekstrabladet", 2nd Sept. 1930, "Kristeligt Dagblad", 30th Sept. 1930, "Morgenbladet" (D), 16th Oct. 1930.

² After the publication of the Norwegian edition of this book Mr. Stauning, the Danish Prime Minister, has made very remarkable pronouncements relating to the problem we have before us. Regarding the Danish and Norwegian hunters working in Greenland Mr. Stauning stated that he "had no doubt" that Norwegian hunters, "who had better training and experience in this work, would have taken the lead; but that could not interfere with my plans ("genere mig"), as I have never counted upon any great Danish economic interests in East Greenland". And further:

"The industrial activity which can be carried on by Denmark in East Greenland will certainly continue to be on a modest scale, and even if it were to be totally dropped it would be of no economic importance, looking away, of course, from the Eskimo settlements". ("Arbejderbladet", Oslo, 4th February 1931).

that the East Greenland problem has been a political one in Denmark for a much longer time than in Norway. Scientific expeditions are expensive, and in order to be realized they must, as a rule, be subsidized by the State.

The research work which has been done by the Danes in East Greenland has, presumably without exception, either been supported by the State or by public and semi-public institutions. The motive of this activity has, to a considerable extent, been the desire to enlarge the area of Greenland subject to Danish sovereignty. The formal occupations made by Danish expeditions are examples of this. It sometimes appears as if the political object of the expeditions has been limited to neutralizing the importance which the activity of other States in the country might be presumed to have with regard to the solution of the question of sovereignty.

At all events, Denmark has performed great scientific work in East Greenland. At the same time however, Norway has rendered valuable contributions to the exploration of the country, and other nations have also taken creditable part in this work. Below we will try to give a short review of these scientific expeditions and their research work.

After the second colonization of West Greenland at the beginning of the eighteenth century, the first voyage to the east coast was made by Peder Olsen Walløe. (1751—53)¹. He started from the southern part of West Greenland, then Norwegian territory, and reached 60° 56' N. Whether he was a Dane or a Norwegian is not quite clear, but generally he was thought to be a Dane².

Walløe made his voyage in an umiak with Eskimos. So did also Lieut. W. A. Graah, Danish Navy, when on his expedition in 1829—30 he forced his way along the east coast to 65° 18' N.³. Graah's object was to explore this coast and, if possible, find traces of the old Norwegian Eastern homesteads⁴. His voyage was occasioned by the discoveries of Scoresby in 1822, and Scoresby's surveys of the coast from 70° N., "with which", as it was said, "a fear was possibly combined that they would be extended southwards, and Denmark's sovereignty to the land (which had only been saved by chance) would thereby be forfeited"⁵.

¹ Pingel, 1845, p. 741—50.

² Osterman, 1921, p. 748—49, and letter to the author, 9th August 1929.

³ Hans Egede was the first to call attention to the fact that a journey along the southern part of the east coast should be effected in small boats near land. Hans Egede, 1741, p. 20—21; cp. Amdrup, 1913, p. 21, and Isachsen, 1922, p. 213—14.

⁴ Graah, 1832, p. III—XIII.

⁵ Normann, 1883, p. 36.

After Graah's voyage many years elapsed before fresh attempts were made by Danes to explore the east coast. The fact is that they felt satisfied with Graah's report that the land was so sparsely inhabited that trading with the population "more than what was already going on from Cape Farewell, would not pay"¹.

From 1878 Danish research work in Greenland underwent a revival. On the initiative of Professor F. Johnstrup a series of excellently equipped and well planned expeditions were sent out in this and the following years to Greenland. Some of them had their field of exploration in East Greenland. In the same year, the "Commission for the Administration of the Geological and Geographical Research Work in Greenland" was organized at the instance of Johnstrup, an institution still existing and which has been of the greatest importance to the exploration of Greenland.

In 1879 the so-called "Ingolf" Expedition went out². The Danish schooner "Ingolf" sailed along the edge of the ice from 69° to 65° N. and observed, at considerable distances, several prominent mountain regions. In 1880, Captain C. O. E. Normann, Danish Navy, submitted a scheme for a thorough survey of the east coast from Cape Farewell to about 73° N.³ Interested quarters were, it was said, aware of "the desirability of having this survey done from Denmark"⁴. Normann's scheme has been adhered to in its broad features.

The first expedition sent out in conformity with this scheme was the umiak expedition of Lieut. Gustav Holm, Danish Navy, 1883—85, along the southern part of the east coast and northwards to the district around Angmagssalik (66° N.). Of the members of the expedition, three were Danes, one Norwegian, and two Eskimos. Holm's object was to explore that part of the coast where Graah had been, but more closely than he had been able to do. In addition, he should try to penetrate farther north than Graah⁵. Holm fully accomplished his object.

According to Normann's scheme, the exploration of the coast from 66° to 73° N. now remained, and this task was entrusted in 1891 to Lieut. Ryder, Danish Navy. The idea was that Ryder, with a larger vessel, should approach land north of Scoresby Sound. The coast from 73° to 70° N. was to be explored as far as possible. The next summer Ryder was to try to force his way by boat southwards along the coast and explore the unknown tract between Cape Brewster and about 66° N.⁶

¹ Normann, 1883, p. 36.

² Should not be confused with the "Ingolf" Expedition, 1895 and 1896, which had the Davy Strait and the sea east of Greenland as its field of operation.

³ Normann, 1883, p. 36—56.

⁴ Ryder, 1895, p. 4.

⁵ Holm, 1889, p. 57 and 61.

⁶ Ryder, 1895, p. 8 and Amdrup, 1913, p. 28—29.

Ryder chose a Norwegian ship for his expedition, the sealer "Hekla" of Tønsberg, with R. Knudsen, the known Norwegian Arctic skipper, as master. The crew, 19 men, were also Norwegians. The expedition itself numbered 11 men, of which 8 were Danes, 2 Norwegians, and one Eskimo. Ryder reached Cape Broer Ruys (Cape Hold with Hope) on the 20th July, 1891. On the same day he continued southwards and on the 2nd August the "Hekla" entered Scoresby Sound. The expedition wintered in the middle portion of the fjord district at Denmark Island. Here Ryder remained about a year and did research and mapping work in the large area of fjords. On account of ice conditions he did not succeed in the summer of 1892 in exploring the coast south of Cape Brewster, and had to return without having accomplished this part of his task. Thus, he had in fact only succeeded in exploring and mapping the districts around Scoresby Sound².

The exploration of the tract between 66° N. and Scoresby Sound (Cape Brewster) still remained. In Denmark they began "to fear that foreign countries would take the initiative" in the exploration of this tract, "a task which must be said, however, to belong preferentially to Denmark as a part of the former Danish explorations"³. The Carlsberg Fund then stepped in and placed the necessary means at the disposition of another Danish expedition. Lieut. G. Amdrup, Danish Navy, was the leader, and he succeeded in the summer of 1900 in covering the distance from Cape Dalton (a little south of Scoresby Sound) to Angmagssalik by boat⁴.

Amdrup's expedition also made use of a ship built in Norway, viz. the sealer "Antarctic"⁵. They reached Sabine Island on 11th July, 1900. After a short stay there they went southwards to Cape Dalton, where they arrived on 18th July, and where Amdrup landed with three companions in order to start on his boat trip along the coast. Dr. Hartz took charge of the "Antarctic". After the exploration work had been performed between Cape Dalton and Scoresby Sound, on the west side of Jameson Land and in the fjord west of Cape Gladstone, the "Antarctic" left the coast on 2nd September 1900 and proceeded to Angmagssalik, where Amdrup and his companions were taken on board⁶.

Danish expeditions have not, however, been alone in rendering services in the exploration of the coast from Cape Farewell to Scoresby

¹ Ryder, 1895, p. 7.

² Cp. Amdrup, 1902, p. 3.

³ Amdrup, 1902, p. 3; cp. Amdrup, 1913, p. 29—30, where he states that this enterprise must be said "to concern Denmark to a very great extent".

⁴ Amdrup, 1902, p. 185—259. Amdrup had during the summer of 1899 surveyed the coast from Angmagssalik and northwards to 67° 22' N. Cp. Amdrup, 1902, p. 61—107.

⁵ Amdrup, 1902, p. 120—21.

⁶ Hartz, 1902, p. 155—81.

Sound inclusive. Norwegians have also taken part in this exploration, not only as members of Danish expeditions, but also independently. When Nansen, as the first explorer to do so, crossed the inland ice of Greenland in 1888, he had previously worked his way in a boat along the coast from about $61\frac{1}{2}^{\circ}$ to $64\frac{1}{2}^{\circ}$ N.¹ It is true that this stretch had formerly been covered by Graah and afterwards by Holm, but the knowledge of the coast was nevertheless increased through Nansen's expedition. In 1893, Captain Knudsen in the sealer "Hekla" succeeded in getting so close to the coast at Cape Grivel ($68^{\circ} 35' N.$) that he could observe two fjords².

Among other expeditions to the country between Cape Farewell and Scoresby Sound, we may mention the voyage of the German geologist Giesecke in 1806, during which he reached Aluk, situated in $60^{\circ} 02' N.$ ³; the famous voyage in 1822 of the Scottish whaler Scoresby the younger, in the course of which he did, among other things, mapping work at Scoresby Sound and from Cape Brewster to Cape Barclay⁴; the voyage in 1833 of the French Naval Lieutenant de Blosseville, during which he made a sketch of the coast between $68\frac{1}{2}^{\circ}$ and $69^{\circ} N.$, and, further, the expedition of the Swedish explorer, A. E. Nordenskiöld in 1883, in which he succeeded in forcing his way through the belt of floating ice and in landing in $65^{\circ} 36' N.$ ⁵. Nordenskiöld employed Norwegian ice pilots.

While the coast from Cape Farewell to Scoresby Sound has been explored mostly by Danes, this is not the case as regards the land from Scoresby Sound and northwards to $77^{\circ} N.$ As previously mentioned, it is this part of East Greenland that is the most valuable hunting area, and which is at present of greatest economic importance.

As early as 1607 Henry Hudson was off this coast in about $73^{\circ} N.$ ⁶. It may be presumed that the east coast of Greenland has not infrequently been visited by whalers, especially Dutchmen, during the first half of the seventeenth century when whaling industry was at its height in Svalbard waters. Names such as Cape Broer Ruys and Gael Hamkes Fjord, and others, are evidence of Dutch visits.

It was not, however, till the voyage in 1822 of the younger Scoresby that exploration of the coast entered a scientific phase. Scoresby mapped the outer coast line from about 75° to $69\frac{1}{4}^{\circ}$ ⁷. In the following year,

¹ Fridtjof Nansen, 1890, p. 286—371.

² Isachsen, 1922, p. 215. Amdrup, 1913, p. 30.

³ Wandel, 1928, p. 37—38. Giesecke's journal from this voyage is published in "Meddelelser om Grønland", Vol. 35.

⁴ Scoresby, 1823.

⁵ Nordenskiöld, 1885.

⁶ Hudson, 1860.

⁷ Scoresby, 1823.

1823, the knowledge of the country between 75° and 72° N. was extended by the expeditions of Sabine and Clavering in the brig "Griper"¹. The knowledge relating to East Greenland was afterwards greatly increased by the second German North Pole Expedition, the leader of which was Captain Koldewey (1869—70). His ship, the "Germania", wintered at Sabine Island. The coast between 74° and 77° N. (Cape Bismarck) was mapped on numerous sleigh journeys. On the return voyage southwards along the coast, the "Germania" entered Franz Josef Fjord, which was explored².

In 1889 the Norwegian, Captain Knudsen was at Cape Broer Ruys with the "Hekla". Afterwards he proceeded to Clavering Island and rounded it, partly with his ship and partly by boat. From Clavering Island he continued northwards to Pendulum Island and far into the Ardencape Inlet³.

As previously mentioned, also a part of this coast was explored in 1890 and 1900 by the Danish expeditions of Ryder and Amdrup. In 1899, the Swedish geologist, Professor A. G. Nathorst, was in East Greenland; his ship was the "Antarctic", bought from Norway. Some of the members of the crew were Norwegians, viz. the first mate, the ice pilot, and two able seamen. Nathorst was also in Scoresby Sound and afterwards in the inner parts of Franz Josef Fjord and Davy Sound, where he discovered that the two water areas were connected⁴.

The following year another Swedish expedition went to East Greenland under the leadership of Kolthoff, the zoologist. Their ship, the sealer, s.s. "Frithjof", and the crew were Norwegian. The object of the expedition was of a zoological character. Among the places which were visited may be mentioned Myggbukta, Franz Josef Fjord, and Musk-Oxen Fjord⁵.

The coast from Scoresby Sound to 77° N. had thus been explored and provisionally mapped at the beginning of this century. This exploration was naturally not complete. There still remained many investigations of details which would be of special importance in an economic estimate of the country.

In recent years two Danish expeditions and one Norwegian have performed scientific work in these regions. It has previously been mentioned that the Dane, Lauge Koch, with some companions, arrived at Scoresby Sound in the summer of 1926. In the same autumn he made a sleigh journey to the Norwegian wireless station in Myggbukta

¹ Sabine, 1825.

² Koldewey, 1873—74.

³ Isachsen, 1922, p. 214—15.

⁴ Nathorst, 1900.

⁵ Kolthoff, 1901.

accompanied by two men from West Greenland¹. In the spring of 1927, he made another sleigh journey from Scoresby Sound to Denmark Harbour² (about 77° N.). This time he was accompanied by two men from West Greenland and one from East Greenland.

The expedition arranged by Lauge Koch to East Greenland in the summer of 1929 had a more scientific character. It was composed of seven geologists and one botanist. Two of the geologists were Swedes. The expedition worked in the tract between Sabine Island and Scoresby Sound³.

In the autumn of 1928 *Norges Svalbard- og Ishavs-undersøkelser* took the initiative in the despatch of a Norwegian scientific expedition to East Greenland in the summer of 1929. This institution worked out schemes and submitted a proposal to the Ministry of Commerce, with a view to obtaining the necessary funds for such an expedition. The result was that the Storting voted money for this purpose⁴. In addition, the expenses were also to a great extent, defrayed by private contributors. The expedition was composed of two topographers, one geologist, two botanists, one zoologist, one physician, and one wireless operator, and sailed in the S. S. "Veslekari". The geologist, Anders K. Orvin, was in charge. The work was done between Sabine Island and Davy Sound, *i. e.* in districts where Norwegian hunters have settled⁵.

It is still too early to express any opinion on the scientific results of the Norwegian expedition and that of Lauge Koch. This applies also to the exploration work done in recent years in the tracts between Scoresby Sound and 77° N. by scientists from other countries, for instance, by the French polar explorer, J. B. Charcot, at Scoresby Sound in 1925 and 1926⁶, and by the English geologist, J. M. Wordie, who was the leader of the so-called Cambridge Expedition in 1926, and worked in Scoresby Sound and the district around King Oscar's Fjord,

¹ Lauge Koch, 1927, p. 227—29 and 1928, p. 256—59.

² Lauge Koch, 1927, p. 229—34 and 1928, p. 259—60.

³ Reports on the expedition are found in "Berlingske Tidende" and "Nationaltidende", 8th March 1929, "Sjøfartstidende", 8th and 11th March 1929, "Nationaltidende", 27th May 1929, "Kristelig Dagblad", 10th June 1929, "Berlingske Tidende" and "Politiken", 12th June 1929, "Stockholms Dagblad", 14th June 1929, "Aftenposten", 17th June 1929, "Berlingske Tidende", 7th August 1929.

⁴ Stortings Forhandling, 1929. *Norges Svalbard- og Ishavs-undersøkelser* I. Expedition to Svalbard, II. Scientific research work in Greenland. St. prp. No. 1, Ch. 535; Budget report S. No. 83; Debates in the Storting, p. 655—56, 688, 711—26. Concerning further grants for scientific and other work in the Arctic regions. St. prp. No. 1, Annex No. 14. Annex to the Budget Report S. No. 83; Storting Debates, p. 1979.

⁵ Numerous statements concerning the expedition are found in the Norwegian daily press for 1929.

⁶ Charcot, 1926 and 1928.

and who continued his work in 1929 in East Greenland¹. Both in 1926 and 1929 Wordie hired a Norwegian vessel with a Norwegian crew, namely, s.s. "Heimland" of Tromsø.

The portion of East Greenland lying north of 77° N. is difficult of access on account of the ice, and is at present of little practical importance. Exploration work was done here in 1905 by the expedition of Duke Philippe of Orleans. The ship of the expedition was the "Belgica", the former Norwegian sealer "Patria". The polar explorer, Adrien de Gerlache, was master; the mate, the engineer, and most of the other crew were Norwegian, 19 men in all².

This part of the country has particularly been explored by two Danish expeditions, one of which was the so-called "Danmark"-Expedition under the leadership of Mylius Erichsen (1906—08)³, and the other was the "Alabama" Expedition of Ejnar Mikkelsen (1909—12)⁴. The "Danmark" Expedition was arranged at a time when it was feared in Denmark that other countries would take the initiative to explore these regions⁵. The ship used was the Norwegian sealer "Magdalene", which was renamed "Danmark". Among the members were two Norwegians, one of whom was the ice pilot, K. J. Ring. The ship of the "Alabama" Expedition was a sloop bought from Norway.

The many research expeditions have unquestionably done good work; but it would be a mistake to believe that the knowledge we have of East Greenland and the East Greenland waters is due only to them. In mentioning these regions we must not forget Norwegian hunters⁶. They have sailed everywhere between the island "Ensomheten" in the east and Greenland in the west, and they have made valuable geographical discoveries. They have obtained a knowledge of ice conditions in this vast water area which has greatly benefited scientific expeditions. We are indebted to them also for important meteorological observations. Expeditions are sent out now and again, but Norwegian vessels are at East Greenland every year. It has been said with full justice that it is the Norwegian hunters who have opened "a new period with regular traffic to North-East Greenland"⁷. For this reason none know the difficult waters along this coast better than the Norwegian Arctic skippers. We therefore find, as also appears from this brief review, that many foreign expeditions, — among them Danish — have made use of the experience of these men.

¹ Wordie, 1927.

² Duc d'Orleans, 1907.

³ Amdrup, 1913.

⁴ Mikkelsen, 1922.

⁵ Amdrup, 1913, p. 37; cp. Isachsen, 1922, p. 217.

⁶ Solberg, 1922; Isachsen, 1922, p. 260—61.

⁷ Solberg, 1922, p. 193—94.

Norwegian hunters are not in the habit of writing about their voyages, but in the reports on foreign expeditions to East Greenland, Norwegian hunters are frequently referred to. Some few examples may be mentioned, Lieutenant Amdrup emphasizes in his book the dangerous conditions of navigation on the east coast and then states:

“Nevertheless, Norwegian hunters continue undauntedly in their small sailing vessels to approach the east coast of Greenland . . .”¹.

When Duke Philippe of Orleans on the 27th July 1905 was as far north as Cape Bismarck (about 77° N.), he was surprised and, as he has stated himself, rather annoyed at meeting the Norwegian sealer “Søstrene”, of Tromsø, the master of which told him that ice conditions northwards were extraordinarily good².

The best example of how regularly Norwegian vessels are navigating in East Greenland waters is given in the report of the Danish “Alabama”-Expedition. When the “Alabama” had sunk at Shannon Island in 1910, a report about the disaster was deposited at Bass Rock. It was found by the Norwegian sealer “7. Juni”, which in August 1910 brought the members of the expedition to Norway with the exception of the leader, Ejnar Mikkelsen, and Engineer Iversen. Mikkelsen and Iversen were away on a sleigh journey when these events occurred and were saved and brought to Norway in 1912 by the Norwegian sealer “Sjøblomsten”³.

Colonization, and the Question of whether Parts of East Greenland have come under Sovereignty since 1924.

In recent years a colonization movement has been proceeding in East Greenland which is worth attention.

As previously mentioned, Norwegian hunters have settled in the country. The wireless station in Myggbukta has become a centre of the settlements, the hunters having established themselves north and south of this point. It has also been mentioned previously that this wireless station was erected in 1922 at the instance of the Geophysical Institute, Tromsø. The station was not in operation from the summer of 1923 to the summer of 1926. It was, however, visited by a Norwegian expedition in 1924⁴. In 1926, the station was repaired by order of the Geophysical Institute, and it has since functioned regularly.

Norwegian hunters have built 25 houses on Hudson Land, where Myggbukta is located. They are erected at intervals convenient for hunting purposes, and in this way most of Hudson Land has been made a Norwegian hunting area. On the coast of the so-called Homes

¹ Amdrup, 1902, p. 144.

² Duc d'Orleans, 1907, p. 213—19.

³ Laub, 1922, p. 177—84; Mikkelsen, 1922, p. 142.

⁴ Isachsen, 1925, p. 147—49.

Foreland, there are two Danish houses from the days of the *Østgrønlandsk Kompagni*. It will be very difficult for the Danes to begin hunting again from these houses, for it is obvious that in so doing they will lose in competition with the Norwegians, who practically control Hudson Land¹.

Norwegian hunters have also settled farther north on Clavering Island and on the land inside of this island. Here 9 houses have been built and located so that this district, too, is controlled by Norwegians. One of these houses is that at Cape Mary built by Norwegians in 1909, and which was afterwards taken possession of by the *Østgrønlandsk Kompagni*. As formerly mentioned, the house is again in Norwegian hands².

Further, Norwegian hunters have built 9 houses on Wollaston Foreland, which lies north of Clavering Island. The houses are located so that this territory is also under the control of Norwegian hunters. From the days of the *Østgrønlandsk Kompagni* there is a Danish house on the west coast (Sandodden). One of the Norwegian houses is that at Cape Borlase Warren, built by Norwegian hunters in 1909, which has since been made use of by the *Østgrønlandsk Kompagni*. Now the house is again in possession of the Norwegians.

In 1929 Norwegian hunters began to exploit the district south of Hudson Land. They have built several houses on Ymer Island, Geographical Society Island, and Traill Island, and continued their activities in 1930. More than thirty houses have been erected along the stretch between Franz Josef Fjord and Davy Sound, and there are at present about 80 Norwegian houses along the whole stretch between the north coast of Wollaston Foreland and the south coast of Davy Sound. In this tract there are only three Danish houses³.

Thus, the district from the north coast of Wollaston Foreland to Davy Sound, about 300 km. in length, has become an unbroken Norwegian hunting area. The Norwegian colonists living there have not only prosecuted hunting, but have also performed scientific work of a meteorological and natural-history character⁴.

The Eskimo settlement at Scoresby Sound also calls for special comment. During the negotiations in 1923—24, the case presented by Denmark was that this settlement was an arrangement for the well-being

¹ One of these houses, *viz.* that built at Carlshavn, was destroyed by fire a short time ago, and there is thus now only one Danish house on Hudson Land.

² See *ante*, p. 103.

³ After the destruction by fire of the house at Carlshavn there are only two Danish houses in this tract.

⁴ See *ante*, p. 108 et seq.

of the Eskimos¹. It is certain that the settlement cannot have been contemplated only from this point of view; also political factors have prevailed. This was, for instance, evident when the Danish Rigsdag discussed the East Greenland Treaty. The former Prime Minister, Mr. Neergaard, then stated:

“In this connection I must say that the reservation taken with regard to Scoresby Sound ought, in my opinion, to be exploited on the part of Denmark, so that we may, as soon as by any means possible, bring about a colonization of this area, where, in the opinion of some of our best Greenland experts, there is a comparatively reasonable prospect of an Eskimo colony being able to live”².

On the very day after the Treaty had been signed a Danish expedition was sent to Scoresby Sound in order to make preparations for the settlement³. At a later stage, it became a question as to which Eskimos should be brought there. In a plan which had been worked out beforehand, it was stated:

“The colonists should be West Greenlanders, preferably from Disco Bay (in the same latitude as Scoresby Sound), so that the climatic conditions should not have a strange, and, in consequence thereof, possibly dejecting effect upon them. In choosing the colonists regard should be taken to the various hunting possibilities at Scoresby Sound, so that such hunters are chosen as have special experience in the pursuits possible in the area of the new colony”⁴.

The plan was not followed and for financial reasons the colonists were taken from Angmagssalik. From this place “about 90 men, women and children” were sent in September 1925 to Scoresby Sound⁵. In the summer of 1927 two families of hunters were transferred to Scoresby Sound, from West Greenland, and the inhabitants numbered in the autumn of 1929, 115 natives⁶. As dog-driving is essential at Scoresby Sound and the Eskimos sent up from Angmagssalik were kayak men and not dog-drivers, it required a lot of work to teach the colonists to drive sledges⁷.

The funds required to bring about this settlement were mainly raised by the Ferslew Newspaper Press⁸. (A Danish press amalga-

¹ St. prp. No. 30, 1924.

² Folketingets Forhandling, 1924, II, p. 549.

³ Mikkelsen, 1925, p. 16.

⁴ Mikkelsen, 1925, p. 10.

⁵ The Scoresby Sound Committee's Report, 27th October, 1927, “Nationaltidende”, 28th October 1927.

⁶ Alwin Pedersen, “Morgenbladet” (D), 10th September 1929.

⁷ Lauge Koch, 1927, p. 225; Petersen, 1928, p. 120.

⁸ Mikkelsen, 1925, p. 14—16; Ejnar Mikkelsen, “Nationaltidende”, 11th July 1926; Petersen, 1928, p. 120.

tion advocating national views). The settlement thus effected by private means was taken over by the Danish State in 1925¹.

In 1927 a wireless station and a meteorological station were established at Scoresby Sound, and in 1928 also a seismographic station. In the same year a church, a parsonage, and a school were built. Scientific work of different kinds has been performed by Danes in the district around the settlement².

We have previously established that in 1924, East Greenland, with the exception of Angmagssalik, was a No-man's-land. The question now is whether changes have taken place since that time with regard to sovereignty conditions.

Denmark has by notes of 23rd April and 4th June, 1925, granted Britain the most-favoured nation treatment of British subjects, companies, and ships in East Greenland. Denmark has made the same concession to France by notes of 12th and 19th October 1925. Denmark's object in exchanging these notes must presumably have been to strengthen the Danish claim of sovereignty over East Greenland. The agreements made, however, are only binding upon the contracting parties. With reference to these notes, Norway informed Great Britain and France that "the Norwegian Government has not recognized Danish sovereignty over the whole of Greenland".

If East Greenland has during the last few years been subject to sovereignty to a greater extent than before, it must, in such event, have been effected by valid occupations, binding upon all States. If the matter be considered from this point of view, one can at once record that the greater part of East Greenland is still a No-man's-land. That is the case with the enormous area from Cape Farewell to Scoresby Sound (Angmagssalik excepted), and from the north coast of Wollaston Foreland to the most northern point of the land. Neither the practical nor the scientific work performed in these parts of East Greenland is sufficient to establish a claim of sovereignty.

The question whether sovereignty has been acquired by occupation, can, with reason, be raised only with regard to two areas in East Greenland. One of these is the tract around Scoresby Sound, and the other is that from Davy Sound to the north coast of Wollaston Foreland.

We will first consider the conditions at Scoresby Sound. The Eskimo settlement has been established west of Cape Tobin at the entrance of the fjord³. Also at Cape Tobin, Cape Hope, and Cape Stewart some few Eskimo houses have been built⁴. The area which

¹ The Scoresby Sound Committee's Report, 27th October 1927, 1. c.

² Wandel, 1928, p. 136; Lauge Loch, 1928, p. 256.

³ Mikkelsen, 1925, p. 39-61.

⁴ The Scoresby Sound Committee's Report, 27th October 1927, 1. c.

the Eskimo inhabitants were able to make use of was, at any rate at first, very limited. Lauge Koch said that when he came to Scoresby Sound in the summer of 1926, the Eskimos had "only managed to investigate the hunting conditions in the immediate vicinity of the colony"¹. The reason for this was, in his opinion, that the inhabitants were unpractised in sledge-driving which, at Scoresby Sound, is necessary during nine months of the year. He further stated that "the small community of Eskimos must now readjust their hunting methods from kayak to the sledge" and this "takes time, of course".

During the last few years there seems to have been an improvement in this respect. It is reported that a house has been built on the Liverpool Coast and an Eskimo dwelling on Jameson Land about 100 km. up the fjord². Hunting excursions have been made to "the Bear Islands and Denmark's Island situated in the middle of Scoresby Sound, about 200 km. from the colony at the mouth of the fjord"³. In the spring of 1929 the Danish zoologist, Alwin Pedersen, accompanied by two natives made a voyage to the inner part of Scoresby Sound⁴. It has further been stated that huts have been built in "many places" for the use of hunters⁵.

The information available is not sufficient to enable us to arrive at any final conclusion as to the extent of the area worked by the Eskimo settlement. For the time being, this area appears to be comparatively small. That more extended journeys have been made on certain occasions, is another matter. According to the information available, it is also not clear whether the district around the settlement has been placed under Danish administration, and, if so, to what extent this has been done. In the course of the winter of 1929—30, only one Dane has stayed at Scoresby Sound. He is a young scientist who is in charge of the wireless and seismographic station⁶. Whether any of the members of the settlement have been vested with Danish police authority, and whether inspection and control is exercised in the territory, we do not know. If, however, we assume that there are persons belonging to the settlement who can be said to represent Danish State authority, and that the surrounding land is regularly under the inspection of these persons, we are of opinion that Danish sovereignty must be recognized. As far as we understand, it can hardly be contended under this assumption that Denmark has acquired sovereignty over more than a part of the outer Scoresby Sound district. The rest of the tract around this enormous fjord is still No-man's-land.

¹ Lauge Koch, 1927, p. 225.

² Alwin Pedersen, "Morgenbladet" (D), 10th September 1929.

³ Alwin Pedersen, "Nationaltidende", 17th September 1929.

⁴ See *anta*, p. 114.

⁵ Alwin Pedersen, "Morgenbladet" (D), 10th September 1929.

⁶ Sofie Petersen, "Kristeligt Dagblad", 4th November 1929.

As previously mentioned, the Final Protocol of the East Greenland Convention lays down that the limits of the area reserved for the Eskimo settlement shall be fixed and made public. The demarcation here referred to need not be identical with the boundaries of the area over which Denmark might eventually have acquired sovereignty by occupation.

Then, as regards the tract from Davy Sound to the north coast of Wollaston Foreland, this is controlled by Norwegians. The colonization which has taken place here commenced in 1922, when the Norwegian wireless station at Myggbukta was erected. Owing to a shipwreck and difficult ice conditions colonization was interrupted in 1923, but was resumed in 1926, and has since been constantly developing. It is obviously of a somewhat different character from the Eskimo settlement at Scoresby Sound. The reason for this difference is that the former is a European colonization, whereas the latter is a settling of natives on a certain part of the coast. The Norwegian hunters have hitherto not brought their families with them. Hitherto they have been relieved after a two years' stay in East Greenland by other men taking their places.

The Norwegian colonization is a natural continuation of the operations carried on by Norwegian hunters in East Greenland, right from the latter half of the nineteenth century. It is the prevalent desire among Norwegian hunters that the part of East Greenland which Norwegians have, for the time, colonized, should come under Norwegian administration. They strongly object to this part of the country becoming Danish.

So far, Norway has not taken charge of the said coastal tract. The conditions now ruling are, however, in every way favourable for a Norwegian acquisition of sovereignty.

It is reported that a Danish naval expedition will be sent to East Greenland in the summer of 1930¹. It will, in that event, be the first expedition of its kind sent by Denmark to the east coast of Greenland. The object is, presumably, to inspect also the land between Davy Sound and the north coast of Wollaston Foreland. At any rate, there is reason to follow the development of the conditions in East Greenland with the closest attention. It is a widespread opinion that the sovereignty dispute between Denmark and Norway will not be solved until 1944. In that year the East Greenland Convention expires in the event of its being denounced. We are of opinion that the dispute will be decided before that time.

¹ "Berlingske Tidende", 7th February 1930; "Nationaltidende" and "Politiken", 8th February 1930; cp. Peter Freuchen, "Politiken", 18th March 1930; „Politiken". 19th March 1930, (interview with Lauge Koch); "Kristeligt Dagblad", 4th April 1930.

Literature.

(As regards newspaper articles, acts, judgments, and the debates, and so forth, of the various national assemblies, reference is also made to the foot-notes).

ABBREVIATIONS:

1. Meddelelser om Grønland, Kbh. 1888 = Medd.
 2. Problems of Polar research — American Geographical Society of New York, Special publication, no. 7, New York, 1928 = Polar research.
 3. Strupps Wörterbuch des Völkerrechts und der Diplomatie, Bd. I—III, Berlin 1924—28 = Strupp I, II, III.
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