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U.S. Naval War College (Editor)

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The regulations in Law regarding Svalbard (Spitsbergen) of July 7, 1925, §4 are applied correspondingly.⁹

§ 3. All land which is not sold to private persons belongs to the Crown.

A property right in land belonging to the Crown or usufructs on such land may not be gained by prescription.

When the Crown holds special rights on land which has been sold, these rights may not cease by prescription.

§ 4. The present law comes into force at once.

10. Norway: Peter I Island

ROYAL PROCLAMATION, 1 MAY 1931

(*Norsk Lovtidende*, No. 15, 4 May 1931; translation from 134 British and Foreign State Papers, p. 1010.)

[Translation]

We, Haakon, King of Norway, make known:
Peter I Island is placed under Norwegian sovereignty.

Done at the Castle, Oslo, the 1st May, 1931.

Under our hand and the Seal of the Kingdom.

(L. S.) HAAKON.

JOH. LUDW. MOWINCKEL. B. ROLSTED.

11. Norway: Norwegian Antarctic Territory

NOTE. When informed of the following royal proclamation of 14 January 1939, the United States Government reserved all rights which it or its citizens may have in the area. (1 Hackworth, *Digest of International Law*, p. 460.) Norway is the only State making official territorial claims in Antarctica which apparently rejects the sector principle. *ibid.*, p. 463.

A. RECOMMENDATION OF THE MINISTRY OF FOREIGN AFFAIRS, 14 JANUARY 1939

(Translation from 34 *American Journal of International Law*, Supplement (1940), pp. 83-85.)

By Order in Council of the 23rd January, 1928, Bouvet Island in the Antarctic Ocean was brought under Norwegian sovereignty, and by Order in Council of the 1st May, 1931, the same thing was done with Peter I Island in the same ocean.

Bouvet Island lies in 3°24' E. Long. and 54°26' S. Lat., *i.e.*, in that part of the Antarctic region often called the Atlantic

⁹ This section gives the King power to establish general regulations with respect to such matters as public order, expulsion, safety of navigation and air traffic, working of mines, and hunting and fishing (Norway, *Collection of Laws &c.*, 1921-1925, p. 837). [Ed.]

Sector. Peter I Island is situated $90^{\circ}35'$ W. Long. and $68^{\circ}50'$ S. Lat., *i.e.*, in the Pacific Sector of the Antarctic region.

Our object in bringing these islands in the Southern Ocean under Norwegian sovereignty was to give the Norwegian whaling industry in that region points of support and to guard it against possible encroachment on the part of foreign Powers.

Since that time there have been discussions between the government authorities and the Norwegian interested parties as to whether it would not be right and useful to bring a part of the Antarctic mainland under Norwegian sovereignty.

Of this mainland with adjacent sea and islands, Great Britain brought under her dominion in 1908 the area that has been named the Falkland Island Dependencies. The region Ross Dependencies was brought under New Zealand in 1923; and the largest of all the Antarctic areas, from 160° to 45° E. Long., was brought under Australia in 1933. In this latter area, however, France had previously taken possession of a small area with a few islands, *viz.*, Adélie Land around 140° E. Long.

Bouvet Island lies in the ocean between the British and the Australian sectors. The land filling this intervening area is what has often been called the Atlantic Sector, and here no state has yet claimed sovereignty.

The mainland in this region long remained unknown and unexplored. We know that certain discovery expeditions long ago penetrated the seas adjacent to this mainland, *e.g.*, a Russian expedition in 1820 and two English expeditions in 1831 and 1843. But none of these expeditions got so far in as to sight land and still less to put people ashore.

It was not until 1929 that exploring expeditions reached the mainland in this part of the Antarctic, and these expeditions were Norwegian. In the summer of 1929–1930 the whaler Lars Christensen sent out an expedition under the command of Captain Riiser-Larsen, accompanied by Captain Lutzow-Holm, who did exploration work and took cartophotographs from the air along great areas of the country, including the region that was subsequently given the name of Kronprinsesse Märthas Land. On a second expedition in 1930–1931 fitted out by Lars Christensen a further large area was discovered and explored by airplane; that land was named Prinsesse Ragnhilds Land. It was to this land that Captain Riiser-Larsen and others came on an expedition they made with the support of the Norwegian Government in 1932–1933, and there, as well as at other points within the sector here in question, Norwegian whalers were

close to the coast on many occasions during those years. Finally, in the summer of 1936–1937 Lars Christensen despatched still another expedition to the Antarctic, and on that occasion Lieutenant Widerøe piloted a plane over extensive areas, so that a great deal of new land was discovered and mapped both without and within the territory which the former expeditions had visited, a territory then explored between Dronning Mauds Land and Prinsesse Ragnhilds Land was named Prins Haralds Land. On all these expeditions practically the whole of the mainland within the Atlantic Sector bordering the sea was explored and mapped so well that we may say that not many parts of the Antarctic continent are better known.

It should be mentioned that Norwegian explorers, Roald Amundsen and others, have explored also other parts of the Antarctic, and in particular they have in recent years explored and mapped much of the land which was brought under Australia in 1933. There should, however, not be any question of Norway laying claim to any land that has previously been taken possession of by another state. This accords with the promise given by the Norwegian Government to Great Britain in 1929 to the effect that it would not raise any claim in respect of land within the region which had then been brought under the dominion of the British Empire.

But Norway considers that it may with full right claim dominion over that land which until now has lain unclaimed and which none but Norwegians have explored and mapped.

It is this very area which in recent years has been of capital importance to Norwegian whaling. This fishery is now prosecuted on the high seas, but as the summer advances the catches are made closer and closer to land. The mainland coast in these parts runs approximately along the 70th degree of latitude and in the beginning of the summer—in December—the edge of ice is usually along the 60th degree. It is not until February that the factory boats draw near to shore.

A question that may have an important bearing on the freedom to be extended to whaling expeditions is the determination of the limit of territorial waters. But on this question there still exists a good deal of uncertainty. It has been maintained that the ice-limit in the Antarctic must be regarded as the limit of the continent, and Great Britain and the two British dominions that have taken land here have in the main drawn the limit along the 60th degree of latitude. What this implies in respect of the right to sovereignty does not appear to be quite clear;

one thing is, however, certain, namely, that Norwegian whalers operating within this limit were for a number of years required to pay a licence.

For the very reason that such questions of territorial limits remain undecided, it is most desirable for the Norwegian whaling industry in those seas that Norway should hold dominion over a wide tract of the mainland with adjacent waters. Norway for her part will not claim any right to exclude other nations from the waters over which she might thus have dominion, or prevent them in any way from carrying whaling operations there. But Norwegian whalers should be ensured against the possibility of other nations excluding them from these waters or committing any action that might involve their industry in injury or loss.

The Norwegian Government has for a long time been alive to this requirement, and ever since the question arose it has been giving its attention to the preparation of an arrangement that would meet natural Norwegian demands. The government finds that the time has now come to take the final decision.

As mentioned above, Norway's right to bring the said unclaimed land under her dominion is founded on the geographical exploration work done by Norwegians in this region, in which work they have been alone.

The practical considerations which should lead to Norway's making use of the right it must thus be said to have won, arise from the Norwegian whaling operations in the Southern Ocean, and more particularly in the seas adjacent to the territory here in question.

The Ministry of Foreign Affairs therefore submits the following:

That Your Majesty be pleased to assent and subscribe to a presented draft of an Order in Council to the effect that such part of the coast of the Antarctic Continent as extends from the limits of the Falkland Islands Dependencies in the west (the boundary of Coats Land) to the limits of the Australian Antarctic Dependency in the east (45° E. long.) with the territory lying within this coast and the adjacent seas, be brought under Norwegian sovereignty:

And that the Ministry of Justice be empowered to draw up regulations for the exercise of police authority within this region.

B. ROYAL PROCLAMATION, 14 JANUARY 1939

(Translation from 34 American Journal of International Law,
Supplement, (1940), p. 83.)

[Translation]

We, Haakon, King of Norway, do hereby proclaim:

That part of the mainland coast in the Antarctic extending from the limits of the Falkland Islands Dependencies in the west (the boundary of Coats Land) to the limits of the Australian Antarctic Dependency in the east (45° E. Long.) with the land lying within this coast and the enviroing sea, shall be brought under Norwegian sovereignty.

Given at Oslo Palace on the 14th day of January, 1939.

Under Our Hand and the Seal of the Realm.

HAAKON

[L.S.]

JOHAN NYGAARDSVOLD

B. ROLSTED

12. United States of America

NOTE. The position consistently taken by the United States with respect to Antarctic claims was summed up in a statement by the Acting Secretary of State of 27 December 1946 (16 Department of State Bulletin, p. 30):

“The United States Government has not recognized any claims of any other nations in the Antarctic and has reserved all rights which it may have in those areas. On the other hand, the United States has never formally asserted any claims, but claims have been asserted in its behalf by American citizens.”

The reason for the United States' position is given in a statement of policy made by the Department of State on 10 November 1939 in connection with the third Antarctic expedition of Admiral Byrd (New York Times, 11 November 1939, p. 17). The statement quotes a note of Secretary of State Hughes to the Norwegian Minister of 2 April 1924, written in connection with a North Polar expedition of Captain Roald Amundsen, which reads in part as follows (Foreign Relations of the United States, 1924, II, p. 519):

“In my opinion rights similar to those which in earlier centuries were based upon the acts of a discoverer, followed by occupation or settlement consummated at long and uncertain periods thereafter, are not capable of being acquired at the present time. Today, if an explorer is able to ascertain the existence of lands still unknown to civilization, his act of so-called discovery, coupled with a formal taking of possession, would have no significance, save as he might herald the advent of the settler; and where for climatic or other reasons actual settlement would be an impossibility, as in the case of the Polar regions, such conduct on his part would afford frail support for a reasonable claim of sovereignty.

“I am therefore compelled to state, without adverting to other considerations; that this government cannot admit that such taking of possession as a discovery by Mr. Amundsen of areas explored by him could establish the basis of rights of sovereignty in the polar region.”

Disapproval of the sector principle has been expressed by official quarters in