

**A HISTORICAL AND LEGAL STUDY OF SOVEREIGNTY  
IN THE CANADIAN NORTH: TERRESTRIAL  
SOVEREIGNTY, 1870-1939**

By Gordon W. Smith, Edited by P. Whitney Lackenbauer

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*American Explorers in the Canadian Arctic  
and Related Matters, 1918-39*

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Earlier chapters have dealt with Canadian and American involvement in the North up to 1918 and have shown that fear of what the United States might do in this region was always a matter of concern – and sometimes a source of real worry – to the Canadian government. At the end of the First World War, the Canadian government had virtually no official activity in the remotest parts of its North. Although its initial concerns were connected specifically with Denmark, the Canadian government was more anxious about the role the United States might wish to play in the North American Arctic; in a situation of real stress, the United States would obviously be much more difficult to handle than Denmark. Canadian fears about the possibilities of trouble with the United States during these years were, for the most part, rather vague and ill-defined. Insofar as they took concrete form, however, they were concerned chiefly with the activities of the American explorer Donald B. MacMillan.

Although there was an impression among Canadian officialdom that MacMillan was actually a former Canadian who had been born in Nova Scotia or Newfoundland and had become American by naturalization,<sup>1</sup> this was not the case. According to the authoritative biography of him, he was born and raised in Provincetown, Massachusetts.<sup>2</sup> It does not appear that his earlier expeditions in the Canadian North, notably the Crocker Land Expedition of 1913–17, aroused much comment or concern in Canadian government circles, and he made a favourable impression when he testified before the Reindeer-Muskox Commission in May 1920, stating firmly his view that foreign expeditions should operate in the Canadian Arctic only with the permission of the Canadian government and under Canadian law. “I think all expeditions should be prohibited from going into that country, unless on permission obtained from the Dominion of Canada,” he noted on one occasion. “If I were coming into Canada, as I had hoped to, I would expect to get permission from the Canadian government, and if they said No, I could not expect to come.”<sup>3</sup> The attitude of the Canadian authorities towards MacMillan soon changed.

There is plenty of evidence that after the First World War, when Canadian officials were so worried about the presumed Danish threat to Ellesmere Island, they did not lose sight of the possibility of complications of some kind with the United States. In his secret memo of 28 October 1920 for Prime Minister Arthur Meighen, Loring Christie observed that Denmark had had nothing to do with the discovery and exploration of Canada’s Arctic islands and that the “rivals” in



FIGURE 14-1: DONALD B. MACMILLAN AT THE WHEEL, 1928. COURTESY OF THE BOSTON PUBLIC LIBRARY, LESLIE JONES COLLECTION 08\_06\_009321.

these activities were Norwegians and Americans – but that so far neither Norway nor the United States had shown any official intention of making an effective occupation.<sup>4</sup> The Advisory Technical Board’s report of November 1920 on the Arctic islands said that the American attitude towards Britain’s desire for a right of pre-exemption in the acquisition of Greenland emphasized the necessity for Canada to take prompt action regarding her own Arctic claims. “The longer these claims are allowed to remain in the present inchoate condition,” it noted, “the greater opportunity there will be for the United States to raise objections later on.”<sup>5</sup> Remarks such as these do not appear to have been focused upon any specific matter, however, until a new dispatch, emanating from New York on 3 January 1921 and published in the *Montreal Gazette* the following day, announced that sixteen exploratory expeditions

were being planned for different parts of the world, including an expedition by MacMillan to the Canadian Arctic islands.<sup>6</sup>

The report aroused some concern in Ottawa government circles, with Acting Deputy Minister of the Interior Roy A. Gibson suggesting that the Home Office in London (evidently he meant the Secretary of State for the Colonies) might be able to obtain information. Sir Joseph Pope replied that the Secretary of State for the Colonies was usually too slow in such matters and that he would therefore prefer to ask the High Commissioner.<sup>7</sup> Having received some further information about MacMillan’s projected expedition from Dr. Wilfred Grenfell, Gibson wrote back on 22 January, asking that Pope “ascertain through confidential channels the real object of this expedition and particularly whether it is a private expedition or one backed by the United States Government.”

Pope passed this request on to Merchant M. Mahoney, Secretary of the Canadian Mission in Washington, on 25 January, eliciting the reply on 15 February that Mahoney had not been able to find any official American support for the expedition, which appeared to be privately sponsored and for scientific purposes only. Acting on Mahoney's suggestion, the British Embassy in Washington made further inquiries through the British consul at Boston, but it obtained little additional information and none to indicate that the expedition was other than privately sponsored.<sup>8</sup>

In connection with Canadian worries at this time over possible American rivalry in the northern archipelago, the figure of Vilhjalmur Stefansson also looms large. As recounted in previous chapters, it was precisely at this time that the Canadian government was planning an expedition to the Arctic principally for sovereignty purposes in which Stefansson was eager to take a leading role. Canadian officials were instructing him to maintain absolute secrecy in the matter while carrying out his American lecture tour,<sup>9</sup> and at the same time, they were plotting how they might retain his loyalty, at least temporarily, so that he would not desert to either the United States or Denmark.<sup>10</sup> There was little likelihood, of course, that Stefansson would have had much enthusiasm or sympathy for MacMillan's proposed expedition, especially since its major field of activity was to be Baffin Island – an area in which Stefansson himself was already interested.<sup>11</sup> After the projected Canadian expedition of 1921 had been cancelled, William W. Cory wrote a letter to Sir Joseph Pope noting that the British Admiralty had indicated they had no reason to believe the MacMillan expedition had “any other than a purely scientific object in view.” Nevertheless, Cory continued, “in this connection I would be very much obliged if you could ask the British

authorities at Washington to pay special attention to the organization and aims of any United States expeditions that may be sent into the northern regions, and to keep us advised in this regard.”<sup>12</sup> This request was passed on through the usual channels.<sup>13</sup>

For the 1921 expedition, MacMillan had his newly constructed *Bowdoin*, a little 60-ton schooner equipped with an auxiliary 40-horsepower engine. On 15 July, Mahoney wrote to Sir Joseph Pope to inform him that the *Bowdoin* was to sail from Wiscasset, Maine, the following day and that she would comply with customs formalities at Sydney, Nova Scotia, and again at Port Burwell at the entrance to Hudson Strait.<sup>14</sup> James Harkin had already pointed out in a note to Cory that MacMillan had applied for licences, and he suggested that it would be wise to issue the licences at once.<sup>15</sup> The Canadian authorities, however, were obviously determined not to overlook any detail that might be a possible source of future trouble. In a confidential note to Pope on 29 July, Cory observed that although MacMillan had taken out permits under the Northwest Game Act and had thus acknowledged Canadian sovereignty, it could be argued “that these permits apply only to the recognized Canadian area and not to the unexplored portions.” An article in the *Halifax Herald* on 20 July, saying that the expedition was being financed completely by MacMillan and his friends “save a couple of thousand which the U.S. Government allows him,” had attracted official attention. Cory suggested “the possibility that this may be covering a salary of some nature, such as for a Commissionership,” and he asked that Pope “again request the British authorities at Washington to ... ascertain confidentially to what extent the United States Government is interested in the expedition, and particularly whether a Commissionership of any kind has been given to MacMillan.”<sup>16</sup>

The inquiries indicated that MacMillan was not receiving a grant from the American government, was “not intrusted [sic] with any special mission of a political nature,” and therefore it “would appear that there are no grounds for the uneasiness entertained by the Department of the Interior.”<sup>17</sup> The venerable Captain Bernier’s suspicions also had been aroused by MacMillan’s expedition, and he wrote a vigorously worded letter to Prime Minister Meighen on 29 July 1921. “I wish to stand on record very strongly in this matter,” he stated, and, with reference to the imposition of dues upon Americans entering Franklin District, “I am at your disposition to see that this is carried out.”<sup>18</sup>

MacMillan wintered at Schooner Harbour on the southwestern coast of Baffin Island in 1921–22, returned to the United States in the summer of 1922, and then took *Bowdoin* back north the following year. Oswald Finnie, Director of the Northwest Territories and Yukon Branch of the Department of the Interior, wrote to him on 16 June 1923, mentioning press reports that he was starting another expedition to the Canadian Arctic and saying that he had approved a permit for him to take scientific specimens during the years 1923 and 1924. Finnie also pointed out that MacMillan could obtain licences to hunt and trap from any Royal Canadian Mounted Police (RCMP) post in the north, enclosed a copy of the Northwest Game Act for his guidance, and asked him for information about his expedition and its work.<sup>19</sup>

MacMillan left without acknowledging this letter. On 22 October 1924, after he had returned, Finnie wrote him a rather stiffly worded note reminding him of the fact. The Canadian authorities were aware, Finnie said, that he had permits to take scientific specimens but none to hunt, trap, or trade. Yet reports indicated that he had killed muskox and trapped fur animals. Since the department checked

returning expeditions closely, Finnie said, and since questions might be asked in Parliament, he sought a full statement from MacMillan about the matter and an assurance that the expedition was purely scientific.<sup>20</sup> This time MacMillan replied promptly:

Amid the rush of getting away for the Arctic in 1923, I failed to notify you on the receipt of the Northwest Game Act and regulations, for which I thank you.

The main objects of my expedition were purely scientific....

The expedition, as you know, wintered not in Canadian waters but in Refuge Harbour, North Greenland. Nothing in Canadian Territory was trapped or killed or traded for by me or a single member of my personnel, else you would have received notice immediately upon my return and check forwarded for hunting and trading licence.<sup>21</sup>

Finnie replied briefly on 4 November, expressing his pleasure at the assurance and saying that MacMillan’s statement would be used, if needed, in the House of Commons.<sup>22</sup>

The proposed flight of the American navy dirigible *Shenandoah* to the North Pole also caused worry in Ottawa at this time.<sup>23</sup> The project was brought to the attention of official circles through news dispatches of 4 December 1923, notably one appearing in the *Washington Post*. On 20 November, President Calvin Coolidge had formally authorized Secretary of the Navy Edwin Denby to organize the expedition. Bob Bartlett, now a lieutenant commander in the US naval reserve, had apparently made the suggestion that initiated planning for the expedition, which was to explore unknown

regions adjacent to the North Pole. The date, route, and procedure remained to be decided.<sup>24</sup>

W. W. Cory drew the attention of Sir Joseph Pope to the project in a note dated 7 December, “in order that Council may consider the propriety of consulting the United States to ascertain their intentions and whether they expect to utilize Canadian territory as a base of operations.”<sup>25</sup> Pope sent a copy of Cory’s note with a memorandum to Prime Minister King on 11 December, inquiring whether the British chargé d’affaires in Washington should be asked to look into the matter. King did not respond until 22 January 1924; when he did, in a handwritten note on Pope’s memo, his answer was: “By all means.” Stefansson also wrote to King about the proposed flight, saying that “the announcements from Washington ... read almost as if they had been copied from my ‘Northward Course of Empire.’” He hoped that King would “get someone to go into these matters thoroughly again and see if there is not something which Canada can yet do to prevent her being set back too far by the enterprise and foresight of the Americans.”<sup>26</sup> The Prime Minister’s private secretary, following instructions, wrote a polite but rather noncommittal reply.<sup>27</sup>

Secretary Denby went before the House of Representatives Naval Committee on 19 January 1924 to stir up Congressional support for the project, and his remarks emphasized that there was a large unknown region north of Alaska, quite possibly containing undiscovered land which he declared should be made American territory. In the course of his statement, he said:

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 1000000 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.<sup>28</sup>

Denby’s statement was widely publicized in the American press<sup>29</sup> and immediately attracted official attention in Ottawa. On 24 January, Governor General Byng sent a telegram to the British ambassador in Washington, asking that his ministers “be informed as to what basis of fact it [Denby’s statement] may possess, and also, if it be well founded, to what extent the United States Government would propose to use Canadian territory as base of operations in the coming expedition.”<sup>30</sup> The ambassador did not reply directly, but on the same day, the Embassy wrote a report on the matter to British Foreign Secretary Ramsay MacDonald, and



FIGURE 14-2: AIRSHIP USS *SHENANDOAH* (ZR-1) AND USS *PATOKA* OFF NEWPORT, RHODE ISLAND, C.1924–25. BOSTON PUBLIC LIBRARY, LESLIE JONES COLLECTION, 08\_06\_001984.

two days later a copy of the report was sent to Ottawa.<sup>31</sup>

While memos were flying back and forth from department to department in Ottawa, the *New York Times* published an editorial on 6 February, saying that the projected flight of the *Shenandoah* had hastened the preparations of the Canadian government to send Captain Bernier on another cruise to the northern islands and that he would “be instructed to establish posts on their shores.” The United States had no designs upon any of the islands to which Great Britain had a title by discovery, the editorial went on, but “when it comes to land between the Pole and the Alaskan coast which may be discovered by the American exploration party on the *Shenandoah*, the United States would certainly put in a claim of title.”<sup>32</sup> The *Washington Post* carried a report on 13 February which said that orders had been given which “completed the preparatory steps for the flight

and set at rest rumors that the trip might not be carried through.”<sup>33</sup> Two days later, the *Washington Herald* published an article titled “Canadians May Ban Shenandoah Relief,” which suggested that plans to use another airship to aid the *Shenandoah* in case she got into difficulties might be jeopardized if Canada refused to permit flight over Canadian territory.<sup>34</sup>

Canadian worries were relieved unexpectedly on 15 February when President Coolidge ordered suspension of preparations for the *Shenandoah* flight. The official explanation was that the President had been made aware of considerable opposition in Congress to the project, and he was anxious to have congressional approval of the proposed expenditure of \$350,000 on it before letting plans proceed.<sup>35</sup> Since the project faced a tight time schedule, and since (given the prevailing circumstances in the Arctic) any considerable delay would nullify plans for that season, the suspension turned out to be

the equivalent of cancellation. The British Embassy in Washington sent word of the suspension to Ottawa on 16 February in a brief, factual note accompanied by newspaper clippings.<sup>36</sup> (It does not appear that any action had been taken on Governor General Byng's request of 24 January.)

Two oft-quoted statements of official policy by American Secretary of State Charles Evans Hughes around this time have been widely interpreted as clear indications of the American government's attitude towards the requirements for sovereignty over polar territories. The first, in connection with Roald Amundsen's projected transarctic flight, was in reply to a statement by the Norwegian ambassador that any land Amundsen might discover would be claimed on behalf of the Norwegian Crown. In his answering note, Hughes declared:

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. To-day, 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 now adverting to other

considerations, that this Government cannot admit that such taking of possession as a discoverer by Mr. Amundsen of areas explored by him could establish the basis of rights of sovereignty in the Polar regions, to which, it is understood, he is about to depart.<sup>37</sup>

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Hughes's second statement answered a private inquiry about a suggested American declaration of sovereignty over Wilkes Land in the Antarctic:

It is the opinion of the 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 country. In the absence of an act of Congress assertative in a domestic sense of dominion over Wilkes Land this Department would be reluctant to declare that the United States possessed a right of sovereignty over that territory.<sup>38</sup>

These statements suggest that the Canadian authorities may have had less reason to worry than they assumed over the possibility that discoveries such as those that MacMillan or *Shenandoah* might have made would lead to authoritative claims of sovereignty by the United States. On the other hand, they suggest that the American government would take a hard look at Canada's performance in the Arctic before recognizing Canadian claims and that, consequently, Canadian authorities would be wise

to question the adequacy of their own measures and to try to improve them.

Press reports about a new MacMillan expedition prompted Finnie to renew the correspondence with him on 14 January 1925 in a letter similar to that of 16 June 1923. Observing, perhaps with tongue in cheek, that the 1923 letter had “reached you too late to be answered,” Finnie said he would now provide the requisite information in good time, and he again asked for “some particulars regarding the expedition and its objects.” On this occasion, instead of approving in advance a permit for MacMillan to collect scientific specimens, Finnie asked him to apply for it to the National Parks Branch of the Department of the Interior.<sup>39</sup>

Undoubtedly MacMillan’s expedition of 1925 caused more anxiety to Canadian authorities – and more discussion in Ottawa, Washington, and London – than any other issue connected with Canadian-American relations in the Arctic at this time. MacMillan’s aim was to explore the still unknown portion of the polar sea northwest of the Canadian archipelago and between Alaska and the North Pole, where there was still a possibility that new land might be discovered. His expedition, which was to be sponsored by the National Geographic Society, would comprise two ships – *Peary* and his own *Bowdoin* – while the US Navy would provide two or three planes and personnel to operate them under Lieutenant Commander Richard E. Byrd. MacMillan’s intention to operate in Canadian Arctic territory and claim any new territories he discovered for the United States, combined with the involvement of the US Navy and the use of planes, worried officialdom in Ottawa.

On 30 March 1925, MacMillan had an interview with President Coolidge in which he reportedly urged the American government to try to claim additional territory near the North

Pole. The interview was covered in the *Washington Star* of 31 March, but the announcement did not make clear precisely where this territory would be.<sup>40</sup> If it lay outside the Canadian sector, obviously Canada would not be greatly concerned. If it were either previously discovered land or new land within the Canadian sector, Canada’s known views on the subject would make it impossible for her not to react. A news article in the *Washington Post* on 6 April said that the expedition would be undertaken as a private enterprise financed by the National Geographic Society, but it gave details about the US Navy’s intention to provide planes and volunteer pilots and about the plan to establish an advance base. Other statements about the preparation of the expedition also appeared in the press from time to time.

On 16 April 1925, Finnie wrote a memo about various subjects connected with the Arctic to Cory, who was on the point of leaving for Washington. Finnie paid particular attention to the MacMillan expedition, and he suggested that if it should winter on or use any Canadian Arctic island as an air base, it should first secure permission from the Canadian government. He suggested further that Undersecretary of State for External Affairs O.D. Skelton might inform the Secretary of State in Washington that Canada would be glad to grant this permission, on condition that a Canadian pilot should accompany exploratory flights.<sup>41</sup> In a memo to R. A. Gibson four days later, Finnie observed that although MacMillan had applied to the Danish authorities for permission to explore in Greenland, neither he nor Krüger, the German who was also planning an expedition, had made an application to the Canadian government. He suggested that a small committee should be appointed to look after sovereignty problems in the North, with the following members: Skelton, James White (technical adviser to the

Department of Justice), Commissioner Cartlandt Starnes of the RCMP, J. B. Harkin, J. D. Craig, W. M. Cory (a son of W. W. Cory and legal adviser to the Department of the Interior), and Finnie himself.<sup>42</sup>

An order in council was issued on 23 April, creating a committee – the Northern Advisory Board – similar to that which Finnie had recommended. All the men he had suggested became members, as well as several others. According to the order, the specific function of the committee would be to draft a document “to place on record with all interested Governments a statement indicating the extent of territory claimed by Canada for the British Empire” in the Arctic.<sup>43</sup> Under the authority of this order in council, the committee held a meeting on 24 April. The members noted that MacMillan had declared himself to be strongly in favour of Canadian control of foreign expeditions in the Canadian North during his appearance before the Reindeer-Muskox Commission in May 1920. This information formed the subject of several communiqués among interested officials, who intended to use the information as advantageously as possible.<sup>44</sup>

On 28 April, MacMillan answered a letter from Harkin about pemmican for use in the North, saying that his expedition would take place in summer only and would use airplanes based at Etah, North Greenland. He remarked that the pemmican would be invaluable as emergency rations “in case our planes fail to function at four or five hundred miles from the ship.”<sup>45</sup> Skelton’s rather sarcastic comment when he received a copy of the letter is indicative of the suspicious view the Canadian government took of the expedition: “It will be interesting to note whether the four or five hundred miles radius from Etah is what he really expects to cover.”<sup>46</sup>

On 13 May, the Northern Advisory Board met and chose a subcommittee to draft a letter to the British ambassador in Washington asking for information about the MacMillan expedition and intimating that it should comply with Canadian laws and regulations. The same subcommittee was to prepare as rapidly as possible a memorandum justifying Canada’s claim to Arctic territories.<sup>47</sup> The subcommittee comprised Skelton, George Joseph Desbarats, Finnie, and White; nevertheless, when the memo appeared about twelve days later, it was evidently the handiwork of White alone.<sup>48</sup> Under the authority of an order in council of 5 June,<sup>49</sup> Governor General Byng sent the above-mentioned documents to the British ambassador in Washington with supporting materials.<sup>50</sup>

On 23 May, Finnie wrote a note to Skelton setting forth briefly the case against MacMillan. He said that MacMillan’s reply of 27 October 1924 was “decidedly ambiguous and evasive,” since, among other things, he had stated that he had killed or trapped no animals on Canadian territory, yet advice from the RCMP “was that beyond question he had killed some muskoxen on Ellesmere Island.” As to the letter written to him on 14 January 1925, “Dr. MacMillan has not favoured us with a reply and, although his boat will sail within the next month, there is nothing to indicate that he intends to secure any licenses or permits from us.” Finnie suggested that MacMillan possibly did not admit that Ellesmere Island was Canadian territory.<sup>51</sup>

In this context, and with this background, Minister of the Interior Charles Stewart made his oft-quoted statements in the House of Commons in June 1925. On 1 June, he moved the second reading of a bill to amend the Northwest Territories Act, and in dealing in committee with the issuing of licences to scientists or explorers, he spoke as follows:

This amendment is to provide for the issuing of licenses and permits to scientists and explorers who wish to enter the Northwest Territories. We are having visits from representatives of various foreign countries who go into the northern sections of Canada, and in some cases they have voluntarily come to us and secured permits, and we have examined their outfits going in, as well as coming out. But this has not been done in every case by the explorers who are going into this territory, and we are asking for this amendment in order that we may have authority to notify parties going into that country that they must obtain a permit of entry, thereby asserting our ownership over the whole northern archipelago....

.... Here we are getting after men like MacMillan and Doctor Amundsen, men who are going in presumably for exploration purposes, but possibly there may arise a question as to the sovereignty over some land they may discover in the northern portion of Canada, and we claim all that portion.

*John Livingstone Brown (Lisgar):* We claim right up to the North Pole.

*Mr. Stewart (Argenteuil):* Yes, right up to the North Pole.... 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 license.<sup>52</sup>

Stewart's remarks aroused a great deal of comment in Washington. The *Washington Star*

reported them on 2 June, saying that MacMillan had already made clear his intention of claiming the mysterious "Crocker Land" for the United States if he found it.<sup>53</sup> A day later, the *Washington Post* said that American officials were "somewhat perplexed" at the news from Ottawa that Canada would claim any new lands discovered and were not aware that any such claim had ever been asserted before.<sup>54</sup> The *Washington Star* of 4 June asserted that Canada had informed the American government that the MacMillan-Byrd expedition should ask permission to cross Ellesmere Land, but the Navy Department had referred the matter to the Department of State because to ask permission would constitute recognition of Canada's claim to Ellesmere Island. Deputy Minister of the Interior W. W. Cory had made a special trip to Washington to discuss the matter, and Minister of the Interior Stewart had written a formal note about it. Nevertheless, American authorities asserted that if MacMillan found new territory, the United States would be entitled to claim it.<sup>55</sup> The *Star* took a slightly different tack on 7 June, saying that Canada's Arctic claim might "be valid on fine point," although the precise nature of this point was not clarified.<sup>56</sup> The *Washington Post* in an editorial two days later spoke favourably of an American acquisition of newly discovered Arctic territories, saying: "Having planted our flag on the shore of Alaska and the North Pole, it will be fitting for the same ensign to fly over all the lands that lie between the two."<sup>57</sup> Henry Chilton, the British chargé d'affaires in Washington, took note of the reaction by the press to Stewart's remarks in a letter of 10 June to Foreign Secretary Austen Chamberlain, explaining that the State Department was considering two main questions: first, whether Axel Heiberg Island was Canadian, thus necessitating Canadian permission for naval aviators with the MacMillan

expedition to land there; and, second, whether the United States should claim any newly discovered land.<sup>58</sup>

Stewart made his second important pronouncement in the House of Commons on 10 June. Referring to a Washington newspaper report that Canadian authorities had not yet discussed Canada's claim to "all land between Canada and the pole" with the American government but had asked Lieutenant Commander Byrd if he had obtained a permit to land on Axel Heiberg Island, the Hon. Henry Herbert Stevens asked if the governor had taken the matter up with the American government. The Minister of the Interior replied:

Mr. Speaker, this government has been very much alive to what we claim to be the possessions of Canada in the northern territory adjacent to the Dominion. Indeed, I made the statement in the House the other evening that we claimed all the territory lying between meridians 60 and 141. This afternoon when dealing with the estimates of the Department of the Interior I propose to bring down a map to make it clear what precautions we are taking to establish ourselves in that territory and to notify the nationals of foreign countries passing over it that we think Canada should be advised of their plans and that they should ask for permits from the Canadian Government. That is the extent to which we have gone at the moment. I might say further to my hon. friend from Vancouver Centre that some considerable time ago a despatch dealing with the subject was sent to

Washington, to which we have had no reply.<sup>59</sup>

Stewart went into further detail on the question of Canada's Arctic claims in a press conference on 12 June, which had obviously been carefully arranged.<sup>60</sup> He stated with greater precision the limits claimed by Canada, as the following report indicates:

He stated that Canada's northern territory includes the area bounded on the east by a line passing midway between Greenland and Baffin, Devon and Ellesmere Islands to the 60th meridian of longitude, following this meridian to the Pole; and on the west by the 141st meridian of longitude following this meridian to the Pole, as indicated for example by the official map published in 1904, showing "Explorations in Northern Canada." Mr. Stewart emphasized the fact that no new claims are being advanced on Canada's behalf, and that the present policy of the Government was simply a continuation of methods followed for many years past in administering the northern territories of the Dominion.

In the remainder of his statement, Stewart summarized the bases, both historical and contemporary, for Canada's claim to the northern territories within these limits.<sup>61</sup>

On the same day, Governor General Byng transmitted the statement verbatim by code telegram to the British chargé d'affaires in Washington, asking him to inform the American secretary of state that no official American communication about the MacMillan expedition had been received but that the Canadian

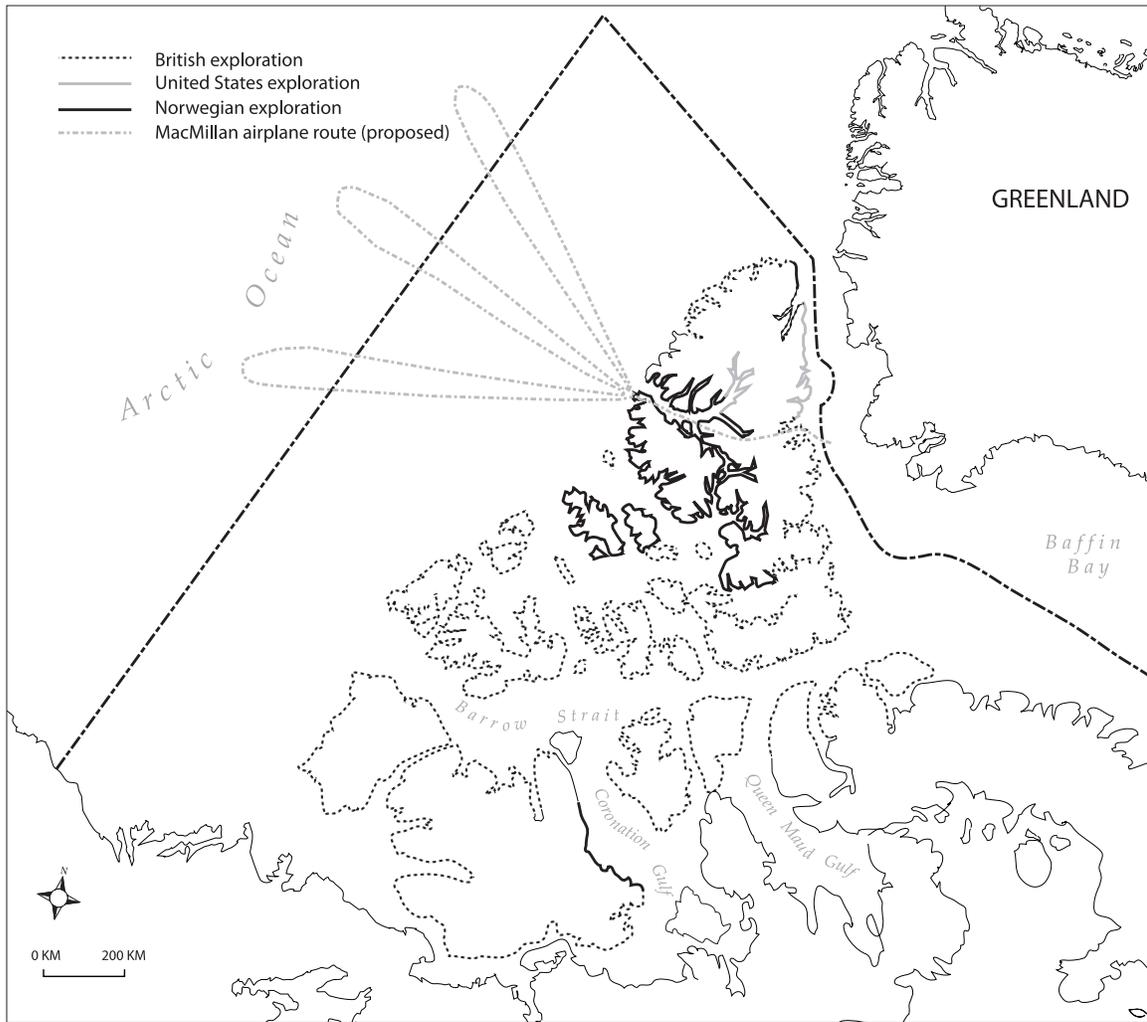


FIGURE 14-3: MAP OF THE NORTHWEST TERRITORIES SHOWING THE AREAS OF BRITISH, AMERICAN AND NORWEGIAN EXPLORATION IN THE ARCTIC, PROJECTED AEROPLANE ROUTES FROM MACMILLAN'S SUPPLY BASE ON AXEL HEIBERG ISLAND AND THE BOUNDARIES OF CANADIAN SOVEREIGNTY IN THE NORTH. LIBRARY AND ARCHIVES CANADA, RG10, VOL. 3237, FILE 600352-1. JENNIFER ARTHUR-LACKENBAUER.

government was ready to furnish all permits required and render any assistance.<sup>62</sup>

A Washington news item of 12 June announced that, according to Secretary of the Navy Curtis D. Wilbur, MacMillan was leaving without any official instructions about flying over disputed territories or claiming lands he might discover. Although MacMillan had requested instructions from the State

Department, he expected no reply. The article closed with the interesting remark that "no foreign government has raised a question as to the right of the planes to fly over Ellesmere land or establish an advance base on Axel Heiberg land."<sup>63</sup> Possibly because of this report, and because of evident Canadian fears that the United States might claim Axel Heiberg and Ellesmere Islands, Chilton suggested in a

cypher telegram to Byng that “it would be well to lose no time in intimating to the Government of the United States that Canada regards both these islands as being her territory.”<sup>64</sup> This suggestion was taken promptly in Ottawa, and on 13 June, Byng sent an answering telegram stating the Canadian government’s agreement that “a more explicit statement should now be conveyed to the United States Government.” He was inclined to dodge the issue of Axel Heiberg, however, saying that no Canadian posts had ever been established there and suggesting that reference to air permits should be limited initially to a phrase such as “flying over Ellesmere, Baffin and other islands within Canadian Boundaries.”<sup>65</sup>

The result was one of the more important and better-known exchanges of communiqués with the American government. On 15 June, Chilton wrote the following note to Secretary of State Frank B. Kellogg:

I have the honour to inform you that the Government of Canada have reason to believe, from statements which have lately appeared in the press, that a scientific expedition, commonly referred to as the MacMillan expedition, organised under the auspices of the National Geographical [*sic*] Society with the co-operation of the United States Navy, will shortly be leaving for the far North for the purpose of exploring and flying over Baffin, Ellesmere, Axel Heiberg and certain other islands within the northern territories of the Dominion.

As you are doubtless aware, posts of the Royal Canadian Mounted Police have been established in Baffin and Ellesmere islands and

other sections of the Canadian northern territories, in addition to which Police patrols through the Arctic islands have created depots of provisions at various centres. There are also a number of Hudson Bay Company posts in existence at island and mainland points.

In these circumstances, and although the Dominion Government have received no intimation from the Government of the United States regarding the route of the MacMillan expedition or of the intention of the members thereof to carry out explorations through and over Canadian territory, they have requested me to inform you of their readiness to furnish the expedition with the necessary permits for an exploring and scientific expedition entering Canadian northern territories, and possibly desiring to fly over Baffin, Ellesmere and the adjoining islands within the boundaries of the Dominion. Legislation formally requiring scientific or exploring expeditions to secure such permits before entering any part of the Canadian northern territories was enacted by both Houses of Parliament this month.

I would also take this opportunity of assuring you of the Canadian Government’s readiness to afford the MacMillan expedition any assistance within the power on the Royal Canadian Mounted Police and the other Canadian officers in the north. In the connection, I would add that the Dominion Government *S. S. Arctic* will sail at an early date on her customary northern patrol, and

will carry Royal Canadian Mounted Police details and reliefs. This vessel will touch at various points and will visit the police and trading posts on Ellesmere Island.<sup>66</sup>

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Secretary Kellogg answered this carefully worded note on 19 June, in a note phrased with equal care:

I beg to acknowledge the receipt of your note No. 627, dated June 15, 1925, concerning the proposed MacMillan Exploring Expedition. It is the understanding of this Department that the Expedition in question will sail from Wiscasset, Maine, on June 20, directly to Etah, Greenland, and that no flights over Baffin Island are contemplated. The planes attached to the Expedition are expected to fly from Etah across Ellesmere Island to Axel Heiberg Land, and to establish a base there from which exploration flights to the northward and westward may be made.

A copy of your note has been forwarded to the other interested departments of this Government and, upon receipt of further information, I shall address a communication to you dealing with the other questions raised in your note.

In order that full information may be available for use in studying these questions, I shall be grateful if you will inform me what constitutes a post of the Royal Mounted Police mentioned in the second paragraph of your note and the establishment thereof; where such posts have been established; how frequently they are

visited; and whether they are permanently occupied, and, if so, by whom.

I desire to thank you for the offer of cooperation by any Canadian agency which may temporarily be in the same territory with the MacMillan Expedition and I am sure that the persons responsible for the Expedition will also appreciate the kind offer of the Canadian Government. The scientific character of the Expedition and the experience of those participating in it give assurance that useful data and information of value to the world will unquestionably result from their efforts.<sup>67</sup>

Upon receipt of information from Ottawa about the points raised in the third paragraph of Kellogg's note, Chilton replied in detail on 2 July, describing the locations and characteristics of the RCMP posts in the eastern Arctic and the duties of the personnel stationed there.<sup>68</sup> On 18 July, Kellogg wrote a brief, formal, and probably unintentionally humorous acknowledgement of this note "concerning certain laws of the Arctic Ocean and posts of the Royal Canadian Mounted Police established therein." He added that, after study, he would forward a reply, but apparently this was not done.<sup>69</sup>

A Washington news report which announced the departure of MacMillan from Boston on 17 June said that if he discovered any new land he would raise the American flag over it, but the question of formal claims would be left to the American government. The report added that the State Department had not given any special instructions to MacMillan, even though he had asked for them.<sup>70</sup> Later reports told of a serious dispute over the US Navy's insistence that its own radio equipment should be installed on the navy planes, the dispute

being resolved in decisive fashion by the navy's blunt order that either this should be done or the navy personnel and planes should be set ashore at Sydney, Nova Scotia. Secretary of the Navy Wilbur made it clear that the navy part of the expedition was only co-operating with MacMillan and remained under the complete control of the Navy Department.<sup>71</sup> Such reports were closely observed in Ottawa.

A minor incident occurred during the expedition's voyage north when some of its personnel were apprehended by the chief federal migratory bird officer for Ontario and Quebec while taking (or preparing to take) specimens of wild birds and eggs on Perroquet Island on the Quebec side of the Strait of Belle Isle. The expedition's ornithologist, Walter Koelz of the University of Michigan, said that he had been given a permit to make such collections, but later examination showed that his permit was good for the provinces of Ontario and Manitoba only.<sup>72</sup> Officials in Ottawa decided not to make a particular issue of this little incident, however, since there were extenuating circumstances, and senior authorities felt that the expedition's activities in the Arctic were of greater concern.<sup>73</sup>

The flights of the US Navy planes under Lieutenant Commander Richard E. Byrd from the base at Etah over Ellesmere Island in the direction of Axel Heiberg caused more serious complications. Several flights had already occurred when the CGS *Arctic* called at Etah in the course of its annual eastern Arctic Patrol. Learning of the flights, and being reasonably sure that no permits to fly over Canadian Arctic territory had either been requested by or granted to any member of the American expedition, Canadian patrol commander George P. Mackenzie sent his secretary to inform Byrd that he would be glad to issue such a permit if it had not already been obtained. After initially stating his

impression that the expedition lacked a permit, Byrd shortly thereafter came aboard the *Arctic* to say that he had consulted with MacMillan and had been informed that the permit had been granted to the expedition after it had set sail. Although doubtful, Mackenzie conceded the possibility that this might have happened; nevertheless, he got First Officer L. D. Morin of the *Arctic* to act as witness and make note of the conversation.<sup>74</sup> An odd coincidence is that these events took place on 20 August; on this same date, Byrd received instructions by radio from Secretary of the Navy Wilbur to stop trying to fly to Axel Heiberg Island, and MacMillan ordered commencement of the return voyage southwards.<sup>75</sup> After the *Arctic* had arrived back at Quebec, the Canadian press reported that the visit of the Canadian patrol was responsible for the cessation of the flights,<sup>76</sup> but leading American accounts say that bad weather and the approaching freeze-up were the main reasons. (Indeed, some of the latter do not even mention the Canadian visit.)<sup>77</sup>

The matter was sufficiently serious to generate an official protest to the American government. In a note to the British ambassador in Washington, Governor General Byng summarized the episode (including MacMillan's reported statement to Byrd that a permit for flights over the archipelago had been obtained) and explained:

The Government of Canada has never received an application by the MacMillan Expedition or any person attached thereto for permission to carry on flying operations over the Canadian Arctic Archipelago, as provided by the Air Board Act, and no such permit has ever been issued, nor has an application been received or permit or licence been issued to



FIGURE 14-4: BYRD READY FOR SOUTH POLE EXPEDITION, 1928. BOSTON PUBLIC LIBRARY, LESLIE JONES COLLECTION, 08\_06\_002249.

enter said archipelago for scientific purposes as provided by the Northwest Territories Act.

Neither the steamship “Peary” nor the auxiliary schooner “Bowdoin” when reported outwards from the port of Sydney, Nova Scotia, on the 26th of June, 1925, indicated any intention of landing goods on Canadian territory, nor on the inward report at the same port on the 3rd day of October, 1925, did they report having landed any goods in Canadian territory, as provided by the Customs regulations.

I would request Your Excellency to have the goodness to draw the

attention of the United States Secretary of State to the apparent failure on the part of the Expedition to observe the requirements of the Canadian laws.<sup>78</sup>

The substance of Byng’s note, together with some relevant documents, was transmitted to the Department of State on 21 December 1925. Joseph C. Grew’s acknowledgement on 11 January 1926 included the following: “I have been pleased to bring these statements and affidavits to the attention of the authorities responsible for the MacMillan Expedition, including Commander MacMillan himself, and thank you for calling the attention of the Government to the matters in question.”<sup>79</sup>

The 1925 incident was brought up again in Canadian government circles in 1927 and 1928. On 25 January 1927, Colonel Wilfrid Bovey of McGill University wrote a letter to Major General James Howden MacBrien, Chief of the General Staff, informing him that MacMillan had visited Montreal the previous day. Bovey and MacMillan, who belonged to the same college fraternity, were together during the visit, and MacMillan brought up the 1925 incident by saying that he feared it had put him in the bad books of the Canadian government. Nonetheless, he claimed that he had asked the Bureau of Aeronautics in Washington to get him a permit from the Canadian government, and the bureau had refused on grounds that to ask for a permit would constitute recognition of Canadian sovereignty, which they refused to give. He said that he learned of the incident at Etah only some time after it had happened, and he suggested that Byrd knew his statement that MacMillan had been granted a permit was false. In Bovey’s words, MacMillan explained that “he felt very badly about the whole affair, that he did not want to be party to anything

unfriendly to Canada, the more so as he was born in Canada himself.” Bovey stated his own conviction that MacMillan was telling “an absolutely correct story” and that he had no unfriendly motives whatever.<sup>80</sup>

On 28 January, MacBrien sent a copy of Bovey’s letter to Skelton, whose reaction to MacMillan’s story was considerably more skeptical. “I note that MacMillan denies that he said that the Government of Canada had given him a flying permit, and throws the responsibility for this statement wholly upon Byrd,” Skelton quoted at length from Byng’s dispatch of 9 December 1925 to Washington. “I have no personal acquaintance with either Commander Byrd or Commander MacMillan, though the members of the Canadian Arctic Committee, who know them both, seem inclined to have much more faith in Commander Byrd’s veracity.”<sup>81</sup> When he saw Skelton’s letter, Bovey wrote to MacBrien that he could not believe Byrd’s statement about the permit since it was “perfectly incredible ... that a man actually in charge of flying operations should not know whether a permit had been granted or not.” In any case, “the American government was certainly well aware that no permit had been granted.”<sup>82</sup> Finnie’s reaction to the correspondence was that the whole affair was “a nasty mess.” He suggested to W. W. Cory that Byrd might be given a chance to reply. Cory decided that they should be guided by Skelton’s advice, and he added, “My own view is that no good purpose can be attained by further discussion just now.”<sup>83</sup>

The MacMillan-Byrd expedition of 1925 was largely responsible for provoking a Canadian reaction of a rather different kind. Major Robert A. Logan, the Canadian airman who had accompanied the 1922 Eastern Arctic Patrol to locate sites for landing fields in the Arctic islands, had afterwards become an employee

of the Fairchild Aerial Camera Corporation in New York City. For some time, he had been warning the Canadian government that many Americans interested in the North, including MacMillan, took Canada’s Arctic claims rather lightly. On 17 March 1924, for example, Logan wrote to Finnie saying that Stefansson “claims that Canada has little or no real title to any of the Arctic Islands not occupied by Canadians and that anybody could go there and hunt etc. without being subject to Canadian laws and I gather that MacMillan has the same idea.” In another letter to Finnie on 12 April 1925, commenting on his connections with the Explorer Club in New York, Logan wrote that “I have met and talked with quite a few men well known in Arctic Exploration and the general belief seems to be that Arctic islands are ‘no man’s lands.’”<sup>84</sup>

Logan was anxious to “help the Canadian cause along” and came up with an interesting idea. On 5 June 1925, he wrote a letter to the Prime Minister of Canada asking to lease four small tracts of land, about 640 acres each, in the Far North to establish and operate air bases. One of these tracts would be located near the northern extremity of Ellesmere Island, one near the northern extremity of Axel Heiberg, one at Craig Harbour on the south coast of Ellesmere Island, and the remaining one less precisely located on the “so far uncharted land” east of the 141st meridian and near the 83rd parallel. (There are no islands near this last location, but at the time MacMillan and others were hoping to find new land there.) Under the terms, Logan proposed that the leases would have to remain Canadian, they would be of twenty-one years’ duration after survey, and the fees and charges would total not more than one cent per acre. In his letter, Logan explained his belief that “if the Canadian Government were to lease certain areas of land in the far north and to issue licenses for Air Harbours

(or Air Stations) such action would materially strengthen the claims of Canada regarding that region between Greenland and the 141st Meridian.<sup>785</sup>

Logan's application was referred to the Departments of External Affairs, National Defence, and the Interior. On 19 June, Deputy Minister of National Defence G. J. Desbarats wrote him a letter saying that his department was "prepared to grant temporary permission for you to use all or any of the sites for the operation of aircraft." His plan was favourably received overall, but Logan explained in correspondence that he had "no desire for the land" and did not see how he could actually put it to use. His idea was simply that the action by the government which he invited would "help in confirming Canada's intention of holding and developing the Arctic Islands."<sup>786</sup> In these circumstances, nothing further seems to have been done. This little project of Logan's was publicized in the United States but, ironically, not in Canada. This seems unfortunate, because it would have given the Canadian government an opportunity to demonstrate that it had full administrative control in the Far North.<sup>787</sup>

R. M. Anderson wrote a memo to W. W. Cory telling of a chance meeting with MacMillan at Sydney, Nova Scotia, on 4 September 1925. On this occasion, MacMillan spoke again of the incident earlier that year, which seemed to worry him, and gave Anderson essentially the same explanation he had given Bovey. Referring to Byrd's statement about the permit, Anderson's memo said that "the statement was 'diplomacy' on Byrd's part, but MacMillan would call it a lie which had put MacMillan in the wrong light with the Canadian authorities." Anderson added that MacMillan "argues that it is foolish of the United States officials to protest Canadian jurisdiction in the Arctic, since by occupation Canada has so firmly established

her title, and said he would argue the matter in Washington every chance he had."<sup>788</sup> Anderson's memo seems to have aroused less interest in Ottawa than Bovey's, however, probably because by this time MacMillan was going through the required formalities.<sup>789</sup>

MacMillan went on a summer cruise to Labrador, Baffin Island, and Greenland in 1926, and according to records, he obtained an explorer's permit from the Canadian government for that year.<sup>790</sup> This requirement had been formalized by an ordinance passed by the Northwest Territories Council on 23 June 1926, which specified that no one should enter the Northwest Territories for scientific or exploratory purposes without obtaining a licence and that the activities carried on should be scientific or exploratory only (not commercial or political).<sup>791</sup> MacMillan's longer expedition to the same region in 1927–28, during which he wintered on the Labrador coast, prompted some anxious comments by Canadian newspapermen, one of which Vincent Massey at the Canadian Legation in Washington referred to Skelton.<sup>792</sup> When Skelton asked W. W. Cory whether MacMillan had complied satisfactorily with all requirements for explorers entering Canadian Arctic territory,<sup>793</sup> he received assurance that MacMillan had applied for, and been granted, permits for his crew and himself to carry on exploratory and scientific work in both 1927 and 1928.<sup>794</sup>

Complications arose again over MacMillan's summer cruise in 1929, at first because of an unfounded suspicion that he was trying to enter Canadian Arctic territory without permission,<sup>795</sup> and later over reports that the expedition had killed large numbers of eider ducks in Labrador and Baffin Island.<sup>796</sup> Vincent Massey observed, in a note to Secretary of State Henry L. Stimson, that this admission had been made by S. C. Palmer, a member of the expedition,<sup>797</sup>

and that eider ducks were protected by both Canada and the United States under a treaty of 16 August 1916.<sup>98</sup> After bringing the matter to the attention of MacMillan, the Department of State returned an answer incorporating his statement that the expedition had killed “not less than five and not more than ten eider ducks” and that this had happened only because their ship had been locked in an ice pack and they had not had any fresh meat for several weeks. MacMillan explained:

I am indeed sorry if our act of securing this one meal of eider ducks was resented by the Canadian Government.... However, I am very happy to assure Mr. Massey and the Canadian Government that no member of my future expeditions, if I can prevent it, will ever kill animal or bird outside of the law unless for the actual preservation of life, or for scientific purposes, and then only when permits have been granted.<sup>99</sup>

For MacMillan’s 1931 expedition, the American minister in Ottawa requested permission for MacMillan and his pilot to fly over Labrador on their way to Greenland, Iceland, and England.<sup>100</sup> John T. Crowell, Jr., master of the *Bowdoin*, submitted a detailed application to the RCMP at Port Burwell for permission to enter the Northern Territories.<sup>101</sup> At the end of his cruise, Crowell sent a report of the expedition’s activities in Baffin Island and adjacent waters to the Department of the Interior in Ottawa.<sup>102</sup>

On 4 May 1934, some time before MacMillan was scheduled to sail on his planned expedition to Labrador and Baffin Island, the Northwest Territories Council passed a resolution that henceforth all scientific expeditions to

the Canadian Arctic, other than British, should be required to take with them a member of the RCMP.<sup>103</sup> This resolution was watered down, either by the council or by Cabinet, so that the person accompanying the expedition simply had to be a representative of the Canadian government. In a letter of 17 May, Minister of the Interior Thomas Gerow Murphy remarked to Minister of Justice Hugh Guthrie that the representative might be “a scientist of good judgment, otherwise a Royal Canadian Mounted Policeman should act.”<sup>104</sup> There was some confusion and delay over MacMillan’s application for permits for his expedition when a letter he wrote was sent by mistake to Fort Smith, NWT, instead of Ottawa,<sup>105</sup> but as soon as this had been discovered, the Canadian authorities were willing to grant him the permits, especially since he indicated his complete willingness to observe Canadian regulations. In the letter that went astray, MacMillan wrote: “I am very happy to carry with me on the *Bowdoin* a representative of the Canadian Government.... I heartily approve of the action of the Council.”<sup>106</sup> Later, he added in another letter that “I have always endeavored to respect the laws of the Canadian Government whenever I entered the waters of the Northwest Territories.”<sup>107</sup>

In the same year, the Canadian authorities also had Captain Bob Bartlett on the carpet. Bartlett, a Newfoundlander who had become an American citizen, had already conducted several expeditions in the Canadian Arctic and had formerly complied with Canadian regulations.<sup>108</sup> In 1933, however, he took his ship *Effie M. Morrissey* on an extensive expedition in the Hudson Bay region without getting permits or observing customs formalities, and then he failed to answer wireless signals or to stop when communicated with. Bartlett went to Ottawa and appeared before a special session of the Northwest Territories Council on 23 January

1934, where his explanations were accepted and he was granted, retroactively, permits for 1933.<sup>109</sup> It was later decided to give him permits for 1934 on condition that he, like MacMillan, should be accompanied by a representative of the Canadian government.<sup>110</sup>

In summary, it would appear that during the 1920s and early 1930s the Canadian government gradually succeeded in imposing its wishes and its regulations upon American explorers who wanted to conduct their operations on and among the Canadian Arctic islands. There do not seem to have been any provocative or embarrassing incidents in the later 1930s. This was a period of lessened activity in

Arctic exploration and, apart from a select few including MacMillan and Bartlett, American explorers were not active in the region. So far as the American government was concerned, however, it seemed obvious that it had declined to recognize in expressed terms all that Canada claimed.<sup>111</sup> To this extent, Canadian worries were understandable. Otherwise, judging by the events summarized here, the Canadian attitude was excessively suspicious and exacting. The outbreak of the Second World War in 1939 soon put Canadian-American relations respecting the North, and accompanying problems, on a completely different footing.