

Sector claims and counter-claims: Joseph Elzéar Bernier, the Canadian government, and Arctic sovereignty, 1898–1934

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ABSTRACT. Many writers have presented Joseph Elzéar Bernier (1852–1934) as a hero whose key role in establishing Canada's sovereignty over the Arctic islands was unjustly downplayed by the government he served. According to this view, the sector claim that Bernier made on 1 July 1909 is the true foundation of Canada's title to the archipelago. This article draws on government files to assess civil servants' attitude to his sovereignty-related activities. It also describes the role played by James White, whose more sophisticated and effective sector concept predated Bernier's and served as the basis for the official sector claim made in June 1925. The evidence indicates that government officials in the 1920s were well justified in their doubts about Bernier's pretensions. However, even though they rejected his version of the sector theory and resented the campaign of self-glorification on which he embarked after his retirement, their personal relations with him were good, and they took considerable trouble to ensure what they considered to be an appropriate degree of recognition for him. The article therefore clarifies the differences between Bernier's rhetoric and reality, particularly with regard to the sector principle.

Introduction

The career of Arctic explorer Joseph Elzéar Bernier was the cause of much controversy in his own day, and it continues to spark disagreements nearly eighty years after his death. Many view him as a neglected hero who established Canada's sovereignty over the Arctic islands in spite of government indifference (Dorion-Robitaille 1978; Saint Pierre 2009; MacEachern 2010), while others argue that Bernier's proclamations, most notably his famous sector proclamation of 1 July 1909, were meaningless in terms of international law and merely contributed to a false sense of complacency among Canadians with regard to their Arctic possessions (Coates and others 2008: 28–29). This article follows up my earlier work on Bernier by examining not only his Arctic voyages during the years when Sir Wilfrid Laurier was prime minister (1896–1911), but also his subsequent relations with the Canadian government until his death in 1934.

In the Laurier period, Bernier began as an aspiring explorer who desperately wanted government sponsorship for his planned expedition to the North Pole. He did not win the prime minister's support for this venture, but was asked to lead government patrols to the archipelago. Responsibility for these patrols was assigned to the Department of Marine and Fisheries, and here Bernier had many connections on which to draw. Brought up in a family of seafarers and businessmen, Bernier was entirely familiar with the culture of patronage that pervaded the department. Using and then exceeding the latitude granted to him by the deputy minister, François Gourdeau, Bernier made himself a famous figure, but also a controversial one. In particular, the Arctic sector claim he made on 1 July 1909 raised more questions about the basis for Canada's sovereignty than it answered. Following his 1910–1911 voyage, Bernier's connection with the government ended.

After several years devoted to Arctic trading and other business ventures, Bernier returned to government service as captain of CGS *Arctic* on the annual Eastern Arctic Patrols of 1922–1925. However, he was never again placed in a position of supreme command on a government expedition, and officials in Ottawa were firmly opposed to his version of the sector concept. Following his retirement in 1925, Bernier mounted an extensive publicity campaign through which he hoped to gain credit for Canada's increasing success in obtaining international recognition for its sovereignty claims. Despite their resentment of this campaign and their knowledge of discreditable financial dealings on Bernier's part, civil servants Oswald Finnie and J.D. Craig went out of their way to secure both a pension and a reasonable amount of recognition for him. However, their opposition to his claims on sovereignty matters intensified as the years went on.

The events of the period after 1911 are crucial to understanding not only Bernier's place in Canadian Arctic history but also the nature of official views on the true basis of Canada's sovereignty. Bernier undoubtedly brought the Arctic to public attention and helped to place it among the symbols of Canadian nationhood (Cavell 2006: 18–22, 2007: 16–17, 23; MacEachern 2010). However, in terms of international law, symbolism and sentiment cut no ice. This article therefore clarifies the differences between Bernier's rhetoric and the reality of Canada's legal case.

The Laurier Government and Arctic policy

Britain's rights over the Arctic islands were transferred to Canada in 1880. Colonial Office and Admiralty documents on the transfer show no doubts about these rights in any area except Grinnell Land (the central portion of Ellesmere Island, then believed to be a separate

land mass), which had been discovered by American explorers. Grinnell Land, therefore, was not intended to be part of the transferred territory, and all indications are that the British government would have accepted an American claim to it (Cavell and Noakes 2010: 70–72). Despite this well-founded general confidence, the transfer was not sufficient in itself to secure unquestionable Canadian ownership. What Britain had transferred with regard to the islands discovered by its own explorers was not a perfected title. Rather, it was an ‘inchoate’ title, based on discovery and proclamations of ownership only. To perfect Canada’s claim, the British acts of possession would have to be followed up by acts of occupation (Cavell and Noakes 2010: 66–67).

Although the need for occupation was largely ignored between 1880 and 1897, it was well realised by civil servants in the Laurier government: as one of them wrote, many nations were not even aware of Canada’s claims, and ‘official enforcement of practical jurisdiction by the Dominion government’ was therefore required (R. Bell, quoted in Cavell 2011: 295). The anxieties of politicians and civil servants were accordingly focused on the fact that Canada had not yet occupied the islands. Another complicating factor was the discovery of new islands by the Norwegian explorer Otto Sverdrup during his privately sponsored expedition in 1898–1902. The passing of several decades without any formal American claim to Grinnell Land meant that it could be considered a *terra nullius*, open for Canada to annex, which had accordingly been done by an 1895 order-in-council. But what Sweden-Norway (and after 1905, a newly independent Norway) would do about Sverdrup’s discoveries was still uncertain.

Yet in the Laurier years, despite six government expeditions (led by William Wakeham in 1897, A.P. Low in 1903–1904, J.D. Moodie in 1904–1905, and Bernier in 1906–1907, 1908–1909, and 1910–1911), Canada did not establish permanent occupation of the more accessible areas of the archipelago, let alone its remote northern reaches. Therefore, many historians have quite reasonably concluded that Laurier was content with grandiose words and had no intention of fulfilling the requirement to actually occupy the territory (for example, see Smith 1966: 214–216; Zaslow 1971: 261, 268, 280; Coates and others 2008: 28–29). In fact, in 1904 Laurier ordered the establishment of two police posts, one on the Ungava Peninsula and one on Baffin Island. These were to have been the first of a series. However, Bernier’s reluctance to work with the police during Moodie’s expedition, combined with their dislike of his publicity-seeking and duplicity, caused the cancellation of the plan (Cavell 2011: 302).

Bernier (a merchant captain of many years’ experience) had first entered the picture in 1898, when he asked the government to endorse his planned voyage across the Arctic Ocean from Siberia to Spitsbergen. Bernier had long been fascinated by Arctic exploration, and he was determined to be the first man at the North Pole. He based

his plans on Fridtjof Nansen’s famous drift, believing that if he entered the polar pack farther to the east than Nansen had done, the ocean currents would carry him to the pole.

During Bernier’s campaign for support, he was given the false impression that Canada’s boundaries already extended to the pole. When he travelled to London to seek the approval of British geographers and scientists, he was warmly welcomed by Sir Clements Markham, the president of the Royal Geographical Society. Markham recalled how in 1878 the Earl of Dufferin, just back from a six-year term as governor general of Canada, had remarked that ‘the Queen’s writ . . . runs to the North Pole, and the least that a country could do was to examine its territorial boundaries’ (Markham, in Bernier 1901: 181; Dufferin, in Markham 1879: 38). Bernier was therefore inspired to add a patriotic touch to his fundraising efforts by emphasising that if he reached the pole, he would stand at the northernmost limit of Canada, thus supposedly solidifying Canadian rights. However, it seems likely that Dufferin had used ‘the North Pole’ as a general term for the Arctic regions, as was common at the time (Spufford 1997: 54).

Despite an extensive press campaign and strong backing from some politicians, Bernier did not succeed in gaining Laurier’s support, mainly because his proposed route lay outside Canadian territory (Cavell 2011: 293). Once the planning for Low’s expedition had begun in 1903, making it clear that the islands were now a government priority, Bernier asserted ever more forcefully that a successful voyage to the pole would have a broad effect on Canada’s Arctic rights (Bernier 1903a). He insisted that he could take possession of the Sverdrup Islands, presumably while standing at the pole (Bernier 1903b). However, his advocates in parliament were never able to put forward any coherent argument about the relationship between his plans and northern sovereignty. One believed that if Bernier raised the flag at the pole, ‘we will certainly have a right to claim possession . . . of everything that lies between the north pole and the now known Dominion of Canada’. Canada’s title to the islands would thus be established by a kind of trickle-down effect. Another MP, however, stated that he had not ‘the slightest doubt about Canada owning every foot of territory from here to the North Pole. It is contiguous to Canada and we own every foot of it by right of discovery and exploration.’ If others had doubts, he continued, then Bernier should raise the flag, but the main value of the expedition would lie in the inspiring example set to other Canadians (Canada, House of Commons 1903: 12814, 12818). Both these men, like other Bernier supporters, evidently believed that the mere act of raising the flag was enough to create indisputable rights.

None of these arguments moved Laurier. However, when the government decided to purchase its own polar ship in 1904, Bernier was asked to take the command. It was made clear to him and his supporters that the new ship (the German vessel *Gauss*, renamed *Arctic*) would merely patrol the archipelago (Préfontaine 1904a).

Nevertheless, Bernier announced to the press that now he could finally make his voyage to the North Pole. The command was therefore transferred to Superintendent J.D. Moodie of the Royal North-West Mounted Police, while Bernier was merely the navigating officer. During the expedition it became evident that Bernier and the police could not work together. Moreover, the Conservative opposition raised a political scandal over the unnecessary lavishness with which Bernier, determined to somehow reach the pole despite his official orders to the contrary, had provisioned his ship for a five- or six-year voyage (Cavell 2011: 300–302).

Finally seeming to accept the end of his polar dream, but still dreaming of deeds that involved the pole, Bernier was placed in independent command of three expeditions whose range was strictly limited to the archipelago. The main purpose of these voyages was to enforce new whaling regulations, thus exercising actual jurisdiction in the far north. Although the documentary evidence on the decision to pass the new regulations is scanty, it seems that Laurier and his ministers intended to substitute the collection of whaling licences by a seaborne patrol for the establishment of police posts (Cavell 2011: 302–303). Customs officials were also sent north to collect duties on the trade goods brought by the whalers to Baffin Island. In such a remote and thinly inhabited area as the Arctic, even such small acts of jurisdiction could contribute significantly towards fulfilling the requirement for effective occupation.

But even though Bernier made no further attempts to transform routine sovereignty patrols into a polar triumph, he still had ambitious goals that were not sanctioned by the prime minister, and in pursuit of these goals he was allowed an unfortunate degree of freedom. This situation was able to develop owing to lax supervision by officials in the Department of Marine and Fisheries. Before the first expedition departed in the summer of 1906, Bernier managed to secure revised instructions which permitted him to raise the flag and make claims on already discovered islands (Cavell 2010). The new orders stated that he should sail through Lancaster Sound and Barrow Strait to Melville Island, ‘taking formal possession of all lands and islands on your way’. He was to winter on Melville Island, and if possible send sledge parties to claim Banks Island and Albert Land (part of Victoria Island). In the summer of 1907, the plan of work was to be ‘mapped out by yourself according to the then existing conditions’ (Gourdeau 1906b).

The directive to claim islands in the main region of British discoveries might seem to indicate that the government had doubts about the 1880 transfer. However, the original orders had instructed Bernier only to claim any new lands he might find, and thus did not reflect any concerns about Canada’s title (Gourdeau 1906a). The prime minister and others in the government knew that for Bernier to raise the flag across the Arctic without also establishing occupation could not create true sovereignty; the most it could possibly give Canada was a

fresh inchoate title. There is no evidence that this was considered necessary by anyone in the government. Quite the contrary: when Low had reported three unauthorised sovereignty proclamations made during his 1903–1904 expedition, he had politely but firmly been reminded that Canada had held a valid title since 1880 (Pope 1905). The opinion of the minister of justice, Charles Fitzpatrick (later the chief justice of Canada), was that ‘Any island complying with the conditions laid down in the [1880] Order-in-Council is now, and has been [for] some time, incorporated within the Dominion’ (Fitzpatrick 1905b).

The change in Bernier’s orders was made with the co-operation of the deputy minister of marine and fisheries, François Gourdeau, and the new instructions, which obviously increased Bernier’s opportunities to glorify himself, may well have been finalised without Laurier’s knowledge (Cavell 2010: 372–373, 2011: 303). The Department of Marine and Fisheries was notorious for its extensive use of patronage and even more questionable practices. The precise extent of these activities can only be guessed at, for in 1908 many incriminating files were destroyed (Cassels 1909: 54–55). Originally, Halifax was to have been *Arctic*’s home port, but the Québécois element within the department arranged a transfer for the sake of the patronage value (Gourdeau 1904; Préfontaine 1904b). *Arctic*’s voyages were a godsend to department officials in Québec: the refitting, equipment, provisioning, and manning of the ship all offered numerous opportunities for both graft and the repayment of political favours. In 1905 one cabinet minister reproached the department’s chief agent in the city, John Gregory, with not providing, as he delicately put it, ‘quite enough consideration’; Gregory replied that without any current work on *Arctic*, he had far fewer patronage opportunities to distribute than in the previous year (Fitzpatrick 1905a; Gregory 1905).

Bernier, born near the port of Québec into a family of prosperous shipbuilders and merchant captains, was thoroughly at home in this political culture. Originally a Conservative, in 1895 he had been appointed to the lucrative post of prison governor through the influence of his friends in the provincial government (Saint-Pierre 2009: 142–143). When the Liberals came to power both federally and provincially, he shifted his allegiance. By 1900 he had gained the support of Liberal politicians such as federal cabinet minister Israël Tarte (Saint-Pierre 2009: 157–158, 162). The revised instructions so obligingly provided by Gourdeau were, then, very possibly in the nature of a repayment for services rendered. Bernier would later give the name Gourdeau Point to the site of one of his flag-raisings, as a token of thanks for ‘past favours’ (Bernier 1906c). Louis-Philippe Brodeur, the recently appointed new minister of marine and fisheries, was described as a well-meaning but weak man who could not control Gourdeau. Indeed, he reportedly considered Gourdeau incompetent and wanted to dismiss him, but dared not do so because the deputy minister might retaliate with damaging revelations about the

department's history of graft. The governor general, Earl Grey, urged Laurier to intervene and ensure Gourdeau's dismissal (Grey 1907), which Laurier failed to do. Under these circumstances, the idea that Gourdeau simply ignored his superiors' wishes becomes plausible.

'Re-claiming' British discoveries, 1906

During the 1906–1907 expedition, Bernier faithfully carried out his instructions to enforce the whaling and customs laws, and thus he did make a substantial contribution to perfecting Canada's title. However, his main focus was on the islands claimed by his British predecessors. In the summer of 1906 he proceeded westward through Lancaster Sound as directed, landing and carrying out formal ceremonies of possession on Bylot, Griffith, Cornwallis, Bathurst, and Byam Martin Islands. Each proclamation began by stating that the island 'was graciously given to the Dominion of Canada by the Imperial Government, in the year 1880' and that he had been 'ordered to take possession of the same, in the name of the Dominion of Canada' (Bernier 1909a: 12, 15–17). Every ceremony included a flag-raising and was dutifully photographed. On North Somerset, a record of Low's 1904 claim was found, and Bernier therefore made no claim of his own. On Melville Island, a proclamation in the standard form also included Prince Patrick and Eglinton Islands to the west, on the grounds that they were adjacent to Melville.

Rather than spend the winter on Melville Island as instructed, Bernier preferred to return to Baffin Island. His explanation to Brodeur was that since he had taken possession of all the islands near Melville, there was no more for him to do in that area (Bernier 1906d). On the way back, Lowther and Russell Islands were claimed; efforts to reach Prince of Wales Island were foiled by heavy ice. A ceremony on North Devon was omitted, again because the record of Low's prior Canadian claim was found. A record left on Beechey Island outlined Bernier's future plans: to winter at Admiralty Inlet on Baffin Island, and in the spring to call at Pond Inlet then sail for home (Bernier 1909a: 20–24).

Bernier and the Sverdrup Islands, 1907

For reasons not adequately explained in his narrative, Bernier left Admiralty Inlet after a cursory inspection and wintered at Pond Inlet. On 29 September he wrote to Gourdeau outlining a new programme for the next season: in July he would sail north to Jones Sound, then 'return after seeing the whalers that we have missed' (Bernier 1906c). But Bernier secretly had more in mind. Before the voyage, he had proposed a trip to Jones Sound to take possession of Ellesmere, Coburg, and North Devon Islands (Bernier 1906a). Later events would prove that at some point he had conceived a far more ambitious and entirely unauthorised plan: to extend his work by claiming the Sverdrup Islands. To do this, he may have reasoned, would settle the sovereignty question

in the archipelago with one grand gesture, leaving him free to argue for a North Pole expedition.

By 9 November, when the expedition celebrated the birthday of King Edward VII, the plan was well developed. Bernier marked the day by formally claiming Baffin Island, even though he knew the Canadian flag had already been raised there in 1897 by William Wakeham. A second proclamation was also made by Bernier, and the document recording it was left on a small island nearby, which Bernier named Beloeil Island after the birthplace of Minister Brodeur (the minister's own name had already been given to the Brodeur Peninsula). This additional document, which was placed on Beloeil Island by *Arctic's* second officer, O.-J. Morin, stated Bernier's intention to go to Jones Sound and claim not only the British discoveries in that region but also King Oscar Land (the southwestern coast of Ellesmere Island, first surveyed by Sverdrup) and Axel Heiberg, Amund Ringnes, Ellef Ringnes, and King Christian Islands (Bernier 1909a: 30). Before his departure in July 1907, Bernier wrote to Brodeur in much vaguer terms: he reported that he would 'annex some new lands surveyed by Capt. Sverdrup which is part of Ellesmere Land[:] King Oscar [L]and and others in the same direction'. He added: 'It is our duty to take every chance that we can here' (Bernier 1907a).

From reading Sverdrup's narrative, Bernier knew that the Norwegians had left cairns and notes on Cone Island and at several other points in Jones Sound (Sverdrup 1904 II: 355, 407). The narrative did not say that the notes were sovereignty declarations, and indeed although Sverdrup had occasionally raised the Norwegian flag, he made no mention of any ceremonies explicitly intended to establish ownership. However, at the end of his book he declared that he had in fact taken possession of his new lands in the name of King Oscar II (Sverdrup 1904 II: 449–450). On Cone Island, Sverdrup's men had destroyed a British cairn built in the 1850s and replaced it with a larger one of their own (Sverdrup 1904 II: 411); this action may have struck Bernier as ominous. Cone Island and Harbour Fiord on the southern coast of Ellesmere Island (Sverdrup's winter quarters of 1899–1900) were therefore the destinations chosen by Bernier.

On his first attempt to enter Jones Sound the ice was too heavy, so Bernier turned back and enacted his ritual of possession on Coburg Island. Even though Coburg Island had been discovered by a British expedition and was therefore part of the 1880 transfer, the wording was different this time: 'On this day I landed . . . and annexed this island and all adjacent islands, to the Dominion of Canada, per instructions received from the Canadian Government' (Bernier 1909a: 48). Whether this claim was meant to include the Sverdrup Islands it is impossible to say. He then sailed south to Barrow Strait and made another unsuccessful attempt to reach Prince of Wales Island. Returning once again to the eastern entrance of Jones Sound, Bernier found ice conditions slightly better. Cone Island was reached early on the

morning of 12 August; the first officer, George Hayes, was sent ashore and duly returned with the record left by Sverdrup's men. Since it was entirely in Norwegian, Bernier could not read it, but he may well have feared that it was indeed a sovereignty claim. The document's impressive appearance, with elegant calligraphy and an accompanying chart, could easily have contributed to this impression. (It was in fact simply a set of directions to Sverdrup's winter quarters of 1900–1902 at Goose Fiord; see Alsvold 1939.)

Strangely, the note left by Hayes on Cone Island (a British discovery) did not make any sovereignty claim at all. However, while *Arctic* was still anchored off the island Bernier wrote and signed a document claiming North Lincoln (as the southern coast of Ellesmere Island was then known); all other parts of Ellesmere; the Norwegian discoveries; and several islands discovered by British explorers, including North Cornwall, Buckingham, Graham, and Table Islands. Low had already claimed all of Ellesmere Island in 1904, but on this occasion Bernier did not allow his predecessor's activities to hinder him. The document, or at least the version of it printed in Bernier's narrative, merely stated that 'we' had landed and annexed the areas listed above. 'And I hereby annex the above named lands as part of the Dominion of Canada,' Bernier concluded (in Bernier 1909a: 50). No authority or rationale for his act was cited.

Bernier's use of the word 'we' indicates that he had planned to take the record ashore himself, probably at Harbour Fiord. However, Harbour Fiord lay well to the west of the open water; the weather was rapidly becoming worse and the ice was close enough to pose a threat. The ship therefore merely made a quick visit to the nearby coast of North Lincoln. Hayes and another officer landed in a snowstorm to deposit the record in a cairn on a rocky point, which Bernier named after King Edward VII (Bernier 1907c, 1909a: 49–50). Previously, Bernier had named geographical features after members of the government and his main supporters; the choice of the king's name for this spot indicates the importance he attributed to the record. No photograph was taken, and the flag was apparently not raised, but these omissions were due to the weather. *Arctic* then left Jones Sound as speedily as possible.

It all amounted to a strange performance, unprecedented in the history of Arctic explorers' claims. On 12 August 1907 Bernier had dramatically extended his scope. Already on Melville Island he had stretched his instructions to the point of claiming large islands which, although British discoveries and adjacent to the island that was the main object of his proclamation, were far distant from the point where he stood and certainly not 'on [his] way'. His action in Jones Sound was even more difficult to justify, for the Sverdrup Islands could hardly be considered adjacent to North Lincoln, even had his instructions authorised a claim to them. Bernier himself was apparently well aware of these difficulties. On his return to Québec, he told a reporter that he had

annexed 'the principal islands on Melville [sic] Sound, Barrow Strait and Lancaster Sound'. These, he added mysteriously, were 'some of the islands, but there are also others . . . fully five hundred thousand square miles have been added to the territory of the Dominion' (*The Quebec Chronicle* 21 October 1907: 1). While Bernier could not resist the opportunity to boast, it is evident that he wanted to know the government's reaction before he ventured to speak plainly.

Bernier had already reported to Brodeur that he had taken possession of everything from Cone Island and North Lincoln 'as far as ninety degrees north', as if this information were nothing unexpected (Bernier 1907b). Once, Bernier had imagined himself standing at the pole and claiming the archipelago to the south; now he informed the government that from the northernmost point he reached among the islands (a point well to the south of the territory covered by Sverdrup, Adolphus Greely, Robert Peary, and other foreign explorers), he had proclaimed Canada's ownership of everything up to the pole. The minister's negative reaction is indicated by an 'x' beside this passage.

In a second letter to Brodeur, the wording of which was very likely forced on him, and which was later printed in his narrative, Bernier wrote that in accordance with his instructions, he had gone north 'with a view of asserting Canadian sovereignty in the Arctic regions which are territory of this Dominion by right of cession made to Canada by the Imperial government' (in Bernier 1909a: 3). The use of the word 'asserting' in place of 'establishing' is certainly significant, undercutting any claim by Bernier to be the founder of Canada's title. Bernier's proclamation of ownership over the Sverdrup Islands was not mentioned in newspaper reports of his voyage, no doubt because Brodeur forbade him to discuss it. The other flag-raising had of course already been announced and could hardly be denied, even if Brodeur and Laurier did not approve of them. However, at first the government did nothing to further publicise them: the 1907 annual report by the Department of Marine and Fisheries merely stated the dates of *Arctic*'s departure and return. The 1908 report said more about the claims to British discoveries, but did not describe the 12 August proclamation, although Amund Ringnes Island (but not the other Norwegian discoveries) was listed among the lands claimed by Bernier (Canada, Department of Marine and Fisheries 1907: 13, 1908: 25–28). All the proclamations, including the one made on 12 August, did eventually appear in Bernier's narrative, which however was not published until two years after his return. The decision to include the Sverdrup Islands claim was likely made after the government had resolved to tacitly sanction Bernier's 1909 sector declaration (see below).¹ Still, nothing was said in the narrative about a claim extending to the pole.

Since Bernier's original record does not seem to have survived, it is uncertain whether its wording was the same as the version in the narrative, and in particular whether it contained the words 'as far as ninety degrees north'

or a similar phrase.² However, no matter what wording was used, for Bernier to assert possession of the Sverdrup group from such a distance was in essence a sector claim. It was entirely consistent with the version of the sector theory which Bernier's friend Senator Pascal Poirier had put forward for the government's official consideration in February 1907. According to Poirier, who cited Bernier as an authority for his statement, any country with Arctic territory was entitled to 'simply extend its possession up to the north pole'. Therefore, foreign explorers such as Sverdrup had no right to raise their flags in the archipelago, because even though not fully explored, it was already 'within the sphere of possession' of Britain and Canada (Canada, Senate 1907: 271). This variation on the hinterland or contiguity doctrine was the only plausible argument for Bernier's claim. (On the legal inadequacy of contiguity alone as a basis for possession, see Pharand 1988: 28–43.) If permitted, Bernier would undoubtedly have advertised the sector aspect to the press and in his narrative. Since he did not, the extremely unconventional and indeed unprecedented nature of his 1907 claim failed to catch the attention of historians, who instead have focused on his later and much more explicit 1 July 1909 sector proclamation.

Evaluating Bernier's 1906–1907 claims

After Bernier's return, the Conservative opposition argued that his numerous flag-raising merely cast unwarranted doubt on the validity of the 1880 transfer: if sovereignty had once been acquired by Britain and transferred to Canada, what need could there be for additional proclamations? (Cavell 2011: 304). Laurier and Brodeur did not defend Bernier on this point, but they probably felt that since the whaling and customs regulations had successfully been enforced, the unnecessary flag-raising could do no serious damage to Canada's case, and might even be a useful way to influence popular perceptions. On one occasion Brodeur spoke in the House of Commons about 're-claiming' islands, but when challenged by the Conservatives he offered no justification for Bernier's actions other than that when Bernier raised the flag and then collected licence fees, he was 'assert[ing] our jurisdiction' (Canada, House of Commons 1908: 4748).

Bernier himself never directly addressed the criticisms, and it is therefore difficult to assess the rationale that lay behind his actions. He always insisted that his mission was to accept Britain's 1880 gift on behalf of Canada, apparently wishing to emphasise both the rights inherited from Britain and his own role as the first Canadian to visit many of the northern islands (Cavell 2011: 303). When writing to Brodeur, Bernier never suggested that the British discoveries were not Canadian before he claimed them: just after he first reached Baffin Island in 1906, Bernier remarked in a letter to the minister that 'this is all Canada' (Bernier 1906b). In another letter, written after the expedition, he spoke of having 'confirmed our rights' (Bernier 1908a).

In his narratives, Bernier presented the documents he had removed from British cairns as the title-deeds of Canada's sovereignty (Cavell 2006: 20–22), and indeed he seems to have ascribed an almost talismanic power to them. For example, he greatly regretted that bad weather and a heavy sea prevented him from landing at Possession Bay on Bylot Island, where John Ross had made the first nineteenth-century British claim in 1818. As he recounted in his narrative, Bernier had intended to 'take possession of the record' (Bernier 1909a: 47). Sverdrup had recovered a number of British notes, and after Norway formally acknowledged Canada's sovereignty over the archipelago, Bernier argued that Sverdrup's heirs should be required to turn these documents over to Canada because they 'established the English Sovereignty [sic]' (Bernier 1932). Whether the records were actually in Canada's possession or not was immaterial, but Bernier apparently believed otherwise. He carefully guarded the Sverdrup record from Cone Island and eventually presented it to the Public Archives of Canada (Audet 1928); in contrast, notes and other items left by explorers who were not first discoverers were treated much more casually. At the 1908 dinner of the Arctic Club of America, Bernier brought out a note left by Robert Peary on Cone Island and asked the club's president to return it to Peary 'with his, Bernier's, compliments'. A flag left by Roald Amundsen on Beechey Island received the same treatment (*The New York Times* 26 January 1908: C3).

The best that can be said about Bernier's flag-raising and record collecting is that, although superfluous in legal terms, these activities were a visible reaffirmation of the 1880 title and increased Canadians' awareness of their northern possessions. Unfortunately, their theatricality obscured the dull but legally significant work Bernier did when he collected the licence fees (Cavell and Noakes 2010: 80). Alan MacEachern has argued that Bernier's emphasis on the symbolic side of territorial claims makes him curiously modern, and he accordingly sees Bernier's 1909 sector claim in particular as an innovative and important act, while the government's main focus was on routine administration (MacEachern 2010: 62, 73). However, since the eighteenth century international law has ever more strongly demanded administrative substance in place of ceremonies and symbolism. Bernier, therefore, was a throwback to the fifteenth and sixteenth centuries, not an innovator, and MacEachern misses the key fact that the enforcement of Canadian law, even on mundane matters, contributed to occupation while raising the flag did not. Had the flag-raising not been accompanied by acts of jurisdiction, the government might well have repudiated them.

Furthermore, despite the unprecedented nature of his 1907 and 1909 claims, Bernier was not the originator of the sector idea. In 1904 the Department of the Interior's geographer, James White, had placed sector lines extending to the pole on an official map (Cavell and Noakes 2010: 75). White, however, did not share Bernier's view that words or lines on maps were enough.

Instead, he was a vigorous advocate of occupation and administrative acts within the sector (White 1922, 1923). In later years, White's belief that that Bernier's actions had mistakenly brought the validity of the 1880 transfer into question would have a strong influence on other civil servants involved in formulating Arctic policy (Finnie 1928). Like Bernier, however, White was keen to have the Sverdrup Islands become part of Canada. It is quite possible that Bernier got the sector idea from White without fully understanding the need for occupation to give substance to such a claim. Certainly, the two men knew each other: in Bernier's narrative, White received an acknowledgement for assistance, the nature of which was unfortunately not specified (Bernier 1909a: 3).³

The 1909 sector claim

In 1908 Laurier consented to a judicial inquiry into the various scandals that had long plagued the Department of Marine and Fisheries. As a result, Deputy Minister Gourdeau retired in disgrace, having been deprived of his job and his pension for his tolerance of shady practices. He was replaced by George Desbarats, whose orders to Bernier for his 1908–1909 expedition authorised him to claim Banks Island and the other islands near it. This permission indicates that the government had resigned itself to the flag-raising as the price of keeping Bernier happy.⁴ However, such acts were only a minor feature of the plan. Brodeur had publicly announced that Bernier was to visit the westernmost part of the archipelago in the hope of meeting American whalers based at Herschel Island (Canada, House of Commons 1908: 4747–4749), and Bernier subsequently told a reporter that he would sail 'as far west as the vessel can go with safety' (*The Daily Telegraph* (Québec) 13 June 1908: 1). Bernier may have persuaded the minister and deputy minister that his task would be easier if a sovereignty claim were made to impress the whalers. However, it is clear that Laurier and his ministers did not believe it was necessary to solemnly re-claim the British discoveries. Rather, the government rightly considered that there was 'no better way' of establishing Canada's authority over the far north than by making foreign whalers and traders obey the laws (Canada, House of Commons 1907–1908a: 4163–4164).

The 1908 instructions directed Bernier to sail 'as far west as possible' (Desbarats 1908); the reason for this directive was not explicitly stated, but Bernier must have known that Laurier wanted him to extend the enforcement of the whaling regulations over a wider area. Indeed, the prime minister anticipated that after patrolling the western islands, the new expedition might continue to Bering Strait (Canada, House of Commons 1907–1908b: 8863). *Arctic* would then become the second ship to complete the northwest passage. Disappointed with these orders, Bernier again attempted to set his own programme as he had done in 1906. In his view, it was time to 'annex the balance of the Arctic islands'. He sought permission to go north through Jones Sound and Cardigan Strait

and once again claim the Sverdrup Islands, this time presumably while standing on, or at least much closer to, the islands themselves (Bernier 1908b). Or possibly Bernier hoped only to visit Sverdrup's winter quarters at Goose Fiord, from which the new islands had been reached by sledge. Sverdrup would presumably have left a cairn and record there, and as his visit to Cone Island showed, Bernier seemed to believe not only that he could confirm Canada's sovereignty by recovering British documents, but also that he could erase potential foreign claims by gathering the records left by discoverers from other nations. In either case, the request indicates that Bernier did not then believe his 1907 claim was likely ever to be made public. Permission for another visit to Jones Sound was withheld, showing that the government was not yet ready to act with regard to the Norwegian discoveries.

Bernier again far exceeded his instructions, and the manner in which he did so suggests that his thwarted ambitions were pushing him to the verge of megalomania. He sailed westward as instructed, but not far enough to carry out Brodeur's plan. Despite exceptionally favourable ice conditions in McClure Strait, Bernier made no effort to patrol the area around Banks Island (Bernier 1910d: 258).⁵ Instead, the expedition spent the winter of 1908–1909 at Winter Harbour on Melville Island. In the spring (a time of year when meeting whalers was unlikely), a sledge party led by Officer Morin was sent to take possession of Banks and Victoria Islands. During the winter, Bernier had had a large cross raised on a nearby hill. On Sunday 13 June 1909, he assembled his men beneath the cross and carried out a quasi-religious ceremony, then deposited a number of documents, including a map that showed the route of his proposed polar drift, a copy of a speech made by one of his supporters in the House of Commons in 1902, and a record in which he was described as 'Commissaire Royal Spécial chargé de Prendre Possession, au Nom de La Puissance du Canada ... de toutes les Isles Arctiques sises entre les Longitudes 60° et 141° ouest, au nord de l'Amérique septentrionale, jusqu'au 90° de Latitude Nord, transférés au Canada, par le Gouvernement Impérial' (Anon. 1909).

On 1 July, Canada's national holiday, Bernier made a sweeping sector proclamation and left behind a metal plaque to record his deed on the prominent landmark known as Parry's Rock. This time, clear boundaries were announced: as the record deposited a few weeks earlier indicated, Bernier laid claim to everything between the 60th and 141st west meridians, as far north as the pole (Bernier 1910d: 192). This territory of course included the Sverdrup Islands and all the British discoveries he had already 're-claimed'. Still flouting his orders, Bernier then attempted to sail north between Melville and Bathurst Islands, in the hope that he might reach 'a high latitude in the polar sea'. Although he did not say so in his narrative, his goal seems to have been the vicinity of the Sverdrup Islands. He did mention a search for evidence of new land; this quest was undoubtedly fuelled

by Peary's report that in 1906, when on Axel Heiberg Island, he had sighted a previously unknown coast to which he gave the name Crocker Land. To Bernier's intense disappointment, heavy ice barred the way north (Bernier 1910d: 217, 251–253).

After his return to Baffin Island, Bernier issued licences to a few whaling captains. Then, even though he was authorised to spend a second winter in the north if necessary, he decided to end the expedition without tracking down the other whalers. At Pond Inlet he had received a letter from Frederick Cook in which the American claimed to have reached the North Pole, and this news may well have influenced his decision to return south (*The New York Times* 6 October 1909: 1). In early October Bernier arrived back in Québec amid the publicity over the brewing Cook-Peary controversy. Cook had published no territorial claims (and indeed Bernier later recounted that Cook had promised him not to make any; see Bernier 1909c: 191). Peary, in contrast, declared that on 7 April 1909 he had laid claim to both the pole and the area surrounding it for the United States. According to Bernier's earlier theory of Arctic sovereignty, he was entitled to do so. In spite of this awkward fact, Bernier never seemed to waver in his conviction that his own claim, made a few months after Peary's, should take priority. As in 1907, he slipped the information that he had proclaimed Canada's ownership 'up to 90 north' into his initial report to Desbarats, and again he held back from discussing the matter with the press until he had heard from Ottawa (Bernier 1909b; *The Globe* (Toronto) 6 October 1909: 1). In any other year he might have faced a severe reprimand but, thanks to Peary, circumstances forced Laurier to sanction Bernier's audacious sector claim. The prime minister publicly congratulated the explorer and stated that on Bernier's next voyage, he would be free to try for the pole (in Bernier 1909c, 191–192).

Bernier later wrote a second report to Desbarats (printed in his narrative) in which he stated that his voyage had been undertaken 'for the purpose of patrolling the waters contiguous to that part of the Dominion of Canada already annexed, and for the further purpose of annexing territory of British possessions as far west as longitude 141 degrees' (in Bernier 1910d: xix). The Sverdrup Islands were not mentioned in the letter, but the body of the narrative included the false claim that everything within the sector had been covered by the 1880 transfer (Bernier 1910d: 192, 436), thus glossing over Bernier's lack of justification for claiming Norwegian discoveries of which he had never been instructed to take possession, and to which Canadian occupation did not extend. The Sverdrup note recovered in 1907 was reproduced in Bernier's book as a sort of trophy (Bernier 1910d: 104–105). But in a strange and inconsistent touch, a summary of the 1906–1907 expedition noted merely that the flag had been raised and records deposited on Cone Island; nothing whatever was said about the document left at King Edward VII Point (Bernier 1910d: 333). This

omission was almost certainly not Bernier's doing; the narrative was put together from the expedition's records by W.W. Stumbles of the Department of Marine and Fisheries.

Bernier was not initially enthusiastic over Laurier's about-face on the subject of the pole. Indeed, in private he began to downplay the significance of such an achievement, arguing that Cook and Peary might have attained what he called the 'invisible pole' but he had claimed all the islands, 'to the great satisfaction of the Canadian people' (Bernier 1909d). Nevertheless, the glory of being the first clearly still appealed to him, and he told a correspondent that his decision would depend on the outcome of the Cook-Peary dispute. If both their claims were rejected by public opinion, Bernier was evidently more than willing to attempt the feat (Bernier 1909e). His tentative plans included making an offer to Peary's subordinate Robert Bartlett through a mutual friend, Captain Edward English. 'I could do a great deal for Bartlett . . . I am not after money as much as after honour, and I am sure he could do with both,' Bernier wrote, no doubt in reference to the much-discussed fact that Peary, who did not want to share the glory of reaching the pole with another white man, had sent Bartlett back with the last supporting party. 'I am willing to share with him', Bernier emphasised (Bernier 1909h, 1909i). But even as Bernier's eagerness grew, the government's rapidly diminished, and by early November Bernier had realised that his next voyage, like the ones that had preceded it, would probably be limited to the archipelago (Bernier 1909f).

Bernier then informed Brodeur that as soon as his new narrative was published, his work for the government would be finished. Before he would undertake more patrols, he wanted a grant of \$10,000 and an appointment as commissioner of the District of Franklin,⁶ at a salary of \$5,000 a year. Such an appointment, he claimed, was needed to 'give me full authority in the carrying out of my work of annexing land, etc.', which was an exceptionally incongruous argument, considering that allegedly he had already secured the entire archipelago. Bernier also insisted that by giving him the title of commissioner, the government could ensure that the islands would be 'actually and officially occupied'; no details of how this result would be achieved were provided (Bernier 1909g, 1910c). The new emphasis on occupation in Bernier's letters to the government suggests that some officials may have expressed doubts about the validity of his sector claim. At the same time, Bernier was preparing to become what he described as a 'settler' on Baffin Island, with the aim of personal financial benefit (Minotto 1976: 196). He had already purchased a trading post at Pond Inlet from the Scottish whaler James Mutch, who was unable to make a satisfactory profit once he had to pay Canadian customs duties on his goods (Mutch 1908). In November 1909 Bernier applied for and was granted 960 acres of land adjacent to the post (Cory 1909). However, neither the \$10,000 award nor the appointment

was forthcoming. Bernier was given an increase in salary from \$2,400 to \$3,000 a year, and resumed his duties without further ado.

In late November the US government made it clear that, while it did not intend to endorse Peary's sovereignty announcement, it could not recognise a Canadian claim that was not backed up by occupation throughout the archipelago. Therefore, once press interest had faded the sector idea was quietly dropped (Cavell 2010: 373, 2011: 305). Undaunted, Bernier suggested that his next expedition should involve yet further claims on behalf of Canada, this time in the polar ocean (Cavell 2011: 305). He also wanted to raise the flag on Peary's mythical Crocker Land and Cook's equally visionary Bradley Land (Bernier 1910a: 75–76). Indeed, Bernier went so far as to announce that he intended to hire Cook's former guides and set out to make the new lands Canadian (*The New York Times* 1 February 1910: 2). However, the orders for his 1910–1911 expedition were notable for the absence of any reference at all to territorial claims. Instead, Bernier was simply directed to patrol the area between Davis Strait and Herschel Island (in Stumbles 1911: 3).

Shortly before the new instructions were issued, Laurier had appointed James Colebrooke Patterson, the former lieutenant-governor of Manitoba, to examine fully the legal basis of Canada's claim (Canada, Privy Council Office 1910). According to a newspaper report, Patterson's main task was to determine whether Bernier's proclamation of sovereignty over the entire archipelago should be considered valid (*The Globe* (Toronto) 25 June 1910: 5). This information suggests that Laurier now regretted his hasty endorsement of the sector idea.⁷ Opposition MPs continued to mock Bernier's grandiose proclamations as a 'superlative farce' (Canada, House of Commons 1910–1911: 6539), and in private Laurier may well have agreed. However, before any further action could be taken, the Liberals were defeated in the September 1911 federal election. Since Laurier's apparent sanction of the 1909 sector claim was never explicitly repudiated, the impression was given that Bernier's words on Melville Island were indeed the foundation of Canada's case. The end of the Laurier era, then, left the public presentation of Canada's sovereignty claims in a confused and highly misleading state.

Making money in the Arctic: 1910–1922

During Bernier's 1910–1911 voyage, he spent most of his time on Baffin Island and focused his energies on his commercial interests there, in an active but ultimately acrimonious partnership with his second officer, Robert Janes (Minotto 1976: 197–198, 202). When he returned south, Bernier soon faced questions about these activities. Following Laurier's defeat, a new Conservative government was formed under Robert Borden. Borden and many other Conservatives disapproved of Bernier due to the earlier provisioning scandal and to accusations of unauthorised trading with the ship's stores during the

most recent voyage. Moreover, the new prime minister decided not to continue the Liberal policy of sending regular patrols to the archipelago, possibly because the whaling industry there was in decline. Instead, *Arctic* was assigned to a scientific expedition in Hudson Bay, commanded by physicist W.E. Jackson of the University of Toronto. Jackson had been a member of the 1908–1909 expedition and, along with geologist J.G. McMillan, he had clashed with Bernier on several occasions. It was expected that *Arctic* would operate in conjunction with a hydrographic expedition in the icebreaker *Minto*. However, for unknown reasons *Arctic* went no farther than Port Burwell, Labrador (*The Toronto Daily Star* 10 May 1912: 11, 18 May 1912: 10, 25 May 1912: 21, 11 November 1912: 1). Problems with the ship's machinery were likely to blame, for in late 1912 it was decided to use *Arctic* as a lightship on the St Lawrence.

Despite this change in policy, Borden was mindful of Canada's need to solidify its Arctic claims. Early in 1913 he agreed to sponsor an expedition to the western Arctic under Vilhjalmur Stefansson, with the intention that any new islands which might be found in that region would be claimed for Canada. George Desbarats, now the deputy minister of the naval service, was placed in charge of expedition affairs. Desbarats had evidently become much better informed on issues of international law than he had been in 1908. When Stefansson inquired whether, like Bernier, he should raise the flag on known islands that had not yet been visited by Canadians, Desbarats replied that such acts were of only sentimental value at best. Occupation, he firmly stated, was what really mattered. Stefansson was given no encouragement to imitate Bernier (Stefansson 1914; Desbarats 1914). This response indicates that after reflection and discussion (and perhaps after a preliminary report by Patterson), Desbarats and other senior officials regretted that Bernier had ever been allowed to pursue his campaign of 're-claiming' islands.

Bernier, meanwhile, made private trading voyages to Baffin Island in the ships *Minnie Maud* (1912–1913) and *Guide* (1914–1915 and 1916–1917). His nephew Wilfrid Caron remained on the island to carry on Bernier's enterprises from 1917 until 1921. During this time, Bernier frequently wrote to the government about his plans and other matters, for the most part eliciting polite but perfunctory replies. His offer to organise an official expedition that would forestall the American Donald MacMillan's search for Crocker Land was declined. Such scepticism was well founded: in 1914 Bernier informed the minister of marine and fisheries that he was going far to the north and might well reach the land or lands that Peary and Cook had reportedly glimpsed; if so, he would name the new territory for King George V (Bernier 1914).⁸ Bernier did not in fact go north of Lancaster Sound.

Nevertheless, the government saw him as a good source of information on the Arctic. For example, in 1916 Desbarats wrote to him asking about reports that,

due to an exceptionally severe winter, some Inuit might starve unless assistance could be sent to them. Bernier replied that he had left behind enough supplies and ammunition to make such an outcome unlikely (Bernier 1916). In 1920 he was invited to give testimony before a royal commission on the possibility of domesticating muskoxen and introducing European reindeer as a stimulus to northern economic development. During these years, Bernier was not shut out from government contracts: in 1917 he was hired to carry mail along the St Lawrence River, and he later captained a ship in a North Atlantic convoy. He subsequently claimed that after the war he had experienced business difficulties and lost much of the money he had saved through his Arctic trading. In his view, under these circumstances Ottawa owed him something as compensation for his former services (Bernier 1926a, 1926b).

Bernier and some associates then started a new venture, the Arctic Exchange and Publishing Company. In 1921 they published an account of Bernier's voyage in *Minnie Maud* by Alfred Tremblay. The publication was anything but profitable (Minotto 1976: 219). In that same year, the government planned and then cancelled a new northern patrol in *Arctic*, which, after several years of inglorious service as a lightship, underwent extensive refitting in Québec. The intention was to finally establish Royal Canadian Mounted Police (RCMP) posts throughout the archipelago (Cavell and Noakes 2010). Once the plan had been cancelled, Bernier began to show an interest in his old ship. He told a journalist he wanted to buy *Arctic* so that he could go north to claim the islands and protect them from the foreign intruders who might otherwise 'reap the benefits of my earlier discoveries'. Bernier stated that because the government had failed to appoint a commissioner for the archipelago, most of it remained a no man's land (*The Montreal Daily Star* 20 June 1921: 2). A few months later, he attempted to force his way on board the vessel, and with 'no authority outside of his nerve', demanded the keys so that he could make an inspection (Hall 1921).

Early in 1922 the ambitious money-making scheme behind these actions was revealed. With the support of the new minister of marine and fisheries, Ernest Lapointe, and a few other Quebec MPs, Bernier's company offered to maintain occupation of the northern islands in return for a lucrative deal whereby they would be given *Arctic* and cash subsidies along with exclusive trading and other rights in the archipelago (Tremblay 1922). At the time, civil servants J.B. Harkin, Oswald Finnie, and J.D. Craig were fighting hard for a revival of the 1921 plan, and they therefore recommended strongly against Bernier's proposal (Harkin 1922). These men all belonged to the Department of the Interior, which had been given responsibility for Arctic matters in 1920. In May 1922 Lapointe arranged a meeting with the minister of the interior, Charles Stewart. Thanks to the arguments put forward by Harkin, Finnie, and Craig in favour of an official expedition, Stewart rejected the plan (Craig 1922a).

Bernier was then offered the command of *Arctic* on the new government expedition. His business partner Joseph Béland, far less satisfied with the outcome than Bernier, and evidently nostalgic for the old days of patronage, continued for years to bombard Lapointe with complaints that 'we, of the province of Quebec . . . have so much difficulty in obtaining the smallest favour' (Béland 1923).

The Eastern Arctic Patrols: 1922–1925

Despite his return to government service, Bernier was not to be in supreme command as in earlier years. Instead, that position went to Craig in 1922 and 1923, Frank Henderson in 1924, and George Mackenzie in 1925. Craig, Henderson, and Inspector Charles Wilcox of the RCMP all got along well with the old sailor and placed their appreciation of his energy and his Arctic experience on record (Craig 1922c, 1923; Henderson 1924; Wilcox 1924). As a tribute to the captain, Wilcox even named the new police post established on Devon Island in 1924 the Bernier Detachment. Both on the patrols and in Ottawa, Bernier lost no opportunity of glorifying his past role, convincing Finnie for a time that he had been 'largely the means of adding to the domain of Canada, those vast islands to the North' (Finnie 1923).

By 1924, however, both Craig and Finnie were starting to take a more cynical view. For one thing, the captain's inexhaustible appetite for newspaper publicity dismayed them. He frequently gave interviews in which he depicted himself as the commander of the new expeditions, rarely even mentioning the police or the Department of the Interior. Early in 1924, a planned northern flight by the US dirigible *Shenandoah* sparked a particularly egregious example. Under the front-page banner headline 'Bernier to Race with U.S. Airship to Arctic Lands', a Toronto newspaper described the next patrol as a desperate 'dash' to maintain Canada's sovereignty, led by Bernier (*The Toronto Sunday World* 3 February 1924: 1). A few months later, an article in a Montréal paper revealed that the man Bernier had recommended for the position of assistant steward on the 1924 voyage was actually a journalist; Bernier had hired him to write a book 'which will no doubt be full of palpitating interest'. The same article described Craig as an official 'who accompanies Captain Bernier on all his voyages' (Anon. 1924). When rebuked for his indiscretions and misrepresentations, Bernier always replied either that he had never given the interviews or that he would be more careful in the future (Finnie 1926a).

More seriously, Finnie was increasingly troubled by the question of how accurate Bernier's claims about his earlier sovereignty-related activities were. As Bernier neared retirement, he outlined a set of demands. His work for the government had always been on a short-term basis, and he therefore never had paid into any pension scheme. Nevertheless, he believed he was entitled to at least the same pension received by his fellow explorer Low (a long-time member of the Geological Survey

of Canada, who had retired with the rank of deputy minister). He also wanted the Imperial Service Medal, which was given to officials with at least 25 years' service whose work was considered particularly meritorious. Finnie agreed that Bernier was entitled to some marks of special recognition. To document the applications he would make on Bernier's behalf, Finnie began to search for information on precisely what authority and orders Bernier had been given on his voyages of 1906–1911.

It seems highly likely that Finnie consulted James White on the matter. After many years when his energies were concentrated on promoting wildlife conservation in Canada, White became the minister of justice's adviser on boundary issues in 1922. In 1925 both White and Finnie were appointed to the Northern Advisory Board, a new interdepartmental body charged with formulating Canada's Arctic policy. White was therefore a key figure in official discussions until his death in 1928, and his analysis of the Laurier period was markedly different from Bernier's. In 1905 White had attempted to persuade the government to make an official sector claim (Fitzpatrick 1905b); Laurier's answer, which White no doubt considered reasonable, was that occupation was the real key and must come first (Laurier 1905). But then Bernier, acting without orders, had put forward sweeping claims over areas where occupation had not yet been established and was not likely to be established in the foreseeable future. A memorandum written in 1922 recounts White's strong disapproval of these developments (White 1922). Indeed, White's influence may well be related to the question of what happened to the record left at King Edward VII Point in 1907.

The first police post established by the Eastern Arctic Patrols was at Craig Harbour, only a few miles from Edward VII Point (see *Polar Record*, April 2009: cover photo). One of Bernier's first acts was to look for the cairn, which was easily visible with binoculars. *Arctic* stayed at Craig Harbour for only a few days, and he therefore did not have the opportunity to visit the cairn himself. Before leaving, he asked that the police demolish the old cairn and place the record in a new one, built in a slightly different spot (Craig 1922b: 21 August). He may possibly have reasoned that such an act would be an endorsement of his claim.

The police did visit Edward VII Point (Lee 1928: 64), but there is no mention of either the cairn or the record in the official reports published by the RCMP and the Department of the Interior. Nor do they appear in the book later written by Patrick Lee, one of the police constables. The record itself does not seem to be in either Bernier's personal papers or the government files. The cairn was intact when the 1922 expedition arrived at Craig Harbour; if the record had been removed by Inuit, the cairn would presumably have been taken apart in search of useful items. Therefore, it must either have been left untouched or visited by explorers. The only white men in Jones Sound between 1907 and 1922 were Frederick Cook; his associate Rudolph Franke; and two wealthy American

hunters, Harry Whitney and Paul Rainey, in a chartered ship captained by Robert Bartlett. Cook, Franke, and Whitney were all on friendly terms with Bernier and would probably have returned the original document, while leaving a copy in the cairn. Bernier presented many of his records to the Public Archives of Canada in 1928; the 1907 document was not among them (Audet 1928). All in all, it seems that the original record must still have been in the cairn for the police to retrieve. It may have been destroyed when the Craig Harbour post building burned down in 1924, but if it was sent south to Ottawa, it would almost certainly have been forwarded to Finnie. It is quite probable that, if this was the case, he consulted White and then discreetly disposed of the record.

The 1925 sector claim

In late 1921 Craig and Finnie had received copies of numerous documents on the 1880 transfer from London (Doughty 1921). These papers proved beyond doubt that the imperial government had intended to transfer only the islands discovered by British explorers, not all the territory up to the pole. Finnie and his colleagues were therefore well aware that, even though Canada's right to the British discoveries was strong and growing stronger with each patrol, its ownership of the other islands was doubtful. A few years later, a planned expedition to Ellesmere and Axel Heiberg Islands by the American explorers Donald MacMillan and Richard Byrd aroused serious concerns in Ottawa. It seemed possible that the Americans would attempt to claim Grinnell Land as a US discovery and Axel Heiberg as a *terra nullius*. The programme of establishing RCMP posts in the archipelago was progressing well, but the sledge patrols carried out by the police had not yet reached any of the Sverdrup Islands.

Not surprisingly, Bernier's proposed solution centred on himself rather than on the police. He suggested to Finnie that he should 'take' the Sverdrup Islands yet again by sending out a party from *Arctic* to make a proclamation. Strangely enough, Bernier mistakenly believed the islands had already been re-claimed once for Canada by Stefansson, yet he did not see this supposed action as any bar to yet another ceremony. Indeed, in contrast to his attitude in 1906, when he omitted claims on North Devon and North Somerset because of Low's prior flag-raising, by 1925 he seemed to feel that an endless series of formal proclamations would not be out of place (Bernier 1925a). Finnie did not even bother to mention Bernier's letter to his colleagues.

In contrast, he fully supported White's project of establishing the sector principle on a sounder basis. White argued for a sector claim that would outline the area Canada was in the process of occupying and provide notice to other states of Canadian intentions (Cavell and Noakes 2010: 227–228). The other members of the Northern Advisory Board and the minister of the interior agreed. Speaking in the House of Commons on

10 June 1925, Minister Stewart affirmed Canada's possession of all lands between the continental coastline and the pole (Canada, House of Commons 1925: 4069, 4084). To give substance to this new, official sector claim in a way that had not been done or even contemplated in 1909, the first RCMP patrol to the Sverdrup Islands took place in 1926. Bernier's interpretation of Stewart's statement was naturally that the minister 'approv[ed] what I had done [on] the 1st July 1909' (Bernier 1933a). In fact, all government officials rigorously avoided any mention of Bernier's 1909 proclamation as a possible basis for Canada's title.

Thanks to Canada's strong action, the US government decided not to authorise territorial claims by the MacMillan-Byrd expedition (Cavell and Noakes 2010: 229–230). There was no protest against Stewart's declaration from the United States, either publicly or through diplomatic channels. Bernier characteristically attempted to take credit for this success, claiming that he had shown his 1908–1909 narrative to Byrd and thereby warned the Americans off (Bernier 1925b; Woollacott 1929: 8).

Bernier's retirement and press campaign

Both Bernier and his ship retired from active service after the 1925 patrol. It was decided to sell *Arctic*, and Bernier was delegated to show potential buyers over the vessel. To Finnie's surprise, there only one low bid of \$3,000, which came from Bernier and one of his associates. When questioned, Bernier stated that he would use the ship for more trading voyages to Baffin Island. Taking into consideration Bernier's long years of association with *Arctic*, Finnie agreed to sell it to him for \$4,000 (Finnie 1926d). Bernier immediately re-sold the ship to the Hudson's Bay Company for \$9,000; the company was led to believe that it was purchasing directly from the government. The HBC's lawyer suspected double-dealing, and as a result the scheme was uncovered (Beer 1926). Bernier could have been charged with fraud; instead, he was merely forced to return his ill-gotten \$5,000. The HBC, which had wanted the ship only to prevent trade rivals from using it, removed everything of value and left the hulk to rot in the St Lawrence near Bernier's home in Lévis. In later years, Bernier would lament to visitors that the hard-hearted government had sent his beloved *Arctic* to such a sad fate when it ought to have been preserved as a museum (R. Finnie 1974: 54).

This unsavoury episode can hardly have increased Finnie's respect for Bernier, yet he continued to do his best about the old man's request for a pension. His continuing search for accurate information about Bernier's achievements resulted only in more disillusionment. Bernier's orders for his first two expeditions had never been made public, and Finnie was unable to find copies in the files. He therefore wrote to George Desbarats on the matter. Desbarats replied that Bernier had done good work in publicising the Arctic, but on the subject of the orders he would say no more than that

Bernier had 'acted on certain occasions as the accredited agent of the Canadian Government, and as such planted the Flag in several of the northern islands and attested Canada's claim to this land' (Finnie 1926b; Desbarats 1926). This reply gave the impression that Bernier had possessed only the general authority held by any commander of an official expedition.

Because he was an insider from the Laurier era, Desbarats' attitude is significant. In fact, no one was more likely to have known the full story behind Laurier's decision not to suppress the 1909 sector claim. Like his letter to Stefansson in 1914, Desbarats' letter to Finnie indicates that the Laurier government did not truly sanction either the licence Gourdeau had unwisely given Bernier to 're-claim' British discoveries or the 1909 sector proclamation. Moreover, responsible officials in the Department of Marine and Fisheries did not see Bernier's flag-raising as anything more than attestations of a pre-existing title. Finnie therefore quite reasonably believed, not only that the 1909 claim was unauthorised and invalid, but that Bernier had never specifically been instructed to make any territorial claims whatever. His overall conclusion was that Bernier's pretensions were 'extremely doubtful' and that his proclamations might in fact have 'weakened rather than strengthened our claim' (Finnie 1927).

Bernier and his supporters had named sums as high as \$6,000 a year for his pension; Finnie applied for \$2,400, which he considered to be the most that Bernier could reasonably expect (Finnie 1926b). This amount was approved, but despite his very comfortable style of life in a large villa overlooking the St Lawrence, Bernier continued to complain of its inadequacy for the rest of his life. With regard to the Imperial Service Medal, even when Bernier added together his various federal and provincial short-term appointments, he still fell short of the required 25 years. The problem was solved when Bernier decided to include the period from 1898 to 1904, arguing that his campaign for a North Pole expedition had been intended to alert the government to the sovereignty problem; therefore, it should be considered as a public service. He also insisted that through his trading voyages, he had altruistically maintained Canadian occupation between 1912 and 1921 at his own expense (Bernier 1924). However sceptically Finnie regarded these claims, he was willing to let them pass, and a delighted Bernier received his medal from the governor general.

With these matters settled, Finnie devoutly hoped that Bernier, who was now free to give whatever lectures and newspaper interviews he pleased, would 'keep off the sovereignty question' (Finnie 1926c). Bernier did not. Instead, in interview after interview he declared that he was the founder of Canada's title and had added half a million square miles to the nation's territory (Cavell 2013). Finnie, who carefully kept track of these utterances, grew increasingly exasperated. In 1928 another Department of the Interior employee forwarded a clipping to him with the comment that 'these repeated

assertions of [Bernier's] taking possession of islands which had for a number of years been annexed to Canada . . . must cease' (Clunn 1928). Finnie promptly reported the matter to his superiors. Bernier, he noted, was 'firmly of opinion that if it were not for him the entire Arctic would be in foreign hands', but his frequent public statements, at a time when Arctic issues were often in the news, might 'prove detrimental to Canada's interest'. The deputy minister of the interior, W.W. Cory, advised a verbal rebuke during Bernier's next visit to Ottawa (Finnie 1928; Cory 1928). Like all the rebukes that had gone before, it had no effect.

The Sverdrup Islands again

The 1925 sector claim had brought the Sverdrup Islands question to a head. Norway appeared to be ready to assert its rights; however, the length of time that had passed since Sverdrup's discoveries without any formal claim, plus the complete absence of any efforts at occupation by Norway, made for a very weak case (Cavell and Noakes 2010: 244–246). Canada, meanwhile, had sent regular police patrols to the islands, in accordance with White's belief that a sector claim had meaning only if it was backed up by occupation. The matter was amicably settled in November 1930: Canada compensated Sverdrup for the cost of his expedition, thus in effect retroactively becoming its sponsor, and the Norwegian government formally acknowledged Canadian sovereignty over the entire archipelago.

Bernier, eager as ever for official recognition, immediately wrote to the acting prime minister, Sir George Perley, about his 1907 claim. Implying that his actions had always had the full authority and approval of the government, he recounted that on 12 August 1907 'I done [sic] my duty, and since 1922 the Government has sent a boat to maintain possession for Canada, commanded by J.E. Bernier, until I was superannuated' (Bernier 1930a). A few days later he repeated to Finnie that 'the taken [sic] possession of the Sverdrup group was taking [sic] by me on the trip 1906–07–08–09' (Bernier 1930b). Finnie was asked by Cory to consider the letter to Perley and to draft a response. The letter did not explicitly identify the 1907 proclamation as a sector claim but, perhaps from conversations with Bernier or from having seen the original document left at Edward VII Point, Finnie understood Bernier's real intentions. The memo he produced for Cory was based on the assumption that in 1907 Bernier had meant to assert possession of the entire archipelago, including both British and foreign discoveries. Finnie bluntly denied any legal validity for such an action:

It is, of course, nothing short of absurd to contend that a proclamation issued by Captain Bernier on the C.G.S. 'Arctic' when at [Jones] Sound, claiming the whole archipelago, could have any possible bearing on our titles to islands which were hundreds of miles distant as were the Sverdrup Islands. In fact, the

considered view of the Governmental authorities best qualified to speak on such matters is that Captain Bernier's claiming of these islands for Canada threw a cloud on our titles. The greater portion of the archipelago was discovered by British explorers, which fact is the root of our title as, by the Order in Council of 1880, everything that was owned and claimed by the Imperial authorities in that area was transferred to Canada.

The one serious cloud to our title remaining was with reference to the Sverdrup Islands, which matter has now been happily adjusted . . . but, unquestionably, should the matter of our titles to any of these islands ever come before an independent tribunal for adjudication, the argument would be used against us that if we considered our original titles good, why would we reclaim the area at a later date, as was unfortunately done by Captain Bernier purporting to act for our Government[?] (Finnie 1930a)

These remarks would, of course, apply equally to the 1909 sector claim. Finnie, then, clearly followed White in seeing Bernier's sector concept as spurious, and indeed 'absurd', because it rested on the principle of contiguity without sufficient occupation to provide a more substantive basis for ownership. His condemnation of Bernier's flag-raising on the islands discovered by British explorers might be considered inadvertently unjust, since in that area Bernier was in fact following orders. Still, as Desbarats evidently realised, the methods Bernier had used to get those orders were suspect, and the instructions went counter to the beliefs about Canada's territorial rights held by both Laurier and his minister of justice.

The extent to which Finnie himself valued occupation over any abstract sector concept is shown by his response to the Sverdrup Islands settlement, written on the same day as his memo about Bernier. He noted that,

While Canada has stood for the sector principle[,] the application of that principle, it is thought, is not now of paramount importance . . . for, with the single exception of the Sverdrup Islands, all the other land area[s] in the sector north of Canada can reasonably be claimed to be ours by right of discovery, or by the terms of the Imperial Order in Council of 1880. The recognition by Norway of our sovereignty over the Sverdrup Islands removes the one cloud to our title. Continued occupation . . . [is], of course, essential to the maintenance of our sovereign rights in that area (Finnie 1930b).

This passage confirms that the 1925 sector claim was intended to make the United States and Norway aware of Canada's intention to occupy the entire archipelago, including Grinnell Land and the Sverdrup Islands. Once these nations had acquiesced (by failure to make a protest, in the case of the United States in 1925, and by an explicit statement, in the case of Norway in 1930), the sector lines in themselves were no longer of critical importance. When acknowledging Canada's sovereignty,

the Norwegians specifically refused to endorse the sector theory (Canada Treaty Series 1931), but since they dropped their potential claim in the face of Canadian occupation at key points within the sector, the purpose of Stewart's 1925 declaration had been achieved. (The Norwegians' refusal had little to do with Canada; rather, it stemmed from their concern over the Soviet Union's 1926 sector claim and its potential impact on territorial rights in the Barents Sea; see Thorleifsson 2006: 39–40.) In the future, only continued occupation would be necessary to maintain Canada's rights.

Bernier's quest for honours

Finnie may have spoken strongly enough about the Sverdrup Islands in a personal conversation to abash even Bernier; at any rate, the old explorer said little more on that subject, either in public or in correspondence with the government. However, he continued until his death to characterise his 1909 sector claim as the basis for Canada's sovereignty over the entire archipelago (for example, see Bernier 1933c). He was apparently immune to any arguments or evidence against his position. For example, when the Permanent Court of International Justice made its decision in the Eastern Greenland case, Bernier interpreted it as a triumph for his version of the sector principle. The court had decided that the degree of control exerted by Denmark over all of Greenland, not just the colonised areas, was sufficient to qualify as effective occupation in such a remote, thinly occupied region. The sector concept was never mentioned in either the Danish arguments or the judges' decision, and the Danes strongly denied that contiguity was the basis of their claim (Pharand 1988: 31). Bernier, however, chose to believe that the decision endorsed the idea of a Danish sector, and that 'therefor[e] what I did in 1909 will remain a m[o]nument for Canada' (Bernier 1933b).

Bernier and his supporters bombarded the new prime minister, R.B. Bennett, with demands for an increased pension and either the rank of vice-admiral in the Canadian navy or some equivalent honour. Bennett, who had a long memory, still held the 1906 provisioning scandal against Bernier, and he remained obdurate. In 1931 he responded to a plea for an increase in Bernier's pension by threatening to withdraw it altogether (Bennett 1931). Bernier then tried a direct approach to King George V, but O.D. Skelton of the Department of External Affairs ensured that there would be no personal meeting. However, Bernier was permitted to call at Buckingham Palace and leave a specially bound copy of his 1908–1909 narrative. He duly received a polite note from the king's private secretary, Clive Wigram. The key passage, drafted by Skelton, praised him merely for the 'valuable services you have rendered to your country both as an able navigator and valourous [sic] explorer' (Vanier 1933).

Bernier must have been disappointed but, putting the best possible face on things, he sent copies of this

document far and wide. To the deputy minister of the interior he condescendingly explained that he wanted 'to thank your Department for the assistance given to me during my many trips to the North; and if you like you may show this letter of appreciation to the officers of your Department so that each may take his share in the accomplishment of the taking possession of the Arctic Islands' (Bernier 1933e). When writing to Sir Robert Borden, he told the former prime minister that the king had 'approv[ed] my work in the North' and that the letter 'shows his appreciation of your humble servant' (Bernier 1933d). Still, he was evidently far from satisfied by the royal message. The stream of appeals for more recognition continued; in 1934 Bennett returned a letter from Bernier that had been forwarded by the governor general's office with the weary comment that he was 'well aware of all that has been done by Captain Bernier' (Millar 1934). Only Bernier's death, on 26 December 1934, brought the campaign to an end.

Conclusion

That Bernier's voyages helped to strengthen Canada's territorial rights in the Arctic is indisputable. However, his various sovereignty-related actions and his statements about them reflected no consistent principle except his desire for fame. Bernier never troubled to inform himself fully about complex issues of international law; rather, he seized whatever information he came across and adapted it to suit his needs. His northern ambitions were ultimately turned to the government's advantage, but Bernier's thirst for personal glory and his reluctance to share authority meant that in the Laurier years there was little interdepartmental cooperation on Arctic matters. As a result, far less progress was made than might otherwise have been the case. Bernier did valuable work during the 1920s, but chafed under the restrictions placed on him. That successive prime ministers and many civil servants did not share his own view of his accomplishments created a sense of grievance that intensified over the years. When he died, he left behind a memoir in which he complained repeatedly about the government's lack of vision and its alleged perfidy towards him (Bernier 1939). Bernier's career shows that although men formed in the traditional mould of the explorer had a flair for publicity which could sometimes be useful, in general they were poorly suited to the new era of government work.

In terms of Canada's legal case, Laurier's apparent sanction of the 1909 sector claim gave the false impression that Canada had neglected occupation to rest its title on the weak ground of contiguity alone, then subsequently vacillated on the matter, asserting or dropping the sector idea as circumstances dictated. In later decades, historians and legal scholars published views similar to Finnie's criticism of Bernier's 'absurd' sector principle without realising that in 1925 the government had subscribed to a very different concept. Gordon W. Smith, for example, complained that 'Canada's record

of uncertain and fluctuating adherence to what most legal authorities have labelled a weird perversion of international law has hardly been in harmony with what we like to consider the traditional Canadian image of responsibility in international affairs' (Smith 1966: 226; see also Pharand 1988: 46–51). Despite Bernier's solid contributions to Canada's territorial rights, such widespread misunderstandings must, regrettably, be blamed mainly on him.

Notes

- 1 The wording of a letter written to Bernier in mid-October 1909 suggests that the narrative had only recently been published (Rouillard 1909).
- 2 Certainly, the government was not fastidious about printing the records in exact conformity with the originals. The version of the North Lincoln record in Bernier's manuscript states that a party landed 'to annex' the listed lands and islands; in the published version, this was changed to 'and annexed' (Bernier 1908c: unnumbered page following page 88a, 1909a: 50). There are several other small differences between the two versions. The manuscript version refers to 'James' instead of Jones Sound – a mistake not likely to have been in the original document. This error was repeated in the book. The North Lincoln record, unlike the other records in the manuscript, is on an unnumbered page, suggesting that it was inserted after the rest of the narrative had been written. All in all, the evidence of the manuscript indicates it is far from impossible that part of the original document was suppressed.
- 3 The earliest reference by Bernier to the sector principle that I have found is contained in an interview he gave to an American journalist in 1901 (*Boston Evening Transcript* 12 February 1901: 14). However, it was not a major or even frequent theme in his public statements at this time, and does not appear at all in his many letters to Laurier. The fact that Bernier mentioned the principle before the publication of White's map does not prove that the theory originated with him. Rather, it indicates that White had the idea in mind for several years before he created the map, and indeed the Sverdrup expedition, which began in 1898, seems to have been the cause of White's preoccupation with Arctic sovereignty (White 1922). In 1899 White gave up his position with the Geological Survey of Canada to head the Department of the Interior's geographical branch; this new job offered far more scope for direct involvement in boundary issues. By 1901 Bernier had made many visits to Ottawa and, since White was one of the few Arctic experts in the civil service, it would be very surprising if they had not met.
- 4 There is a notation on the orders to show that they were drafted by O.G.V. Spain, an official from the Gourdeau regime who, although undoubtedly both more competent and less corrupt than many of his colleagues, would also be dismissed as a result of the inquiry into the department's practices.
- 5 Bernier would later account for his decision by stating that he had been eager to proceed westward, but was barred from doing so by the fact that his orders did

not specifically direct him to sail through the Northwest Passage (Bernier 1909c: 190, 1939: 328). In 1910 he sent the government a memorandum on the need to patrol the western part of the archipelago as if this were a new idea (Bernier 1910b).

- 6 In 1895 the Canadian Arctic was divided into the districts of Franklin, Ungava, Mackenzie, and Yukon. The islands were included in the District of Franklin. In 1898 the Yukon Territory became a separate administrative entity; after 1905 the other three districts, along with the parts of Rupert's Land not then included in the provinces of Alberta, Saskatchewan, and Manitoba, were collectively known as the Northwest Territories (NWT). Colonel Frederick White of the Royal Northwest Mounted Police was appointed as the first commissioner of the NWT, and remained in that position until his death in 1918. The commissioner was in effect a colonial governor: there was no elected assembly or, in the early years, even an advisory council. What Bernier was asking, then, was for the government to separate the archipelago from the rest of the NWT and to appoint him as its sole executive official.
- 7 Patterson (1839–1929), a lawyer by training, entered politics in 1874 as a Conservative and served in a number of federal cabinet posts. His appointment therefore seems to reflect a desire on Laurier's part to satisfy Bernier's critics among the Opposition. Patterson may have made verbal reports from time to time, but he does not seem ever to have submitted a written report (although it is possible that a report from him was among the records destroyed when the Centre Block of the Parliament Buildings burned down in 1916).
- 8 Bernier insisted that Peary and Cook had had no right to bestow names because they had not landed on their new discoveries, and he described their actions as 'the Americanization, at long distance, of what was really Canadian land' (*The Globe* (Toronto) 31 January 1912: 2).

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