

THE ANGLO-AMERICAN CONTROVERSY
OVER THE ALASKAN BOUNDARY AND
ITS SETTLEMENT, 1903

THESIS FOR THE DEGREE OF M. A.

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BOUNDARY AND ITS SETTLEMENT, 1903

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I

The Anglo-American Boundary Dispute arose in a peculiar geographical area. The northwest coast of North America, extending from the Strait of Juan de Fuca northward to the 60th parallel of north latitude, was the last seaboard of the continent to be occupied by Americans and Europeans. Its remoteness from the Atlantic seaports and the difficulty of access to it by land made this region but little known to the world before the close of the eighteenth century. The extreme rugged formation of the country rendered intercommunication difficult. Its rivers were navigable only by steamers having light draught, while the climate was such that neither cereals nor fruits could be successfully cultivated.¹

The importance of the area centered around its rivers and inlets. Lynn Canal formed a natural gateway to the Klondike and the Yukon. It penetrated the mountains bordering the west coast and ran eighty miles into the interior. Sixty miles from the ocean it bifurcated forming two inlets, the Chilkat and Chilkoot, each receiving rivers at its head. The rivers lead to the passes that opened into the British hinterland.²

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1. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, Part II, Case of the United States, p. 4.
 2. Edinborough Review, Vol. 191, p. 280.

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The Russians were the most energetic of the alien groups who explored the northwest coast of North America. Russia based her claims upon the voyages and discoveries of Vitus Bering³ and his lieutenant, Chirikoff.⁴ Russia's right was further fortified by the occupation of Copper and Bering Islands and a considerable part of the mainland which was good for hunting purposes. Shortly afterwards government occupation was proclaimed.

England, Spain, and Portugal had seamen exploring and claiming this area. The consensus of opinion, however, was that Russia was the rightful owner. Sir George Simpson, a well-known eighteenth century authority, has stated:

The discovery and possession of Alaska went hand and hand. The Kodiak settlement was formed four years before John Mears, flying Portuguese colors, erected his shed at Nootka Sound, and Sitka was formed ten years before Astoria.⁵

Alexander George Findlay in his "Directory of the North Pacific" published in 1870, remarked: "In justice to Russia it must be said that no country had a better title to the territory."⁶

Hence it seemed to be agreed upon early in Alaskan history that the northwest coast of North America belonged to Russia. The various treaties with Spain, Great Britain, and United States substantiated this claim.

The value of the district rested solely upon the fur

3. Senate Executive Documents, 58th Cong., 2nd. Sess., No. 162, Vol. 15, Part II, p. 5.

4. Henry W. Clark, "History of Alaska", p. 36.

5. George Davidson, "The Alaskan Boundary", p. 38.

6. Ibid., p. 38.

trade. United States, through independent traders, Great Britain through the Hudson Bay Company, and Russia through the Russian-American Company competed for the native fur supply. The Russian efforts were predominant and preceded those of the other nations. The development of the fur trade by Russia is an interesting history.

In 1781 Gregory Shelikof and other Siberian merchants formed a trading association, and in 1790 the Shelikof Company was reorganized and named the "Irutsk Company." In the meanwhile Russian and American independent traders had extended their operations on the mainland. The "Irutsk Company" absorbed some of the independents, but in spite of this competition continued to increase. Finally in 1799 the company secured a monopoly of the trade and the occupation of the territory lying north of the 55th parallel north latitude. Thus a Russian colonial system similar to that of the Hudson Bay Company was established.⁷

The Russian Ukase of 1799 was ineffectual in keeping the American trading vessels from frequenting the islands along the coast. The Americans carried their cargoes to Canton where they disposed of them at large profits. Many more Americans became interested in the profitable fur trade. These independent traders secured a considerable proportion of the native trade and impaired the value of the Russian-American Company's monopoly. Furthermore the

7. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, Part II, Case of the United States, p. 6.

Russians were forbidden the use of Canton, while the Americans, through the use of the Chinese city, developed a trade which made the Russian-American Company desperate. About the same time the operations of the Hudson Bay Company were beginning to reach their peak.⁸

The Imperial Ukase of September 4, 1821 was the outgrowth of these conditions. Previous to 1821 the Russians had on several occasions requested the United States to issue rigid orders against hunting in Russian territory.⁹ Count Rezanoff, Russian Minister of Foreign Affairs, had broken off negotiations with John Quincy Adams in 1810 when they differed over the question of territorial limits.¹⁰ Baranoff, director of the Russian-American Company, then made an agreement with the enterprising American, John Jacob Astor.¹¹ In 1821 the company was reorganized and royalty became a stockholder with the result that more governmental protection was assured the company.¹²

The purpose of the Ukase of 1821 is well stated in the foreward signed by Count D. Guruff, Russian Minister of Finance:

Observing from reports submitted to us, that the trade of our subjects on the Aleutian Islands and on the northwest coast of North American, appertaining to Russia, because of certain illicit traffic, to oppression and impediments, and finding that the principle cause of these difficulties is the want of rules establishing the boundaries for

8. Ibid., p. 7.

9. Ibid., p. 8.

10. Ibid., p. 8.

11. Ibid., pp. 4, 8.

12. Ibid., p. 9.

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navigation along these coasts, and the order of naval communication as well in these places as on the whole of the eastern coast of Siberia and the Kurile Islands, we have deemed it necessary to determine these communications by specific regulations, which are hereto attached.¹³

The Ukase of 1821 provided for the capture and confiscation of foreign vessels landing on or approaching within one hundred Italian miles of the coast commanded by Russia; for the permissable landing of ships along the northwest coast of North American; for the prohibition of carrying on trade with the natives except by those authorized by the Tsar; and for the prevention of Company officials visiting on foreign vessels or doing business with the same.¹⁴

Count Nesselrode, Russian Minister of Foreign Affairs, in a letter to a fellow cabinet member explained the Ukase of September 4, 1821. He stated that the new regulation would not prevent foreign vessels from sailing through the restricted area, mainly because Russia did not have the naval power to prevent the same, but it could close the whole sea if it so desired.¹⁵

To both the United States and Great Britain it meant a restriction of their fishing, trading, and hunting activities. The one-hundred mile limitation set by the Ukase of 1821 was especially irritating. As a result diplomatic negotiations were begun with Russia by both of the English speaking nations.

13. Ibid., p. 9.

14. Ibid., pp. 9, 10.

15. George Davidson, op. cit., p. 45.

Henry Middleton, the American Minister at St. Petersburg, and Sir Charles Bagot, British Minister to Russia, on the same day informed their respective governments of the Ukase. The Russian Ukase was officially communicated in London by the Russian Minister, Baron de Nicolay, on October 21, 1821 in a letter to the British Foreign Minister, the Marquis of Londonderry. Similar action was taken in Washington by M. de Polignac in a letter to the American Secretary of State, John Quincy Adams.¹⁶

The unusual assertion of sovereignty over waters within one hundred miles of the Russian coast was repugnant to the British side of international right and subversion of the commercial interests of British subjects. The Law Officers of the Crown declared "The extent of territory so assumed is much greater than is ordinarily recognized by the principles of the law of nations."¹⁷

On January 18, 1822 the British Minister of Foreign Affairs protested. One month later, John Quincy Adams, following an interview with Stratford Canning, British Minister at Washington, addressed a note to the Russian Minister at Washington protesting the maritime and territorial claims of the Ukase.¹⁸

The correspondence showed that the aim of each country was the preservation of the rights of trade to its citizens

16. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, Case of United States, p. 12.

17. Ibid., Appendix, p. 102

18. Ibid., Part II, p. 13.

or subjects on the northwest coast of North America... John Quincy Adams's arguments were advanced for the purpose of establishing the right of the independent American fur trader to the unrestricted intercourse which he had previously enjoyed with the natives. To maintain this position it was necessary for him to deny the right of Russia over these regions, since the maritime jurisdiction of Russia was based on her territorial domination.

In May H. de Politea, Russian Minister to Washington, on returning to Russia gave Middleton a letter granting him the power to carry on negotiations. On July 27th Middleton speaking to Count Nesselrode, Russian Minister of Foreign Affairs, declared "that the territorial pretensions advanced by Russia might be considered as entirely inadmissible by the United States until the conflicting claims were settled by a treaty." Nesselrode told him that his wish would be complied with, and Baron de Teyll at Washington, was given full power to draw up a treaty.¹⁹

In the meantime Canning, British Minister of Foreign Affairs, interviewed Count Lieven at Verona and told him that a verbal modification was not satisfactory, but that a formal renunciation was necessary. Canning also told him that the extent of Russian territory in America must be defined.²⁰

19. Ibid., Part II, p. 15.

20. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 16, p. 15.

Russia wanted to have one diplomat carry on her negotiations with the two countries. Both United States and Great Britain agreed with this arrangement. Middleton was thereby instructed by Adams to sign a joint convention with Great Britain and Russia opening up the disputed area west of the Stony (Rocky) Mountains for a period of ten years. The points which Adams wished to secure were: first, the abandonment of Russia of the claim of jurisdiction over the seas within one hundred miles of her territory; second, a privilege for ten years of unrestricted trade for American citizens in a certain area; third, a boundary concession at the 55⁰th parallel of north latitude.²¹ In a letter to Mr. Rush, American Minister at London, he explained that since the three nations were involved, Great Britain and United States should mutually propose that the treaty contain a ten-year trading privilege; that Russia was not to settle south of the 55⁰th parallel of north latitude; that United States go no further north than the 51⁰st parallel; and that Great Britain limit herself to the land between the two parallels.²²

On July 12, 1823 Canning, British Foreign Secretary, informed Bagot of the American proposal. Bagot, in turn, informed Nesselrode that United States and Great Britain were going to act jointly. The joint action program did not

21. Senate Executive Documents, 58th. Cong., 2nd. sess., No. 162, Vol. 15, Part II, p. 23.

22. Ibid., Part II, p. 24.

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travel smoothly. In the conversations between Bagot and Middleton, Bagot reported that the United States was prepared "to assert equal pretensions with Great Britain and Russia to the whole coast as far north as the 61⁰th parallel of north latitude and the right to be a party to any partition of that area".²³ It must be remembered that the Oregon country between 42⁰ and 54⁰ 40' north latitude was held jointly by United States and Great Britain from 1813 to 1846.

This position changed the attitude of United States and Great Britain toward each other. Bagot broke off negotiations and Middleton followed suit until he found out what England's intentions were to be. Bagot failed to receive the expected instructions in December of 1823, so Middleton decided to act alone. He presented a memorial to Nesselrode, the chief claim of which was to establish the superiority of the territorial rights of United States over Russia between the 51⁰st and 61⁰st parallels of north latitude, and that the right of the former to navigate along the coast at such places as had not been actually settled and occupied by the Russians.²⁴ Count Lieven, Russian Minister at London, informed the Duke of Wellington of the American claims and advised him, that if Great Britain had any claim to the territory, they should bring it forward so as not to be shut out by any Russo-American agreement.²⁵ On February

23. Ibid., Part II, p. 27.

24. Ibid., Part II, pp. 33-4

25. Ibid., Appendix, p. 64.

21, 1824 Rush informed Middleton that Great Britain had declined to act jointly. This change of attitude was blamed, first, on the territorial claims of the United States; and secondly, on the Presidential Message of 1823 which put forth the famous Monroe Doctrine.²⁶

The famous document together with the letters of Secretary of State, John Quincy Adams expressed the new "American Policy." It is now generally agreed that the fear of Russian aggression convinced Adams and Monroe of the necessity of enunciating the policy which was soon afterwards proclaimed by President Monroe.²⁷ One of the best statements of the avowed American policy came from a letter of Adams to Rush in which the American Secretary of State wrote:

It was not imaginable that, in the present condition of the world, any European nation should entertain the project of settling a colony on the northwest coast of North America; that the United States should form establishments there, with the view of absolute territorial right and inland communication, is not only to be expected, but is pointed out by the finger of nature.²⁸

This statement of the attitude of United States toward future colonization by European nations and of the expected extension of American settlements is peculiarly important in determining the actual position of United States in regard to Russia's title to her American possessions. As a result Great Britain deemed it wise to break off joint action and decided to settle on an Anglo-Russian agreement.

26. Ibid., Part II, p. 34.

27. Hugh L. Keenleyside, "Canada and the United States," p. 211.

28. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, Appendix, p. 64.

Early in 1824 Middleton resumed negotiations for a treaty with Russia. In the first conference M. de Politica was told that any attempt to negotiate on the territorial question without consulting the United States would bring a protest in the strongest possible terms. At the second conference the Russian and American diplomats exchanged treaty drafts. The Russians proposed a line drawn along the 54° 40', by which Americans were excluded north of that line except at New Archangel, and the Russians south of it. Middleton remarked that the Russian proposal was "entirely inadmissible", and that he must obtain acquiescence on two points, before he would conclude a treaty which would limit the boundary to 55° north latitude.²⁹ Politica replied by saying that he would never sign any instrument allowing American ships free admission to Russian coasts.³⁰

At the third meeting several counterdrafts were discussed. On April 30, 1824 de Politica left a new Russian draft with Middleton which included among the contraband articles, spirits and liquors. Two days later a convention was signed by United States and Russia.³¹

The convention contained the following provisions:

1. In any part of the Pacific Ocean the citizens of either

29. Two points: first, revocation of the maritime claim of the Ukase, second, a trade privilege clause as was in the Anglo-American Treaty of 1818.

30. Senate Executive Documents, 58th. Cong., 2nd Sess., No. 162, Vol. 15, Part II, p. 37.

31. Ibid., Part II, p. 38.

nation "shall be neither restrained nor disturbed either in navigation, or in fishing, or in the power of resorting to the coast upon points which may not have been already occupied, for the purpose of trading with the natives."

2. A person of either country must get permission of the governor to resort to the other country's establishments.

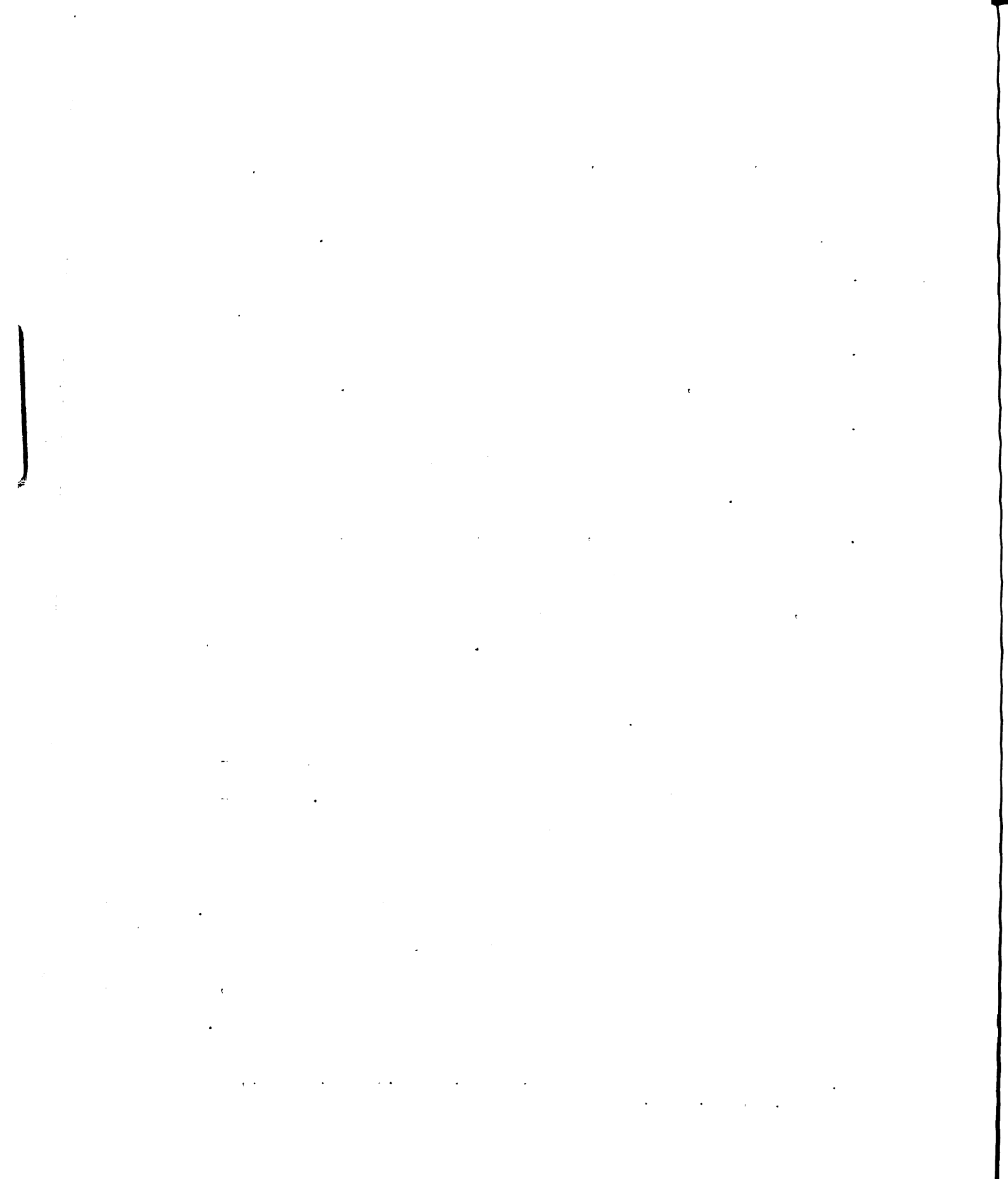
3. United States was not to erect any posts or settlements north of $54^{\circ} 40'$, nor Russia to the south of it.

4. Reciprocation for ten years along the coast for fishing and trading purposes with the natives in the disputed area was provided.

5. "All spiritous liquors, firearms, other arms, powder and ammunition were no longer to be accepted as trading articles, but no boarding or searching of vessels for the above mentioned should be permitted".³²

The meaning of the document to the principals involved can be briefly stated. The United States signed for fear that Russia and Great Britain would conclude the territorial question before and without the United States. In Article III the United States recognized the sovereignty of Russia over the northwest coast of North America extending from the Polar Sea (Arctic Ocean) to $54^{\circ} 40'$ north latitude. Russia signed because of this concession. The United States also secured fishing and trading privileges for ten years, a point for which the Americans had continually negotiated.

32. Senate Executive Documents, 50th. Cong., 2nd. Sess., Vol. 4, No. 146.



Great Britain was thoroughly dissatisfied with the 54° 40' arrangement.³³

Great Britain likewise made an arrangement with Russia. On January 5th Bagot received new instructions and was able to meet on the 16th with Politica and Nesselrode, the two Russian representatives. Bagot at the conference proposed a line to be drawn through Chatham Straits to the head of Lynn Canal north to the 140° west longitude, thence northward to the Polar Sea.³⁴ Russia did not accept this line nor did she accept another proposed by Bagot. This line was to run in such a manner that Great Britain would control the whole Alexander Archipelago; the line then would be drawn to the head of Lynn Canal and thence northward to the Artic Sea. Sir Charles Bagot made a last proposal for a boundary line and then agreed to leave the drawing of a boundary to the Russian officials.³⁵ After numerous proposals by both parties Bagot suspended negotiations. In the meantime, Canning wrote to Lieven stating that Bagot would be able to admit with some qualifications the last terms proposed by Russia. Bagot, however, had rejected the Russian draft convention, and he knew nothing of the Canning-Lieven correspondence. At this point Bagot was replaced by

33. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, Part II, p. 40.

34. Ibid., Vol. 16, Case of Great Britain, Vol. 3, Part I, p. 23.

35. George L. Davidson, op. cit., p. 69.

Stratford Canning, who on December 8, 1824 received permission to reopen negotiations. On March 1, 1825 Stratford wrote that he had signed the convention.³⁶

The Anglo-Russian Convention of 1825 contained a renunciation of the Ukase of 1821; a statement of the boundary line (which will be stated in full later in the paper and in an appendix together with the translations of the disputed phrases); and a ten year reciprocal trade privilege.³⁷

This treaty was very important because all later disputes grew out of it. The greater part of the spoils went to Russia. While Great Britain had by the treaty prevented the extension of Russian domination to the Rocky Mountains, yet Russia by the treaty obtained; (1) the protective barrier of land which she sought; (2) the exclusion of foreign trading posts from her area; (3) and the formal recognition of her rights of possession and of the sovereignty she exercised over her American possessions.³⁸ The United States had somewhat checked the Anglo-Russian negotiations and in the future would have to be considered in all of the Alaskan territorial discussions.

By the Treaties of 1824 and 1825 Russia had gained complete sovereignty over the area extending from the Polar

36. Ibid., pp. 79-84.

37. Senate Executive Documents, 58th. Cong., 2nd. Sess., Vol. 15, Appendix, p. 75.

38. Ibid., Part II, Vol. 1, p. 69.

Sea to 54° 40' - sometimes stated as being the southernmost point on Prince of Wales Island. Russia was very jealous of her territorial rights in North American. She erected forts at the mouths of all the important rivers running through the disputed area into the British hinterland. She absolutely refused to tolerate even the smallest intrusion by any rival power. This jealousy was reflected in the Russo-American negotiations of 1834-1845 through which the United States attempted to secure a renewal of the trade privilege clause of the Russo-American Treaty of 1824.³⁹

When this ten year trade privilege had ended on April 5, 1834, Baron Wrangell, Governor of Russian-America, handed to the American ships at Sitka a circular saying that their trading privileges north of 54° 40' had ceased. In February of 1835 Baron Krudener, Russian Minister at Washington, told Secretary of State Forsyth of Baron Wrangell's actions and requested that the State Department print a public notice announcing the expiration of the trade privilege clause. In February of 1835 the British trade privilege clause also expired. Forsyth declared that he hoped the trade privilege clause might be renewed. After a second Russian request an informal notice was printed in the public journals of the United States. In July Wilkins, American Minister at St. Petersburg, was directed to renew negotiations for trading privileges. Nesselrode told Wilkins that

39. Ibid., Part II, p. 70.

before he could give a definite answer he must first consult the directors of the Russian-American Company. Finally Nesselrode informed him that if Great Britain requested a renewal of her trade privilege clause and it was granted, then the clause with the United States would be immediately renewed. Great Britain never asked for a renewal. The Hudson Bay Company had involved Russia in a quarrel which resulted in the granting of a lease of the disputed area to the Hudson Bay Company.⁴⁰

In April of 1837 the United States sought to recover damages for the ship, "Leriot", which had been confiscated in 1836. The next year, Russia in a terse answer refused to extend the trade privilege clause or pay the "Leriot" claim. Seven years later on September 26, 1845 the United States published an official notice announcing the expiration of the trade privilege clause and recognizing the sovereignty of Russia over the northwest coast of North American north of 54° 40' north latitude.⁴¹

Great Britain had outdone the United States, in as much as she had gained a perpetual trade privilege clause, while the United States had been left to shift for itself. From 1845 until the purchase of Alaska by the United States Russia did as she pleased, at times much to the discomfort of Great Britain and the United States.

40. Ibid., Part II, p. 70.

41. Ibid., Part II, p. 71.

II

A few years after the trade privilege clause had been refused, the first suggestions of the sale of Alaska to the United States were heard. The Purchase of Alaska was partly the result of the amicable relations existing between the United States and Russia, and partly due to the failure of the Russian-American Company and the inability of the colony of Alaska to continue as a paying investment.

Russia during the Civil War manifested her friendship toward the United States in many ways. She vetoed Napoleon the Third's plan of intervention just as we opposed concerted intervention in Russia, when the Polish question had aroused the opposition of all Europe to her. Besides Russia sent two fleets to the United States in 1863 and we considered this a powerful moral demonstration in favor of the North at a critical stage in the Civil War. This idea, however, according to F. A. Golder, an American authority, was an erroneous one; Russia actually sent her fleet to the United States so that it would be free to act in case England or France went to war with Russia.⁴² On the whole the relations between the two countries were very friendly and the public of United States was satisfied that we owed Russia a good turn.

Moreover, Russia was having difficulties in Alaska. In 1849 whaling in the Arctic Ocean was for the first time

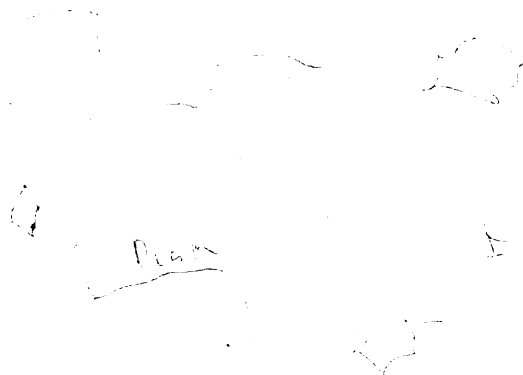
42. F. A. Golder, "The Russian Fleet and the Civil War," American Historical Review, Vol. XX, pp. 801-812.

successfully attempted. As the whaling operations moved farther north, so did the trade with the whaling vessels move northward along the coast which in time resulted in repeated violations of the Treaties of 1824 and 1825. From the inland side the Hudson Bay Company had advanced far into Russian territory and as early as 1851 English Missionaries were working among the natives of Alaska.⁴³ Russia had considered the colony an investment which was centered in the Russian-American Company. Russia being obliged to ship her furs through Siberia, finally realized that foreign traders were able to outbid her for the Indian trade. Moreover, the company had scarcely attempted to promote the moral, social, and political development of Alaska. The Company's stock which in 1854 stood at 500 rubles per share had declined to 75 rubles in 1865. Russia was expanding southward into Asia and at this period was anxious to dispose of her less profitable American possessions.⁴⁴

It was Stoeckl who carried on the Russian negotiations for the sale of Alaska to the United States. The chief advocate for the disposal of Alaska was Duke Constantine, a brother of the Czar, Alexander II, and a bitter opponent of the Russian-American Company. The Russian Foreign Minister, Gorchakoff, was hostile to the sale of Alaska. When in 1859 Senator Gwinn offered Stoeckl \$5,000,000.00 for Alaska, the Russian Government studied the offer seriously

43. Henry Clark, "History of Alaska", pp. 62-64.

44. Ibid., pp. 64-68.



and was about ready to sell when the Presidential election of 1860 and the Civil War prevented the culmination of the transaction. Again in 1866 Constantine's influence over the Czar resulted in a return of Stoeckl to Washington for the purpose of disposing of the Alaskan Territory for not less than five million dollars. A California organization had previously offered to lease the Russian-American and Hudson Bay Companies' rights.⁴⁵ President Johnson's Secretary of State, William Seward, now offered to purchase Alaska. He proposed \$5,000,000.00 but Russia held out for \$10,000,000.00. At the outset President Johnson was rather indifferent to the idea, but in the meanwhile Seward had won over the Cabinet. On the night of March 29, 1867 Stoeckl called at Seward's home to report that Russia was willing to settle at \$7,200,000.00. Before Stoeckl returned to his residence a convention had been drawn up and signed. The Senate ratified it by a vote of 37-2.⁴⁶

The Treaty of March 30, 1867 between the United States and Russia provided for the payment of \$7,200,000.00 by the United States whereby Russia ceded to the United States all the Alaskan Territory comprising the mainland and the adjacent islands. The disputed eastern boundary decided upon was the line drawn by the Anglo-Russian Treaty of 1825. There were certain minor provisions such as, the withdrawal of Russian troops; the permission to Russians in Alaska to

45. Ibid., pp. 70-71.

46. Ibid., pp. 72-73.

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return home within three years; and the statement that all franchises and monopolies granted by Russia were nullified.⁴⁷

This was a new departure in American policy. For the first time territory which was not contiguous to the Union was acquired.⁴⁸ With the Purchase of Alaska the United States inherited the troublesome boundary quarrel. The Anglo-Russian negotiations from 1867 to 1906 became Anglo-American. To Great Britain it meant the termination of the Hudson Bay Company's lease and a loss of a considerable portion of the coastal fur trade.

Shortly the discussion involving the eastern and southern boundaries of Alaska assumed international importance. In 1871 the territory of British Columbia was incorporated into the Dominion of Canada. Less than a year later the lieutenant-governor of the new province requested the Dominion authorities to take steps for bringing about a "final and definitive elucidation and settlement of the territorial rights in North America".⁴⁹ During July of 1872 the Dominion officials reported the request of British Columbia to the British Foreign Office as well as to the Dominion Office. Sir Edward Thornton, the British Minister to Washington, consulted the State Department with the result that President Grant decided to accede to Great Britain's request. The

47. William M. Malloy, "Treaties, Conventions, International Acts, Protocols, and Agreements between the United States and Other Powers". Vol. 2, p.1, 521.

48. Henry W. Clark, *Op. cit.*, p. 80.

49. Hugh L. Keanleyside, *op. cit.*, p. 214.

President in his Annual Message to Congress, December 2, 1872, recommended a joint commission be authorized to make a study of the point at issue, and suggest a suitable boundary to Canada and the United States. Two weeks later a bill to that effect failed in Congress.⁵⁰

The new Secretary of State, Hamilton Fish, on February 12, 1873 responded to the second Ottawa appeal by remarking that any survey would cover a period of nine years with an approximate expenditure of \$1,500,000.00. He concluded by stating the uncertainty, if not the impossibility, of such a large appropriation by the United States Congress. After a few weeks the Dominion Government agreed to bear one-half the cost of marking a boundary; again the United States failed to act. From that moment on the trouble over the boundary increased. When the United States officials in Alaska on May 23, 1873 denied British subjects the privilege of free navigation on the Stikine and Yukon Rivers, which had been guaranteed by the Anglo-Russian Treaty of 1825 and the Washington Treaty of 1871, Canada made a vigorous but inconsequential protest. When Fish remarked that a survey would cost too much, the Governor-General of Canada requested Major Cameron, Her Majesty's Boundary Commissioner, to furnish an approximate estimate of the cost and of the time required for carrying out the objects of any commission that might be appointed.⁵¹

50. Senate Executive Documents, 58th. Cong., 2nd. Sess., Vol. 16, p. 31.

51. Ibid., Part I, p. 33.

With reference to the scope of the survey Cameron made the following statement:

While the United States have indicated a definite plan of procedure, and named the points of the boundary which they consider it essential should be marked, the Government of Canada makes no reference to such details, and therefore, leave it to be assumed that they expect the terms of the Treaty of 1825 to be fully and strictly carried out. The cost of marking the boundary will be seriously affected by the view which may prevail on this subject. 52

Cameron estimated the cost not less than \$425,000.00 nor more than \$2,230,000.00, and the time required for its completion varying from two to seven years. He also designated the points which should be surveyed. No action was taken on Fish's suggestion or on Cameron's report.⁵³

The State Department seemed willing enough to act but it lacked the support of Congress. The urgency arose when a group of British settlers laid out a town, on territory claimed by both Great Britain and the United States. While discussing this matter with Secretary of State Fish, the Canadian Minister remarked that the affair should have been settled two years previous. Fish was still apprehensive as he doubted the possibility of securing the necessary funds. Thornton and Fish again in 1875 discussed the situation arising over the new town on the Stikine River. The next move came in March of 1877 when the Canadian Government sent Joseph Hunter to make a study of the boundary along the Stikine River.⁵⁴

52. Ibid., Part I, p. 33.

53. Ibid., Part I, p. 33.

54. Ibid., Part I, p. 33.

Hunter was instructed to lay down the line on the river along the line connecting the two highest mountain peaks parallel to the coast, and "to lay off or estimate the ten marine leagues on a course at right angles thereto". In his report Hunter stated that the crossing of the river by a line following the summit of the mountains parallel to the coast was situated at 19. 13 miles from the coast.⁵⁵

During the previous year of 1876 Canada had bitterly remarked to Great Britain that the United States although feigning disinterestedness had stood in the way of a boundary adjustment unless its demands were met. In answer to numerous requests for action by Thornton, Fish announced that Congress had adjourned thus making further action impossible.⁵⁶

The Hayes Administration came into office in March of 1877. For the time being Mr. Plunket, Charge d'Affairs at Washington, represented Great Britain. Mr. Plunket wrote to Mr. Evarts, the new Secretary of State, on October 1, 1877 requesting action on the boundary question. Evarts reassured Plunket, but was unable to act.⁵⁷

By this time Joseph Hunter's report was available. The modus vivendi of 1878 was a result of this report. On January 19, 1878 Thornton, who again was in active charge of the British interests in the controversy, sent Evarts

55. Ibid., Part I, p. 34.

56. Ibid., Part I, Case of Great Britain, p. 35.

57. Ibid., Part II, pp. 36-37.

a copy of Hunter's report. Would the United States temporarily accept the line as drawn by Hunter? Evarts accepted this temporary arrangement on February the 19th, stipulating that the line so drawn was not to run contrary to any of the treaty rights of the two countries. The arrangement so made was not binding due to the fact that the United States Senate never ratified the proposal. It lasted until the modus vivendi of 1899 was agreed upon.⁵⁸

58. Ibid., Part II, pp. 36-37. Appendix A, No. 1.

III

The modus vivendi having been arranged this controversy did not reach another peak until the informal Dall-Dawson conferences at the Fisheries Conference of 1887-1888. By 1884 the boundary question entered into a new phase of its history. Mr. Dall, then of the United States Geological Survey, advanced the theory that the boundary according to the treaty was impossible. Bayard, who became Secretary of State in 1885, endorsed this viewpoint.⁵⁹ In a letter to Lord Salisbury, British Foreign Secretary, Bayard remarked that the Treaty of 1825 really gave no boundary at all. He claimed that this statement was completely and obviously true.⁶⁰ He further stated that Captain George Vancouver was a poor topographer; henceforth Bayard declared the line should go down the middle of Portland Canal until it reached the 56th parallel of north latitude.⁶¹

By this time the Secretary of State was taking an active interest in the question. Three other men were participants in the discussions which led to the conferences of 1887-1888, namely: Sir Lionel Sackville-West, British Minister to the United States; Mr. Phelps, American Minister at London; and Robert Cecil, Marquis of Salisbury, The Foreign Secretary for Great Britain. From the outset a commission was thought highly desirable as a means to a solution.⁶²

59. Senate Executive Documents, 53th. Cong., 2nd. Sess., No. 162, Vol. 16, p. 37.

60. Hugh L. Keenleyside, op. cit., p. 216.

61. Senate Executive Documents, 49th. Cong., 1st. Sess., No. 143, pp. 3-6.

62. Ibid., p. 12.

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Mr. Phelps in an interview on February 12, 1886 broached the subject of a commission to Lord Salisbury who inclined favorably to the suggestion, but said he desired to consult and secure the Dominion Government's assent.⁶³ A change of English Cabinet occurred and Bayard urged Phelps to renew inquiries and negotiations with the new Administration. Secretary of State, Bayard, received the following response in March, 1886:

With reference to the previous correspondence on the the subject, I have the honor to inform you that I am authorized by his Excellence, the Marquis of Landsdowne, to state that he has communicated to Her Majesty's Government the agreement of the Government of Canada in principle to a preliminary survey of the Alaska boundary by a commission.⁶⁴

It bore the signature of H. O. Helyar, Canadian Minister to the United States. Secretary Bayard then notified Phelps of Helyar's letter and instructed him to proceed with the negotiations at once. His instructions were to limit the formulation of an agreement for a preliminary survey of the Alaskan boundary to be used as a basis for a future formal convention.⁶⁵

The British Minister, Sir Lionel Sackville-West, on April 3, 1886 stated that Great Britain agreed in principle to the preliminary examination, "but that the agreement must not be understood necessarily to imply the appointment of a joint commission".⁶⁶

63. Ibid., p. 14, Part I.

64. Ibid., p. 15.

65. Ibid., p. 17.

66. Ibid., p. 17.

Bayard in a letter to Phelps declared that a joint commission was necessary only when the boundary line was actually being laid down. This was a change of attitude because previously he had urged a joint commission for all purposes. Phelps informed Bayard that he had made both proposals. Lord Roseberry of the Foreign Office agreed that a joint commission wasn't necessary, yet he refused to take action until Congress had passed the necessary appropriations. Then according to instructions Sir Lionel Sackville-West left a memorandum at the State Department which pointed out that: (1) Canada did not assent to a joint commission--the Canadians favored a preliminary survey, and (2) Great Britain believed that such an agreement would furnish a satisfactory basis and would settle the argument over the Treaty of 1825.⁶⁷ No definite decision was reached. Secretary of State Bayard in a letter addressed to Great Britain, France, Germany, Russia, Norway, Sweden, and Japan proposed a fur seal fisheries conference. During the Fisheries Conference of 1887-1888 the suggestion was made for an informal consultation between an American and a Canadian representative in order to facilitate the discovery of a basis upon which a line might be chosen. As a result Mr. Dall, of the United States Geological Survey, and Dr. G. M. Dawson, an eminent Canadian authority on such a problem, met in Washington.⁶⁸

67. Ibid., p. 19.

68. Senate Executive Documents, 50th. Cong., 2nd. Sess., Vol. 4, No. 146, p. 1.

The viewpoints taken by Dall and Dawson showed some agreement in thought. Dall was of the conviction that the boundaries specified in the existing Treaty of 1825 were a mistaken assumption and thought it impossible to determine them by a survey. He then offered the following proposal:

Take a point on the passages (rivers) Chilkooot, Taku, Stikine, and Portland Inlets ten marine leagues from the coast. Then let the territory drained by the branches coming into these rivers seaward of those points belong to the United States; that arised by the streams coming in eastward of the monuments (placed at points designated on the Taku, Stikine, Chilkooot, and Portland Inlets) be British. At Portland Channel and Lynn Canal the interior and coast watersheds should form the line. 69

Dall disapproved of any cession of territory along the coast by the United States.

In his report to Sir Charles Tupper, Canadian Premier, Dawson expressed his idea as follows: "On previous careful consideration of the subject, which I had investigated to some extent on the ground, it appeared to me some reciprocal concessionsshould afford the most satisfactory basis."⁷⁰

As Canada's official representative Tupper gave prominence to these points: (1) freedom of intercourse for British subjects on the Stikine, Taku, and Chilkooot Inlets, and the portage at the head of the latter; (2) give to either nation the right to cut wood for fuel, and to navigate the

69. Ibid., p. 3.

70. Ibid., p. 23.

island passages of the Alexander Archipelago; (3) In return for point (1) Americans were to have the right to travel through British land to get to the Yukon; (4) ought not have customs duties on British miner's goods at the portage on Chilkoot Passage, or on Americans passing through British territory while moving toward the Yukon; and (5) Canadian sheriffs be allowed to take criminals from the interior to the coast and down to British Columbia for trial.⁷¹

The discussions were amicably carried on. It was agreed upon that a conventional line might be adopted, which while nearly agreeing with that of the Treaty of 1825, would prove more convenient and less costly to survey. The following conventional lines were suggested by Dall and Dawson: (1) Points on Portland Channel, Stikine and Taku Inlets, and head of Lynn Canal should be decided in some manner. These points should be connected by a series of straight lines running approximately parallel to the coast and being portions of arcs of great circles. (2) A line starting from the above mentioned points should be drawn from point to point. The territory drained by streams debouching to the seaward should belong to the United States, and that drained by streams debouching on the inland side of the fixed points was to belong to Canada. One specification was made, namely: that American territory along rivers was to extend inward not beyond a certain distance and upon having reached that

71. Ibid., p. 10.

point, a straight line should be arbitrarily drawn at right angles toward the north and south and continuing until it met the river winding back toward the coast.⁷² Dall suggested a line be drawn from the point where it left Lynn Canal and carried directly westward until it met the St. Elias Alps,, thence the line was to follow the summit of these mountains to the 141⁰st meridian of west longitude.⁷³

Dall summarized the conferences by remarking as follows:

(1) The parties were chiefly concerned with a matter of principle rather than with the acquisition of a little more or less territory which was regarded by all as practically worthless except for its fur trade; and

(2) That in the delimitation of the territory it was from the first and to the last a question of a parallel of latitude rather than of such a group of islands and such an area of the continent.

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No concrete gains came out of the conference. The question was aired, but little of definite value was decided upon. It did, however, serve as a basis for further discussion.

72. Ibid., p. 8.

73. Ibid., p. 8.

74. Ibid., p. 15.

IV

Information reached the Canadian Government in June of 1888 to the effect that certain persons were about to receive a charter from the Alaskan officials authorizing the construction of a trail from Lynn Canal by way of White Pass to the interior of Alaska. Sir John MacDonald, Deputy Minister of Interior of Canada, declared such a charter was an encroachment on Canadian territory.⁷⁵

The attention of Lord Salisbury was at once called to the matter, and Her Majesty's Minister at Washington was instructed to inform the United States Government that this report had reached the British Foreign Office by whom it was presumed to be unfounded "as the territory in question is a part of Her Majesty's dominions".⁷⁶ Sir Lionel Sackville-West in his request failed to state the exact location of the trail and Bayard in answer stated that neither the Interior nor the State Department had any report of the aforementioned charter. The matter was then dropped.⁷⁷

In April of 1891 the attention of the Canadian Government was drawn to a report of the United States Coast and Geodetic Survey in which it was stated that a survey was about to be made under the authority of Congress which would involve the marking of a line through the head of Portland

75. Senate Executive Documents, 53th. Cong., 2nd. Sess., No. 162, Vol. 16, p. 40

76. Ibid., p. 40.

77. Ibid., p. 40.

Canal to the 56⁰th of north latitude, thence northwesterly following as nearly as might be practicable the general trend of the coast at a distance of about thirty-five miles from it to the 141⁰th of west longitude, thence due north to the Arctic Ocean.⁷⁸ Upon learning of this intention Sir Julian Pauncefote was instructed to remind the United States Government that the boundary at this point momentarily was the subject of some difference of opinion, and that the actual line could only be determined by an international commission. This viewpoint was communicated on June 5, 1891 to the American Secretary of State, James G. Blaine. Action then lapsed until February of 1892, when a conference took place between delegates of the Canadian Government and the Secretary of State, relating primarily to the extension and development of trade between Canada and the United States. At this conference an agreement was reached respecting the Alaskan boundary which was embodied in a convention signed at Washington on July 22, 1892.⁷⁹

By this convention the two countries agreed "a joint survey should be made of the territory adjacent to that part of the boundary line of the United States and the Dominion of Canada dividing the territory of Alaska from the Province of British Columbia and the Northwest Territory of Canada from the latitude of 54⁰ 40' to the point where the said

78. Ibid., p. 40.

79. Ibid., p. 41.

boundary line encounters the 141° of west longitude with a view to ascertain the facts and data necessary to a permanent delimitation of the said boundary line in accordance with the spirit and intent of the existing treaties in regard to it between Great Britain and Russia, and between the United States and Russia".⁸⁰ The two countries also agreed to begin within two months a report to be made within two years, and the expense to be borne jointly.⁸¹ They desired to remove all possible causes for difference in respect to the delimitation of the Alaskan boundary.⁸²

Mr. J. King was appointed as Her Majesty's Commissioner and the United States appointed Dr. T. C. Mendenhall, afterwards succeeded by General William Ward Duffield. The period for making the report was lengthened to December 31, 1895 by a supplementary convention signed in February of 1894.⁸³

It is important to note at this time that the Convention of 1892 referred to an existing boundary line. The facts and data concerning the boundary were to be obtained by a joint survey. Previous cartography or acts of settlement were not embodied in the work authorized by the convention, nor did the commissioners report on such cartography

80. William M. Malloy, "Treaties, Conventions, International Acts, Protocols and Agreements between the United States and Other Powers", p. 764, Vol. I.

81. Ibid., Vol. I, p. 764.

82. Ibid., Vol. I, p. 763.

83. Ibid., p. 765.

or acts of settlement if such existed. A restatement of this was made later by Canada during the Tribunal proceedings. The Commissioners presented their joint report on December 31, 1895, followed by a descriptive report in March of 1896.⁸⁴ No definite action was taken concerning the reports until the modus vivendi of 1899.

84. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 16, p. 42.

V

The control of the Dominion Government in 1896 was won over by the Liberal party. The Prime Minister, Sir Wilfred Laurier, was most anxious to try for a system of reciprocity with the United States and President Cleveland was definitely committed to the idea. The possibility of an agreement on this question led to a discussion of other matters. Other events hurried on a meeting concerning the boundary.⁸⁵

On January 11, 1897 an arbitration treaty was signed by the United States and Great Britain and it was ratified in May by the United States Senate. Sir Julian Pauncefote was the most active diplomat in bringing about the arrangement. The Arbitration Treaty of 1897 provided that:

1. All questions unable to be settled by diplomatic negotiations were to be subjected to arbitration.

2. The tribunal was to consist of six members - three from each nation.

3. The vote should be at least five to one.⁸⁶

Then too, during the years of 1896 and 1897 gold in large amounts was discovered in the Klondike area. This precipitated the famous "Klondike Gold Rush" which brought many people into the territory and raised grave questions of jurisdiction where the boundary line had never been drawn. The only access to the gold fields was through Lynn

85. William A. Dunning, "The British Empire and the United States," p. 324.

86. Senate Executive Documents, 58th. Cong., 3d. Sess., No. 161, Vol. 4, pp. 4-6.

Canal; the importance of the boundary question increased considerably. Canadian pressure increased and more and more were heard demands for adjudication of the boundary question.⁸⁷

In the meanwhile the seal quarrel had come up again. John Hay proposed a meeting of the United States, Great Britain, Russia, and Japan to be held in Washington. The scheme broke down owing to the reluctance of Canada who wanted an Anglo-American conference.⁸⁸ Nothing resulted until 1898 when discussions concerning some sort of a commission were begun by the Convention of January 30, 1897 which provided for a partial survey of the Alaskan boundary.⁸⁹

The discussions, preliminary to the appointment of a Joint High Commission, were carried on by Sir Julian Pauncefote, British Minister at Washington, Sir Louis Davies, Canadian Minister of Marines and Fisheries, John W. Foster, a former Secretary of State, and John W. Kasson, special American commissioner. After several meetings the principals came to an understanding. They decided upon the problems that should come up for amicable settlement; the number of persons to represent each country was fixed; the powers of the commissioners were defined; and the procedure to be followed was stated.⁹⁰

87. William A. Dunning, *op. cit.*, p. 325.

88. R. B. Mowat, *op. cit.*, p. 276.

89. *Ibid.*, p. 277.

90. W. M. Malloy, "Treaties, Conventions, International Acts, Protocols, and Agreements between United States and Other Powers, 1776-1909", pp. 770-772.

The Joint High Commission met in Quebec and Washington from August, 1898 to February, 1899. The policy of leaving Canadian foreign affairs chiefly to the Canadians was again demonstrated. Canada was represented by Lord Herschell, Sir Wilfred Laurier, Sir. R. J. Cartwright, Sir L. H. Davies, Sir J. T. Winter, and John Charlton; the men to represent the United States were; Senator C. W. Fairbanks, Senator George Gray, Mr. Dingley, John W. Foster, J. A. Kasson, and T. A. Coolidge.⁹¹

Twelve propositions presented to the Joint High Commission for settlement were: (1) fur seals, (2) Atlantic and Pacific coast fisheries, (3) the Alaskan boundary, (4) transit of merchandise "across intermediate territory of the other", (5) "Transit of merchandise from one country to be delivered at points in the other country beyond the frontier", (6) alien labor laws, (7) mining rights, (8) reciprocal customs concessions, (9) Lake Agreement of 1817, (10) the marking of the frontier, (11) conveyance of prisoners "in the lawful custody of the officers of one country through the territory of the other", and (12) any other difference not included in the foregoing specifications".⁹²

On August 23, 1898 the Commission organized for business in Quebec. For a time the Commission proceeded without difficulty, but with the assumption of the boundary question

91. W. R. Thayer, "The Life and Letters of John Hay," p.203.

92. R. B. Mowat, op. cit., p. 278.

procedure was more troublesome. In fact so despairing was Secretary of State John Hay, that in a letter to Henry White, American Ambassador at London, he stated:

I hear from no less than three members of our Canadian commission that by far the worst member of the commission to deal with is Lord Herschell, who is more cantankerous than any of the Canadians, raises more petty points, and is harder than any of the Canadians to get along with. In fact he is the principle obstacle to a favorable arrangement. If you could in any discreet way, in conversation with Balfour or Villiers, or even Lord Salisbury, should occasion offer, intimate this state of things, so that they might speak a word which would moderate his lawyer-like zeal to make a case, it would be a good thing. 93

The Commissioners could not agree upon the text of the Convention of 1825. When this disagreement became fixed the Canadians coolly proposed that the United States should cede or grant in perpetuity Pyramid Harbor on Lynn Canal, which was the only safe deep water harbor in the region, and one and two-third miles south of the deep water head of Chilkat Inlet.⁹⁴ This necessitated the cession of a strip of territory directly through the lisiere'. It was the best route of travel into Canada; so remarkable was it that in the opinion of the Alaska Packers Association Canada had nothing equal to offer in exchange.⁹⁵ For military reasons the United States Government could not possibly cede the strip of land which would divide Alaska. The United States refused to act.⁹⁶

93. W. R. Thayer, op. cit., p. 204.

94. George L. Davidson, op. cit., p. 201.

95. Ibid., p. 201.

96. Hugh L. Keenleyside, op. cit., p. 216.

Arbitration in agreement with the Venezuela affair was then offered by the British Commissioners. Arbitration was not favorably accepted by the United States, who wanted an umpire, if they had to have one, from the American continent. John Hay writing to Whitelaw Reid stated:

The position in regard to arbitration is not altogether free from awkwardness. After we had put forth our entire force and compelled, there is no other word, England to accept arbitration in the Venezuela matter, we cannot feel entirely easy refusing on arbitration in this, and yet if we went into arbitration on the matter, although our claim is as clear as the sun in Heaven, we know enough of arbitration, to foresee the fatal tendency of all arbitrators to compromise.

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Canada did not wish to resort to arbitration if it seemed likely that it would end in a deadlock. Thus after several months of discussion the Joint High Commission permanently adjourned on February 20, 1899.⁹⁸

The one positive result of the Joint High Commission was the modus vivendi of 1899. The boundary line by this arrangement was to begin at the peak west of Porcupine Creek running to the Klehine River which it followed for ten miles to the junction with the Chilkat River, thence southwesterly six miles to the peak east of the Chilkat River. On the Dyea and Skagway trails the summits of the Chilkoot and White Passes were the fixed points. Some arrangement was also made concerning the heads of Chilkat,

97. W. R. Thayer, op. cit., p. 207.

98. Hugh L. Keenleyside, op. cit., p. 231.

Chikoot, and Taiya Inlets. It was agreed that the full rights, privileges, and claims of both countries pending a settlement were to be protected.⁹⁹

By accepting the modus vivendi the United States gave an extensive region of placer gold diggings over to the control of Canada. Davidson, a geographer for the Alaska Packers Association, in speaking of the arrangement stated:

"In consideration of the strained relations between the citizens of Canada and the United States on these routes, or for some inscrutable reason, it may have seemed polite to the American members of the Joint High Commission to yield this temporary arrangement for the period during which negotiations toward a settlement are pending."¹⁰⁰

The modus vivendi of 1899 although never ratified by the United States Senate lasted until the Tribunal decision of 1903. Speaking of the modus vivendi the editor of the "Canadian Magazine" stated:

One does not care to speak reservedly on this point since it seems incredible that British diplomacy should once again, after so many fatal blunders, make another concession to deprive us of territory that is ours. The remark of Sir John MacDonald in 1871 recurs to the mind with unpleasant significance: It stated that 'if protection was denied us by England, we might as well go while we had some property left us with what we could make an arrangement with the United States'. The affection of Canada is more deeper and sincere than it was thirty years ago, to trifle with it, however, is hazardous in the extreme. 101

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99. William M. Malloy, "Treaties, Conventions, International Acts, Protocols, and Agreements between the United States and Other Powers, 1776-1909", Vol. I, p. 777. Appendix A, No. 2.
 100. George L. Davidson, op. cit., p. 197.
 101. Canadian Magazine, Vol. 20, Nov. 1902, p. 62.

VI

The commission to finally settle the boundary dispute to the governmental satisfaction of both countries was the Boundary Tribunal of 1903. The convention signed on January 20, 1903 was an outgrowth of the very friendly relations between the United States and Great Britain. Neither Canada nor the United States was satisfied with the modus vivendi of 1899.

Secretary of State John Hay was very anxious to secure a treaty. In the new alignment of world politics, which was measured by continents, Hay deemed it of utmost importance that friendship should be cemented between the United States and nations of western Europe. His first object was to make for closer bonds with Great Britain, in order that these two nations should be strengthened against possible conflict with other rivals.¹⁰²

Working through Paunceforte and his successor, Sir Michael Herbert, Hay was able to bring about the arrangement. The Convention of 1903 provided for the organization of the Tribunal; the procedure to be followed; the treaties to be considered in the Tribunal meetings; the questions to be settled; the places and numbers of meetings; the decision to be made; and the provisions for ratification by the principals involved. The purpose of the convention was well stated in the preamble:

102. W. R. Thayer, op. cit., p. 202.

The United States and His Majesty, Edward VII, equally desirous for the friendly and final adjustment of the boundary differences which exist between them in respect to the meaning and application of certain clauses of the convention between Great Britain and Russia signed under the date of February 28, 1825, which clauses related to the delimitation of the boundary line between the Territory of Alaska, now in the possession of the United States, and the British possessions in North America, have resolved for the submission of the questions as hereinafter stated to a tribunal'. 103

The first meeting of the Tribunal was held September 3, 1903 in the rooms of the British Foreign Office. Previous to the meetings cases, counter-cases, and printed arguments were exchanged by the two parties. The Tribunal was to consist of six impartial jurists, whose decision was to be a majority vote of the judges. Each country was to select three of the judges.¹⁰⁴

To represent the United States President Roosevelt chose Elihu Root, Secretary of War; Henry Cabot Lodge, United States Senator from Massachusetts; and George Turner, United States Senator from the State of Washington.¹⁰⁵ When these selections became known a storm of protest swept over Canada, and the Dominion Government took the unusual step of formally objecting to the choice of the two Senators.¹⁰⁶ Roosevelt, however, made no changes and Canada was unable to do anything except to protest through the press.

103. William M. Malloy, "Treaties, Conventions, International Acts, Protocols, and Agreements between the United States and Other Powers, 1776-1909", Vol. I, p. 787.

104. Ibid., p. 788.

105. Senate Executive Documents, 58th Cong., 2nd. Sess., No. 162, Vol. 15, p. 15.

106. Hugh L. Keenleyside, op. cit., p. 218.

A Canadian authority writing recently on the matter has remarked:

Elihu Root had then, as now, the confidence and respect of the whole English-speaking world. He was, and is, a man of the most scrupulous honesty; honorable, able, and conscientious. Senator Turner was little known even in his own country but was a politician from Washington, the state most vitally interested in the retention of Alaska. The political career of Henry Cabot Lodge, on the other hand, had been characterized by an excessive devotion to partisan and nationalistic ends. It is not too much to say that for a quarter of a century he had been recognized as a mischievous force in international relations and that in relation to things British in particular he had displayed a complete lack of objectivity. He had been the incarnation of bigoted nationalism and jingoistic imperialism and his nomination as an "impartial jurist of repute" was bitterly resented in Canada. 107

"If Lodge and Turner are to represent the United States," declared the Toronto Globe, "it makes little difference how ably the Canadian case is presented." The Montreal Gazette agreed that "the representatives of the United States were hardly open to conviction," while the Toronto News summed it up thus: "Mr. Root is a lawyer of real eminence; Senator Lodge is a well known jingo; and Senator Turner comes from the "State" in which Seattle is situated." 108

Speaking of the two American judges, Lodge and Turner, the Manitoba Free Press on February 24, 1903, declared: "Whatever may be said of the final decisions of the Tribunal it must be agreed that in making these selections the United

107. Ibid., p. 218.

108. Ibid., p. 219.

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states Government dishonored its own treaty." The Ottawa Citizen stated: "Neither of them is an impartial jurist in any sense of the word. Both of them are extreme partisans..... Senator Lodge, a fiery jingo, has delivered characteristic intemperate speeches on this very subject which he is now supposed to view with objective eyes; speeches in which he assailed Great Britain and sneered at Canada..... Turner represents the state in which are centered the interests which will derive most benefit from a settlement in harmony with the American contentions."¹⁰⁹

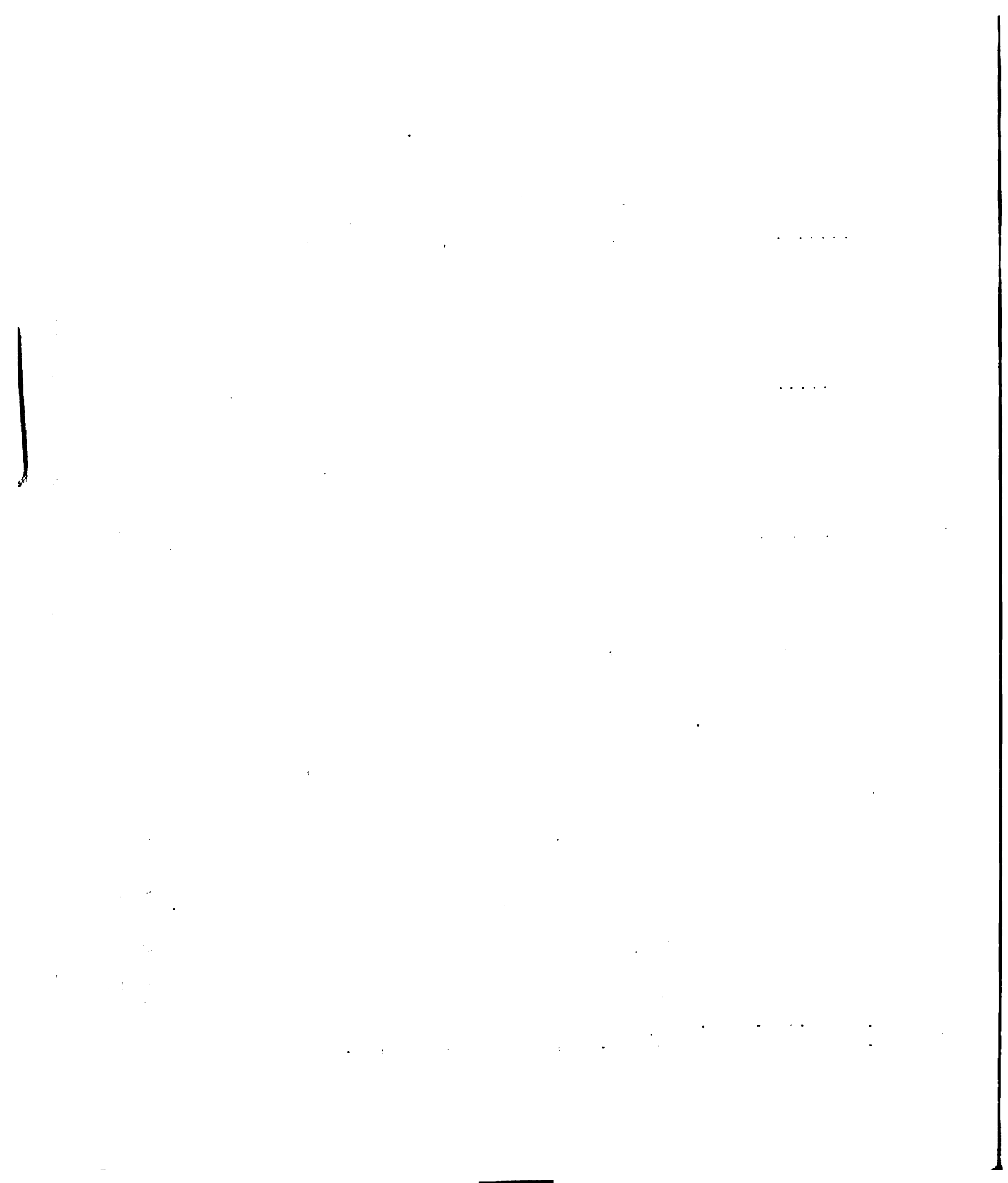
Speaking of the breach of the treaty by the United States, F. C. Wade, one of the counsel for Great Britain stated: "I have no comment to make on this except the obvious one that a more gross breach of faith on the part of any nation, great or small, could not be imagined, and that we seem to have traveled a long way since the days of Washington and Lincoln."¹¹⁰

In the United States a leading liberal newspaper, Springfield Republican concurred with the opinion of the Canadian press when it remarked:

"If the President of the United States were to seek the country over for men who were entirely without the judicial quality on this question, he could not find persons whose

109. Ibid., p. 218.

110. Canadian Magazine, Vol. 22, February, 1904, p. 336.



minds are more set than Messrs. Lodge, Turner, and Root. Their selection cannot be interpreted in any other way than that the President intends to block the slightest chance of a decision in the least favorable to Canada";¹¹¹ while on the other hand the Seattle Post declared, "that there was nothing to arbitrate and was proud of the fact that none of the American Commissioners would yield on a single point."¹¹²

In an attempt to defend himself against this tirade of criticism Roosevelt in a letter to Oliver Wendell Holmes, an Associate Justice of the United States Supreme Court, explained his choice in "that no three men fit for the position could not be found in all the United States who had not already come to some conclusion", and the American delegates were "anxious to do justice to the British claim on all points".¹¹³

Thus from the outset the United States Government aroused Canadian ill-feeling. Roosevelt, of course, in his own mind was satisfied that he had made the best possible selection. It was generally agreed in Canada and Great Britain that the men chosen to represent them were "impartial jurists of repute.". They chose Sir Louise Jette of Quebec Province, Mr. Allen B. Aylesworth of the city of Toronto, and Lord Alverstone, Lord Chief Justice of England.¹¹⁴

111. Hugh L. Keenleyside, op. cit., p. 219.

112. Ibid., p. 219.

113. Ibid., p. 220.

114. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, p. 15.

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The Canadian press leaned favorably toward Jette and Aylesworth, but not so toward Alverstone. The Victoria Colonist on February 24, 1903 printed the "tone of the British press toward the Boundary Commission foreshadows a surrender to the United States", while in England the London Saturday Review emphatically reiterated that "the directors of our foreign policy are throwing our premier colony to the able diplomacy of the United States as a pledge of determination to be friends at all hazards".¹¹⁵ On the whole the Canadians were dubious as to the attitude of Alverstone. It was almost certain that the two Canadians would vote for Canada's claims. Hence it may be concluded that the only impartial member of the Tribunal was Lord Alverstone.¹¹⁶

There were a number of other persons involved in the proceedings. John W. Foster, former Secretary of State, was designated as the Agent of the United States, while Clifford Sifton served in the same capacity for Great Britain. Mr. Reginald Tower, British Ambassador at Munich and Stuttgart, was designated as the Tribunal's Secretary, and with Mr. J. R. Carter, Second Secretary of the American Embassy and Mr. Joseph Pope, Under-Secretary of Canada, as Assistant Secretaries. Jacob M. Dickinson, David T. Watson, Chandler P. Anderson, and H. Taylor were chosen as counsels

115. Hugh L. Keenleyside, op. cit., p. 224.

116. Ibid., p. 224.

for the United States, while Sir Robert Findlay, Sir Edward Carson, Mr. Christopher Robinson, Mr. F. C. Wade, Mr. L. P. Duff, and H. Geoffrion of the Canadian bar, and S. A. Rowett, and J. A. Simon of the English bar, acted as counsels for Great Britain and Canada.¹¹⁷

Seven problems in the form of questions were placed before the Tribunal. These questions were:

1. What is the intended point of commencement of the line?
2. What channel is Portland Channel?
3. What should be the course from the point of commencement to the entrance of Portland Channel?
4. To what point of the 56⁰th parallel should the line be drawn?
5. Was Russia to remain in the exclusive possession of a continuous strip of territory separating English land from ocean waters?
6. From what coast or line should the width of the lisiere be measured?
7. What if any, are the mountains referred to as situated parallel to the coast?¹¹⁸

The points at dispute rested in the meaning and interpretation of the Anglo-Russian Treaty of 1825, which

117. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, pp. 15-16.

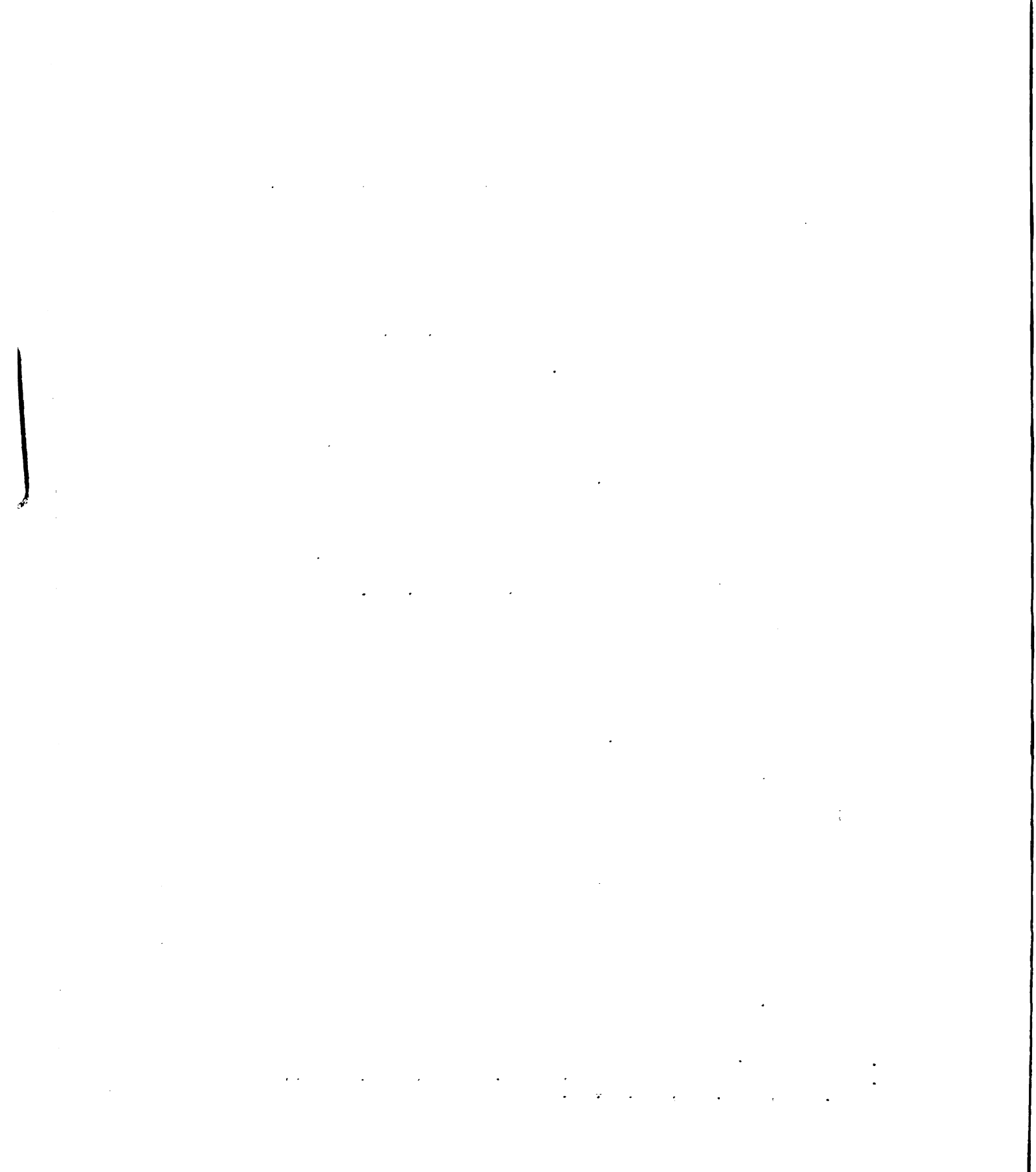
118. William M. Malloy, "Treaties, Conventions, International Acts, Protocols and Agreements between the United States and Other Powers, 1776-1909", Vol. I, pp.790-791.

involved a discovery of the intentions, knowledge, claims, attitudes, and devices of the plenipotentiaries to the conference that framed the treaty. In an appendix to this essay will be found the various translations together with the original French wording of Articles III, IV, and V of the Anglo-Russian Treaty of 1825.¹¹⁹

Before going into a discussion of the contentions of the two countries it may be stated that both parties, but especially the United States, introduced the contentions by basing their claims on and using as a basis of procedure the "Rules of Interpreting a Treaty" by William Hall, taken from Wattel's "Law of Nations", Book II, pp. 268-286 wherein he stated: (1) When a treaty yielded a plain and reasonable sense it should be interpreted accordingly; (2) if there was no plain sense then the general sense of the treaty should be discovered. In interpreting a treaty a person should: (1) Discover the dominant intention of the treaty; (2) consider the subsequent acts of the parties to the treaty; (3) consider the situation and circumstances in which the treaty was made; (4) interpret obscurities according to the probable thoughts of the negotiators; and (5) discover the true motive which led to the drawing up of the treaty.¹²⁰

119. Appendix B.

120. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 18, pp. 8-10.



It was generally conceded that the United States presented a much stronger case. Both Great Britain and the United States presented a history of the controversy such as had been attempted in the preceeding pages and concluded by requests for certain decisions. The counter-cases added evidence and refuted the claims of the other party to the dispute. The minds of the American judges had by this time been made up as was shown by a letter of Lodge to Roosevelt on July 30, 1903 when he stated:

The British counter-case is extremely weak. I have read that and our own since I wrote you and our own is very strong. At the same time I have not much hope of reaching an agreement for I do not think they will have the courage to decide against the Canadians, and the Canadians are so perfectly stupid about it that they utterly fail to see that a disagreement deprives them of their only chance to get out of the matter creditably and leave the land in our possessions. 121

It must be remembered the only maps available in 1825 were those of Vancouver. In the course of the preparation of the cases the American counsel noticed discrepancies between Vancouver's narrative and his maps. It was agreed in principle that in these cases the maps were to be consulted. The British contended that the only maps worthy and necessary including Vancouver's were the maps prepared by the Joint Commission authorized by the Convention of 1892.

121. Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884-1918, Vol. 2, p. 41.

America wanted to bring additional recent maps into the Tribunal discussions.¹²²

The United States attempted to show that Canada until 1839 did not object to the arrangement of 1825. The American case established these facts: (1) that Great Britain during the thirty years after the Purchase of Alaska in 1867 had never given notice to the United States that she was claiming any part of the territory ceded by Russia; (2) that the United States had entered into possession of, and had occupied the lisiere, had exercised sovereign rights therein, and treated the same at all times as a part of its national domain; and to such occupation and exercise of governmental authority Great Britain had entered no protest or objection.¹²³

On the other hand Canada attempted to prove that from the incorporation of British Columbia into the Dominion of Canada in 1871, she had continually requested the settlement of the boundary question.¹²⁴

There was no great difference of opinion over the first question. The United States contended that the point of commencement was Cape Muzon which at the time of the negotiations of 1824 and 1825 was believed to be the southernmost point of Prince of Wales Island.¹²⁵ It was proved by

122. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, Part II, p. 95. Appendix, A, No. 3.

123. Ibid., p. 102.

124. Ibid., Vol. 16, Case of Great Britain, p. 42.

125. Ibid., Vol. 15, Part II, p. 103.

the maps of the Joint Commission of 1892 that Cape Muzon was the southernmost point of Dall Island and that Chacon was the true southernmost point of Prince of Wales Island. Hence the British contended for Chacon Point, but said that they would be satisfied with Cape Muzon.¹²⁶

The second question presented a greater difficulty. This involved an interpretation of Vancouver's charts. There were several openings into the ocean from Portland Canal and it was doubtful as to which one Vancouver had intended to be the true Portland Channel. The British claimed that the channel passed between Tongass and Kannaghunut Islands, so that Wales, Sitklan, Pearse, and Kannaghunut Islands belonged to Canada. The United States insisted that Portland Channel did not follow a straight line but angled between Pearse Island and Ramsdem Point; this gave the United States the four islands. The United States supported this claim by insisting that the line follow the parallel of $54^{\circ} 40'$ a contention based on the fact that this line was mentioned in the negotiations of 1825 in regard to the point of commencement. Canada, in respect to the claim of $54^{\circ} 40'$, replied that in the negotiations Russia had taken a stand upon the charter of Tsar Paul and had claimed down to 55° north latitude. Since the parallel of 55° cut Wales Island near its southern extremity Politica

126. Ibid., Vol. 16, Case of Great Britain, p. 48.

proposed that the rest of the island go to Russia -- as a result the starting point accidentally was 54° 40'.¹²⁷

The United States endeavored to show the channel they chose was the most navigable and that according to international law this was proof enough that the claimed channel, Observatory Inlet, was the true Portland Channel.¹²⁸

The United States and Great Britain respectively concluded their arguments with the following claims:

The United States requests the Tribunal to answer and decide that Portland Channel is the same body of water now commonly known and described as Portland Canal, which, passing from the north between Ramsden Point on the mainland and Pearse Island, and thence southward of the same island and Wales Island to enter Dixon Entrance between the island last mentioned and Compton Island.¹²⁹

Great Britain contends that Portland Channel means the passage Vancouver called Portland Canal and which enters the ocean between Tongass Island and Kannaghunut Island leaving Sitklan, Wales, and Pearse Islands on the south and east. The canal is not to be departed from and if done so is not the entrance of Observatory Inlet.¹³⁰

The solution to the third proposition was dependent upon the answer given in the second problem. Great Britain claimed that the line ran from Cape Muzon or Chacon to the center of the channel between Tongass and Kannaghunut Islands;¹³¹ while the United States wanted the line to run from Cape

127. Ibid., p. 63.

128. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 18, p. 32.

129. Ibid., Vol. 18, p. 43.

130. Ibid., Vol. 16, p. 65.

131. Ibid., Vol. 16, Part I, p. 65.

Muzon in an easterly direction until it intersected the center of Portland Channel at its opening into Dixon Entrance.¹³²

The fourth proposition presented a more difficult problem. In the first place they didn't know to what point on the 56° parallel the line should be drawn to, and secondly they didn't know what course the line should follow. Great Britain declared that the point to which the line should be drawn was the point from which it was possible to continue the line along the crest of the mountains situated parallel to the coast.¹³³

The United States emphatically stated that the British claim was contrary to the Treaty of 1825 since the line recommended by them cut off a point of Bell Island and part of the mainland from the American possessions since there was no possible construction of the treaty that enabled Great Britain to claim any part of the mainland.¹³⁴ Therefore, the United States requested the Tribunal to draw the line along Portland Channel to its head and continue it until it intersected the 56° parallel north latitude.¹³⁵

Bitter words were exchanged when the fifth problem was taken up and as a result long arguments were forthcoming.

132. Ibid., Vol. 15, Part II, p. 107.

133. Ibid., Vol. 16, pp. 71-72, Part I.

134. Ibid., Vol. 18, pp. 60-61.

135. Ibid., Vol. 15, Part II, p. 104.

The Canadians stated that it was not the intention of the Treaty of 1825 to exclude them from the inlets, bays, and havens along the coast. The United States asserted that Russia under the Treaty was left in control of a continuous strip of land not to exceed ten marine leagues in width.¹³⁶ Any answer that might be given was dependent upon the meaning attached to the French word cote. To the Americans the word meant continuous land with all the sinuosities and indentations so that the boundary would never come within thirty miles of the tidewater. Canada had a different interpretation; to them it meant a line that applied to the coast outside the narrow inlets, to general trend, and that did not penetrate farther in than a boundary line drawn from headland to headland.¹³⁷

The United States attempted to prove the efficacy of its claims by referring to international law which stated that there were two coast lines, an inner and an outer one. In measuring boundaries the inner coast line was used - Canada agreeing that was the proper course to pursue along the Alaskan coast, but the two parties would not agree to the use of the physical coast line which up to that time had been used by all nations in drawing boundaries. By using the physical coast line the United States would prevent the drawing of a line following the general trend of

136. Ibid., Vol. 16, pp. 71-72.

137. Ibid., Vol. 18, p. 65.

the coast which in turn would have permitted Canada to have access to the ocean.¹³⁸

The Canadian claim insured Canada an arm of the ocean that afforded the most practical access to the Klondike gold fields which were mostly on Canadian soil, while the American claim shut Canada from the ocean north of Cape Muzon.¹³⁹ Thus the United States requested the Tribunal to answer and decide in the affirmative¹⁴⁰ while Great Britain demanded a negative answer.¹⁴¹

The sixth question dealing with the manner in which the width of the lisiere was to be measured depended upon the answer given in the fifth instance. If the fifth question was answered in the affirmative there was no need for an answer in the sixth. But if the fifth was answered in the negative the United States requested that the line be drawn from the heads of all the inlets along the lisiere.¹⁴² Great Britain requested that "the width of the lisiere be measured along a line perpendicular to the general direction, locally, of the mainland coast of the ocean".¹⁴³

The seventh and last question created considerable discussion. The United States contended that the mountains referred to in the Treaty of 1825 really did not exist. They

138. Ibid., pp. 15, 18.

139. W. A. Dunning, op. cit., p. 322.

140. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, Part II, p. 105.

141. Ibid., Vol. 16, pp. 72-73.

142. Ibid., Vol. 15, Part II, p. 105.

143. Ibid., Vol. 16, p. 78.

went on to state that Vancouver was a very poor topographer and had misrepresented the mountains. Mr. Dall had made an extensive survey of the area during the last decade of the nineteenth century and had been unable to find the mountains referred to by Vancouver. Therefore, the United States requested the Tribunal to decide that "such mountains do not exist within ten marine leagues of the coast".¹⁴⁴ Great Britain contended that "there are such mountains and that they are to be found fronting the general coast of the mainland along the whole coast from 56° north latitude northward".¹⁴⁵

There was some doubt as to possibility of an agreement between the Judges of the Tribunal. An editorial appearing on September 12, 1903 in Harper's Weekly stated:

It is expected that the consideration of the case will be complete within two months, but whether any award is rendered depends upon the question whether the American Commissioners can succeed in convincing their British Colleagues that their claim is well founded. Otherwise the Commission will be divided and no decision will be rendered.

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Any decision that might be made depended upon the attitude of Lord Alverstone. Lodge in writing to Roosevelt on September 12, 1903 stated that Alverstone was at that time somewhat contrary to the American view and that if he

144. Ibid., Vol. 15, Part II, p. 106.

145. Ibid., Vol. 16, Part I, p. 78.

146. Harper's Weekly, Vol. 47, September 12, 1903, p. 1468.

persisted in remaining such the American Commissioners would cause a split and the lisiere would be taken over by the troops which Roosevelt had stationed in Alaska for that very purpose.¹⁴⁷ However, Alverstone did weaken and in accordance with the Convention of January 24, 1903 a written decision was submitted to the Tribunal by the six Judges.¹⁴⁸

The Tribunal Judges decided that: (1) the point of commencement was Cape Muzon; (2) Portland Channel was the channel which passed north of Pearse and Wales Islands, and which after passing north of Wales Island passed between Wales and Sitklan Islands into and through a channel called Tongass Channel; (3) the line was to run from points "B" to "C" as marked upon the map; (4) the line was to be drawn to the point on the 56° parallel marked "D" on the map with the boundary line to be drawn from "C" to "D"; (5) the fifth question was answered in the affirmative; (6) no answer was necessary for the sixth; and (7) there were such mountains parallel to the coast but their exact location would have to be determined before a definite line could be drawn.¹⁴⁹

The draft was signed by Lord Alverstone, Elihu Root, Henry Cabot Lodge, and George Turner. Jette' and Aylesworth refused to sign the document.¹⁵⁰

Following the Tribunal's decision the Judges submitted

147. Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, Vol. 2, p. 57.

148. Senate Executive Documents, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, p. 32.

149. Ibid., p. 32. Appendix A, No. 4.

150. Ibid., p. 32.

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written opinions on the most troublesome of the questions.

The second question was the first to be contended. Mr.

Aylesworth stated:

The course for the boundary is directly opposite to the distinct findings made, and the whole line of reasoning adopted by the President in his memorandum of reasons for the decision. It was a line of boundary which was never so much as suggested in the written case of the United States or by counsel before us. No intelligent reason for selecting it has been given in my hearing. 151

Jette said Canada had been compromised and the unheard of had been done when the line was so drawn contrary to all previous and logical understanding. 152

Alverstone defended his position concerning the sharp turn in the boundary by saying that "the reference to Tongass Island in 1835 as being on the frontier of the Russian Straits, and in 1863 as being on the north side of Portland Canal, and in 1867 as to Tongass being on the boundary line between Canada and Alaska, are strongly confirmative of the view arrived at". 153

The fifth question aroused severe comment. Aylesworth contended that the width of the lisiere should be measured from the outer coast and that when the Treaty spoke of ocean line it did not refer to the coast line along Lynn Canal. 154 Jette' ridiculed the decision which deprived Great Britain

151. Ibid., p. 84.

152. Ibid., p. 70.

153. Ibid., p. 36.

154. Ibid., pp. 88-91.

of any access to the sea along the whole lisiere.¹⁵⁵ The American Judges stated that the ordinary meaning of the Treaty called for the exclusion of Canada from the ocean and that all the official maps for a period of sixty years had drawn the line accordingly.¹⁵⁶ Alverstone based his construction upon the ambiguities of the Treaty of 1825. He was of the firm conviction that the line was to be drawn around the bays, havens, and inlets.¹⁵⁷

Canada was very critical of the outcome of the award. This criticism was directed not so much against the details of the award itself as against the methods employed in reaching the decision. Two main lines of criticism as presented in the national press were; first, the betrayal of Canada's interests by the mother country for political reasons; and second, the American disregard of the convention stipulation in the selection of jurists.¹⁵⁸

Regarding the first point the Vancouver Province on October 21, 1903 stated: "It showed that we cannot depend upon the mother country to protect our interests; it shows that we cannot depend on her to see common justice done us, when, by sacrificing us, she has an opportunity of catering to a sentiment which does her much less credit than she imagines". The Victoria Colonist summarized the Canadian

155. Ibid., p. 79.

156. Ibid., pp. 46-48.

157. Ibid., pp. 37-38.

158. Hugh L. Keenleyside, op. cit., p. 227.

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feeling as follows: "About the decision we do not care. Our main consideration is the means by which it was arrived at. The prevailing tone of the British press has not been the necessity of maintaining imperial rights, but the necessity of cultivating the friendship with United States." The Rossland Miner on October 22, 1903 declared in a bitter mood: "Perhaps we should be thankful that there is no territory left which prospering America can reach for, and complacent British Commissioners give away". The Toronto World on October 19, 1903 printed: "This is not the first time British diplomacy has proven costly to Canada. Canada, however, accepted a "loaded" Tribunal as a means of effecting settlement. The negotiations have gone against us. It is our duty to submit What Canada should do to protect herself in the future is a question which deserves and will undoubtedly receive deep consideration."¹⁵⁹

R. E. Gosnell, Victoria Provincial Librarian, in criticizing England's early foreign policy asserted: "If some years ago the imperial authorities had understood the advantage of possessing Alaska, Great Britain, today, would be troubled with one less of those boundary disputes in which they are so extensively involved, and there would be to us the supreme satisfaction of seeing the Dominion of Canada absolute possessor of all the territory between the 49th parallel and the Artic Ocean."¹⁶⁰

159. Ibid., p. 228.

160. Canadian Magazine, Vol. 6, January, 1896, p. 248.

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Not only was Canada disgusted with Great Britain but also with the "impartial jurists", especially those of the United States. Perhaps the best summary of the Canadian viewpoint is to be found in an editorial of the Manitoba Free Press, October 19, 1903 from which the following is quoted:

We recognize that the Canadian case may have been the weaker of the two. If this were the case it undoubtedly is unfortunate that the decision should have been reached by means that have left one of the parties to the dispute convinced that it has not been justly dealt with. The merits of the case, to the satisfaction of one of the parties can never be decided now. If Canada was the right the decision was lamentable; if she was wrong it is calamitous that an impartial Tribunal could not have made this clear, as it is, the damage is irreparable. Canadians, with very few exceptions, will accept without question the statements of their representatives that their interests were sacrificed and the resulting resentment is certain to affect the attitude of Canada toward the United States, and in a still greater degree, toward the Motherland. 161

The Le Journal, an important French Montreal daily, stated: "We find ourselves contemplating, not the decisions of an arbitration Commission, but a diplomatic arrangement." 162

John A. Cooper in the Canadian Magazine stated that Canada's rights were sacrificed for imperial gain and "if the Canadian Government had thought for a moment that in this case the decision would have been diplomatic and not judicial it is safe to say that they would never have agreed to this reference to six jurists." 163

161. Hugh L. Keenleyside, op. cit., p. 228.

162. Ibid., p. 227.

163. Canadian Magazine, Vol. 22; November, 1903, p. 93.

United States was elated and satisfied. Everything had gone her way and even the concession she did make seemed to favor her. President Roosevelt was certain that the United States had attained her just rights, and that Canada was not actually losing territory. Roosevelt, of course, had exercised much influence over the Tribunal and perhaps this partly accounted for the decision. Likewise, the American press lauded the decision and criticized the Canadian attitude.

Commenting on Lord Alverstone Harper's Weekly of October 31, 1903 declared:

By the decision rendered in the Alaskan controversy he has convinced the American people that a British jurist can be trusted to act on an international tribunal without any proper bias in favor of his native land. He has gone far to convince us, for the first time, not only that it might be at once safe and wise to refer to arbitration all future disputes between Great Britain and the United States, but that the arbitration might well be of a unique and imposing kind, reflecting equal honor on both parties thereto.¹⁶⁴

The Living Age sympathized with Canada: "We sympathize with the Canadians in their disappointment, and we fully understand their soreness in view of the, to say the least, of the non-judicial quality of the American side of the Tribunal."¹⁶⁵

Harper's Weekly severely criticized and rebuked Canada for her unfriendly protest: "Evidently the Canadians are poor losers.....We prefer to believe that they have been

164. Harper's Weekly, Vol. 49; October 31, 1903, p. 1728.

165. Living Age, Vol. 239; November 21, 1903, p. 505.

carried away by irritation, and by their keen disappointment are disabled for evincing the equanimity, the resignation, the cheerful acceptance of accomplished facts which were exhibited by the American members of the board to which the Bering Sea controversy was submitted."¹⁶⁶

The United States felt that it had achieved a diplomatic triumph and had at the same time secured a more friendly understanding with England. Most of the American people were convinced the Tribunal's decision was a right and just one.

166. Harper's Weekly, Vol. 47; p. 1777.

VII

In 1905 and 1906 the final chapter of the Alaskan boundary dispute was written. Canada alone could not repudiate the decision of the Tribunal. The United States and Great Britain were anxious to conclude the settlement and to smoothen out the difficulty concerning the seventh question which judges of the Tribunal had encountered.

On January 24, 1904 Mr. Loomis, Acting Secretary of State, received a note from Sir Mortimer Durand, British Ambassador at Washington, informing him that the Canadian Government was ready to enter into arrangements for the delimitation of the boundary between British Columbia and Alaska, and they proposed to appoint Mr. King as their member of the Delimitations Commission. Mr. Loomis informed Durand on February 5, 1904 that Mr. O. H. Tittman, Superintendent of the Coast and Geodetic Survey, had been appointed as the United States' member on the commission for drawing the boundary in conformity with the Tribunal award. He also advised that "owing to the brief season in which work can be done to advantage I venture to suggest to your Excellency the expedience of an early conference between Messrs. Tittman and King in order that work may be begun without undue delay."¹⁶⁷

Sir Mortimer Durand on October 1, 1904 told Loomis that Tittman and King had completed their work and that Canada

167. House Documents, 58th. Cong., 3d. Sess., Vol. 1, p. 324.

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was satisfied with the proposed line and "they have expressed the wish that the United States should be approached with a view to obtain their formal agreement to that line as an international boundary".¹⁶⁸ A copy of the report of the Delimitations Commission was enclosed in the letter.

John Hay on December 2, 1904 after studying the report of Tittman and King announced to Durand: "In reply I have the honor to state that the Government of the United States is likewise ready to accept the proposed line as satisfactory, and considers that it will be sufficient for the two governments to accept formally the recommendations of the commissioners by an exchange of notes."¹⁶⁹

Thus on March 25, 1905 notes were exchanged by the respective governments. Alvey A. Adee, Acting Secretary of State, in a note to the British Ambassador, H. M. Durand, accepted the line drawn between points "P" and "T" as drawn by Tittman and King. Durand gave to the Secretary of State a similar note expressing Great Britain's acquiescence.¹⁷⁰

The following year Roosevelt was able to secure with Great Britain an agreement for the surveying of the 141st meridian west longitude as a boundary between Alaska and the Dominion of Canada.¹⁷¹

The Alaskan Boundary Convention of 1906 provided for

168. Ibid., p. 325.

169. Ibid., p. 325.

170. House Documents, 59th Cong., 1st. Sess., Vol. 1, pp. 478-480.

171. House Documents, 59th. Cong., 2nd. Sess., Vol. 1, pp.801, Part I.

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the appointment of one commissioner by each country for the purpose of making a survey. A starting point on the 141st meridian west longitude was to be determined and then to trace "as much of the north and south line passing through the said point as is necessary to be defined to determine the exact boundary as established by the Treaty of 1825."¹⁷²

So ended the difficult boundary contention that had tried the tempers of the English-speaking peoples continually since the beginning of their new history as neighbors. Until some new and unforeseen acquisitions of territory by one or the other of the nations shall take place, no further difference of this sort seems possible. Every yard of the 4,000 mile line along which the British and American domains are contiguous, from the Bay of Fundy to the point where the 141st meridian intersects the shore of the Arctic Ocean is now fixed and most of them by the most precise methods known to modern science.¹⁷³

172. William M. Malloy, "Treaties, Conventions, International Acts, Protocols, and Agreements between the United States and Other Powers, 1776-1909", Vol. 2, p. 803.

173. R. B. Mowat, *op. cit.*, p. 333.

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VIII

The award made by the Alaskan Boundary Tribunal of 1903 appears to have been a just and right one. The United States had exercised complete sovereignty over the disputed area since the purchase of Alaska from Russia in 1867. Canada at no time had attempted to control the area or any of its bays and inlets. Until the discovery of gold in the Klondike area Canada had not placed any pressure upon Great Britain for an immediate settlement. After 1897 the need for a waterway into the British hinterland became necessary. All things considered it now appears that Canada had the weaker claim.

In order to understand why the Alaskan boundary dispute was settled by the United States and Great Britain in the manner previously narrated, it is necessary to realize the status of Great Britain internationally during the early years of the twentieth century. The adjudication and settlement of the boundary question was not a matter of a few square miles to England; it was the absolute need of a powerful ally to stand with her against certain European powers. German industrialism was at the point where expansion was necessary if its industries were to survive; consequently she was looking for colonies which might furnish new markets and raw materials. Kaiser Wilhelm had attempted to increase the friendly feeling between Great Britain and

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Germany by visiting England in 1905, but the trip failed miserably. France, fearing Austria and Italy, could not reciprocate too openly as a friend of Great Britain. France was having trouble in Morocco due to German intervention. Czar Nicholas II was a cousin of Kaiser Wilhelm and was most anxious to remain friendly toward Germany. The only powerful unallied nation was the United States, and in view of the enormous military strength of Germany, it was both wise and necessary to befriend the United States who could furnish material and manpower in case of war.

Great Britain relative to the Alaskan boundary had no choice to make even though she had become exasperated with Roosevelt's aggressiveness. The Dominion interests had to be sacrificed for a larger and more necessary gain. The combined efforts of Great Britain and the United States led by President Roosevelt did result in the submission of the Moroccan question to a meeting of powers which group decided against Germany. Roosevelt seemed to have influence over the Kaiser and this was helpful to Great Britain. United States and Great Britain had been on friendly terms for many years and had been able to adjust their difficulties amicably by some form of arbitration. Therefore, rather than break off this friendly relationship with the United States and endanger her position in Europe, England sacrificed the smaller material gain on the North American Continent.

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An anti-American feeling had been slowly developing in Canada and naturally the sentiment increased following the decision of the Tribunal of 1903. The Canadian press lambasted Roosevelt continually with sarcastic inferences respecting the avarice and greed of the American people.

Whether or not this feeling had something to do with the failure of the reciprocity treaty between Canada and the United States during the Taft administration is hard to conclude. Undoubtedly the economic interests of Canada had more to do with the shaping and defeating of the reciprocity treaty than any other single influence or factor. From a political viewpoint it may be possible that Clifford Sifton, Agent for Great Britain at the Tribunal of 1903 and later leader of the Conservatives, was affected by the decision to the extent that his anti-Americanism became far more intense and he was very eager to defeat Laurier and the Liberal Party. Henry Cabot Lodge earlier had remarked that Laurier feared Sir Charles Tupper, then leader of the opposition party, more than he feared Salisbury and McKinley combined.¹⁷⁴ There is the possibility that the Liberals feared a settlement in favor of the United States because the Conservatives were likely to make a political issue out of the outcome at home. It may be that the Liberals brought about a stronger expression of anti-Americanism among the Conservatives with the result that this same spirit was

174. W.R. Thayer, "Life and Letters of John Hay", Vol. 2, p. 114.

again displayed during the reciprocity negotiations of 1910-1912. On the whole, however, economic considerations and not patriotic sentiment seem to have been responsible for the defeat of reciprocity.

Canadian public opinion after the decision was both favorable and unfavorable. The national press was very severe in its criticism of Lord Alverstone. In Canada two groups had arisen over the issue as to whether Canada ought or ought not belong to the British dominions. The expression of these two attitudes was evinced earlier when Laurier during the Boer War sent 7,000 Canadians to Africa. The French Canadians were not pleased with the action and became bitter opponents of the Liberal Party. Laurier leaned toward imperialism until his defeat in the election of 1910. It appears that the outcome of the dispute did not shake the Liberal Party's confidence in the British Government although an unfavorable press and public opinion had arisen. The anti-imperialists desiring to sever relations with^{England} deemed the Alaskan Boundary Tribunal to be one of those British mistakes which were beginning to prove so costly to Canada. Laurier, of course, found that he had not only the Conservatives, but also the anti-imperialists to oppose. It appears that the decision of the Alaskan boundary dispute added to the long list of people who wanted to break away from the mother country.

Canada, even though she might have had a strong case, was not in a position to dictate to Great Britain who was in need of a very powerful ally to aid her in keeping the European situation in check. Hence Canada's interests were sacrificed but it seems to have been a wise step on the part of Great Britain.

The man who carried the greatest determining influence over the Tribunal was Theodore Roosevelt, President of the United States. Why did Great Britain fear Roosevelt? Roosevelt was convinced that the United States owned without question the disputed area and was determined to secure the finality of such a viewpoint even at the point of a bayonet. Again his policy in the Alaskan dispute was the "big stick policy". No obstacle was going to hinder him--every inch of the disputed area was and always would be the property of the United States if Roosevelt had his way. What he could not accomplish by permitting matters to run their course he achieved by threats. As early as March, 1902 he had ordered Secretary of War Root to place troops at all strategic points along the disputed area with a view of exerting force, if necessary, to defend the American claims. Four months later he remarked to Hay that the Canadian claim was "an outrage, pure and simple".¹⁷⁵ So certain was Roosevelt of his ground, and because he personally expected Great Britain to interfere, that he invited a war

175. H. F. Pringle, "Theodore Roosevelt", p. 291.

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with Canada which according to the President would be futile for the Canadians.¹⁷⁶

When it became apparent that Great Britain was going to interfere in the dispute between Canada and the United States, Roosevelt sent Oliver Wendell Holmes^e to the British Premier and Foreign Secretary with a letter, which stated that there would be no arbitration of the matter, but that in a message to Congress he would make it necessary for Congress to break off negotiations and draw a line suitable to the President.¹⁷⁷

Such an outspoken viewpoint could not be disregarded, because Great Britain had too much at stake and dared not oppose the dynamic and popular Roosevelt. Accordingly Lord Alverstone was chosen as England's jurist on the Tribunal. Even Roosevelt admitted that the three American judges were committed to a decision before the cases were exchanged, and that they considered the American claim to be very strong. The two Canadian judges were chosen as being impartial jurists of repute, but most historians agree that Aylesworth and Jette' were prepared to think well of Canada's claim.

The Tribunal, in short, was a polite way of letting Great Britain out with dignity. Before the first session of the Tribunal the decision had been made. Actually there was no arbitration. The decision was not a judicial one; it was

¹⁷⁶Ibid., p. 291.

¹⁷⁷R. B. Mowat, op. cit., p. 289

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after all a diplomatic compromise. United States undoubtedly had the stronger case, but the compromising features would not have been so noticeable had Roosevelt made a wiser selection of jurists. Supreme Court Justices would have been preferred to politically-biased United States Senators.

Once convinced of the correctness of the United States' position Roosevelt was not going to deviate from the chosen course. He was opposed to long-drawn out negotiations and preferred short-cut methods. When John Hay's procedure did not satisfy him, and after Hay became too ill to take an active part in the affairs of State, Roosevelt became his own Secretary of State. Although Roosevelt was clumsy in his methods and undiplomatic he achieved the desired objective.

It must be admitted that Roosevelt did not promote necessary and highly desirably friendship with Canada; nor did he secure the honest friendly feeling of Great Britain; besides he did not conduct himself in accordance with the Anglo-American traditions, policies, and diplomatic procedures of the past.

The Anglo-American dispute over the boundary between Alaska and British Columbia was the last of the boundary settlements on the North American continent between British and American territories. As usual the fine friendly feeling was displayed by Great Britain and the United States in the settlement of their difficulties. It does not seem possible

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that Canada and the United States will clash over boundaries again and that in spite of this incident far more desirable and necessary relationships have been left open to both the Canadians and the Americans.

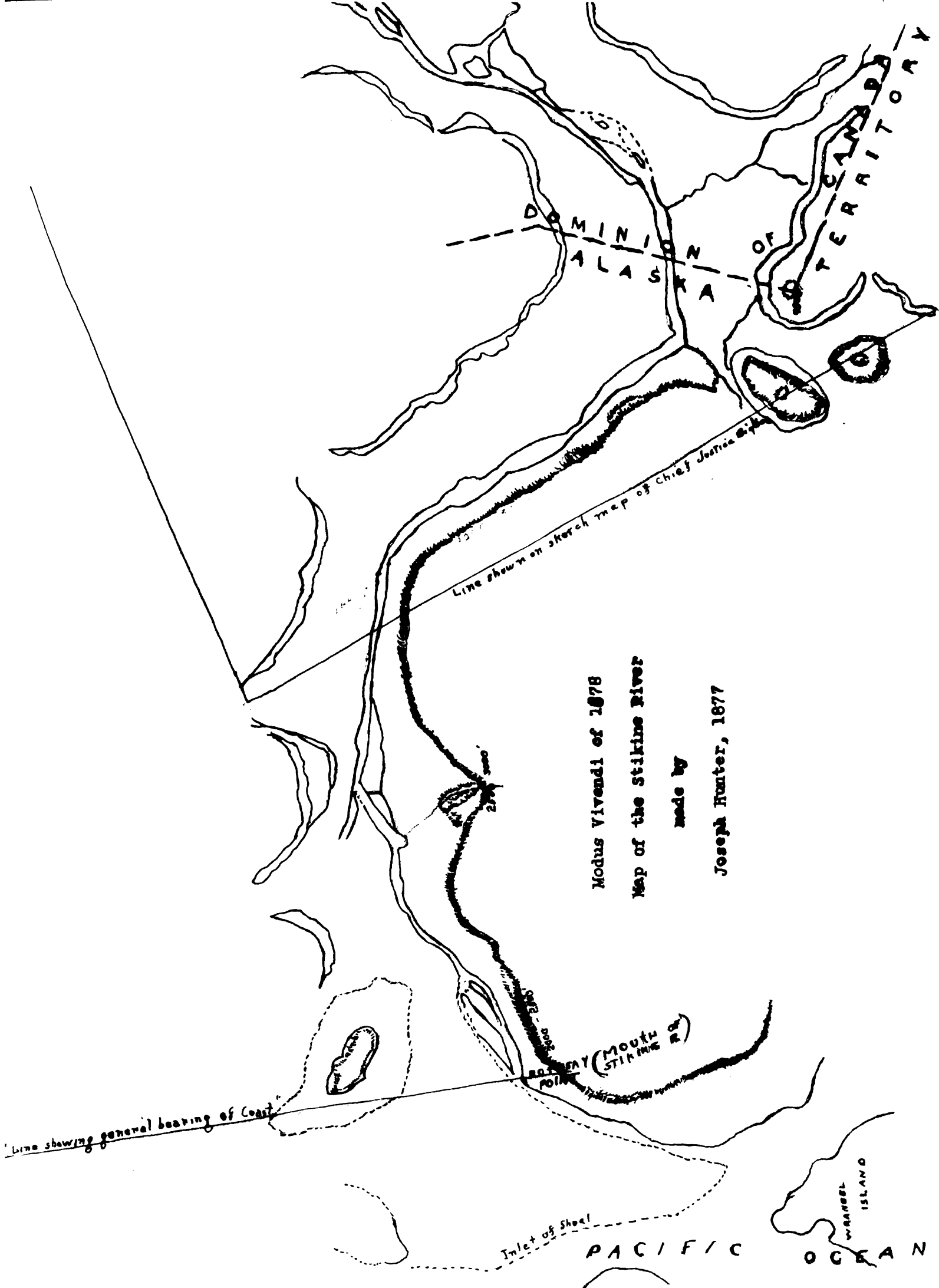
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APPENDIX A

Maps relative to the Alaskan
Boundary Dispute

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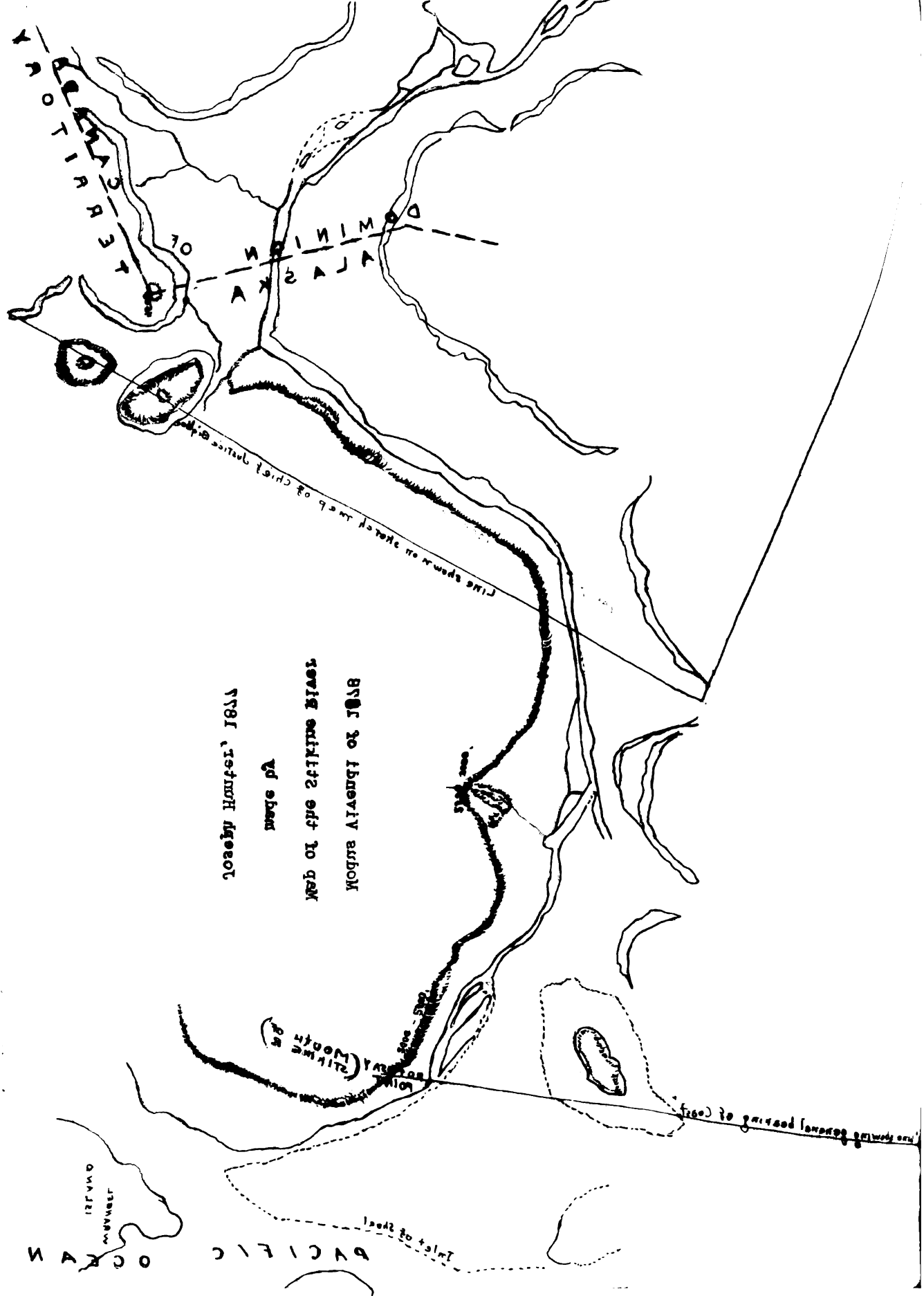


Modus Vivendi of 1878

Map of the Stikine River

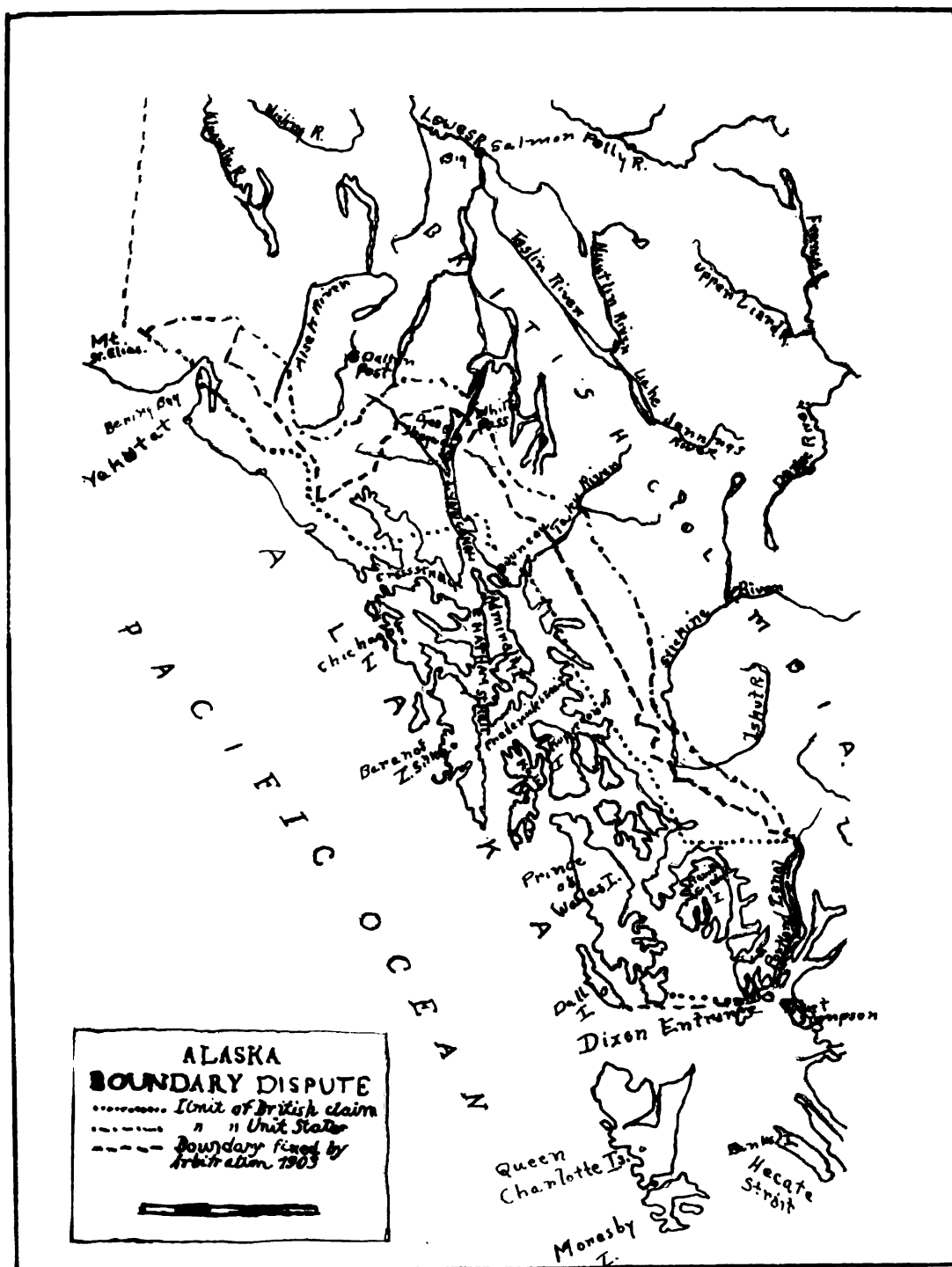
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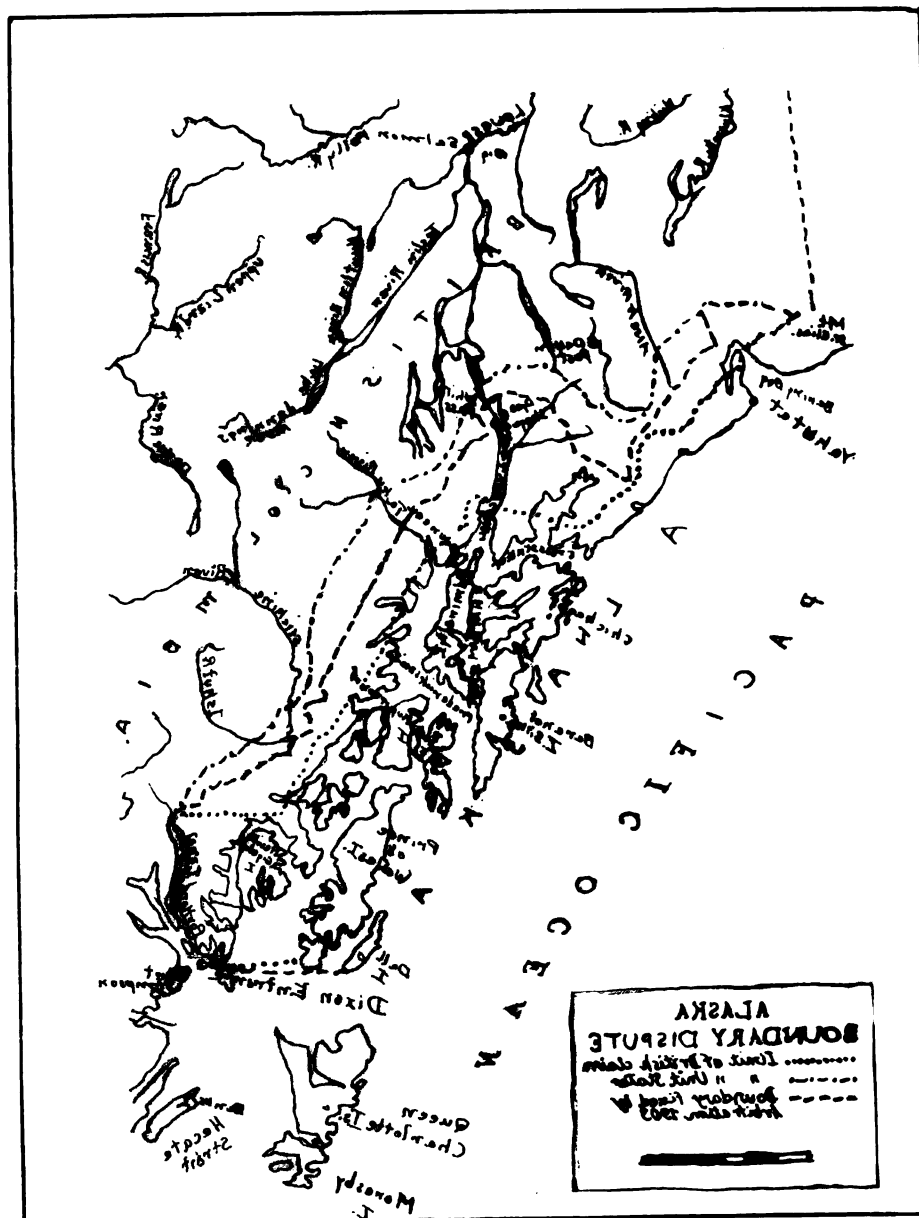
Joseph Hunter, 1877





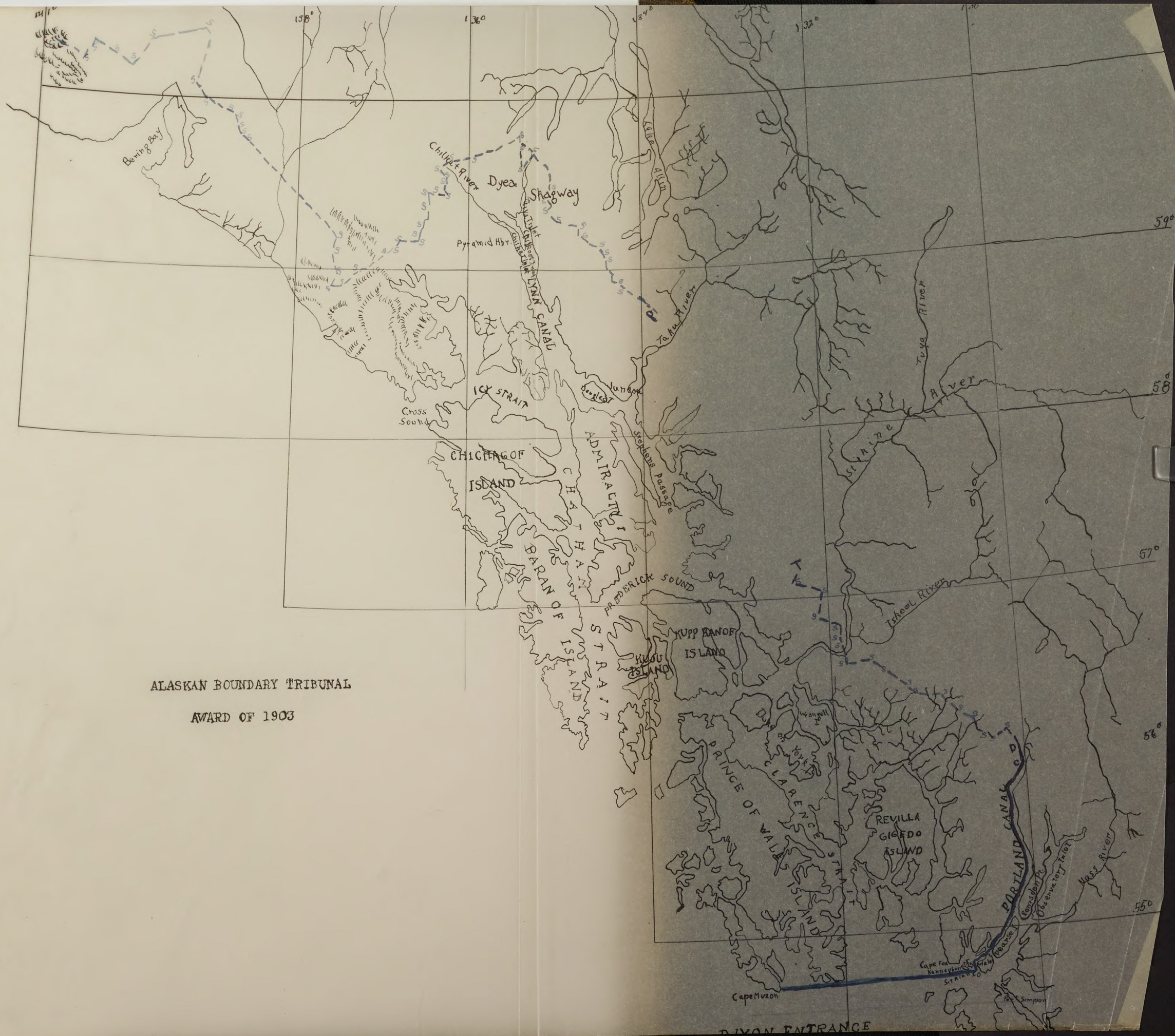
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ALASKAN BOUNDARY TRIBUNAL
AWARD OF 1903

ALASKAN BOUNDARY TRIBUNAL

WARD OF 1903



Appendix B

Translations and original text
of the Disputed Clauses of the
Anglo-Russian Treaty of 1825

French Text of Anglo-Russian Treaty of 1825

Article III

"La ligne de demarcation entre les Possessions des Hautes Parties Contractantes sur la Cote du Continent et les alles de l'Amerique Nord-Ouest, sera tracee ainse qu'il suit."

"A parter du Point le plus meridional de l'lle dite Prince of Wales, lequel Point se trouve sans la par allele du 54 me degre 40 minutes de latitude Nord, et entre le 131 me et 133 me degree de longitude Ouest. (Meridien de Greenwich), la dite ligne remontera qu Nord le long dela passe dite Portland Channel; jusqu' au auit de la terra ferme ou elle atteint le 56 me degne latitude Nord; de ce dernier point la ligne de demarcation siuvra la crete des montagnes, situees parallelement a la Cote, jusqu'au point d'intensection du 141 me degre de longitude Ouest, (meme Meridien); et finalement du dit point d'intersection, la meme ligne meridienne du 141 me degre farmera, dans son prolongement jusqu'a la Mer Glaciale, la limite entre les Passessions Russes et Britaniques sur le continent de l'Amerique Nord Ouest."

Article IV

All est entendu, par rapport a la ligne de demarcation determinee dans l'Article precedent;

"1. Que l'Ilse dite Prince of Wales appreniende tante entiere a la Russia.

2. Que partout au' la crete des montagnes qui s'etendent dans une direction par allele a la Cote depuis le 56 me degre de latitude Nord au point d'entersection du 141 me degre de longitude Ouest, se trouverait a la distance de plus de dix lieues marines de l'Ocean, la limite entre les Possessions Britanniques et la lisiere de Cote mentionnee ci dessus comme devant appartenir a la Russia, sera formee par une ligne parallele aux sinuosites de la Cote, et qui ne pourra jamais en etre eloignee que de dix lieues marines."

Article V

"All est convenu en outre, que nul Etablissement ne sera forme par l'une de deux Parties dans les limites que les deux Articles precedens assignent aux Possessions de l'Autre. En consequence, les Sujets Britanniques ne formeront aucun. Etablissement soit sur la Cote, soit sur la lisiere de terre ferme comprise dans les limites des Possessions Russes, telles qu'elles sont designees dans les deux. Articles precedens; et, de meme, nul Etablissement ne sera forme par des Sujets Russes au dela des dites limites."

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Literal Translation of Articles III and IV of
the Russian Text of the Treaty Between Great Britain
and Russia of February 28, 1825, As Certified by the
Russian Foreign Office.¹

Article III

"The line of limit-separation between the possessions of the High negotiating sides upon the shore of solid land and upon the islands of north west America shall be drawn out in the following manner:

Beginning from the very southern point called the Prince of Wales, which point finds itself under $54^{\circ} 40'$ north latitude and between 131 and 133° of west longitude (counting from Greenwich meridian) the above mentioned line stretches itself through the north lengthwise by the inlet, called Portland Channel up to that point of solid land where she (the line, not the inlet) touches the 56° of north latitude. Thence the line of limit separation shall follow the backbone of the mountains spread out in a parallel direction with the shore up to the point of cutting across upon the 141 degree of west longitude (from the same meridian) and, finally from this point of cutting across the same meridinal line of 141° composes in its continuation up to the Frozen Sea, the boundary between the Russian and the British Possession on the solid land of North West America.

1. Senate Executive Document, 58th. Cong., 2nd. Sess., No. 162, Vol. 15, Appendix, p. 7.

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Article IV

In relation to the line of limit separation defined in the preceeding article, it is understood: (1) That the island named Prince of Wales, shall belong to Russia entire without exception.

(2) That everywhere, where the backbone of the mountains stretches out in a parallel direction with the shore from 56° north latitude up to the point of cutting across under 141° of west longitude, shall stand away farther than ten marine miles from the Ocean, the boundary between the Great Britain Possessions and the above designated shore as being necessary to belong to Russia, shall be drawn out by a parallel line with the crookedness of the shore and cannot go farther than ten naval miles from it."

the British possessions and the line of coast which is to belong to Russia as above mentioned (that is to say, the limit to the possessions ceded by this convention) shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues, therefrom."

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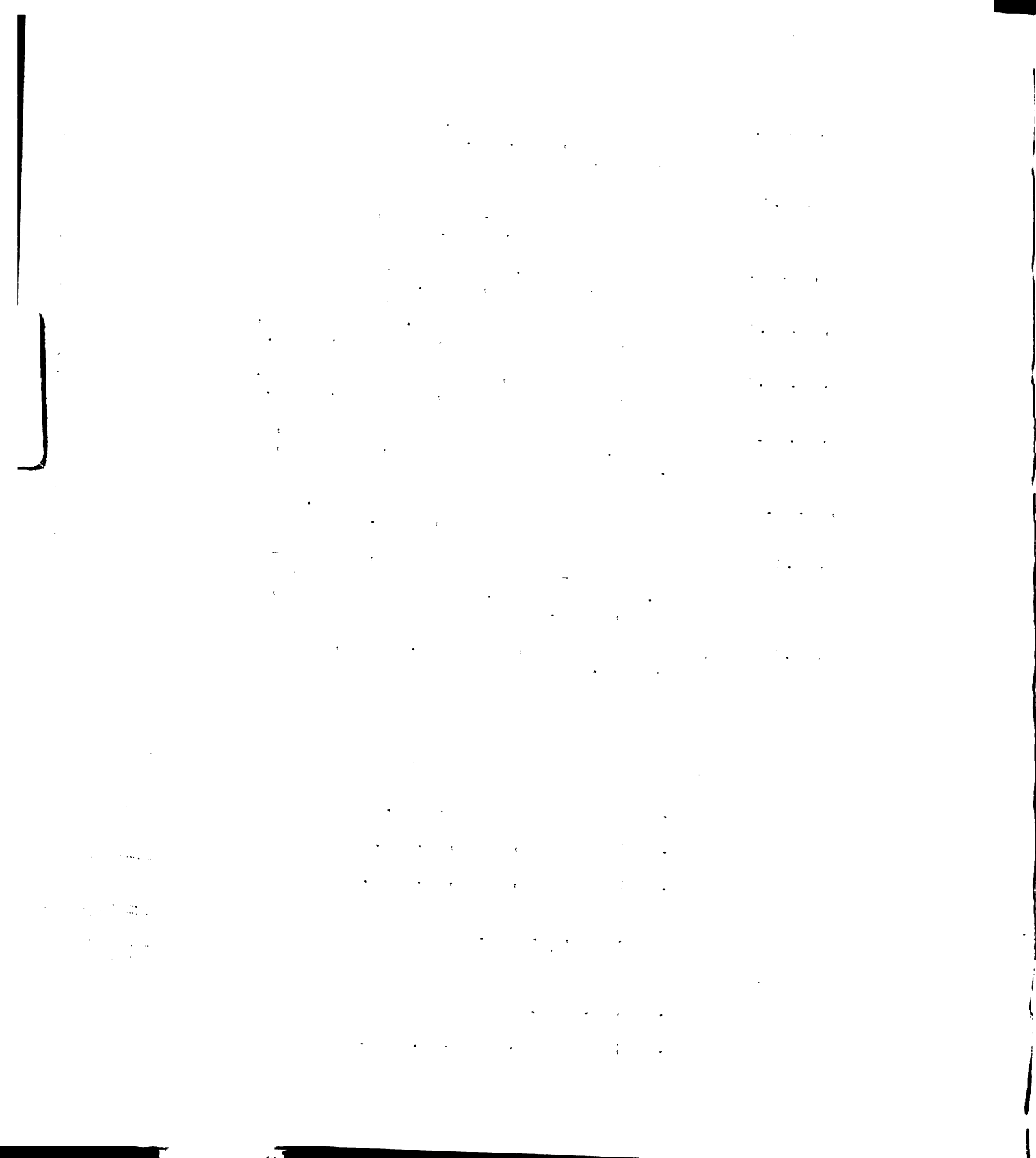
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