

Christopher Sands

Canada's cold front

Lessons of the Alaska boundary dispute for Arctic boundaries today

Where does the sovereignty of one country end and another's begin in the remote north, where few people settle and even great powers struggle to establish their control? This question perplexed Russia, Britain, the United States, and Canada for nearly a century as they disputed the boundary between Alaska and Canada. Today, the same question echoes over the high Arctic as competing claims over the Beaufort Sea, Hans Island, the waters of the Northwest Passage, and other parts of the region are advanced by Russia, Norway, Denmark, Canada, and the United States—with Japan and China increasingly active in exploration activity as well.

Many Canadians have a vague idea of the Alaska boundary dispute from high school history classes. The high point of the popular Canadian narrative is that the United States, particularly under President Theodore Roosevelt's leadership, acted like a bully to get its way, and in the end Britain sold out Canadian interests to keep the peace with Washington. If only Canada had been able to determine its own foreign policy in 1903, Sir Wilfrid Laurier

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surely would have stood up to the Americans, regardless of the reaction of his British counterpart, Lord Salisbury.

Looking at the Alaska boundary dispute through the correspondence of US and British officials over several years of negotiations, the story is different. Both Washington and London grew flustered with Ottawa's strident and uncompromising positions, its fanciful claims unsupported by any other source, and its tendency to play domestic politics with an international dispute. Warily, diplomats for the United States and the United Kingdom resolved to settle the boundary over Canadian objections, both clearly exasperated with Ottawa.

Just over one hundred years later, to many Canadians, the Arctic remains an integral part of the national identity. Canadian politicians, from Laurier to Prime Minister Stephen Harper, have continued to invoke Arctic sovereignty in domestic debates as a rallying point for national pride. Meanwhile, countries like the United States and Russia see the Arctic as on the periphery of their interests and influence and approach disputes there with a mixture of legal wrangling and military power projection, much as Britain did a century ago. Realistically, the Arctic is on the periphery of Canadian interests and influence, too, not least because the majority of Canadians never travel north of 60 degrees north latitude. Yet Canadian governments cannot approach boundary disputes in the Arctic with the same sanguine temperament as other powers; today, just as a century ago, the politicization of the Arctic in Canadian domestic politics complicates international efforts to resolve outstanding boundary disputes and exasperates Canada's friends and rivals around the world.

ORIGINS OF THE ALASKA BOUNDARY DISPUTE

The limits of the Russian claim to territory in North America were set by the treaty of St. Petersburg, also known as the Anglo-Russian convention of 1825, which Russia was moved to negotiate in response to encroachments from English fur traders representing the Hudson's Bay Company. The treaty between the governments of Tsar Alexander I and King George IV was originally written in French, and set vague limits to Russian America at 141 degrees west longitude for the Alaskan peninsula and a coastal "panhandle" extending south to 54 degrees 40 minutes north latitude. The Russian government published a map in 1827 that more clearly demarcated a boundary that was accepted by the British government at the time, and which subsequently became the basis for the US understanding of the limits

of the Alaska territory. Russia offered to sell Alaska to the United States in 1859, and the sale was completed in 1867.

Following the confederation of most of the British North American colonies in 1867, the government of the Dominion of Canada sought to establish its claim over former Hudson's Bay Company territories. The Northwest Mounted Police, later renamed the Royal Canadian Mounted Police (RCMP), was sent into the north to manifest Canadian authority.

The region's first gold was discovered in 1872 in the Stikine River (British Columbia), prompting an influx of settlers and prospectors to the territory. In 1877, the Rutherford B. Hayes administration in Washington protested to Great Britain when it learned that the RCMP had transferred a convicted criminal across land claimed by the United States en route to incarceration without notification or permission of US authorities. Officials in Washington and London discussed establishing clearer boundary markers to prevent further problems, but the uncertain limits of US and British sovereignty made this difficult.

In 1885, the Grover Cleveland administration proposed to the William Gladstone government in Britain the establishment of an international commission to clarify the border between Alaska and Canada as intended under the 1825 Anglo-Russian convention. Salisbury was prime minister when the Dominion of Canada government under Prime Minister Sir John A. Macdonald concurred in the appointment of such a commission in 1886, but by then the US congress, eyeing the presidential elections of 1888, declined Cleveland's request for funding for a boundary commission and the proposal was withdrawn.

Cleveland lost the 1888 election to Benjamin Harrison, who proposed in 1892 that a commissioner be jointly appointed by Britain and the United States to survey the Alaskan panhandle and attempt to reconcile of the language of the Anglo-Russian treaty of 1825 and the US purchase of Alaska treaty of 1867. Later that year, Cleveland was reelected president, and his administration signed an extension of the survey commission. It continued through 1895, the year that gold was discovered in the Klondike region.

The Klondike held more gold than the Stikine River valley, and this prompted a rush of new arrivals to the US and Canadian territories of Alaska and the Yukon, respectively. Unlike the Stikine, the Klondike was further inland and the Yukon River that flowed through it continued west through the Alaskan peninsula for hundreds of miles before reaching the Pacific. The only practical route to bring in supplies to the Klondike and through which to export gold was southward toward two port cities, Dyea

and Skagway, located on a fjord called the Lynn Canal, which opened to the Pacific. The United States claimed Dyea and Skagway, the Lynn Canal, and Pyramid Bay according to its interpretation of the 1867 treaty.

Reports that the Dominion of Canada had established posts and RCMP patrols on territory claimed by the United States led the Cleveland administration to return to congress for funds for a boundary survey and provisional demarcation in 1896, and this time congress granted the request. A new Anglo-American convention for a joint survey of the disputed boundary between Alaska and Canada was signed in 1897.

ENTER WILFRID LAURIER

The new government headed by Wilfrid Laurier came to office in 1896 determined to pursue territorial claims with vigour, in part due to the perception of weak government by a series of brief, caretaker prime ministers who followed Sir John A. Macdonald. Laurier authorized an effort to establish authority over Dyea and Skagway unilaterally, claiming justification with a new interpretation of the 1825 Anglo-Russian convention.

The Canadian initiative halted momentum toward a settlement. The US administration of William McKinley and the British government of Salisbury had hoped for a quick resolution based on the findings of the joint survey. Canada's new position required all parties to revisit the boundary issues in dispute, and so the US and Britain established an international commission in 1898 that would meet in Québec City to settle the disputed border. Three US commissioners met with three counterparts, one named by the parliament at Westminster and two named by the parliament in Ottawa.

The initial US position in the 1898 commission was to urge a return to a more conventional reading of the 1825 Anglo-Russian convention, supported by the 1827 Russian map that had not been contested by either the British or Canadian governments previously. Canadian commission members, led by Laurier, insisted on their more aggressive claim. The US commissioners considered possible compromises, but governors and senators from the Pacific coast states of California, Oregon, and Washington lobbied McKinley not to make concessions. The Québec City talks adjourned without a settlement in 1899. US Secretary of State John Hay sent Ambassador Joseph H. Choate to meet with Salisbury, the British prime minister, to attempt to settle the boundary between the United States and the United Kingdom without involving the intransigent Canadians. Choate wrote to Hay afterward

to report that Salisbury was “embarrassed” to be unable to conclude the matter without the concurrence of Laurier.¹

In 1899, Hay proposed that a new commission be formed. It would be made up of three members from each side, with a seventh commissioner chosen by the unanimous consent of the six others (to break possible deadlocks). Laurier rejected the proposal, and articulated a maximalist set of demands that all of Pyramid Harbor, the Lynn Canal, Skagway, and Dyea be recognized as Canadian territory without further negotiation. If a commission were to be formed, the Canadian government suggested it proceed with an understanding that if Skagway and Dyea were found to be British, the Americans could continue to occupy the cities, and if the Lynn Canal and Pyramid Harbor were determined to be American, the British could continue to occupy both as well. This response was called “astounding” and “utterly inadmissible” by Hay, and seemed to be a further setback of hopes for a settlement of the dispute.²

On 22 May 1899 Lord Julian Pauncefote, the British ambassador in Washington, wrote to Choate that the failure of the Hay proposal for a new commission illustrated “how difficult it is to satisfy politicians whose tenure of office is at stake.” Pauncefote added:

The Canadians must know quite well that under the terms of the rules laid down in the Anglo-Venezuelan treaty it is quite certain that Dyea and Skagway must be and remain American territory; but they dare not put it in the treaty in so many words as it looks as a concession granted without an equivalent, for which they would be attacked by their opponents in parliament and the press....

The attitude of Canada as to such matters makes the whole affair hopeless. After a careful observation of two years I am convinced that the Canadians prefer that nothing shall be settled between the two countries. Sir Wilfrid Laurier and the Liberals...found it easier to sustain themselves as stalwart defenders of Canadian rights and

¹ Quoted in James Morton Callahan, *American Foreign Policy in Canadian Relations* (New York: Macmillan, 1937), 474.

² *Ibid.*, 475.

interests against Yankee encroachments than it would be to have the job of justifying a reasonable treaty.³

The governments of the United States and Britain sought to break the deadlock. In response to an appeal from London, Washington abandoned a plan to establish a military base at Pyramid Harbor. Britain proposed an arbitration of the dispute by an umpire, in a manner similar to that used to resolve the boundary between Venezuela and British Guyana. Choate wrote to Hay on 16 June 1899 following a conversation with Salisbury:

[Salisbury gave] the strong impression that the British Government do not have much faith in the Canadian claim, and think that we should be so safe under any form of arbitration that they rather wonder at our being unwilling to accept the Venezuelan form.⁴

Hay relented and proposed that the arbitration only address claims made before 1898, to expressly exclude the expansive Canadian territorial claims that had caused the talks to break down, and also suggested a South American be chosen as the umpire. Laurier rejected the idea of a South American umpire, preferring a European, and this disagreement scuttled the British initiative.

In 1901, Laurier pressed Salisbury to offer a concession in negotiations with the United States over territory in the Isthmus of Panama that would break the deadlock over the Alaskan boundary in Canada's favour. However, Britain, eager to maintain good relations with the United States in the face of tensions over the ongoing Boer War, had already settled on terms that would be included in the Hay-Pauncefote treaty, and Salisbury would not add additional concessions to satisfy Laurier.

ENTER TEDDY ROOSEVELT

The assassination of McKinley in 1901 brought Theodore Roosevelt to the presidency. Roosevelt had previously served as the umpire in the Venezuela-British Guyana boundary dispute, and was thoroughly familiar with the issues in Alaska. Roosevelt retained Hay as secretary of state and Choate as

3 Quoted in Charles Callan Tansill, *Canadian-American Relations, 1875-1911* (New Haven: Yale University Press, 1943), 194.

4 Quoted in *ibid.*, 195.

his ambassador in Great Britain. In January 1902, Roosevelt made clear to both Hay and Choate that he wanted to resolve the dispute and was willing to revive plans to station US troops at Pyramid Bay or Skagway itself to halt Canadian encroachments and indicate the seriousness of the US claim. By July 1902, Hay had informed Roosevelt that Laurier had communicated privately that he sought a “face-saving” resolution of the dispute that would permit the Dominion government to accept a settlement without being seen to have made concessions to the United States; Roosevelt responded that the Canadian position was outrageous and without merit, and he would agree to no concessions to help Laurier save face on his “false claims.”⁵

Roosevelt’s hard line during the negotiations, and reports of incidents in the disputed region as US miners and settlers clashed with Canadians, shifted the Alaska boundary dispute into a new phase in 1902. In the US congress, Speaker of the House Champ Clark and Senator Benjamin Tillman of South Carolina railed against Canadian aggression in Alaska and called for a military expedition against the British to protect American citizens and defend territorial rights under the 1867 Alaska purchase agreement. In Britain, Salisbury retired in July 1902 and was replaced by his Conservative colleague Arthur Balfour. At the urging of the British ambassador in Washington, Sir Michael Herbert (Pauncefote’s replacement), Laurier travelled to Washington in December 1902 to meet with Roosevelt and appeal for a peaceful settlement.

The Roosevelt administration and the Balfour government agreed on a new joint commission to settle the Alaska boundary dispute in January 1903. Each side appointed three members to the commission. The United States named Secretary of War Elihu Root, Senator Henry Cabot Lodge of Massachusetts, and ex-Senator George Turner of Washington. Britain named Richard Webster, the viscount Alverstone and lord chief justice of England, to head its delegation to the commission. He was joined by the lieutenant-governor of Québec, Louis Jetté, and the respected Ontario barrister, Allen B. Aylesworth.

According to Choate’s report to Roosevelt, the sessions of the 1903 joint commission were contentious. Choate’s assessment of the dynamics of the commission concluded:

5 Quoted in Callahan, *American Foreign Policy in Canadian Relations*, 480.

The only question is whether Lord Alverstone will go with us on the main points.... Very likely he will, but England is in such mortal terror of Canada that I feel more than doubtful in regard to it.... The fact is that Canada is in the worst of all possible positions of possessing power [to block a settlement] unaccompanied by any responsibility.⁶

The Laurier government sought to recess the commission in the hope of using the delay to secure the support of Alverstone. After receiving a letter from Clifford Sifton, Canada's agent at the British embassy in Washington, Hay wrote to former Secretary of State John W. Foster that

The fact is they are beaten and they know it—and they think we are 'hard on them' because we do not allow them all the pettifogging delays they ask for. We must of course be excessively courteous and indulgent with them so as not to make it too difficult for them to agree.⁷

At the same time, Canadian officials engaged in a campaign of leaks to a newspaper in London suggesting dire consequences for England if the commission found in favour of the US claim. Lodge wrote to Roosevelt on 13 September 1903:

The Canadians have been filling the newspapers with articles of the most violent kind, threatening England with all sorts of things if the decision should go against Canada. They are all aimed, I suppose, at Lord Alverstone.⁸

If anything, the campaign seemed to reinforce Alverstone's resolve to find a settlement on the basis of a careful and legally defensible reading of the 1825 Anglo-Russian convention, the 1827 Russian map that had remained uncontested by all parties, and the 1867 Alaska purchase agreement between Russia and the United States. The US side offered to concede a claim on two small islands north of the 54' 40" north latitude line that guarded the

6 Quoted in *ibid.*, 484.

7 Quoted in *ibid.*

8 Quoted in *ibid.*, 486.

approach to the port at Prince Rupert as a concession to the Canadians, and Alverstone joined the Americans in a majority settlement that confirmed a boundary that recognized the US possession of Dyea, Skagway, the Lynn Canal, and Pyramid Bay.

Newspapers in Canada decried Alverstone's decision, and claimed that American bullying had intimidated Britain. Laurier accepted the decision, but noted that his government had not flinched in asserting Canada's right in the dispute in the face of pressure from both Washington and London.

LESSONS OF THE ALASKA BOUNDARY DISPUTE FOR NORTHERN DIPLOMACY TODAY
The attitudes of the American, British, and Canadian officials in this dispute reveal something important about their respective approaches to northern diplomacy. The United States approached the dispute in a legalistic manner, focusing on treaties and the letter of international law to the extent this could be ascertained in treaties and other agreements. US interest in the dispute grew when resources (gold) were involved, and as the negotiations bogged down, Washington was prepared to use military force to back up its claim to disputed territory. The United States also, through a series of administrations, expressed a preference for dealing with a fellow great power, Britain, with which Washington had a long history of relatively dispassionate and professional (in the diplomatic sense) dialogue. Canada only complicated matters and made a settlement more difficult.

In advancing a dubious legal interpretation of the 1825 Anglo-Russian convention in support of an expansive claim, Canada showed an early tendency to make great assertions about the north that persuaded few outside the country. The Canadian Arctic sovereignty claims to land and waters within baselines drawn at the perimeter of its Arctic archipelago have similarly been dismissed by most of its competitors, including the United States, and made a settlement of Arctic sovereignty claims more difficult.

The isolation of Canada on this point did not influence Canadian governments to rethink their claims. As Pauncefote observed, Canadian politicians tend to view northern territorial claims in the context of domestic politics, and this prevents them from being able to concede any ground—or being able to be perceived by the voting public in Canada to have conceded any ground—on a sovereignty claim. No matter how unrealistic and unsupportable the Canadian claim may be under international law, the position is symbolic and politically charged.

The Harper government's "use it or lose it" rhetoric on the Arctic frames Canadian sovereignty claims domestically in a manner similar to Laurier's

approach to the Alaska boundary dispute. Tough talk about the activity of the Americans and other foreign powers in the Arctic is mainly for domestic consumption, but makes it more difficult for the Canadian government to make concessions.

The United States' stance in the current Arctic sovereignty discussions is also consistent with the positions taken during the Alaskan boundary dispute more than a century ago. US negotiators have tried to manage bilateral boundary disputes with Canada through negotiation, and careful attention to the letter of international law—sending ships through the Northwest Passage to maintain the claim that the waters are international and arguing that special arrangements for the Canadian Arctic must be avoided if they are inconsistent with international norms, since these could establish a precedent that would affect maritime boundary claims elsewhere.

Canada's positions on Arctic boundaries do not seek to end disagreements, but as Pauncefote observed a century ago, Canadian governments seem to want to prevent a clear resolution of disputes that might result in a diminution of Canada's position. Stephen Harper, like Laurier, may find it easier to sustain the case against Yankee imperialism than to have to justify a reasonable and fair resolution of competing claims. And as a result, the United States is likely to prefer regional diplomacy with other large powers, including Russia, to a strictly bilateral negotiation with Canada, wherein American officials must contend with Canadian public opinion and the vulnerability of Canadian governments to nationalist and anti-American passions.

In the final days of the George W. Bush administration, the president issued a new US policy statement on the Arctic. (It has since been sustained by the administration of Barack Obama.) Bush indicated that the United States would undertake responsibility for the protection of commercial shipping in the Northwest Passage, including search and rescue and disaster response, setting in motion the development of expanded US operational capabilities in the north. The Bush and Obama administrations have continued to press the US senate to ratify the United Nations convention on the law of the sea to provide a multilateral framework for resolving boundary disputes legalistically, and have opened up a dialogue with members of the multinational Arctic Council (of which Canada is a charter member) in the hope that extant boundary conflicts can be resolved.

The Harper government in 2006 had indicated its intention to expand Canadian operational capabilities in the Arctic as well, but has not made significant progress to date; the global economic recession has had a sharp

impact on public spending projects. In 2009, Harper travelled with his cabinet to the Arctic and pledged a scaled-back effort to develop the northern operational capabilities of the Canadian forces and a new initiative to provide for the economic and social welfare of the Inuit inhabitants of the Arctic, whose presence is meant to substantiate Canadian claims.

Canada's perspective on the Arctic is still largely domestic. Internationally, Ottawa is relatively isolated; few countries recognize the full extent of Canadian boundary claims, and Canada's domestically oriented maximalist position makes it a difficult negotiating partner for other countries. Far from greedily conspiring to acquire Canadian territory or resources, US officials express exasperation with Canada and try to work with other governments with interests in the region. But the Arctic is on the periphery of US interests, and in spite of its economic potential, there is a limited amount of diplomatic energy and military resources that administrations in Washington will devote to disputes in the region. The result is that Canada's intransigence is rewarded—for now—but that its position is sufficiently unconvincing that Canadians may one day fume when Arctic boundaries are settled over their objections.

