

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2494 SCOMM 108: HOUSE SPEC. COMM. WORLD TRADE... , 1997-98

1 WHEREAS the Soviet occupation of what they refer to as Ostrova De Long
2 is an affront to all Americans, is an insult to the memory of their brave
3 discoverer, and a source of embarrassment to the United States Navy, which
4 memorializes his memory at the Naval Academy in Annapolis; and

5 WHEREAS the soil of all five of these American islands and their
6 surrounding continental shelf has been held by military force in contra-
7 vention of international law and by conduct that is contrary to what is
8 recognized as proper by civilized nations; and

9 WHEREAS the Soviet government has typified its uncivilized conduct by
10 establishing forced labor camps on Wrangel Island as reported in testimony
11 before the U.S. Senate Judiciary Committee in January 1973; and

12 WHEREAS it has been reported that Wrangel Island was the last known
13 place of imprisonment of Raoul Wallenberg, the Swedish Consul in Budapest,
14 Hungary at the end of World War II who was arrested by Soviet forces and
15 who was responsible for saving the lives of thousands of European Jews from
16 the Nazi Holocaust; and

17 WHEREAS this conduct on American soil has continued in defiance of
18 American law as well as in defiance of the international rules of conduct
19 resulting from the Nuremberg war crime trials after World War II; and

20 WHEREAS the continuing trespass by the Soviet government deprives the
21 State of Alaska and its people of their fundamental right to use the is-
22 lands of Wrangel, Herald, Henrietta, Jeannette, and Bennett together with
23 the surrounding continental shelf and its valuable resources; and

24 WHEREAS unlike the governments of Canada and Great Britain, the United
25 States has never surrendered its claims of sovereignty over these islands;
26 and

27 WHEREAS the State of Alaska does not believe that agreements between
28 the United States and the Soviet Union, whether they be secret or other-
29 wise, can affect American claims to these islands until they have been

1 ratified by the United States Senate;

2 BE IT RESOLVED by the Alaska State Legislature that the Government of
3 the United States assert and reassert American sovereignty over Wrangel
4 Island, Herald Island, and the De Long Islands of Henrietta, Jeannette, and
5 Bennett, their resources, and their territorial shelf in behalf of the
6 American people; and be it

7 FURTHER RESOLVED that the Government of the United States make satis-
8 factory compensation and restitution to the State of Alaska and its people
9 for the loss of this territory resulting from the neglect of the United
10 States Government to protect American lives and property when the lands
11 were seized in 1924; and be it

12 FURTHER RESOLVED that the State of Alaska asserts and reasserts its
13 claim to Wrangel Island, Herald Island, and the De Long Islands of
14 Henrietta, Jeannette, and Bennett and their surrounding continental shelf
15 as an integral part of the State of Alaska; and be it

16 FURTHER RESOLVED the Governor of the State of Alaska is requested to
17 initiate appropriate legal claims for relief before the U.S. Foreign Claims
18 Settlement Commission, the U.S. Court of Claims or other legal forums of
19 the United States as may be appropriate.

20 COPIES of this resolution shall be sent to the Honorable Ronald
21 Reagan, President of the United States; to the Honorable George P. Shultz,
22 Secretary of State; to the Honorable George Bush, Vice-President of the
23 United States and President of the U.S. Senate; the Honorable Jim Wright,
24 Speaker of the U.S. House of Representatives; and to the Honorable Ted
25 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable
26 Don Young, U.S. Representative, members of the Alaska delegation in Con-
27 gress.

REPORT
OF THE
CRUISE OF THE U. S. REVENUE STEAMER
THOMAS CORWIN,
IN THE
ARCTIC OCEAN,
1881.

BY
CAPTAIN C. L. HOOPER, U. S. R. M.,
COMMANDING.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1884.

of difficulty. Inside of the 10 fathom curve we found much of the ice aground, while the floating portion was drifting past and occasionally shooting up over the top of the grounded pieces. Navigation under such circumstances was anything but safe or agreeable. However, we felt that the land was certainly within our reach, and thought of nothing but pushing ahead. At 7.30 we reached the open space and dropped anchor within a cable's length of the land in 5 fathoms of water. We immediately landed and, raising the American flag, took possession in the name of the United States of America. We landed at the mouth of a river, which at this time was about 75 yards in width, although the entire distance between its banks was about 200 yards. The cliffs in the vicinity of our landing place were of a dark slate formation, and from 100 to 300 feet high. On the beach small pieces of sandstone, quartz, and mica schist were found. The surface of the land where the slate has weathered away is composed of sticky clay, and is but sparsely covered with vegetation. As observed from the ship, while cruising in the vicinity and also from the shore, it presents the general appearance of smoothly-rounded hills, which, towards the interior and near the south side, are from 1,000 to 3,000 feet in height. The upper portion of the higher hills appeared more rugged in outline, as if composed of more enduring material, probably granite. These summits resemble those seen on the Siberian coast in the vicinity of Plover Bay, being entirely destitute of vegetation, with occasional red patches probably indicating the presence of iron. Those near the coast are remarkable for the smoothness and beauty of their outlines, and present here and there patches of green or gray, according to the nature of the vegetation. On the beach near the mouth of the river we found a kayak paddle, a cask-stave, a piece of small spar, probably part of a boat's mast, and a piece of board about a foot in length bearing ax-marks. All these things were below the marks of extreme high water, and were undoubtedly brought there by the current. Although the beach showed undoubtedly signs of a rise and fall of tide, no tidal change could be detected, probably owing to the fresh southerly wind which was blowing. The presence of this drift matter on the beach would seem to indicate that the east coast of Wrangel Island was at times entirely free from ice, though it does not necessarily follow, as it could easily have been carried through the pack to the shore by the constant twisting and turning to which it is at all times subject. I believe that it is a very unusual thing for the ice to leave any portion of Wrangel Island entirely. Our stay on shore was necessarily short on account of the strong northerly current, which was sweeping the ice-pack along with irresistible force. Much of the ice inside of 10 fathoms, as stated, was aground, but not sufficiently firm to form any protection from the drifting mass, the largest pieces of which were constantly being pushed and turned in every direction when struck by the drift, and the utmost vigilance was required to avoid getting caught between the drifting and grounded masses. At 9.30 a. m., being unable to maintain our position any longer, a gun was fired to recall the parties sent out to explore the cliffs in search of cairns or other signs of human life, and we began to work out towards the lead, which we reached at 11 a. m. We left the American flag flying and also a record of our visit. We had good observations during the day, and found our landing-place to be in latitude $71^{\circ} 04'$ north and longitude $177^{\circ} 40'$ west. This is undoubtedly the part of the land seen by Captain Kellett, R. N., in 1849, when he discovered and landed on Herald Island, and which since appeared on the British Admiralty charts as Plover Island, although erroneously laid down somewhat further to the eastward. We now know that Plover Island has no separate existence, and that what Kellett saw was the main island. As there is no record of any one else having seen the land previous to that date, or in fact until several years after, when, in 1876, it was seen by nearly the entire whaling fleet, all must accord to Captain Kellett the honor of its discovery.

While steaming through the ice, in our several attempts to reach the land, a number of species of sea-fowl were seen from time to time, and carefully noted by Mr. Nelson. Among these the most numerous were the murres and guillemots (*Uria-urra* and *Uria-grylle*), with numerous kittiwake gulls (*Larus tridactylus* Kotzebue) and the common ice gull (*Larus glaucus*). More rarely single individuals of the Sabine's gull (*Xema Sabinei*) came circling about the ship. Numerous small flocks of black-headed turnstones (*Streptopelia melanoccephala*) were seen near shore, and two parties of common eider ducks (*Somateria nigra*). In both instances the latter were females with their young. The second brood of eiders was seen swimming close along the shore and away from the mouth of the river as we made our landing. On shore we found numerous snow-buntings (*Plectrophanes nivalis*) and a snowy owl (*Nyctea nyctea*), which, with a shrike picked up dead on the

beach and a solitary golden plover (*Charadrius fulvus*), complete the short list of land birds seen. At a number of places on the hillsides we found the droppings of wild geese so numerous that it is evident this place must have been a common resort for flocks of these birds earlier in the season. Their absence at the time of our landing is easily accounted for by the fact this was the time when the geese shed their large wing feathers and lose the power of flight. As this season comes on they congregate in large flocks in low marshy land and remain until their new growth of feathers enables them to spread over the country again a month or six weeks later.

Saddle-backs and hair-seals were rather common among the ice, and in addition there was a small species of hair seal unknown upon the American coast and perhaps new to science. Walrus were not rare on the outer edge of the pack, and their foe, the polar bear, was seen almost every time we entered the ice; on several occasions it was seen swimming in the water several miles from the pack. Upon the hilltops on shore were found numerous burrows of some animal, probably white fox (*Canis lagopus*), as some tracks of that animal were found mingled with those of the polar bear in the mud along the banks of the river. Stranded on the sand-bar at the mouth of the river lay the skeleton of a whale (*Balaena mysticetus*), which closes the list of mammals observed.

Numerous small fish, from two to four inches long, and having large heads, were brought to the surface by rolling masses of ice as it was turned over by contact with the vessel in her passage through it. These are called by the whalers ice-fish. No specimens were obtained, unfortunately.

The following plants we collected: Grasses, three varieties; dwarf willow, phlox, saxifrage, sibbaldia, draba, potentilla, anemone, papaver, veronica, artemisia, carex, stellaria, three; mosses, three; lichens, five; and four composites. In many places where the snow remained in the ravines and in banks against the steep cliffs, it presents the peculiar reddish color caused by the presence of *Protococcus nivalis*, commonly called red snow. This is a minute plant with which the surface of the snow is often covered in high latitudes. It was seen and its appearance described by Sir John Ross in 1818, and by Sir Edward Parry in 1827, but its true character was not understood until many years later, when it became known as a vegetable growth.

Upon taking possession of this land in the name of the United States, the name New Columbia was provisionally given to it. The provision being the approval and concurrence of that portion of the Government having the authority to issue charta, &c., the decision of that body was adverse to my suggestion, and by its action I cheerfully abide not only on account of its undoubted right to decide according to its own judgment in this and all other matters over which it has jurisdiction, but because the size of the island, as now known, does not justify the bestowal of a name of this character, the name of one of the early Arctic navigators being much more appropriate. At the time I suggested the change of name I believed the land to be an island and had so reported it to the Department, but I supposed it to be considerably larger than it has proved. In the report of my first cruise in the Corwin, submitted November 1, 1881, page 50, I say, in reference to this land:

The part of Wrangel Land which we saw covered an arc of the horizon of about fifty degrees from northwest quarter north to west quarter south (true), and was distant from 25 miles on the former bearing to 35 or 40 on the latter. On the south were three mountains, probably 3,000 feet high, entirely covered with snow, the central one presenting a conical appearance and the others showing slightly rounded tops. Northward of these mountains was a chain of rounded hills, those near the sea being lower and nearly free from snow, while the back hills, which probably reach an elevation of 2,000 feet, were quite white; to the north of the northern bearing given the land ends entirely or becomes very low. The atmosphere was very clear, and we could easily have seen any land above the horizon within a distance of 60 or 70 miles, but none except that described could be seen from the mast-head.

Again, on page 52, I say:

I am of the opinion that Wrangel Land is a large island, probably one of a chain that passes entirely through the polar regions to Greenland; that there is other land to the north there can be no doubt. . . . large numbers of geese and other aquatic birds pass Point Barrow going north in the spring, and returning in August and September with their young. As it is well known that these birds breed only on land, this fact must be regarded as proof of the existence of land to the north. Another reason for supposing that there is either a continent or a chain of islands passing through the polar regions is the fact that, notwithstanding the vast amount of heat diffused by the warm current passing through Bering Straits, the icy barrier is from six to eight degrees farther south on this side than on the land side of the Arctic Ocean, where the temperature is much lower.

OCCASIONAL PAPERS
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No. XXIV

The Discovery of
Wrangel Island

By SAMUEL L. HOOPER

COMMITTEE ON PUBLICATION

DR. MURRAY H. MUELLER, Chairman
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34 CALIFORNIA ACADEMY OF SCIENCES [Oct. 1955]

the land, I felt relieved to be in clear water, and did not despair of ultimate success."

The movement of the ice due to the act of the currents made it necessary to change positions several times during the night. At 4:30 a.m. the *Corwin* again entered the ice and this time with all preparations made to reach the land by crossing the ice if necessary, using the sledges and taking along the skin boat for crossing any open leads that might be encountered. However, as they fought their way closer to the land ice conditions improved. Inside the ten-fathom curve they found much of the ice aground while the floating portion was drifting past and occasionally showing up over the top of the grounded pieces. Navigation under these conditions was neither comfortable nor safe, but they all felt that the land was now actually within reach and they pushed on. The captain's notes for that important day (see figure 3) read:

Friday, August 12, 1881. Lat. 71-04 Long. 177-06 off Wrangle (sic.) Land. Got under way at 4:00 a.m. and steamed in toward the end of the lead and into the ice at 7:00 a.m. After a good deal of bumping and squeezing we reached the land and anchored in a small clear space off the mouth of a small river. Went on shore and took possession in the name of the U.S.

This landing unquestionably established a valid claim to the area on the part of the United States. Muir in his text says, "A notable addition was made to the national domain when Captain [Alvin L.] Hooper landed on Wrangel Island and took formal possession in the name of the United States." Later the great Arctic explorer Vilhjalmur Stefansson in his book, *The Adventure of Wrangel Island*, describing an expedition undertaken in 1921 wrote, "... following 1881 ... the island was United States territory."

Many years later the Soviet claimed that Lieutenant Wrangel had actually discovered the island but unfortunately for their claim, Wrangel himself in his book, *The Narrative of a Voyage to the Polar Seas in the Years 1821, 1822, and 1823*, which was written long enough after his experiences so that he had plenty of time to make any changes or corrections, wrote "with a painful feeling of the impossibility of overcoming the obstacles with which nature had opposed us, our last hope vanished of discovering the land which we yet believe to exist ... we had done what duty and honor demanded, further attempts would have been absolutely hopeless and I decided to return." Wrangel located on his chart: "from native report" the land which "we believe to exist" but he placed it some distance west of where it actually turned out to be located.

No. 24] HOOPER: DISCOVERY OF WRANGEL ISLAND

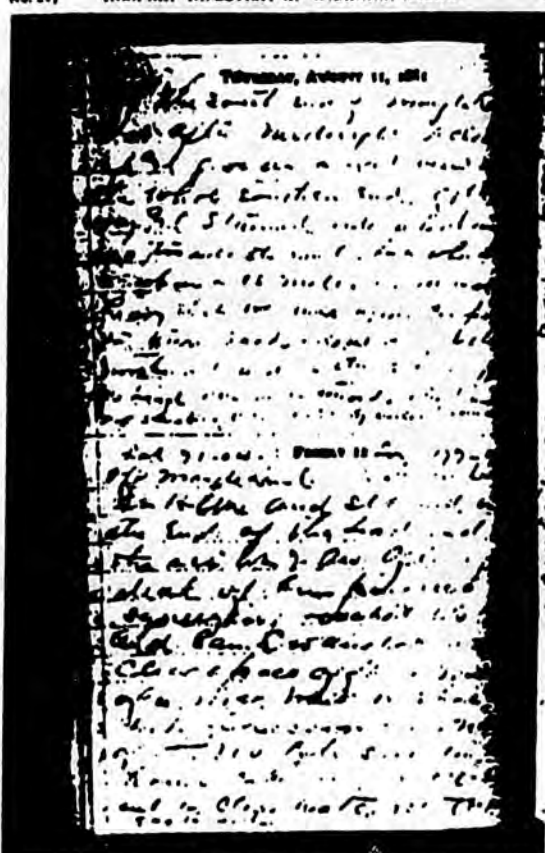


Figure 3. The original account of the discovery of Wrangel Island in the captain's own handwriting. This entry in his diary was written at the scene on the very day of the landing.

No. 24] HOOPER: DISCOVERY OF WRANGEL ISLAND

35

As soon as the official shore party had completed the formalities of discovery, a careful search was made along the shore in each direction for evidences of a landing of any kind. After several hours of searching it became impossible to remain at anchor any longer and a gun was fired to recall all shore parties. Leaving an American flag flying and a complete record of their visit the *Corwin* now worked her way out to the lead.

She was now in open water and making all speed with steam and sail across the Arctic Ocean but this time with the Polar ice on her port beam. Having found no remains of the *Jeanette* on either Herald Island or Wrangel Island, for the very good reason as we now know that the De Long party had never touched on either of them, the *Corwin* was hastening to Point Barrow in hopes of rendering assistance to the *Daniel Webster* in case she was still in the ice. On the way, however, they spoke the whalers *Howland* and *Rainbow* and learned from them that the *Daniel Webster* had been crushed in the ice and that part of her crew had reached Point Barrow. The remainder were supposed to still be on the pack. Upon learning this the *Corwin* skirted the Alaskan coast line closely and kept a careful watch for signs of any who might have reached the land before the ice went offshore. Constant contact was also made with the native villages along the way and many reports of the wreck were received, all of which were in some agreement.

Point Barrow was reached on August 16 and several whalers, which had arrived only a few hours earlier, were found at anchor there, the ice having gone offshore the previous evening. The crew of the *Daniel Webster* were all at Point Barrow and every man accounted for. They were divided up among the whalers except for nine men who had their fill of whaling and "wanted out." These were taken on board the *Corwin* to be returned to civilization and extra supplies were distributed to the other ships to allow for the extra hands taken aboard.

While the *Corwin* was at Barrow the bark *Legal Tender* arrived, bringing the first mail they had received since leaving San Francisco; the *Legal Tender* had sailed from there on June 11. Since she was leaving at once, loaded with surplus bone and oil from the whaling fleet, the crew of the *Corwin* sent mail sacks aboard for their dear ones at home.

On August 19 the *Corwin* sailed for Cape Lisburne hoping to again take coal from the mine, but a strong northeast wind had kicked up such a sea that hunting coal was out of the question. The night of the nineteenth was the first night that could be called dark; until then the nights had merely been long twilights. On August 22 they passed close to the Diomedes but never saw any part of them on account of

THE CRUISE OF THE CORWIN

Journal of the Arctic Expedition
of 1881 in search of De Long
and the Jeannette

BY
John Muir

EDITED BY
WILLIAM FREDERIC BADE



BOSTON AND NEW YORK
HOUGHTON MIFFLIN COMPANY
1917

CHAPTER XV

THE LAND OF THE WHITE BEAR

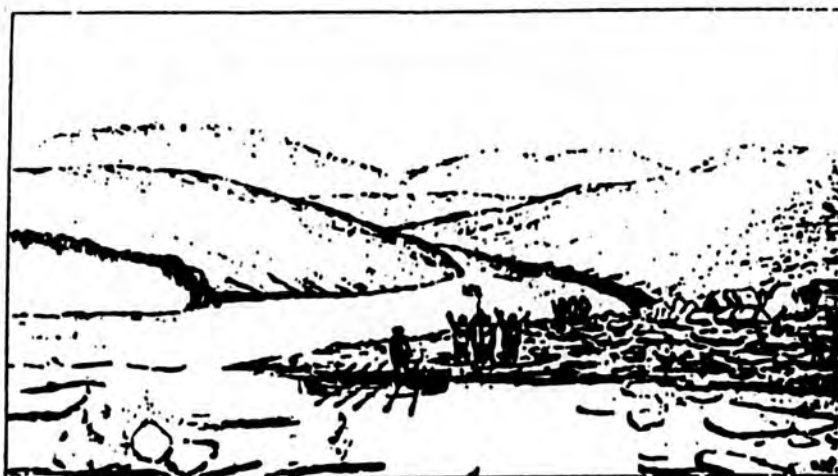
[Steamer Corwin,
Wrangell Land, August 22, 1881.]

A NOTABLE addition was made to the national domain when Captain Calvin L. Hooper landed on Wrangell Land,¹ and took formal possession of it in the name of the United States. We landed near the southeast cape, at the mouth of a river, in latitude $71^{\circ} 4'$, longitude $177^{\circ} 40' 30''$ W. The extent of the new territory thus acquired is not definitely known, nor is likely to be for many a century, or until some considerable change has taken place in the polar climate, rendering the new land more attractive and more accessible. For at present even its southmost portion is almost constantly beset with ice of a kind that renders it all but inaccessible during both the winter and summer, while to the northward it extends far into the frozen ocean.

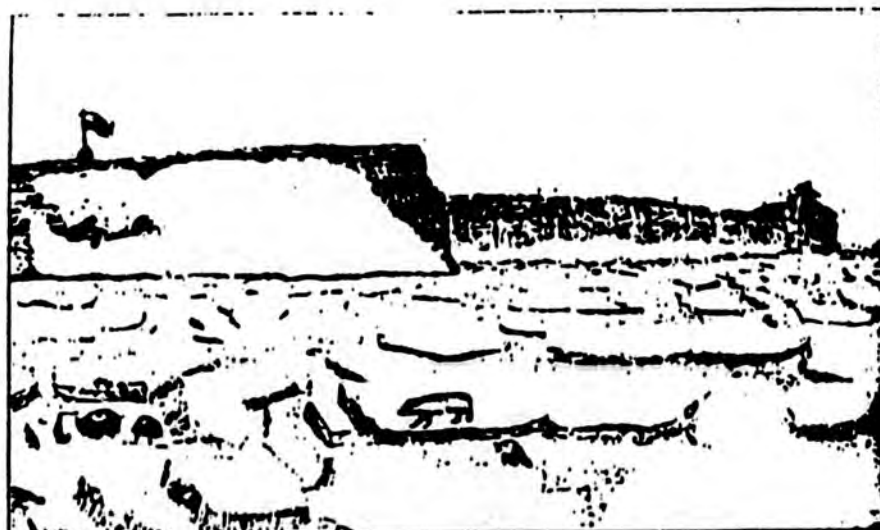
Going inland, along the left bank of the river, we found it much larger than it at first appeared to be. There was no snow left on the lowlands or any of the hills or mountains in sight, excepting the remnants of heavy drifts; nevertheless, it was still

¹ The landing was made August 22, 1881.

[169]



FIRST LANDING ON WRANGELL LAND



THE AMERICAN FLAG ON WRANGELL LAND, NEAR EAST CAPE

AFFIDAVIT OF HILDA KOONUKNOWRUK WEBER ON WRANGELL ISLAND

1 UNITED STATES OF AMERICA)
2) ss.
3 STATE OF ALASKA)

4 HILDA KOONUKNOWRUK WEBER, being first duly sworn, deposes
5 and says:

6 1. I was born at Cape Lisburne, Alaska on August 21, 1912.
7 Peter & Kippooanne Koonuknowruk were the names of my parents. My
8 present domicile is Barrow, Alaska. I am presently sojourning at
9 Kotzebue, Alaska.

10 2. In August of 1923 I left Point Hope for Wrangell Island,
11 aboard the Ship "Donaldson" (owned by the Lomen Bros. Company of
12 Nome, Alaska), with my parents, two brothers, and sister. On arriv-
13 al at Wrangell Island we built a fine sod igloo with driftwood
14 frame. This igloo became our domicile. Our community consisted
15 at that time of Koonuknowruk family (Peter, Kippooanne, Billy,
16 Hope, Ester, and Hilda), Adams family (Mr. & Mrs. John Adams &
17 there two sons, i.e., Mark & Curtis), two bachelors (Abraham
18 Howarth & Roy), and the white man Charles Wells. About April,
19 1924 Mrs. Adams gave birth to a daughter named Tulla.

20 3. Mrs. Ada Blackjack, sole survivor of the Stefansson
21 Arctic and Exploration Company's party of 1921, returned to her
22 home at Nome aboard the Ship "Donaldson" on its return voyage.

23 4. In August of 1924 the Soviet Ice Ship "Red October"
24 armed with six pound cannon and a company of infantry landed
25 at Wrangell Island, Alaska and took all 14 inhabitants prisoner.
26 The Soviets captured our furs, ivory, stores, and personal property,
27 including a U.S. Flag from Charles Wells (manager for the Lomen
28 Bros. Company at Wrangell Island). We were all shanghaied aboard

1 the Ship "Red October" as prisoners. We were taken to Vladivostok,
2 via Uelen & Petropavlovsk, by the "Red October". By the time the
3 U.S. Consul at Harbin, Manchuria could have us freed from the
4 authorities at Vladivostok and brought to him at Harbin, my
5 two brothers (Hope & Billy) and Charles Wells (formerly of
6 Uniontown, Pennsylvania) were deceased.

7 WITNESS her hand this 22nd day of March, 1977.

8 Hilda Koonuknowruk Weber
HILDA KOONUKNOWRUK WEBER

9
10 United States of America)
11 State of Alaska) ss.

12 On March 22, 1977, before me, the undersigned, a Notary
13 Public in and for said State, personally appeared Hilda
14 Koonuknowruk Weber known to me to be the person whose name
15 subscribed to the within instrument and acknowledged that
16 She executed the same.

17 WITNESS my hand and official seal. (Seal)

18 Hilda Koonuknowruk Weber
NAME (TYPED OR PRINTED
19 Notary Public in and for
20 said State.

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AFFIDAVIT OF HILDA KOONUKNOWRUK WEBER ON WRANGELL ISLAND

1 UNITED STATES OF AMERICA)
2) ss.
3 STATE OF ALASKA)

4 HILDA KOONUKNOWRUK WEBER, being first duly sworn, deposes
5 and says:

6 1. I was born at Cape Lisburne, Alaska on August 21, 1912.
7 Peter & Kippooanne Koonuknowruk were the names of my parents. My
8 present domicile is Barrow, Alaska. I am presently sojourning at
9 Kotzebue, Alaska.

10 2. In August of 1923 I left Point Hope for Wrangell Island,
11 aboard the Ship "Donaldson" (owned by the Lomen Bros. Company of
12 Nome, Alaska), with my parents, two brothers, and sister. On arriv-
13 al at Wrangell Island we built a fine sod igloo with driftwood
14 frame. This igloo became our domicile. Our community consisted
15 at that time of Koonuknowruk family (Peter, Kippooanne, Billy,
16 Hope, Ester, and Hilda), Adams family (Mr. & Mrs. John Adams &
17 there two sons, i.e., Mark & Curtis), two bachelors (Abraham
18 Howarth & Roy), and the white man Charles Wells. About April,
19 1924 Mrs. Adams gave birth to a daughter named Tulla.

20 3. Mrs. Ada Blackjack, sole survivor of the Stefansson
21 Arctic and Exploration Company's party of 1921, returned to her
22 home at Nome aboard the Ship "Donaldson" on its return voyage.

23 4. In August of 1924 the Soviet Ice Ship "Red October"
24 armed with six pound cannon and a company of infantry landed
25 at Wrangell Island, Alaska and took all 14 inhabitants prisoner.
26 The Soviets captured our furs, ivory, stores, and personal property,
27 including a U.S. Flag from Charles Wells (manager for the Lomen
28 Bros. Company at Wrangell Island). We were all shanghaied aboard

1 the Ship "Red October" as prisoners. We were taken to Vladivostok,
2 via Uelen & Petropavlovsk, by the "Red October". By the time the
3 U.S. Consul at Harbin, Manchuria could have us freed from the
4 authorities at Vladivostok and brought to him at Harbin, my
5 two brothers (Hope & Billy) and Charles Wells (formerly of
6 Uniontown, Pennsylvania) were deceased.

7 WITNESS her hand this 22nd day of March, 1977.

8 Hilda K. Weber
9 HILDA KOONUKNOWRUK WEBER

10 United States of America)
11 State of Alaska) ss.

12 On March 22, 1977, before me, the undersigned, a Notary
13 Public in and for said State, personally appeared Hilda
14 Koonuknowruk Weber known to me to be the person whose name
15 subscribed to the within instrument and acknowledged that
16 She executed the same.

17 WITNESS my hand and official seal. (Seal)

18 Hilda K. Weber
19 NAME (TYPED OR PRINTED
20 Notary Public in and for
21 said State.
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28 JURAT

TELEGRAM RECEIVED

Index Bureau
RECEIVED
OCT 17 1924
Dep't. of State

FROM

Nemo, Alaska

October 16, 1924

State Department,
Washington.

Department of State

RECEIVED
OCT 17 1924
1261 21 100
EASTERN EUROPEAN
AMERICAN

We protest removal by Soviet Government vessel from
Wrangell Island thirteen American colonists in employ
Loren Brothers Nemo. Schooner GUBA Arnout Castel master
returning today from East Cape Siberia reports local
governor there advised him colonists removed together
with furs and other property and taken to Indian Point or
Kama Harbor, Siberia. Cannot ascertain whether removal
lawful or not but we request protection American in-
terests.

Northwestern Alaska Chamber of Commerce.

OCT 23 1924

861.0144/69

DEPARTMENT OF STATE

THE SOLICITOR

INDEX BUREAU
Rec'd

DEC 3 1924

Dept. of State

November 25, 1924.

MEMORANDUM

With reference to the attached telegram, and particularly to the statement by Tchitcherine that the islands and lands which the Soviet Government claim as a part of Russia "are west of the line which under Article I of the Washington Convention between Russia and the United States, dated March 18/30, 1867, defines the boundary west of which the United States of America undertook not to prefer any claim", It may be of interest to note that the Treaty of 1867 referred to was negotiated largely orally and that only two notes(?) were passed between the two Governments prior to the signing of the treaty providing for the cession of Alaska to the United States.

In answer to a resolution of the House of Representatives on the 19th of December 1867 the Secretary of State laid before the President all the correspondence with the Russian Minister at Washington concerning the late treaty with Russia. In the note informally submitted to the Chairman of the Committee in the Senate with

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DEPARTMENT OF STATE

THE SOLICITOR

- 2 -

with the Alaska Treaty by the Secretary of State it is stated:

"The treaty for the cession of Russian America to the United States was concluded and signed on the 30th day of March last. A copy is annexed of the only two notes which passed between the negotiators before the final execution of the Treaty."

The first note is dated March 17/29, 1867, and addressed to Mr. William H. Seward, Secretary of State, by Mr. de Stoeckl, stating as follows:

"Mr. Secretary of State:

"I have the honor to inform you that by a telegram dated 16/28 of this month from St. Petersburg, Prince Gortchakoff informs me that His Majesty, the Emperor of all Russias, gives his consent to the cession of the Russian possessions on the American continent to the United States for the stipulated sum of \$7,200,000 in gold, and that His Majesty, the Emperor, invests me with full powers to negotiate and sign the treaty.

"Please accept Mr. Secretary of State the assurance of my very high consideration.

STOECKL."

The next note dated March 23, 1867, was addressed to Mr. Edward de Stoeckl by the Secretary of State

insisting

DEPARTMENT OF STATE

THE SOLICITOR

- 4 -

to the United States immediately after the exchange of ratifications all the territory, with the right of sovereignty, actually possessed by His Majesty upon the continent of America, as well as the contiguous islands, the said territory being comprised within the geographical limits hereafter indicated to wit: * * * * *

"The western limit of the ceded territories passes by a point in the Bering Strait on the parallel of the 65th degree 30' north latitude at its intersection by the meridian which separates in equal distance the islands Krusenstern or Ignalook, and the island Retmanoff or Noonarbook, and proceeds in a direct line without limitation towards the north until it loses itself in the frozen ocean."

It may be seen from the above quotation and the rest of the treaty that the Emperor of all the Russias ceded to the United States certain territories, and that the United States on its part entered into no commitment which could be interpreted as an undertaking not to press claims to any land west of the particular line above described.

Therefore, so far as the treaty is concerned, it would appear that the United States would not be prevented from preferring a claim to Wrangel Island if it so desired.

Note: The documents above referred to may be found in a volume entitled "Executive Documents, No. 157 to No. 180, Second Session, 40th Congress," under the heading of Executive Document No. 177.

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Now from the Naval Institute Press

Annapolis, Maryland

ICEBOUND

The Jeannette Expedition's Quest for the North Pole

By Leonard F. Guttridge

Often reading like a Gothic mystery but fully supported by documentary evidence, *Icebound* provides a stunning narrative of an ordeal unmatched in the annals of polar exploration. The *Jeannette* spent two winters trapped in the Arctic ice. Finally she buckled under the crushing power of the pack, forcing her crew to haul eight tons of supplies and three boats hundreds of miles to reach open water. The men from only one of these boats eventually reached safety; the others suffered horrible deaths.

Now, more than a century later, despite attempts by those involved to cover up the details, the author reveals their tragic story. The bizarre tale includes true-life characters made-to-order for good fiction: the confident commanding officer of the *Jeannette*, George Washington De Long, bent on living up to the name he had given himself; his ambitious wife; a dashing young lieutenant suffering from an unmentionable disease; an inventive but jealous engineer; his talkative wife, confined to an insane asylum during the investigations that followed the expedition's failure; a stoical and able surgeon; a flamboyant press baron who financed the venture; and a famous criminal lawyer.

In this detailed disclosure of the *Jeannette's* travails, Guttridge takes no liberties with the facts he has so carefully uncovered in revealing letters, diaries, and unedited reports. But he does use them to full advantage to present an intriguing and unforgettable story. He is especially skillful at creating dramatic scenes that bring his characters to life, and his vivid descriptions of the polar world make us appreciate both its grandeur and frightening inaccessibility.

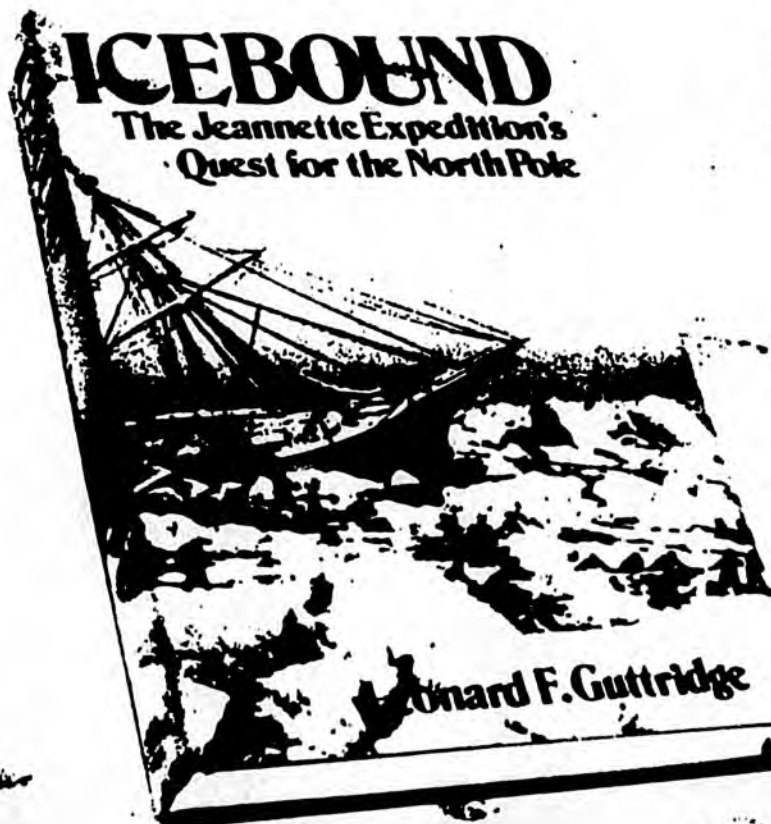
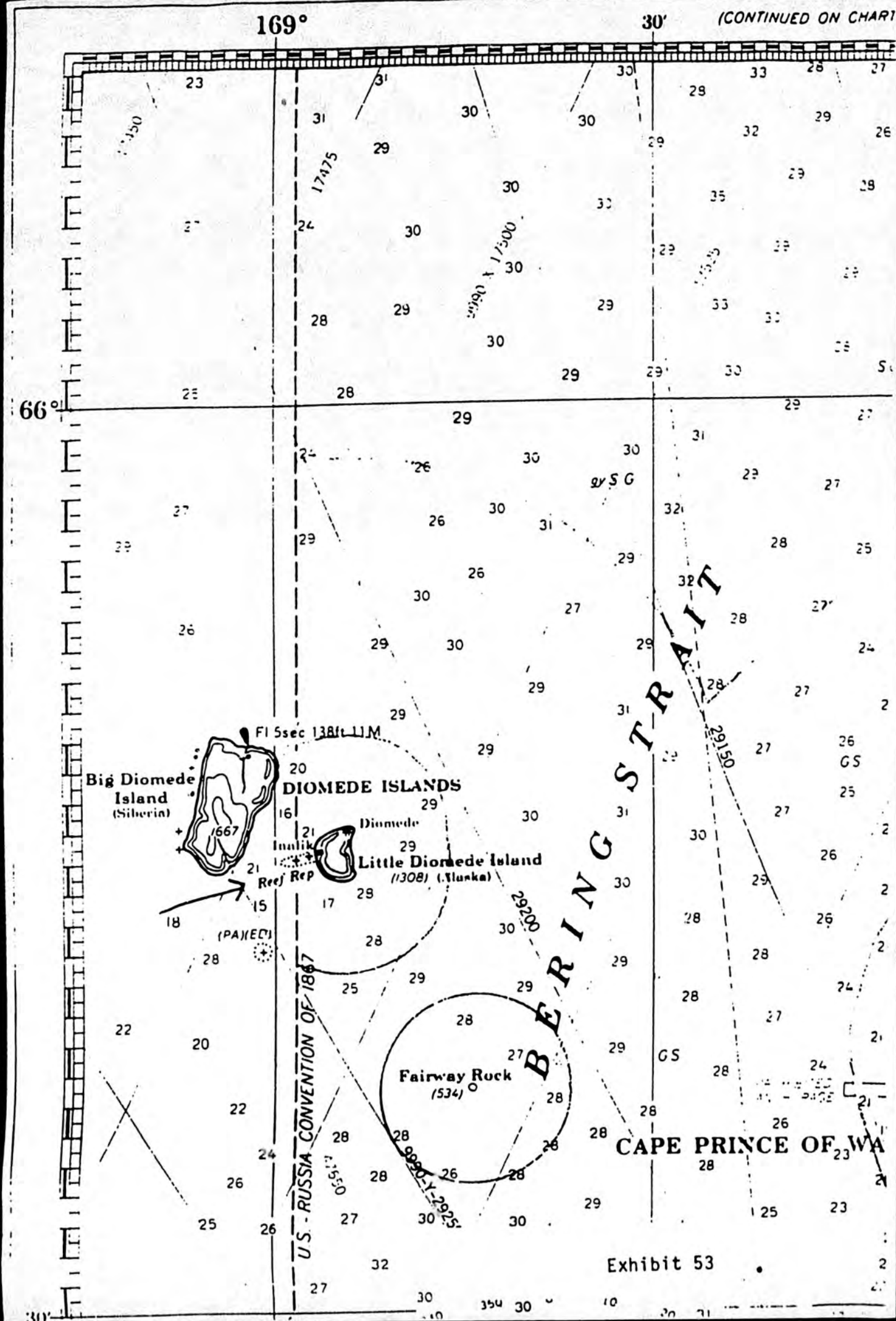


Exhibit 52

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CESSION OF ALASKA

Convention signed at Washington March 30, 1867
Senate advice and consent to ratification April 9, 1867
Ratified by Russia May 3, 1867
Ratified by the President of the United States May 28, 1867
Ratifications exchanged at Washington June 20, 1867
Entered into force June 20, 1867
Proclaimed by the President of the United States June 20, 1867

15 Stat. 539; Treaty Series 301

The United States of America and His Majesty the Emperor of all the Russias, being desirous of strengthening, if possible, the good understanding which exists between them, have, for that purpose, appointed as their Plenipotentiaries: the President of the United States, William H. Seward, Secretary of State; and His Majesty the Emperor of all the Russias, the Privy Counsellor Edward de Stoeckl, his Envoy Extraordinary and Minister Plenipotentiary to the United States.

And the said Plenipotentiaries, having exchanged their full powers, which were found to be in due form, have agreed upon and signed the following articles:

ARTICLE I

His Majesty the Emperor of all the Russias agrees to cede to the United States, by this convention, immediately upon the exchange of the ratifications thereof, all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the convention between Russia and Great Britain, of February 28-16, 1825,¹ and described in Articles III and IV of said convention, in the following terms:

"Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the 131st and the 133d degree of west longitude,

¹ For text, see *British and Foreign State Papers*, vol. 12, p. 38

1216

CESSION OF ALASKA—MARCH 30, 1867

1217

(meridian of Greenwich,) the said line shall ascend to the north along the channel called Portland channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude, (of the same meridian;) and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen ocean.

"IV. With reference to the line of demarcation laid down in the preceding article, it is understood—

"1st. That the island called Prince of Wales Island shall belong wholly to Russia," (now, by this cession, to the United States.)

"2d. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between 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."

The western limit within which the territories and dominion conveyed, are contained, passes through a point in Behring's straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern, or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly south-west, through Behring's straits and Behring's sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choulouki, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southerly direction, so as to pass midway between the island of Attou and the island of the Kormandorski couplet or group in the North Pacific, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian.

ARTICLE II

In the cession of territory and dominion made by the preceding article, are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed, that the churches which have been built in the ceded territory by the Russian government, shall remain the property of such members of the Greek Oriental Church resident in the territory, as may choose to worship therein. Any government archives, papers, and documents relative to the territory and dominion aforesaid, which may be now existing there, will be left in the possession of the agent of the United States; but an authenticated copy of such of them as may be required, will be, at all times, given by the United States to the Russian government, or to such Russian officers or subjects, as they may apply for.

ARTICLE III

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.

ARTICLE IV

His Majesty the Emperor of all the Russias shall appoint, with convenient despatch, an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, dependencies and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery.

ARTICLE V

Immediately after the exchange of the ratifications of this convention, any fortifications or military posts which may be in the ceded territory, shall be delivered to the agent of the United States, and any Russian troops which may be in the territory shall be withdrawn as soon as may be reasonably and conveniently practicable.

ARTICLE VI

In consideration of the cession aforesaid, the United States agree to pay at the treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the diplomatic representative or other agent of his Majesty the Emperor of all the Russias, duly authorized to receive the same, seven million two hundred thousand dollars in gold. The cession of territory and dominion herein made is hereby declared to be free and unincumbered by any reservations, privileges, franchises, grants, or possessions, by any associated companies, whether corporate or incorporate, Russian or any other, or by any parties, except merely private individual property holders; and the cession hereby made, conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominion, and appurtenances thereto.

ARTICLE VII

When this Convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and on the other by his Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington within three months from the date hereof, or sooner, if possible.

In faith whereof, the respective plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington, the thirtieth day of March in the year of our Lord one thousand eight hundred and sixty-seven.

WILLIAM H. SEWARD (SEAL)
EDOUARD DE STOECKL (SEAL)

Exhibit 54

NOTE: Nowhere in this treaty of sale of Alaska is there any establishment of an international boundary.

FUND FOR STOCKOWNERS RIGHTS

THE STOCKOWNERS' NEWS

NATIONAL HEADQUARTERS

□ Post Office Box 46853
Washington, D.C. 20050
United States of America

Issue Number 4

December 1984

Contact: Carl Olson

Giveaway of Alaskan Islands and Oil-Rich Seabeds to the Soviet Union Imperils Investments of 500,000 Stockowners of ARCO, UNOCAL, Amoco, and Shell

Corporate managements of four major petroleum companies have exhibited extreme dereliction of duty to their stockowners by failing to fight the State Department's plan to give their multi-million dollar oil and gas leases in the Bering Sea to the Soviet Union, it was charged by Carl Olson, Chairman of Fund for Stockowners Rights, headquartered in Washington, D.C. "Over 860,000 stockowners find themselves under the gun," Olson noted.

Right now the State Department has these four oil companies' fortunes at risk due to its current negotiations with the Soviet Union over just how much of the Bering Sea outercontinental shelf is to be surrendered in the Navarin Basin. These four oil companies--ARCO, Shell, UNOCAL, and Standard Oil (Indiana)--won the competitive process for these leases at the Department of Interior auction on 24 April 1984, bidding over \$108 million on 17 blocks. All the other block winners were given their leases, but the State Department put a hold on these in the anticipation that these would be delivered over to the Soviet Union.

"To this day, none of these four oil companies has uttered so much as one public word in defense of their highly profitable oil leases that the State Department wants to hand over to the greatest enemy of the United States and the free enterprise system--the Soviet Union," Olson reported. "On numerous occasions the managements of these firms have been pressed not only for their views on this giveaway of oil-rich seabeds, but for their advocacy plans to stop the impending losses of millions of dollars for their stockowners. All four have, by their silence, become tacit supporters of this incomprehensibly unprecedented turnover of American property to foreign enemies. They have betrayed the trust of their stockowners and their larger corporate responsibility to the American public," Olson declared.

NAVARIN BASIN SUMMARY (blocks subject to State Department surrender to Soviets):

<u>Company</u>	<u>No. of Blocks</u>	<u>Total Winning Bids</u>	<u>Stockowners</u>
Shell Oil/Transport	14	\$ 50,975,667	395,000
Standard Oil (Indiana)	14	45,173,333	190,000 (Amoco)
AtlanticRichfield	2	10,138,750	198,000
UNOCAL	1	1,886,250	88,000
		<u>\$108,174,000</u>	<u>861,000</u>

These areas were the subject of a high-level delegation led by the State Department's Legal Adviser Davis Robinson which traveled to Moscow for negotiations with the Kremlin's representatives in the week of 23-27 July 1984. These meetings apparently resolved nothing

(more)

The Fund for Stockowners Rights is a nonprofit educational organization dedicated to advancing the concept of stockowners as owners of corporations and to promoting the free enterprise economic system--which makes ownership of corporations possible. Model resolutions for votes at annual meetings and instructions on submitting them will be sent at no charge. Donations to the Fund, an IRS 501(c)(3) group, are tax deductible.

Permission to reprint is granted, provided the name and address of the Fund for Stockowners Rights are included in the reprint. ISSN 0749-9779

since no word was announced one way or the other, and no further negotiation schedule was announced. Extreme secrecy has shrouded these talks, including the complete refusal of the State Department to reveal who was on the delegation. By other means it was discovered that in addition to Robinson, the delegation included two other members of the Legal Adviser's office Elizabeth Verville and Scott Hajost; Harry Marshall and Charles T. Scully of the Bureau of Oceans and International Environmental and Scientific Affairs, and Robert W. Smith of the Office of the Geographer.

While these negotiations continue without any resolution, the stakes of billions of barrels of oil, billions of dollars of revenue, thousands of American jobs, the loss of a significant part of America's strategic petroleum reserves, and the irreparable damage to American diplomatic prestige become more and more apparent and credible. The leasing of future oil basins in the Bering Sea and Arctic Ocean off Alaska are also imperilled due to the State Department's declared policy of abandoning all Alaskan territory and outercontinental shelf to the west of the 1867 U.S.-Russia Convention Line.

SECRET POLICY PARTIALLY REVEALED

Fortunately for the American public, the State Department had to reveal part of its surrender policy in public last March. When the Navarin Basin was put up for bid on its billions-of-barrel-of-oil blocks, the announcement in the Federal Register for 16 March 1984 (pages 10056 to 10068) disclosed that the State Department could not figure out where the boundary of American territory and outercontinental shelf was in relation to the Soviet Union. Even more startling was the revelation that the State Department was going on a policy that had no basis either in historical fact or international law.

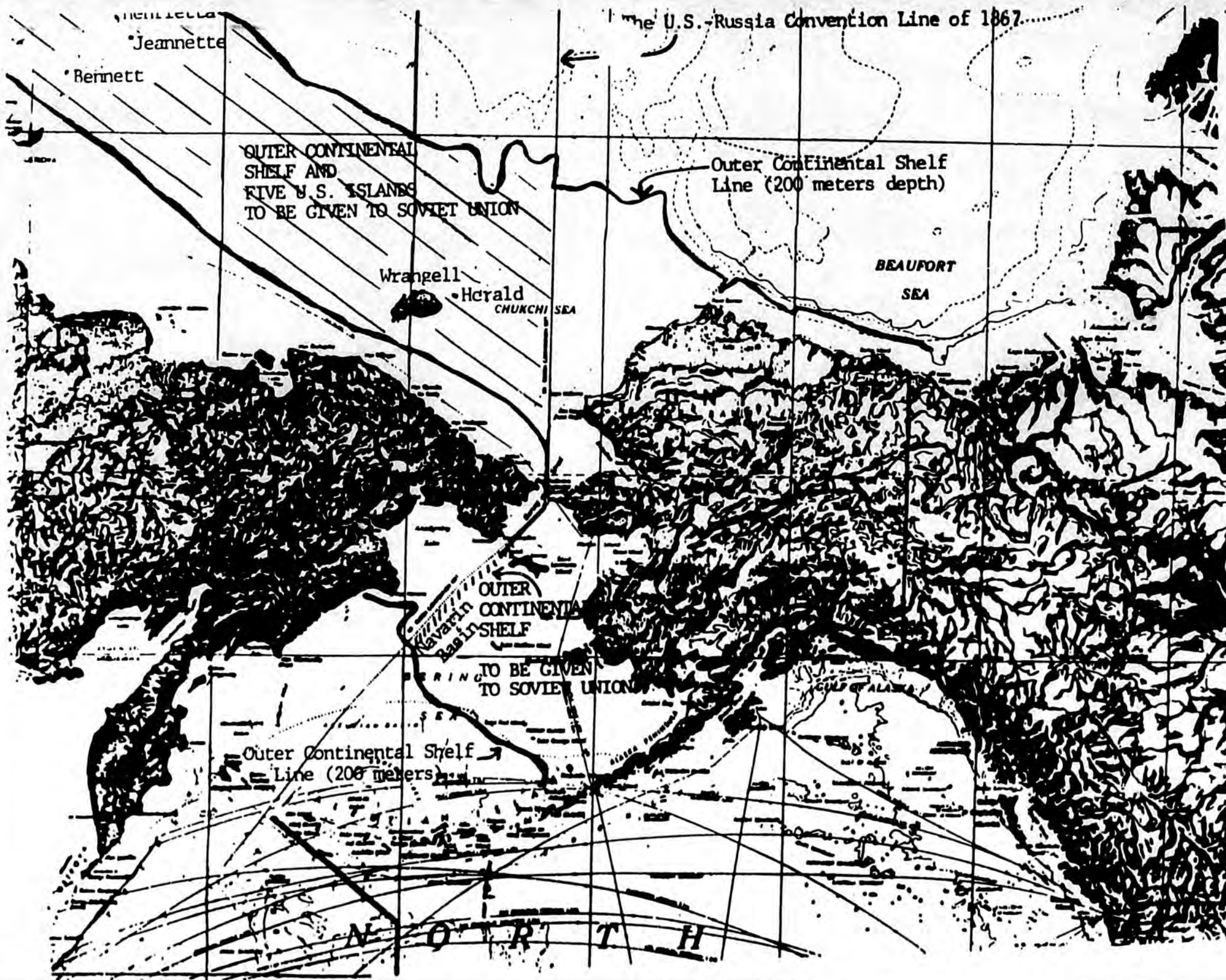
Somehow between 1965 and 1984 the State Department had elevated the old 1867 U.S.-Russia Convention Line (which was used in the purchase of Alaska from Russia for \$7.2 million) from an arbitrary map line up to the status of an international boundary. This creation of an international boundary by the State Department had been done without any treaty being enacted or ratified by the United States Senate. To this day there is no treaty establishing any boundary between the United States and the Soviet Union.

In 1965 the State Department's International Boundary Study No. 14, titled "U.S.-Russia Convention Line of 1867", flatly stated: "Rather than an ordinary boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary. ...in keeping with the policy that this line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used." By 1984, the status of this line has been completely reversed by the State Department, as noted in the 16 March 1984 Federal Register statement (page 10065), which declared: "The United States depicts the 1867 Convention Line as the maritime boundary...."

Even more significant than just the Navarin Basin leases, this State Department policy means that it is surrendering to the Soviet Union vast, strategic, and oil-rich Alaskan islands and outercontinental shelf. Incontrovertible historical fact shows the U.S. sovereignty over the Alaskan islands of Wrangell, Herald, Bennett, Henrietta, and Jeannette. Wrangell Island, the largest of the five with 2,800 square miles (the size of Rhode Island and Delaware combined), was found and claimed for the U.S. in 1881 by Capt. Calvin Leighton Hooper aboard the U.S. Revenue Marine (Coast Guard) ship Thomas Corwin; and included in the landing party was the famed explorer John Muir, whose book The Cruise of the Corwin gives a vivid account of the exciting addition to American territory. The three islands of Bennett, Henrietta, and Jeannette are part of the DeLong Islands, which were named after their discoverer U.S. Navy Commander George Washington DeLong, whose expedition aboard the ship Jeannette is memorialized in a statue at the U.S. Naval Academy at Annapolis, Maryland.

Along with the summary jettisoning of American territory, the State Department is in the same act renouncing all of the oil-rich outercontinental shelf--which is equivalent approximately four times the state of California. The owners of the islands are not even being compensated for this governmental condemnation of property. Many owners have been fighting this non-treaty usurpation by the State Department for years.

"It's now time for the four oil companies to fight for their 861,000 stockowners, so that they don't find themselves abandoned by the State Department to the wolves, too, or should I say, the bears?" Olson challenged.



Questions for Department of State Regarding the Proposed
U.S.-U.S.S.R. Maritime Boundary Treaty

1. What is the basis for the sovereignty over, and claims to sovereignty (formal or otherwise), of the United States to the islands of Wrangell, Herald, Bennett, Jeannette, and Henrietta? Include acts conducted by U.S. Navy expedition commanded by Lt. George Washington DeLong and U.S. Revenue Marine expedition commanded by Captain Calvin Leighton Hooper.
2. Who or what agency is the final authority for determining which territory belongs to the U.S.? Has this source of final authority changed from 1881 to the present? Under what U. S. statute and/or regulation is this process carried out?
3. If the U.S. at one time owned these islands, but now recognizes the Soviets own them, by what method was the transfer of sovereignty effectuated? Do such transfers of sovereignty require a treaty?
4. If the U. S. never owned these islands, what was the first document by which the U.S. recognized the Soviet claim to sovereignty? What other documents by U.S. government officials acted as if the Soviets had sovereignty?
5. Was the Digest of International Law published in 1983 either by the Department of State or under the sponsorship or endorsement of the Department of State?
6. Were the five islands of Wrangell, Herald, Bennett, Jeannette, and Henrietta excluded from Alaska in the Statehood Act of 1959.
7. Is the State Department's International Boundary Study #14 correct in its description of the U.S.-Russia Convention Line of 1867? If not, what is the correct description?
8. Has anything changed with respect to the U.S.-Russia Convention Line of 1867 since the publication of the International Boundary Study #14 (Revised) in 1965?
9. When the Department of State issued a passport for the survivors of the Lomen Brothers' settlement who were kidnapped by the Soviets from Wrangell Island in 1924, were all the people included in the passport American citizens?
10. For the many rounds of negotiations leading up to the maritime boundary treaty, who were the negotiators on the U.S. and Soviet sides, and what were the dates and locations of all of the negotiating sessions?
11. When negotiations reach the point at which it is determined by a competent authority that they will culminate in a treaty, the State Department is required by statute to notify Congress, especially the Senate for its advice. By what document was this notification made? Who was the "competent authority"? Please supply a copy. (Circular 175 requirement)
12. Are seabeds, marine life, and resources on or below seabeds in the Exclusive Economic Zone considered to be either territory of, or property of, the United States? What is the estimated value of the natural resources (oil, gas, minerals, sealife, etc.) on both sides of the proposed line in the Arctic and Bering Seas.

13. Has the U.S. assisted any American claimant of property or territory regarding Wrangell, Herald, Bennett, Jeannette, or Henrietta Islands? Who are these claimants?

14. Why were no representatives of the State of Alaska allowed to participate in any of the negotiating sessions, and why will the State of Alaska not have the power of consent regarding this treaty with respect to ceding territory or establishing its own boundary with the Soviet Union? A clear parallel exists with the negotiations between the U.S. and Great Britain over the boundary between Maine and Canada (Webster-Ashburton Treaty), in which representatives of both Maine and Massachusetts were required to be involved in the negotiations and the consent of these states was also required.

15. During the negotiations, Legal Adviser Abraham Sofaer recused himself, reportedly because of his financial interest in the oil industry. Please supply a copy of any recusal document for Judge Sofaer and any other State Department official for this treaty negotiations.

16. In establishing a maritime boundary line purportedly to follow generally the U.S.-Russia Convention Line of 1867 as described in the 1867 treaty, why was the crucial southern end of the line ignored, i.e., the part of the 1867 treaty which states "...so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian" (193 west longitude)? Copper Island, Sea Lion Rock, and Sea Otter Rock are U.S. islands as described by the 1867 treaty, but would appear on the Soviet side of the maritime boundary treaty.

17. Why have the "eastern special areas" and "western special area" been created on each side of the maritime boundary lines, which permit the U.S. to "exercise sovereign rights and jurisdiction" in the Soviet areas and the Soviets to do the same in the U.S. areas? This is a unique concession to allow a foreign government to exercise sovereign powers inside the U.S. and will require authorizing legislation. Why was not the boundary line drawn to go around these areas and thus avoid the need to create this grave sovereignty problem?

18. Why does the maritime boundary treaty re-define the U.S.-Russia Convention Line of 1867 in terms that were never included or intended in the 1867 treaty?

A. It uses a 200-mile reference from Wrangell and Herald Islands to establish the "eastern special area" in the Arctic, as if the Soviets had sovereignty over Wrangell and Herald.

B. It diverges in all material aspects from the description of the U.S.-Russia Convention Line of 1867 in the State Department's International Boundary Study #14 (Revised).

C. It creates a major "jog" away from the straight line in the Bering Sea to give the Soviets a 200-mile concession.

D. It ignores the part of the line described in the 1867 treaty for the end of the Aleutian Islands (i.e. the line at the 193 west longitude ceding all the Aleutians to the U.S.).

E. It gives in to the Soviet demand for the line to follow a "rhumb" line depiction for the thousands of miles of its length even though such a depiction does not represent the "neutral" shortest distance between two points on the globe (as the "arc of a great circle" depiction would do). The effect of this concession is that the Soviets will get thousands more square miles of outercontinental shelf in the Bering Sea.

Summary of Environmental Impact Statement for Proposed Chukchi Sea Sale 126

This Environmental Impact Statement (EIS) examines a proposal for oil and gas leasing in the Chukchi Sea, three alternatives to the proposal, the major issues identified through the scoping process, and the potential mitigating measures associated with the proposal.

The proposal (Alternative I) consists of 4,319 blocks (approximately 9.58 million hectares) in the Chukchi Sea that are located about 3.5 to 200 miles (about 6.5 to 370 km) offshore in water depths that range from about 98 to 263 feet (about 30-80 m). Alternative II (No Lease Sale) would cancel the proposed lease sale, scheduled for late 1991. Alternative III (Delay the Sale) would delay the proposed lease sale for a period of up to 3 years. Alternative IV (Point Lay Deferral Alternative) would defer leasing on 501 blocks (about 1.15 million hectares) identified in the proposal, resulting in the deferral alternative being moved offshore from about 25 to 75 miles (40 to 120 km). The Secretary of the Interior will decide which of these options or combination of options will take place.

The potential effects of Alternative I (Proposal) are based on three separate cases that represent a range of possible oil and gas activities resulting from Sale 126. The cases are the low case, base case, and high case. It is assumed that natural gas resources would not be economic to produce and would not be developed (see Appendices A and B).

→ **Low Case:** The low case assumes that 430 million barrels (MMbbl) of oil would be discovered but that this volume is below the minimum economic resource required for development. As a result, two exploration wells would be drilled, plugged, and abandoned, with industry activity ceasing at this point. This case represents a minimum amount of petroleum industry activity that could occur in the Sale 126 area. The probability of a major oil spill occurring would be negligible. The only spills estimated to occur would be from minor operational spills. The environmental analysis focuses on the effects associated with exploration activities.

Base Case: The base case represents the most likely amount of hydrocarbon resources that could be assumed to be developed from leasing in the Sale 126 area if commercial quantities of hydrocarbons are discovered. It is assumed that 1,610 MMbbl of oil would be discovered and produced in the sale area. It is assumed that natural gas resources would not be economic and would not be developed. The MMS estimates a 0.21 marginal probability, which means that there is an approximately 21-percent chance of economically recoverable hydrocarbons being present in the unleased sale area. For the base-case-resource estimate, two spills of 1,000 barrels or greater ($\geq 1,000$ bbl) are estimated to occur over the life of the field, with an 87-percent chance of one or more spills occurring.

For the base case, assuming that commercial quantities of hydrocarbons are present in the area and developed, there is a 1-percent chance that one or more spills of $\geq 1,000$ bbl would occur and contact land during the summer within 30 days. There is a 25-percent chance that one or more spills of $\geq 1,000$ bbl would occur and contact land during the entire winter. The effects from oil spills would be mitigated by the extent to which weathering of oil occurred at sea and by the effectiveness of any oil-spill-cleanup measures.

The base-case-environmental analysis focuses on oil exploration and development and production activities. The analysis uses a hypothetical transportation scenario in which oil production from offshore-production platforms would be piped ashore near Point Belcher and transported overland by pipeline to connect with the Trans-Alaska Pipeline (TAP) near Pump Station No. 2. The oil would be transported south by TAP to Valdez and shipped to the continental U.S. by tankers.

→ **High Case:** The high case represents a maximum resource volume of hydrocarbons likely to be present in commercial quantities. It is assumed that 3,540 MMbbl of oil would be discovered and produced in the sale

area. It is also assumed that natural gas resources would not be economic and would not be developed. The marginal probability of hydrocarbons in commercial quantities being present in the sale area is the same as in the base case (0.21). For the high-case-resource estimate, four spills of $\geq 1,000$ bbl are estimated to occur over the life of the field. Assuming that commercial quantities of hydrocarbons are present in the area and developed, there is a 1-percent chance that one or more spills of $\geq 1,000$ bbl would occur and contact land during summer within 30 days. There is a 46-percent chance that one or more spills of $\geq 1,000$ bbl would occur and contact land during the entire winter. The probability of one or more spills of $\geq 1,000$ bbl occurring is 99 percent. The degree of adverse effects from oil spills would be mitigated by the extent to which weathering of oil occurred at sea and by the effectiveness of any oil-spill-cleanup measures.

The high-case environmental analysis focuses on exploration and development and production activities. The analysis uses a hypothetical transportation scenario in which oil production from offshore-production platforms would be transported to the TAP in the same manner as in the base case. The oil would be transported south by TAP to Valdez and shipped to the continental U.S. by tankers.

Alternative II (No Lease Sale) would remove the total area proposed for leasing from further consideration. Therefore, effects identified to occur as a result of the proposal would not occur. This alternative could perpetuate the need for imported oil and add to the need for developing alternative-energy resources.

Alternative III (Delay the Sale) would delay the proposed lease sale for a period of up to 3 years. Effects of this alternative would be the same as for Alternative I (the proposal), but they would be delayed up to 3 years.

Alternative IV (Point Lay Deferral Alternative) would defer leasing on 501 blocks (about 1.15 million hectares), resulting in the deferral alternative being moved from about 25 to 75 miles (40 to 120 km) offshore. The purpose of the deferral alternative is to include those marine mammal habitats not deleted from the sale area during Area Identification, provide additional protection for important coastal habitats, and furnish an additional protective buffer for offshore subsistence-harvest areas of the community of Point Lay. In this alternative, it is assumed that 1,610 MMbbl of oil would be discovered and produced in the sale area, the same as in the base case. It is also assumed that natural gas resources would not be economic to produce and would not be developed (see Appendices A and B). The marginal probability of hydrocarbons in commercial quantities being present in the sale area (0.21) is the same as in the base case. The number and probability of oil spills estimated to occur also are the same as in the base case, assuming that commercial quantities of hydrocarbons are present in the area and developed. The degree of adverse effects from oil spills would be mitigated by the extent to which weathering of oil occurred at sea and by the effectiveness of any oil-spill-cleanup measures.

The environmental analysis for the Point Lay Deferral Alternative focuses on the effects associated with exploration and development and production activities. The analysis uses a hypothetical transportation scenario in which oil production from offshore-production platforms would be transported to the TAP in the same manner as in the base case. The oil would be transported south by TAP to Valdez and shipped to the continental U.S. by tankers.

Table S-1 summarizes the possible effects that are likely to occur as a result of the leasing proposal (Alternative I) and the alternatives to the proposal on those resources identified as major concerns during the scoping process (see Table S-2 for the definitions used in assessing effects). The analyses supporting the conclusions in Table S-1 assume that all current laws and regulations are in place for the leasing proposal. If the potential mitigating measures described in Section II.F.2 of this EIS were adopted, some of the effects described in Section IV would be reduced (the effectiveness of potential mitigating measures is discussed in Sec. II.F.2).

This EIS is not intended, nor should it be used, as a local planning document by potentially affected communities. The facility locations and transportation scenario described in this EIS represent assumptions

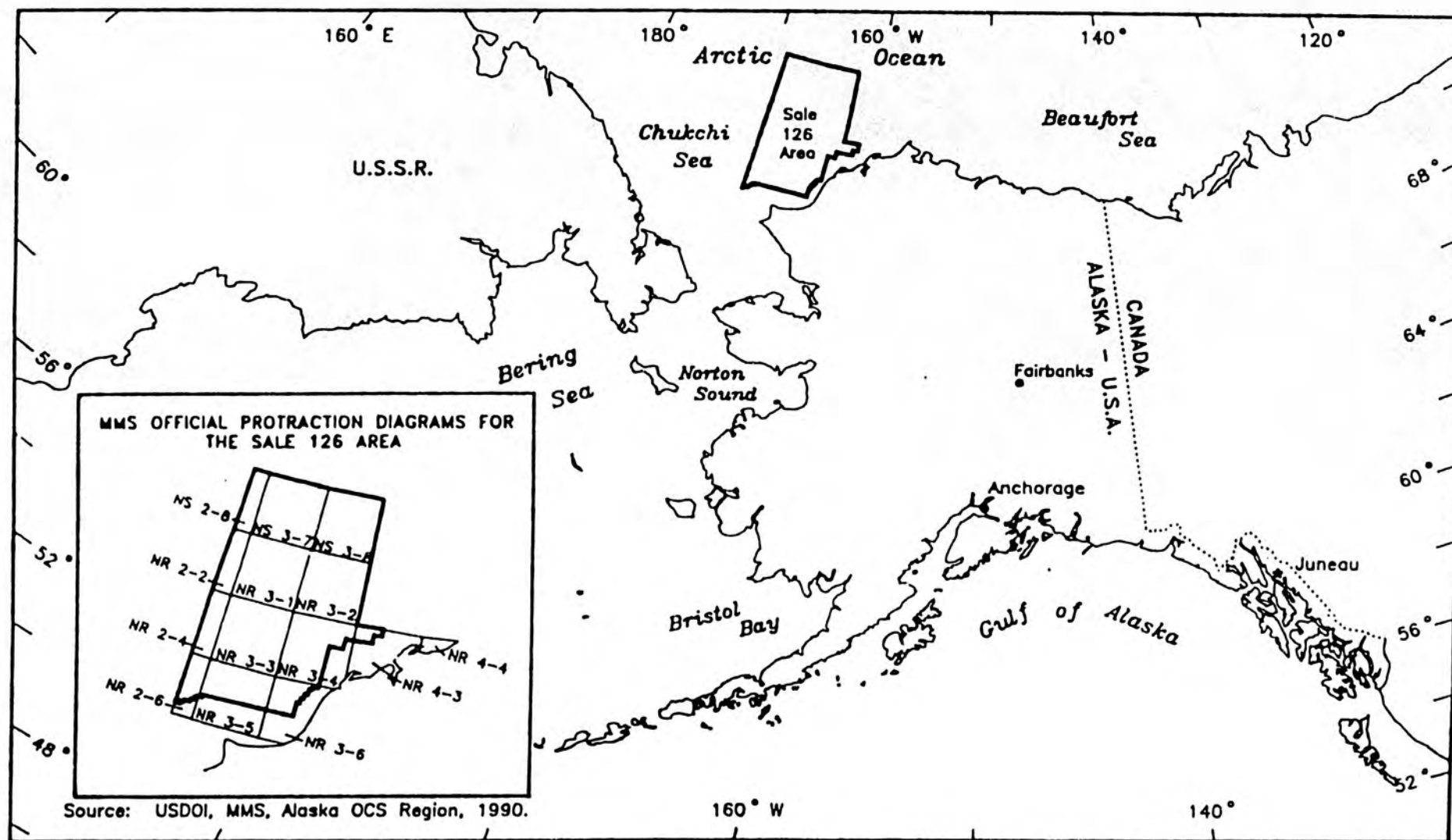
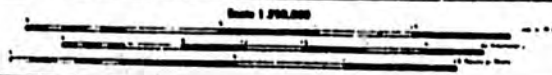


Figure I-1. Location of the Proposed Chukchi Sea Sale 126 Area

Second Judicial District, Unorganized Borough

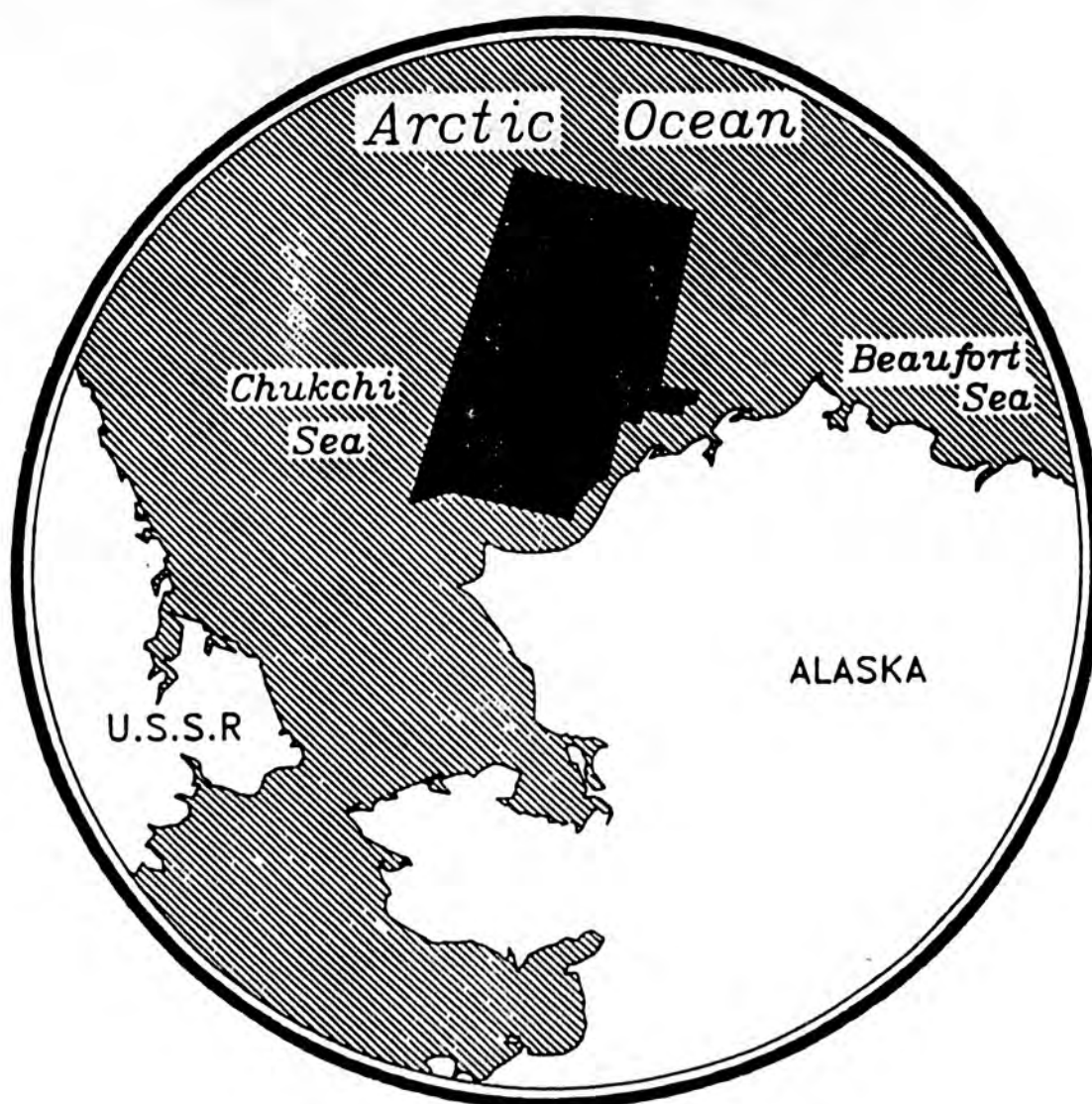


Alaska Outer Continental Shelf

Chukchi Sea Oil & Gas Lease Sale 126

Final Environmental
Impact Statement

Volume I



Assembly Joint Resolution No. 37

RESOLUTION CHAPTER 122

Assembly Joint Resolution No. 37—Relative to the boundaries of Alaska.

Adopted September 10, 1987

[Filed with Secretary of State September 17, 1987.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 37, La Follette. Alaska: boundary negotiations.

This measure would state the Legislature's support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada. It would memorialize the President and Congress of the United States to ensure that any terms and conditions of any boundary agreement with respect to Alaska's boundaries is consented to by the State of Alaska and that the agreement is drafted in the form of a treaty for ratification by the United States Senate.

WHEREAS, The boundaries of the State of Alaska are of vital concern to the state government of Alaska; and

WHEREAS, The essence of sovereignty of a state within America's federal system requires that a state government have complete and unambiguous jurisdiction over well-defined geographical boundary lines; and

WHEREAS, Any time that boundaries of a state are to be altered in any way, that state has an essential and overriding interest in the determination of the boundary; and

WHEREAS, Alaska is unique among all American states in that it is the only state with the potential for having boundaries with more than one foreign country (i.e. Canada and the Soviet Union); and

WHEREAS, Boundaries with foreign countries and a state are, and ought to be, coterminous with America's national boundaries with those foreign countries; and

WHEREAS, Negotiations are underway between the United States Department of State and the government of the Soviet Union over setting boundaries between the United States and the Soviet Union, and there have been at least seven rounds of negotiations on this issue since 1981; and

WHEREAS, The economic issues of petroleum, fishery, and other valuable resources have great impact on Alaska's welfare and prosperity; and

WHEREAS, At no time has the United States Department of State allowed, or even offered to invite, a representative of the state government of Alaska to be on any negotiating delegation, nor has it formally solicited the input or advice of the state government of Alaska over the content or form of these negotiations; and

WHEREAS, These negotiating delegations, which the United States Department of State has assembled, have included representatives of various other agencies of the federal government; and

WHEREAS, It is settled procedure for negotiation of boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the proposed terms of the boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain in 1842 over the boundary between Canada and the State of Maine); and

WHEREAS, A usurpation of one state's rights and sovereignty is an attack on the entire federal system of the United States of America; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to ensure that any terms and conditions of any boundary agreement with respect to Alaska's boundaries are consented to by the State of Alaska, and that any such boundary agreement is drafted in the form of a treaty for ratification by the United States Senate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Governor of Alaska.

Exhibit 41

Introduced by Senator Rogers

May 2, 1991

Senate Joint Resolution No. 20—Relative to the boundaries of Alaska.

LEGISLATIVE COUNSEL'S DIGEST

SJR 20, as introduced, Rogers. Alaska boundary negotiations.

This measure would state the Legislative support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union. The measure would memorialize the President to withdraw from the United States Senate the proposed boundary treaty between the United States and the Soviet Union and request the California United States Senators to decline to consider the proposed treaty until the State of Alaska has been allowed to participate in the treaty negotiations and has been guaranteed that its consent will be required for the agreement.

Fiscal committee: no.

WHEREAS, Every state has a compelling constitutional interest in determining its own boundaries with other states and foreign countries; and

WHEREAS, The State of Alaska's boundary with the Soviet Union has been the subject of negotiations between the United States government and the Soviet government since 1981; and

WHEREAS, The State of Alaska has never been permitted to participate in the negotiations carried on by the Department of State; and

WHEREAS, The Alaska Legislature has vigorously protested this exclusion in the form of Senate Joint

Resolution 12, which was passed unanimously by both houses and signed by Governor Steve Cowper in May 1988; and

WHEREAS, The Department of State ignored these protests, and its negotiations have resulted in a proposed treaty titled "Agreement with the Union of Soviet Socialist Republics on the Maritime Boundary," which is now before the United States Senate for ratification; and

WHEREAS, The California Legislature previously expressed its support for the State of Alaska for its right to participate in any negotiations affecting its boundaries in the form of Resolution Chapter 122 of the Statutes of 1987; and

WHEREAS, It is settled procedure with respect to negotiations of state boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the terms of the proposed boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain over the boundary between Canada and the State of Maine in 1842); now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly: That the California Legislature renews its support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union; and be it further

Resolved, That the California Legislature (1) respectfully memorializes the President of the United States to withdraw the proposed treaty from consideration by the United States Senate and (2) requests the California United States Senators to decline to consider the proposed treaty, until such time as the State of Alaska has been able to participate fully in negotiations and has been guaranteed that its consent will be required for any agreement affecting its boundaries; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of Alaska, to the President of the Alaska Senate, and to the Speaker of the Alaska House of Representatives.

the sponsor of
this resolution:

Sen. Don Rogers
State Capitol
Sacramento, Calif.
95814
916-445-6637

HOUSE RESOLUTION

No. 88

Session of
1991

INTRODUCED BY HASAY, CAPPABIANCA AND SERAFINI, APRIL 16, 1991

REFERRED TO COMMITTEE ON RULES, APRIL 16, 1991

A RESOLUTION

Memorializing the President of the United States and the Department of State to recognize Alaska's interest in the boundary negotiations between the United States and the Soviet Union and to include Alaska in the negotiating process at the proper time, recognizing Alaska's inherent interest in these negotiations.

WHEREAS, Negotiations are underway and have continued since 1981 between the United States Department of State and the government of the Soviet Union in an effort to determine the status of five strategic Alaskan arctic islands and an immense outer continental shelf; and

WHEREAS, The economic issues of petroleum, fishery and other valuable resources will have great impact on Alaska's welfare and prosperity; and

WHEREAS, Among all American states, Alaska is unique in that it is the only state that shares its boundaries with more than one foreign country; and

WHEREAS, Its boundaries are of vital importance to Alaska's State Government and the sovereignty of the United States; and

WHEREAS, Alaska has, to date, not been included in any of the negotiations between the United States and the Soviet Union; and

WHEREAS, Article II, section 2(2) of the United States Constitution which states: "He (the President) shall have Power, by and with the Advice and Consent of the Senate to make Treaties, provided two-thirds of the Senators present concur..." makes the President the official responsible for international agreements and treaties with the Senate's consent with no implied or stated right of any state to be included in or consent to the terms of any boundary dispute; and

WHEREAS, During 1842, the United States Secretary of State Daniel Webster negotiated with Lord Ashburton, the British envoy, over a disputed boundary along the border between Canada and the states of Maine and Massachusetts; a dispute which began at the close of the American Revolution and continued for 60 years bringing the two countries to the brink of war; and

WHEREAS, Secretary of State Webster, knowing that treaties require approval by two-thirds of the Senators present and subsequent ratification by the President, did, in an attempt to gain support in the Senate for the treaty and with President Tyler's approval, propose to Lord Ashburton that commissioners from the two states be asked to participate in the negotiations. With Lord Ashburton's consent, four commissioners from Maine and three from Massachusetts were appointed to join the negotiations. Webster thereby established a precedent which would allow inclusion of states in future boundary negotiations when necessary; therefore be it

RESOLVED, That the President of the United States and the Department of State take the example set by Secretary of State Daniel Webster in negotiating the Webster-Ashburton Treaty of 1842 by including Alaska, at the earliest appropriate time in their ongoing boundary negotiation, thereby recognizing Alaska's inherent interests in the establishment of this boundary; and be it further

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President of the United States and the Department of State to recognize Alaska's interest in the boundary negotiations between the United States and the Soviet Union and to include Alaska in the negotiating process at the proper time; and be it further

RESOLVED, That copies of this resolution be transmitted to the President of the United States, the Secretary of State, the Vice President of the United States as the presiding officer of the Senate, to each member of the Senate and to the Governor of Alaska.

the sponsor of this resolution:

Rep. George C. Hasay
State Capitol Building
Harrisburg, Penn. 17120
717-787-1117

Senator Gary Suhadolnik
State House
Columbus, Ohio 43266
614-466-8056

118TH GENERAL ASSEMBLY
Regular Session
1989 - 1990

S. J. R. No. /

MR. SUHADOLNIK

RESOLUTION

Supporting the State of Alaska in its rightful position
of participation in any negotiations involving its boundaries
with the Soviet Union or Canada.

WHEREAS, The members of the 118th General Assembly of Ohio wish to
proclaim our support of the State of Alaska in its rightful position of
participation in any boundary negotiations involving its boundaries with
the Soviet Union or Canada; and

WHEREAS, Negotiations are currently underway between the United
States State Department and the Soviet Union to determine the status of
e strategic Alaskan Arctic islands and an immense outercontinental
shelf. Although the transfer of these lands and vast, oil-rich seabeds
would have a direct impact on the economic issues of petroleum, fishery,
and other valuable resources concerning Alaska's welfare and prosperity,
Alaska has not been present or even invited to any of at least eight
rounds of negotiations between the United States and the Soviet Union
which have taken place since 1981. This systematic exclusion of Alaska
from crucial boundary negotiations is a clear violation of America's
policy of state sovereignty, in which state governments have complete
and unambiguous jurisdiction over well-defined geographical boundary
lines of that state; and

WHEREAS, Among all American states, Alaska is unique in that it is
only state that shared boundaries with more than one foreign
country. Its boundaries are of vital importance to Alaska's state

governments, and the current exclusion of Alaska from boundary negotiations with the Soviet Union is a deliberate infringement upon Alaska's sovereignty. It is settled procedure that a state government may only be involved in any negotiations that would affect its boundaries, but also give its express consent to the proposed terms of the boundary treaty, as was the case in 1842 when Secretary of State Daniel Webster negotiated with Great Britain over the boundary between Canada and the State of Maine; and

WHEREAS, The transfer of land between the United States and another country as well as the establishment of national boundaries must be provided for by a treaty signed by the President and ratified by Congress, in addition to being approved by the state or states which such negotiations would affect. Thus, the denial of Alaska's rights and sovereignty by the United States Department of State is not only an affront to the state government of Alaska, but is also an attack on the entire federal system of the United States of America; therefore be it

RESOLVED, That we, the members of the 118th General Assembly of Ohio, in adopting this Resolution, give our utmost support to the State of Alaska in its efforts to be rightfully represented at any boundary negotiations with the Soviet Union, and urge the President and Congress of the United States to ensure that the terms and conditions of any boundary agreement concerning Alaska are consented to by the State of Alaska and are drafted in the form of a treaty for ratification by the United States Senate; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this Resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Governor of Alaska, and to the news media of Ohio.

This International Boundary Study is one of a series of specific boundary papers prepared in the Office of the Geographer, Department of State, in accordance with provisions of Bureau of the Budget Circular No. A-16, Exhibit D.

Government agencies may obtain additional information and copies of the study by calling the Office of the Geographer, Room 8744, State Department Building, Department of State, Washington 25, D.C. (telephone: Code 182, Extension 4507).

INTERNATIONAL BOUNDARY STUDY

No. 14 (Revised)

Oct. 1, 1965

U.S. - RUSSIA CONVENTION LINE OF 1867

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The Geographer
Office of Research in Economics and Science
Bureau of Intelligence and Research

I. U.S. - RUSSIA CONVENTION LINE OF 1867

Rather than a boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary. According to Boggs^{1/} "Most lines in water areas which are defined in treaties are not boundaries between waters under the jurisdiction of the contracting parties, but a cartographic device to simplify description of the land areas involved ...". He further describes such a line being a "line of allocation" of land. For example, all land areas to the east of the Convention line in question belong to the United States; to the west to the U.S.S.R. without regard to the water areas involved.

Early in 1955, a group of U.S. cartographic experts in the ACC/MAP^{2/}, after a rather long period of consultation and deliberation, issued the "Coordinate Positions for the Plot of U.S. - Russia Convention of 1867." This document, which is reproduced in part below, has been adopted as the standard description for the cartographic representation of the Convention line. Its re-issue in this series results from the large number of questions on the line which have been raised in recent months from offices unfamiliar with the original document.

II. TREATY

The only treaty establishing a so-called "boundary" between the United States and the modern Union of Soviet Socialist Republics is the Convention Ceding Alaska concluded March 30, 1867 with ratification advised by the Senate on April 9, 1867 and proclaimed by the President on June 30, 1867. The Convention line, as given below, marks the limit, to the east of which, the Emperor of Russia ceded all territory or claims to territory in North America. The 1867 Convention's territorial article on the western limits of the Alaskan cession reads as follows:

The western limit within which the territories and dominion conveyed, are contained, passes through a point in Behring's straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern, or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's straits and Behring's sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly

^{1/} Boggs, S.W., "Delimitation of Seaward Areas under National Jurisdiction," American Journal of International Law, Vol. 45, No. 2 April 1951, footnote 2, page 240.

^{2/} The Map Sub-Committee of the Air Coordinating Committee.

direction, so as to pass midway between the island of Attou and the Copper island of the Kormandorski couplet or group, in the North Pacific ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian.

In the Convention, 193° West Longitude coincides, of course, with 167° East Longitude. The modern names for selected places mentioned in the Convention are as follows:

<u>Convention Name</u>	<u>Modern Name</u>
Krusenstern or Ignalook	Little Diomedé Island
Ratmanoff or Noonarbook	Big Diomedé Island or Ostrov Ratmanova
Frozen Ocean	Arctic Sea
Cape Choukotski	Mys Chukotskiy
Attou Island	Attu Island
Copper	Ostrov Mednyy
Kormandorski couplet	Komandorskiye Ostrova

III. SUMMARY

The wording of the Convention is rather precise. The principal question left unsolved is whether the lines between the fixed points should cartographically be expressed as "rhumb lines" or as "great circle lines". It was decided that great circle lines should be understood by the Convention wording of "straight lines" on the earth and the ACC/MAP group resolved:

"The lines between points herein described are great circles except those lines which connect adjoining points on the same parallel shall follow the parallel."^{3/}

The Coordinate Positions for the Plot were listed as follows:

Coordinate Positions for Plot of U.S.- Russia Convention Line of 1867

<u>POINT</u>	<u>POSITION</u>	
	<u>Latitude</u>	<u>Longitude</u>
Mys (Cape) Chukotski, southeast extremity	64° 14'.2 N	173° 05'.5 W
St. Lawrence Island, northwest extremity	63° 47'.3 N	171° 45'.8 W
Medny (Copper Island) eastern extremity	54° 32'.2 N	168° 00' E
Attu Island, western extremity	52° 55'.3 N	172° 26'.8 E

^{3/} The actual wording applied to ADIZ boundaries in the vicinity of the Convention line. The significant point is made first and applied to the Convention line.

<u>POINT</u>	<u>POSITION</u>	
	<u>Latitude</u>	<u>Longitude</u>
Initial Turning Point	65° 30'.0 N	168° 58' 22".587 W ^{4/}
Turning Point No. 2	64° 12'.3 N	172° 00' W
Mid Point between Medny and Attu Island	53° 45'.0 N	170° 16'.0 E
End Point, southwestern ex- tremity of Convention line	50° 36'.4 N	167° 00' E
5° increments of longitude along great circle arcs	65° 04'.2 N	170° 00' W
	62° 59'.4 N	175° 00' W
	60° 33'.5 N	180°
	57° 28'.0 N	175° 00' E
	53° 31.0 N	170° 00' E
Starting point of Convention Line	72° 00' N	168° 58' 22".587 W

It should be noted that the original Convention language stated that the line "proceeds thence due north, without limitation, into the same Frozen Ocean". Since the United States does not support so-called "sector claims" in the polar regions, the northernmost point for the representation of the Convention line was agreed to be 72° 00' N. Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used. Furthermore, labeling of the line as "U.S. - Russia Convention of 1867" is recommended.

The plotted points, it should be remembered, are subject to minor modification resulting from improved surveys, changes in datum, alteration in the spheroid, etc.

^{4/} This value was given erroneously in the distributed ACC/MAP minutes as 168° 50' 22".587 W. and copied in the original edition of this study instead of the correct value, 168° 58' 22".587 W.

The map displays the Bering Sea and its surroundings. Key features include:

- Geographical Labels:** EAST SIBERIAN SEA, CHUKCHI SEA, U.S.S.R., ALASKA, BERING STRAIT, BERING SEA, ALEUTIAN ISLANDS.
- Islands and Landmarks:** Wrangel Island, St. Lawrence Island, Aleutian Islands.
- Convention Line:** A dashed line labeled "U.S.-RUSSIA CONVENTION OF 1947" runs diagonally across the Bering Sea.
- Coordinates:** Latitude and longitude lines are marked, with specific points labeled with coordinates (e.g., 66° 04' N, 156° 00' W).
- Other Labels:** "Point of View of Convention Line", "Point of View of Convention Line", "Point of View of Convention Line".

SCOMM

108:7

Alaska State Legislature

House of Representatives

Interim Address:

119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907)-456-5081
Fax# (907)-456-8245
Official Business



Session Address:

Room 13
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Juneau, AK. 99801-1182

Representative Al Vezey

Date: February 27, 1998

To: Representative Ramona Barnes, Chair
World Trade and State/Federal Relations

From: Representative Al Vezey

AV

Re: Draft CSHJR 54

Attached is a blank committee substitute for HJR 54 for your consideration.



Official Business

MEMBER
Natural Resources
Committee

Alaska State Legislature

**Chair, Legislative Council
Chair, World Trade
And
State/Federal Relations**

REPRESENTATIVE
RAMONA L. BARNES
District 22

Anchorage
P.O. Box 103382
Anchorage, AK 99510
(907) 258-8163

State Capitol
Juneau, AK 99801-1182
(907) 465-3438

MEMORANDUM

TO: Members of the House Committee on ~~World Trade &~~
State/Federal Relations

FROM: Ramona L. Barnes, Chair *Ramona L. Barnes*
World Trade & State/Federal Relations Committee

DATE: March 6, 1998

SUBJECT: Meeting Notice

The House Special Committee on World Trade & State/Federal Relations has scheduled a meeting for 5 p.m. on Wednesday, March 18th in the House Judiciary Committee Room.

The Committee will hear House Joint Resolution 52.

For additional information, please call Mark at 6585.



Official Business
MEMBER
Natural Resources
Committee

Alaska State Legislature

**Chair, Legislative Council
Chair, World Trade
And
State/Federal Relations**

REPRESENTATIVE
RAMONA L. BARNES
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MEMORANDUM

TO: Members of the House Committee on World Trade & State/Federal Relations

FROM: Representative Ramona Barnes, Chair
House Committee on World Trade & State/Federal Relations

DATE: March 10, 1998

SUBJECT: MEETING NOTICE

I have scheduled a meeting for 5 p.m. on Wednesday, March 18, 1998 in the House Judiciary Room to hear the following legislation:

House Joint Resolution 54 (Vezey)
Senate Joint Resolution 38 (Mackie)

For additional information, please call Mark #6585.

Alaska State Legislature

House of Representatives

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Official Business



Session Address:
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State Capitol
Juneau, AK. 99801-1182

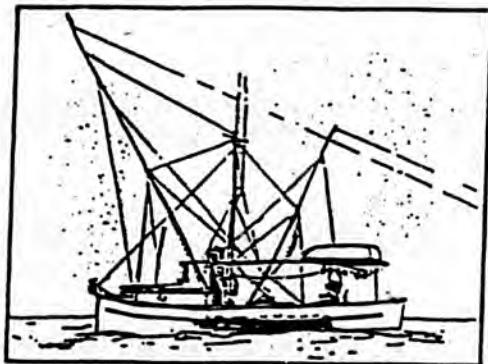
Representative Al Vezey

HJR 54 **SPONSOR STATEMENT**

The purpose of HJR 54 is to encourage the federal government to begin a dialog with Canada over the disputed maritime boundaries between Canada and Alaska.

The federal government established a maritime boundary with Canada between Maine and Nova Scotia fourteen years ago. The only solution to the ongoing disputes over fishing rights, mineral rights, transportation rights and other rights of Alaskans, Canadians, and the federal government is the establishment of a maritime boundary.

HJR 54 also clarifies that the sovereignty, territory, jurisdiction, and property rights of Alaska must be protected. It resolves that any negotiations on a maritime boundary with Canada must include participation of representatives of State of Alaska.



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

December 2, 1997

Secretary Madeline Albright
U.S. State Department
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Albright:

I am writing to inform you about the concerns of commercial fishermen operating in the disputed waters between Alaska and Canada. Our association has requested relief on this issue since the late 1970s. Since that time, the U.S. and Canada have come no closer to resolving the maritime boundary dispute. The Alaska troll fleet has essentially been forced out of U.S. waters in Dixon Entrance, due to harassment by Canadian fishermen and enforcement officials. The Alaska Trollers Association (ATA) remains deeply concerned about the safety of Alaska fishermen who operate in Dixon Entrance and requests your assistance to ensure our boats can freely conduct their business.

This summer, at least one sport and four commercial fishermen were harassed by Canada's Department of Fisheries and Oceans Enforcement (DFO) while fishing legally in the disputed area of Dixon Entrance. DFO's conduct underscores the failure of reciprocal flag state enforcement, as agreed to by the U.S. and Canada in the 1978 Exchange of Diplomatic Notes.

Since signing the Reciprocal Fisheries Agreement with Canada in 1977, the U.S. has allowed Canadian vessels to operate within its EEZ at Dixon Entrance, in contravention of Section 307(2) of the Stevens-Magnuson Fishery Conservation and Management Act. This agreement and the subsequent exchange of diplomatic notes on June 2, 1978, provided for reciprocal flag state enforcement at Dixon Entrance. Simply put, Canada is to enforce fisheries regulations only on its fishing vessels and the United States is to enforce only on U.S. vessels fishing in the disputed area. However, by both its stated policy and enforcement conduct, Canada has clearly demonstrated its disregard for flag state enforcement in the disputed area.

DFO claims the Alaska troll fishery is not a "traditional" fishery subject to flag state enforcement. This is absurd. Our 120 year old troll fishery is neither new, nor should its "traditional" status be a matter of debate in this case, as is clearly pointed out in former Secretary Alexander Haig's July 13, 1981 memo to the U.S. Coast Guard. While the 1977 Reciprocal Fisheries Agreement included a provision on "traditional" fisheries, the more recent set of diplomatic notes includes only one element of that agreement, Article IX Reciprocal Flag State Enforcement.

ATA believes the U.S. must reaffirm its commitment to reciprocal flag state enforcement, by stating its expectation that Canada return to reciprocal procedures by January 1, 1998. In addition, the U.S. should insist that Canada recognize all U.S. fisheries presently operating in the disputed area. If Canada refuses to recognize the Alaska troll fleet, the U.S. should, in turn, consider the Canadian troll fleet to be illegally operating in Dixon Entrance and take appropriate enforcement action.

Furthermore, Canada should be reminded that the parties agreed to flag state enforcement only as an interim measure, *pending the resolution of questions pertaining to the delimitation of areas subject to the respective fisheries jurisdiction of each party*. In its own 1978 diplomatic note Canada stated it, *"reaffirms its commitment to pursue negotiations on maritime boundaries"*. It was on the basis of this commitment that the U.S. agreed in its responding diplomatic note to continue reciprocal flag state enforcement. Accordingly, in October 1985, Secretary Schultz suggested to Canadian Foreign Minister Joe Clark that the two countries attempt to resolve the boundary dispute. Late in 1986, Minister Clark informed the Secretary that it was not an opportune time for Canada to negotiate. To date, Canada has consistently refused to begin negotiations with the U.S. and remains unwilling to submit the matter to the World Court for resolution. Unless Canada honors its commitments to flag state enforcement and negotiation of the maritime boundary, the U.S. should not hesitate to enforce its EEZ in Dixon Entrance, as it deems appropriate.

The importance of this issue to U.S. fishermen should not be under-estimated. What effectively forced the U.S. fleet out of Dixon Entrance is not just the sporadic harassment of a few fishermen by DFO, but daily harassment by the Canadian fishing fleet. Canada's troll fleet did not have a large presence in the area until after the U.S. claimed its 200 mile limit. Since that time, the Canadian fleet has grown to the detriment of U.S. fishermen. The majority of the Canadian boats are large, efficient processor/trollers operations, fishing six lines of gear (U.S. trollers are limited to only 2 or 4 lines, depending on permit type). They target U.S. origin salmon to, redress "equity imbalances", as stated by Canada in Pacific Salmon Treaty negotiations. Apparently, some Canadian fishermen have come to believe that these waters are sovereign Canadian waters, and that U.S. vessels are fishing there illegally. The Canadian fishermen are not at all shy about taking matters into their own hands when it comes to driving out U.S. boats. We cannot expect the U.S. Coast Guard to referee chronic right of way skirmishes, nor can we expect U.S. trollers to subject themselves to intimidation in order to fish U.S. waters.

Management of the coastwide salmon resource has been confounded by Canada's unwillingness to provide timely and meaningful harvest and coded wire tag data from its boundary area fleet. This is particularly galling to U.S. fisherman, who must often release chinook salmon to rebuild runs, while the Canadian fisherman fishing next to him continues to catch chinook all summer long. Also disturbing is when U.S. fishermen are stopped from fishing to conserve weak coho salmon runs in both countries, as they were in 1997, and Canada continues to fish our waters for the same fish. In contrast, Alaska closed

part of its troll fishery this year to protect coho stocks, and voluntarily managed both the seine and gillnet fisheries to assist in the conservation of salmon stocks bound for the Nass River in Canada.

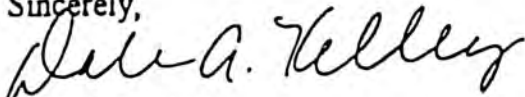
Not only does the presence of the Canadian fleet in Dixon Entrance violate the Stevens-Magnuson Act, it also poses an enforcement dilemma for the State of Alaska. By catching and transporting unprocessed fish within state waters, and by failing to report information about any processed catch aboard, Canadian fishermen operate in violation of Alaska's statutes and regulations. Furthermore, a U.S. Customs policy permits these vessels to bypass clearance at a port of entry and routinely anchor in U.S. harbors. This creates a safety threat for U.S. fishermen who must compete for scarce anchorages, particularly during foul weather. In addition, Canadians use our harbors as staging areas for their fishing operations, which is illegal under both federal and state law.

Finally, tension over this issue contributes to our inability to effectively engage Canada in discussions in important fisheries management forums, such as the Pacific Salmon Commission.

It is the hope of our members that you will assist us by finally bringing resolution to this long-standing disagreement. Our hope is that timely resolution will assist in securing long-term goodwill between the two countries.

Thank you in advance for considering the perspective of ATA. If I can provide additional information on this or other issues of concern to our industry, please don't hesitate to contact me.

Sincerely,



Dale A. Kelley
Executive Director

The Avalon Project at the Yale Law School

Treaty With Russia

Art 1	Art 2	Art 3	Art 4	Art 5	Art 6	Art 7
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March 30, 1867

Treaty concerning the Cession of the Russian Possessions in North America by his Majesty the Emperor of all the Russias to the United States of America; Concluded March 30, 1867; Ratified by the United States May 28, 1867; Exchanged June 20, 1867; Proclaimed by the United States June 20, 1867.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION.

Whereas a treaty between the United States of America and his Majesty the Emperor of all the Russias was concluded and signed by their respective plenipotentiaries at the city of Washington, on the thirtieth day of March, last, which treaty, being in English and French languages, is, word for word as follows:

(the French version is omitted for brevity)

The United States of America and His Majesty the Emperor of all the Russias, being desirous of strengthening, if possible, the good understanding which exists between them, have, for that purpose, appointed as their Plenipotentiaries: the President of the United States, William H. Seward, Secretary of State; and His Majesty the Emperor of all the Russias, the Privy Councillor Edward de Stoeckl, his Envoy Extraordinary and Minister Plenipotentiary to the United States.

And the said Plenipotentiaries, having exchanged their full powers, which were found to be in due form, have agreed upon and signed the following articles:

ARTICLE I.

His Majesty the Emperor of all the Russias agrees to cede to the United States, by this convention, immediately upon the exchange of the ratifications thereof, all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the convention between Russia and Great Britain, of February 28 - 16, 1825, and described in Articles III and IV of said convention, in the following terms:

"Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the 131st and the 133d degree of west longitude, (meridian of Greenwich,) the said line shall ascend to the north along the channel called Portland channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of

demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude, (of the same meridian;) and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen ocean. "IV. With reference to the line of demarcation laid down in the preceding article, it is understood -

"1st. That the island called Prince of Wales Island shall belong wholly to Russia," (now, by this cession, to the United States.)

"2d. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between 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."

The western limit within which the territories and dominion conveyed, are contained, passes through a point in Behring's straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern, or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest through Behring's straits and Behring's sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a south-westerly direction, so as to pass midway between the island of Attou and the Copper island of the Kormandorski couplet or group in the North Pacific ocean, to the meridian of one hundred and ninety- three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian.

ARTICLE II.

In the cession of territory and dominion made by the preceding article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed, that the churches which have been built in the ceded territory by the Russian government, shall remain the property of such members of the Greek Oriental Church resident in the territory, as may choose to worship therein. Any government archives, papers, and documents relative to the territory and dominion aforesaid, which may be now existing there, will be left in the possession of the agent of the United States; but an authenticated copy of such of them as may be required, will be, at all times, given by the United States to the Russian government, or to such Russian officers or subjects as they may apply for.

ARTICLE III.

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.

ARTICLE IV.

His Majesty the Emperor of all the Russias shall appoint, with convenient despatch, an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, dependencies and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery.

ARTICLE V.

Immediately after the exchange of the ratifications of this convention, any fortifications or military posts which may be in the ceded territory shall be delivered to the agent of the United States, and any Russian troops which may be in the territory shall be withdrawn as soon as may be reasonably and conveniently practicable.

ARTICLE VI.

In consideration of the cession aforesaid, the United States agree to pay at the treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the diplomatic representative or other agent of his Majesty the Emperor of all the Russias, duly authorized to receive the same, seven million two hundred thousand dollars in gold. The cession of territory and dominion herein made is hereby declared to be free and unencumbered by any reservations, privileges, franchises, grants, or possessions, by any associated companies, whether corporate or incorporate, Russian or any other, or by any parties, except merely private individual property holders; and the cession hereby made, conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominion, and appurtenances thereto.

ARTICLE VII.

When this convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and on the other by his Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington within three months from the date hereof, or sooner if possible.

In faith whereof, the respective plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington, the thirtieth day of March, in the year of our Lord one thousand eight hundred and sixty-seven.

[L. S.] WILLIAM H. SEWARD.
[L. S.] EDOUARD DE STOECKL.

And whereas the said Treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington on this twentieth day of June, by William H. Seward, Secretary of State of the United States, and the Privy Counsellor Edward de Stoeckl, the Envoy Extraordinary of His Majesty the Emperor of all the Russias, on the part of their respective governments, Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every clause and article thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this twentieth day of June in the year of our Lord one thousand eight hundred and sixty-seven, and of the Independence of the United States the ninety-first.

[L.S.] ANDREW JOHNSON
By the President:
William H Seward, Secretary of State

[Return to the 19th Century Page](#)

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WATCH

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14 1998

February 25, 1998

To: Rynniva Moss

From: Carl Olson *Carl*

Re: Maritime Boundary with Canada

Here's the picture on the setting of the partial maritime boundary on the east coast of the U.S. with Canada. It started in the form of a treaty signed in 1979 (entered into force in 1981) to submit the issue to the International Court of Justice. The court issued its decision in 1984.

There is a list of references on this dispute on page 410 of the attached.

Nothing's been done on the west coast in the vicinity of Alaska or Washington.

Let me know what you come up with.

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Canada-United States (Gulf of Maine)

Report Number 1-3

Treaty between the Government of Canada and the Government of the United States of America to Submit to Binding Dispute Settlement the Delimitation of the Maritime Boundary in the Gulf of Maine Area

Signed: 29 March 1979

Entered into force: 20 November 1981

Published at: 1984 ICJ Reports 246
23 ILM 1197 (1984)
II Conforti & Francalanci 135 (1987)

I SUMMARY

In 1981 the United States and Canada requested a Chamber of the International Court of Justice to determine the location of 'the single maritime boundary that divides the continental shelf and fisheries zones of Canada and the United States' in the Gulf of Maine area. The Chamber of the Court rendered its judgment on 12 October 1984 delimiting the area from the inshore starting point agreed upon by the US and Canada to a point 200 nautical miles (n.m.) from the US coast. The boundary begins approximately 30 n.m. south of the international boundary in the northern corner of the Gulf of Maine, crosses the rich fishing grounds of Georges Bank, and ends in the deeper waters of the Atlantic Ocean on the continental shelf.

The parties submitted the boundary to binding dispute settlement after more than five years of intensive high-level negotiations which failed to reach an agreed result. They presented a plethora of arguments to the Chamber in support of their cases, invoking coastal configuration, geology and geomorphology, historical fishing, the practice of the parties in the area (including arguments of acquiescence and estoppel), marine ecology, social and economic considerations, coastal proportionality, state practice, and methods such as equidistance and perpendiculars. The thrust of the arguments by the United

States was that it was entitled to all of Georges Bank. Canada's arguments sought to demonstrate that, through the application of the equidistance method, it was entitled to a large portion of the Bank.

The Chamber addressed the problem before it as follows. It determined that the fundamental rule of maritime boundary delimitation, in essence, was that the 'delimitation is to be effected by the application of equitable criteria and by the use of practical methods of ensuring, with regard to the geographic configuration of the area and other relevant circumstances, an equitable result' (para. 112). As for criteria, the Chamber said, 'a delimitation which has to apply at one and the same time to the continental shelf and to the superjacent water column can only be carried out by the application of criterion, or combination of criteria, which does not give preferential treatment to one of these two objects, and at the same time is such as to be equally suitable to the division of either of them' (para. 194). On this basis the Chamber found that criteria derived from geographical considerations were especially applicable, particularly, 'an equal division of areas where the maritime projections of the coasts . . . converge and overlap' (para. 195). At the same time, it found that the 'auxiliary criteria' to avoid the cutting off of one coastline ' . . . from its appropriate projection' (para. 196) also was relevant. As for methods, it found that only 'geometrical methods will serve' (para. 199). As for relevant circumstances to check that the result produced by the application of criteria and method was equitable, the Chamber chose only to examine the 'human and economic geography' of the area (para. 232). On this basis, the Chamber decided that the boundary should pass across Georges Bank 'the main focus of the dispute' (para. 38). This resulted in a boundary approximately half-way between the claims advanced by the two sides.

II CONSIDERATIONS

1 Political, Strategic, and Historical Considerations

The waters of the Gulf of Maine and Georges Bank are one of the world's great fishing grounds. With the extension of fisheries jurisdiction to 200 n.m. by Canada and the United States in 1977, these two countries achieved the common objective of obtaining control over third party fishing in these waters. They found it less easy to agree on the division of their respective jurisdictions. From 1977 until the boundary was determined by the Chamber in 1984, the parties respected a *modus vivendi* which allowed the fishermen of both countries to continue to fish in the disputed area without being subjected to the enforcement actions of the other country. The principles were laid down first in a 1977 fishing agreement.

Article IX

measures of mutual restraint pending the resolution of questions pertaining to the delimitation of areas subject to the respective fishery jurisdiction of each party:

1. As between the parties, enforcement shall be conducted by the flag state.
2. Neither party shall authorize fishing by vessels of third parties in the boundary regions.
3. Either party may enforce against third parties in the boundary regions.

The parties, also, prior to the submission of the dispute to the Chamber, individually undertook a variety of oil and gas activities relating to the disputed area designed to bolster their national positions while falling short of creating a serious political problem with the other government. These included authorizing seismic survey permits, preparation of environmental studies, and publication of procedural notices. Indeed, some actions taken by Canada and dating back to 1964 gave rise to Canadian arguments that the failure of the United States to protest until 1969 meant that the US had acquiesced in Canada's position. However, the Chamber found that the 'United States' attitude . . . was unclear and perhaps ambiguous, but not to the point of entitling Canada to invoke the doctrine of estoppel' (para. 141).

Beginning in 1976, in anticipation of the extension of fisheries jurisdiction, the two governments began an intensive series of negotiations. An agreement was reached to allow reciprocal fishing (i.e., fishing by the nationals of one country off the coast of the other) to continue through 1977 under existing conditions while negotiations continued (28 U.S.T. 5571, T.I.A.S. No. 8648). The interim agreement was renewed for 1978, but it never entered into force. By mid-1978 reciprocal fishing was terminated, bringing to an end more than two centuries of fishing custom. By agreement, however, the *modus vivendi* in the disputed area continued while negotiations proceeded.

In 1979, the parties reached agreement on two treaties which were linked by their terms. One agreement would establish a coordinated fisheries management structure and fisheries allocations between the US and Canada for fisheries from North Carolina to Newfoundland. The other treaty provided the legal terms under which the parties would submit the maritime boundary to binding dispute settlement.

The treaties failed to win the necessary approval in the United States Congress due to concerns over the terms of the fisheries agreement. Thus, in early 1981 the US proposed that the treaties be delinked and that the treaty to submit to binding dispute settlement be acted upon alone. Canada accepted this outcome later in the year and the dispute settlement process began.

2 Legal Regime Considerations

The Special Agreement by which the parties submitted the dispute to the Court provides in Article III: 'South and west of the maritime boundary to be determined by the Chamber . . . Canada shall not, and north and east of

exercise sovereign rights or jurisdiction for any purpose over the waters or seabed and subsoil.' Thus, the boundary serves as the boundary for all purposes in international law. The fact that the United States declared an exclusive economic zone in 1983 during the case was, thus, not a factor in the parties' arguments or in the Chamber's decision.

While the parties have experienced no difficulty in implementing the line established by the Chamber, the boundary remains incomplete in at least three ways. First, inshore there is a gap between the terminus of their territorial sea boundary and the beginning of the Chamber's line, due to a sovereignty dispute over Machias Seal Island and North Rock which the Chamber was not asked to resolve. Second, the boundary terminates at a point 200 n.m. from the US coast, but only approximately 175 n.m. from Canada's coast. Thus, there is an area seaward of the terminal point, called the gray area, which remains unresolved between the parties. And, third, beyond the gray area there is the question of further delimitation of the parties' continental shelves. The Special Agreement establishes a procedure for addressing these questions.

Article, VII

1. Following the decision of the Chamber, either Party may request negotiations directed toward reaching agreement on extension of the maritime boundary as far seaward as the Parties may consider desirable.
2. If the Parties have not reached agreement on the extension of the maritime boundary within one year of the date of such a request, either Party may notify the other of its intention to submit the question of the seaward extension of the maritime boundary for decision by a binding third party settlement procedure.
3. If the Parties are unable to agree on the terms of such a submission within three months of such a notification, either Party may submit the question of the seaward extension of the maritime boundary to the Chamber of five judges constituted in accordance with this Special Agreement.

The parties have not to date activated this provision.

3 Economic and Environmental Considerations

The valuable and historic fisheries on Georges Bank, energetically pursued by fishermen of both countries, made it very important politically to find a boundary solution. At the same time the active fishing in the disputed area made it difficult for either government to take positions of less than maximum advantage in negotiations.

In its pleadings, Canada sought to demonstrate the economic dependence of fishing communities in Nova Scotia on the Georges Bank fishery. The United States contested Canada's assertions of such dependence and the legal relevance of Canada's economic arguments. On the other hand, the United

States sought to demonstrate the ecological unity of Georges Bank, its environmental connection to areas off the US coast, and its environmental differences with areas off Canada's coast. It asserted that the Northeast Channel separating Browns Bank from Georges Bank served as a natural boundary. Canada contested the US factual assertions in this regard and the legal relevance of these US arguments.

The United States' argument, based upon a natural boundary at the Northeast Channel, was given short shrift by the Chamber. As for the facts, the Chamber said in regard to the US presentation: 'the result was not such as to clear away all doubt, at least as regards certain of the technical aspects debated' (para. 53). The Chamber went on to say 'that a delimitation . . . is a legal-political operation, and that it is not the case that where a natural boundary is discernible, the political delimitation necessarily has to follow the same line' (para. 56).

This treatment of the US marine environmental argument stands in contrast to the Chamber's treatment of Canada's socio-economic argument. The Chamber found that all factual elements, except for geographical factors, were ineligible for consideration as criteria to be applied in the delimitation process itself. The environmental and economic arguments were treated similarly. However, the Chamber found that the only factual considerations relevant to the assessment of the equitable character of the delimitation that was first established on the basis of geography were economic considerations (para. 232).

The Chamber found the following standard to be applicable:

What the Chamber would regard as a legitimate scruple lies rather in concern lest the overall result, even though achieved through the application of equitable criteria and the use of appropriate methods for giving them concrete effect, should unexpectedly be revealed as radically inequitable, that is to say, as likely to entail catastrophic repercussions for the livelihood and economic well-being of the population of the countries concerned (para. 237).

The Chamber went on to say that 'a decision which would have assigned the whole of Georges Bank to one of the Parties might possibly have entailed serious economic repercussions for the other' (para. 238). While the Chamber found its line based upon geographic criteria and geometric methods not to have such consequences, its announcement that one of the parties' positions could not have been sustained, even if compelled by the geography, because of economic circumstances, introduces a potentially powerful new element into the law of maritime boundaries.

4 Geographic Considerations

The geography of the Gulf of Maine area was the determining factor in this case. The Chamber described the geography as follows:

. . . the Gulf of Maine takes the form of a large, roughly rectangular

Indentation bordered on three sides by land . . . and on the fourth side open to the Atlantic Ocean. (para. 34).

. . . the two opposite terrestrial sides of the Gulf, in essence the shores of Massachusetts on the one hand and of Nova Scotia on the other, . . . presented as the short sides of the rectangle, and the similar terrestrial side formed by the shores of Maine, which connects the other two at the back of the Gulf, as the long side. (para. 35).

. . . [the land boundary's] terminal point . . . marks the angle between the long and short sides of the rectangle. . ." (para. 42).

The United States argued that since it had longer coastlines on the Gulf, it should be entitled to a proportional amount of the Gulf and of the seaward area. The United States put forward proportionality models to demonstrate this perspective. Canada, on the other hand, argued that the coastline of the United States (on the short side of the rectangle) was in fact made up of a long promontory (Cape Cod) and islands (Nantucket). Canada argued that these areas should be disregarded in the determination of an appropriate boundary.

See Technical Considerations for the Chamber's geographic analysis and application of its method.

5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations

Except for the question of the legal relevance of Nantucket Island to the delimitation, other questions concerning islands, rocks, and reefs played no significant role in either the negotiations or the arguments made by the parties in the case. The Chamber chose not to use an equidistance method, partly because of the presence of numerous rocks and islands off both coasts which would, in the Chamber's opinion, have created difficulties in apply the equidistance method. The Chamber, however, did make reference to Canada's Seal Island in its calculation of coastal fronts in determining the second segment of the line.

6 Baseline Considerations

Baseline considerations were not an issue in the bilateral negotiations, arguments, or the Chamber's decision.

7 Geological and Geomorphological Considerations

In the early stages of the negotiating process the United States based much of its position on 'natural prolongation' in the geomorphological and geological sense. This drew support from the 1969 decision by the International Court of Justice in the *North Sea Continental Shelf* cases which emphasized

natural prolongation. Perhaps in anticipation of such arguments, Canada had issued a declaration upon its ratification in 1970 of the 1958 Continental Shelf Convention designed to deemphasize the importance of geomorphological features (see Related Law in Force below). The United States protested Canada's action, and, in 1976, advanced a boundary line that followed the depth of deepest water out through the Gulf of Maine, leaving all of Georges Bank on the US side of that line. By the time the case was argued, however, the International Court of Justice had made clear in the *Libya/Tunisia* case (and later confirmed in the *Libya/Malta* case) that geological and geomorphological factors were not likely to play a significant role in its decisions.

In the instant case, the parties made arguments based on geology and geomorphology, but did not make them the core of their positions. As for geology, the Chamber noted 'both Parties recognize that the geological structure of the strata underlying the whole of the continental shelf of North America . . . is essentially continuous . . . [and they] are in fact in agreement that geological factors are not significant in the present case' (para. 44).

The United States, however, did try to demonstrate that a convergence of scientific factors, including geomorphological facts, all supported its position that the boundary should fall in the Northeast Channel dividing Browns Bank from Georges Bank. As for geomorphology, the Chamber also made clear that it did not find it determinant. After proclaiming the shelves, banks, basins, and channels of the areas as 'a somewhat insignificant body of rugosities' (para. 45), the Chamber said: '[E]ven the most accentuated of these features, namely the Northeast Channel, does not have the characteristics of a real trough marking the dividing line between two geomorphologically distinct units' (para. 46).

8 Method of Delimitation Considerations

Canada argued that the boundary should be determined by application of the equidistance method, giving no effect to features on the US coast - Cape Cod and Nantucket Island - which it believed unduly influenced the course of the line.

The United States argued that the boundary ought to be a perpendicular to the general direction of the coast, drawn from the land boundary terminus adjusted so as not to cross fishing banks.

The Chamber determined that the boundary should be constructed using the following method. The Chamber considered that the coastal configuration of the Gulf of Maine, together with the location of the land boundary terminus in a corner of the Gulf, required a three-segmented line, one to go from the starting point into the Gulf, a second to lead to the closing line of the Gulf, and a third in the area seaward of the Gulf of Maine.

In the innermost part of the Gulf, from Point A (the starting point determined by the parties) to Point B (the pivot point in the Gulf), the Chamber found it to be an area of lateral adjacency and 'the most appropriate location

for affecting as far as possible – since there is no special circumstance standing in the way – an equal division of the area of overlapping created by the lateral superimposition of the maritime projections of the coasts of the two states' (para. 209). However, the Chamber rejected the use of equidistance in the area because of the numerous isolated rocks along the coast that would either have to be used or discounted (para. 210) and because of the complicating factor of disputed Machias Seal Island (para. 211). Instead, the Chamber chose to adopt a line running at an azimuth of 139° from Point A. This azimuth was determined to be the bisector of an angle determined by perpendiculars to the general directions of the coast within the Gulf: Cape Elizabeth (US) to the international boundary terminus and Cape Sable (Canada) to the same terminus.

In the second segment from the pivot point within the Gulf (B) to the closing line (C), which the Chamber called 'the central and most decisive segment for the whole delimitation line' (para. 214), the Chamber considered the situation to be one influenced by the opposite facing coasts of southwest Nova Scotia and Massachusetts. The Chamber indicated that a median line between these coasts might be appropriate were it not for the fact that the 'back of the Gulf is entirely occupied by the continuous coast of Maine' (para. 218). Given the difference in lengths of respective coastlines fronting the Gulf, the Chamber determined that the median line required adjustment to take the difference into account. It determined that the ratio of US to Canada coastal fronts stood at 1.38 : 1 and adjusted it to 1.32 : 1 because of the location of Canada's Seal Island. Accordingly, the Chamber established coastal fronts along the Massachusetts and southwest Nova Scotia coasts and determined the direction of a notional median line (which would reflect a 1 : 1 US-Canada ratio). A line of the same bearing was determined reflecting the 1.32 : 1 ratio. This line intersected the first segment, thereby identifying Point B, and the closing line of the Gulf, thereby identifying Point C. It then remained only to determine the azimuth of the line from C to D. The Chamber chose to use a perpendicular to the closing line of the Gulf, ending it at Point D on the outer limit of the US 200-mile zone.

9 Technical Considerations

The Special Agreement by which the dispute was submitted to the International Court of Justice required the parties 'to request the Chamber to appoint a technical expert . . . to assist it in respect of technical matters.' The parties requested, and the Chamber appointed, Commander Peter Beazley (ret.) of the United Kingdom to fill this role.

Article IV of the Special Agreement established certain technical criteria for the Chamber to use, including: provisions on horizontal and vertical datum; the nature of the lines connecting points; charts; and symbols on charts. This provision was added to the Special Agreement by the parties after learning

of the difficulties encountered by the United Kingdom and France in that continental shelf arbitration.

The boundary established by the Chamber meets the technical criteria called for by the Special Agreement. Commander Beazley's technical report is appended to the Chamber's Judgment, 1984 I.C.J. Reports, 347.

10 Other Considerations

None.

III CONCLUSION

The Gulf of Maine decision by a Chamber of the International Court of Justice is the first decision by an international court or tribunal which deals with the delimitation of not only the continental shelf but the water column resources as well. Notwithstanding the additional issues and complexities associated with the greater task, the Chamber determined to limit the relevance of factors other than geographical circumstances. By highlighting geography, the Chamber brought focus to both the law and the politics associated with maritime boundary making.

IV RELATED LAW IN FORCE

A Law of the Sea Conventions

Canada: Party to the 1958 Geneva Convention on the Continental Shelf; at the time of the deposit of its instrument of ratification on 4 March 1970, Canada issued a declaration concerning Article 1: 'In the view of the Canadian government the presence of an accidental feature such as a depression or a channel in a submerged area should not be regarded as constituting an interruption in the natural prolongation of the land territory of the coastal state into and under the sea.' See *Multilateral Treaties Deposited with the Secretary General*; Status as at 31 December 1981, U.N. Doc. ST/LEG/SER.E/1 at 604; for the US response of 13 August 1970, see *ibid.* at 607.

United States: Party to all four 1958 Geneva Conventions

B Maritime Jurisdiction Claimed at the Time of Signature

Canada: 12-mile territorial sea (1970), 200-mile fishing zone (1977)

United States: 3-mile territorial sea (1793), 200-mile fishing zone (1977)

C Maritime Jurisdiction Claimed Subsequent to Signature

Canada: No change

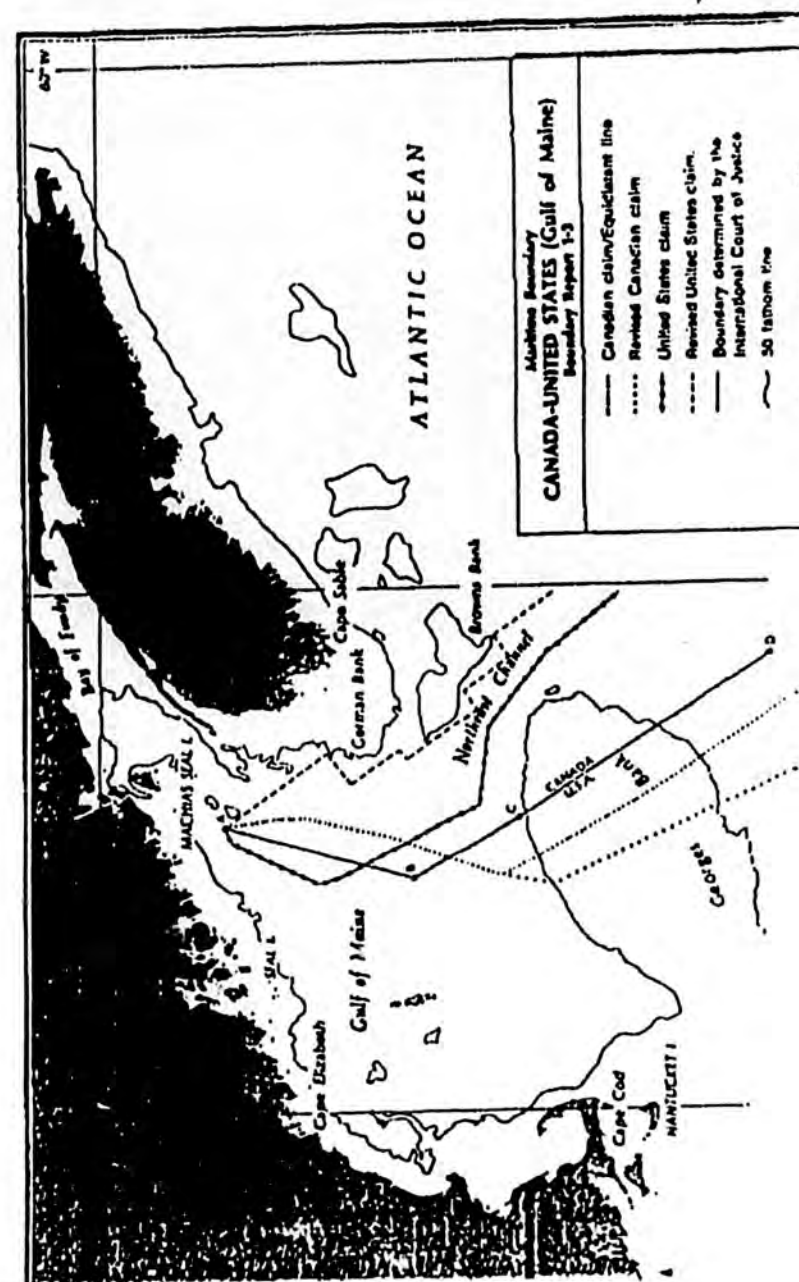
United States: 12-mile territorial sea (1988), 200-mile exclusive economic zone (1983)

V REFERENCES AND ADDITIONAL READING

For background on the dispute see:

- 1976 DIGEST OF U.S. PRACTICE IN INTERNATIONAL LAW 358-59
 1977 DIGEST OF U.S. PRACTICE IN INTERNATIONAL LAW 562-63
 1978 DIGEST OF U.S. PRACTICE IN INTERNATIONAL LAW 980-90
 1979 DIGEST OF U.S. PRACTICE IN INTERNATIONAL LAW 999-1010
 The Gulf of Maine case has been reviewed extensively in the legal literature. See:
 Brewer, *International Conflict Resolution: The ICJ Chambers and the Gulf of Maine Dispute*,
 23 VIRGINIA JOURNAL OF INTERNATIONAL LAW 463 (1983)
 Clain, *Gulf of Maine - A Disappointing First in the Delimitation of a Single Maritime Boundary*,
 25 VIRGINIA JOURNAL OF INTERNATIONAL LAW 521 (1985)
 Collois and Togoff, *The Gulf of Maine Case and the Future of Ocean Boundary Delimitation*,
 38 MARINE LAW REVIEW 1 (1986)
 Comand, *Maritime Delimitation and the Gulf of Maine Case: A Guide for the Future or Merely "Slicing the Pie"?*, 12 SOUTHERN ILLINOIS UNIVERSITY LAW JOURNAL 399 (1988)
 Cooper, *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, 16 OCEAN
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 DeVorsey and DeVorsey, *The World Court Decision in the Canada-United States Gulf of Maine
 Seaward Boundary Dispute*, 18 CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW
 415 (1986)
 Legault and Hankey, *From Sea to Seabed: The Single Maritime Boundary in the Gulf of Maine
 Case*, 79 CANADIAN YEARBOOK OF INTERNATIONAL LAW 267 (1984)
 McRae, *The Gulf of Maine Case: The Written Proceedings*, 21 CANADIAN YEARBOOK OF
 INTERNATIONAL LAW 266 (1983)
 Note, *Maritime Boundary Dispute Settlement: The Nonemergence of Guiding Principles*, 15
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 Robinson, Colson, and Reshlow, *Some Perspectives on Adjudicating before the World Court*, 79
 AMERICAN JOURNAL OF INTERNATIONAL LAW 578 (1985)
 Schneider, *The Gulf of Maine Case: The Nature of an Equitable Result*, 79 AMERICAN JOURNAL OF
 INTERNATIONAL LAW 539 (1985)
 Willis, *From Precedent to Precedent: The Triumph of Pragmatism in the Law of Maritime Boundaries*,
 24 CANADIAN YEARBOOK OF INTERNATIONAL LAW 3 (1986)

Prepared by David A. Colson



**Case Concerning Delimitation Of The Maritime Boundary In The Gulf
Of Maine Area (Canada/United States of America)
International Court of Justice 12 October 1984**

THE CHAMBER,

By four votes to one,

Decides

That the course of the single maritime boundary that divides the continental shelf and the exclusive fisheries zones of Canada and the United States of America in the area referred to in the Special Agreement concluded by those two States on 29 March 1979 shall be defined by geodetic lines connecting the points with the following co-ordinates:

	<i>Latitude North</i>	<i>Longitude West</i>
A	44° 11' 12"	67° 16' 46"
B	42° 53' 14"	67° 44' 35"
C	42° 31' 08"	67° 28' 05"
D	40° 27' 05"	65° 41' 59"

IN FAVOUR: President Ago; Judges Mosler, Schwebel; Judge ad hoc Cohen;
AGAINST: Judge Gros.

Delimitation of the Maritime Boundary in the Gulf of Maine Area

TECHNICAL REPORT

PRESENTED TO THE CHAMBER OF THE COURT BY COMMANDER PETER BRYAN
DEAZLEY, O.B.E., F.R.I.C.S., R.N. (RETD.), THE TECHNICAL EXPERT APPOINTED,
PURSUANT TO ARTICLE II, PARAGRAPH 3, OF THE SPECIAL AGREEMENT, BY
THE ORDER OF THE CHAMBER DATED 30 MARCH 1984

1. To conform to Article II (2) and Article IV (b) of the Special Agreement, and to achieve consistency between the delimitation line and the method of its construction, all lines are taken to be geodetic lines.

2. For practical application of the methods described in the Judgment for determination of the first two segments of the line calculations have been made on the Universal Transverse Mercator grid using a Central Meridian of 68° West. The course of the closing line of the Gulf and the perpendicular to it have been determined using geodetic azimuths. Computations were based on the Clarke 1866 spheroid. The basepoints having been determined to a second of arc the final positions of the delimitation line have been defined in whole seconds of arc also.

3. Positions of the various coastal points were found to be as follows:

Name	Latitude N	Longitude W	Chart
SE tip of Nantucket Island	41° 15' 04"	69° 58' 01"	13241 US
LWL position for determining 200' limit	41° 15' 56"	69° 57' 37"	13241 US
Cape Cod elbow	41° 38' 35"	69° 57' 15"	13248 US
Position on Cape Cod nearest to Chebogue Point	42° 00' 31"	70° 01' 36"	13246 US
Cape Ann	42° 38' 12"	70° 34' 27"	13279 US
Cape Elizabeth	43° 33' 41"	70° 12' 02"	13290 US
International Boundary Terminus (TP15)	44° 46' 35".3	66° 54' 11".3	
North coast of Bay of Fundy	45° 16' 31"	65° 41' 01"	4010 Canadian
South coast of Bay of Fundy	44° 53' 49"	65° 22' 47"	4010 Canadian
Brier Island (Whipple Point)	44° 14' 11"	66° 23' 50"	4324 Canadian
Chebogue Point	43° 43' 57"	66° 07' 18"	4326 Canadian
Cape Sable	43° 23' 22"	65° 37' 23"	4216 Canadian
Seal Island (SW point)	43° 23' 33"	66° 01' 21"	4330 Canadian

4. All positions are on 1927 North American Datum. Corrections have been applied to positions from the Canadian charts as indicated in the Agent for Canada's letter to the Registrar dated 18 April 1984. The Annex lists the rectangular UTM co-ordinates of some of these positions.

5. The two positions in the Bay of Fundy were determined by plotting taking account of the fact that the most easterly point of a 12-mile limit (depending on the low-water lines of Quaco Ledge and the southern shore of the Bay) was found to be at 45° 04' 21" N, 65° 31' 11" W approximately.

6. For calculation of the ratio of coastal lengths the following true distances in nautical miles were determined:

Cape Cod Elbow to Cape Ann	65.7
Cape Ann to Cape Elizabeth	57.9
Cape Elizabeth to Boundary Terminus	160.0
TOTAL United States coastline	283.6 (284)
Boundary terminus to N coast of Bay of Fundy	59.9
N coast to S coast of Bay of Fundy	26.1
S coast of Bay of Fundy to Whipple Point	59.0
Whipple Point to Cape Sable	60.9
TOTAL Canadian coastline	205.9 (206)

Therefore the ratio of coastline lengths United States : Canada is

1.38:1

7. To determine the course of the bisector, forming the first segment of the line, UTM grid bearings were determined:

Boundary terminus to Cape Elizabeth	243° 16' 24"
Boundary terminus to Cape Sable	145° 09' 30"

Therefore the perpendiculars from A to these lines are, respectively,

333° 16' 24"
055° 09' 30"

and the course of the bisector lies along the grid bearing

194° 12' 57".

8. To determine the direction of the median line, which forms the basis of the second segment of the delimitation line, it is necessary to make allowance for a change of scale factor between the southeastern and northwestern end of the two controlling lines. The grid bearings of the controlling lines are:

Cape Cod Elbow to Cape Ann	336° 36' 32".5
Cape Sable to Whipple Point	325° 07' 14".9

9. A mid-point between Whipple Point and the Cape Ann to Cape Cod line will lie on a grid bearing from Whipple Point of

240° 51' 53".7

and will intersect the line at position

(1) $42^{\circ} 32' 29''.6$ N $70^{\circ} 30' 49''.8$ W.

The mid-point of this line after correcting for scale factor is

(2) $43^{\circ} 24' 27''.0$ N $68^{\circ} 29' 03''.0$ W.

10. Similarly a mid-point between Cape Cod Elbow and the Whipple Point to Cape Sable line lies on the reciprocal bearing which intersects at

(3) $43^{\circ} 24' 38''.4$ N $65^{\circ} 38' 31''.7$ W

and the corrected mid-point is

(4) $42^{\circ} 32' 50''.1$ N $67^{\circ} 49' 42''.9$ W

11. The grid bearing between these two corrected mid-points is the direction of the median line which is

$150^{\circ} 52' 34''.3$

12. To determine the location of the second segment of the line I understand my instructions from the Chamber to be to give half-effect to Seal Island when applying the ratio in which the line from Chebogue Point to the nearest point on Cape Cod (the location line) is to be divided. To effect this, Seal Island must be related to Chebogue Point and the location line rather than to the coast nearest to the island.

13. The true (geodetic) length of the location line was found to be

372 088 metres

and the grid bearing from Chebogue Point is

$239^{\circ} 04' 36''.1$.

A line parallel to the line from Cape Sable to Whipple Point (representing the coastal front of Nova Scotia) drawn from the southwestern point of Seal Island intersects the location line at a true distance of 14 234 metres from Chebogue Point. A position 7,117 metres along the location line from Chebogue Point would then represent a notional half-effect position for the island. Applying the ratio of 1.38:1 on the location line between Cape Cod and the half-effect position of the island divides the line at a position 153 349 metres from the half effect position, or

160 466 metres (grid distance 160 418 metres)

from Chebogue Point. This represents a division of the whole location line in the ratio 1.319:1 (1.32:1). The co-ordinates of this point are

(5) $43^{\circ} 00' 19''.8$ N $67^{\circ} 49' 56''.7$ W.

14. A line of grid bearing $150^{\circ} 52' 34''.3$ from this point intersects the bisector from A at position

B $42^{\circ} 53' 14''$ N $67^{\circ} 44' 35''$ W

which is the first turning point on the line of delimitation. A line on the same grid bearing intercepts the geodetic line (geodesic) between Nantucket and Cape Sable at position.

C $42^{\circ} 31' 08''.(35)$ N $67^{\circ} 28' 05''.(33)$ W

which is the second turning point on the line of delimitation.

15. The azimuth of the geodetic line between Nantucket and Cape Sable at position C is

N	E
$56^{\circ} 39' 49''$	
S	W

so that the required perpendicular has an azimuth of

$S 33^{\circ} 20' 11''$ E.

The last place on the path of this perpendicular where the 200-mile zone claimed by the two Parties overlap is a point 200 nautical miles from the nearest point of the low-water line of the United States of America. This relevant point of the low-water line is given at paragraph 3 above, and the point of intersection between the perpendicular and a 200-nautical mile arc drawn from that point is position

D $40^{\circ} 27' 05''$ N $65^{\circ} 41' 59''$ W

which also lies within the area laid down in Article II of the Special Agreement.

16. The delimitation line is therefore defined by geodetic lines joining in succession the following positions the co-ordinates of which are given in 1927 North American Datum:

A	$44^{\circ} 11' 12''$ N	$67^{\circ} 16' 46''$ W
B	$42^{\circ} 53' 14''$ N	$67^{\circ} 44' 35''$ W
C	$42^{\circ} 31' 08''$ N	$67^{\circ} 28' 05''$ W
D	$40^{\circ} 27' 05''$ N	$65^{\circ} 41' 59''$ W.

This line crosses Georges Bank, as defined by the 100-fathom contour in Canadian chart 8005, at positions

$42^{\circ} 11'.8$ N	$67^{\circ} 11'.0$ W
and $41^{\circ} 10'.1$ N	$66^{\circ} 17'.9$ W

but these positions do not form part of the definition of the delimitation line.

Done in one copy, in English, at The Hague, 3 October 1984.

(Signed) P.B. Beazley

ANNEX TO THE TECHNICAL REPORT

List of UTM rectangular co-ordinates of certain positions mentioned in the Report. Central Meridian 68° W; Clarke's 1866 spheroid.

Position	Easting	Northing
Cape Cod Elbow	337 251.1	4 611 778.0
Position on Cape Cod nearest to Chebogue Point	332 170.6	4 632 505.7
Cape Ann	288 940.0	4 723 466.6
Cape Elizabeth	322 270.6	4 825 296.1
TP15	586 787.5	4 958 487.9
Whipple Point	627 994.2	4 899 161.2
Chebogue Point	651 274.2	4 843 661.5
Cape Sable	692 521.4	4 806 592.0
Seal Island	660 159.4	4 806 086.4
A	557 590.2	4 892 641.9
(1)	293 572.8	4 712 756.3
(2)	460 796.9	4 805 966.2
(3)	690 908.9	4 808 905.2
(4)	514 074.6	4 710 338.6
(5)	513 658.6	4 761 224.3
B	520 972.0	4 748 097.5
C	543 688.4	4 707 324.0

(position C is on the geodesic between Cape Sable and Nantucket about 7 metres from the grid line joining those points).

Cuba-United States

Report Number 1-4

Maritime Boundary Agreement Between The United States of America and the Republic of Cuba

Signed: 16 December 1977

Entered into force provisionally: 1 January 1978

Published at: US Senate Ex II 96-1, 96th Cong. 1st Sess. (1979)

Limits in the Seas No. 110 (1990)

17 ILM 110 (1978)

I Canadian Annex 465 (1983)

II Libyan Annex No. 53 (1983)

I Conforti & Francalanci 177 (1979)

VIII New Directions 66 (1975)

I SUMMARY

The 1977 negotiations establishing a maritime boundary between Cuba and the United States were one of the first formal and direct discussions the two countries had held for many years. After several technical issues were resolved, including a question pertaining to the use of straight baselines in the delimitation, the parties agreed to a boundary that was an equidistant line, in part, and a negotiated line, in part. The line is approximately 313 nautical miles (n.m.) in length and extends from the southern part of the Straits of Florida, at a tripoint with the Bahamas, northwest into the Gulf of Mexico. For the most part, the boundary runs in between the islands comprising the Florida Keys and the islands of Cuba. The two countries lie opposite each other at a distance of between 75 and 90 n.m.

The boundary treaty has not been ratified. However, the provisions of the treaty, including the establishment of the boundary, have been applied since 1978 through an exchange of notes every two years.

FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Version: HJR 54
(H) Publish Date: 2/27/98

Revision Date: _____
Title: Alaska Maritime Boundary with Canada

Dept. Affected none

BRU _____

Component _____

Sponsor: Rep. VezeyRequester: House Special Committee on Fisheries

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1037 GF Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: _____

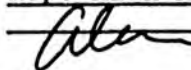
POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by
Division
Approved by
Agency

Rep. Alan Austerman, Chair
House Special Committee on Fisheries
Rep. Alan Austerman, Chair



Phone 465-4230
Date February 24, 1998
Date _____

Page 1 of 1

COMMITTEE COPY

SCOMM

108:8



Official Business

MEMBER
Natural Resources
Committee

Alaska State Legislature

**Chair, Legislative Council
Chair, World Trade
And
State/Federal Relations**

REPRESENTATIVE
RAMONA L. BARNES
District 22

Anchorage
P.O. Box 103382
Anchorage, AK 99510
(907) 258-8183

State Capitol
Juneau, AK 99801-1182
(907) 485-3438

MEMORANDUM

TO: RAMONA
FROM: MARK
DATE: March 18, 1998

SUBJECT: Senate Joint Resolution 38/briefing memo (Mackie) Relating to the bombardment of the village of Angoon.

The village of Angoon was attacked, bombarded and burned by a U.S. Naval vessel on October 26, 1882. The attack resulted in injuries and death amongst the villagers in addition to the destruction of all the homes and most of Angoon's food supplies.

The attack was the end result of a dispute between the village and a whaling company over the accidental death of a member of the village.

The Navy has never apologized to the people of Angoon for the seemingly unwarranted attack.

The people of Angoon would like a formal apology and through SJR 38 the Alaska Legislature urges the President to issue a formal apology.

THE REPUBLIC OF THE ARCTIC
A DECLARATION OF SOVEREIGNTY BY THE INUIT

We, the Inuit, charge the United States and the Soviet Union with the infringement of our Territorial Sovereignty. This violation has been recorded in history as the Treaty of Cession of 1867. Our Inuit Declaration hereby terminates the colonial occupation of the Territory of Alaska seceded from Russia to the United States, as a third party contract, in 1867.

The claims of the United States and Russia are based upon cession and have been disputed upon the grounds that the ceding party possessed no right to dispose of the territory in question or that the manner of the disposal was illegal under International Law and foreign relations.

Unlike the origins of the United States, France, and Russia, the call to freedom maintains our tradition of the longest peaceful occupation, co-existence, territorial integrity and sovereignty of the Arctic since time immemorial. Based upon our self-determination and supported by International Law, we make this Declaration of Sovereignty which signifies Inuit Independence from all Anglo-european original or derivative states, and from any infringement of Inuit Sovereignty.

For, it is true, as a matter of history, that some new states are formed out of the sovereignty of the old, and others are created, in violent opposition, to the former territorial sovereign. It is not unreasonable to propose, therefore, that a distinction between original and derivative titles will be relevant to the proper interpretation of original Inuit territorial sovereignty. This, versus the derivative title which is born when a new state is created in violent opposition to the former territorial sovereign.

Alaska truly is Seward's Folly. For, it is argued by the Inuit that State sovereignty cannot, by its very nature, be derived from another sovereignty and must, therefore, in all cases, be original. Sovereignty is not a transferable commodity. And, our Inuit territorial sovereignty has been the prize of inordinate greed justified in the name of God by the Spanish, Portugese, English, Russian, French, Danish, Norwegians, Dutch, and Americans.

This Folly, in the form of the Treaty of Cession, is largely unrelated to the scope of the Constitution of these United States, Customary International Law, and finally, to the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States, in accordance with the Charter of the United Nations which concludes the section on self-determination with the

following statement: Nothing shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or color. Every state shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other state or country.

The Kasigluk Elders' Conference, on January 4, 5, and 6, 1990 have decided when, where, and under what conditions self-determination shall be exercised. This decision is unlike that of the United States and the Union of Soviet Sovereign Republics, which have both realized their claims to self-determination in the form of secessions from their former territorial sovereigns.

The Inuit of the Republic of the Arctic have customary and traditional ways of resolving problems of self-determination in their noncolonial setting. For this reason the Republic of the Arctic and its indigenous Inuit people, (Aleuts, Athabascans, Haidas, Inupiat, Tlingits, and Yupiks), cannot be subsumed and the United States and Russia cannot assume that we have lost our capacity and willingness to exercise self-governance.

Under customary international law and the United States constitutional process, this original and peaceful occupation of the Inuit cannot be deposed by discovery conquest, symbolic acts, prescription, or cession. Our premise here is to assert that our historical occupation and peaceful coexistence are the only legal modes for the creation of original title. Our original title to entire Alaska cannot be extinguished by the mere political desire of second and third parties; in this instance, Russia and the United States.

In order to continue this clarification, it is necessary to define "cession". Cession is the transfer of territorial sovereignty by one state to another state. It is a renunciation by one state in favor of another of the rights and title which the former may have to the territory in question. This is effected by a treaty of cession expressing the agreement to the transfer. The title it confers is derivational in the sense that its validity is dependent upon the validity of the title of the ceding state. The assumption of consent by the Inuit for the transaction between the United States and Russia has been fabricated, for there was no consent.

If a title to sovereignty means anything at all, it means real title, a title ergo omnes. Specifically, in the present case for the indigenous peoples of Alaska, neither a treaty of cession involving the indigenous peoples, nor the consequence of war, discovery and conquest have divested these original peoples of their real title. Thus, sovereignty can never be subordinated or be amenable to any third parties, including Russia and the United States, as on October 18, 1867 at Sitka, Alaska. In the instance of Alaska, cession was executed from Russia to the United States for the simple acquisition of the fledgling Russian American Trading Company and therefore, there never was a transfer of territorial sovereignty from the indigenous peoples to the present colonialists. Moreover, although the Russians made territorial claims of ownership to England, Spain, and the United States, they did not assert claims to the indigenous peoples of Alaska.

In the absence of a declaration of war, or specific statutory authorization from any treaty with indigenous peoples of Alaska, and the inadmissibility of conquest, it follows that on October 18, 1867 there was no real transfer of territorial rights, much less an acquisition of sovereignty.

To illustrate the lesser claim of the United States to Alaska, we cite an example from the World Court. The prizes of war and cession were reversed in the case between the United States of America and the Netherlands in a ruling respecting sovereignty in 1928. The World Court found it to be self-evident that Spain could not transfer more rights than she herself possessed. It was found in the United States vs. Netherlands that the United States had based its claim upon discovery, recognition of treaty, and contiguity. However, the court found that the United States could not gain sovereignty by simple desire or acquisition. The Netherlands claim to their sovereignty was, by comparison, based upon a peaceful and continuous display of state authority over the Island of Palmas. Sovereignty was awarded to the Netherlands.

Today, we the Inuit, as an unconsenting third party to the 1867 Treaty of Cession wish to notify the United States and Russia that our mere silence has not dissipated our territorial sovereignty. We discover today, that history has repeated itself with the same players. The President of the United States has submitted, for the advice and consent of the Senate, the ratification of the agreement between the United States and the Union of Soviet Sovereign Republics on the Maritime Boundary with Annexation signed in Washington D.C. on June 1, 1990.

In the agreement the parties are described in Article I of the Convention ceding Alaska, signed March 30, 1867, (the

1867 Convention Line is as defined in the agreement), and delineates the maritime boundary between the United States and the Soviet Union.

We, the Inuit of the Republic of the Arctic, reject the claim of the United States based upon title of discovery, of recognition and treaty, or by contiguity. ie. Titles relating to the acts or circumstances leading to the acquisition of sovereignty. The United States has not established the fact that the sovereignty so acquired was effectively displayed at any time in their brief history. The Inuit base their claim to sovereignty essentially on the title of peaceful and continuous display of Inuit authority over the Inuit maritime boundary.

Since the Inuit title would, in international law, prevail over a title of acquisition of sovereignty, not followed by an actual display of state authority, it is now necessary to ascertain, by evidence, actual sovereignty. We, the Inuit, rise in opposition for the Senate of the United States of American to oppose the ratification once again, Seward's Folly II. We will show in the World Court that we, the Inuit, have an indispensable interest to which our consent has not been given for the United States nor the Union of Soviet Sovereign Republics to acquire our God-given sovereignty.

We will file a complaint in opposition in the World Court to show that the United States and the Union of Soviet Sovereign Republics cannot enlarge their sovereignty claims through the Maritime Boundary, while peaceful and continuous coexistence continues by the Inuit of the Republic of the Arctic.

The territory of Alaska has never been declared enemy or hostile territory for the United States. The scope of the constitutional test for the declaration of war is Fleming v. Page: "A war, therefore, declared by Congress, can never be presumed to be waged for the purpose of conquest or the acquisition of territory; nor does the law declaring the war imply an authority to the President to enlarge the limits of the United States by subjugation of enemy's country. The United States, it is true, may extend its boundaries by conquest or treaty and may demand a cession of territory as the condition of peace, in order to indemnify the government for the expenses of the war. But, this can be done only by the treaty-making power or the legislative authority and is not a part of the power conferred upon the President by the declaration of war. His duty and his powers are purely military. As commander-in-chief, he is authorized to direct the movements of the naval and military forces placed by law at his command and to employ them in the manner he may deem must effectuate to harass and conquer and subdue the enemy. He may invade the

hostile country and subject it to the sovereignty and authority of the United States. But, his conquest does not enlarge the boundaries of this union nor extend the operation of our institutions and laws beyond the limits before assigned to them by the legislative power...and the relation in which the Port of Tampico stood to the United States while it was occupied by their arms did not depend upon the laws of nations, but upon our own constitution and act of Congress."

ETOK
7/91

The Kasigluk Elders' Conference
December 9-10, 1991
Kasigluk, Alaska

The Kasigluk Elders' Conference represents the sword, shield, and symbols of sovereignty and self-determination of the Yupik Inuit of Alaska. It is the intergovernmental organization of the Yupik Inuit of Alaska.

The main purpose of the Kasigluk Elders' Conference is to consider the proper status of the Inuit of Alaska under International Law. Associate Justice Robert H. Jackson defined International Law:

"It is that we have no judicial precedent for the Charter. But, International Law is more than a scholarly collection of abstract and immutable principles. It is an outgrowth of treatise and agreements between nations and of accepted customs. Yet, every custom has its origin in some single act, and every agreement has to be initiated by the action of some state. Unless we are prepared to abandon every principle of growth for International Law, we cannot deny that our own day has the right to institute customs and to conclude agreements that will themselves become the source of a newer and strengthened International Law."

The Kasigluk Elders' Conference shall defend, protect, and prosecute the legal principle of Inuit sovereignty and self-determination. The Inuit of Alaska have the right, the ability, and the desire to enjoy their full sovereign independent status. The Inuit of Canada, Denmark, the Union of Soviet Sovereign Republics, and the United States have met the criteria of Article I of the Montevideo Convention on the Rights and Duties of States. This Convention defined a "state" for the purposes of International Law as: "a permanent population, a defined territory, an effective government, and the capacity to enter into relations with other states."

Three European legal scholars of the Middle Ages, Francisco de Vitoria, Emmerich de Vattel and Hugo Grotius all recognized the sovereignty of Natives in the New World. And, Pope Paul III declared in the Bull Sublimis Deus in 1537:

"The said Indians and all other people who may later be discovered by Christians, are by no means to be deprived of their liberty or the possession of their property, even though they be outside the faith of Jesus Christ, and that they may and should, freely and legitimately

"The Dutch Claims"

The Dutch bolstered their claims to New Netherlands with formal agreements of purchase from the Indian Nations. They argued against the Spanish and the English that the Indian nations were the owners of the land, and that title must be acquired by a purchase or grant from the natives. The Dutch also followed this practice in their colony on the Cape of South Africa, but not in South America. Sweden adopted the purchase theory and recognized Dutch territorial claims based on Indian deeds. In reaction to Dutch expansion into the region of Connecticut, the English colonies of New England hurried to sign their own agreements with the Indians. In sum, although usually invoking the discovery principle, the European states based their claims against each other on whatever theory was most appropriate to their interests. Discovery, even combined with symbolic possession, could be nothing more than a reservation of rights to effect future attempts at actual possession.

"The British Policy"

On October 7, 1763, two-hundred and twenty-eight years ago, the British colonial government issued the famous Royal Proclamation of 1763. In particular, the Proclamation directly addressed three issues of colonial Indian policy. Issues that continued to plague United States Indian policy after the Revolution: Indian property rights, tribal separatism and autonomy, and the primacy of the central government over the colonies in the management of Indian policy. The Proclamation embodied an enlightened colonial policy which sought to facilitate both Native American trade and colonial expansion while recognizing Indian rights on their lands. Here it is in full.

PROCLAMATION OF 1763

WHEREAS, We have taken into Our Royal Consideration the extensive and valuable Acquisitions in America, secured to our Crown by the late Definitive Treaty of Peace, concluded at Paris, the 10th day of February last; and being desirous that all Our loving Subjects, as well of our Kingdom as of our Colonies in America, may avail themselves with convenient Speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufactures, and Navigation, We have thought fit, with the Advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving Subjects, that we have, with the Advice of our Said Privy Council, granted our Letters Patent, under our Great seal of Great Britain, to erect, within the Countries and Islands ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, styled and called by the names of Quebec, East

CORRECTION

**THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
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Rev. 6/98

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State of Alaska

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enjoy their liberty and the possession of their property, nor should they be in anyway enslaved, should the contrary happen, it shall be null and of no effect."

In response to Spanish claims to the New World based on the Papal Donation resulting from the Spanish discovery, Queen Elizabeth announced that:

"this donation of what does not belong to the donor and this imaginary right of property ought not to prevent other princes from carrying on commerce in those regions or establishing colonies there in places not inhabited by the Spaniards. Such action would in no way violate the law of nations, since prescription without possession is not valid."

This proclamation explicitly recognized the rights of Indians and therefore the authority of Indian Nations to establish those rights.

The British, Dutch, Spanish, and French sought alliances with the Indian Nations in their ongoing struggles with each other and recognized Indian sovereignty.

In 1790, in a dispute known as the Nootka Sound Controversy, England and Spain agreed to the principle that areas of Northwest North America not actually occupied were open to free access by the traders of both states. In the dispute over the Oregon Territory between the United States and Great Britain, both sides agreed by 1826 that mere discovery could not grant a complete title.

The British Commissioners argued: "Upon the question of how far prior discovery constitutes a legal claim to sovereignty, the law of nations is somewhat vague and undefined. It is, however, admitted by the most approved writers that mere accidental discovery, unattended by exploration--by formally taking possession in the name of the discoverers sovereign--by occupation and settlement, more or less permanent--by purchase of the territory, or receiving sovereignty from the natives--constitutes the lowest degree of title."

By the early 19th century, therefore, discovery alone was no longer valid as a distributional principle. Indeed, it is questionable if it ever was totally accepted as a sufficient basis for dominion. As a distributional principle it was given limited recognition and various definitions by the European states. The early publicists of the law of nations were in basic agreement that title was dependent on actual possession in addition to discovery.

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Florida, West Florida and Grenada, and limited and bounded as follows, viz.

First--The Government of Quebec bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River through the Lake St. John, to the South end of the Lake Nipissim; from whence the said Line, crossing the River St. Lawrence, and the Lake Champlain, in 45. Degrees of North Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs, and the Coast of the Gulph of St. Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River of St. John.

Secondly--The Government of East Florida, bounded to the Westward by the Gulph of Mexico and the Appalachicola River; to the Northward, by a Line drawn from that part of the said River where the Catahouchee and Flint Rivers meet, to the source of St. Mary's River, and by the course of the said River to the Atlantic Ocean and the Gulph of Florida, including all Islands within Six Leagues of the Sea Coast.

Thirdly--The Government of West Florida, bounded to the Southward by the Gulph of Mexico, including all Islands within Six Leagues of the Coast, from the River Apalachicola to Lake Pontchartrain; to the Westward by the said Lake, the Lake Maurepas, and the River Mississippi which lies in 31 degrees North Latitude, to the River Apalachicola, or Catahouchee; and to the Eastward by the said River.

Fourthly--The Government of Grenada, comprehending the Island of that name, together with the Grenadines, and the Islands of Dominico, St. Vincents's, and Tobago.

And, to the end that the open and free Fishery of our Subjects may be extended to and carried on upon the Coast of Labrador, and the adjacent islands, We have thought fit . . to put all that Coast, from the River St. John's to Hudson's Streights, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the care and Inspection of our Governor of Newfoundland.

We have also thought fit to annex the Islands of St. John's and Cape Breton, or Isle Royale, with the lesser Islands adjacent thereto, to our Government of Nova Scotia.

We have also annexed to our Province of Georgia all the Lands lying between the Rivers Alatamaha and St. Mary's.

And we have given express Power and Direction to our Governors of our Said Colonies respectively, that so soon as

the state and circumstances of the said Colonies will admit thereof, they shall, with the Advice and Consent of the Members of our Council, summon and call General Assemblies within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America which are under our immediate Government; and We have also given Power to the said Governors, with the consent of our Said Councils, and the Representatives of the People so to be summoned as aforesaid, to make, constitute, and ordain Laws, Statutes, and Ordinances for the Public Peace, Welfare, and good Government of our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and Restrictions as are used in other Colonies; and in the mean Time, and until such Assemblies can be called as aforesaid, all Persons Inhabiting in or resorting to our Said Colonies may confide in our Royal Protection for the Enjoyment of the Benefit of the Laws of our Realm of England; for which Purpose We have given Power under our Great Seal to the Governors of our said Colonies respectively to erect and constitute, with the Advice of our said Councils respectively, Courts of Judicature and public Justice within our Said Colonies for hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases, to appear, under the usual Limitations and Restrictions, to Us in our Privy Council.

And, whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of our Donimions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them as their Hunting Grounds. We do therefore, with the Advice of our Privy Council, delcare it to be our Royal Will and Pleasure, that no Governor or Commander in Chief in any of our Colonies of Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their respective Governments, as described in their Commissions; as also that no Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume for the present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the West or North West, or upon any lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

And, We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection, and Dominion, for the use of the said Indians, all the Lands and Territories not included with the limits of Our said Three new Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforessaid;

And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without our especial leave and Licence for that Purpose first obtained.

And, We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands which, not having been ceded to or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.

And whereas great Frauds and Abuses have been committed in the purchasing Lands of the Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians; In order, therefore, to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council strictly enjoin and require, that no private Person do presume to make any Purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where, We have thought proper to allow Settlement; but that, if at any Time any of the said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for the Purpose by the Governor or Commander in Chief of our Colony respectively within which they shall lie; and in case they shall lie within the limits of any Proprietary Government, they shall be purchased only for the Use and in the name of such proprietaries, conformable to such Directions and Instructions as We or they shall think proper to give for that Purpose; And we do, by the Advice of our Privy Council, declare and enjoin, that the Trade with the said Indians shall be free and open to all our Subjects whatever, provided that every Person who may incline to Trade with the said Indians do take out a Licence for carrying on such Trade from the Governor or Commander in Chief of any of Our Colonies respectively where such Person shall reside, and also give Security to observe such Regulations as We shall at any Time think fit, by

ourselves or by our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade:

And we do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all our Colonies respectively, as well those under Our immediate Government as those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void, and the Security forfeited in case the Person to whom the same is granted shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

And we do further expressly enjoin and require all Officers whatever, as well Military as those Employed in the Management and Direction of Indian Affairs, within the Territories reserved as aforesaid for the use of the said Indians, to seize and apprehend all Persons whatever, who standing charged with Treason, Misprisions of Treason, Murders, or other Felonies or Misdemeanors, shall fly from Justice and take Refuge in the said Territory, and to send them under a proper guard to the Colony where the Crime was committed of which they stand accused, in order to take their Trial for the same.

Given at our Court at St. James' the 7th day of October 1763, in the Third Year of our Reign.

"The Russian Policy"

The Western World has credited the Russians for the discovery of Alaska by Vitus Bering under Peter the Great. Catherine II, in a response to Captain Cook's voyage for Great Britain, gave a series of instructions to the Admiralty College and Captain Lieutenant Joseph Billings for his expedition to Northern Russia and the North Pacific Ocean. This was 1785 to 1794. Here follows Article XII and Article XVI.

ARTICLE XII

When Bering sailed toward America he made certain observations which were later confirmed by the English captains, C. Clerke and J. Gore, when they returned from the Sandwich Islands to Kamchatka. These observations lead one to suppose there are islands south of those known to be in the archipelago, and east of the Kamchatka meridian, between 40 degrees and 50 degrees northern latitude. Either on your outward or return voyage you may try to discover these unknown islands, and to obtain information about them for the purpose of the Kamchatka trade. However, you are not to spend too much time on these uncertain assignments.