

the Lynn Canal, "Why should we abandon it? It is ours; why should we not have it?"

The objection to this proposition is that, under a convention consummated seventy-three years ago, language was used which, in the judgment of both high contracting parties and of the whole world, gave this territory to Russia. Forty-four years afterwards the United States bought it of Russia, relying upon that convention as so universally understood and acted upon. Thirty-one years thereafter this understanding remained and was acted upon before any communication was made by Great Britain calling it in question. It is submitted that it cannot be said that the language of the treaty is not susceptible of the construction so given. The most that can be said of the Canadian construction is that the language is perhaps subject also to that construction. In cases of ambiguity both American and English courts treat contemporaneous construction, by the creating (as in a law) or contracting parties, as controlling.

On October 20, a *modus vivendi* was announced to have been agreed on, fixing a provisional boundary on the Dalton trail, twenty-one and a quarter miles above Pyramid Harbour and on the Dyea and Skagway trails at the summits of the Chilcoot and White Passes. The objection urged to submitting the matter to arbitration is that it involves territory to which the United States deems itself entitled by purchase and by the long acquiescence of Great Britain during, substantially, three generations; that arbitration has meant in every case compromise; and that it would be quite as just to now ask Great Britain to arbitrate the question of her dominion over the St. Lawrence River because it is the convenient outlet for the great commerce represented at Chicago, as to ask America to submit to arbitration her dominion in the Lynn Canal because Canada has within a few years developed large interests in the hinter land. At a moment when Great Britain, our kindred nation in blood,