

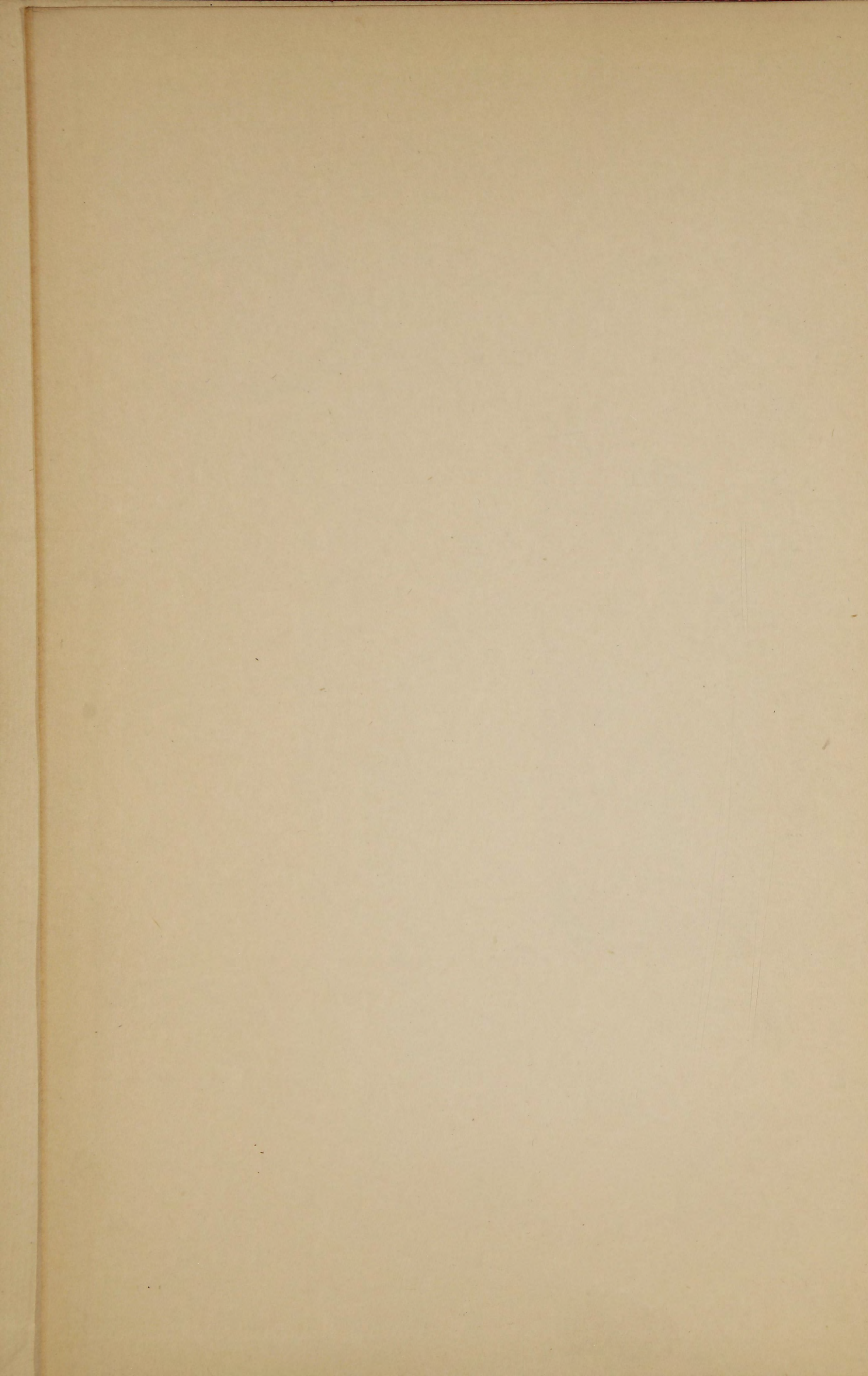
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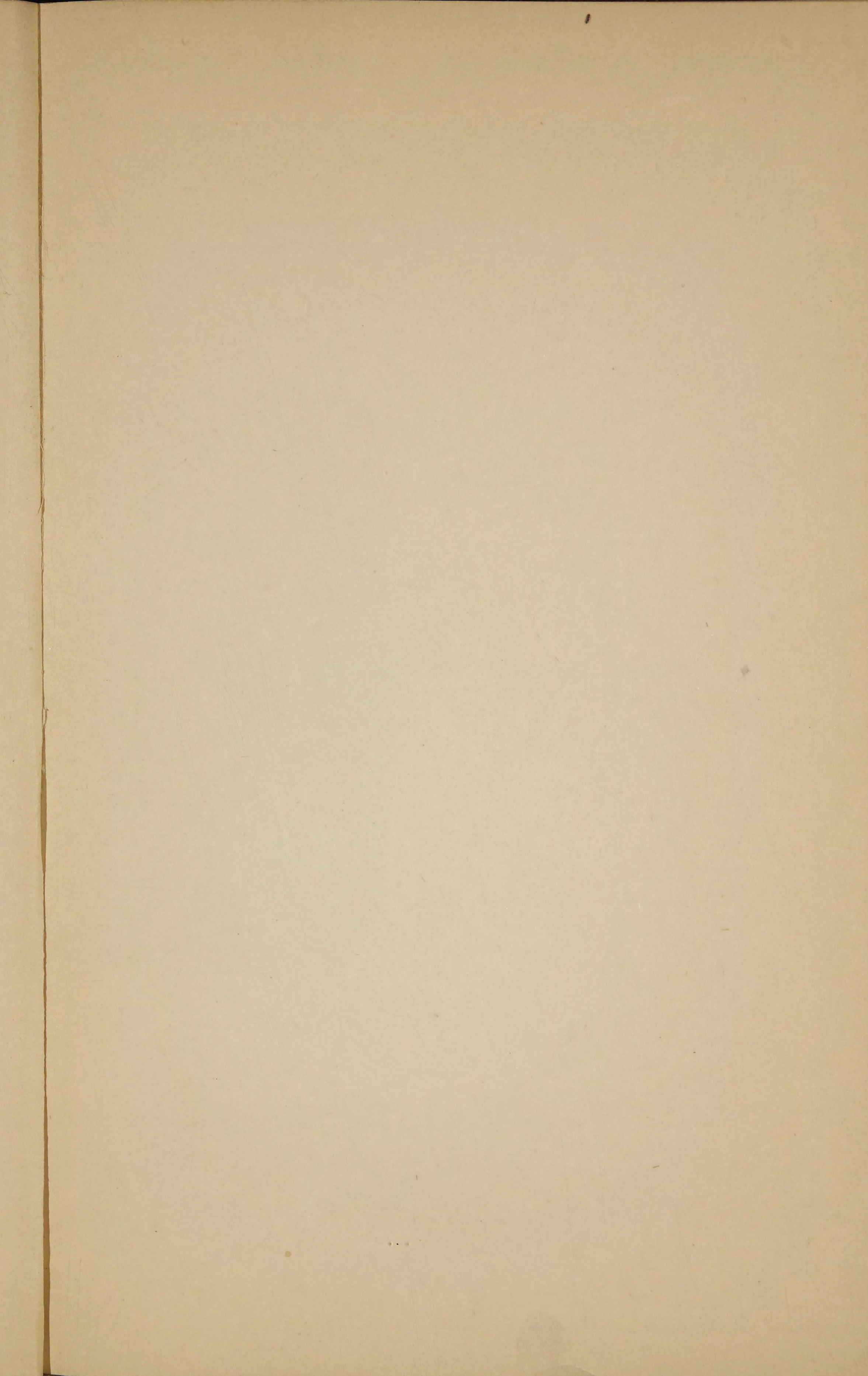
THE
ALASKA FRONTIER

THOMAS WILLING BALCH

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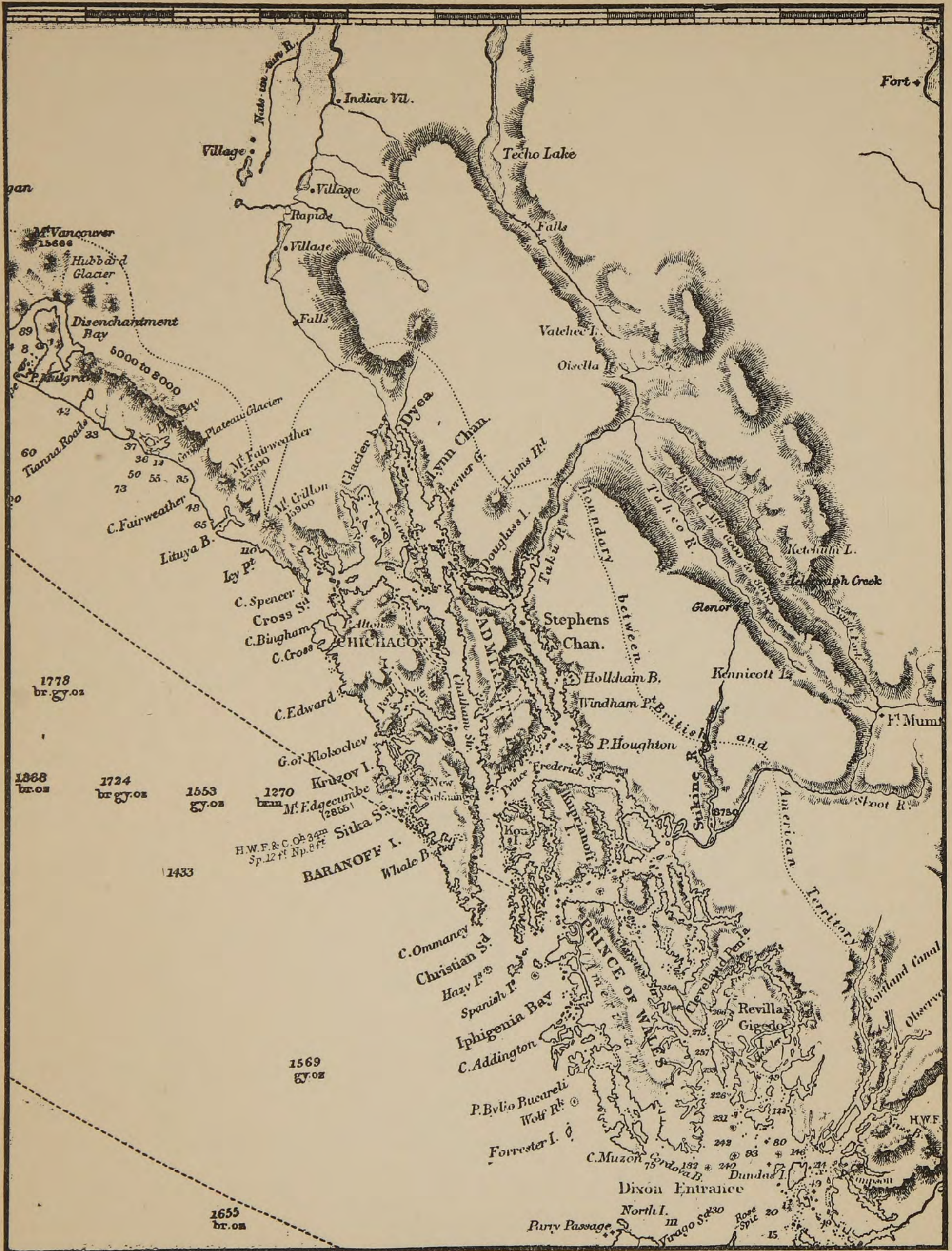






THE ALASKA FRONTIER





BRITISH ADMIRALTY CHART, PUBLISHED JUNE 21ST, 1877, UNDER THE SUPERINTENDENCE OF CAPTAIN F. J. EVANS, R. N., HYDROGRAPHER, AND CORRECTED TO AUGUST 1ST, 1901.

MAP No. 1.

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THE

ALASKA FRONTIER

Thus we wish to retain, and the English Companies wish to acquire.—Count Nesselrode.

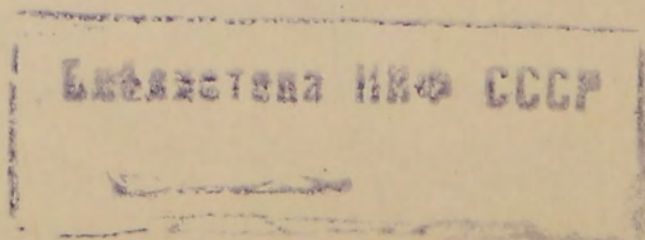
BY

THOMAS WILLING BALCH

A. B. (HARVARD)
MEMBER OF THE PHILADELPHIA BAR

PHILADELPHIA
ALLEN, LANE AND SCOTT
1903

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PRESS OF
ALLEN, LANE AND SCOTT,
PHILADELPHIA, PA.

TO THE MEMORY
OF
WILLIAM H. SEWARD
AND
CHARLES SUMNER
TO WHOM
THE UNITED STATES OWES ALASKA

36698 w



INTRODUCTORY NOTE.

—♦—

This monograph was prepared with the object of stating briefly but emphatically the title of the United States to a continuous, unbroken lisière or strip of territory on the north west American continental shore between Mount Saint Elias and fifty-four degrees forty minutes north latitude. In August, 1898, the Anglo-American Joint High Commission assembled at Quebec, and soon after Canada formally made claim to a large slice of the Territory of Alaska. These demands put forth by Canada to the territory of a neighboring and friendly power are a serious thing, and would imply that the Canadian Government possesses substantial facts upon which to base its claims. But up to the present time the Canadians have not advanced in support of their contentions anything but a nebulous maze of alleged facts. Their whole argument is founded upon a quibble. If the Canadian Government has any serious and tangible proofs with which to support its claims, it has not yet made them public.

Nevertheless, owing to the frequent repetition of the myth started in Canada about 1884—that the

United States have usurped along the eastern side of the Alaskan *lisière* territory which legally belongs to Canada—a large part of the Canadian people, especially in British Columbia and Ontario, have gradually come to believe that this fiction is true and based upon sound facts. And within the last few years in England, likewise, some people are beginning to credit the Canadian claims upon Alaska. The growth of this sentiment, however, is founded upon a partial knowledge of the facts involved. This is due to the imperfect manner in which, up to now, this subject has been presented to the Canadian and the English peoples. The public men and publicists who have argued in favor of the Canadian demands have curtailed and omitted important and vital facts. For instance, when they review the negotiations that resulted in the Treaty of 1825, they do not consider those negotiations as a whole, but only parts of them. They do not rebut the evidence afforded by the many Canadian, English, French, German, Russian and other maps which mark the frontier line claimed by the United States. Why has no Canadian considered chart number 787 of the British Admiralty, which in 1901, three years after the Quebec Conference assembled, marks the frontier so as to give the United States a continuous, unbroken *lisière* above fifty-four degrees forty minutes?

The facts and the evidence upon which this work

is based were collected in Alaska, London, Edinburgh, Paris, Berlin, Saint Petersburg and many other places. The authorities are cited so that in case I have made any mistakes or fallen into any errors, they may be pointed out and corrected. A paper, *La Frontière Alasko-Canadienne*, which was printed in the *Revue de Droit International*, January, 1902 (Bruxelles), and another, the *Alasko-Canadian Frontier*, which was published in the *Journal of the Franklin Institute*, March, 1902, (Philadelphia), are in part incorporated in this work. Re-prints of this latter paper were sent in the spring of 1902 to all the members of the Fifty-seventh Congress: ten thousand copies were distributed throughout the United States; and from many newspapers I received vigorous editorial support. In the preparation of the present monograph I have received most courteous aid from every one to whom I applied at the Bibliothèque Nationale at Paris, the Sächsische Königliche Öffentliche Bibliothek at Dresden, the Library of Congress at Washington, the Library Company of Philadelphia (including the Ridgway Branch,) the Harvard University Library, the University of Pennsylvania Library and the Philadelphia Law Library. I have received also help and encouragement in one way or another from C. L. Andrews, Esq., of Alaska, Colonel William R. Holloway, our Consul-General at Saint Petersburg, Walker Kennedy, Esq., of Memphis, Tenn., Frank Nicholls

Kennin, Esq., a Barrister at Toronto and a member of the Illinois Bar, A. L. McDonald, Esq., of San Francisco, T. C. Mendenhall, Esq., President of the Worcester Polytechnic Institute in Massachusetts, Monsieur le Juge Nys, Vice-President of the Court of Brussels, P. Lee Phillips, Esq., of the Library of Congress, John Wallace Riddle, Esq., our Chargé d'Affaires at Saint Petersburg, the Hon. Frederick W. Seward, ex-Assistant Secretary of State, of Montrose-on-the-Hudson, the Hon. Charlemagne Tower, recently our Ambassador at Saint Petersburg and now Ambassador at Berlin, O. H. Tittmann, Esq., Chief of the United States Coast and Geodetic Survey, George W. Van Sicen, Esq., of Cornwall, N. Y.; and Edwin Swift Balch, Esq., Wharton Barker, Esq., Colonel Augustus C. Buell, Charles H. Cramp, Esq., L. Clarke Davis, Esq., George Peirce, Esq., and Harvey M. Watts, Esq., of Philadelphia; and other gentlemen at home and abroad whom I am not at liberty to name.

On page 46 on the seventh line from the bottom the *Russian* American Company is meant.

The language of the treaty which is given both in the original French and in the English translation, is of itself sufficient to maintain the American claim; but the history of the negotiations which resulted in the execution of that instrument, the contemporary facts, and the maps which are here for the most part for the first time grouped together,

exclude the possibility of honest doubt as to the validity of the American title. It is not extravagant to say that any one who will take the trouble to master the facts, will agree that the pretence that the question of right should be submitted to an International Joint Commission or to an International Arbitration is as unreasonable as would be such a demand for the settlement of the question of the ownership of one of the original Thirteen States.

This work was undertaken with the purpose of placing in a concise form before the American people the facts involved in this case. And I hope that every good American will take a real interest in not seeing this question settled in the dark and will lend a hand in waking up the American people to what is going on. For the question is well summed up in the words of Count Nesselrode, "Thus we wish to retain, and the English companies wish to acquire."

T. W. B.

PHILADELPHIA, January 10th, 1903.

THE ALASKA FRONTIER.

THE advance of the United States and of England across the continent of North America towards the Pacific Ocean, of Spain along the Pacific coast towards the north, and of Russia across Siberia to the east, brought about in the first quarter of the nineteenth century a clashing of interest between these powers over the ownership of the north-west coast of America and its *hinterland*.

The Americans, Lewis and Clark, crossed the continent and discovered the Columbia River, and thus by right of discovery, began the claims of the United States upon the north west coast. Whatever rights France had in the far north west reverted to the United States by the Louisiana purchase in 1803. The claims of Spain to the territory lying to the north of California were merged by treaty in 1819 in those of the United States. The Hudson's Bay Company in the quest for furs sent its trappers and advanced its trading posts further and further west; and, as the authorized agent of the British Crown, it carried the sovereignty of the English King across the continent

nearer and nearer to the Pacific. Cook, Vancouver and other English seamen, too, sailed along the North American shore washed by the Pacific Ocean. The Russian Cossacks, first under an *ataman* named Yermak, gradually bore, in their search for the valuable sable skins, the sway of the "Great White Tsar" across Siberia to the waters of the Pacific, thus proving that Bishop Berkeley was only half right when he wrote—"Westward the course of empire holds its way." Then with the exploring expedition commanded by the Cossack, Deshneff,¹ who probably sailed through Bering Strait in 1648,² and with that led in 1741 by Bering, the

¹ A. Faustini: *Una Questione Artica*, Roma, 1902: Estratto della *Rivista Italo-Americana*, Anno I., Fasc. II., Luglio, 1902.

² The Strait of Anian or Bering Strait was known to the European world apparently long before Deshneff's expedition, for on a number of maps of the second half of the sixteenth and the first half of the seventeenth centuries the strait is marked, and Alaska itself is drawn approximately correctly.

Theatrum orbis terrarum Ant. Abrah. Ortelii. Antwerpia MDLXX. (The American Philosophical Society, Philadelphia.) The map entitled "Typus Orbis Terrarum" gives the Strait of Anian about where Bering Strait is. *Theatrum Orbis Terrarum*. Abrahamus Ortelius Antverpianus, eius Majistatis Geographus [1579] (Kön. Oef. Bib. Dresden). In the map "Tartariae sive Magni Chami Regni typus" Asia runs up beyond 80° N. lat. America on the contrary only goes to about 55° N. lat. They are divided by the "Stretto di Anian." The shape of both Asia and America is very like the reality and the "Stretto di Anian" in its shape and position, strongly suggests Bering Strait.

*Oost ende West-Indische Spieghel waer in beschreven werden de twee laetste navigatien * * * de eene door den vermaerden*

Dane, across the Pacific to the great land, the *bolshaiä zemlia*, to the east, the Russians began to explore and then to settle on the American continent.

The United States, England and Russia continued to affirm their sovereignty to greater and greater areas of land in the north-west part of the American continent. And Russia even went so far as to assert her right to the absolute dominion over Bering Sea and a large extent of the northern part of the Pacific Ocean. These pretensions to the exclusive sovereignty of a part of the high seas were made in an Ukase issued in 1821 by the Emperor Alexander the First. In addition to claiming

*Zeeheldt Joris van Spilbergen * * * de andere ghedaen by Jacob Le Maire.* Amsterdam, Jan Janssz, MDCXXI. The "Nova Totius Orbis Terrarum" shows the Arctic coast of Asia, the highest point being Novaya Zemlia, in about 79° N. lat. This is joined to Asia. The north point is marked "T Vlissingerhoot." Between 48° N. lat., and 60° N. lat. are straits between Asia and America: they are narrowest in about 50° N. lat.

Gerardi Mercatoris et J. Hondii Atlas. Amsterdam, Johan Jansson und Henricus Hondius. MDCXXXIII. (Kön. Oef. Bib. Dresden). In German. Colored Maps. In the map "Tartaris" the "Anian Fretum" extends between about 55° to 62° N. lat. with "Americae Pars" on one side, and "Tenduc, Regnum in quo Christiani regnabant anno 1290" on the other. The portion of America on the map distinctly resembles Alaska.

A Chronological History of the Voyages into the Arctic Regions, by John Barrow (London, John Murray, 1818) appendix, No. II. Barrow gives the narrative of the discovery of the Strait of Anian by Captain Lorenzo Ferrer Maldonado in the year 1588.

exclusive jurisdiction for Russia in the waters of Bering Sea and a large part of the northern portion of the Pacific Ocean, he extended also at the same time the territorial claims of Russia from the fifty-fifth degree, as claimed by the Ukase of 1799 issued by the Emperor Paul, down to the fifty-first degree of north latitude. Against the claims of sovereignty on both land and sea asserted in the Ukase of 1821 by the Muscovite Empire, both the American and the English Governments entered energetic protests. The differences between the United States and Russia were amicably arranged by treaty in 1824. On April 5/17 of that year, Mr. Middleton, the United States Minister at Saint Petersburg, concluded with Count Nesselrode and M. de Poletica a convention which recognized the free navigation of the Northern Pacific Ocean, and fixed the latitude of fifty-four degrees forty minutes north as the line that should divide the "spheres of influence" of the United States and Russia in North West America. All below that parallel, Russia agreed to leave to the United States to contest with Great Britain, and all above it the United States consented to leave to Russia to dispute with England.³

³ On this point see the memorandum that Mr. Middleton submitted to Count Nesselrode at the fourth conference which preceded the signature of the treaty. *Fur Seal Arbitration* : Volume V., page 268.

It was not until about a year later, after a long and exhaustive series of negotiations, that the British and the Muscovite Governments finally settled their conflicting territorial claims. And in those negotiations the chief object that the English Government had in view was to obtain from the Muscovite Government a retraction of the claims of the latter to absolute jurisdiction over Bering Sea and part of the Pacific. By a treaty signed at Saint Petersburg, February 16/28, 1825, by Count Nesselrode and Monsieur de Poletica, acting for Russia, and Sir Stratford Canning, in behalf of Great Britain, the Muscovite Government rescinded its claim to sovereignty over a part of the high seas and the two governments arranged for a definite frontier between their respective North American possessions. According to Articles three and four of this treaty, this frontier was drawn from the Arctic Ocean, along the meridian of one hundred and forty-one degrees west longitude to Mount Saint Elias, and then was to follow the crest of the

As the *Fur Seal Arbitration* will often be cited in the course of this treatise, it is worth while to give here the full title: *Fur Seal Arbitration: Proceedings of the Tribunal of Arbitration convened at Paris under the treaty between the United States of America and Great Britain, concluded at Washington, February 29, 1893, for the Determination of questions between the two governments concerning the jurisdictional rights of the United States in the Waters of Bering Sea*: Washington, Government Printing Office; 1895.

mountains running parallel to the coast, to the head of the Portland Channel, and down that sinuosity to the ocean in fifty-four degrees forty minutes north latitude. But if at any point the crest of the mountains proved to be at a greater distance than ten marine leagues from the shore, then the frontier should run parallel to the sinuosities of the coast at a distance of ten marine leagues inland, but never further than that from the shore.⁴ (See Map No. 2.)

⁴ Owing to the importance of the French text, which the British Government in its printed argument in the Bering Sea Seal Fisheries Case (*Fur Seal Arbitration*, Volume IV., page 500) recognized as the official version, and the fact that French is the diplomatic language of the world, which was probably much more the case in 1825 than to-day, the French version is given here in parallel columns with the English translation of the most important articles.

“ARTICLE III.

“La ligne de démarcation entre les possessions des Hautes Parties Contractantes sur la côte du continent et les îles de l'Amérique nord-ouest, sera tracée ainsi qu'il suit :

“A partir du point le plus méridional de l'île dite Prince of Wales lequel point se trouve sous le parallèle du 54^e degré 40 minutes de latitude nord, et entre le 131^e et le 133^e degré de longitude ouest (méridien de Greenwich), la dite ligne remontera au nord le long de la passe dite Portland Channel, jusqu'au point de la terre ferme où elle atteint le 56^e degré de latitude nord ; de ce dernier point la ligne de démarcation suivra la crête des montagnes situées parallèlement à

“ARTICLE III.

“The line of demarcation between the possessions of the High Contracting Parties upon the coast of the continent and the islands of America to the northwest, shall be drawn in the manner following :

“Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of fifty-four degrees forty minutes north latitude, and between the one hundred and thirty-first and the one hundred and thirty-third 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



Prepared in the Office of the U. S. Coast and Geodetic Survey. Treasury Department.

UNITED STATES AND ENGLISH BOUNDARY CLAIMS.

MAP No. 2.

For more than half a century the British Empire

la côte, jusqu'au point d'intersection du 141^e degré de longitude ouest (même méridien), et, finalement, du dit point d'intersection, la même ligne méridienne de 141^e degré formera, dans son prolongement jusqu'à la Mer Glaciale, la limite entre les possessions Russes et Britanniques sur le continent de l'Amérique nord-ouest.

"ARTICLE IV.

"Il est entendu, par rapport à la ligne de démarcation déterminée dans l'Article précédent :

"1^o. Que l'île dite Prince of Wales appartiendra toute entière à la Russie.

"2^o. Que partout où la crête des montagnes qui s'étendent dans une direction parallèle à la côte depuis le 56^e degré de latitude nord au point d'intersection du 141^e degré de longitude ouest, se trouveroit à la distance de plus de 10 lieues marines de l'océan, la limite entre les possessions Britanniques et la lisière de côte mentionnée ci-dessus comme devant appartenir à la Russie, sera formée par une ligne parallèle aux sinuosités de la côte, et qui ne pourra jamais en être éloignée que de 10 lieues marines."

strikes the fifty sixth 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 one hundred and forty-first degree of west longitude (of the same meridian); and, finally, from the said point of intersection, the said meridian line of the one hundred and forty-first degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British Possessions on the continent of America to the northwest.

"ARTICLE IV.

"With reference to the line of demarcation laid down in the preceding Article, it is understood :

"First. That the island called Prince of Wales Island shall belong wholly to Russia.

"Second. That, wherever the summit of the mountains which extend in a direction parallel to the coast, from the fifty-sixth degree of north latitude to the point of intersection of the one hundred and forty-first 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, shall be formed by a line parallel to the windings [*sinuosités*] of the coast, and which shall never exceed the distance of ten marine leagues therefrom."

never contested the interpretation openly proclaimed by both the Muscovite and the United States Governments that under Articles three and four of the treaty of 1825, first Russia and later—after the cession of Russian America or Alaska in 1867 to the American Union—the United States were entitled to a strip of territory or lisière on the mainland from the Portland Channel or Canal in the south up to Mount Saint Elias in the north so as to cut off absolutely the British possessions from access to the sea above the point of fifty-four degrees forty minutes. In August, 1898, for the first time, the British Empire formally claimed at the Quebec Conference that the proper reading of those two articles entitled Canada to the upper part of most or all of the fiords between the Portland Canal and Mount Saint Elias.⁵ (See Map No. 2.)

A review of the negotiations during the years 1822, 1823, 1824 and 1825 between Count Nesselrode and M. de Poletica in behalf of Russia, and first of Sir

Concerning the importance of French as the language of diplomacy, see :

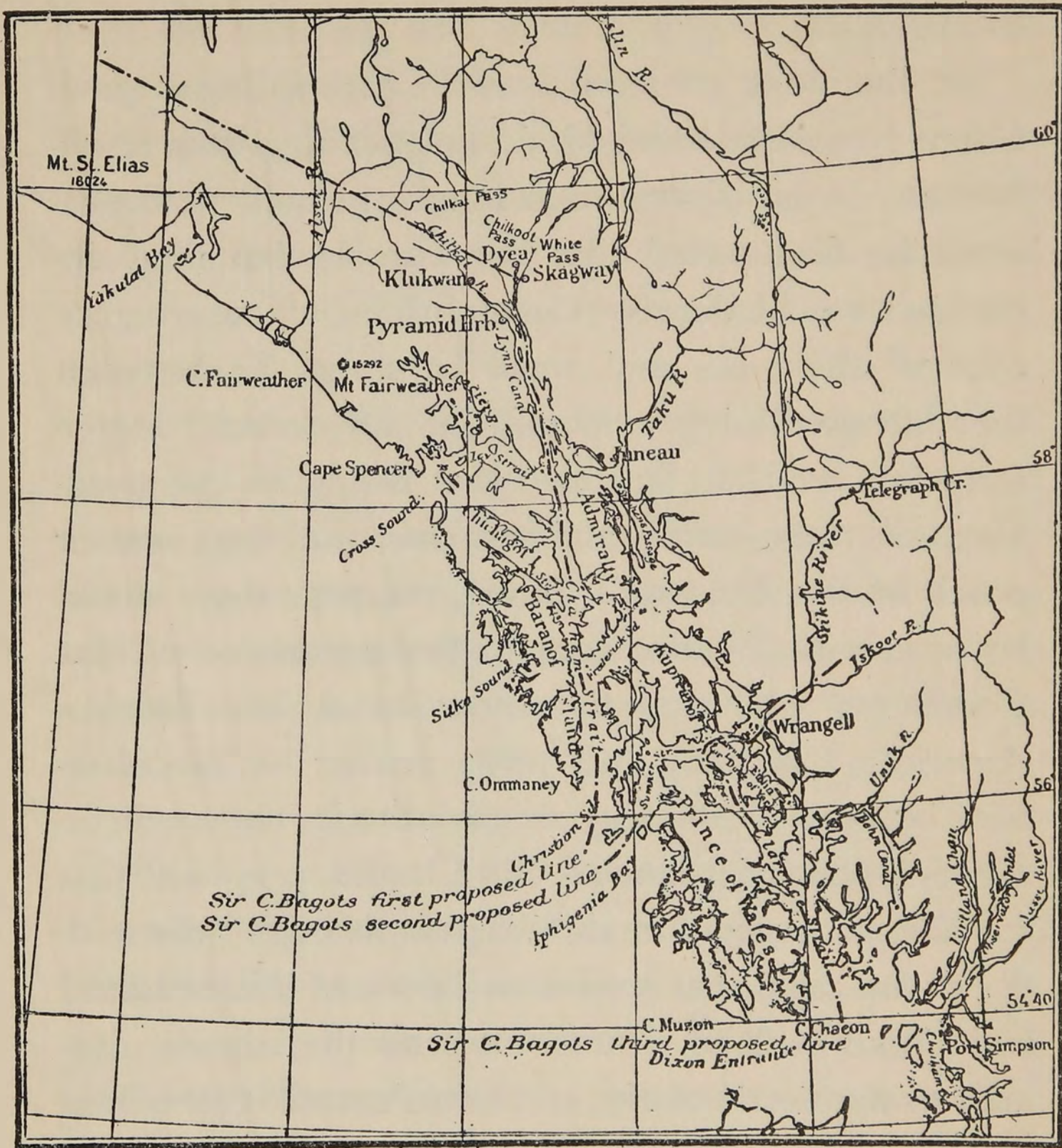
Règles Internationales et Diplomatie de la Mer par Théodore Ortolan, capitaine de Frégate, Chevalier de la l' Légion d' Honneur : Second edition, Paris, 1853, Volume I., page 110.

Précis du Droit des Gens moderne de l' Europe par G. F. Martens : Paris, 1804, Volume II., §179, page 25.

⁵*The Alaskan Boundary* by the Hon. John W. Foster : *The National Geographic Magazine*, November, 1899, Washington, page 453.

Charles Bagot and afterwards of Mr. Stratford Canning, later Lord Stratford de Redcliffe, for Great Britain, shows clearly that the agreement finally reached as embodied in the treaty of 1825 was intended to exclude the British North American territory from all access to the sea above the point of fifty-four degrees forty minutes. From the very inception of the negotiations, the Russians insisted upon the possession for Russia of a strip or *lisière* on the mainland from the Portland Canal up to Mount Saint Elias expressly to shut off England from access to the sea at all points north of the Portland Canal. Sir Charles Bagot, on behalf of England, fought strenuously to keep open a free outlet to the sea as far north above the line of fifty-four degrees forty minutes as possible. (See map No. 3.) First he proposed that the line of territorial demarcation between the two countries should run "through Chatham Strait to the head of Lynn Canal, thence northwest to the 140th degree of longitude west of Greenwich, and thence along that degree of longitude to the Polar Sea."⁶ To this Count Nesselrode and M. de Poletica replied with a *contre-projet* in which they proposed that the frontier line, beginning at the southern end of Prince of Wales Island, should ascend the Portland Canal up to the mountains, that then from that point it should follow the mountains parallel

⁶*Fur Seal Arbitration*, Volume IV., page 424.



Prepared in the Office of the U. S. Coast and Geodetic Survey. Treasury Department.

SIR C. BAGOT'S THREE PROPOSED BOUNDARIES, 1824.

MAP No. 3.

to the sinuosities of the coast up to the one hundred and thirty-ninth degree of longitude west from Greenwich, and then follow that degree of longitude to the north.⁷

At the next conference Sir Charles Bagot gave Count Nesselrode and M. de Poletica a written modification of his first proposition. In this new proposal he first stated that the frontier that they demanded would deprive Great Britain of sovereignty over all the *anses* and small bays that lie between the fifty-sixth degree and the fifty-fourth degree forty minutes⁸ of latitude; that owing to the proximity of these fiords and estuaries to the interior posts of the Hudson's Bay Company, they would be of essential importance to the commerce of that Company; while on the other hand, the Russian American Company had posts neither on the mainland between those degrees of latitude, nor even on the neighboring islands. Sir Charles proposed that the line of separation should pass through "the middle of the canal that separates Prince of Wales Island and Duke of York Island from all the islands situated to the north of the said islands until it [the line] touches the mainland." Then advancing in the same direction to the east for ten marine leagues, the line

⁷*Fur Seal Arbitration*, Volume IV., page 427.

⁸In the American edition, *Fur Seal Arbitration*, Volume IV., page 428 "45'" is printed; this is certainly a typographical error for "40'."

should then ascend towards the north and north-west, at a distance of ten marine leagues from the shore, following the sinuosities of the coast up to the one hundred and fortieth degree of longitude west from Greenwich and then up to the north.⁹

At the succeeding conference the Russian plenipotentiaries again insisted upon their original proposal that the frontier line should ascend the Portland Canal and then follow the mountains bordering the coast line.

Sir Charles Bagot then brought forward a third boundary line that, passing up Duke of Clarence Sound and then running from west to east along the strait separating Prince of Wales Island and Duke of York Island to the north, should then advance to the north and the north-west in the way already proposed.¹⁰

But again the Russian diplomats insisted on their original proposition. On April 17th, 1824,¹¹ Count Nesselrode addressed to Count Lieven, the Russian Ambassador at London, a long and exhaustive review of the negotiations with Sir Charles Bagot, and instructed Count Lieven to press the Russian views upon the English Cabinet. In that communication,

⁹ *Fur Seal Arbitration*, Volume IV., page 428.

¹⁰ *Fur Seal Arbitration*, Volume IV., page 430.

¹¹ *Fur Seal Arbitration*, Volume IV., page 399. In the American edition this letter is dated 1823, but as the context shows, it should be 1824.

after speaking of Russia's declaration at the beginning of the negotiations that she would not insist upon the claim to the territory down to the fifty-first degree put forward in the Ukase of 1821, and that she would be content to maintain the limits assigned to Russian America by the Ukase of 1799, he went on to say "that consequently the line of the fifty-fifth degree of north latitude, would constitute upon the south the frontier of the States of His Imperial Majesty, that upon the continent and towards the east, this frontier could run along the mountains that follow the sinuosities of the coast up to Mount Saint Elias, and that from that point up to the Arctic Ocean we would fix the limits of the respective possessions according to the line of the one hundred and fortieth degree of longitude west from Greenwich.

"In order not to cut Prince of Wales Island, which according to this arrangement should belong to Russia, we proposed to carry the southern frontier of our domains to the fifty-fourth degree fortieth minute of latitude and to make it reach the coast of the continent at the Portland Canal whose mouth opening on the ocean is at the height of Prince of Wales Island and whose origin is in the lands between the fifty-fifth degree and fifty-sixth degree of latitude."

Russia, by limiting her demands to those set forth in the Ukase of 1799, simply defended claims against

which, for over twenty years, neither England nor any other power had ever made a protest. England, on the contrary, sought to establish her right to territory which she had thus passively recognized as Russian, and which lay beyond any of her settlements. Count Nesselrode contrasted the policy of the two states in the pithy sentence: "Thus we wish to retain, and the English Companies wish to acquire."

The negotiators were thus brought face to face with their rival claims. The Russians insisted, on the one hand, that they must have possession of a *lisière* or strip of territory on the mainland in order to support the Russian establishments on the islands and to prevent the Hudson's Bay Company from having access to the sea and forming posts and settlements upon the coast line opposite to the Russian Islands; while Sir Charles Bagot maintained, on the other hand, that Great Britain must have such part of the coast and inlets north of fifty-four degrees forty minutes as would enable the English Companies and the settlements back from the coast to have free access to the fiords and estuaries opening into the ocean.

After a few months, Mr. George Canning, the English Foreign Secretary, instructed Sir Charles Bagot to agree to the Portland Canal as part of the frontier line; but with the reservation, first, that the eastern line of demarcation should be so defined as

to guard against any possibility, owing to subsequent geographical discoveries, that it could be drawn at a greater distance from the coast than ten marine leagues, and second, that the harbor of Novo-Archangelsk (now Sitka) and the rivers and creeks on the continent should remain open forever to British commerce.

During the course of the new negotiations between Count Nesselrode and M. de Poletica in behalf of Russia, and of Sir Charles Bagot for England, the second of these two points was the main object of discussion. Sir Charles was unable to conclude a treaty with the Russian diplomats, for the latter refused to agree to open forever the port of Novo-Archangelsk to British commerce. Neither were they willing to grant to the subjects of England the right *forever* to navigate and trade along the coast of the lisière that it was proposed Russia should have. The British Ambassador, realizing that it was impossible for him to negotiate a treaty in accordance with his instructions, soon thereafter left Saint Petersburg.

In the latter part of the year 1824, Great Britain appointed Mr. Stratford Canning, later Lord Stratford de Redcliffe, one of the ablest of her diplomats, to continue the negotiations left unfinished between Sir Charles Bagot, and Count Nesselrode and M. de Poletica. When Canning took up the negotiations, Great Britain had receded from all her contentions

except as to the width of the lisière. In his instructions he received power to arrange for a line of demarcation that should run along the crest of the mountains, except where the mountains were more than ten marine leagues from the shore, in which case the frontier should follow, at a distance of ten marine leagues inland, the sinuosities of the shore. With these new instructions, Stratford Canning was able to conclude a treaty to which Sir Charles Bagot could not have agreed. And on the 16/28 of February 1825, Stratford Canning on behalf of Great Britain and Count Nesselrode and M. de Poletica for Russia, signed a treaty definitely dividing Canada and Russian America.

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George Canning, towards the end of his instructions to Stratford Canning, showed what was the chief motive of England in the pending negotiations with Russia. He wrote :

“It remains only in recapitulation, to remind you of the origin and principles of this whole negotiation.

“It is *not* on our part, essentially a negotiation about limits.

“It is a demand of the repeal of an offensive and unjustifiable arrogation of exclusive jurisdiction over an ocean of unmeasured extent; but a demand qualified and mitigated in its manner, in order that its justice may be acknowledged and satisfied without soreness or humiliation on the part of Russia.

“We negotiate about territory to cover the remonstrance upon principle.

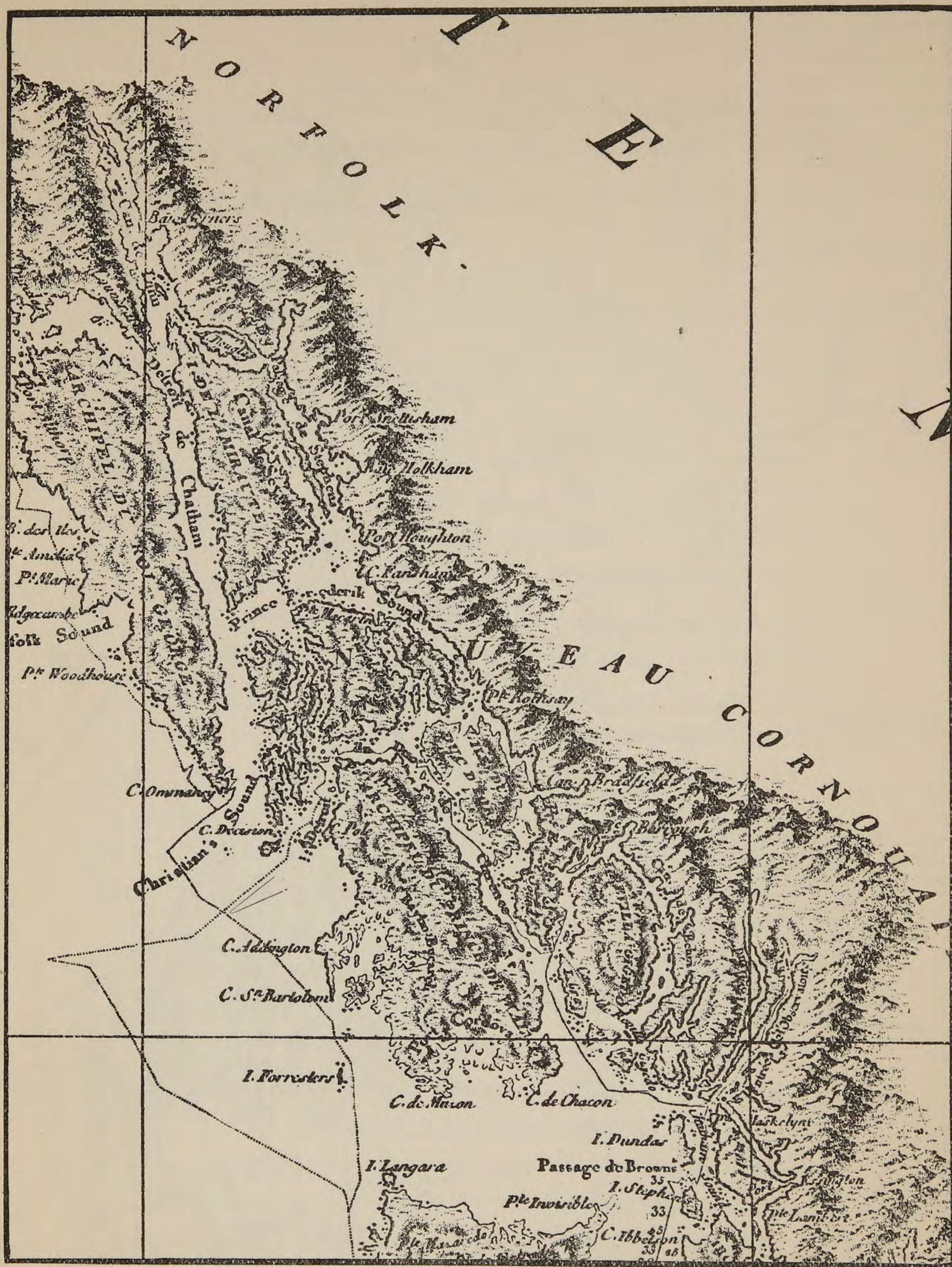
“But any attempt to take undue advantage of this voluntary facility, we must oppose.”¹²

Thus the chief concern of the English Government was to obtain from that of Russia an official disclaimer of the assertion in the Ukase of 1821 that the waters of Bering Sea and parts of the northern Pacific were exclusively Russian waters. Russia would not assent to formally recognize the right of English ships freely to navigate those seas, unless the boundary question was also arranged, and settled so as to insure to Russia an unbroken lisière from the Portland Canal up to Mount Saint Elias. And on this last point, England, after a long and stubborn resistance, finally yielded.

Much of the trouble that the negotiators of the Anglo-Muscovite treaty of 1825 had in agreeing upon the eastern boundary of the lisière was due to a lack of knowledge respecting the mountains along the northwest American coast. According to Vancouver's chart (See Map No. 4), a Russian map published in 1802 (See Map No. 5), and other available information a mountain range ran along the coast not far from the sea.¹³ When Stratford Canning

¹² *Fur Seal Arbitration*, Volume IV., page 448.

¹³ We know from the correspondence of Sir Charles Bagot that the negotiators knew of the map of 1802. *Fur Seal Arbitration*, Volume IV., page 409.



VANCOUVER'S CHART OF THE NORTHWEST COAST OF AMERICA, COPIED FROM THE FRENCH EDITION OF 1799.

MAP No. 4.



MAP PUBLISHED IN 1802 BY THE RUSSIAN QUARTERMASTER-GENERAL DEPARTMENT AT SAINT PETERSBURG, NOW IN THE LIBRARY OF CONGRESS.

MAP No. 5.

and Count Nesselrode and M. de Poletica finally agreed upon the mountain divide as the frontier between the two nations, Canning, acting upon instructions from his cousin, George Canning, who was British Secretary of Foreign Affairs, insisted that should the summit of the mountains prove to be, at any point, more than ten marine leagues from the shore, then the line of demarcation should be drawn parallel to the sinuosities of the shore at a distance of ten marine leagues. This ten league limit to the eastward was inserted on purpose, as George Canning stated in his instructions to Stratford Canning to guard England against a possibility of having her territory pushed back to the eastward a hundred miles or more from the sea in case the crest of the mountains was found in reality to lie far back from the coast instead of close to it as was then supposed.

The text of the treaty of 1825 is the crucial and final statement of how the line of demarcation between Alaska and the Dominion of Canada should be found. A review of the *pourparlers* between the Russian and the British representatives that culminated in the Anglo-Muscovite treaty of 1825 shows clearly that the negotiators of that treaty intended to include within the Russian territory a *lisière* on the mainland, stretching from the Portland Channel or Canal in the south up to Mount Saint Elias in the north; and extending between those points far

enough inland to exclude the English possessions absolutely from access to the coast line above fifty-four degrees forty minutes. Within recent years some Canadians have tried to read into that agreement between Russia and England a meaning radically different from the interpretation which all the world, including until a few years since even the Canadians themselves, understood. Not only are there within the text of the treaty itself expressions and provisions that place beyond question the fact that Britain should not have an access to tide water on the northwest coast above fifty-four forty; but also the whole course of history from 1825 until a comparatively recent time shows that the authorities on the British side of the line thought so too. And even as recently as August, 1901, the British Government set the seal of its approval upon that view of what the treaty of 1825 meant by republishing Admiralty Chart No. 787, upon which the frontier is marked from the head of the Portland Canal and then up on the continent to Mount Saint Elias so as to include all the sinuosities in their entirety within United States territory. (See Map No. 1.)

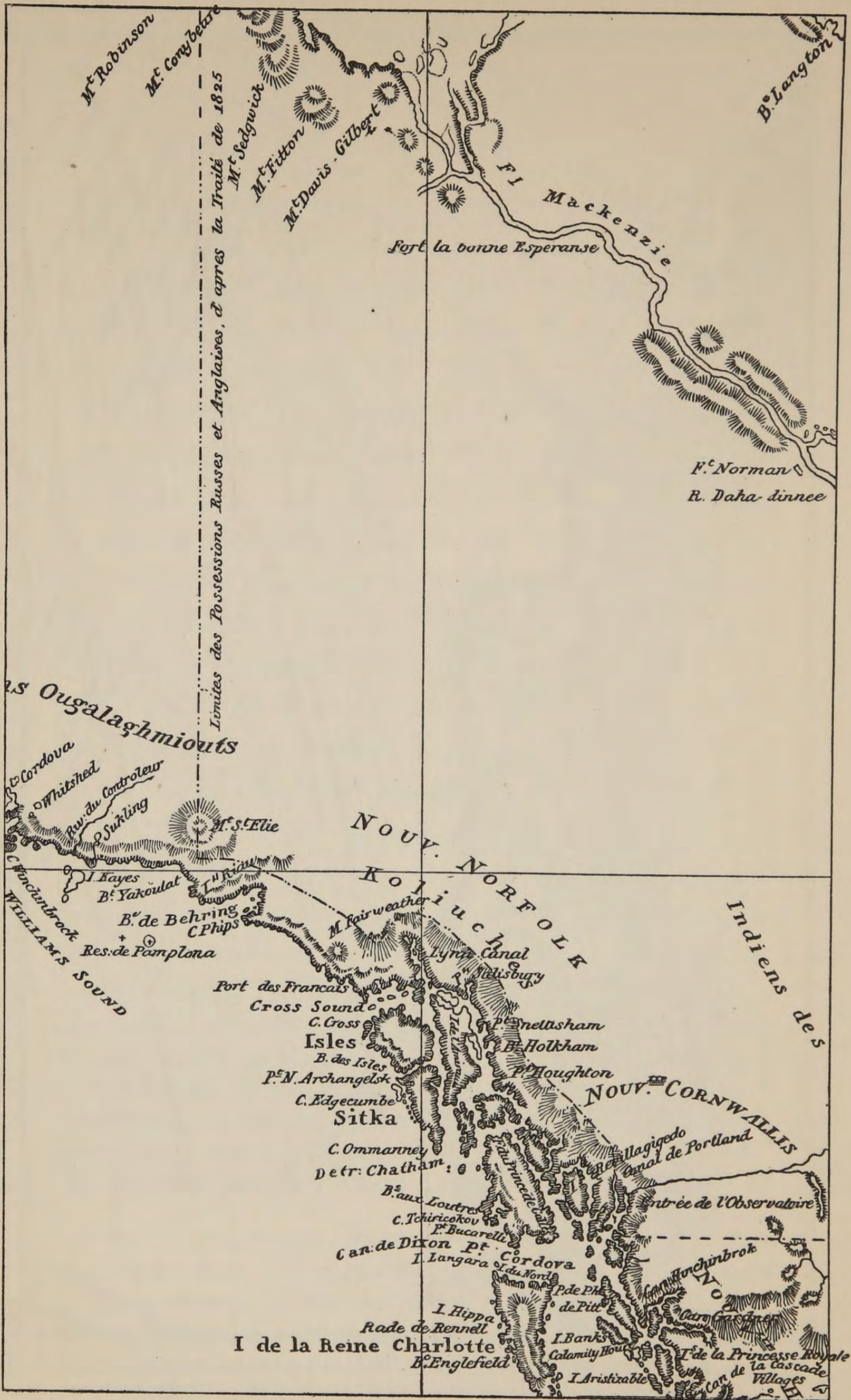
In the ten years succeeding the promulgation of the Anglo-Muscovite treaty of 1825, the Russian government gave on several official maps a visual interpretation of the meaning of Articles *three* and *four* of the treaty. During the same years, too, both

the Canadians and the English also issued maps drawn by their leading cartographers. All these maps interpreted the eastern boundary of the Russian *lisière* as described in the treaty of 1825, so as to give the Muscovite Empire a continuous, unbroken strip of land on the continent, extending far enough inland so as to include all the sinuosities above fifty-four forty within Russian territory. Again and again in subsequent years both Canada and England reaffirmed upon other maps, many of them official publications, the frontier as it was depicted in the Russian maps.

In the year 1825, shortly after the treaty defining the frontier between Russian and British North America became known, A. Brué, one of the leading French cartographers, published at Paris a map entitled: "Carte de l'Amérique Septentrionale; Rédigée par A. Brué, Géographe du Roi; Atlas Universel, pl. 38." On this map Brué drew the boundary of Russian America on the continent from the top of the Portland Canal at the distance of ten marine leagues from tide water round all the sinuosities up to the one hundred and forty-first degree of longitude, and then along that meridian to the north. Two years later, in 1827, the celebrated Russian admiral and navigator, A. J. de Krusenstern, published at Saint Petersburg, "par ordre de Sa Majesté Impériale," a "Carte Générale de l'Océan Pacifique, Hémisphère Boréal." (See

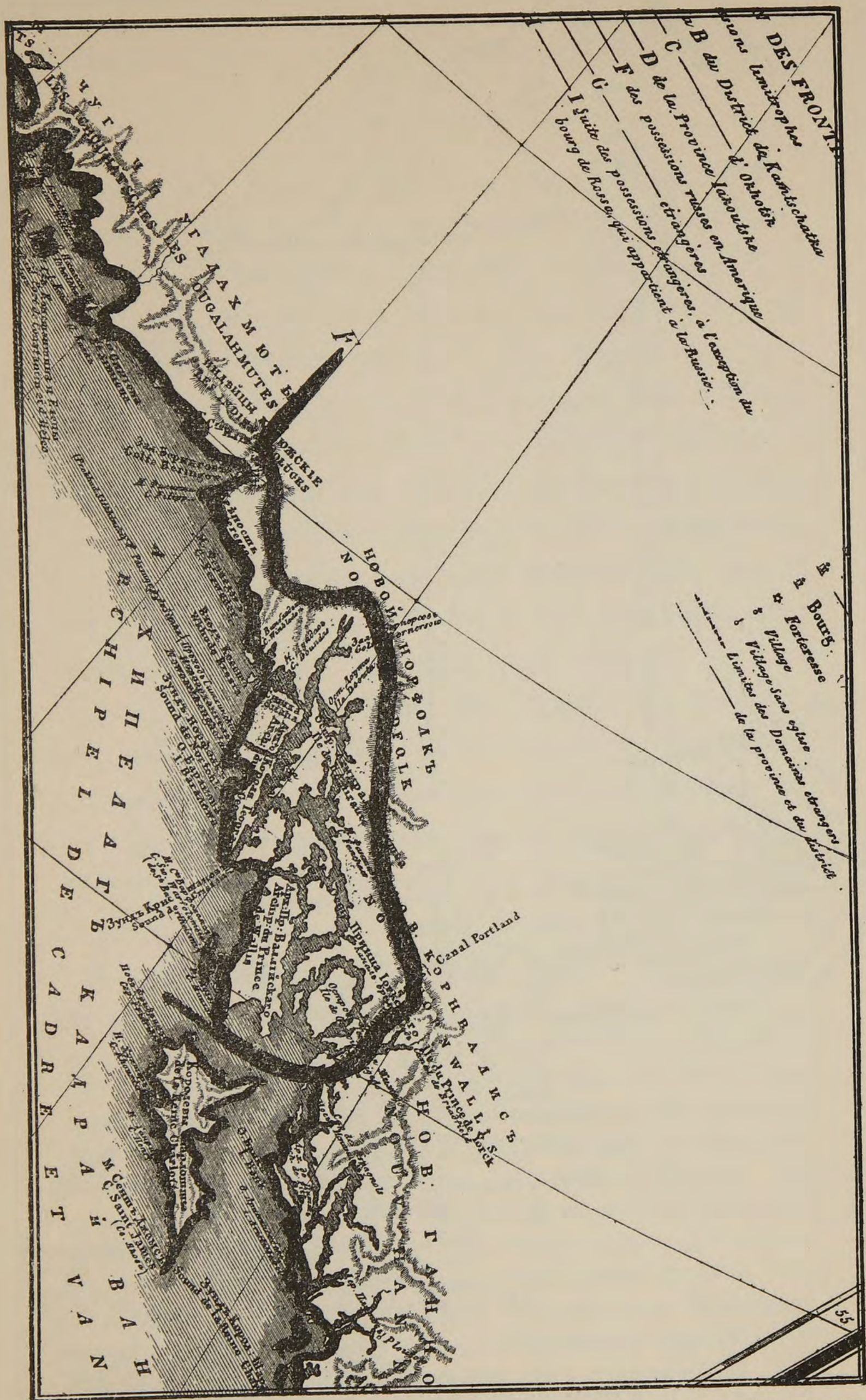
map No. 6.) Krusenstern drew on the mainland the frontier of Russian America from the top of the Portland Canal round the sinuosities of the shore at a distance of ten marine leagues from tide water up to the one hundred and forty-first degree of longitude and then northward along that meridian. Along the line of the one hundred and forty-first degree is inscribed, "Limites des Possessions Russes et Anglaises d'après le Traité de 1825." Two years later, in 1829, there appeared at Saint Petersburg a map of the eastern extremity of Siberia and the north west coast of America. This was map "No. 58^u (b)" of the "Atlas Géographique de l'Empire de Russie," etc., that was prepared by Functionary Piadischeff. (See map No. 7.) On this map, Piadischeff drew the Russo-British frontier from Mount Saint Elias down to the top of the Portland Canal and then along that sinuosity down to the sea at fifty-four degrees forty minutes,¹⁴ thereby shutting off Britain from access to the sea above fifty-four degrees forty minutes.

¹⁴The reproduction of map "No. 58" (see map No. 7) was made from a copy of Piadischeff's Atlas now in the possession of the writer that belonged to Prince Alexander of Hesse, the brother of the Empress Alexander the Second of Russia. The titles and nomenclature of the Atlas are given both in Russian and French. The French title is: *Atlas Géographique de l'Empire de Russie, du Royaume de Pologne et du Grand Duché de Finlande * * * par le Fonctionnaire de la 6^e Classe Piadischeff, employé au Dépôt Topographique militaire dans l'Etat-Major de Sa Majesté Impériale: Commencé en 1820 et terminé en 1827, revu et corrigé en 1834.*



IMPERIAL RUSSIAN MAP: "DRESSÉ PAR M. DE KRUSENSTERN, CONTRE-AMIRAL * * *
 PUBLIÉ PAR ORDRE DE SA MAJESTÉ IMPERIALE SAINT PÉTERSBOURG, 1827."

MAP No. 6.



“CARTE GÉNÉRALE * * * DE LA CÔTE N. W. (sic) DE L'AMÉRIQUE,” PREPARED
 AT SAINT PETERSBURG IN 1829, BY FUNCTIONARY PIADISCHEFF
 “AU DÉPÔT TOPOGRAPHIQUE MILITAIRE.”

MAP No. 7.

Again on the map of Russian America in the *Atlas of the Russian Empire* published by the Russian War Office in the years 1830 to 1835, the frontier of Alaska is marked as Krusenstern and Piadischeff had drawn it.¹⁵ (See map No. 8.)

The British Government made no protest against the way Krusenstern and Piadischeff had marked the boundary. On the contrary, a few years later, in 1831, a map was prepared by Joseph Bouchette, Jr., "Deputy Surveyor General of the Province of Lower Canada," and published the same year at London by James Wyld, geographer to the King, and "with His Majesty's most gracious and special permission most humbly and gratefully dedicated * * * to His Most Excellent Majesty King William IVth * * * compiled from the latest and most approved astronomical observations, authorities, and recent surveys." It reaffirmed the bound-

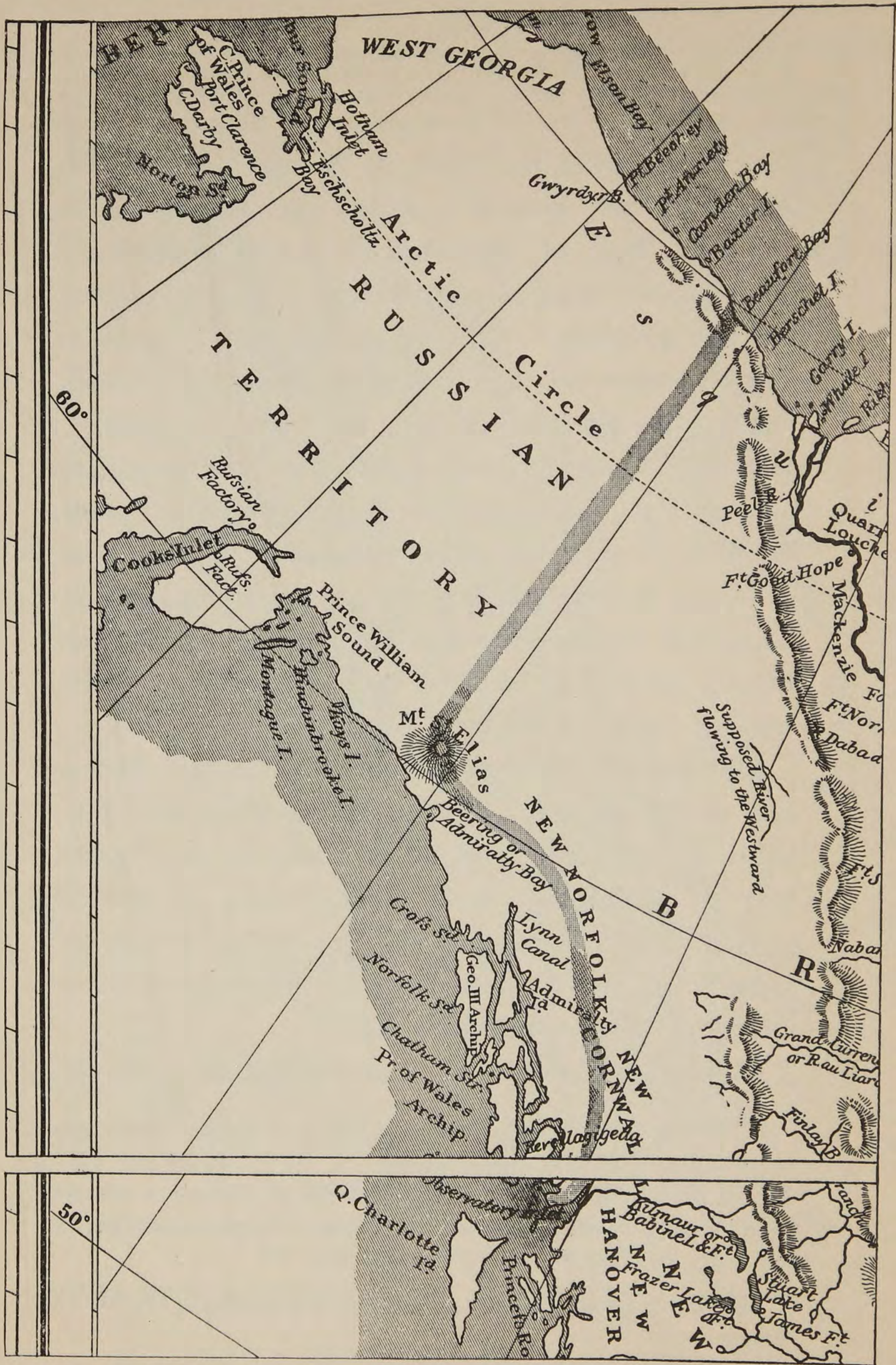
Map "No. 60" (a)" of this atlas is entitled, "Carte Générale de l'Empire de Russie," etc. This is a map of the whole Russian Empire in 1829, and in the left hand lower corner the boundary of the Russian American lisière is given as on map "No. 58." Charles Sumner used this general map of the Empire, "No. 60," in preparing his speech in support of the purchase of Alaska in 1867. The copy that he had is now in the Harvard University Library.

¹⁵ *Atlas of the Russian Empire*. (In Russian.) Map No. 8 is reproduced from "Map No. 63" of a copy of this atlas, now in the possession of the writer, which belonged originally to Count Dimitry Petrowitsch Severin, at one time Minister Plenipotentiary of the Emperor of Russia to the King of Bavaria.



MAP OF RUSSIAN AMERICA PUBLISHED IN THE YEARS 1830-1835 BY THE RUSSIAN WAR OFFICE.

MAP No. 8.



CANADIAN MAP OF 1831: "COMPILED * * * BY JOSEPH BOUCHETTE, JR., DEPUTY SURVEYOR GENERAL OF THE PROVINCE OF LOWER CANADA."

MAP No. 9.

ary as given upon Krusenstern's Imperial map. (See Map No. 9.) Duflot de Mofras, who was an *attaché* of the French Legation to Mexico, gives upon his map of the western coast of America, published in 1844, the same frontier line between the two empires.¹⁶ (See Map No. 10.) Again in a "Narrative of a Journey Round the World, during the years 1841 and 1842, by Sir George Simpson, Governor-in-chief of the Hudson's Bay Company's Territories in North America" published at London in 1847,¹⁷ a map in volume one, showing the author's route, gives the line of demarcation between the Russian and the English territories as it was laid down by Krusenstern in his map of 1827. (See map No. 11.)

Likewise on the map prepared by Captain Tebenkoff of the Imperial Russian Navy, which was published in 1849 (see Map No. 12), and on an English map to accompany S. S. Hill's *Travels in Siberia*, published at London in 1854 (see Map No. 13), the frontier of the Alaskan lisière is given as Krusenstern and Piadischeff drew it.

Three years later, in 1857, an investigation into the

¹⁶ The title of de Mofras's map is : *Carte de la côte de l'Amérique sur l'océan Pacifique septentrional * * * dressé par Mr. Duflot de Mofras, Attaché à la Légation de France à Mexico pour servir à l'intelligence de son Voyage d'exploration, publié par ordre du Roi * * * Paris, 1844.*

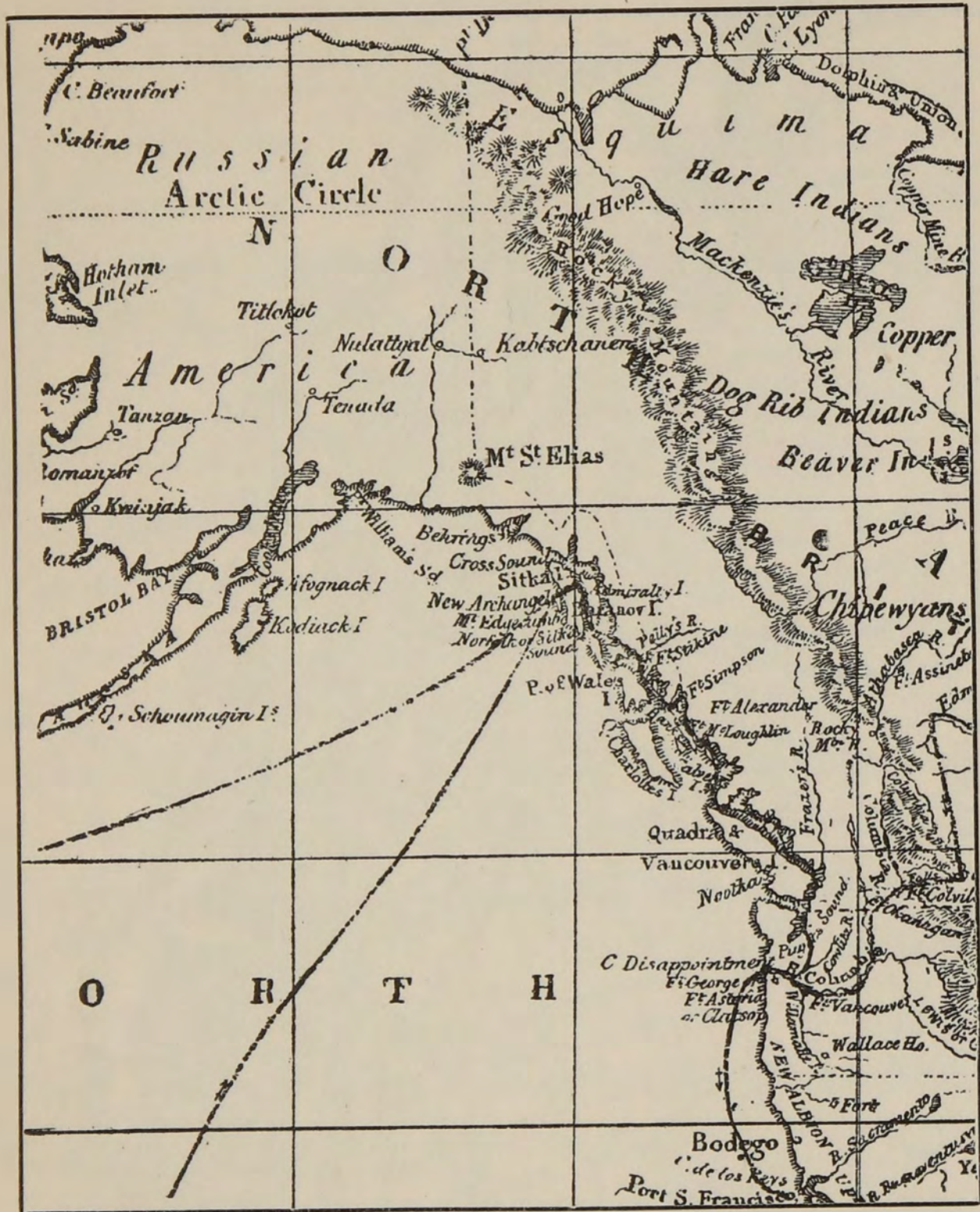
¹⁷ London; Henry Colburn, 1847: there is a copy in the British Museum.



MAP OF DUFLLOT DE MOFRAS,

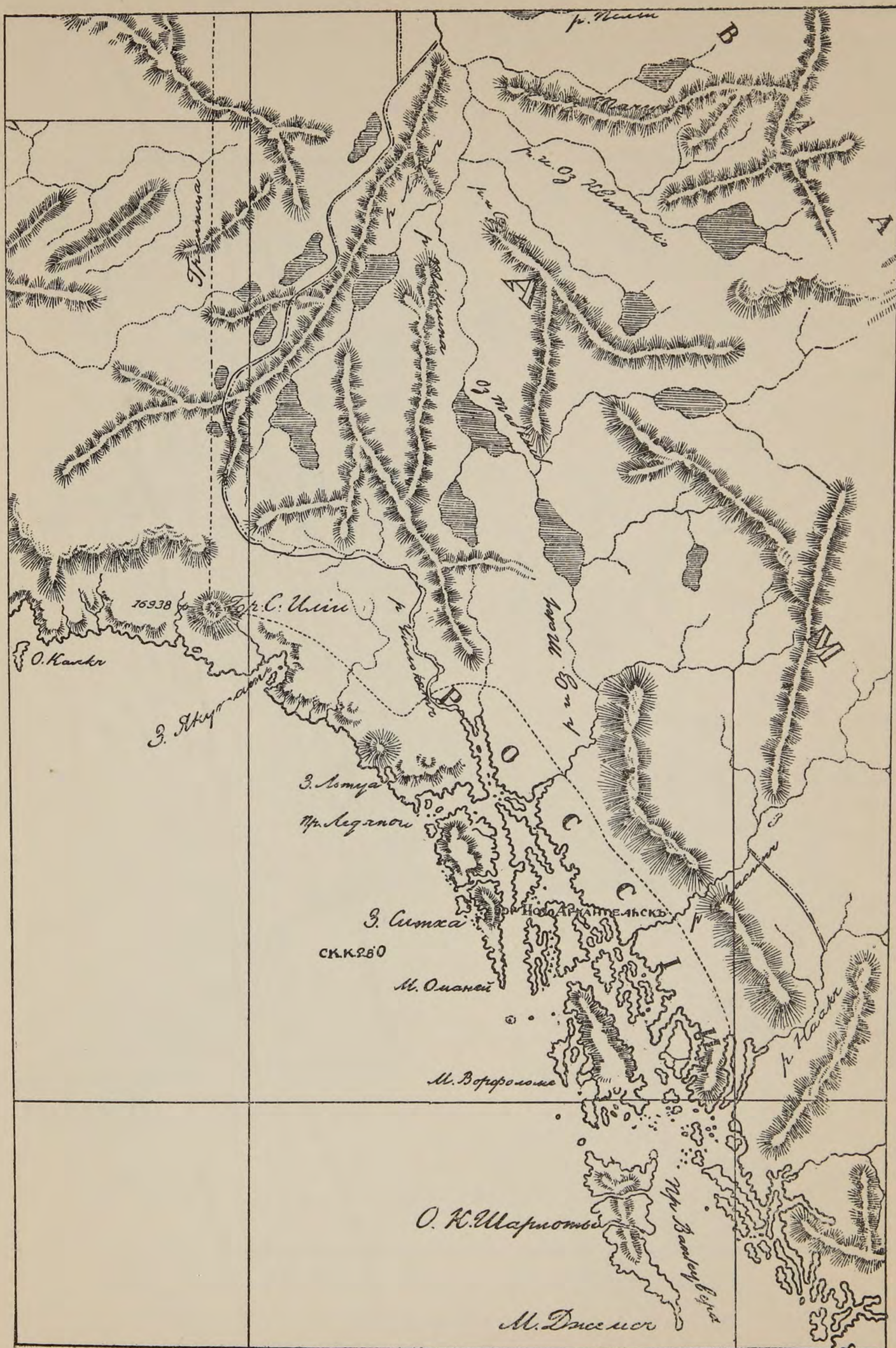
"Publié par ordre du Roi, sous les Auspices de M. le Président du Conseil des Ministres et de M. le Ministre des Affaires Etrangères, Paris, 1844."

MAP No. 10.



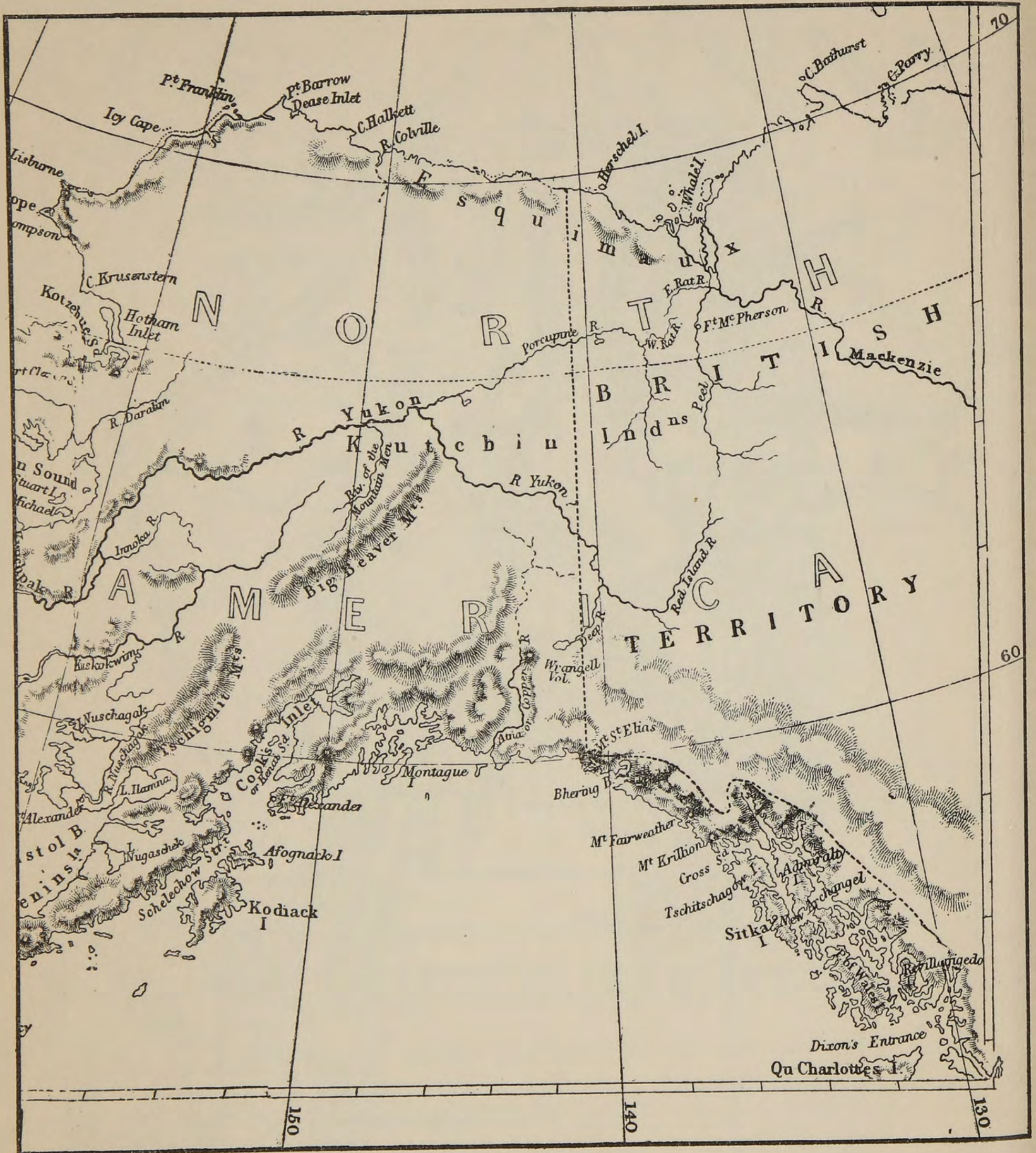
MAP IN "NARRATIVE OF A JOURNEY ROUND THE WORLD,"
BY SIR GEORGE SIMPSON, LONDON, 1847.

MAP No. 11.



MAP PREPARED BY CAPTAIN TEBENKOFF, OF THE IMPERIAL RUSSIAN NAVY, 1849.

MAP No. 12.



MAP OF THE RUSSIAN EMPIRE TO ACCOMPANY HILL'S TRAVELS, 1854.

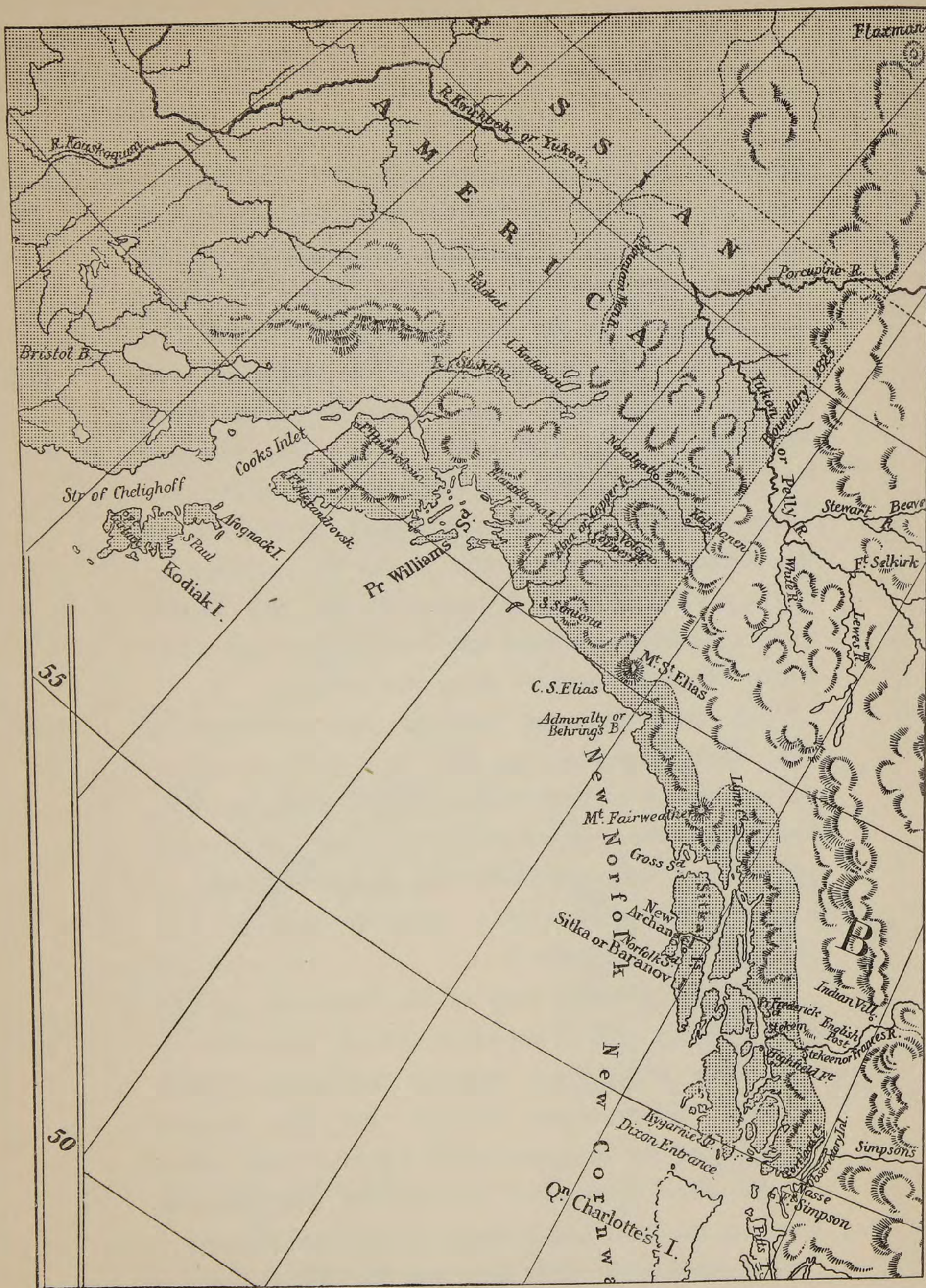
MAP No. 13.

affairs of the Hudson's Bay Company was held by a special committee of the House of Commons. At that investigation, Sir George Simpson, who was examined, presented a map of the territory in question, and, speaking for the Company, said: "There is a margin of coast, marked yellow on the map, from $54^{\circ} 40'$ up to Cross Sound, which we have rented from the Russian Company." (See Map No. 14.) This map shows that the strip of land on the continent extended far enough inland to include all the sinuosities of the coast so as to exclude, according to the United States claims, the British territory altogether from any outlet upon salt water above fifty-four degrees forty minutes.

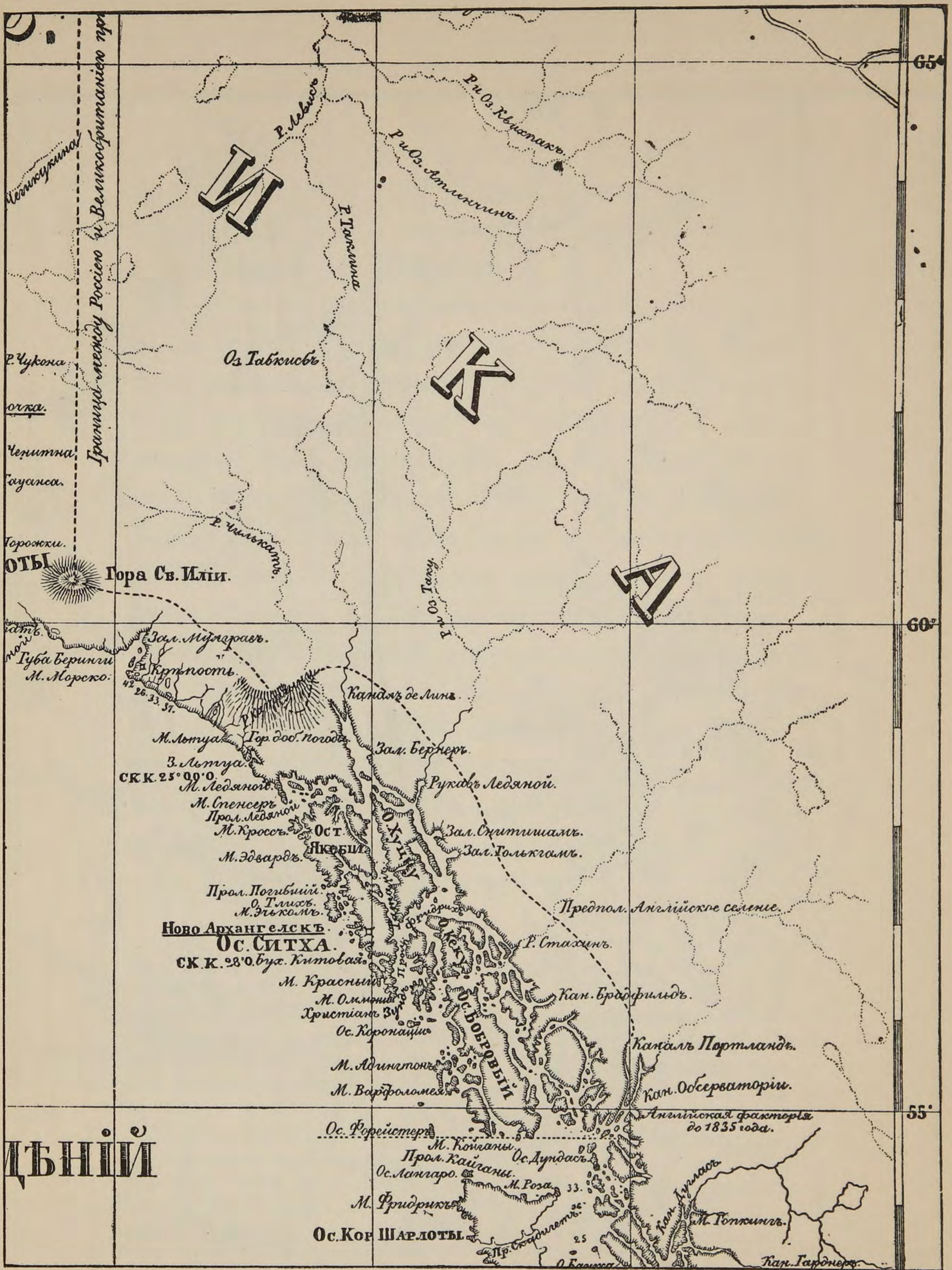
Also on a Russian Imperial map published in 1861 (see Map No. 15), the Russian Government again claimed, without calling forth any protest from the British Government, for its American possessions an eastern frontier identical with that it had asserted soon after the treaty of 1825 upon the maps of Krusenstern and Piadischeff.

John Arrowsmith's map of the Provinces of British Columbia and Vancouver Island, published at London in 1864, gives eloquent testimony of what English cartographers thought was the eastern boundary of the Russian *lisière* a year or two before the Emperor Alexander the Second sold Russian America to the United States (See Map No. 16).

By a number of overt acts, too, the British Empire

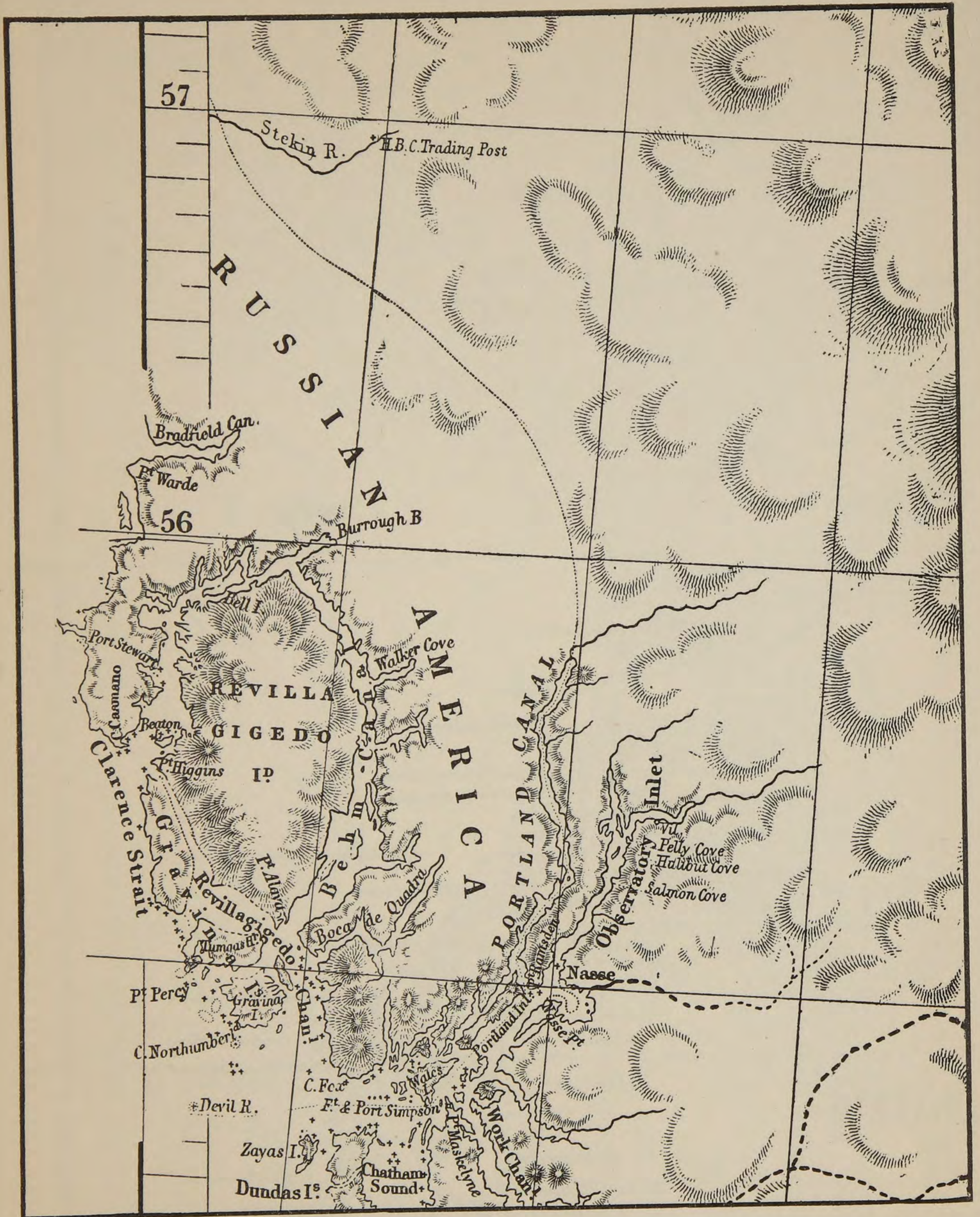


MAP OF THE HUDSON'S BAY COMPANY: "ORDERED BY THE HOUSE OF COMMONS TO BE PRINTED 31ST JULY AND 11TH AUGUST, 1857." THE RUSSIAN TERRITORY, WHICH IS DARKER THAN THE CANADIAN IN THIS REPRODUCTION, IS COLORED YELLOW ON THE ORIGINAL MAP.



IMPERIAL RUSSIAN MAP, 1861.

MAP No. 15.



ARROWSMITH'S MAP OF THE PROVINCES OF BRITISH COLUMBIA AND VANCOUVER ISLAND, 1864.

MAP No. 16.

recognized the right of Russia to a continuous lisière on the continental shore above fifty-four degrees forty minutes. One of these acts, for example, was the case of the British brig *Dryad*.

In June 1834, notwithstanding that by Article six of the treaty of 1825¹⁸ the Muscovite and the British Governments had agreed that British traders should have the right forever to navigate freely all rivers crossing the Russian lisière, the Russians turned back, near the entrance of the Stikine River, the British brig *Dryad* while on its way to establish a trading post in the interior on the Stikine River above the limit of Russian territory. Sailing from Vancouver, the *Dryad*, after passing through Clarence Strait, reached near the north end of Wrangell Island, the Russian post, called Fort Saint Dionisievsky, at the mouth of the Stikine River. When the *Dryad* arrived off the Russian fort, the commander of the English expedition, Mr. Ogden, who

18

"ARTICLE VI.

"Il est entendu que les sujets de Sa Majesté Britannique, de quelque côté qu'ils arrivent, soit de l'océan, soit de l'intérieur du continent, jouiront à perpétuité du droit de naviguer librement, et sans entrave quelconque, sur tous les fleuves et rivières qui, dans leurs cours vers la Mer Pacifique, traverseront la ligne de démarcation sur la lisière de la côte indiquée dans l'Article III. de la présente Convention."

"ARTICLE VI.

"It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean, or from the interior of the continent, shall forever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarkation upon the line of coast described in article three of the present convention."

had to use row boats to send on his expedition to its intended destination up the river, asked the Russian commander, Lieutenant Larembo, for permission to proceed. But this the Muscovite officer refused, basing his reply on the eleventh article of the treaty of 1825.¹⁹ Mr. Ogden then proceeded to Novo-Arkhangelsk, where he discussed the matter with Baron Wrangell. But the latter refused his consent to the proposed settlement. Thereupon the *Dryad* returned, and Mr. Ogden reported to his Company what had happened. The Hudson's Bay Company lodged, for the losses it had suffered, a complaint with the British Government against the Russian-American Company, and claimed twenty-one thousand pounds sterling or about one hundred and thirty-five thousand roubles damages.

During several years the Muscovite and the British Governments exchanged many communications on the subject. Finally Lord Palmerston pressed upon

¹⁹ "ARTICLE XI.

"Dans tous les cas de plaintes relatives à l'infraction des Articles de la présente Convention, les autorités civiles et militaires des deux Hautes Parties Contractantes, sans se permettre au préalable ni voie de fait, ni mesure de force, seront tenues de faire un rapport exact de l'affaire et de ses circonstances à leurs Cours respectives, lesquelles s'engagent à la régler à l'amiable, et d'après les principes d'une parfaite justice."

"ARTICLE XI.

"In every case of complaint on account of an infraction of the articles of the present convention, the civil and military authorities of the high contracting Parties, without previously acting or taking any forcible measure, shall make an exact and circumstantial report of the matter to their respective courts, who engage to settle the same, in a friendly manner, and according to the principles of justice."

the attention of the Russian Government that in 1834 the term of ten years granted in Article seven of the treaty of 1825²⁰ to English subjects and ships freely to navigate and trade along the estuaries of the Russian lisière had not expired when the officers of the Russian American Company turned back the *Dryad* in 1834. Lord Palmerston also insisted that, as by the terms of Article six of the treaty of 1825, the English were guaranteed the free navigation of all the rivers (*fleuves*) which, taking their rise in British territory, crossed the Russian domains, the Russian colonial authorities had transgressed their powers in causing the *Dryad* expedition to turn back. The Russian Government was thus hard pressed upon this question, especially by the latter argument of Lord Palmerston. Finally, with the full consent of Count Nesselrode and Lord Palmerston, Baron Wrangell, on behalf of the Russian-American Company, and Sir George Simpson,

²⁰ "ARTICLE VII.

"Il est aussi entendu que, pendant l'espace de dix ans, à dater de la signature de cette Convention, les vaisseaux des deux Puissances, ou ceux appartenant à leurs sujets respectifs, pourront réciproquement fréquenter, sans entrave quelconque, toutes les mers intérieures, les golfes, havres, et criques sur la côte mentionnée dans l'Article III, afin d'y faire la pêche et le commerce avec les indigènes."

"ARTICLE VII.

"It is also understood, that, for the space of ten years from the signature of the present convention, the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in article three for the purposes of fishing and of trading with the natives."

acting for the Hudson's Bay Company, met in Hamburg in the early part of 1839 for the purpose of amicably arranging the incident. After a few days' negotiations, these eminent representatives of their respective companies made an agreement with a view to settle not only all past differences, but also to eliminate all chances of future difficulties. For this purpose, they agreed on February 6th, 1839, that for a term of ten years beginning the 1st of June, 1840, the Russian American Company should lease to the Hudson's Bay Company all of the lisière, including Fort Saint Dyonissievsky extending from Cape Spencer at Cross Bay and the Mount of Good Hope down to fifty-four forty. The Hudson's Bay Company was to relinquish all claims for damages against the Russian Company, and was to pay as rent to the latter two thousand Columbian sea-otter skins. This agreement was renewed in 1849 for ten years and in 1859 for two or three years more, and again in 1862 for three years, and finally was extended to 1867.²¹

²¹ Tikhmenief's *Historical Review of the Development of the Russian American Company and of its operations up to the present time*. Saint Petersburg, 1861. (In Russian.) Volume I., page 264 *et seq.*

Parliamentary Papers, 1857.

Accounts a—Rep. XV.

Report from the Select Committee on the Hudson's Bay Company together with the proceedings of the Committee, minutes of evidence, Appendix and Index. Ordered, by the House of Commons, to be printed 31 July and 11 August, 1857.

The first article of the lease of the lisière by the Russian American Company to the Hudson's Bay Company was in these terms:

“ARTICLE I. It is agreed that the Russian American Company, having the sanction of the Russian Government to that effect, shall cede or lease to the Hudson's Bay Company for a term of ten years, commencing from the first of June, 1840, for commercial

Second Session, 1857.

Veneris, 8^o die maii, 1857.

Ordered, That a Select Committee be appointed “to consider the state of those British Possessions in North America which are under the Administration of the Hudson's Bay Company, or over which they possess a License to Trade,” (page II.), pages 59, 91.

Fur Seal Arbitration, Volume II.; Appendix to the Case of the United States, Volume I., 1892, page 10.

Memorandum relative to the treaties of 1824 and 1825.

Memorandum of Baron Wrangell.

Memorandum of the Russian American Company concerning the *Dryad* incident.

Report of the Board of the Russian American Company concerning the case of the *Dryad*, November 14, 1835.

Letter of Count Nesselrode to Count Kankrin, December 12th, 1835.

Letter of Sir George Simpson to Baron Wrangell.

Letter of Count Nesselrode to Count Kankrin, December 9th, 1838.

Report of the Board of the Russian-American Company, December 20th, 1838.

Text of Agreement between the Russian American Company and the Hudson's Bay Company, signed at Hamburg, February 6th, 1839.

Letter of Baron Wrangell to Sir George Simpson, 1839.

purposes, the coast (exclusive of the islands) and the interior country belonging to His Majesty the Emperor of Russia, situated between Cape Spencer, forming the northwest headland of the entrance of Cross Sound and latitude $54^{\circ} 40'$ or thereabouts, say the whole mainland coast and interior country belonging to Russia, together with the free navigation and trade of the waters of that coast and interior country situated to the southward and eastward of a supposed line to be drawn from the said Cape Spencer to Mount Fairweather, with the sole and entire trade or commerce thereof, and that the Russian American Company shall abandon all and every station and trading establishment they now occupy on that coast, and in the interior country already described, and shall not form any station or trading establishment during the said term of ten years, nor send their officers, servants, vessels, or craft of any description for the purposes of trade into any of the bays, inlets, estuaries, rivers, or lakes in that line of coast and in that interior country. It shall neither have any trading relations with the Indians living on that coast or inland, nor shall receive as traffic, or in any other manner furs, skins, or any other products of the aforementioned coast and continent. And in good faith and in a literal sense we cede and give up to the Hudson's Bay Company all trading and barter on the aforesaid strips of land and will protect the Hudson's Bay Company during ten years by

every possible means, in case any other Russian subject or foreigner might prevent or injure the Company in its trade, inasmuch as if the coast and continent were not ceded, but were occupied by the Russian-American Company itself. And that the Russian-American Company will allow the Hudson's Bay Company to take and keep possession of the Russian redoubts on Cape Highfield, near the estuary of Stikine, and also to occupy other points of the aforesaid coast and continent, by establishment of other trading stations, according to their own wish. And in case this treaty should not be renewed after the expiration of a term of ten years, it is agreed, that the Hudson's Bay Company delivers to the Russian-American Company the aforementioned post on Cape Highfield, as well as all other posts, which the Company will in this lapse of time establish in the limits of the aforementioned Russian dominion. In return for these concessions and this protection and in consideration of the commercial advantages the Hudson's Bay Company may have therefrom, it is agreed that the Company will pay yearly or deliver to the Russian-American Company, in form of a rental, two thousand otters—(not counting those with torn and damaged skins)—taken on the east side of the Stone ridge, during ten years; the first rental payment of the 2000 skins of otters is to begin on June 1st or before 1841, and is to be delivered to the agents

of the Russian-American Company on the North-east coast."

By article ninth of this agreement, the Hudson's Bay Company relinquished all its claim for damages against the Russian-American Company in these terms:

"The Hudson's Bay Company shall relinquish their claim now pending on the Russian Government, the Russian American Company, or whoever else it may concern, for injury and damage said to be sustained by the Hudson's Bay Company arising from the obstruction presented by the Russian authorities on the North-West coast of America to an expedition belonging to the Hudson's Bay Company at the entrance of the river Stakine on the North-West coast of America in the year eighteen hundred and thirty-four, outfitted and equipped by the Hudson's Bay Company for the purpose of forming a commercial station in the interior British territory on the banks of the said Stakine river."

It was clearly understood at the time that Sir George Simpson and Baron Wrangell made the agreement whereby the American Company leased the lisière to the English Company, that owing to this strip or lisière, the territories of the Hudson's Bay Company were shut off from access to tidewater. This is proved absolutely by the testimony that Sir George Simpson gave himself in 1857—he was for thirty-seven years Governor of the Hudson's Bay Com-

pany—before a “Select Committee”²² of the House of Commons of the British Parliament which was appointed “to consider the state of those British Possessions in North America which are under the Administration of the Hudson’s Bay Company, or over which they possess a License to Trade.” The Committee consisted of nineteen members in all, among whom were Mr. Secretary Labouchere, the chairman, Lord John Russell, Lord Stanley, Mr. Edward Ellice, a native of Canada and a Director of the Hudson’s Bay Company, Mr. Gladstone, Mr. Roebuck and Sir John Pakington. Part of Sir George Simpson’s testimony was as follows :

“1026. Besides your own territory, I think you administer a portion of the territory which belongs to Russia, under some arrangement with the Russian Company?—There is a margin of coast marked

²² *Parliamentary Papers, 1857.*

Accounts a—Rep. XV.

Report from the Select Committee on the Hudson’s Bay Company together with the proceedings of the Committee, minutes of evidence, Appendix and Index. Ordered, by the House of Commons, to be printed 31 July and 11 August, 1857.

Second Session, 1857.

Veneris, 8^o die maii, 1857.

Ordered, That a Select Committee be appointed “to consider the state of those British Possessions in North America which are under the Administration of the Hudson’s Bay Company, or over which they possess a License to Trade,” (page II.).

yellow in the map from $54^{\circ} 40'$ up to Cross Sound, which we have rented from the Russian American Company for a term of years.

“ 1027. Is that the whole of that strip?—The strip goes to Mount Saint Elias.

“ 1028. Where does it begin?—Near Fort Simpson, in latitude 54° ; it runs up to Mount Saint Elias, which is further north.

“ 1029. Is it the whole of that strip which is included between the British territory and the sea?—We have only rented the part between Fort Simpson and Cross Sound.

“ 1030. What is the date of that arrangement?—That arrangement, I think, was entered into about 1839.

“ 1031. What are the terms upon which it was made; do you pay a rent for that Land?—The British territory runs along inland from the coast about 30 miles; the Russian territory runs along the coast; we have the right of navigation through the rivers to hunt the interior country. A misunderstanding existed upon that point in the first instance; we were about to establish a post upon one of the rivers, which led to very serious difficulties between the Russian-American Company and ourselves; we had a long correspondence, and, to guard against the recurrence of these difficulties, it was agreed that we should lease this margin of coast, and pay them a rent; the rent, in the first instance,

in otters; I think we gave 2,000 otters a year; it is now converted into money; we give, I think, 1500£ a year."

It will be observed from the foregoing questions and the replies of Sir George Simpson, that the Hudson's Bay Company in 1839 recognized by an official act, to wit, a lease of Russian territory, that Russia had a lisière on the continent from Mount Saint Elias almost down to Fort Simpson, and that owing to this strip of land the British territory was pushed back about thirty miles "inland from the coast." In addition it will be noted that Sir George Simpson in describing the positions and extent of the land rented by his Company from the Russian company, referred to a map (see map No. 14) that he showed the committee, and upon which the lisière belonging to Russia was marked so as to include the sinuosities of the coast, the Lynn Canal and all the other fiords above fifty-four degrees forty minutes, *entirely*, and so cutting off the British territory absolutely from all contact with tide water.

More than that, owing to the community of interest of both companies in the peaceful development of the fur trade brought about by the lease and its renewal, General Politkovsky, a director of the Russian American Company, addressed, early in 1854—when it seemed likely that the strained relations between Russia and England would result in actual war between them—a note on

behalf of the Russian American Company to Privy Counsellor L. G. Seniavin, of the Russian Foreign Office. In this communication, he pointed out that in case of war with England, the posts and property of the company in America would be liable to capture and destruction; and that, as the Hudson's Bay Company was likewise in an exposed position on the northwest American coast, it would be to the mutual interest of the two companies to obtain the consent of their respective Governments to agree to recognize the possessions of both companies along the northwest American coast as neutral territory in case of hostilities. General Poltkovsky requested, therefore, for his company, authority to enter into correspondence with the authorities of the Hudson's Bay Company upon this subject. Towards the end of January the Emperor Nicholas approved of this proposition. Accordingly, the management of the Russian American Company communicated with that of the Hudson's Bay Company. This latter company thought likewise that it was for its best interest that the fur trade should go on without the interruption that war would cause. And the management of the Hudson's Bay Company, therefore, urged upon the attention of the British Government the plan of neutrality proposed by the Russian American Company. About the middle of March, 1854, the British Government gave its approval to a territorial neutrality along the north-

west American coast, provided the Russian Government reciprocated. But the British Government reserved the right to stop all ships on the high seas, and to blockade the coast. After some further correspondence on the subject between the two Companies, and between them and their respective Governments, the neutralization of the territorial possessions of both companies along the northwest American coast was satisfactorily arranged. And this agreement of neutrality, sanctioned by both Governments, was loyally carried out during the period of the Crimean War.²³

²³ Letter of General Politkovsky of the Russian American Company to Privy Counsellor L. G. Seniavin of the Russian Foreign Office, January 14, 1854.

Letter of Privy Counsellor Seniavin to General Politkovsky, January 25, 1854.

Letter of H. U. Addington of the British Foreign Office, March 22, 1854.

Letter of Sir A. Colvill, Governor of the Hudson's Bay Company, to the management of the Russian American Company, March 24, 1854.

Letter of Privy Counsellor Seniavin to General Politkovsky, March 31st, 1854.

Letter of Mr. Hilferding to the Consul General at London, April 1st, 1854.

Letter of John Shepherd, Deputy Governor of the Hudson's Bay Company, to the management of the Russian American Company.

Testimony of Sir George Simpson before a Select Committee of the House of Commons, 1857.

Parliamentary Papers, 1857.

Accounts a--Rep. XV.

Report from the Select Committee on the Hudson's Bay Com-

Thus by another official act the British Government recognized officially that the British territory in North America was cut off above fifty-four forty on the north west coast from access to tide water. Independently of the fact that the lease was made in 1839 to begin June 1st, 1840, and that it was several times renewed, thus extending the agreement to 1867, when shortly thereafter Russia sold Alaska to the United States, this arrangement between the two companies is proved by what took place in the course of Sir George Simpson's examination in 1857 before a Committee of the House of Commons. When the question of the lease in 1839 by the Hudson's Bay Company of the Russian lisière came up a second time during Sir George's examination, the following questions and answers were asked and given :

“ 1732. Chairman. I think you made an arrangement with the Russian Company by which you hold under a lease a portion of their territory?—Yes.

pany together with the proceedings of the Committee, minutes of evidence, Appendix and Index. Ordered, by the House of Commons, to be printed 31 July and 11 August, 1857.

Second Session, 1857.

Veneris, 8^o die maii, 1857.

Ordered, That a Select Committee be appointed “to consider the state of those British Possessions in North America which are under the Administration of the Hudson's Bay Company, or over which they possess a License to Trade,” sections 1738-1742.

“ 1733. I believe that arrangement is that you hold that strip of country which intervenes between your territory and the sea, and that you give them 1500£ a year for it?—Yes.

“ 1734. What were your objects in making that arrangement?—To prevent difficulties existing between the Russians and ourselves; as a peace offering.

“ 1735. What was the nature of those difficulties?—We were desirous of passing through their territory, which is inland from the coast about 30 miles. There is a margin of 30 miles of coast belonging to the Russians. We had the right of navigating the rivers falling into the ocean, and of settling the interior country. Difficulties arose between us in regard to the trade of the country, and to remove all those difficulties we agreed to give them an annual allowance. I think, in the first instance, 2000 otter skins, and afterwards 1500£ a year.

* * * * *

“ 1738. During the late war [the Crimean] which existed between Russia and England, I believe that some arrangement was made between you and the Russians by which you agreed not to molest one another?—Yes, such an arrangement was made.

“ 1739. By the two companies?—Yes; and Government confirmed the arrangement.

“ 1740. You agreed that on neither side should there be any molestation or interference with the trade of the different parties?—Yes.

“1741. And I believe that that was strictly observed during the whole war?—Yes.

“1742. Mr. Bell. Which Government confirmed the arrangement, the Russian or the English, or both?—Both Governments.”

This additional information shows that the English Company rented the lisière from the Russian Company, because the lisière shut off the English Company from access to the fiords of the sea that advanced into the continent. And further, these questions and replies prove that the English Government—by confirming the agreement of the English Company with the Russian not to interfere with each other while their respective Governments were busy waging war in other parts of the world during the years 1854, 1855 and 1856—recognized and sanctioned the claim of Russia that she had an unbroken lisière on the mainland extending far enough inland so as to envelop within her own domains the Lynn Canal and all the fiords that penetrate into the continent above the Portland Canal.

Sir George Simpson exhibited in 1857 before the Committee a map, which was subsequently printed by order of the House of Commons. (See map No. 14.) He referred to the agreement between the two companies and showed on this map the area of the *leased* strip, and the inland boundary of the lisière as marked on that map agrees with the boundary claimed by the United States. It was in order to gain

access to the sea and to avoid the possibility of any clash between the agents of the two companies resulting from the long Alaskan pan handle that cut off the Canadians from the sea above fifty-four forty, that the Hudson's Bay Company was willing to pay a rental: it was, as Sir George Simpson said, paid as a “ peace offering.” Forty-one years later Canada, as the successor of the Hudson's Bay Company, presented to the United States at the meeting of the Anglo-American Joint High Commission at Quebec a territorial claim radically at variance with the boundary of Alaska as publicly exhibited to the world in 1857, by the Hudson's Bay Company through its Governor-General.

But previous to the Crimean War, back to the time of the controversy over the northwest boundary between the United States and Great Britain, during Polk's administration, when the cry of “ Fifty-four forty or fight” so famous in our history was raised, Russia offered us her American possession, provided that we should maintain our claims up to fifty-four degrees forty minutes north, the most southern point of her territory.²⁴ If we had accepted her offer and

²⁴*Papers relating to Foreign Affairs, accompanying the annual message of the President to the second session of the Fortieth Congress, 1867, Part I., Washington: Government Printing Office, 1886, page 390.*

Seward at Washington as Senator and Secretary of State, by Frederick W. Seward, Volume III., pages 346-347.

Fur Seal Arbitration: Volume IV., pages 276-277.

persisted in our claims, the North American British possessions would have been practically shut out from access to the Pacific Ocean. But President Polk's administration, after the death of Andrew Jackson,²⁵ backed down in the north to seek an extension in warmer lands in the south. England thus gained a large outlet on the Pacific coast.

Time wore on. In 1859 the subject of a transfer of Russian America to the United States was revived. At that time Senator Gwin of California, in behalf of the Buchanan administration, had some interviews with the Russian minister at Washington

²⁵ Governor William Allen of Ohio or "Old Bill" Allen as he was known in his State, told many years since Colonel Augustus C. Buell, the author of a "Life of Paul Jones," the following incident about the territory west of the Rockies. He said that once when Andrew Jackson was President, the British Minister, in an interview with Secretary Van Buren, informally referred to the question of arranging the northwest boundary west of the Rockies along the forty-ninth degree; Van Buren at once reported the matter to General Jackson, who replied that he had fought for the southern end of the Louisiana Purchase, and that though he was then pretty old, yet there was still enough blood in his veins to enable him to fight if necessary for the northern end. The British Government did not reopen that question until Jackson was dead. Colonel Buell, in a letter to the writer, says that "Old Bill Allen, then a Senator from Ohio, was the author of 'Fifty four forty or fight'! And the speech in which he uttered the phrase so endeared him to Jackson that the old man always afterwards, so long as he lived, used to call him 'My son, William.'" Concerning Polk's character see *Martin Van Buren*, by Edward M. Shepard in the *American Statesmen* series, New York, 1899, page 412.

in reference to buying Alaska.²⁶ In these conversations, "while professing to speak for the President unofficially, he [Senator Gwin] represented 'that Russia was too far off to make the most of these possessions; and that as we are near, we can derive more from them.' In reply to an inquiry of the Russian Minister, Mr. Gwin said that 'the United States could go as high as 5,000,000 dollars for the purchase,' on which the former made no comment. Mr. Appleton, on another occasion, said to the Minister that 'the President thought that the acquisition would be very profitable to the States on the Pacific; that he was ready to follow it up, but wished to know in advance if Russia was ready to cede; that if she were, he would confer with his Cabinet, and influential members of Congress. All this was unofficial; but it was promptly communicated to the Russian Government, who seem to have taken it into careful consideration. Prince Gortschakow, in a dispatch which reached here [Washington] early in the summer of 1860, said that the 'offer was not what might have been expected; but that it merited mature reflection; that the Minister of Finance was about to inquire into the condition of these possessions.' The Prince added for himself that 'he was by no means satisfied personally that it would be for the interests of Russia politically to alienate these possessions; that the only consideration which could

²⁶*Fur Seal Arbitration* : Volume IV., 1895, page 277.

make the scales incline that way would be the prospect of great financial advantages ; but that the sum of 5,000,000 dollars does not seem in any way to represent the real value of those possessions,' and he concluded by asking the Minister to tell Mr. Appleton and Senator Gwin that the sum offered was not considered 'an equitable equivalent.'"²⁷

Soon afterwards, the momentous Presidential election of 1860 and the beginning of the Civil War of 1861, brushed aside the subject of the purchase of Alaska.²⁸ During the four years that the war raged, Russia was the one great nation that consistently from the beginning of that struggle favored the Union cause.²⁹ While other great Powers were either luke-warm towards or even hostile to the maintenance of the integrity of the United States, the Muscovite Empire was the open friend of the Union. Soon after the commencement of hostilities, Prince Gortschakoff, on July 10th, 1861,³⁰ addressed a note

²⁷ *Fur Seal Arbitration* : Volume IV., page 278.

²⁸ *Fur Seal Arbitration* : Volume IV., page 278.

²⁹ *Seward at Washington, as Senator and Secretary of State*, by Frederick W. Seward : New York, 1891, Volume III., pages 40, 49.

³⁰ Prince Gortschakoff's letter of July 10th, 1861, to M. de Stoeckl, *Senate Ex. Doc. No. 1, 37th Congress, 2nd Session* : Washington, Government Printing Office, 1861, page 308. Mr. Cameron to Mr. Seward, St. Petersburg, June 26th, 1862. *House Ex. Doc. No. 1, 37th Congress, 3d Session*, pages 447-448. Mr. Taylor to Mr. Seward, October 29th, 1862 ; *ib.* page

to M. de Stoeckl, the Russian Minister at Washington, in which he instructed him to assure Secretary Seward of the friendly feelings that the Russian Government held for that of the United States. In various other ways the Russian Government evinced its sympathy with that of the United States. So much so, in fact, that L. Q. C. Lamar, whom President Davis intrusted in 1862 with the mission of representing the Confederate States at the Court of Saint Petersburg, never found it worth while to proceed beyond Paris on his mission.³¹ While the

463. Prince Gortschakoff to Mr. Bayard Taylor, Chargé d'Affaires, *ib.* page 464: "Russia has declared her position and will maintain it. There will be proposals for intervention. We believe that intervention could do no good at present. *Proposals will be made to Russia to join in some plan of interference. She will refuse any intervention of the kind. Russia will occupy the same ground as at the beginning of the struggle. You may rely upon it, she will not change.*"

³¹The letters that passed between Judah P. Benjamin, the Secretary of State of the Confederacy, and Lamar, concerning the latter's mission, are in the *Diplomatic Correspondence of the Confederacy*, in the keeping of Judge Lewis Jordan at the Treasury Department at Washington. Benjamin in a letter dated at Richmond, November 19, 1862, says that because of the note that the Cabinet of Saint Petersburg addressed to that of Washington, early in the war, to which an extensive publicity was given, the Confederate Government did not think it worth while to send sooner a representative to Russia.

Lamar in a letter to Benjamin dated at London, March 20, 1863, notes the fear of the British Government in September 1862 to openly interfere in the war. Lamar writes:

"The events of a day may reverse it [the policy of the Government] entirely, as the following facts will illustrate:

English Government permitted—in spite of the protests of the American Minister to England, Charles Francis Adams—the building of the *Alabama* and other Confederate cruisers in English ports and allowed them to sail, armed with English guns and

[On Lamar's letter, the following paragraph has been copied by the Confederates on to a blank space where Lamar evidently intended that a translation of his narrative in cypher should be placed.]

“ Name given also unquestionably.”

“ *In cypher in the original* My informant states the declaration of a leading member of the Government party (the intimate confidential friend of L^d. P. [Palmerston]) that the Confederacy would be recognized in a few days & that *he* would be appointed minister to the C. S. A. *All the names given in the original.* This took place in September last [1862]. Only a few days after, the same distinguished personage said to my informant, ‘the game is up. We have had to take another tack.’ ”

Evidence from the Confederate side, and, therefore, of much importance, showing how the Emperor Alexander the Second, threw his influence into the international scales in favor of the United States Government during the Civil War, is found in the following memorandum of an interview between Justice Lamar and Louis Napoleon. It was written September 12th, 1901, by Colonel Augustus C. Buell, and addressed to Charles H. Cramp, Esq. It proves, as the *Diplomatic Correspondence of the Confederacy* also shows, that the late Justice Lamar, who was appointed in 1862 to represent the Confederate States at the Court of Saint Petersburg, never found it worth while to proceed further on his mission than Paris. Colonel Buell says :

“ The late Lucius Q. C. Lamar, shortly after he had been appointed an Associate Justice of the Supreme Court by President Cleveland, related to me at his apartments in Washington the following :

“ Early in 1862 when the military fortunes of the Confederacy were at their zenith and when Jefferson Davis had reason or thought he had reason to believe that the independence of the Confederacy would be recognized by England and France, he

manned with English crews, and to receive aid and comfort in Cape Town, Singapore and other English ports, in order to attack the commerce of a friendly nation, the Government of the Tsar not only did not

sent Mr. Lamar, in the capacity of special envoy and plenipotentiary, to St. Petersburg for the purpose of enlisting the good will of the Russian Government, if not its open co-operation with England and France in the expected recognition.

* * * * *

“After two or three interviews with de Morny, Mr. Lamar was *informally* presented to Louis Napoleon.

* * * * *

“Touching the object of Mr. Lamar’s mission to Europe the Emperor said that it would be worse than fruitless for him to approach the court of Saint Petersburg.

“He said that the Emperor of Russia and all his advisers were hopelessly prejudiced in favor of the United States ; that was due, he said, to two causes :

“First, that Russia, still smarting under the sting of her defeat by France and England in the Crimean War, would not make common cause with them in anything : but would be impelled by her resentment and wounded pride to antagonize any policy which her late enemies were known or believed to favor ; and she had reason to believe that France and England at that time viewed the effort of the Confederacy with benevolence.

“The second and more important reason was that the effort of the Confederacy to disrupt the Union and establish independence represented to the minds of those in control of Russian affairs the doctrine of separatism, than which no doctrine could be more odious at Saint Petersburg.

“He said that the Emperor of Russia was at that moment struggling with a movement in his own dominions in the shape of a Polish insurrection, the aim of which was cognate to that of the Confederacy.

“This the Emperor Napoleon III. elaborated according to Mr. Lamar’s narrative, with great force and perspicuity and completely convinced him that it would be perfectly idle to ask the Emperor of Russia to favor in the United States a movement

recognize the belligerency of the Confederate States, but in addition, when the Emperor Louis Napoleon and Lord Palmerston and Lord John Russell were anxious to intervene in the struggle in behalf of the

based upon a principle cognate to that which he was at that time bringing all the resources of his Empire to crush in Poland.

“On his part, Mr. Lamar represented to the Emperor that there would be nothing in common between the Government of the United States and that of Russia on the grounds of political principle; on the contrary the doctrines on which the two Governments were based were diametrically diverse to each other in every respect.

“The Emperor Napoleon said that, while that might be true in the academic sense or speculatively, it cut no figure in the existing situation.

“On the other hand, there was a similarity between the respective aims and interests which easily produced a sentimental friendliness and that the step from such a state of feeling to acts was a very short one. At any rate, the Emperor Napoleon said it was doubtful whether Mr. Lamar would be cordially received in any capacity in Saint Petersburg at that time and it was perfectly certain not only that he would not be received there as the accredited envoy of the Southern Confederacy but that the right of the Confederacy to ask recognition of its envoy would be denied at the outset.

“Such action on the part of the Russian Government at that time, the Emperor Napoleon said, would have a more or less decisive influence adverse to the interests of the Confederacy at other Courts of Europe and might embarrass the efforts of the friends of the Confederacy in France and in England.

“On the strength of these representations Mr. Lamar remained in Paris and proceeded no farther towards the execution of his mission.

“He represented to the Government at Richmond what he had learned from de Morny and Louis Napoleon with the result that he was soon after recalled to the South and no further attempt was made by the Confederate Government to communicate in any manner with the Imperial Russian Government.”

Confederacy,³² the Emperor Alexander the Second refused to join any combination for intervention in the American Civil War, and took good care to make it known that in case any Power actively sided with the Confederate States, Russia would support the Union Government.³³ The most tan-

³² *Autobiography of John Stuart Mill*, New York, 1879, page 268. *Wordsworth and the Coleridges* by Ellis Yarnall, New York, 1899, page 256. August Belmont in a letter dated at London, July 30, 1861, to William H. Seward wrote that Lord Palmerston had told him: "We do not like slavery but we want cotton, and we dislike very much your Morrill tariff."

England and France agreed to act in common. *Senate Ex. Doc. No. 1, 37th Congress, 2d Session*, pages 106, 225.

³³ Concerning the attitude of Russia towards the United States during the Civil War, see:

Memoir of Thurlow Weed, edited by Thurlow Weed Barnes; Boston, 1884, Volume II., pages 346-347. Thurlow Weed relates a conversation between Admiral Farragut and Admiral Lessovsky during the winter of 1863-64 as follows:—

"Admiral Farragut lived at the Astor House, where he was frequently visited by the Russian Admiral, between whom, when they were young officers serving in the Mediterranean, a warm friendship had grown up. Sitting in my room one day after dinner, Admiral Farragut said to his Russian friend, 'Why are you spending the winter here in idleness?' 'I am here,' replied the Russian Admiral, 'under sealed orders, to be broken only in a contingency that has not yet occurred.' He added that other Russian war vessels were lying off San Francisco with similar orders. During this conversation the Russian Admiral admitted that he had received orders to break the seals, if during the Rebellion we became involved in a war with foreign nations. Strict confidence was then enjoined."

* * * * *

"Louis Napoleon had invited Russia, as he did England, to unite with him in demanding the breaking of our blockade. The

gible proof that the Muscovite Empire gave to the

Russian Ambassador at London informed his government that England was preparing for war with America, on account of the seizure of Mason and Slidell. Hence two fleets were immediately sent across the Atlantic under sealed orders, so that if their services were not needed, the intentions of the Emperor would remain, as they have to this day, secret. It is certain, however, that when our government and Union were imperiled by a formidable rebellion, we should have found a powerful ally in Russia, had an emergency occurred."

Mr. Barnes then immediately adds :—

"The latter revelation is corroborated by a well-known New York gentleman, who was in St. Petersburg when the Rebellion began, and who, during an unofficial call upon Prince Gortschakoff, was shown by the Chancellor an order written in Alexander's own hand, directing his Admiral to report to President Lincoln for orders, in case England or France sided with the Confederates."

The Alabama Arbitration by Thomas Willing Balch, Philadelphia, 1900, page 28 *et seq.*, for an account by George Peirce, Esq., of an interview in 1872 between Ex-Governor Curtin, then United States Minister at Saint Petersburg, and Prince Gortschakoff. The Russian Chancellor showed Governor Curtin the orders to the Russian admirals, and other important correspondence.

A letter of Secretary Seward to John Bigelow, Consul-General at Paris, dated June 25, 1862, published in the *New York Sun*, January 5th, 1902. Mr. Seward said: "Between you and myself alone, I have a belief that the European state, whichever one it may be, that commits itself to intervention anywhere in North America, will sooner or later fetch up in the arms of a native of an oriental country not especially distinguished for amiability of manners or temper."

A letter from Wharton Barker, Esq., about the policy of Russia during the Civil War, printed in the *New York Sun*, January 9th, 1902. Mr. Barker, for many years a financial agent of the Russian Government in the United States, relates an interview to which he was called in August 1879, at the Palace of Pavlovsk, by the Emperor Alexander the Second, and says in part:

world at large of its readiness to aid the Govern-

“With great earnestness and some sadness he [the Emperor] said that in the autumn of 1862 France and Great Britain proposed to Russia in a formal but not in an official way the joint recognition by European Nations of the independence of the Confederate States of America. He said his immediate answer was, ‘I will not co-operate in such action and I will not acquiesce, but on the contrary I shall accept recognition of the independence of the Confederate States by France and Great Britain as a *casus belli* for Russia, and that the Governments of France and Great Britain may understand this is no idle threat, I will send a Pacific fleet to San Francisco, and an Atlantic fleet to New York. Sealed orders to both Admirals were given.’ After a pause he proceeded saying, ‘my fleets arrived at the American ports, there was no recognition of the independence of the Confederate States by Great Britain and France, the American rebellion was put down and the great American Republic continues. All this I did because of love for my own dear Russia rather than for love of the American Republic. I acted thus because I understood that Russia would have a more serious task to perform if the American Republic with advanced industrial development was broken up and Great Britain left in control of most branches of modern industrial development.’”

Narrative of the Mission to Russia, in 1866, of the Hon. Gustavus Vasa Fox: New York, 1873, *passim*.

The *New York Tribune*, October 2nd, 1863, page 3.

The Life of Lord John Russell, by Spencer Walpole, London, 1889: second edition, Volume II., pages 344, 349-352.

Papers relating to Foreign Affairs accompanying the Annual Message of the President to the Second Session of the Thirty-eighth Congress: Part III.; Washington, 1865, page 279.

Ib., Part II., Washington 1864, pages 763-779 *passim*.

Abraham Lincoln by John G. Nicolay and John Hay: New York, 1890, Volume VI., pages 63-66.

Quelques Pages d'Histoire Contemporaine: Lettres Politiques, by Prévost-Paradol: Paris, 1864-1866, Volume II., pages 201 *et seq.*, Volume III., page 166.

ment of President Lincoln, if foreign nations interfered with the American Government in its efforts to preserve the integrity of the United States, was the assembling during the autumn of 1863 in the harbors of New York and San Francisco of two Russian Fleets. That which collected at New York was under the command of Admiral Lessovsky and that which assembled at San Francisco was under the orders of Admiral Popoff.³⁴

³⁴ The squadron of Admiral Lessovsky consisted of the flagship *Alexander Nevski*, the *Oslibaba*, the *Peresvet*, the *Variag*, and the *Vitiaz*. The *Variag* arrived in September, and Admiral Lessovsky with his other ships reached New York during October. The authorities of the city gave the Russians a grand welcome. They showed the Russian officers over the fortifications of the port, gave them a public reception and held a military review in their honor. The significance of these festivities were the more marked in that an English fleet, to whom only the usual courtesies were extended, was also in the harbor at the time. In October, a committee of leading citizens gave the Russian Officers a ball at the Astor House. A few of the gentlemen on the committee in charge of the ball were George Opdyke, Mayor of New York, Charles P. Daly, W. H. Aspinwall, J. W. Beekman, Elliott F. Shepard, Hamilton Fish and Royal Phelps. (The *Daily Alta California*, San Francisco, Nov. 18, 1863.) Afterwards Admiral Lessovsky took his squadron into Chesapeake Bay and up the Potomac River; and President Lincoln and Secretary Seward gave the Russians a most cordial welcome at Washington.

It is a curious coincidence that, as in 1863 the then *Variag* was the first of the Russian war vessels to reach an American port, so, too, a generation later, a new *Variag* was the first of the two war ships—that the Messrs. Cramp of Philadelphia were then building for the Russian navy—that was launched (1900) and put into commission (1901).

In January 1866, the Legislature of the Territory (now the State) of Washington sent a memorial to President Johnson in reference to the fishing question in Russian American waters. This Memorial, on its presentation to the President in February 1866 was referred to the Secretary of State, by whom it was communicated to M. de Stoeckl, the Russian Minister, with remarks on the importance of some early and comprehensive arrangement between the two Powers in order to prevent the growth of difficulties, especially from the fisheries in that region.

About this time Mr. Cole, newly elected Senator from California, sought to obtain, in behalf of individuals in his State, a license or franchise from the Russian Government to gather furs in a part of Russian America. The charter of the Russian-American Com-

The fleet of Admiral Popoff at San Francisco consisted of the Flagship *Bogatyre*, the *Abreck*, the *Calevale*, the *Gaidamack*, and the *Rynda*. The *Gaidamack* arrived first on the 16th of October, 1863, and the *Rynda* came last on the 7th of the following month. On the 17th of November, 1863, the civil and military authorities of San Francisco and California gave Admiral Popoff and his officers a grand ball. "It was not," to quote the *Alta California*, "a mere ball, but also a political demonstration." The committee that had the ball in charge consisted of the Hon. F. F. Low, Governor-elect of California and chairman; the Hon. Ogden Hoffman, United States District Judge; Admiral C. H. Bell, in command of the United States Pacific Squadron; Brigadier General George Wright, in command of the Department of the Pacific; the Hon. Charles James, Collector of the Port of San Francisco; the Hon. H. P. Coon, Mayor of the city; and many representative citizens.

pany was about to expire. That Company had already sublet all its franchises on the mainland, from fifty-four degrees forty minutes up to Cross Sound, to the Hudson's Bay Company. This lease would expire in June 1867.³⁵ Senator Cole had repeated conferences with M. de Stoeckl. The latter, however, had not authority to act; and accordingly a communication was sent to Mr. Clay, the United States Minister at St. Petersburg, who brought the subject to the notice of the Imperial Government.

During the winter of 1866-67, Secretary Seward—who even as early as 1860 had expressed in public the hope that Russian America would become a part of the American Union³⁶—quietly conducted with M. de Stoeckl, the Russian Minister at Washington, negotiations for the purchase of Russian America.³⁷ In renewing, through M. de Stoeckl, the pourparlers that representatives of the two friendly nations had had on the subject years before, “Seward found the Government of the Czar not unwilling to discuss it. Russia would in no case allow her American possessions to pass into the hands of any European power. But the United States always had been and probably

³⁵ *Fur Seal Arbitration*, Volume IV., page 279.

³⁶ *Seward at Washington as Senator and Secretary of State, 1861-1872*, by Frederick W. Seward, New York, 1891, Volume III., page 346.

³⁷ *Seward at Washington as Senator and Secretary of State, 1861-1872*, by Frederick W. Seward, New York, 1891, Volume III., page 346.

always would be a friend. Russian America was a remote province of the Empire, not easily defensible, and not likely to be soon developed. Under American control it would develop more rapidly, and be more easily defended. To Russia, instead of a source of danger, it might become a safeguard. To the United States it would give a foothold for commercial and naval operations, accessible from the Pacific States. Seward and Gortschakoff were not long in arriving at an agreement over a subject which, instead of embarrassing with conflicting interests, presented some mutual advantages."³⁸

In October, 1866, M. de Stoeckl, who enjoyed the confidence of our Government, returned home on a leave of absence. While he was at Saint Petersburg, the subject of leasing to an American Company the rights that Russia had formerly rented to the Hudson's Bay Company, was under consideration. The Russian Government, however, was opposed to any such minor arrangement. It wished to hand over to the United States for a fair consideration the whole of Russian America. The possessions of distant American territory, lying across the seas, was an element of weakness to Russia, and the Empire was anxious to part with it to the United States, a friendly power. Besides, Russia, in withdrawing her flag from the

³⁸ *Seward at Washington as Senator and Secretary of State, 1861-1872*, by Frederick W. Seward, New York, 1891, Volume III., page 347.

New World to the Old, and in preferring the United States to England as a purchaser of Russian America, evinced once more, as upon former occasions, her friendship for the United States. "As M. de Stoeckl was leaving in February [1867] to return to his post, the Archduke Constantine, the brother and the chief adviser of the Emperor, handed him a map with the lines in our Treaty marked upon it and told him he might treat for this cession."³⁹

The two Governments agreed upon seven millions two hundred thousand dollars (\$7,200,000.) in gold as the purchase price. The final settlement was arranged at the State Department between Seward and de Stoeckl on the night of March 29-30, 1867.⁴⁰ "The treaty was then and there engrossed, signed, sealed and prepared for transmission to the Senate."⁴¹

The morning after Seward and de Stoeckl had come to an agreement about the purchase, Charles Sumner, Chairman of the Committee on Foreign Relations, arose in the Senate, and, although an opponent of President Johnson, moved after the clerk had read the treaty, that favorable action should be taken upon it.

³⁹ Sumner's Speech 1867: *Fur Seal Arbitration*, Volume IV., page 280.

⁴⁰ *Seward at Washington as Senator and Secretary of State*, by Frederick W. Seward, New York, 1891, Volume III., page 348.

⁴¹ Information received from Frederick W. Seward, Esq.

Sumner immediately began to prepare to speak in the Senate in favor of the ratification of Seward's policy of purchasing what was then known as Russian America. The Massachusetts Senator, in the great speech that he delivered in the United States Senate in the spring of 1867, referred at the outset of his remarks to the boundaries of the territory which the administration proposed to buy as clear and definite. He began by saying:⁴²

“MR. PRESIDENT: You have just listened to the reading of the treaty by which Russia cedes to the United States all her possessions on the North American continent in consideration of \$7,200,000., to be paid by the United States. On the one side is the cession of a vast country with its jurisdiction and its resources of all kinds; on the other side is the purchase-money. Such is the transaction on its face.

“In endeavoring to estimate its character, I am glad to begin with what is clear and beyond question. I refer to the boundaries fixed by the treaty. Commencing at the parallel of 54° 40' north latitude, so famous in our history, the line ascends Portland Channel to the mountains, which it follows on their summits to the point of intersection with the 141° west longitude, which line it ascends to the Frozen Ocean, or, if you please, to the north pole. This is the eastern boundary, separating this region from

⁴² *Fur Seal Arbitration*, Volume IV., page 269.

the British possessions, and it is borrowed from the treaty between Russia and Great Britain in 1825 establishing the relations between these two Powers on this continent. It will be seen that this boundary is old; the rest is new."

Thus Sumner, who had devoted much time and study in preparing for this speech, spoke in no uncertain terms about the bounds of the territory which it was proposed to add to the Union.

The services that the Russian government had rendered to that of the Union during the Civil War by sending two fleets across the seas to American ports in order to neutralize the desire of other governments to join in an attempt to aid in the disruption of the United States, undoubtedly was a potent element in rallying support in America for the purchase of Alaska.⁴³

⁴³ The following letter, written in 1901, from the son of Secretary Seward helps to clear up some of the Russian-American relations. The Honorable Frederick W. Seward was himself Assistant Secretary of State from 1861 to 1869 and took part in the negotiations for the purchase of Alaska.

"MONTROSE-ON-THE-HUDSON,
"DEC. 10, 1901.

"MY DEAR SIR:

"Your letter of the 6th has been received. You are quite right, both in your statements and in your conjectures.

"There was no connection between the visit of the Russian Fleet to the United States in 1863, and the purchase of Russian America in 1867,—except that each was the manifestation of Russia's friendship and good-will, at different periods.

The Senate confirmed the Treaty. Then without waiting for Congress to pass the necessary appropriation to enable the United States government to pay the purchase money, the Muscovite government, during the autumn of 1867, formally and officially transferred Russian America to the United States; and the new territory became from that time known by the name chosen by Secretary William H. Seward—Alaska.

In buying Alaska, the United States understood that they obtained from Russia a continuous, uninterrupted strip of land on the continent from Mount Saint Elias to the Portland Canal, whereby Great Britain was shut off from access to the Pacific Ocean

“ There was no request, no arrangement, no equivalent in reference to the Russian Fleet. Prince Gortschakoff was a very sagacious diplomatist. He sent over the Fleet and said it was here ‘ for no unfriendly purpose.’ Of course we knew that we might count on its aid, if needed, but fortunately we did not need it. The exchange of public hospitalities showed how it was regarded on both sides.

“ I have endeavored in my ‘ Life and Letters of W. H. S.’ to narrate the events and incidents of 1863 and 1867, just as I saw and heard or took part in them. But all histories are apt to get embroidered with a fringe of romantic fiction, as time goes on. I do not know who invented that about Alaska. Probably it ‘ just grew.’

“ Your information from Russian sources about the Emperor Alexander’s views, entirely accords with my own understanding of the matter.

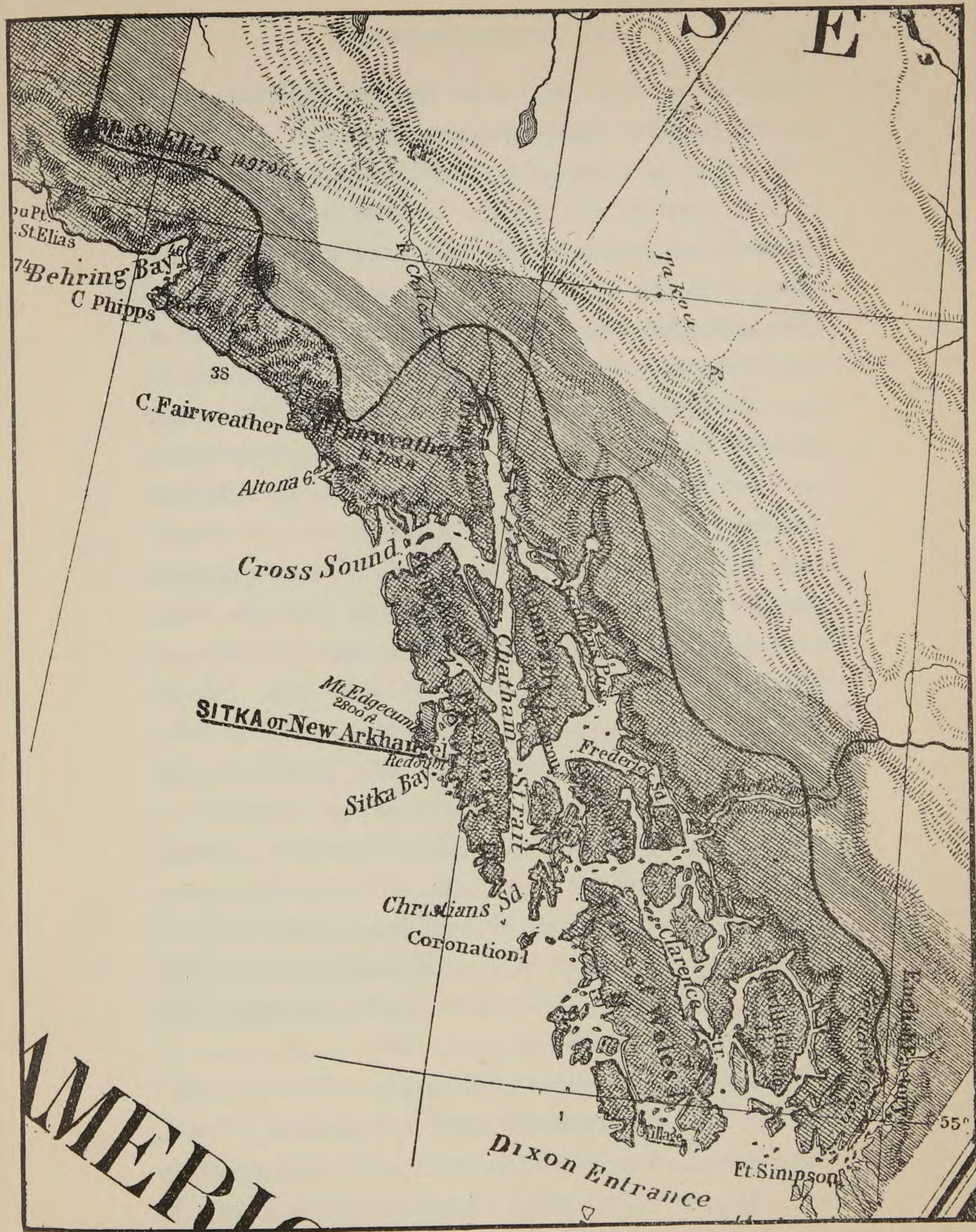
“ Very sincerely yours,

“ FREDERICK W. SEWARD.

“ MR. T. W. BALCH.”

above fifty-four degrees forty minutes. Secretary Seward and Senator Sumner so interpreted the purchase. The State Department, on a map it issued at the time, gave a visual effect of what the United States thought they had bought from Russia. (See Map No. 17.) This map, which Sumner used, was published, together with his speech, in pamphlet form. Upon this map, the eastern boundary of the pan-handle or lisière of Russian America or Alaska—which latter name, meaning in the local tongue “Great Land,” Secretary Seward gave to the purchased territory after it had come into the possession of the United States—was drawn so as to include within the bounds of Alaska all the sinuosities that cut into the mainland between fifty-four degrees forty minutes north and Mount Saint Elias. The frontier line as thus laid down followed the eastern boundary of Alaska as Krusenstern (1827) and Pjadischeff (1829) and Bouchette (1831) and Arrowsmith (1834) had drawn it on their maps; and to the frontier as thus marked the English Government made no protest. General Banks, chairman of the Committee on Foreign Affairs in the House so understood it.⁴⁴ The British Government made no protest to the territorial claims asserted in

⁴⁴ *Speech of Hon. Nathaniel P. Banks of Massachusetts, delivered in the House of Representatives, June 30, 1868.* F. & J. Rives and Geo. A. Bailey, Reporters and Printers of the Debates of Congress, page 6.



MAP PUBLISHED BY THE STATE DEPARTMENT OF THE UNITED STATES, 1867.

MAP No. 17.

Sumner's speech itself or to their exemplification on the map of the State Department.

Besides, by subsequent acts and maps, the British Government confirmed the United States Government in its belief that it had bought from Russia, along with the rest of Alaska, a tongue of territory that, extending from Mount Saint Elias to the Portland Channel, passed around all the sinuosities of the coast and sufficiently far inland to altogether exclude Canadian territory from touching tide water on the Pacific coast at any point above fifty-four degrees forty minutes north latitude.

A notable instance of what English cartographers thought was the area of Alaska was given in 1867, at about the time of the sale by Russia to the United States of Russian America. In that year *Black's General Atlas of the World* was published at Edinburgh. In the introduction of this work, the following description of Russian America is given :

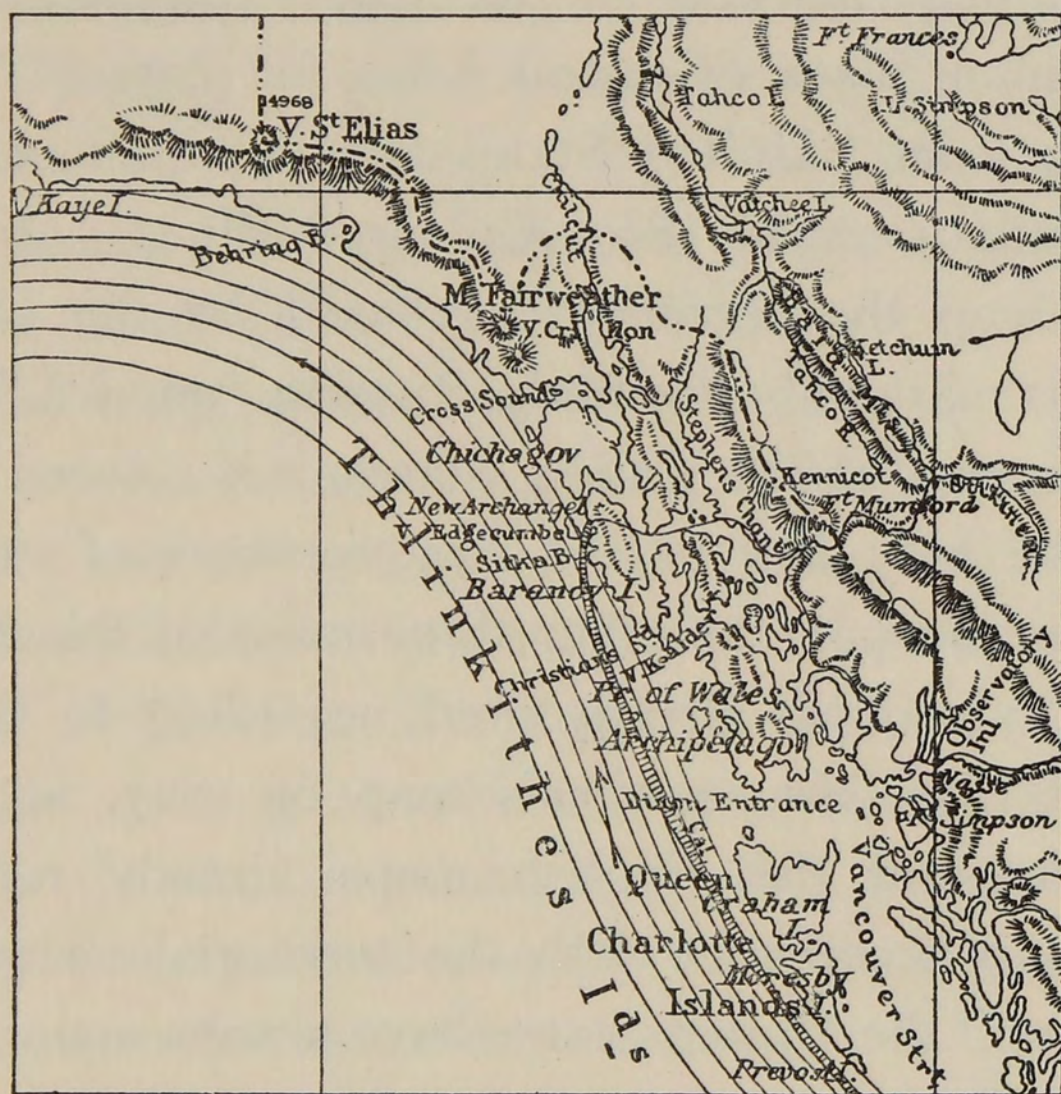
“ Russian America comprehends the N. W. portion of the continent, with the adjacent islands, extending from Behring Strait E. to the meridian of Mount St. Elias (about 141° W.), and from that mountain southward along the Maritime chain of hills till it touches the coast about $54^{\circ} 40'$.”

Then, on three maps of this atlas, “ The World,” No. 2, “ The World on Mercator's Projection,” No. 3, and “ North America,” No. 39, the Russian territory from Mount Saint Elias down to the end of the

Portland Canal at fifty-four degrees forty minutes is marked so as to include within the Muscovite possessions all the fiords and estuaries along the coast and thus to exclude and cut off the British territory *entirely* from all access to tide water above fifty-four degrees forty minutes. In addition there is given a small map marked at the top, "Supplementary sketch map, Black's General Atlas, for plate 41," and at the bottom, "United States after Cession of Russian-America, April 1867, Coloured Blue." On this sketch map the territory purchased by the United States is marked, "Formerly Russian America," and, like the rest of the United States, it is colored blue. And the boundary of the new territory of Alaska is given as upon the other three maps of this Atlas, Nos. 2, 3 and 39, already cited, according to Brué's map of 1825, Krusenstern's map of 1827, and the Canadian and the English maps already referred to, and in accordance with the territorial claim that Russia and the United States have always maintained and acted upon.

Many other maps can be mentioned in addition to those above quoted against Britain's recent claim. For examples, Petermann's map in the *Mittheilungen* of April, 1869; Hermann Berghaus's "Chart of the World on Mercator's Projection," 1871⁴⁵ (see Map No. 18); Alexander Keith Johnston's map of "North America" in his *Handy Royal Atlas of Modern*

⁴⁵ Published by Justus Perthes, Gotha.



HERMANN BERGHAUS'S CHART OF THE WORLD, 1871.

MAP No. 18.

Geography published at Edinburgh and London, in 1881; E. Andriveau-Goujon's map of "l'Amérique du Nord," published at Paris in 1887, and finally the wall map (1897) of the "United States" by Edward Stanford,⁴⁶ an important map maker of London today, give to Alaska the limits always claimed since 1825 by Russia and the United States.⁴⁷

⁴⁶ *The United States*: London; published by Edward Stanford, 26 and 27 Cockspur St., Charing Cross, S. W., 15th July, 1897.

⁴⁷ The following maps support the United States claim to an unbroken lisière:

America: A new General Atlas, Edinburgh, printed by John Stark, 1830.

Nord-America, verlag von L. Pabst, Darmstadt, ante 1846.

America, Verlag des Geographischen Instituts, Weimar, 1853.

Nord-Amerika, politische Übersicht von E. von Sydow, Justus Perthes, Gotha, 1856.

Nord-America, Berlin bei Dietrich Reimer, 1860.

Allgemeine Welt Karte in Mercator's Projection von Hermann Berghaus, 1868.

Map of the Yukon or Kwich-Pak River at the end of Travel and Adventure in the Territory of Alaska by Frederick Whymper: London, John Murray, 1868.

Map in *Alaska, Reisen und erlebnisse im hohen Norden* von Frederick Whymper, 1869 (German translation).

Sibirien und Russich Amerika von Spruner-Menke: Hist. Handatlas, No. 72: Justus Perthes, Gotha, 1871.

Nord-Amerika von K. Bamberg, Weimar; verlag der Deutschen Reichsbuchhandlung C. Chun, Berlin, 1881.

General Map of North America by W. & A. K. Johnston, Geographers to the Queen, Edinburgh and London, 1887.

Amérique du Nord par F[rère] A[leis] M[arie] G[ochet] des E[coles] Chrésiennes: Paris and Orleans, 1891.

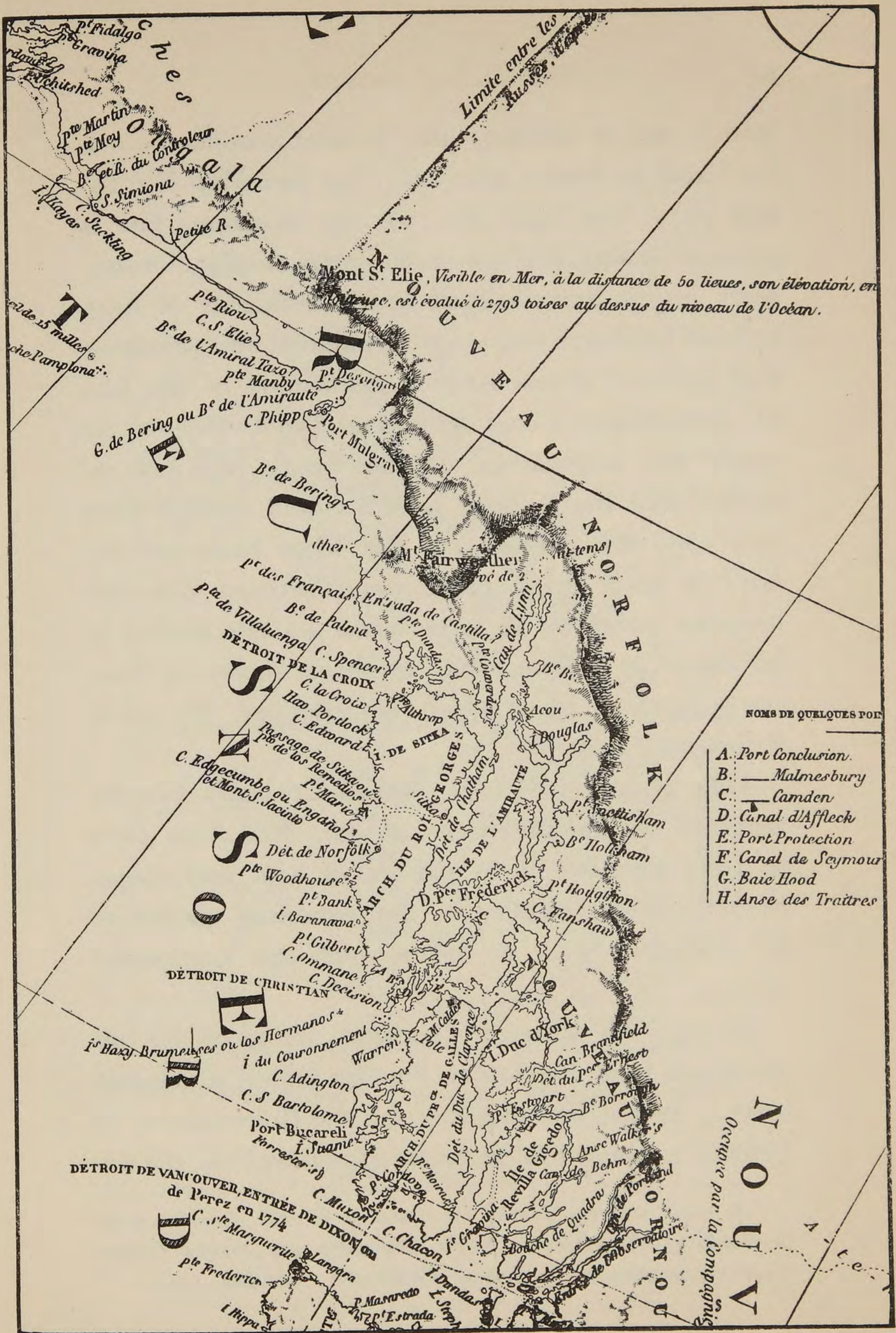
Amérique du Nord: Institut National de Géographie, Bruxelles, 1891.

Some maps—for example, “The World” by James Gardner, published in 1825 and dedicated “To His Most Gracious Majesty George the IVth”; “Nord America, Entworfen und gezeichnet von C. F. Weiland,” 1826; and a “Carte Physique et Politique par A. H. Brué,” 1827—bring the Russian boundary on the mainland from Mount Saint Elias down only to a point about half way opposite Prince of Wales Island at about fifty-six degrees and then along the fiords so as to include all of Prince of Wales Island in the Russian Territory, instead of carrying the frontier to the top of the Portland Canal and then down to the sea at about fifty-four degrees and forty minutes. But for all the territory above the point on the continent about half way opposite Prince of Wales Island up to the one hundred and forty-first degree west from Greenwich, these maps give the divisional line between the Muscovite and the British territories far enough inland and around the sinuosities of the coast so as to cut off the British territory from all contact with tide water. Besides, Weiland, in a map of 1843 corrected his error in his map of 1826, in stopping a little short of the Port-

Amérique Septentrionale: Institut National de Géographie, Bruxelles, 1892.

The British Colonies and Possessions: Edward Stanford, London, May 24th, 1897.

Puissance du Canada: Atlas de Géographie Moderne par F. Schrader, directeur des travaux cartographiques de la librairie Hachette et Cie, Paris, 1899.



BRUÉ'S MAP OF 1833.

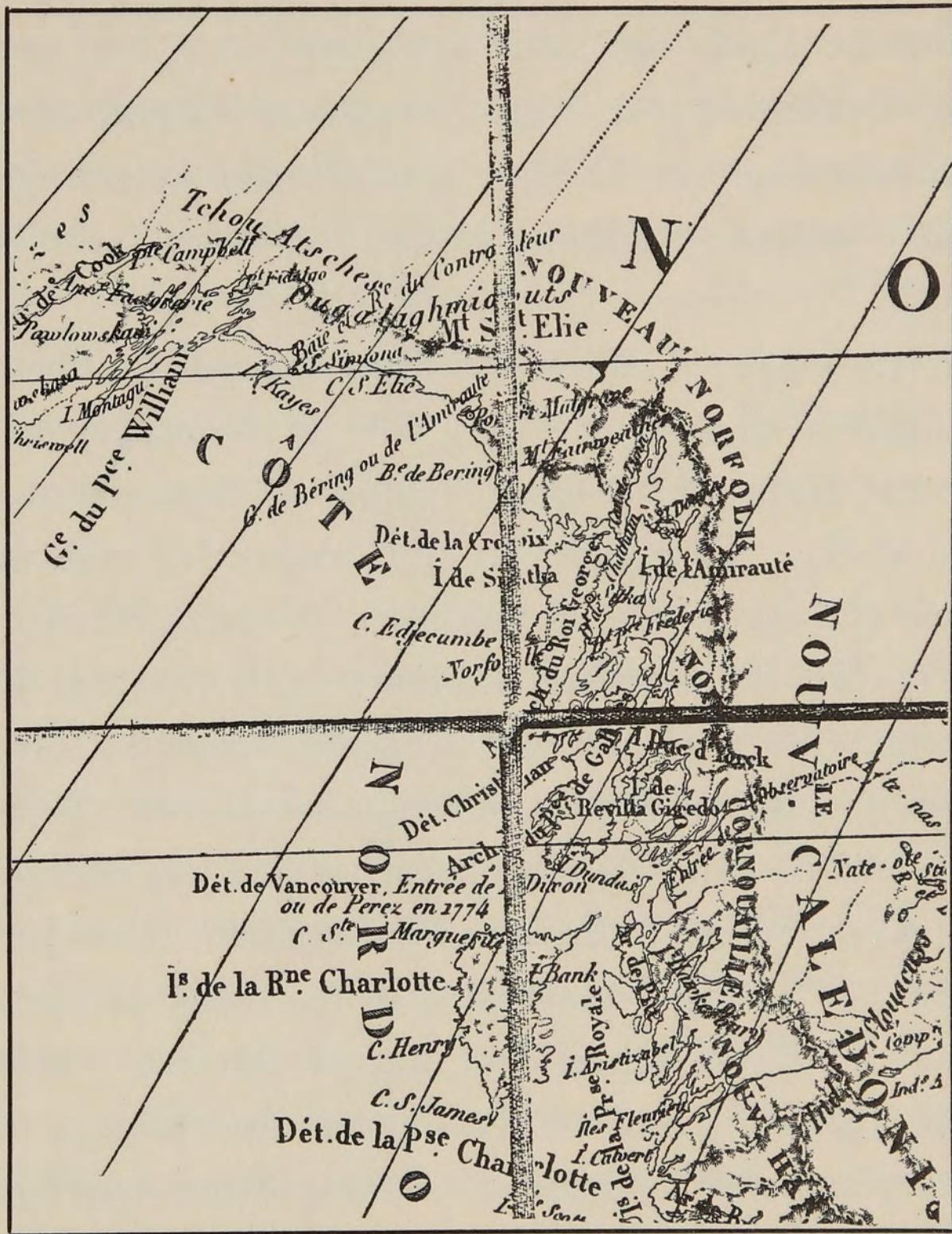
MAP No. 19.

land Canal in marking the Russo-Canadian boundary; and in Brué's maps of 1833 (see Map No. 19) and 1839 (see Map No. 20) the divisional line is given as it was marked on his map of 1825. Gardner's map is overwhelmed by the multitude of English and Canadian maps—governmental and private—that followed Krusenstern's delineation of the line of demarcation. And additional proof of how far south the negotiators of the treaty of 1825 intended that the Russian lisière should extend when they used the phrase, "la dite ligne remontera au nord le long de la passe dite Portland Channel, jusqu'au point de la terre ferme où elle atteint le 56^e degré de latitude nord," is clearly shown by Vancouver's chart upon which he inscribed the name "Portland Canal."⁴⁸

Time passed. In 1871, British Columbia became a part of the Dominion of Canada. And from 1872 to 1884 Canada, by a number of acts and maps, recognized the validity of the American claims to an unbroken strip or lisière upon the continental shore.

In 1872, Sir Edward Thornton, acting on his instructions from the British Foreign Office, which was serving as the intermediary for the Government of Canada, proposed to Secretary Hamilton Fish, the ad-

⁴⁸ *A Chart showing part of the Coast of N. W. America with the tracks of His Majesty's Sloop Discovery and Armed Tender Chatham commanded by George Vancouver: London, 1798.*



BRUÉ'S MAP OF 1839: "NOUVELLE CARTE DE L'AMÉRIQUE SEPTENTRIONALE."

MAP No. 20.

visability of having a survey made of the territory through which the boundary ran, so that the frontier could be located exactly, and Mr. Fish thought well of the idea and said that he would urge Congress to provide funds for such a survey.

On December 2d, 1872, President Grant, in his annual message to Congress, said, after referring to the then recent settlement of the San Juan boundary dispute: ⁴⁹

“Experience of the difficulties attending the determination of our admitted line of boundary, after the occupation of the territory and its settlement by those owing allegiance to the respective Governments, points to the importance of establishing, by natural objects or other monuments, the actual line between the territory acquired by purchase from Russia and the adjoining possessions of Her Britannic Majesty. The region is now so sparsely occupied that no conflicting interests of individuals or of jurisdiction are likely to interfere to the delay or embarrassment of the actual location of the line. If deferred until population shall enter and occupy the territory some trivial contest of neighbors may again array the two Governments in antagonism. I therefore recommend the appointment of a commission, to act jointly with one that may be appointed on the part of Great Britain, to determine the line between

⁴⁹ *Senate Ex. Doc. No. 143*, 49th Congress, 1st Session, page 3.

our territory of Alaska and the coterminous possessions of Great Britain."

It was estimated that a survey of the Alaskan boundary line would cost the United States something like a million and a half of dollars; and that it would probably require nine years in the field and another year to map the result. The suggestion of President Grant was not acted upon by Congress.

At that time no mention was made of Canada's present claim that she is entitled to the upper part of many or all of the fiords or sinuosities that cut into the mainland above fifty-four degrees forty minutes.

On the contrary, the Surveyor-General of Canada, J. S. Dennis, in a written communication in 1874 to the Minister of the Interior of the Dominion, gave his opinion that it would be sufficient at that time to determine exactly the points at which the frontier crosses the rivers. He wrote at length:

"The undersigned is of opinion that it is unnecessary at present (and it may be for all time) to incur the expense of determining and marking any portion of the boundary under consideration other than at certain of the points mentioned in the extract alluded to in the dispatch of Sir Edward Thornton to the Earl of Granville, dated the 15th of February, 1873, that is to say:—

"1. The head of the Portland Canal or the intersection of the same by the 56th parallel of north latitude.

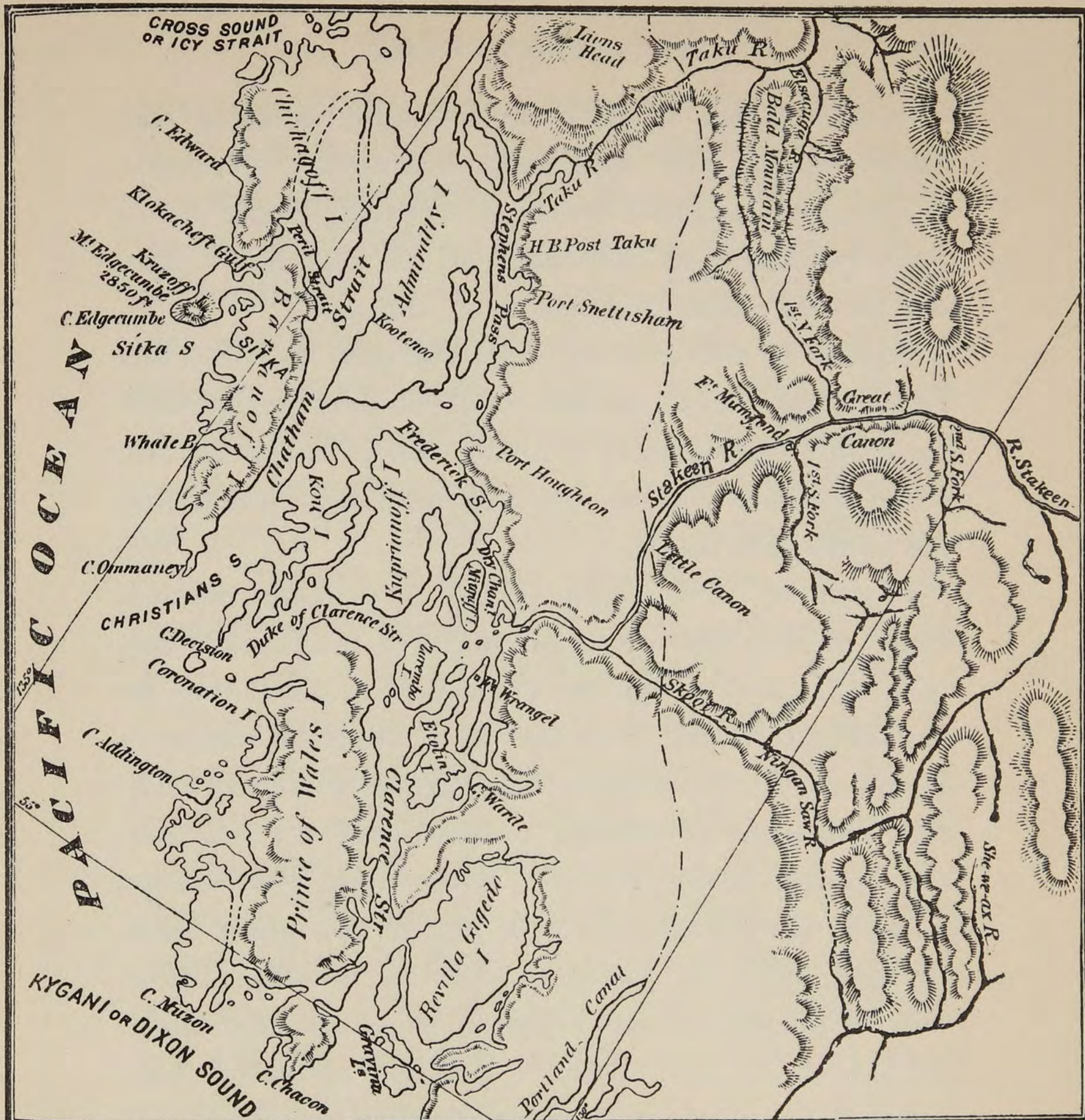
“ 2. The crossing of the following rivers on the Pacific coast by the said boundary, that is to say: The Rivers ‘Skoot,’ ‘Stakeen,’ ‘Taku,’ ‘Isilcat’ and ‘Chilkaht.’

“ 3. The points where the one hundred and forty-first meridian west of Greenwich crosses the rivers Yukon and Porcupine.

“There is no object to be gained of which the undersigned is aware in fixing the intersection of the boundary along the coast with the 141st meridian assumed to be on Mount Elias, that expenditure, therefore, may be saved.” He added further, “the United States surveys of the coast could be advantageously used to locate the coast line in deciding the mouths of the rivers in question, as points from whence the necessary triangulation surveys should commence in order to determine the ten marine leagues back.” In addition a United States Coast Survey map, “Certified Domⁿ Lands Office, January 16th, 1878,” by Surveyor-General Dennis, was published in connection with this letter, with the boundary line starting from the top of the “Portland Canal” and crossing the Skoot, Stikine and Taku Rivers ten leagues back from the coast.⁵⁰ (See Map No. 21.)

The fact that Mr. Dennis said that the boundary crossed the Skoot River and also that he approved

⁵⁰ *Sessional Papers*, Volume XI., Fifth Session of the Third Parliament of the Dominion of Canada, session 1878 (No. 125) page 28 and the map *vis-a-vis*.



The Burland Desbarats Lith. Co. Montreal.

Certified

*Domⁿ Lands Office
Jan. 16th 1878.*

S. G. D. L.

S. G. D. L.

MAP PUBLISHED IN CANADIAN SESSIONAL PAPERS, 1878.

MAP No. 21.

of a map which showed the boundary crossing the Skoot River, are especially noteworthy evidence against the Canadian demands. For the Skoot River does not come to tidewater at all, but flows into the Stikine some distance from the sea.

Again, in the case of Peter Martin in 1876, the British and the Canadian Governments recognized through the settlement of that incident by the British Foreign Office that on the Stikine River Canada did not touch tide water.

It was in 1876, while taking a prisoner named Peter Martin, who was condemned in the Cassiar district of British Columbia for some act committed in Canadian territory, from the place where he was convicted to the place where he was to be imprisoned, that Canadian constables crossed with the prisoner the United States territory lying along the Stikine River. They encamped with Martin at a point some thirteen miles up the river from its mouth. There Martin attempted unsuccessfully to escape, and made an assault on an officer. Upon his arrival at Victoria, the capital of British Columbia, he was tried and convicted for his attempted escape and attack upon the constable; and the court sentenced him. The Secretary of State, Hamilton Fish, protested against this infringement of the territorial sovereignty of the United States in the Territory of Alaska. In a letter to Sir Edward Thornton, the English Minister at Washington, he said: "I have the honor, there-

fore, to ask again your attention to the subject and to remark that if, as appears admittedly to be the fact, the colonial officers in transporting Martin from the place at which he was convicted to his place of imprisonment, via the Stickine River, did conduct him within and through what is the unquestioned territory of the United States, a violation of the sovereignty of the United States has been committed, and the recapture and removal of the prisoner from the jurisdiction of the United States to British soil is an illegal act, violent and forcible act, which cannot justify the subsequent proceedings whereby he has been, is or may be restricted of his liberty."

The transit of the constables with their prisoner, Martin, through American territory was not due to a mistake on their part as to the extent of Canadian territory, for J. B. Lovell, a Canadian Justice of the Peace in the Cassiar district of British Columbia wrote to Captain Jocelyn in command at Fort Wrangel, saying: "The absence of any jail here (Glenora, Cassiar), or secure place of imprisonment necessitates sending him through as soon as possible, and I hope you will excuse the liberty we take in forwarding him through United States territory without special permission." After an investigation into the facts of the case, the Dominion Government acknowledged the justness of Secretary Fish's protest by "setting Peter Martin at liberty without further delay;" and thus recognized that the Canadian con-

stables who had Martin in their charge when they encamped on the Stikine thirteen miles up from the mouth of the river, were on United States soil, and so that Canada's jurisdiction in that region did not extend to tide water.⁵¹

Another recognition by the British Empire that the *lisière* restricted Canadian sovereignty from contact with the sea, occurred shortly after the case of Peter Martin.

Owing to a clash between the United States and the Canadian customs officials as to the extent of their respective jurisdiction on the Stikine River, their two Governments agreed in 1878 upon a provisional boundary line across that river. The Canadian Government had sent in March 1877 one of its engineer officers, Joseph Hunter, "to execute," in the language of Sir Edward Thornton to Secretary Evarts, "a survey of a portion of the Stikine River, for the purpose of defining the boundary line where it crosses that river between the Dominion of Canada and the Territory of Alaska." This Canadian engineer, Hunter, after measuring from Rothsay Point at the mouth of the Stikine River, a distance ten marine leagues inland, determined—in the light of Articles III. and IV. of the Anglo-Russian Treaty of February 16/28, 1825, which two Articles he was instructed ex-

⁵¹ *Papers relating to the Foreign Relations of the United States:* Washington ; Government Printing Office, 1877, pages 266, 267, 271.

pressly "by direction of the minister of the interior" to consider in locating the boundary—that the frontier crossed the Stikine at a point about twenty-five miles up the river and almost twenty miles in a straight line from the coast. Without considering whether, owing to the break in the water shed caused by the passage of the Stikine through the mountains, the United States territory extends inland to the full extent of thirty miles, Hunter decided that the line should cross the river at a point twenty miles back from the coast, but still far enough back from the mouth of the river to shut off Canadian territory from contact in that district with the sea. He came to this decision, because he found that at that point a range of mountains, parallel to the coast, crossed the Stikine River, and, as he stated expressly in his report to his chief, he acted upon the theory that this mountain range followed the shore line within the meaning of the treaty of 1825 as he understood it. In his report to his Government he said: "Having identified Rothsay Point on the coast at the delta of the Stikine River, a monument was erected thereon, from which the survey of the river was commenced, and from which *was* estimated the ten marine leagues referred to in the convention." The Canadian Government sent a copy of this report together with a map explaining it through the British Foreign Office to Sir Edward Thornton at Washington, who communicated it

to Secretary William M. Evarts, with the purpose of obtaining his acceptance of this boundary. Mr. Evarts agreed to accept it as a provisional line, but with the reservation that it should not in any way prejudice the rights of the two Governments, whenever a joint survey was made to determine the frontier. By this voluntary proposal of a provisional boundary across the Stikine River, the British and the Canadian Governments showed that in 1877 and 1878 they considered that Canadian territory above the point of fifty-four degrees forty minutes was restricted by the meaning of Articles III. and IV. of the Anglo-Muscovite Treaty of 1825 from access to the sea.⁵² More recent explorations in the valley of the Stikine as well as the fact that Surveyor-General Dennis of Canada recognized in 1874 that the boundary line should cross the Skoot River, shows that the point fixed by the Canadian, Hunter, in 1878 was too near the coast line. The frontier should be drawn still further inland.

In 1885, President Cleveland, in his first annual message to Congress, recommended with prudent foresight, a preliminary survey of the Alaskan-British Columbian boundary line, with a view of locating exactly where that frontier should run before the devel-

⁵² *Papers relating to the Foreign Relations of the United States*: Washington; Government Printing Office, 1878, page 339.

opment of immediately local interests complicated the settlement of the boundary. He said :⁵³

“The frontier line between Alaska and British Columbia, as defined by the treaty of cession with Russia, follows the demarcation assigned in a prior treaty between Great Britain and Russia. Modern exploration discloses that this ancient boundary is impracticable as a geographical fact. In the unsettled condition of that region the question has lacked importance, but the discovery of mineral wealth in the territory the line is supposed to traverse admonishes that the time has come when an active knowledge of a boundary is needful to avert jurisdictional complications. I recommend, therefore, that provision be made for a preliminary reconnaissance by officers of the United States, to the end of acquiring more precise information on the subject. I have invited Her Majesty's Government to consider with us the adoption of a more convenient line, to be established by meridian observations or by known geographical features without the necessity of an expensive survey of the whole.”

In accordance with the President's instructions, Mr. Bayard, the Secretary of State, wrote at length on November 20, 1885, to Mr. Phelps, United States Minister at London, concerning the advantages of

⁵³ *A Compilation of the Messages and Papers of the Presidents, 1789-1897*, by James D. Richardson, a Representative from the State of Tennessee : Washington, 1898, Volume VIII., page 332.

settling exactly where the boundary between Alaska and British Columbia ran.⁵⁴ Mr. Bayard instructed in his communication Mr. Phelps to ask the Marquis of Salisbury for "an early expression of his views touching the expediency of appointing an international commission" to fix at the earliest possible opportunity upon a "conventional boundary line" in substantial accord with the provisions of the Anglo-Muscovite treaty of 1825.

On January 12, 1886, Mr. Phelps in an interview with the Marquis of Salisbury, discussed thoroughly the boundary line between Alaska and British Columbia; and he proposed to the English Secretary of Foreign Affairs that the two nations should appoint a joint commission for the purpose of ascertaining how the line should run.⁵⁵ Lord Salisbury received the proposition with favor, but he desired before proceeding further with the discussion of the subject, to communicate first by mail with the Government of the Dominion.

The Canadian Government, while unwilling that the British Empire should agree with the United States for a joint commission to investigate where the boundary line ran, looked with favor upon President Cleveland's suggestion of a preliminary survey of the

⁵⁴ *Senate Ex. Doc. No. 143, 49th Congress, 1st Session, page 2 et seq.*

⁵⁵ *Senate Ex. Doc. No. 143, 49th Congress, 1st Session, page 13, et seq.*

country in question. And the British Government in April 1886, announced to the United States its willingness to agree to such a preliminary reconnaissance.⁵⁶ In this correspondence both Mr. Bayard and Mr. Phelps, realizing the great difficulty of locating exactly the boundary along the eastern side of the Alaskan lisière,⁵⁷ showed their willingness to consent to some mutual agreement with Great Britain of "give and take" in running that line. But they made it perfectly clear in their communications upon the subject—Mr. Bayard in his letters to Mr. Phelps, and the latter in his to the English Ministers—that they understood that the United States had in any case an unbroken and continuous lisière on the mainland.⁵⁸ And in the whole correspondence no hint, even much less any formal statement, was made on the part of the British authorities that the English Empire had any right to any territory touching tide water above fifty-four degrees forty minutes.

Apparently as a result of this interchange of views between the two Governments, the subject was taken

⁵⁶ Lord Rosebery's letter of April 15, 1886, to Mr. Phelps: *Senate Ex. Doc. No. 143, 49th Congress, 1st Session*, page 19.

⁵⁷ "The coast proves, upon survey, to be so extremely irregular and indented, with such and so many projections and inlets that it is not possible, except at immense expense of time and money to run a line that shall be parallel with it." Mr. Phelps to the Marquis of Salisbury, January 19, 1886, *Senate Ex. Doc. No. 143*, page 14.

⁵⁸ *Senate Ex. Doc. No. 143, 49th Congress, 1st Session*.

up during the session of the Fisheries Conference of 1887-1888 that was held at the City of Washington and it was suggested "that an informal consultation between some person in this country (the United States) possessing knowledge of the questions in dispute and a Canadian similarly equipped might tend to facilitate the discovery of a basis of agreement between the United States and Great Britain upon which a practical boundary line could be established."

Accordingly a number of informal conferences were held early in 1888 at Washington, D. C., between Professor William H. Dall of the United States Geological Survey and Dr. George M. Dawson, for many years head of the Dominion Geological Survey. These gentlemen, who were acquainted with the general features of the country through which the line of demarcation must pass, held, it appeared when they talked the matter over, widely different views as to how the frontier should be drawn. While Professor Dall thought that there was not a shadow of doubt that the frontier should pass around the sinuosities of the mainland above fifty-four degrees forty minutes and thus at every point shut off Canada from tide water, Dr. Dawson maintained that the line of demarcation should cut across most if not all of those same sinuosities. Mr. Dall based his opinion on the wording of the Treaty of 1825 and the historical development of the Russian-American settlements. Dr. Dawson founded his contention upon a mistaken

reading of the same Treaty. He argued that where the mountains failed to provide a natural watershed within the ten leagues limit from the shoreline, the coast from which the ten leagues inland should be measured was not the shoreline of all the sinuosities that cut into the mainland, but the outer edge of the territorial waters of the *lisière*; and that within those territorial waters were included all parts of the sinuosities above the point where they were only two leagues or less wide from shore to shore. In advancing this argument in support of his contention, he failed thoroughly to comprehend the language of the Treaty. He said in his Report to Sir Charles Tupper, a copy of which he handed to Mr. Dall, that the Treaty of 1825 stipulates:

“Que partout où la crête des montagnes qui s’étendent dans une direction parallèle à la côte se trouverait à la distance de dix lieues marines de l’océan la limite sera formée par une ligne parallèle à la côte, et qui ne pourra jamais en être éloignée que de dix lieues marines.”

Then he went on to say:

“The word ‘ocean’ is wholly inapplicable to inlets; consequently the line, whether marked by mountains or only by a survey line, has to be drawn without reference to inlets.

* * * * *

“None of the inlets between Portland Channel and the Meridian of 141° west longitude are six miles in

width, excepting, perhaps a short part of Lynn Canal ; consequently, with that possible exception, the width of territory—on the coast assigned under the Convention to Russia—may not be measured from any point within the mouths of the inlets. All the waters within the mouths of the inlets are as much territorial waters, according to an universally admitted international law, as those of a fresh-water lake or stream would be under analogous circumstances.”

Unfortunately for the strength of the above argument, Dr. Dawson failed to take into account the actual wording of the Treaty and misquoted it in the citations above given. For the last sentence of the Fourth Article of the Anglo-Muscovite Treaty of 1825 that Dr. Dawson quotes, reads not as he gives it, but as follows :

“Sera formée par une ligne parallèle aux sinuosités de la côte et qui ne pourra jamais en être éloignée que de dix lieues marines.”

When the sentence, “parallèle aux sinuosités de la côte” is written and read as it is actually in the Treaty, and not as Dr. Dawson wrote it to Sir Charles Tupper, “parallèle a la côte,” it is perfectly apparent that in the Treaty itself it is expressly provided that the frontier line shall never pass across any of the sinuosities, but always around them at some distance inland.⁵⁹

⁵⁹ Probably the most important aid which has been given to the crystallization of a public opinion in England favorable to the Ca-

The weakness of the Canadian claims becomes clearly evident by a comparison and examination of the Canadian demands from their inception until the Quebec Conference. It then becomes apparent that

nadian myth, is the article from the pen of Mr. Thomas Hodgins, King's Counsellor, Master in Ordinary of the Supreme Court of Ontario, that appeared in the *Contemporary Review* for August, 1902, *The Alaska-Canada Boundary Dispute*.

Mr. Hodgins in his presentation of the question entirely passes over many vital facts at variance with the Canadian argument and others he states in such a meagre way that they have a semblance of supporting the Canadian view of the question instead of the United States side of it as they really do. He never mentions any Canadian or English maps, evidently because they are evidence against the Canadian contentions. He gives one or two extracts from the instructions of the British Government to their representatives to show that in the negotiations that resulted in the treaty of 1825, the English plenipotentiary forced the Russian diplomats to recede from the contention the Muscovites had made originally. As a matter of fact, a careful examination of the *whole* correspondence leading up to that treaty clearly establishes the fact that England was forced to recede from one proposition after another until she finally agreed to the demand of Russia that the Muscovite Empire should have on the continent an unbroken lisière including all the sinuosities in their whole extent above fifty-four degrees forty minutes.

Mr. Hodgins gives three short quotations from Count Nesselrode: "*Étroite lisière sur la côte,*" "*d'une simple lisière du continent,*" "*d'un médiocre espace de terre ferme.*" He does not say in what book, nor at what pages they may be found. They are all three taken from Count Nesselrode's letter to Count Lieven, the Russian Ambassador to England, dated April 17th, 1824. (*Fur Seal Arbitration*, Volume IV., page 399.) From these short extracts Mr. Hodgins attempts to argue that the Russians were only fencing to retain so narrow a strip on the mainland that it would give them merely the land around

the Canadians have advanced two separate and distinct claims with a later modification of one of them, to the territory that both the Russian and the United States Governments have always openly contended

the mouths of the sinuosities that advance into the continent: in other words, that they would be satisfied with a broken *lisière*. But when those quotations are examined with their complementary contexts in Count Nesselrode's note to Count Lieven, it is seen that the Russian Minister of Foreign Affairs instructed the Russian Ambassador at London to make it known to the English Government that Russia would never be content with less than a strip or *lisière* on the continental shore above fifty-four forty of sufficient width to include all the sinuosities in their entire extent. Count Nesselrode distinctly insisted that the eastern frontier of the *lisière* should be drawn along the top of the mountains that follow the sinuosities of the coast.

For example, the context with which the first of those short citations is connected is as follows. Speaking of the proposition that Sir Charles Bagot had made relative to a frontier, Count Nesselrode said, "that upon the continent and towards the east, this frontier could run along the mountains that follow the sinuosities (*sinuosités*) of the coast up to Mount Saint Elias, and that from that point up to the Arctic Ocean we would fix the limits of the respective possessions according to the line of the 140 degree of longitude west from Greenwich.

"In order not to cut Prince of Wales Island, which according to this arrangement should belong to Russia, we proposed to carry the southern frontier of our domains to the 54° 40' of latitude and to make it reach the coast of the continent at the Portland Canal whose mouth opening on the ocean is at the height of Prince of Wales Island and whose origin is in the lands between the 55° and 56° of latitude.

"This proposition only assured us a narrow strip upon the coast itself, and it left to the English establishments all the space necessary to multiply and expand."

The original French text of the above quotation is as follows: "qu'en conséquence la ligne du 55° degré de latitude septentri-

was part and parcel of Russian America or Alaska. The first of the two claims pressed by Canada to Alaskan territory was that the part of the third article of the Anglo-Russian Treaty of 1825, which

onale, constituerait au midi la frontière des États de Sa Majesté Impériale, que sur le continent et vers l'est, cette frontière pourroit courir le long des montagnes qui suivent les sinuosités de la côte jusqu'au Mont Élie, et que de ce point jusqu'à la Mer Glaciale nous fixerions les bornes des possessions respectives d'après la ligne du 140° degré de longitude ouest méridien de Greenwich.

“Afin de ne pas couper l'Ile du Prince de Galles, qui selon cet arrangement devoit rester à la Russie, nous propositions de porter la frontière méridionale de nos domaines au 54° 40' de latitude et de la faire aboutir sur le Continent au Portland Canal, dont l'embouchure dans l'Océan est à la hauteur de l'Ile du Prince de Galles et l'origine dans les terres entre le 55° et 56° de latitude.

“Cette proposition ne nous assuroit qu'une étroite lisière sur la côte même, et elle laissoit aux Établissements Anglois tout l'espace nécessaire pour se multiplier et s'étendre.” (*Fur Seal Arbitration*, Volume IV., page 399.)

The object of the Russians in having such a strip was to prevent the English from establishing trading posts on the mainland opposite the Russian islands which could compete with the Russian establishments in the quest for furs. Had the Russians allowed the English to have the upper part of the sinuosities above fifty four forty, the Hudson's Bay Company could have established posts on the upper reaches of the estuaries to compete with the Russian settlements on the islands.

In support of the Canadian argument that the outward edge of the territorial waters should be used in computing the ten leagues inland, Mr. Hodgins intercalates in the English version of several of the articles which he quotes of the treaty of 1825 a few extracts from the French original, but he does not place after the word *windings* of the English text, the French word *sinuosités* of the French version. The French copy of the treaty is the official text, and the British Imperial Government

reads, "La dite ligne remontera au nord le long de la passe dite Portland Channel jusqu'au point de la terre ferme où elle atteint le 56° degré de latitude Nord," did not mean that body of water which

has recognized it as such; and the use of the word *sinuosités* gives a somewhat different meaning from the word windings. The meaning of *sinuosité* is more accurately rendered in English by the word *indentation*. The word *sinuosité* alone is proof enough to overthrow the Canadian argument in support of measuring the ten leagues inland from the outer edge of the territorial waters instead of from the shores of the sinuosities of the coast. As the phrase "parallèle aux sinuosités de la côte" goes to the very heart of the boundary question, it is certainly simpler for a Canadian to omit that sentence altogether and so avoid all discussion of it.

In reference to the case of Peter Martin in 1876, Mr. Hodgins fails to show that, in the final settlement of that incident between the United States Department of State and the British Foreign Office, the British and the Canadian Governments recognized that on the Stikine River, Canada did not touch tide water.

Mr. Hodgins cites Chief Justice Marshall—who never heard of the Alaska boundary question—and other jurists of repute to show that the United States in this dispute are acting in a wrong and immoral way. For instance, he quotes two extracts from ex-President Cleveland. (*The Century*, New Series, Volume XL., 1901, pages 283 and 290.) An examination of these passages shows that in them Mr. Cleveland did not condemn the international morality of the United States either generally or in this particular instance, but on the contrary sharply attacked the policy of Lord Salisbury towards Venezuela.

Mr. Hodgins states that "the free navigation of the waters in the strip of coast was proffered" and he quotes from the Russian Plenipotentiaries to prove his point. When, however, the note "Observations of Russian Plenipotentiaries on Sir C. Bagot's Amended Proposal" (*Fur Seal Arbitration*, Volume IV., pages 428-429) is read in full, it is evident in the first place that the Russians meant rivers, not waters, since the word they used

Vancouver had named Portland Channel or Canal, but several other stretches of water a long distance away known severally as Duke of Clarence Strait and Behm's Canal or Channel and Burrough's

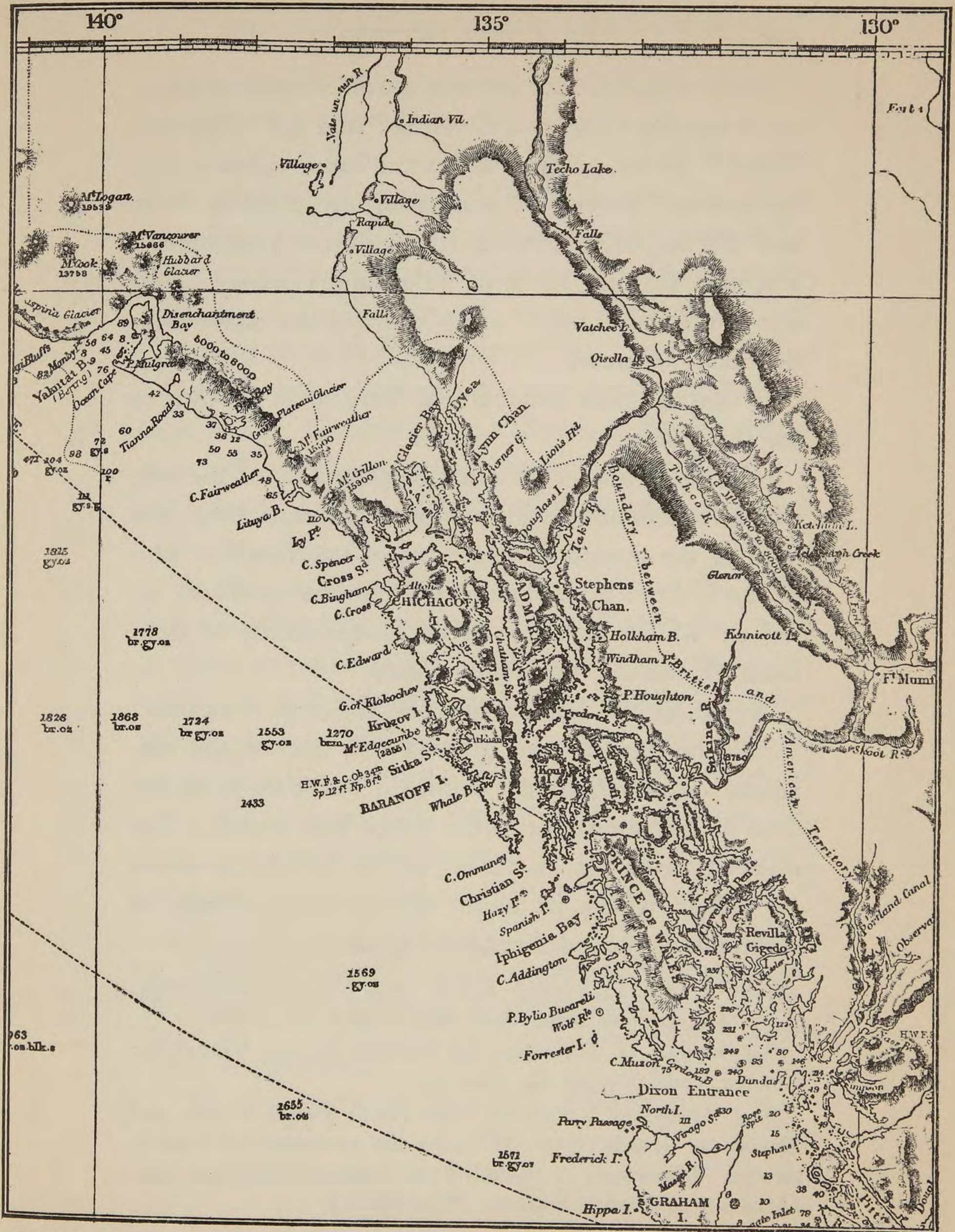
is *fleuves*, and in the second place the note shows also that the Russians wished an unbroken, continuous strip on the mainland.

Mr. Hodgins also cites a passage from Secretary Blaine (*Fur Seal Arbitration*, Volume II., page 273) in support of the claim that Canada now makes to the upper part of the sinuosities such as the Lynn Canal. But the quotation from Mr. Blaine does not support the Canadian contentions, for Mr. Blaine in no way gives up our right to the whole of the Lynn Canal and the enveloping strip of land on the continent. What Mr. Blaine does say is that which is specially provided for in the treaty of 1825, that all rivers which take their rise in Canadian territory and then flow through the Russian or American lisière, shall be open to the Canadians for navigation. For example, the Stikine River takes its rise in Canadian territory, and passing through the American strip of land, empties into the sea near Fort Wrangell. In so far as the Stikine is navigable, the Canadians have the right of through navigation, just as the Rhine and the Danube are open to the international navigation of the several adjoining powers.

In addition Mr. Hodgins makes the following remarkable statement: "The United States have acquired their present great territorial domain partly by Revolution and partly by the voluntary gift of Canadian territory from Great Britain; by purchase from France, Spain and Russia; and by conquest from Mexico and Spain. Under what guileless title should be placed their unsanctioned appropriation of the Canadian Naboth's vineyard, on the British side of the boundary line? Perhaps as an American sequel to the Fashoda incident." In a note Mr. Hodgins says that the "gift was that part of old French Canada now the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, and Minnesota, comprising about 300,000 square miles of Canadian territory ceded by France to Great Britain in 1763."

Bay. And that consequently the frontier line should not be drawn eastward from the southern end of Prince of Wales Island through Dixon's Entrance and then up the estuary that opens at that point into the ocean as the Russian and the United States and the great majority of English and Canadian and other cartographers have marked it, but northward up part of Duke of Clarence Straits and then north-eastward along Behm's Canal to Burrough's Bay and then overland in a generally northward and north-westerly direction. Besides, it is a fact that that body of water which the United States have and do claim is "Portland Channel" or "Canal" has been so marked on several official Canadian and English maps, as for instance a map of the "Northwestern part of the Dominion of Canada," which was published by the Surveyor-General at Ottawa in 1898. In addition, upon a number of these maps, the generic names "channel" and "canal" are used interchangeably to denote bodies of water of a similar formation or nature. This is notably the case on the British "Admiralty Chart No. 787," published in 1877, and reissued at intervals with corrections up to 1898 (see Map No. 22) and again in 1901 (see Map No. 1), which gives "Portland Canal" and "Lynn Chan."⁶⁰

⁶⁰ Admiralty Chart No. 787 was first issued in 1877 and reissued with corrections in June 1885, Dec. 1886, March 1889, July 1889, Dec. 1889, June 1890, March 1891, Sept. 1891, Nov



BRITISH ADMIRALTY CHART, PUBLISHED JUNE 21ST, 1877, UNDER THE SUPERINTENDENCE OF CAPTAIN F. J. EVANS, R. N., HYDROGRAPHER, AND CORRECTED TO APRIL, 1898.

MAP No. 22.

Unfortunately, too, for the adroit Canadian argument that the "Portland Channel" and the "Portland Canal" cannot possibly mean the same estuary, it is conclusively proved by comparing the English texts and the authorized French translation of Vancouver's Voyages that the name of "Portland Channel" and the "Portland Canal" mean one and the same identical body of water.

In the English originals of Vancouver's Voyages the text reads :

"In the forenoon we reached that arm of the sea, whose examination had occupied our time from the 27th of the preceding to the 2d. of this month. The distance from its entrance to its source is about 70 miles ; which, in honor of the noble family of Bentinck, I named Portland's Canal."⁶¹

Again, in the edition of 1801, the text runs thus :

"In the forenoon we reached that arm of the sea, whose examination had occupied our time from the 27th of the preceding to the 2d of this month. The distance from its entrance to its source is about 70 miles ; which, in honor of the noble family of Bentinck, I named Portland's Channel."⁶²

1891, Oct. 1892, June 1893, March 1894, Oct. 1894, Dec. 1894, April 1895, January 1898, April 1898, August 1901.

⁶¹*A Voyage of Discovery*, by Captain George Vancouver : London, 1798, Volume II., page 371.

⁶² *A Voyage of Discovery to the North Pacific Ocean, and Round the World * * ** under the command of Captain George Vancouver : London 1801, Volume IV., page 191. (Academy of Natural Sciences, Philadelphia.)

The French translation published at Paris at about the same time reads thus :

“L'après-midi, nous atteignîmes le bras de mer, dont la reconnaissance nous avait occupés, depuis le 27 juillet, jusqu'au 2 de ce mois. La distance de son entrée à son extrémité intérieure est d'environ 70 milles. Je l'ai nommé CANAL-DE-PORTLAND, en l'honneur de la famille de Bentinck.”⁶³

Also in the drafts and counter drafts that passed between Sir Charles Bagot and Count Nesselrode in their efforts to agree upon a boundary line, the names “Portland Canal” and “Portland Channel” are *used interchangeably*.⁶⁴

To-day, partly because on many maps the name Portland Canal is given and partly because the “wish is father to the thought” some Canadians would have the world believe that Count Nesselrode, Monsieur de Poletica and Mr. Stratford Canning when they inserted the name “Portland Channel” in the treaty of 1825 did not mean that body of water that Vancouver had named Portland Channel, but that they intended to designate thereby some other stretch of water.⁶⁵

⁶³ *Voyage de Découvertes, à l'Océan Pacifique du Nord et Autour du Monde* * * * par le capitaine George Vancouver : traduit de l'anglais par P. F. Henry : A Paris, de l'Imprimerie de Didot Jeune, an X., Volume III., page 370. (Academy of Natural Sciences, Philadelphia.)

⁶⁴ *Fur Seal Arbitration*, Volume IV., pages 427-430.

⁶⁵ On this point see a letter by Mr. Arthur Johnston in the *New York Nation*, January 23d, 1902, and a reply to it by Professor

And yet the negotiators of the treaty of 1825 knew of Vancouver's charts, and so of his voyages of discovery. This first claim by Canada to United States territory is thus thoroughly well met by the work of the discoverer and the name given by him to the Portland Channel, even had not the British Imperial Government in its formal demand at the Quebec Conference to the United States, for what is clearly the latter's domain, acknowledged that the United States contention as to what is the Portland Channel is right.

In addition, the debates of the Dominion Parliament show that Sir Wilfred Laurier, the Premier of Canada, himself acknowledged the unsoundness of the British Columbian claim as to what body of water Count Nesselrode and Sir Stratford Canning meant by inserting in the Anglo-Muscovite treaty of 1825 the name "Portland Channel." Colonel Prior, member in the Dominion Parliament for Victoria, British Columbia, asked in the spring of 1901 the Government a number of questions and obtained replies as follows:—

The Hon. E. G. Prior (member for Victoria, B. C.),⁶⁶ said:

"Before the Orders of the Day are called, I would

William H. Dall of the Smithsonian Institution, in the *Nation*, January 30th.

⁶⁶ *Debates of the House of Commons, Sessions of 1901*: Vol. LV., page 4407—The Alaskan Boundary.

ask the right hon. leader of the House to give his attention to some correspondence I have received concerning the Alaskan boundary dispute. * * *

Last year I asked in the House:

“ ‘Has the large map of the Dominion, which was latterly exposed to view in the vestibule of this building, been sent to the Paris exhibition as an official map of Canada exhibited by the Government?’

“ ‘Is it true that the boundary between Canada and Alaska, commonly known as the ‘Alaska Boundary,’ is marked on that map according to the United States contention, and that the boundary according to the Canadian, or British Columbia, contention, is not shown at all?’

“To this question, the Hon. the Minister of Agriculture replied:

“ ‘The map in question was sent to Paris as one of the exhibits of the Department of Public Work, but not as an official map. It is true that the boundary between Canada and Alaska, commonly known as the ‘Alaska Boundary’ is marked on that map in two ways, marking the American contention and the Canadian contentions as to the boundary, and each of those markings is distinctly stated to be what it represents, so that I do not think there can be any possible difficulty or doubt as to what is meant.’ ”

Colonel Prior continued:—“Last year I wrote to Mr. Begg, who has taken a great deal of interest in this question, and we both wrote to Mr. Brymner,

who was then in Paris, asking him to go to the exposition and examine the map. I have not got Mr. Brymner's answer to myself, as I unfortunately left it at home, but I have a letter here from Mr. Begg on the same subject, dated 17th April 1901 :—

“I have been looking over the letter sent to me by Mr. Brymner of Paris, who visited the exhibition at your request, and mine, to see if it was as represented—one provisional boundary for British Columbia and another for United States. In his letter to me dated July 17th, 1900, he says :—“I had your note *re* the frontier question, also a letter from Col. Prior, House of Commons, Ottawa, asking me to go and see if it was really as you stated, that the boundary marked ran up Portland Canal, and not up Clarence Sound, and if two boundaries were given and marked ‘provisional.’ There is but one boundary marked, and that is the one claimed by the United States, and there is absolutely no mention made of its being provisional. There is no distinct colour between American and Canadian territory, so it is very difficult to trace the line, the area being so great (covered by the map) that nearly all the names have been left out, so that neither Portland Canal nor Clarence Sound are mentioned, Wrangel being the only name given in that neighbourhood. My object in alluding to this matter now is that this map may be sent to the Glasgow exhibition, and it would be well to know if the erroneous boundary is marked running up Portland

Canal, and if the British Columbian provisional boundary along Clarence Straits, as shown on British Columbian maps, is entirely left out.'

“ ‘ Mr. Brymner's statement is undoubtedly correct, and it agrees with what I supposed were the facts of the case.’ ”

Colonel Prior then said :

“ Of course, I have not seen the map myself, but if Mr. Brymner's statement, both to Mr. Begg and myself be correct, namely, that the only boundary marked on the map is that which the Americans contend for, the Government is greatly to blame for having allowed such a map to be put on exhibit. No doubt if on this map only the American contention is shown, that will be brought in as an argument in favour of the United States whenever the matter goes to arbitration.

“ I would ask my right hon. friend whether he will find out if it be true that the American boundary is the only one indicated on this map, or whether there are two distinct boundaries marked on it and both stated plainly to be provisional ? ”

The Prime Minister, the Rt. Hon. Sir Wilfred Laurier, replied to Colonel Prior:—“ I shall call the attention of my colleague the Minister of Agriculture to the representations of my hon. friend. I may say, however, that in view of the advice we have received from our law offices, it is very hard to maintain that the boundary runs up Clarence channel. The treaty

says in so many words the Portland canal, but there is a difference in opinion between the Americans and ourselves as to where that channel is. We claim that it is west of Pearse Island. They claim that it is Observatory Inlet. As to endeavouring to have the line pass along Clarence channel, which is a pretention Mr. Begg has often submitted to me, I do not think any one, who will take a careful view of the matter, can be convinced of the correctness of that pretention. The point on which we and the Americans do not agree, is as to what is Portland channel. They want to make it run up Observatory Inlet and then to the west, making out that Observatory Inlet is only a small inlet running into the interior. We, on the other hand, contend that Portland channel is as it is described on the map of Vancouver on which the treaty of 1825 seems to have been based, namely, all that channel of water which runs west of Pearse Island.”⁶⁷

⁶⁷ Mr. Alexander Begg, “author of the History of British Columbia,” reprinted at Victoria, British Columbia, from the *British Columbian Mining Record* for June, July and August, 1900, an article entitled, *Review of the Alaskan Boundary Question*. Mr. Begg also contributed to the *Scottish Geographical Magazine* for January and February, 1901, very much the same article under the title of *Review of the Alaskan Boundary Question*. In these two papers, Mr. Begg devoted much space to show that the Portland Channel and the Portland Canal were separate and distinct bodies of water. The replies of Sir Wilfred Laurier to Colonel Prior on that subject thoroughly answer that part of the Canadian claim, except that the Canadian Premier was in

Colonel Prior then remarked:—"I do not think that this has anything to do with the question whether the map is wrongly marked. Whatever boundary is described on it, should be marked provisional."

To this comment Sir Wilfred Laurier answered:—"The only provisional line we have agreed upon is

error in claiming that the opening of the Portland Channel into the ocean lay north instead of south of Wales and Pearse Islands.

Mr. Begg also has something to say about the negotiations previous to the treaty, but he does not refer to many vital passages that show that the English negotiators—first Sir Charles Bagot and afterwards Sir Stratford Canning—had to concede one point after another, until they finally agreed to the original proposition of the Muscovite negotiators that Russia should have a lisière on the mainland above fifty-four forty expressly to shut off England from access to the sea at all points north of the Portland Canal.

In spite of Sir Wilfred Laurier's statement in the spring of 1901 in the Dominion Parliament that Mr. Begg's contention of running the frontier line north instead of east from Cape Chacon, which is at the southern extremity of Prince of Wales Island, was untenable, Mr. Begg appears to stand by his former assertions in the following letter which appeared in the *Colonist* of Victoria, British Columbia, December 4th, 1902. The able and forcible letter of Mr. Seward to which Mr. Begg refers will be found in note 108 on page 175.

"THE ALASKAN BOUNDARY.

"SIR:—

"Two mighty men of war have recently appeared to bolster up the forlorn hope of the boundary question. One is a Philadelphia lawyer, of some note, judging from the numerous spread-eagle titles attached to his name in a book called 'The Alasko-Canadian Frontier'—the titles are as follows: 'Book, by Thomas Willing Balch, A. B. (Harvard), Member of the Philadelphia Bar; the American Philosophical Society; the American Historical Association, etc.; Author of the Brooke Family of Whit-

around Lynn canal, and if my hon. friend will look carefully at the relief map which is exhibited in the library, he will see that that is the only provisional line we have agreed to."

But as is seen from Sir Wilfred Laurier's answers to Colonel Prior, acknowledging the untenableness

church, Hampshire, England,' etc. The paper was read at the annual meeting of the Franklin Institute, January 15th, 1902.

"Mr. Balch quotes a portion of the Treaty of 1825, but he does not apply it in the least degree in the book he has published. Without referring to the Treaty in his arguments the controversy is futile, and I take leave of Mr. Balch and his beautiful printed brochure.

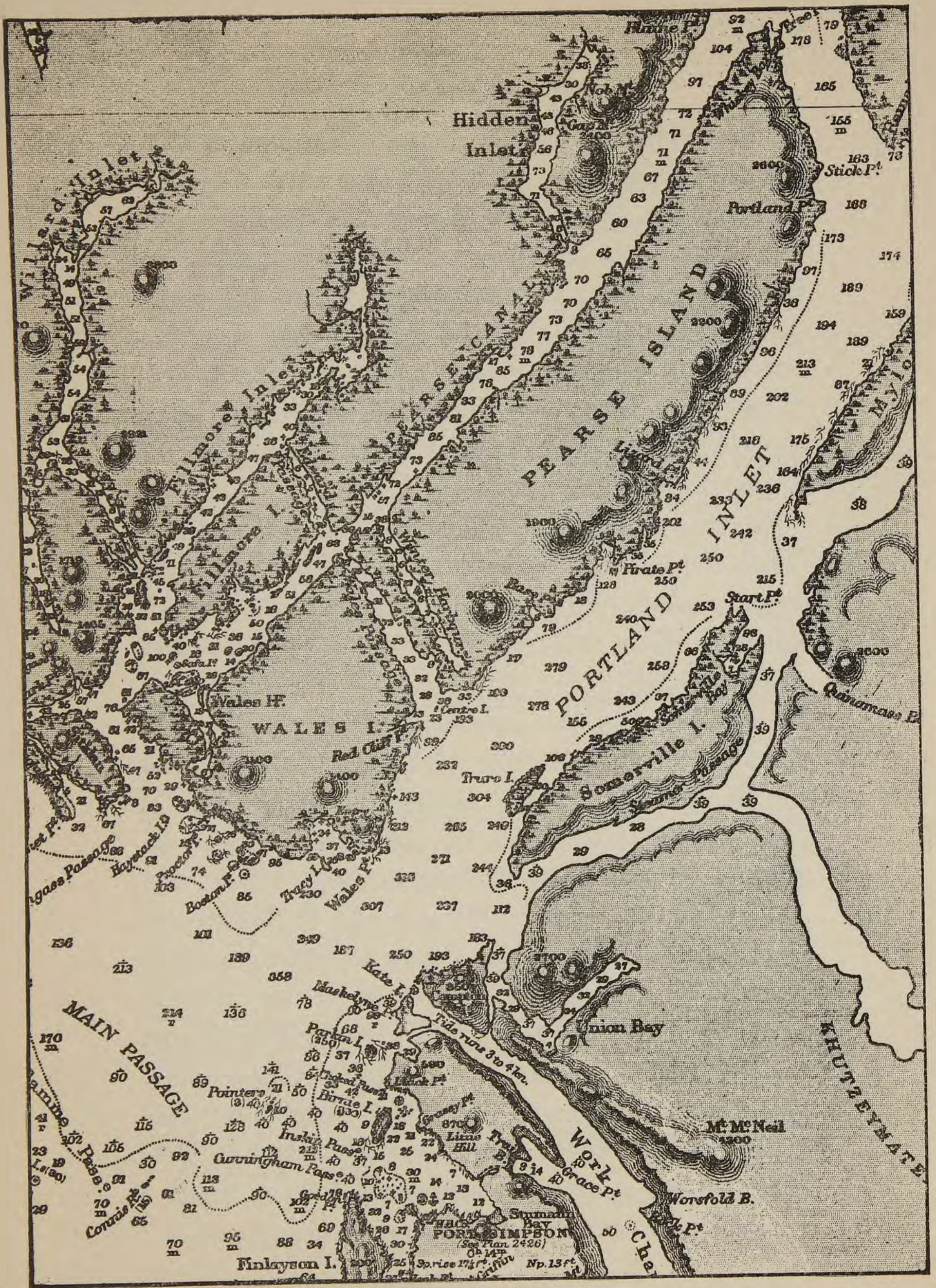
"The other warlike hero who comes forward, is plain Frederick W. Seward, heralded as the 'son of the great War Secretary, who negotiated the purchase of Alaska.' Young Mr. Seward, in a recent letter to the *New York Tribune*, tells us that he visited Alaska last summer, and discussed the claim put forward by Canada, as a monstrous one, without a shadow of foundation. But if Mr. Seward will 'trot out the Treaty' in connection with an honest, unbiased tribunal, without any subterfuge, Canada will be found quite willing and ready to submit the question. Let us be judged by the Treaty and no subterfuge. Mr. Seward concludes his remarks by stating 'the only thing which is open to discussion or which requires settlement in connection with the Alaskan boundary, is its delineation in place, on a line corresponding in all essentials with the line which has been recognized since the boundary was first defined by treaty between the government of Russia and Great Britain. When Canada is prepared to have this done,' says he, 'the United States will cheerfully co-operate in the work. There is no Alaska boundary question in any respect, save this.' What about running *east* from Cape Chacon, instead of *north*, according to the Treaty?

"ALEXANDER BEGG.

"DECEMBER 2nd, 1902."

of the contention that the Portland Channel and the Portland Canal were not one and the same sinuosity, the Canadian Premier did approve the claim that Canada advanced at the Quebec Conference in 1898 that the opening of the Portland Channel into the ocean was not through the natural *thalweg* that flows between Port Simpson on the south and Pearse and Wales Islands on the north, but through a much narrower and practically unnavigable channel to the north of these two islands.

On many maps, including Canadian and English maps, the line was drawn to the south of Wales and Pearse Islands. For instance, Arrowsmith, on his map issued in 1864, marked the line south of Wales and Pearse Islands. (See Map No. 16.) The Canadians on an official Government map of the "Railways of Canada," published in the year 1884, distinctly drew the frontier through the passage of water south of Wales and Pearse Islands, and this channel is marked on that map "Portland Inlet." (See Map No. 27.) These maps locate this part of the frontier in opposition to the British claims by the evidence of their own cartographers. Furthermore, the opening of Portland Channel into Dixon's Entrance is shown by two official maps of the British Government. Chart number 2431 of the British Admiralty, published on the 13th of July, 1865, corrected to February, 1901, on which Observatory Inlet is marked according to "Staff Commr. Pender's Survey, 1868,"



BRITISH ADMIRALTY CHART, No. 2458, PUBLISHED DECEMBER 15TH, 1896, AND CORRECTED TO MARCH, 1900: PREPARED UNDER THE DIRECTION OF REAR ADMIRAL WHARTON.

MAP No. 23.

gives the north west coast of America from Port Simpson to Cross Sound. Chart number 2458 of the British Admiralty, published on the 15th of December, 1896, corrected to March, 1900, shows the coast line about Port Simpson and the inner channels opposite Prince of Wales Island. (See Map No. 23.) On both these charts the passage of water south of Pearse and Wales Islands opening into Dixon's Entrance is marked "Portland Inlet," and the channel to the north of Pearse and Wales Islands is marked "Pearse Canal."

But in addition, it is a rule of International Law that where a water boundary is a frontier between two States, unless it is expressly otherwise provided the line of demarcation between these two powers shall pass through the deepest part of the water area, that is through the *thalweg*. The word *thalweg* itself literally means, *the way through the valley*, that is through the deepest part of the channel.⁶⁸

As far back as 1625, the great Huig van Groot, or Grotius, approved the rule that where a river was the boundary between two peoples, the frontier was understood, unless otherwise provided for, to run along the middle of the stream. He said :

⁶⁸ Concerning the historic development of the rule of the *Thalweg*, see the article of Judge Ernest Nys of Brussels in the *Revue de Droit International* (Bruxelles, 1901, page 75) entitled, "Rivières et fleuves frontières—La Ligne Médiane et le Thalweg—un Aperçu historique."

“ In land defined by a river, its natural boundary, if the river changes its course gradually, it changes also the boundary of the territory ; and whatever the river adds to one side belongs to him to whose land it is added ; because each people must be supposed to have settled their claims on the understanding that the river, as a natural terminus, should divide them by a line drawn along its middle. So Tacitus speaks of the Rhine as a boundary, so Diodorus of another river ; and Xenophon calls such a river simply the *Horizont*, the boundary.”⁶⁹

In recent years, William Edward Hall, an English Barrister, in his *Treatise of International Law*, says :

“ Where it [a boundary or frontier] follows a river, and it is not proved that either of the riparian states possesses a good title to the whole bed, their territories are separated by a line running down the middle, except where the stream is navigable, in which case

⁶⁹ “ In arcifiniis flumen mutato paulatim cursu mutat et territorii fines, et quicquid flumen parti alteri adjacet, sub ejus imperio est, cui adjectum est : quia scilicet eo animo populus uterque imperium occupasse primitus creditur, ut flumen sui medietate eos dirimeret, tanquam naturalis terminus. Tacitus dixit : *Certum jam alveo Rhenum, quique terminus esse sufficiat.* Diodorus Siculus, ubi controversiam narrat, quae inter Egestanos et Selinuntios fuit, ποταμοῦ, αἰτ, τὴν χώραν ὀρίζοντος, *amne fines discriminante.* Et Xenophon talem amnem simpliciter τὸν ὀρίζοντα, id est, *finiorem*, vocat.” *De Jure Belli ac Pacis* : Lib. II., Cap. III., XVI., 2.

the centre of the deepest channel, or, as it is usually called, the *Thalweg*, is taken as the boundary."⁷⁰

The Swiss, Alphonse Rivier, for many years and at the time of his death, Consul-General of his country to Belgium, in his Treatise, *Principes du Droit Des Gens*, says:

“When a water course is a frontier, the bed can be entirely in one of the territories [adjoining], the frontier following one of the banks.

* * * * *

“This frontier must be proved, it is not presumed. In case of doubt, the frontier line shall be the middle of the bed. Such at least is the ancient rule, still in vigor as a general rule for non navigable water courses, simple brooks, while it is absolute (*dérogé*) for rivers and streams owing to a more and more constant usage, which numerous treaties have sanctioned for almost a century. According to this custom, the limit is in the middle, not of the bed but of the current or thread of water, which is called to-day the *Thalweg*, a German word which signifies *chemin du val*, in English *mid-channel*. This system has the advantage of giving to the two countries equal facilities to use the water course; besides, the *thalweg*, although variable owing to the continuous action of

⁷⁰ Fourth edition, Oxford, 1895, page 127; this edition was printed after Mr. Hall's death, but the first two hundred and seventy-two pages were already in type when he died.

the running water, is less so, however, than the median line."⁷¹

Halleck, an American, in his *International Law*, says:⁷²

"Where a navigable river forms the boundary of conterminous states, the middle of the channel—the *filum aquae* or thalweg—is generally taken as the line of their separation, the presumption of law being that the right of navigation is common to them both. But this presumption may be rebutted or destroyed by actual proof of the exclusive title of one of the riparian proprietors to the entire river. Such title may have been acquired by prior occupancy, purchase,

⁷¹ "Lorsq'un cours d'eau forme frontière, le lit peut être en entier sur l'un des territoires, la frontière suivant l'un des bords.

* * * * *

"Cette frontière doit être prouvée ; on ne la présume pas. En cas de doute, la ligne frontière serait le milieu du lit. Telle est du moins la règle ancienne, encore en vigueur comme règle générale pour les cours d'eau non navigables, les simples ruisseaux, tandis qu'il y est dérogé pour les fleuves et rivières par un usage de plus en plus constant, que des traités nombreux ont sanctionné depuis près d'un siècle. D'après cet usage, la limite est au milieu, non du lit, mais du courant ou fil de l'eau, qu'on appelle aujourd'hui le *thalweg*, mot allemand qui signifie chemin du val ; en anglais *mid-channel*. Ce système a l'avantage de donner aux deux pays limitrophes des facilités égales pour utiliser le cours d'eau ; en outre, le *thalweg*, tout variable qu'il est en suite de l'action continue de l'eau courante, l'est cependant moins que la ligne médiane." *Principes du Droit des Gens* par Alphonse Rivier. Paris, 1896, Volume I., pages 167-168.

⁷² *Halleck's International Law*: Third edition revised by Sir Sherston Baker, Bart., of Lincoln's Inn and Barrister-at-Law, London, 1893, Volume I., page 171.

cession, treaty, or any of the modes by which other public territory may be acquired. But where the river not only separates the conterminous states, but also their territorial jurisdictions, the thalweg, or middle current, forms the line of separation through the bays and estuaries through which the waters of the river flow into the sea. As a general rule, this line runs through the middle of the deepest channel, although it may divide the river and its estuaries into two very unequal parts. But the deeper channel may be less suited, or totally unfit, for the purposes of navigation, in which case the dividing line would be in the middle of the one best suited and ordinarily used for that object. The division of the islands in the river and its bays would follow the same rule."

Bluntschli, a Swiss, who for many years taught the Laws of Nations at the University of Heidelberg, says in his *Code of International Law*:

"298.

"If a river is the boundary between two States and it has not become the exclusive property of one of them, the frontier, in case of doubt, is taken to pass through the *Thalweg*.

"In the case of navigable rivers, the *Thalweg* is considered in doubtful cases as the middle of the river.

* * * * *

“ 301.

“ In the same way, the middle of a lake serves as the line of demarcation between the opposite riparian States, unless another boundary is designated by usage or treaty. The free navigation of the lake is therewith as a rule accorded to the inhabitants of both shores.

“ In this case the middle must be measured from both shores, as there is no Thalweg, or at least it is not as distinct in lakes as in rivers.

* * * * *

“ 303.

“ When two States, which touch the high seas, are so close to one another that the territorial waters (*Küstensaum*) of the one overlaps the territorial waters of the other, both States are bound to accord to each other the right of sovereignty (*Küstenschutz*) in the common area or else to agree upon a dividing line.

“ The two States are in this case in about the same position as the Riparian States of a river or a lake. They are both concurrently sovereign.”⁷³

⁷³

“ 298.

“ Bildet ein Fluss die Grenze und ist derselbe nicht in den ausschliesslichen Besitz des einen Uferstates gelangt, so wird im Zweifel angenommen, die Mitte des Flusses sei die Grenze.

“ Bei schieffbaren Flüssen wird im Zweifel der Thalweg als Mitte angenommen.

* * * * *

The other or second important demand of Canada, which seems to have originated about 1884, and which was formulated a year or two later by General Cameron, is that the boundary line shall not pass inland around all the sinuosities that bulge into the mainland between Mount Saint Elias and fifty-four degrees forty minutes, but that it shall run close along side of the coast-line and across most or all

“301.

“Ebenso wird die Mitte eines Landsees als Grenze zwischen den entgegengesetzten Uferstaten vermuthet, wenn nicht durch Verträge oder Uebung eine andere Grenze bestimmt ist. Daneben wird die freie Schifffahrt auf den See für beiderlei Uferbewohner als Regel anerkannt.

“Hier muss die Mitte von beiden Ufern ausgemessen werden, da es einen Thalweg nicht gibt, oder wenigstens derselbe nicht ebenso deutlich ist, wie bei Flüssen.

* * * * *

“303.

“Wenn zwei Staten, welche an das freie Meer Grenzen, einander so nahe sind, dass der Küstensaum je des einen Stats in den Küstensaum des andern hinüberreicht, so sind sie verpflichtet, einander in dem gemeinsamen Gebiet wechselseitig den Küstenschutz zuzugestehen, oder über eine Scheidelinie sich zu vereinbaren.

“Das Verhältniss der beiden Uferstaten wird ähnlich wie in den Fällen der Fluss- oder Seegrenze. Es tritt eine CONCURRIRENDE GEBIETSHOHEIT ein.”

Das Moderne Völkerrecht der Civilisirten Staten als Rechtsbuch Dargestellt von Dr. J. C. Bluntschli : Nördlingen, 1878.

In the authorized French translation by M. Lardy (1870) *Le Droit International Codifié* the above paragraphs are rendered in these terms :

of the estuaries that cut into the continent above the Portland Channel or Canal. Canada bases this demand upon the rule of International Law, that all sea waters along a coast line are for one league or three miles territorial waters, and that where even a fiord or arm of the sea is only two leagues or six miles across from shore to shore, from that line inland the rest of the estuary is territorial waters.

“ 298.

“ Lorsqu’une rivière forme la limite, et qu’elle n’est pas devenue propriété exclusive d’un des états riverains, on admet dans le doute que la frontière passe par le milieu de la rivière.

“ La thalweg des rivières navigables est dans le doute regardé comme le milieu.

* * * * *

“ 301.

“ Le milieu d’un lac sert également de ligne de démarcation entre les deux états riverains, à moins qu’une autre limite n’ait été consacrée par l’usage ou par les traités. On reconnaît dans la règle aux habitants des deux rives le droit de libre navigation.

“ On doit prendre ici pour ligne frontière le milieu du lac, parce qu’il n’y a pas de thalweg des lacs.

* * * * *

“ 303.

“ Lorsque deux états sont situés au bord d’une mer libre, mais si étroite que la bande de mer faisant partie du territoire de l’un, empiète sur la bande de mer qui dépend du territoire de l’autre, ces deux états sont tenus de s’accorder réciproquement les droits de souveraineté sur l’espace commun, ou de fixer ensemble une ligne de démarcation.

“ Les deux états se trouvent ici à peu près dans la même position que les états riverains d’un fleuve ou d’un lac. Ils sont tous deux concurremment souverains.”

Consequently, they say that as in the treaty of 1825 it was provided that the frontier between the British possessions and the Russian lisière should be a line drawn along the crest of the mountains "situées parallèlement à la côte" and that in case at any point the summit of the mountains should prove to be further than ten marine leagues from the ocean, that then the line of demarcation should be drawn by a line parallel to the sinuosities of the shore, from which it shall be never further than ten leagues—the Canadians say that in estimating the coast line the outer edge of the territorial waters must be taken, and that from this imaginary line the ten league limit must be computed. Thus they maintain, that the line of frontier does not pass around all the sinuosities of the coast, but across many of them, leaving the upper reaches, as the greater part of the upper extremity of the Lynn Canal, for example, within Canadian Territory.⁷⁴

⁷⁴ From the first the Canadians have veered and changed about continually in their demands. Canadian writers by suppressing some facts and twisting and manipulating others to suit their wishes, have managed to present to their countrymen and their kindred in Britain some apparently plausible arguments in support of the Canadian claim. The Canadian method of citing evidence brings to mind the following anecdote from the pen of Charles Reade's *The Cloister and the Hearth*. (Chapter XXXVI. Note): "Sinclair was a singer: and complained to the manager that in the operatic play of Rob Roy he had a multitude of mere words to utter between the songs. 'Cut, my boy, cut!' said the manager. On this, *vox. et p. n.* cut

In support of this proposition they invoke the well known principle of International Law that a State has jurisdiction over its marginal waters to the distance of one marine league from the shore. And they cite Bluntschli and other world famed authorities in support of their position.

An argument pressed to support the Canadian wish that the outer edge of the territorial waters should be taken instead of the shore line of the sinuosities of the coast in measuring the ten marine leagues inland, is that in both the English and the Russian draft treaties, the word *mer* was used in the French copies, while in the French version of the actual treaty the word *mer* has given place to *océan*. In the draft convention that George Canning sent July 12, 1824, to Sir Charles Bagot as a basis for negotiations, among the words used in Article III. of that draft to designate how the eastern boundary of the *lisière* should run occurs the expression, "depuis la mer vers l'intérieur" (from the sea towards the interior). In Article II. of the Russian counter-draft, in which the eastern boundary of the *lisière* is described, the expression used is "à partir du bord de la mer"

Scott, and doubtless many of his cuts would not have discredited the condensers of evidence. But only one of his master-strokes has reached posterity. His melodious organs had been taxed with this sentence: 'Rashleigh is my cousin; but, for what reason I cannot divine, he is my bitterest enemy.' This he condensed and delivered thus: 'Rashleigh is my cousin, for what reason I cannot divine.'"

(starting from the sea shore). Finally in the treaty of 1825 itself, among the words used in Article IV. to describe the limits to the east of the lisière occurs the expression, "se trouveroit à la distance de plus de 10 lieues marines de l'océan." It is argued that from this substitution of the word *océan* in the treaty for the word *mer* that was used in the two draft-conventions the limit of the ocean was intended as the line from which the ten marine leagues inland should be measured, and it is urged that by the use of the word *océan* instead of *mer* the salt water outside of the islands was meant.

The absurdity of this argument, however, is proved by the fact that the words *océan* and *mer* in French geographies and in International Law are used interchangeably to mean the salt water that encircles all the land on the earth.

To begin with the words *mer* and *océan* are both used in the treaty itself to mean the same thing, to wit: in Article I., *Océan Pacifique*, and in Article VI., *Mer Pacifique*.

Then in the *Petite Géographie Ancienne* of Meissas and Michelot published at Paris in 1857, the *mers* of Europe are described on pages three and four as follows:

"4 Mers.

"On comptait en Europe treize mers principales, dont trois grandes et dix petites.

"Les trois grandes étaient: 1° l'Océan Hyperborée

(océan Glacial du nord); 2° l'océan Atlantique; 3° la mer Intérieure (Méditerranée). Les dix petites étaient: 1° la mer Germanique (mer du Nord); 2° la mer Hibernienne (mer d'Islande), formée par l'océan Atlantique;" and so on. In this quotation it is seen that the two words are used interchangeably.

In the *Petite Géographie Méthodique*, by the same authors, published at Paris in 1896, the watery mass of the earth is thus described:

"On donne le nom d'*océan* ou de *mer* à la vaste étendue d'eau salée qui couvre les trois quarts du globe.

"On appelle encore *mers* diverses parties de l'océan auxquelles on donne des noms particuliers."

A little further on Meissas and Michelot say:

"L'Océan-Glacial du nord et celui du sud s'appellent aussi *mers Glaciales* ou *mers Polaires*."

How the two words are used interchangeably in International Law is well expressed by Rivier who was a thorough master of his native language.

"La mer, ou l'Océan," he says,⁷⁵ "est l'immense étendue d'eau salée qui entoure et relie les continents.

* * * * *

"Elle est libre.

"La mer libre est donc la haute mer, qu'on nomme aussi la pleine mer. Le langage juridique use de ces divers termes indifféremment, et le même sens est

⁷⁵ *Principes du Droit des Gens* par Alphonse Rivier: Paris, 1896, Volume I., pages 234-235.

généralement attribué aux mots mer et Océan employés sans qualificatif. Quant on énonce le principe de la liberté de la mer, ou des mers, il s'agit de la haute mer."

Of the meaning of *mer* and *océan*, Littré, who was a member of *l'Académie Française*, says in his *Dictionnaire de la Langue Française* :

"REM. Le mot *mer*, au singulier, se prend dans deux sens: 1° l'amas des eaux qui environne la terre; 2° dans une acception plus restreinte, une certaine étendue d'eau salée contiguë aux côtes et portant un nom particulier comme la mer d'Irlande, la mer du Nord, etc."

"REM. Océan prend un O majuscule quand il signifie la vaste étendue d'eau salée qui entoure le globe, ou quand il est dit absolument pour océan Atlantique, ou pour le dieu mythologique; et un o minuscule quand on parle des parties de cet océan: l'océan Atlantique, ou quand il est pris figurément: un océan de feux. On observera que les adjectifs qui déterminent les parties de l'Océan prennent une majuscule: l'océan Atlantique, l'océan Pacifique, l'océan Indien."

Then defining the adjective *Océane*, Littré says :

"REM. L'Académie [Française] écrit mer océane, par un o minuscule; il faudrait un o majuscule, mer Océane, puisqu'on écrit avec une majuscule mer Méditerranée, mer Atlantique, mer Pacifique, etc."

In the first French dictionary which *l'Académie*

Française published in 1694, the interchangeable use of *mer* and *océan* is thus attested at that time:⁷⁶

“Mer. s. f. L’amas des eaux qui composent un globe avec la terre, & qui la couvrent en plusieurs endroits. *La grande mer, ou la mer Océane. mer Méditerranée. mer Atlantique. mer Germanique. mer Britannique. mer Pacifique. mer Glaciale.*

* * * * *

“On appelle, La mer Méditerranée, *Mer du Levant*, & l’Océan, *Mer du Ponant.*”

“Océan. s. m. La grande mer qui environne toute la terre.”

From the above quotations from Littré, backed by the first dictionary of the French Academy, it is clear that not only the first authority to-day on the meaning and value of French words, says that *mer* and *océan* can be used interchangeably to mean the salt water that envelops the continents, but also that he actually uses himself the expressions *mer Pacifique* and *l’océan Pacifique*.

Consequently the attempt to draw a distinction as to the meaning of the words *mer* and *océan* used

⁷⁶ *Le Dictionnaire de l’Académie Française dédié au Roy. À Paris: Chez la Veuve de Jean Baptiste Coignard, Imprimeur ordinaire du Roy, & de l’Académie Française, rue S. Jacques, a la Bible d’Or: et Chez Jean Baptiste Coignard, Imprimeur & Libraire ordinaire du Roy, & de l’Académie Française, rue S. Jacques près S. Severin, au Livre d’Or.—M.DC.LXXXIV. Avec privilege de sa Majesté.*

in the draft-conventions and in the treaty of 1825 falls to the ground.

In constructing the theory and argument that, in estimating the ten marine leagues inland provided for by the fourth article of the treaty, the outer edge of the United States territorial waters should be taken as the starting point of measurement, the Anglo-Canadian advocates have left out of account the strict and exact meaning of the last part of the fourth article of the treaty of 1825. The French text of the treaty was the official version, and the English and the Canadian Governments have both recognized it as such.⁷⁷ At the end of the fourth article of the treaty, it is said that the frontier line of the *lisière* shall be drawn “parallèle aux sinuosités de la côte.” What does this French expression mean? The significance of this phrase is made absolutely clear by the use of the words, *côte* and *sinuosités*. Littré, in his *Dictionnaire de la Langue Française*, defines *côte* in this manner: “|| 9° Terme de marine. Rivage de la mer. Une côte basse, sablonneuse, escarpée. Ranger la côte, aller le long de la côte. Donner à la côte, échouer. Le courant portait à la côte. Il lui donna la gouvernement de toute la côte de la mer, VAUGEL. *Q. C.* liv. II. ch. 8. Toute la côte était couverte d’hommes,

⁷⁷ *Fur Seal Arbitration*, Volume IV., page 500. Dr. Dawson’s letter to Sir Charles Tupper of February 7th, 1888: *Senate Ex. Doc. No. 146, 50th Congress, 2d Session, pages 4-7.*

d'armes, de chevaux et de chariots en mouvement, FEN. *Tel.* XX. La plupart des peuples des côtes de l'Afrique sont sauvages et barbares, MONTESQ. *Esp.* XXI. 2. * * * Se dit, par extension, des approches de la terre, jusqu'à une certaine distance au large. Une côte pleine d'écueils. Les pirates qui couraient nos côtes.

* * * * *

Au plur. Les contrées voisines de la mer." Thus Littré shows that *côte* means the general shore line along salt water.

In the first dictionary of the French language that *l'Académie Française* published in 1694, the meaning of *sinuosité* is thus expressed:⁷⁸

"Sinueux, euse. adj. Qui est tortueux; qui fait plusieurs tours & detours. Il n'a guere d'usage que dans la poësie. *Les replis sinueux d'un serpent, d'une coulouvre. le cours sinueux de Méandre.*

"Sinuosité. s. f. Estat d'une chose sinueuse. *Les sinuositez d'un serpent. cette riviere a beaucoup de sinuositez, fait beaucoup de sinuositez.*

"On dit aussi, En termes de Chirurgie, qu' *Une playe a beaucoup de sinuositez*, pour dire, qu'Elle fait

⁷⁸ *Le Dictionnaire de l'Académie Française dédié au Roy.* À Paris; Chez la Veuve de Jean Baptiste Coignard, Imprimeur ordinaire du Roy, & de l'Académie Française, ruë S. Jacques, a la Bible d'Or: et Chez Jean Baptiste Coignard, Imprimeur & Libraire ordinaire du Roy, & de l'Académie Française, ruë S. Jacques près S. Severin, au Livre d'Or.—M.DC.LXXXIV. Avec privilege de sa Majesté.

des tours & des detours. On dit de mesme, qu'*Il y a des endroits sous la terre où il y a beaucoup de sinuositez.*” Then Littré defines *sinuosité* as meaning: “Qualité de ce qui est sinueux. Cette rivière fait beaucoup de sinuosités. Il allait dans une chaloupe avec deux ingénieurs côtoyer les deux royaumes de Danemark et de Suède, pour mesurer toutes les sinuosités, Font. *Czar Pierre*. Les jeunes Déliens se mêlèrent avec eux (les Athéniens) pour figurer les sinuosités du labyrinthe de Crète, Barthél, *Anach.* ch. 76.” Webster defines *sinuosity* to mean: “1. The quality of being sinuous, or bending in and out. 2. A series of bends and turns in arches or other irregular figures; a series of windings. ‘A line of coast certainly amounting with its *sinuositiés*, to more than 700 miles.’ S. Smith.”

Thus back in 1694 the men who were officially empowered by the State to declare the meaning of French words and to regulate French grammar, and the great authority of to-day on the same subject, have said that a sinuosity was an indentation or a pouch. Such a meaning exactly fits the configuration of the Lynn Canal or Channel, for instance, which is a *sinuosité de la côte* of the northwest coast of North America. The water of the Lynn Canal is salt or sea water, not fresh water. And the shores that enclose the Lynn Canal are part of the general coast line or *côte* to use the word of the French text of the treaty of 1825. Consequently, in

finding the frontier line according to the expression "parallèle aux sinuosités de la côte," the shore line passing around the Lynn Canal must be taken as the basis from which to measure the ten marine leagues inland and not some imaginary water line crossing near its mouth. And so in the same way with all the other sinuosities or fiords or estuaries that cut into the mainland above fifty-four forty, their shore lines must be taken as the lines of departure from which to measure the ten marine leagues inland.

Thus by inserting the words *sinuosités* and *côte*, the negotiators made it perfectly clear that—in directing that the eastern line of demarcation of the lisière should be drawn "parallèle aux sinuosités de la côte,"—they meant that the frontier should pass around all the sinuosities that advance into the mainland and not cut across any of them, so that the whole of the Lynn Canal and all the other fiords above the Portland Canal would be included within the Russian lisière. *For if the line cut across the sinuosities of the shore, how could it be parallel to them?*

Besides, Mr. William H. Dall of the United States Geological Survey has pointed out that the Canadian argument, that the ten leagues inland should be measured from the outer line of the territorial waters as the basis of measurement, disproves itself through a *reductio ad absurdum*.

“It happens,” he says,⁷⁹ “that there are none of the islands in the archipelago north of Dixon’s Entrance which do not at some point approach within six miles of one another or of the continental shore. They are all mountainous. As General Cameron, if he applies his hypothesis, has no right to apply it partially or imperfectly, it will follow that all the archipelago for that purpose will become solid land. Of this ‘land’ there would be a strip, excluding all of the continent, in no place less than fifty and sometimes eighty miles wide. Under the treaty not over thirty miles from the ocean could be possessed by Russia when not mountainous, and as the mountains come to the sea nearly all the way from Cape Muzon to Cape Spencer, the only property possessed by Russia in the archipelago would have been (1) Prince of Wales Island, which in the treaty is absolutely given to her, and (2) a strip a mile or two in average width on the ocean shores of the most seaward islands. It is perfectly easy to verify this if one would take such trouble, and it is certainly absurd enough for anybody.”

The Canadians, moreover, overlook that rule of International Law, that two States can agree by treaty or otherwise, to suspend as between themselves any rule of the Laws of Nations, provided

⁷⁹ *Senate Ex. Doc. No. 146, 50th Congress, 2nd Session, page 25.*

that they do not thereby trespass upon the rights of other Powers.

Grotius recognized that two Nations can, as between themselves, alter the rules of the Laws of Nations. Thus he said:

“For peoples as well as individuals may by compact concede to another not only the Rights which are theirs specially, but also those which they have in common with all men: and when this is done, we may say, what Ulpian said when an estate was sold on condition that the purchaser should not carry on a thunny fishery to the prejudice of the seller, namely, that there could not be a servitude over the sea, but that the *bona fides* of the contract required that the rule of the sale should be observed; and therefore that the possessors and their successors were under a personal obligation to observe the condition.”⁸⁰

Von Martens, a representative of Hanover at the Diet of the Germanic Confederation, who taught the study of International Law at Göttingen in the latter part of the eighteenth and the beginning of the nine-

⁸⁰ “Possunt enim ut singuli, ita et populi pactis, non tantum de jure quod proprie sibi competit, sed et de eo quod cum omnibus hominibus commune habent, in gratiam ejus cujus id interest decedere: quod cum fit, dicendum est quod dixit Ulpianus in ea facti specie, qua fundus erat venditus hac lege, ne contra venditorem piscatio thynnaria exerceretur, mari servitutem imponi non potuisse, sed bonam fidem contractus exposcere, ut lex venditionis servetur. Itaque personas possidentium et in jus eorum succedentium obligari.” *De Jure Balli ac Pacis*, Lib. II., Cap. III. xv., 2.

teenth centuries, held, concerning the ability of two States to change as between themselves the Laws of Nations, this opinion :

“ In the same way, it depends upon the free choice of a nation to conclude or not treaties with another, without that a third power is authorized to stop her, so long as these treaties do not injure the right of the third power, and without especially that she is authorized to force her to conclude a treaty, or to accede to it against its will.”⁸¹

Phillimore, an English authority on the Laws of Nations, says :

“ No treaty between two or more Nations can affect the general principles of International Law prejudicially to the interests of other Nations not parties to such covenant.”⁸²

He says also :

“ Moreover, the Right to enter into lawful Conventions or Treaties with other States is as unquestionably inherent in every independent State, as the right

⁸¹ “ De même, il depend du libre arbitre d'une nation de cimenter ou non des traités quelconques avec une autre, sans qu'une tierce puissance soit autorisée à l'empêcher, tant que ces traités ne blessent pas ses droits, et sans que surtout elle soit autorisée, à la forcer de conclure un traité, ou d'y accéder contre son gré.”

Précis du Droit des Gens moderne de l'Europe, par G. F. de Martens : Paris, 1864, Volume I., § 119—“ De la liberté de conclure des Traités,” page 320.

⁸² *Commentaries upon International Law* by Sir Robert Phillimore, London, 1879. Third Edition, Volume I., page 46.

to make lawful covenants is inherent in every individual."⁸³

In recent years, Bluntschli writes :

“402.

“States, in so far as they are independent, can regulate by treaties the questions which specially concern them, and thus create between themselves a purely conventional law.”⁸⁴

In addition, the Duke of Wellington in a note to Count Lieven, the Russian Ambassador at London on November 28th, 1822, also recognized this rule. Speaking of the exclusive sovereignty that Russia had claimed in the Ukase of 1821 over Bering Sea and a considerable part of the Pacific Ocean he said :

⁸³ *Commentaries upon International Law*, by Sir Robert Phillimore, London, 1882. Third Edition, Volume II., page 69.

⁸⁴ *Das Moderne Völkerrecht der Civilisirten Staaten als Rechtsbuch Dargestellt* von Dr. J. C. Bluntschli: Nördlingen, 1878.

The original German text of Bluntschli is as follows :

“402.

“Die Staten können als selbständige Personen ihre besondern Rechtsverhältnisse durch Verträge unter einander ordnen, so dass daraus eigentliches Vertragsrecht entsteht.”

In the authorized French translation of Bluntschli, by M. de Lardy, first Secretary to the Swiss Legation at Paris (1870), this paragraph is rendered thus :

“402.

“Les états, en tant que personnes indépendantes, peuvent régler par des traités les questions qui les concernent spécialement, et créer ainsi entre eux un droit purement conventionnel.”

“We contend that no Power whatever can exclude another from the use of the open sea. A Power can exclude itself from the navigation of a certain coast, sea, etc., by its own act or engagement, but it cannot by right be excluded by another. This we consider as the law of nations, and we cannot negotiate under a paper in which a right is asserted inconsistent with this principle.”⁸⁵

Thus an English statesman of world wide note is in accord with the masters of International Law that two Nations can, as between themselves, change the Laws of Nations.

Consequently, according to the Laws of Nations and the interpretation placed by the Duke of Wellington upon the rules and regulations in force between Nations, the Muscovite and the British Empires had ample and perfect authority to disregard, as between themselves, a rule of International Law, provided that they did not thereby trespass upon the rights of other States. Russia and England could agree then, as they did by the treaty of February, 1825, to take—irrespective of the theory that for purposes of sovereignty territorial waters are “land”—the shore line of the mainland as the basis of computation in measuring ten marine leagues inland. And the evidence is abundant to show that the shore of the continent itself was exactly the

⁸⁵*Fur Seal Arbitration*, Volume IV., page 35 and also page 391.

base line that they intended should be used to compute the ten leagues towards the interior and not an imaginary water line passing from headland to headland.

Ex-Secretary of State, John W. Foster, has shown too, that the negotiations that resulted in the treaty of 1825 cut off the British Traders from all access to the interior waters of the lisière except by special license. The seventh article of the treaty provided, "that, for the space of ten years from signature of the present convention, the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the interior seas, gulfs, havens, and creeks on the coast mentioned in article three for the purpose of fishing and of trading with the natives." The negotiations were broken off a second time because the Russian plenipotentiaries refused to make perpetual this right to frequent without hindrance the inland waters. When the negotiations were renewed, they were resumed upon the basis of the fourth article of the Russo-American treaty of 1824.⁸⁶ In referring to this point, Secretary George

⁸⁶ "ARTICLE QUATRIÈME.

"Il est néanmoins entendu que pendant un terme de dix années, à compter de la signature de la présente Convention, les vaisseaux des deux Puissances, ou qui appartiendroient à leurs citoyens ou sujets respectifs, pourront réciproque-

"ARTICLE FOURTH.

"It is nevertheless understood that during a term of ten years, counting from the signature of the present convention, the ships of both powers, or which belong to their citizens or subjects respectively, may reciprocally frequent

Canning said in his instructions to Sir Stratford Canning: "Russia cannot mean to give the United States of America what she withholds from us, nor to withhold from us anything that she consented to give to the United States."⁸⁷ With pungent force Mr. Foster has pointed out how the provisions of the seventh article of the treaty of 1825 show that all the inland waters of the lisière in their whole extent were to belong to Russia. He has said that, "this ten years' privilege is inconsistent with any other interpretation of the treaty than the complete sovereignty of Russia over, not only a strip of territory on the mainland which follows around the sinuosity of the sea, but also of the waters of all bays or inlets extending from the ocean into the mainland. This is the more manifest when the subsequent history respecting the provision of article four of the American and article seven of the British treaty is recalled. At the expiration of the time of ten years the Russian Minister at Washington gave notice to the Government of the United States that the privilege had expired, and a notification to that effect was made in the public Press of the United States.

ment fréquenter sans entrave quelconque, les mers intérieures, les golfes, havres et criques sur la côte mentionnée dans l'article précédent, afin d'y faire la pêche et le commerce avec les naturels du pays."

without any hindrance whatever the interior seas, gulfs, harbors, and creeks upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country."

⁸⁷ *Fur Seal Arbitration*, Volume IV., page 447.

Persistent efforts were made by the United States to have the privilege extended for another period of ten years, but it was firmly refused by Russia. The British privilege was likewise terminated upon the expiration of the ten years mentioned, and this article of the treaty was never again revived.”⁸⁸

Furthermore, it is a fact that George Canning in his instructions to Sir Charles Bagot, of January 15th, 1824,⁸⁹ stated that while the British Government wished to restrict the extent of Muscovite territory as much as possible, yet it was ready to give, as a *quid pro quo* for the repeal by the Russian Government of the Ukase of 1821, an eastern frontier line for the Russian lisière one hundred miles back from the ocean, and to have the line to the Arctic Ocean drawn along the one hundred and thirty fifth degree of longitude.

Canning said :—

“It is absolutely essential, therefore, to guard against any unfounded pretensions, or any vague expectation of Russia to the eastward, and for this purpose it is necessary that whatever degree of latitude be assumed, a definite degree of longitude should be assigned as a limit between the territorial rights of the two Powers.

“If your Excellency can obtain the strait which

⁸⁸ *The Alaskan Boundary*, by the Hon. John W. Foster, page 439.

⁸⁹ *Fur Seal Arbitration*, Volume IV., pages 419-420.

separates the islands from the mainland as the boundary, the prolongation of the line drawn through that strait would strike the mainland near Mount Elias—the lowest point of unquestioned Russian discovery. But if that were too much to insist upon, the 135th degree of longitude, as suggested by your Excellency, northward from the head of Lynn's Harbour, might suffice.

“It would, however, in that case, be expedient to assign, with respect to the mainland southward of that point, a limit, say, of 50 or 100 miles from the coast, beyond which the Russian posts should not be extended to the eastward. We must not on any account admit the Russian territory to extend at any point to the Rocky Mountains.”

Such an agreement would have included in Russian America or Alaska all the Klondike gold district.

The facts already cited show how absurd and unjust is the claim that Canada presented at the Quebec Conference in 1898 to the upper reaches of the sinuosities that cut into the continental shore above fifty-four forty. And yet, there is still more English and Canadian evidence of great importance—which Canadian writers have ignored—that practically debars both the British and the Canadian Governments from pleading in support of the Canadian demands to an outlet on tide water above the Portland Channel or Canal.

In 1901, three years after the territorial claims of Canada were presented at the Quebec Conference in 1898, a map "North West Canada & British Columbia" showing the dioceses of the Church of England in Canada was published in the Proceedings of the Church Missionary Society.⁹⁰ (See Map No. 24.) On this map the boundaries of the dioceses are marked with heavy dotted blue lines. And the western limits of the dioceses of Caledonia and Selkirk, which abut against Alaska, are drawn precisely where the Muscovite and the American Governments have always maintained the frontier is located. This semi-official map, therefore, shows that three years after the assembling of the Anglo-American Joint High Commission, the Church of England, through its representative, the Church Missionary Society, considered that the field of its missionary labors in Canada, extended only as far west as the boundary claimed by the United States.

At the Paris Exposition of 1878, the Canadian Government exhibited a map prepared the previous year, showing the boundaries of the Dominion, which received, on account of the excellency of its draftsmanship, a first prize. On this map the frontier between

⁹⁰ *Proceedings of the Church Missionary Society for Africa and the East: One-Hundred-and-Second-Year, 1900-1901.* London Church Missionary House, Salisbury Square, 1901. "North West Canada & British Columbia. C. M. S. Report Pl. 10." (Opposite page 499.)

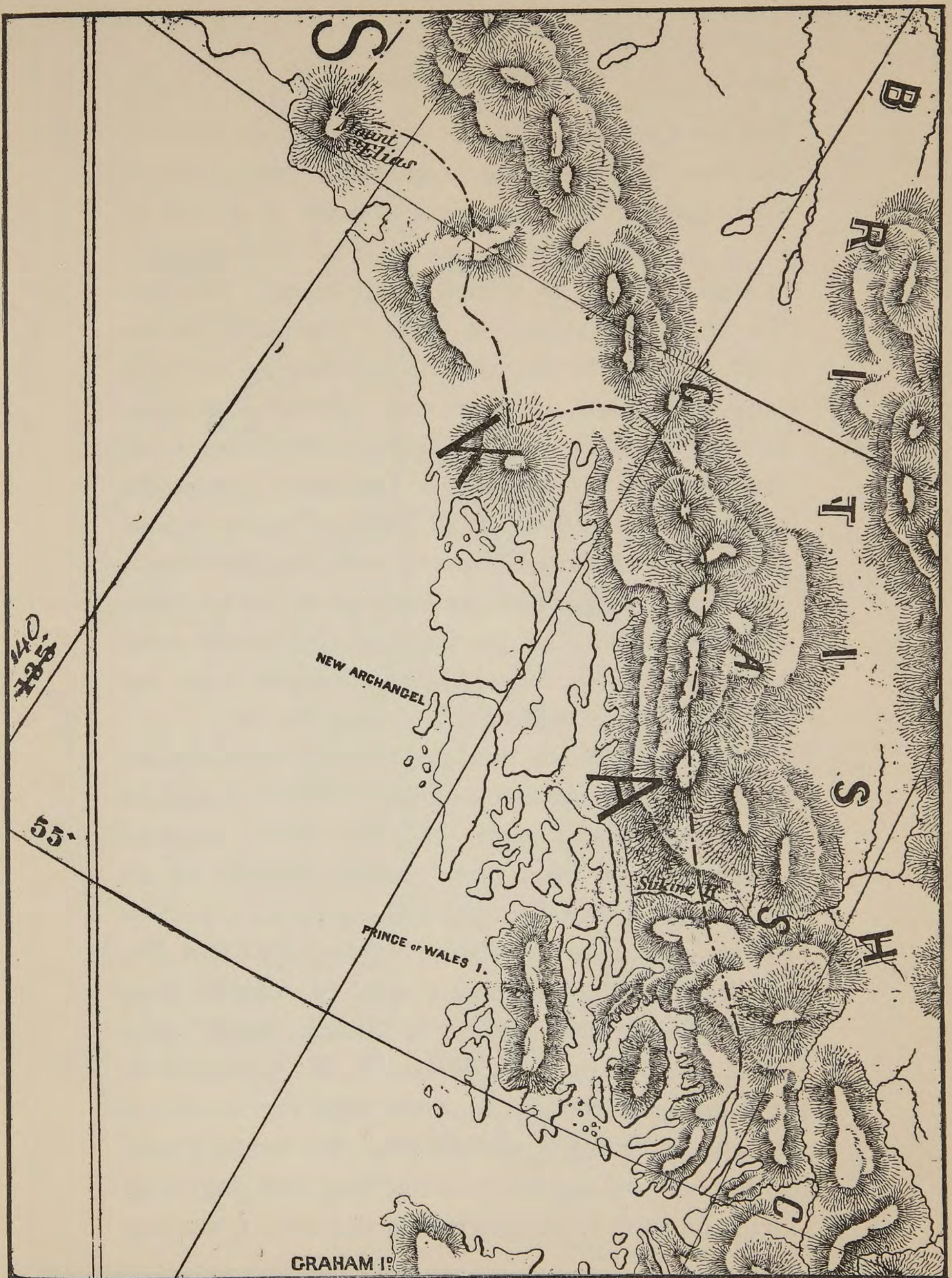


MAP IN THE CHURCH MISSIONARY SOCIETY PROCEEDINGS, 1901, SHOWING THE
DIOCESES IN CANADA.

MAP No. 24.

Canada and Alaska was marked, it is understood, in accordance with the Russian and the United States ideas of the boundary. This map hung thereafter for a number of years in the Parliament Building at Ottawa until it "disappeared" about 1886. While it is not possible at present to give a reproduction of this map, three others, more or less rare, are at hand, which show what the Canadian authorities thought was the boundary the year immediately before the Paris Exposition of 1878, and also six years afterwards, at the time General Cameron was beginning to formulate the myth that Canada has ever since reiterated and gradually perfected. The copy of the first of these maps, which was published in 1877, belonged to the late Pierre Margry,⁹¹ for many years keeper of the Archives of the Ministry of Marine at Paris. The map is entitled: "Map of the north west part of Canada * * * by Thomas Devine * * * By order of the Hon. Joseph Cauchon, commissioner of Crown lands, Crown department, Toronto, * * * 1877." This official Canadian map published in 1877, upholds, as the accompanying reproduction shows, the United States frontier claim. (See Map No. 25.) On an official Canadian map of British Columbia, published in 1884, while the frontier line is not marked along the Portland Channel but from Cape Chacon to the head of

⁹¹ This map is now in the possession of the writer.



“MAP OF THE NORTH WEST PART OF CANADA * * * BY THOMAS DEVINE * * *
 BY ORDER OF THE HON. JOSEPH CAUCHON, COMMISSIONER OF CROWN
 LANDS CROWN DEPARTMENT, TORONTO * * * 1877.”

MAP No. 25.

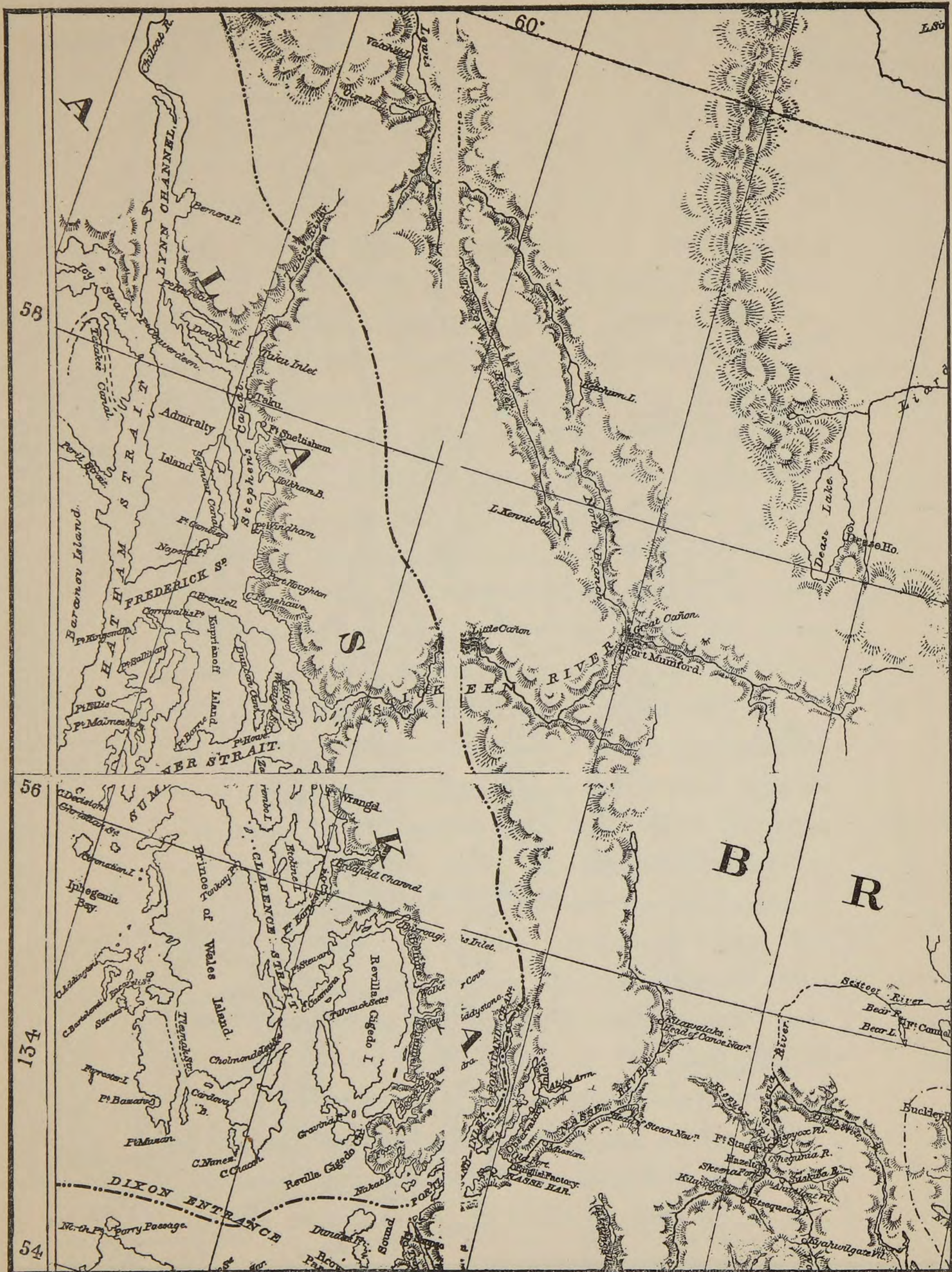
Behm's Canal in fifty-six degrees north latitude, yet from that point the frontier line, though sometimes marked too close to the shore, is drawn so as to include all the sinuosities of the mainland in their entirety in American territory. (See Map No. 26.) *And again on another Canadian Government map, issued in 1884, "Map shewing the Railways of Canada, to accompany Annual Report on Railway Statistics, 1884, Collingwood Schreiber, Chief Engineer and Genl. Manager Canadian Government railways," the frontier runs south of Pearse Island, then up the Portland Channel, and then far inland, sustaining absolutely the contention of the United States and overthrowing all the Canadian arguments about measuring the ten leagues inland from the outer line of the territorial waters. (See Map No. 27.)*

It is difficult to see how the Canadian government can in any way evade the evidence furnished against it by these official maps. But the British Imperial Government is even more sharply blocked by its own official admissions from backing up the Canadian claims. For upon the British "Admiralty Chart No. 787," giving the North-west coast of America from "Cape Corrientes, Mexico, to Kadiak Island," prepared in 1876 by F. J. Evans, R. N., published in 1877 and corrected up to *April 1898*, the frontier of the United States is marked from the Arctic Ocean down along the one hundred and forty-first degree of longitude west from Greenwich, and then advancing



OFFICIAL CANADIAN MAP OF BRITISH COLUMBIA, 1884.

MAP No. 26.



"MAP SHEWING THE RAILWAYS OF CANADA, TO ACCOMPANY ANNUAL REPORT ON RAILWAY STATISTICS, 1884, COLLINGWOOD SCHREIBER, CHIEF ENGINEER AND GENL. MANAGER CANADIAN GOVERNMENT RAILWAYS." COMPILED BY CANADIAN PACIFIC RAILWAY.

MAP No. 27.

on the continent but passing round the sinuosities of the coast so as to give a continuous lisière of territory cutting off the Dominion of Canada from all contact with any of the fiords or sinuosities that bulge into the continent between Mount Saint Elias and the Portland Channel, the frontier is drawn to the head of the Portland Channel at about fifty-six degrees. (See Map No. 22.) But not satisfied with this official confirmation of the Russian and the United States claims, which was made only five months before the Quebec Conference met, *the British Admiralty actually renewed upon this same chart, corrected to August 1901, more than two years after the conference adjourned, their sanction of the boundary claimed first by Russia, and afterwards by the United States. (See Map No. 1.) Thus the British Government itself has upheld both before the assembling of the Joint High Commission and also since that body adjourned the territorial claims held and maintained by both the Russian and the United States Governments, whereby Canada is not entitled to an outlet upon tide water above fifty four forty.*⁹² In the face of these two

⁹²I bought one copy of Admiralty Chart No. 787, corrected to April, 1898, at Edward Stanford's, 26 and 27 Cockspur, Charing Cross, S. W., London, in September, 1901, and two copies of the same chart corrected to August, 1901, at Stanford's in London, in September, 1902.

A section of Admiralty Chart No. 787 corrected to April, 1898, showing the Alaskan lisière, was reproduced in *The Alasko-Canadian Frontier* (*The Journal of the Franklin Institute*, March,

issues (1898 and 1901) of Chart No. 787, how can any British statesman in the future argue in favor of the Canadian claims?

But there is still more official English evidence that blocks the Canadian demands.

When the Duke of Wellington was about to start in 1822 to represent England at the International Congress of Verona, he received from Secretary Canning instructions to urge upon the attention of the Russian plenipotentiaries at that Congress the protest of the British Government against the Ukase of 1821. In those instructions, after consulting and obtaining the opinion of the great English jurist Lord Stowell (earlier Sir William Scott), Canning wrote to the Duke of Wellington:

“Enlightened statesmen and jurists have long held as insignificant all titles of territory that are not founded on actual occupation, and that title is, in the opinion of the most esteemed writers on public law to be established only by public use.”⁹³

In a Memorandum on the Russian Ukase of 1821, that the Duke of Wellington wrote at Verona, October 17th, 1822, for Count Nesselrode, he said:

“The best writers on the laws of nations do not

1902). A reprint of this article was sent to all the members of the present Congress, including Mr. Griffith of Indiana who thereupon called attention to that chart in the House on May 13, 1902. See the *Congressional Record*, May 14th, 1902, page 5825.

⁹³ *Fur Seal Arbitration*, Volume IV., page 388.

attribute the exclusive sovereignty, particularly of continents, to those who have first discovered them; and although we might on good grounds dispute with Russia the priority of discovery of these continents, we contend that the much more easily proved, more conclusive, and more certain title of occupation and use, ought to decide the claim of sovereignty.”⁹⁴

In addition, Sir Robert Phillimore, a leading authority upon questions of International Law, has thus described what confers upon a Nation title through occupation.

“The next step,” he says,⁹⁵ “is to consider what facts constitute occupation; what are the signs and emblems of its having taken place: for it is a clear principle of International Law, that the title may not be concealed, that the *intent* to occupy must be manifested by some *overt* or *external* act.

* * * * *

“These acts, then, by the common consent of nations, must be *use* of and *settlement* in the discovered territories.

* * * * *

“Indeed, writers on International Law agree that Use and Settlement, or, in other words, *continuous use*, are indispensable elements of occupation prop-

⁹⁴ *Fur Seal Arbitration*, Volume IV., page 389.

⁹⁵ *Commentaries upon International Law* by Sir Robert Phillimore, D. C. L., a member of Her Majesty's Most Honourable Privy Council, and Judge of the High Court of Admiralty. Third Edition, London, 1879. Volume I., pages 331, 333, 334.

erly so called. The mere erection of crosses, land marks, and inscriptions is ineffectual for acquiring or maintaining an exclusive title to a country of which no real use is made.

“But when occupation by Use and Settlement has followed upon discovery, it is a clear proposition of Law, that there exists that corporeal possession (*corporalis quaedam possessio* [Grotius] *detentio corporalis* [Bynkershoek] which confers an exclusive title upon the occupant, and the *Dominium eminens*, as Jurists speak, upon the country whose agent he is.”

In the light of the above statements of International Law by two of the leading statesmen of England, Canning and Wellington, at the time she negotiated the Anglo-Muscovite treaty of 1825, as well as the above quotation from an English international jurist of such world wide repute as Phillimore, by what acts have Russia, England and the United States demonstrated their respective rights of occupancy to the territory included in the unbroken Alaskan lisière?

On the one hand the British Government, up to the Quebec Conference, at least, has not claimed that either through British officials or subjects it ever actually occupied any part of the American territory to which it formally laid claim at the Quebec Conference in 1898. Instead of this the British Authorities recognized both by English and Canadian official maps, by confirming the lease of the Russian Ameri-

can Company to the Hudson's Bay Company of the unbroken lisière on the main land from Cross Sound down to fifty four degrees forty minutes, by numerous acts of British officials and even by English and Canadian state papers, that the British Empire had not rights of occupancy in the Alaskan lisière.

On the other hand, both the Muscovite and the United States Governments enforced their right to the lisière by actual acts of occupancy and sovereignty in the territory to which the English Empire now lays claim. In the first place, as soon after the promulgation of the treaty of 1825 as the necessary information could be collected and arranged, the Russian Government published in 1827 Krusenstern's map showing as Russian territory an unbroken strip on the continent down to fifty-four degrees forty minutes, and all the interior waters enclosed by it. Two years later, in 1829, the Imperial Government in Piadischeff's atlas renewed this claim, and subsequently re-asserted it on many other maps, such as the map of Russian America in the atlas issued in the years 1830 to 1835 by the Russian War Office, and that of Tebenkoff published in 1849, and on the official Russian map of 1861. The Russian American Company also built forts and established trading posts in the lisière, thus actually occupying the territory in question for the purpose of the fur trade. Besides, in 1839, the Russian American Company leased the strip of coast to the Hudson's Bay

Company, which was a recognition of the sovereignty of Russia in the lisière by Britain through its authorized agent, the Hudson's Bay Company. And the English Government further confirmed the lease. This arrangement by lease was renewed in 1849 for ten years and again in 1859 for a few years, and also in 1862 for three years, and then again it was extended to 1867. On the map, too, that Sir George Simpson exhibited in 1857 before a Parliamentary Committee and which Parliament ordered to be printed, the lisière was marked according to what Russia and since 1867 the United States have always claimed as the extent of their territory. At the end of the various renewals of the original lease the Russian American Company re-entered into possession of the forts and ports in the strip, thus adding again a *de facto* to its *de jure* occupation. The Russian American Company also received the allegiance of the Indians who inhabited the lisière.

Soon after the purchase of Alaska by the United States in 1867, the Department of State published a map of the newly acquired territory, which Charles Sumner made use of in his speech in favor of the purchase. Upon this map the boundaries of Alaska were marked according to the treaty of 1825 so as to give to the United States a lisière thirty miles inland on the continent, thereby including in American territory an unbroken lisière below Mount Saint Elias of the same length and width as was marked

upon the Russian maps. When Alaska was transferred in 1867, a small force of United States troops immediately occupied Sitka, Port Tongas and other posts. The United States have established and maintained, since the transfer, customs posts in the lisière and collected revenue in it. The United States revenue cutters have patrolled the inland waters surrounded by the lisière. The United States have received the unquestioned allegiance of the Indians in the lisière. Americans established mission schools towards the head of the Lynn Canal in the early eighties. In the United States census of 1880, and also in that of 1890, the Indians living in the lisière were publicly and officially returned as part of the population of the United States. In addition, under the protection of the United States Government, American citizens settled in and occupied the lisière on the main land; they built towns within the panhandle; and they founded and developed industrial enterprises in the strip.⁹⁶

Thus it becomes apparent that while the United States have actually *occupied* and *made use of* the Alaskan lisière—as Russia had begun to occupy and use the strip before the sale in 1867 to the United States—both Great Britain and Canada not only by

⁹⁶A good deal of information about the value and wealth of Alaska is given in a paper read by Mr. Donald Fletcher of Seattle at the Trans-Mississippi Commercial Congress at Saint Paul, Minn., 1902. Printed at Seattle, Washington.

many official acts confirmed the belief of Russia and the United States that the *lisière* was continuous and included all the sinuosities above fifty-four forty in their entirety, but also abstained from all attempts—except under the form of a lease of the *lisière* by the Hudson's Bay Company from the Russian American Company—to occupy and make use of the strip. The title to an unbroken *lisière* on the continental shore has thus received an important confirmation through *prescription*.

Sir Robert Phillimore thus speaks of title by *prescription*:⁹⁷

“The practice of nations, it is not denied, proceeds upon the presumption of Prescription, whenever there is scope for the admission of that doctrine. The same reason of the thing which introduced this principle into the civil jurisprudence of every country, in order to quiet possession, give security to property, stop litigation, and prevent a state of continued bad feeling and hostility between individuals, is equally powerful to introduce it, for the same purposes, into the jurisprudence which regulates the intercourse of one society with another.

* * * * *

“In other words, there is an International Prescription, whether it be called Immemorial Possession, or by any other name. The peace of the world,

⁹⁷ *Commentaries upon International Law*, by Sir Robert Phillimore, 1879, London. Third Edition, Volume I., pages 361-363.

the highest and best interests of humanity, the fulfilment of the ends for which States exist, require that this doctrine be firmly incorporated in the Code of International Law.”

After citing with approval upon this point Grotius and Vattel, Phillimore continues :

“But that Prescription is the main pillar upon which the security of national property and peace depends, is as incontrovertible a proposition as that the property and peace of individuals rest upon the same doctrine.”

Phillimore then gives *his* sanction to a passage of Henry Wheaton upon this subject in the following manner :⁹⁸

“To these remarks should be added the observation of a great modern jurist:—

“‘The general consent of mankind has established the principle, that long and uninterrupted possession by one nation excludes the claim of every other. Whether this general consent be considered as an implied contract or as positive law, all nations are equally bound by it, since all are parties to it, since none can safely disregard it without impugning its own title to its possessions; and since it is founded upon mutual utility, and tends to promote the general welfare of mankind.’”

Concerning the perfection and the loss of title

⁹⁸ *Commentaries upon International Law* by Sir Robert Phillimore, 1879, London. Third Edition, Volume I., page 365.

to territory through prescription, Alphonse Rivier, holds: ⁹⁹

“Does a State lose the right to make good its sovereignty upon territory, owing to a prolonged omission?”

* * * * *

“There is no doubt, nevertheless, that a State which during a considerable lapse of time remains silent concerning its real or pretended right and accepts the injury (*lésion*) without protest or resistance, appears to renounce this right or these pretensions, abandoning them, and acquiescing in the contrary pretensions. It must be said for prescription as for occupation: the Laws of Nations do not make history retrace its steps; it sanctions, on the contrary, the state of things that the evolution of history has created and time has consecrated.”

Edmund Burke, too, recognized in the following

⁹⁹ “Un État perd-il le droit de faire valoir sa souveraineté sur un territoire, par l'effet d'une omission prolongée?”

* * * * *

“Il n'est pas douteux, néanmoins, que l'État qui pendant un laps de temps considérable garde le silence sur son droit vrai ou prétendu et accepte la lésion sans protestation ni résistance, paraît renoncer à ce droit ou à ces prétentions, les abandonner, et acquiescer aux prétentions contraires. On doit le dire pour la prescription comme pour l'usucapion: le droit des gens ne fait pas rebrousser chemin à l'histoire, il sanctionne au contraire l'état de choses que l'évolution historique a créé et que le temps a consacré.” *Principes du Droit des Gens*, par Alphonse Rivier, Consul Général de la Confédération Suisse à Bruxelles: Paris, 1896, Volume I., page 220.

passage that prescription is a part of the Law of Nations:¹⁰⁰

“If it were permitted to argue with power, might one not ask one of these gentlemen, whether it would not be more natural, instead of wantonly mooted these questions concerning their property, as if it were an exercise in law, to found it on the solid rock of *prescription?*—the soundest, the most general, the most recognized title between man and man that is known in municipal or in public jurisprudence; a title in which not arbitrary institutions but the eternal order of things gives judgment; a title which is not the creature, but the master of positive law; *a title which, though not fixed in its term, is rooted in its principles in the Law of Nature itself*, and is indeed the original ground of all known property; for all property in soil will always be traced back to that source, and will rest there.
* * * These gentlemen, for they have lawyers amongst them, know as well as I that in England we have had always a prescription or limitation, *as all nations have against each other.* * * * All titles terminate in Prescription.”

When it is remembered that for a period of more than seventy years—all through the Russian possession of Russian America from 1825 to 1867 and the United States occupation of Alaska from the latter date until the Quebec Conference convened in 1898—

¹⁰⁰ *Edmund Burke*, Volume IX., page 449. Letter to R. Burke, Esq.

the British Empire made no formal protest against the right of sovereignty to a continuous, unbroken lisière on the mainland from fifty-four degrees forty minutes in the south up to Mount Saint Elias in the north which first the Muscovite Empire and afterwards the American Republic openly asserted; and that on the contrary the British Empire not only passively assented to that right of sovereignty exercised in the continuous lisière first by Russia and afterwards by the United States, but also again and again actually confirmed it; it becomes clear that the United States, had they no other legal grounds upon which to base their right to the unbroken lisière on the continental shore, would have obtained by *prescription* a good title to that strip.

In a conference held at Washington on May 30th, 1898, between ex-Secretary of State John W. Foster and Reciprocity Commissioner John A. Kasson, representing the United States, and Sir Julien Pauncefote, the British Ambassador, and Sir Louis Davies, a member of the Canadian Ministry, acting for the British Empire, the United States and Great Britain agreed to appoint a Joint High Commission to consider and arrange upon a basis more favorable for both sides commercial reciprocity, the Bering Sea seal question and other important subjects.

The Commission met and organized for business at Quebec, August 23d, 1898. The American Commissioners were Senator Fairbanks, of Indiana, Chair-

man, Senator Gray of Delaware, Representative Dingley of Maine, ex-Secretary of State Foster of Indiana, Reciprocity Commissioner Kasson of Iowa, and T. Jefferson Coolidge of Massachusetts, ex-Minister to France. The British Commissioners were Baron Herschel, Lord High Chancellor of England, Chairman, Sir Wilfred Laurier, Premier of Canada, Sir Richard Cartright, Canadian Minister of Trade and Commerce, Sir Louis Davies, Canadian Minister of Marine and Fisheries, and Sir James T. Winter, Premier of Newfoundland.

Soon after the Commission met at Quebec, the British Government claimed that the eastern boundary of Alaska should run from the extremity of Prince of Wales Island at fifty-four degrees forty minutes, along the estuary marked on recent maps as Pearse Canal to the head of the Portland Channel, from there straight to the coast, and then along the mountains nearest to the shore and across all the sinuosities of the sea that advance into the continent up to Mount Saint Elias. (See Map No. 2.)

The subject of the boundary between Alaska and Canada was discussed at length. Mr. Foster we know, from his article on the subject and the ability he has displayed in many important posts at home and abroad, presented the American point of view with force and learning. And Lord Herschel we can be sure, judging from his long and distinguished record as a jurist and a judge, made the

most of the Canadian contention. But the Commissioners, after many sessions extending over several months, were unable to agree as to the meaning of the language of the treaty of 1825. The British Commissioners then proposed "a conventional boundary, by which Canada should receive, by cession or perpetual grant, Pyramid Harbor," on the Lynn Canal, and a "strip of land connecting it with Canadian territory to the northwest" and the rest of the boundary to be drawn about as the United States claimed it should be. This plan the American Commissioners refused. The British representatives then asked for the submission of the whole territory in dispute to the arbitration of three jurists of repute, one chosen by the United States and one by Great Britain, and the third by these two. These judges, the Anglo-Canadian Commissioners desired should be governed in making their decision by the following rules:¹⁰¹

"(a) Adverse holding or prescription during a period of fifty years shall make a good title. The arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription.

¹⁰¹ *Sessional Papers*, Volume 14, Session 1899, Volume XXXIII. (99). Boundary between Alaska and Canada. Protocol No. LXIII. of the Joint High Commission, Washington, respecting the boundary between Alaska and Canada. February 18th, 1899.

“(b) The arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing rule.

“(c) In determining the boundary line, if territory of one party shall be found by the tribunal to have been at the date of this treaty in the occupation of the subjects or citizens of the other party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case, shall, in the opinion of the tribunal, require.”

The United States Commissioners, while ready to accept arbitration with rules “a” and “b” desired rule “c” to read—in order to make it conform with the local conditions in Alaska—thus:

“In considering the ‘coast’ referred to in said treaties, mentioned in Article III. [the treaties of 1825 and 1867], it is understood that the coast of the continent is intended. In determining the boundary line, if territory of one party shall be found by the tribunal to have been at the date of this treaty in the occupation of the subjects or citizens of the other party, such effect shall be given to such occupation as reason, justice, the principles of international law and the equities of the case shall, in

the opinion of the tribunal, require; and all towns and settlements on tide water, settled under the authority of the United States and under the jurisdiction of the United States at the date of this treaty, shall remain within the territory and jurisdiction of the United States."

To this change in rule "c," the Anglo-Canadian representatives replied they could not agree. They objected to the declaration added to the first part of rule "c," which ran as follows: "In considering the 'coast' referred to in said treaties, mentioned in Article III. [the treaties of 1825 and 1867], it is understood that the coast of the continent is understood."

Commenting on the above quotation, the British Commissioners said: "while it was probably intended only by this clause that the line should be drawn upon the continent, the language used is open to misconception." In addition they objected to the words "that all towns or settlements on tide water, settled under the authority of the United States and under the jurisdiction of the United States at the date of this treaty, shall remain within the territory and jurisdiction of the United States," as a marked and important departure from the rules that governed the Venezuela boundary question.¹⁰²

¹⁰² Concerning the Venezuela Boundary question, see the article by ex-President Cleveland in *The Century*, Volume LXII., New Series Volume XL., May to October, 1901.

The American Commissioners then inquired whether the Anglo-Canadian representatives would consider the selection of an umpire from the American continent. The British Commissioners answered that they considered such a choice as "most objectionable."

"The American commissioners declined the British plan of arbitration, and stated that there was no analogy between the present controversy and the Venezuelan dispute; that in the latter case the occupation of the territory in question had from the beginning been followed by the constant and repeated protests and objections of Venezuela, and the controversy was one of long standing; but that in the case of the Alaskan territory there had been a peaceful and undisputed occupation and exercise of sovereignty for more than seventy years, and that no question respecting this occupation and sovereignty had been raised by the British Government until" the Joint High Commission was appointed. "They challenged their British colleagues to cite a single instance in history where a subject attended with such circumstances" was submitted to arbitration. But the United States representatives offered to submit the dispute to the decision of three judges of the highest standing from each country. With the provision, however, that as territorial questions touched so vitally the sovereignty of nations, a binding decision could only be given by four of the six

judges. The British Commissioners, however, rejected this plan of the American Commissioners.¹⁰³ The position of America on the one hand, and of Canada and Britain on the other, concerning the Alaskan boundary question, are well summed up in the words of Nesselrode in 1824: "Ainsi nous voulons conserver, et les Compagnies Angloises veulent acquerir." (Thus we wish to retain, and the English companies wish to acquire). The Joint High Commission adjourned in March, 1899, and the boundary question was referred to the

¹⁰³ The Canadians in their anxiety to have their claims to American territory submitted to an "impartial" arbitration seem to forget entirely that in 1899 Britain refused the offer of the South African Republic to refer the differences pending between those two powers to an "impartial" arbitration, and that afterwards Canada sent troops to aid in bringing the Transvaal and the Orange Free State under the dominion of the British Crown. The Transvaal offered to submit the differences with England to a Court composed of two arbitrators, nominated by the two governments respectively, who "shall agree respecting a third person, who shall act as President of the arbitration tribunal," which should decide in every case by a majority vote.

Sir Alfred Milner, in submitting this proposal to his Government, wrote:—

"It is evident that this third person will virtually decide everything, and it is provided that he shall 'not be a subject of one of the arbitrating parties,' *i. e.*, a foreigner.

"On this ground alone I feel sure her Majesty's Government will not accept the proposal. For every reason I think it is desirable that it should promptly intimate its total inability to entertain it."

See extract from Sir Alfred Milner's dispatch of June 14th, 1899, to his Home Government: *The Times*, London, August 26th, 1899, page 5.

two Governments for further negotiations. Since then the Joint High Commission has not met.

By a *modus vivendi* agreed upon on October 20, 1899, between the American Secretary of State and the British *Chargé d'Affaires* at Washington, the *actual* occupation of territory about the head of the Lynn Canal was decidedly altered.¹⁰⁴ No question of territorial jurisdiction about the summit of the Lynn Canal arose until the Klondike gold excitement of 1897. Towards the latter part of that year a post of the Canadian Northwest Mounted Police was at Lake Tagish at a point called Tagish Post many miles to the north of the White and the Chilkoot Passes. By the Circular of Instructions issued by the Commissioners of Customs of Canada, December 17th, 1897, all merchandise coming from the United States into the Northwest Territory of Canada must be reported at Tagish Post.¹⁰⁵ Soon afterwards the Canadian customs post was advanced southward to Bennett and then on to the summit of the Chilkoot Pass, and afterwards withdrawn to Lake Lindeman, which is south of Bennett. In the spring of 1898 a United States Customs Post was

¹⁰⁴ *Modus Vivendi between the United States of America and the United Kingdom of Great Britain and Ireland, fixing a provisional boundary line between the Territory of Alaska and the Dominion of Canada about the Head of Lynn Canal.*

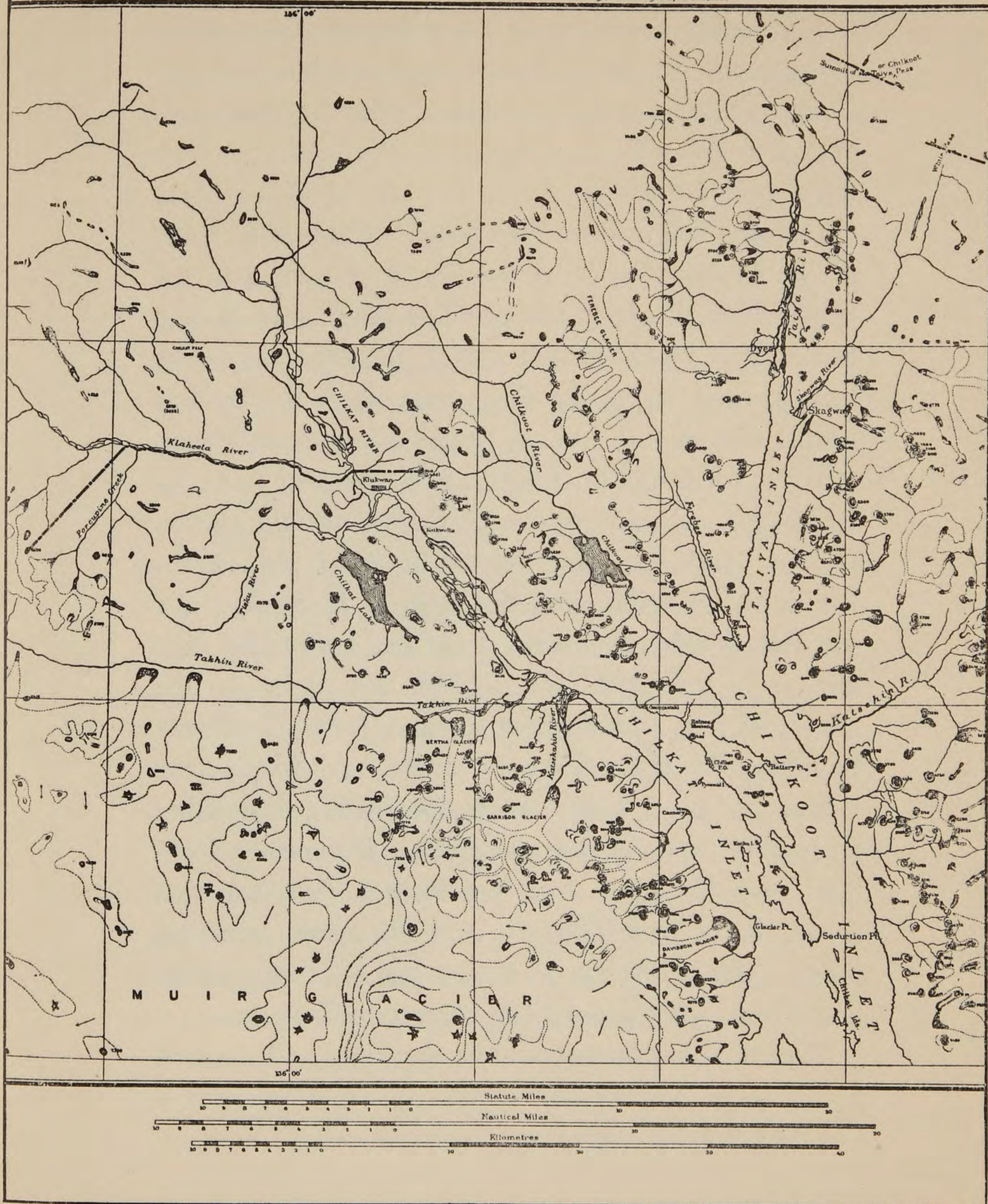
¹⁰⁵ *Sessional Papers*, Volume XXXIII. (No. 79), 62 Victoria, 1899.

established at the head of Lake Bennett. This point was selected because the United States maps of that region showed the boundary to be about at that point and at the same time it commanded both the White Pass and the Chilkoot Trails, so that one post served both. As the Canadian officials claimed that the American post at Bennett was on Canadian territory and they rendered it troublesome for the United States officer there to transact his business, the Bennett post was discontinued, and two officers were ordered to establish posts at Lake Lindeman on the Chilkoot Trail and at the Log Cabin on the White Pass Trail. Owing to the lack of accommodations at Lake Lindeman the officer on the Chilkoot Trail established himself at the summit of the Chilkoot Pass and remained there until travel by that trail ceased. The post at the Log Cabin was maintained until it was withdrawn according to the *modus vivendi* of October 1899 to the summit of the White Pass.

Before the *modus vivendi* came into force, there was a Canadian post, called Pleasant Camp, in the direction of the Dalton Trail in the valley of the Chilcat River, about ten marine leagues, or thirty miles inland from the coast line. According to the *temporary* boundary line along the Klaheela River, the point of that *temporary* line nearest to the neighboring branch or sinuosity of the Lynn Canal is much less than ten marine leagues or thirty miles inland. (See Map No. 28.) By the terms of the

Map to accompany the Modus Vivendi, concluded October 20, 1899
 between the United States and Great Britain, fixing a provisional
 boundary line between Canada and the Territory of Alaska about
 the head of Lynn Canal.

Prepared in the Office of the U.S. Coast and Geodetic Survey, Treasury Department.



MAP SHOWING THE MODUS VIVENDI, OCTOBER 20TH, 1899.

MAP No. 28.

modus vivendi the boundary of American territory was brought nearer to the coast line at three points. In agreeing to the summits of the White and the Chilkoot Passes as the provisional boundary, the spirit of the treaty of 1825 was observed. For at both those points there is a natural water shed less than ten marine leagues from the coast. But in the region of the Dalton Trail, the frontier, to accord with the spirit of the Anglo-Muscovite Treaty of 1825, should be marked much farther inland than the *temporary* line agreed upon by the *modus vivendi*. In this *modus vivendi*, the United States acted most generously towards the British Empire, which at that time was in an awkward position. Only nine days before, October 11th, war had begun in South Africa between the English and the Boers. If, owing to a possible clash between American and Canadian miners in their hunt for gold in the region of the Chilcat River, Britain was anxious for a temporary boundary in that valley in order to minimize the chances of trouble, it was not the United States that was called upon make concessions but rather England and Canada. And yet it was America that made all the concessions in this temporary arrangement. She withdrew her posts at all three points and Canada advanced hers correspondingly.

That the boundary should be surveyed and marked out without unnecessary delay so as to prevent a possible conflict between American and Canadian

miners there can be no question. There is, however, a radical difference, on the one hand, between adjusting the *inland* boundary along the natural water-shed or at a distance of ten leagues parallel to the sinuosities of the coast by a joint survey and a mutual policy of "give and take" so as to round off—owing to the multitudinous curves and turns that the line following the sinuosities would take—the sharp corners, and on the other hand, referring to an International Tribunal the recent preposterous and unjust claim of Canada to one or more outlets on tide water above fifty-four forty. When a joint survey of the exact boundary is actually carried out, it may prove to be difficult to determine whether at certain points there is a natural watershed formed by mountains passing *inland round* the sinuosities. This point, which is the only one about which there can be an honest difference of opinion, might well be referred to the International Court of Arbitration at the Hague.

Since 1623—when Éméric Crucé¹⁰⁶ urged in his *Nouveau Cynée* the creation at Venice of an International Court of the Nations—and 1625—when Hugo Grotius advocated in his *De Jure Belli ac Pacis* a mitigation of the horrors of war—until now, the development of International Arbitration as a means of securing International Peace has been slow and difficult. And it is

¹⁰⁶ *Éméric Crucé*, by Thomas Willing Balch, Philadelphia, Allen, Lane and Scott, 1900, pages 24-37.

not by trumping up fanciful territorial claims which are not based upon facts, and then straining every means to bring them for adjudication before an International Court that International Peace will be promoted through International Arbitration. And such is the position of Britain and Canada in their efforts to secure one or more outlets on tide water above "fifty-four forty." Just as Russia and the United States together have possessed and occupied an unbroken lisière on the continent from Mount Saint Elias to "fifty-four forty" for much more than fifty years, so the British Empire has had possession of British Columbia for more than fifty years: and what would Canada think if the United States asked the Dominion to submit her title to British Columbia to "an impartial" arbitration?

While the decision of the Paris Tribunal upon the Bering Sea seal fisheries very properly knocked out the contentions of sovereignty put forward by the United States Government upon an alleged closed sea, the Court compromised upon the vital point at issue, for it failed to afford adequate protection for the fur seals.¹⁰⁷ Evidently, encouraged by this miscarriage of justice, the Canadians hope, that—although they have no substantial facts with which to support their claims—if they claim only enough and then can

¹⁰⁷ *Fur-Bearing Animals of Alaska*: House of Representatives' Report No. 2303, 57th Congress, 1st session.

The Beidler Bill: H. R. 13,387, 57th Congress, 1st session.

have their contentions passed upon by an International Court, they will at least somehow get a port somewhere on the Lynn Canal. If Canada obtains a deep water harbor there as she desires, she can build and fortify a great naval arsenal, from which she would menace American commerce with Alaska, Siberia and Japan as it steams to and fro across the Northern Pacific.¹⁰⁸

¹⁰⁸ The following letter from the pen of Mr. Frederick W. Seward appeared in the New York *Tribune*, Nov. 14th, 1902:

A MENACE FROM CANADA.

MR. SEWARD BELIEVES THAT THE ALASKAN BOUNDARY DISPUTE
ENDANGERS INTERNATIONAL GOOD FEELING.

To the Editor of the Tribune:

SIR: Very few people either in England or the United States seem to comprehend the "true inwardness" of the so-called "Alaska Boundary Dispute." That is unfortunate, for it contains the germ of a grave national danger. The average newspaper reader supposes it to be a dispute over a few acres or square miles of wild land, perhaps frozen, on either side of an imaginary line. But it is not a boundary dispute of that sort. The boundary was established years ago by treaties in which both nations took part. What the Canadian schemers are pushing for now is "an outlet to tidewater" by means of a harbor on the Lynn Canal.

What is the Lynn Canal? It is a great estuary, broad and deep, like the lower Hudson or the Delaware. It traverses Southern Alaska and is the chief artery of commerce. It is the thoroughfare by which all traders, miners and travellers reach the valley of the Yukon, unless they make a two thousand mile voyage around by the ocean.

What is the harbor that the Canadian schemers covet? It is one of the most important strategic points on our Pacific Coast. It is a deep, wide, semi-circular basin, safe in all weathers, open to navigation all the year round, with easy access to the sea, large

Canada wishes, and she has the support of England,¹⁰⁹ to have her claim—that she is entitled to many outlets upon tide water above fifty-four degrees forty minutes—submitted to the arbitration of third parties. The United States should never agree to any such arrangement. If such a plan were adopted and a decision were given altogether against Canada, she would be

enough to float not only trading craft, but the cruisers and battle-ships of the British navy. It is surrounded by mountain heights which, when fortified, would render it impregnable. In a word, what they want is to establish a naval and commercial port for Great Britain, resembling Gibraltar or Aden—and to establish it in the heart of an American Territory, at the head of its inland navigation! The power owning such a stronghold might well claim to dominate the North Pacific. It would cut Alaska Territory in two parts, with British forts and custom houses between, controlling their intercourse with each other and with the outside world. Compared with such a stronghold Esquimaux or Halifax is of minor consequence. That port is the objective point that Canadian schemers are working for. That is what they hope to extort from us by threats or cajolery. They know what they are about; apparently we do not; at least, they hope so. So they muddle the question with specious pretenses of harmless purpose, by which to “outwit the Yankees.”

When this monstrous demand, without a shadow of foundation, was first put forward it brought to a sudden check the work of the Joint High Commission to settle questions between Canada and the United States. If persisted in it will do more than that. It will tend to break up the present era of good feeling between the two branches of the English speaking race—an era so full of promise for both nations and for the whole civilized world.

The whole “claim” is so preposterous and absurd that it would

¹⁰⁹ Baron Herschel, Lord High Chancellor of England, presented the argument for the Canadian territorial claims to the Anglo-American Joint High Commission.

no worse off than she has been from 1825 to the present day, while anything decided in her favor would be a clear gain to her. This country, on the contrary, cannot by any possibility obtain more than she now has, viz., that which she purchased from Russia in 1867 and to all of whose rights she succeeded ; at the same time the United States can lose heavily. For the inclusion in Canadian territory of only one port,¹¹⁰ like

hardly be credible if we did not know how silly and blind to their own interests great governments may sometimes be. The Canadian "statesmen" who are pressing it are blind leaders of the blind. They are like children playing with fire. They do not realize the far-reaching consequences of the conflagration they are trying to kindle. For it is not to be believed that the American people, when roused to an understanding of the question, are ever going to acquiesce in the construction of a Gibraltar in their own waters by any foreign power. American patience is great and American good nature is proverbial, but even these have limits.

FREDERICK W. SEWARD.

MONTROSE-ON-THE-HUDSON, November, 1902.

¹¹⁰ Mr. Alexander Begg in his article, *Review of the Alaskan Boundary Question* (December, 1900, page 24), published at Victoria, British Columbia, refers to the strategic importance for the British Empire of having some port north of fifty-four forty. He says :

"The strategic importance of that portion of British Columbia now under review should be evident to every intelligent student of the map. The day will assuredly come, in the not very distant future, when new lines of railway and telegraph will cross the Canadian half of the continent, and these lines which under the new Imperial Policy will make Canada the western highway of the Empire, must play a large part in its consolidation. Can we afford, therefore, to allow valuable strategic and commercial points on the Pacific Coast to pass into the hands of a foreign nation, when by treaty rights they are unquestionably British?"

Pyramid Harbor or Dyea on the Lynn Canal, would greatly lessen for the United States the present and future value of the Alaskan lisière. The evidence in the case is overwhelmingly on the side of the United States and shows that they are entitled, by long, uninterrupted occupancy and other rights, to an unbroken strip of land on the continent from Mount Saint Elias down to the Portland Channel. There is no more reason for the United States to allow their right to the possession of this unbroken Alaskan lisière to be referred to the decision of foreign judges, than would be the case if the British Empire advanced a claim to sovereignty over the coast of the Carolinas or the port of New York and proposed that this demand should be referred to the judgment of subjects of third Powers. If the demand of Canada to Alaskan territory is referred to foreigners for settlement, the United States can gain nothing, while they will incur the risk of losing territory over which the right of sovereignty of Russia and then of the United States runs back unchallenged for much more than half of a century. If France advanced a claim to the Isle of Wight and then asked England to refer her title to the island to the arbitration of foreigners, would Great Britain consent? And for the English Empire to make a demand to many outlets upon tide water on the northwest coast of America above fifty-four degrees forty minutes and then ask the United States to submit this claim to the arbitration of the citizens

of third Powers, is a similar case. Whether the frontier should pass over a certain mountain top or through a given gorge is a proper subject for settlement by a joint survey; and by a mutual policy of give and take in an exchange of the interlapping bits of territory, the sharp corners produced by a line run parallel to the indentations of the shore could be done away with.¹¹¹ But by no possibility has Canada any right to territory touching tide water above fifty-four degrees forty minutes.

¹¹¹ On this point see the Bayard, Phelps, Salisbury correspondence in 1885 and 1886. *Senate, Ex. Doc. No. 143, 49th Congress, 1st Session*, page 14.

POSTSCRIPT.

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Just as the book itself is printed, the *Public Ledger*, Philadelphia, Tuesday, February 17th, 1903, page 1, publishes the following article:

“ALASKA BOUNDARY PROOF.

“PRESIDENT AND SECRETARY OF WAR FIND IT
IN A BRITISH MAP.

“WASHINGTON, Feb. 16.—An interesting discovery was made yesterday by President Roosevelt and Secretary Root in regard to the Alaska boundary. As they were speaking of the labors of the Alaska Boundary Commission, of which Mr. Root is a member, they consulted the large geographical globe that stands near the Cabinet table.

“The globe is so big that the map of Alaska appears on a large scale, and they easily traced the boundary line between that Territory and the British possessions. To their surprise they found that the boundary as shown there sustains the contention of the United States in all particulars, although it was prepared under the direction of the British Admiralty.”

The fact that the British Admiralty sustains the United States claim in Alaska, was discovered in London by my brother, Mr. Edwin Swift Balch, who found British Admiralty Chart No. 787, corrected up to August, 1898. I bought the copy from which Map No. 22 is reproduced September 1st, 1901, at Edward Stanford's in London. This chart was referred to and its importance explained in an article by the writer *La Frontière Alasko-Canadienne*, which was printed at the beginning of the first number of the *Revue de Droit International* at Brussels for the year 1902 (Second Series, Vol. IV., page 17). This chart was also cited as evidence by the writer in a letter of January 27th, 1902, which was published in the *Nation* of New York, February 6th, 1902, and in the *Evening Post*, February 7th, 1902. The part of this chart showing the Alaska-Canada frontier was reproduced in the article *The Alasko-Canadian Frontier* in *The Journal of the Franklin Institute* for March 1902 (Vol. 153, No. 3, page 183), and from that article the map was reproduced in *The Philadelphia Times* (since merged in the *Public Ledger*) of April 6th, 1902. During the past ten months, this chart has been referred to over and over again by the newspapers of the United States.

The same chart, corrected to August, 1901, (see Map No. 1) is cited in this monograph for the first time as evidence, and is referred to in reviews of

this book in the *Public Ledger* and *The Press*, of Philadelphia, to-day, February 22.

On January 24th, 1903, a convention was signed at Washington by Secretary of State, John Hay, and the English Ambassador Sir Michael Herbert. It was ratified by the Senate, and became a treaty on February 11th, 1903. The treaty provides that the question of the Alaska-Canada boundary shall be referred to a Commission or Tribunal of six jurists, three to be appointed by the United States, and three by Great Britain. King Edward the Seventh, in his speech opening Parliament on February 17th, said that the treaty referred the frontier question to "an arbitral tribunal." But as an even number of Americans, and Britons or Canadians are to sit on the Commission, it can hardly be said that the subject is referred to an arbitration.

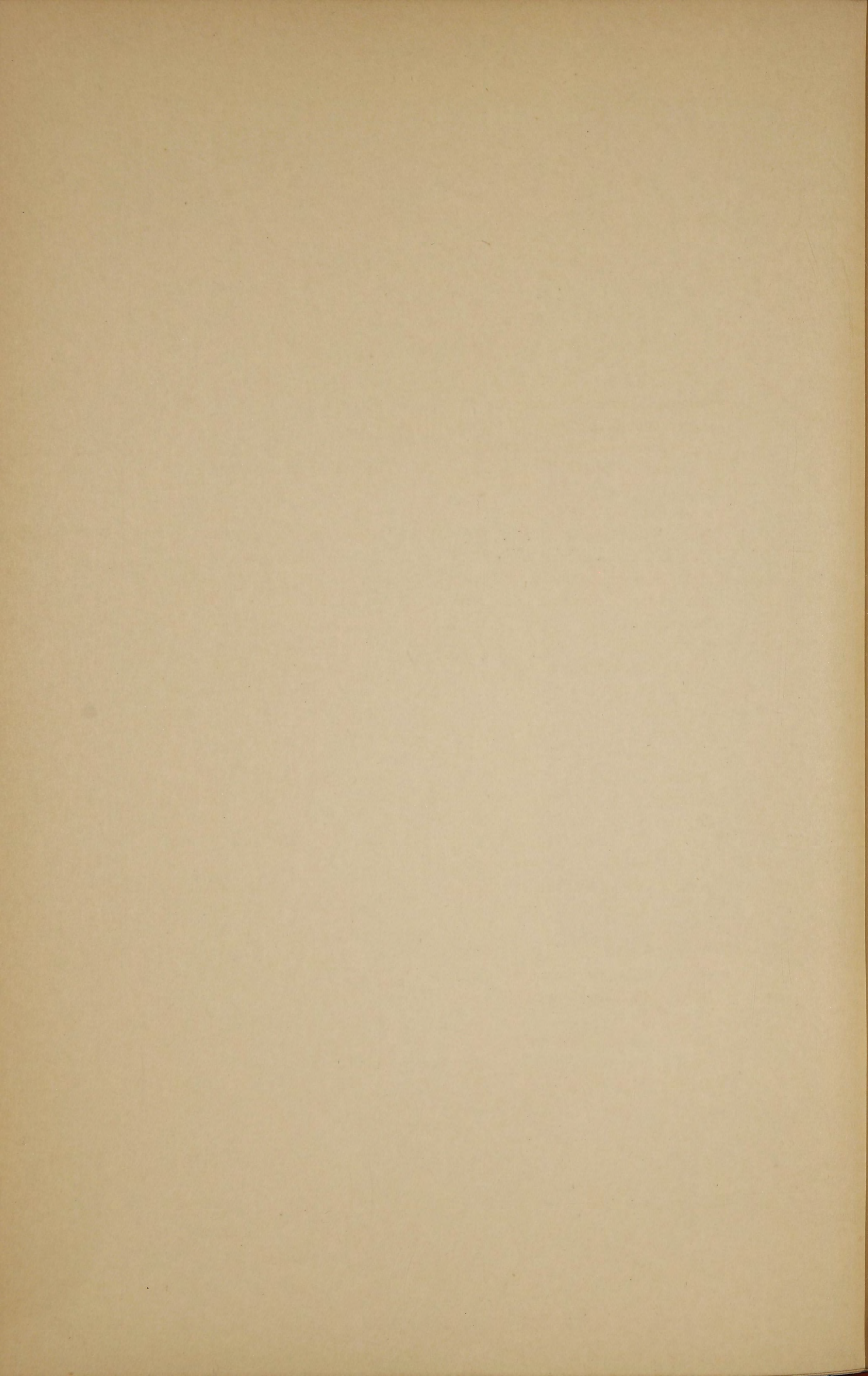
The American Commissioners, in making up their opinion must consider the acts of Canada and of England, the official Canadian Government maps and the British Admiralty charts. Moreover, the new treaty provides that the French or official version of Articles III., IV. and V. of the Anglo-Russian Treaty of February 16-28, 1825, shall be

used in deciding what arrangement the Muscovite and the British Empires agreed upon in that instrument; and in the last part of Article IV., the phrase "parallèle aux sinuosités de la côte" is republished correctly. This phrase especially, makes it incumbent upon the three American Commissioners not to yield to Canada an outlet to salt water anywhere above the Portland Channel.

T. W. B.

PHILADELPHIA, Washington's Birthday, 1903.

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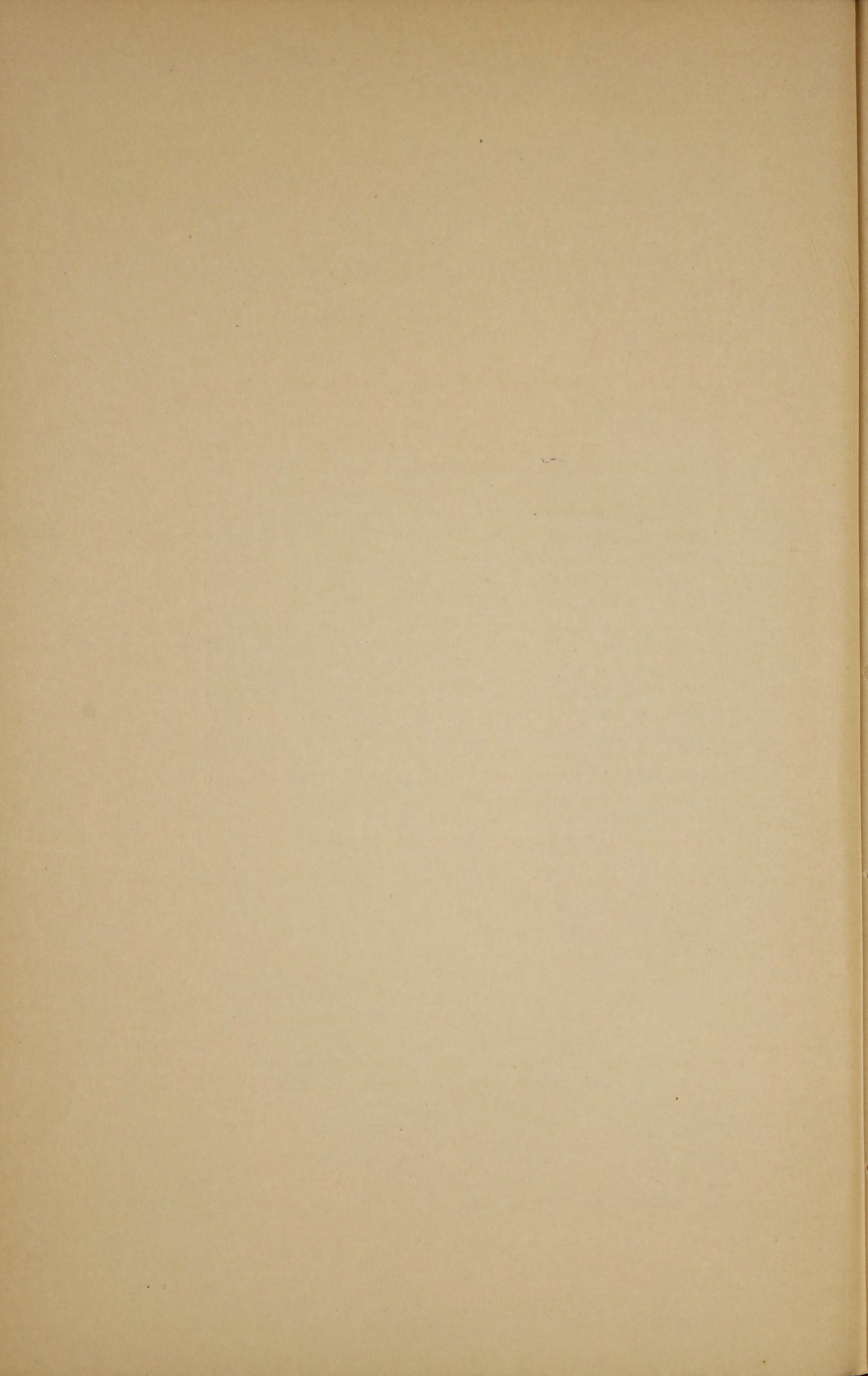
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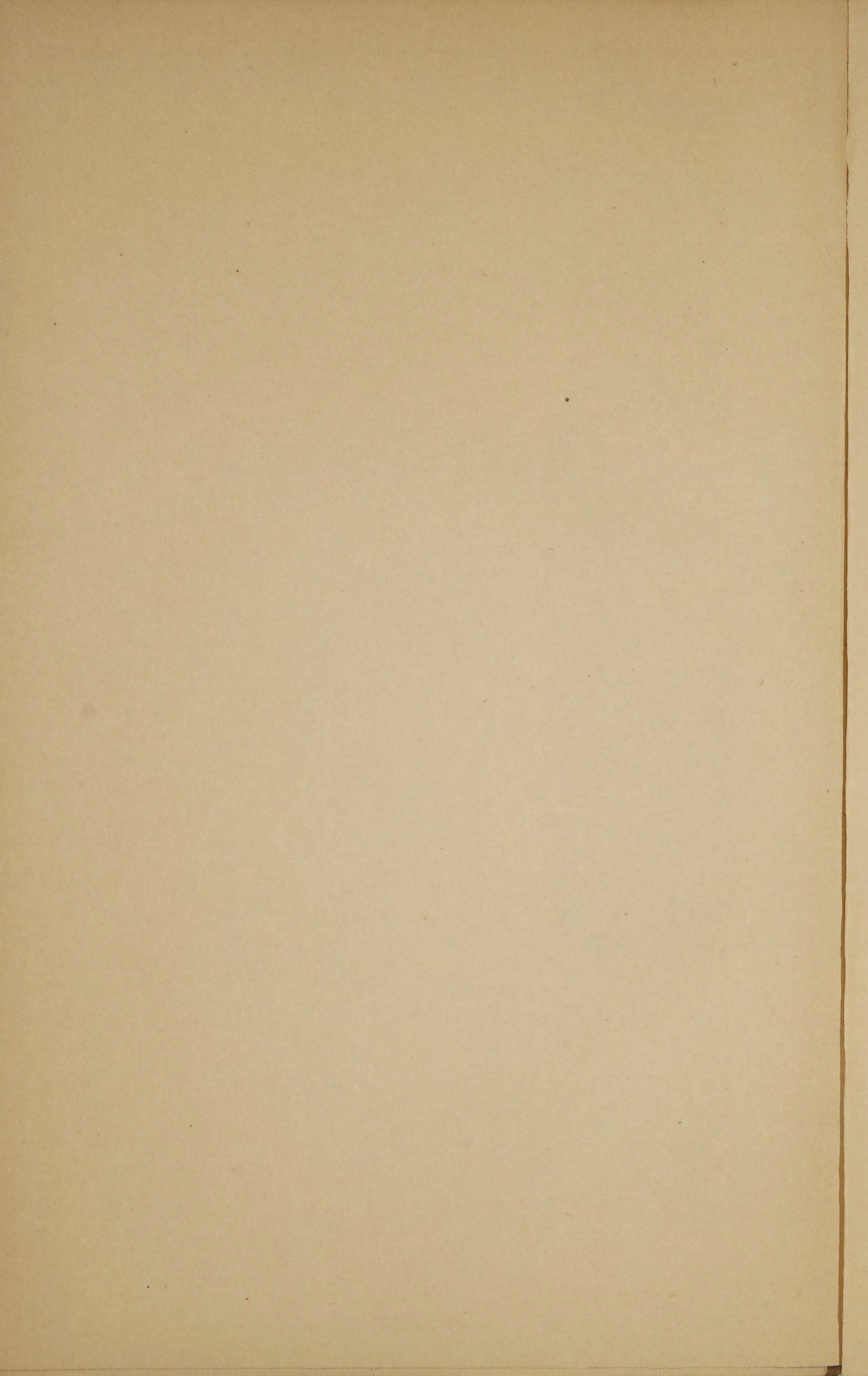
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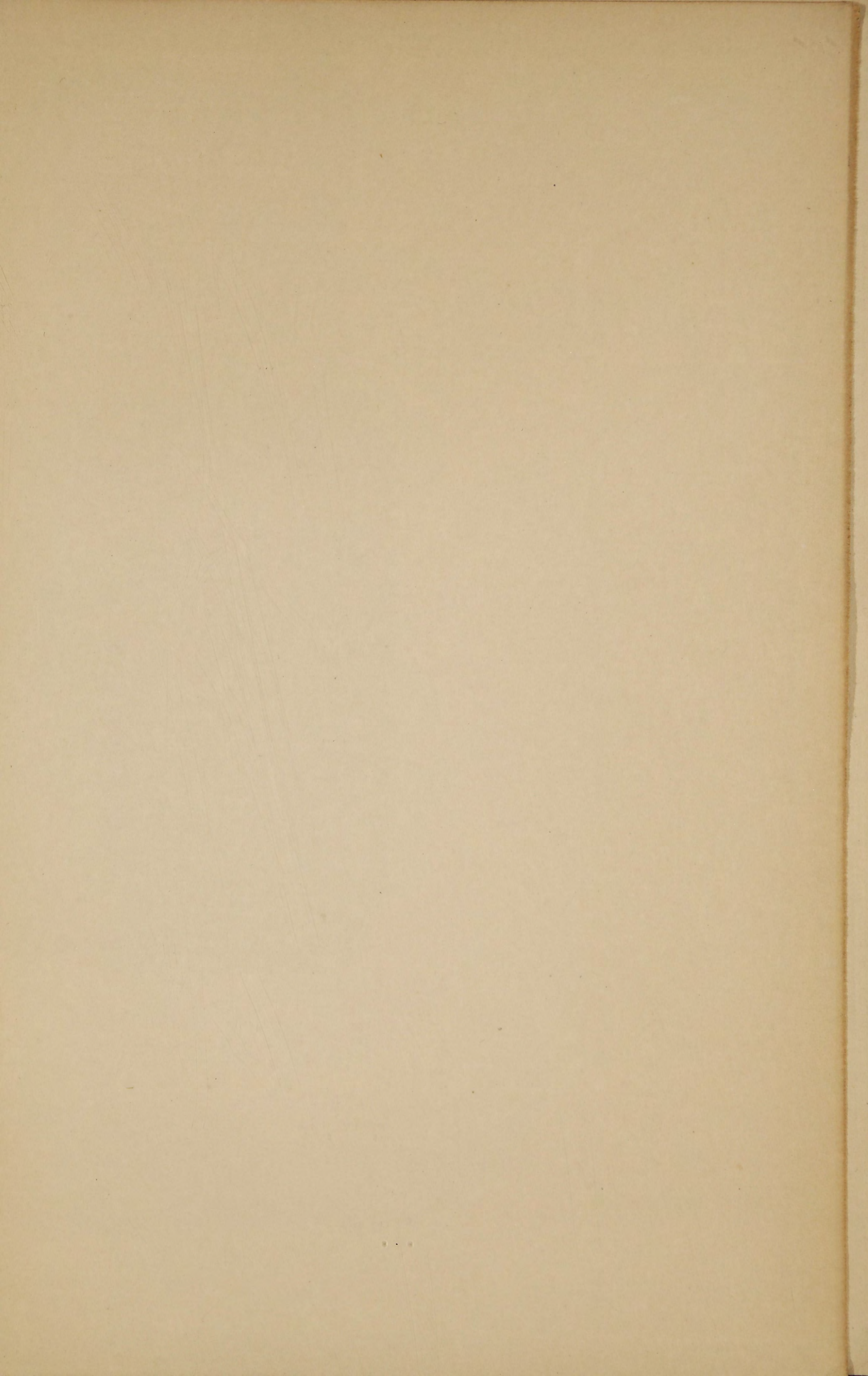


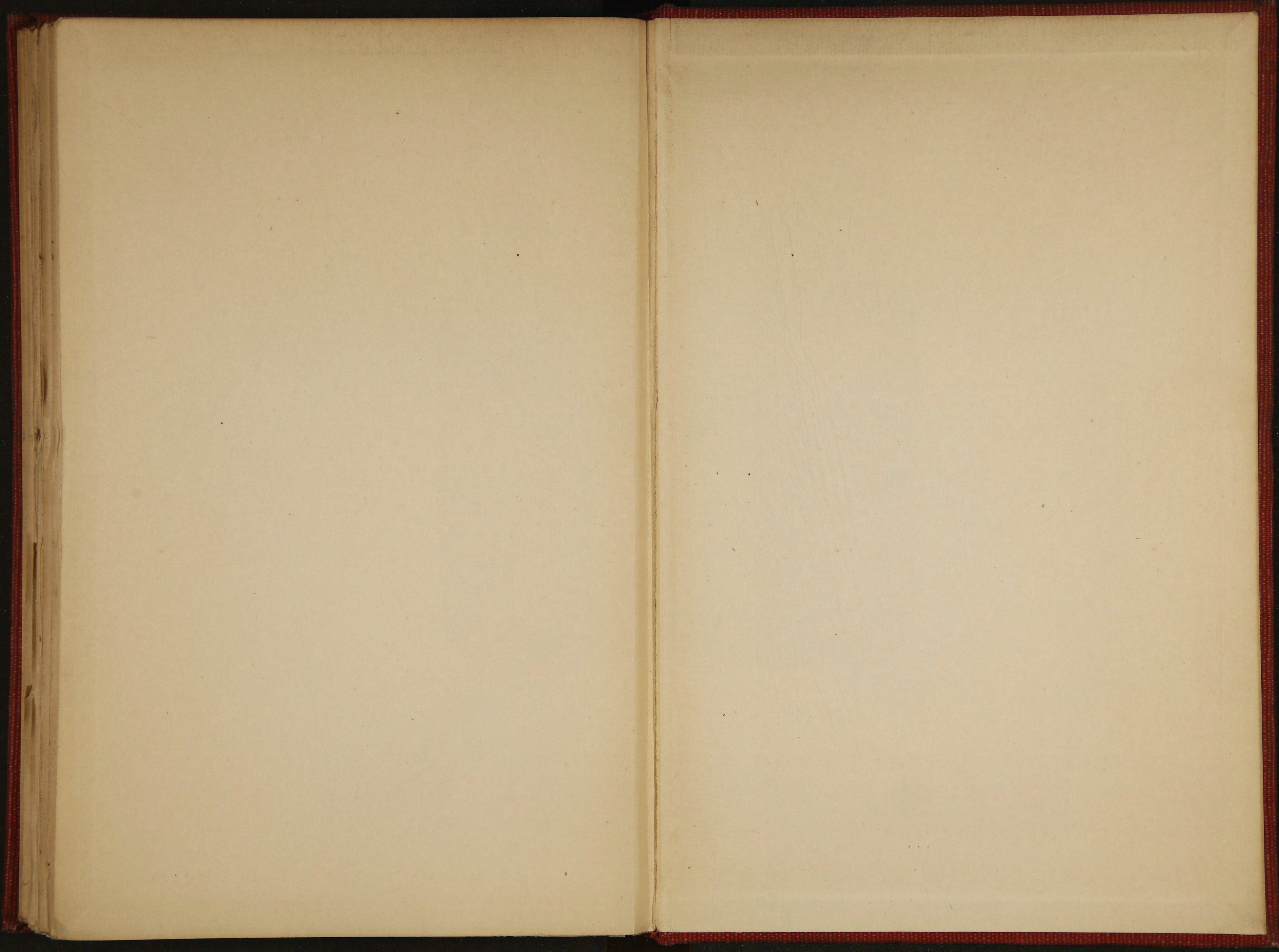
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