

right of his government to exercise the power expressly conferred by act of Congress.

The question presented by the Phelps letter, therefore, was not whether the Secretary had power to employ revenue cutters to protect seal life in Behring Sea—for that power was undisputed, and up to the present day no officer or agent of any department of the government has questioned it; on the other hand it has been expressly affirmed by the Secretary of the Treasury, as I will presently show.

The question presented to Secretary Bontwell was, whether or not the Secretary of the Treasury could send revenue cutters to Onnimak Pass, to prevent seal-killing by foreigners and others at that point, and at the narrow straits separating certain Aleutian islands.

The fact that the President of the United States and the Senate had determined the boundary of Alaska, and that Congress had extended the laws of the United States over said territory, and had prohibited the killing of fur-seals "within the Territory of Alaska or the waters thereof" (except by authorized persons on the Pribilof islands), left no discretion as to the right and duty of the Secretary to protect seal life in Alaska, by every means and at all times; and it would be unjust to assume that Secretary Bontwell intended to defy an act of Congress, destroy the seal rookeries and the millions of revenue they yield, change the boundary line of the United States, and surrender hundreds of miles of territory for which Congress had appropriated and expended the public money.

I assume, therefore, that neither he nor Collector Phelps, in this correspondence, had any reference to the interior of Alaska or its waters, so far as related to the jurisdiction of the United States. The object of Collector Phelps was to prevent the marauding expeditions from killing fur-seals before they entered Behring Sea, viz., at Onnimak Pass.

Secretary Bontwell, in considering that subject, replied that he had learned that the seals did not approach these passes in droves, but scattered over "a large region of water;" he then