

ORDERED TO BE CONFISCATED

The Judgment Delivered by the Chief Justice in the Schooner Shelby's Case.

No Satisfactory Proof That She Was Not Violating the Act When Seized.

The Queen vs. the ship Shelby—In this case, which has been on trial for the past couple of days, the Chief Justice today gave judgment condemning the schooner, costs to go with the condemnation. As to the question of the substitution of a fine for condemnation, which his lordship has power to impose, further argument will be heard.

The judgment reads as follows: The British vessel Shelby, Christian Claussen, master, was seized by an officer of the U. S. S. Corwin on the 11th of May, 1895, in latitude 52 degrees 52 minutes 10 seconds north and longitude 134 degrees 10 minutes 58 seconds west, being a point within the prohibited waters of the Pacific ocean as defined by the Behring Sea Award Act, 1894, for an alleged contravention of the act, such contravention being the employment of the vessel in pursuing seals within the prescribed waters during the period prohibited by law.

By force of the scheduled provisions of the Behring Sea Award Act, 1894, which under section 1 are to have the same effect as if enacted by the act, the pursuit of seals within the aforesaid limits is prohibited, and by sub-section 2 of section 1, if there is any contravention of the act, any person committing, procuring, aiding or abetting such contravention is guilty of a misdemeanor, and the ship employed in such contravention and her equipment and everything on board thereof, are liable to forfeiture to Her Majesty. Provided that the court, without prejudice to any other power, may release the ship, equipment or thing on payment of a fine not exceeding \$500.

At the time of her seizure the Shelby was fully manned and equipped for killing, capturing and pursuing seals, and had on board implements and sealskins. By section 1, sub-section 6, of the Seal Fishery (North America) Act, 1894, which act was in force at the time of the seizure, if, during prohibited times and in prohibited waters, a British ship is found having on board thereof fishing and shooting implements or sealskins, it shall lie on the owner or master of such vessel to prove that the ship was not used or employed in contravention of the act. The acts of 1892 and 1894 being in pari materia are to be read as one act: McWilliam v. Adams, 1 Macq., H. L. Cas., 120.

The Shelby therefore having been found within prohibited waters with seals and implements for taking them on board is to be deemed to have been employed in contravention of the act unless the contrary be shown.

Has it then been shown that the ship was not used or employed in contravention of the act? The most important witness to prove this, if such were the case, would clearly have been Captain Claussen, the master, but he was not called, nor has the failure to call him been satisfactorily accounted for. The only reason offered for his absence is that he was away on a fishing expedition. His evidence might have been taken de bene esse, but no effort to procure his evidence seems to have been made. The mate, August Reppon, was called as a witness, and stated that the Shelby stopped sealing on the 30th of April, when the ship's log shows the vessel to have been in latitude 58 degrees 36 minutes north and longitude 139 degrees 30 minutes west, and that she then set sail for Victoria. On the 11th of May, after 10 or 11 days' sailing, she was found by the Corwin in latitude 52 degrees 52 minutes north and longitude 134 degrees 10 minutes 58 seconds west, a distance approximately of four hundred miles from the point of starting, or less than an average for forty miles a day. The proper course for the ship to have steered for Victoria was E. S. E. by magnetic, but it appears that frequently when the course of the wind as indicated by the log would have permitted that course to be made good the vessel was not headed in that direction. For instance, on the 2nd of May she was headed on a southerly course, on May 3rd on a south by west course, and on the 5th of May on an east by north course, whereas the wind on each of these days was favorable to an east-southeast course. Capt. Mcgrigg states, from an examination of the log, that the schooner ought to have made a considerably greater distance on her course during these days, and in view of the fact, as stated in evidence, that the Shelby had a favorable current of nearly a knot an hour, it is clear that the ought to have made a much greater distance. The Corwin, in coming from the south to the point where she picked up the Shelby, experienced strong head winds, which were favorable winds for the Shelby, and the prevailing winds at that time of the year, as shown by the Coast Pilot, are westerly, favorable to the E. S. S. course to be made by the Shelby.

The Corwin seized the Shelby for contravention of the Act, placed a crew on board of her and ordered her to Sitka, a distance of 230 miles, which she reached under sail in a little over two days. At Sitka the Shelby was ordered to Victoria, a distance of about 800 miles, as shown by the chart, which place she made, likewise under sail, in fourteen days.

The mate, when asked to explain why he went out of his course, particularly on the 2nd, 3rd and 5th of May, ascribes the fact to defects in the compass, which he says varies three or four points, but this statement is shown by his own evidence to be an equivocation, and to have had no effect whatever on the course actually made or intended to be made, for whilst it is true that the compass varies and varies considerably, such variation is regular, known precisely, and duly allowed for. Having committed himself on his examination at the hearing to the variation of the compass reason, which he was

compelled to admit on cross-examination was no reason at all, he was by permission of the court recalled a day or two after the evidence had closed, and he then ascribed the deviations from the course to the state of the wind.

I find myself entirely unable to place any dependence on the evidence of the mate, Reppon, and this leaves the deviations from the regular course between the 1st of the 11th of May, and the fact that 400 miles only was made in ten days, altogether unaccounted for. It is true that Denny Florida, a hunter, August Schone, the cook, and Victor Emanuel Laerquest, one of the seamen, testify, and I have no doubt with truth, that no seals were taken during those days, nor were the boats lowered, but it appears also that none were seen during these days. Their evidence leaves the question of deviations from the course untouched, and, in the absence of evidence explaining it, the only reasonable conclusion is that the deviations were occasioned by the attempt to pursue seals. At all events, it has not been proved to my satisfaction that the vessel was not employed in the pursuit of seals during those dates. In Roy v. the Minnie, 4 Exch. 151, it was held by Grease, J., that the presence of the ship within prohibited waters required the clearest evidence of bona fides to exonerate the master of an intention to infringe the provisions of the act, and that as his explanation of the circumstances was unsatisfactory the ship must be condemned. This ruling is, I think, in thorough accord with sub-sec. 6 of sec. 1, and I am bound to follow it. It applies exactly to this case. Here the captain's explanation of his is shown, but negatively upon the evidence, where a fine might meet the justice of the case, instead of forfeiture. I have power, under sub-sec. 2 of sec. 1 of the act of 1894 to substitute a fine for forfeiture. I will hear counsel upon this point. The costs of suit must follow the condemnation.

TRIED TO BUY A JUDGMENT

Louis Wille Had an Idea That the Chief Justice Could be Bribed.

But Gets a Week in Jail to Consider, and Loses the \$25 Anyhow.

Louis Wille, owner of the schooner Shelby, is a sad but very wise man today, and he will have a week to ruminate over the most foolish thing he did in his life.

Mr. Wille's case has been before the vice-admiralty court, which is presided over by the Chief Justice, and it entered the head of the owner of the schooner that perhaps a little honorarium would be productive of a favorable impression upon the judge's mind in dealing with the case. Accordingly Mr. Wille enclosed the modest sum of \$25 in an envelope, and addressed it to the Chief Justice, whom he asked to "kindly except the small donation for kind services rendered by the schooner Shelby," signing the note "Your Servant."

At the opening of the proceedings this morning the Chief Justice asked Mr. Helmeke if the owner of the schooner taken de bene esse, but no effort to procure his evidence seems to have been made. The mate, August Reppon, was called as a witness, and stated that the Shelby stopped sealing on the 30th of April, when the ship's log shows the vessel to have been in latitude 58 degrees 36 minutes north and longitude 139 degrees 30 minutes west, and that she then set sail for Victoria. On the 11th of May, after 10 or 11 days' sailing, she was found by the Corwin in latitude 52 degrees 52 minutes north and longitude 134 degrees 10 minutes 58 seconds west, a distance approximately of four hundred miles from the point of starting, or less than an average for forty miles a day. The proper course for the ship to have steered for Victoria was E. S. E. by magnetic, but it appears that frequently when the course of the wind as indicated by the log would have permitted that course to be made good the vessel was not headed in that direction. For instance, on the 2nd of May she was headed on a southerly course, on May 3rd on a south by west course, and on the 5th of May on an east by north course, whereas the wind on each of these days was favorable to an east-southeast course. Capt. Mcgrigg states, from an examination of the log, that the schooner ought to have made a considerably greater distance on her course during these days, and in view of the fact, as stated in evidence, that the Shelby had a favorable current of nearly a knot an hour, it is clear that the ought to have made a much greater distance. The Corwin, in coming from the south to the point where she picked up the Shelby, experienced strong head winds, which were favorable winds for the Shelby, and the prevailing winds at that time of the year, as shown by the Coast Pilot, are westerly, favorable to the E. S. S. course to be made by the Shelby.

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—Hall's Hair Renewer cures dandruff and scalp itching, also all cases of baldness where the glands which feed the roots of the hair are not closed up.

UNCLE SAM TO ANNEX HAWAII

President Cleveland Said to Have Consented to the Proposition of Annexation.

The Proposal is Said to Have the Sanction of the President of Hawaii.

Chicago, Nov. 15.—A Washington City special to the Times-Herald says: Hawaii may after all become a part of the United States, and that within the coming year. Information of a trustworthy nature has been secured concerning the Hawaiian programme to be adopted during the coming winter. A joint resolution will be introduced either in the house or senate, requesting the President to negotiate a treaty of annexation with the government of Hawaii. This resolution will have the sanction of the president of Hawaii and of the new Hawaiian minister to this capital, Mr. Hatch, who to-day arrived in San Francisco, en route to Washington City.

Still more important, it will have the approval of President Cleveland. The resolution, as introduced or amended, will provide that if the President concurs and the government of Hawaii be willing, the scheme of annexation shall include submission of the question of joining the American union to voters of the islands.

Honolulu Nov. 15.—It is generally understood that the white men now in prison for taking part in the January rebellion will be liberated on Thanksgiving day.

According to the latest statement of the financial condition of the government, prepared by Minister Damon, figures prove that the revenues for September have improved as compared with the same months last year and the preceding month of this year. The balance of cash on hand at the savings bank is \$93,335. Hawaiian loans in London are quoted at 103. Minister Damon considers the credit of the country as being first class.

The United States steamship Bennington is at Hilo with United States Minister Willis on board. The vessel will return to port on the 10th, and will enter the harbor for the first time since the late cholera outbreak.

BROKEN BANKS' DIVIDENDS.

Tacoma National, 10 Per Cent.—Washington National, Tacoma, Flye.

Tacoma, Nov. 15.—Controller James H. Eckels today declared a dividend on the Tacoma National Bank and the Washington National Bank of this city. Receiver Philip Anderson, of the first named bank, was ordered to pay a 10 per cent. dividend, and Receiver Stuart Rice, of the other, will pay dividend of 5 per cent. to the depositors.

The news was received with some rejoicing at the city hall, as the city will receive \$1200 from the Tacoma National, and nearly \$1000 from the other receiver. The city has \$50,000 interest on the water and light bonds to meet on December 1, and, as a councilman expressed it, "every little helps."

The 5 per cent. payment to the depositors of the Washington National Bank makes 65 per cent. that Receiver Rice has paid.

The dividend of the Tacoma National is its first. In the former bank the city had a credit of \$16,000 and in the latter \$12,000 when it closed. The dividends will be paid in about ten days or two weeks, or as soon as the checks and schedules can be prepared.

BRAZIL'S LITTLE TROUBLE.

Twenty-Seven Political Prisoners Shot—Monarchs Gaining Ground.

San Antonio, Tex., Nov. 15.—A special from Rio de Janeiro, dated Nov. 12, says: Persons who arrived here to-day from Niteroy announce the shooting there of twenty-seven political prisoners, among them, amongst whom were two colonels. This has caused great excitement in all circles and nothing else is talked of. The men executed are known to have been in sympathy with the monarchist cause, and it is said that the emperor's government is really gaining ground. It is stated that many of the officers of the army and navy are sworn to join the movement, and many officers now operating in the south against the rebellion are also in favor of it. It is also stated that the emperor and his family are to place a German prince on the throne of Brazil, probably Prince Henry of Prussia.

AN AMERICAN TUG FORFEITED.

The Tug Telephone Must Pay the Penalty of the Law.

Ottawa, Nov. 15.—In view of strong representations by shipping interests, it is more than likely that parliament will be asked to pass an appropriation for the extension of telegraphic service to Belle Isle light station.

The circumstances attending the seizure of the United States tug Telephone have been investigated by the minister of marine and fisheries and he will give orders that the law take its course. This means the confiscation of the vessel.

WHALE FISHING A FAILURE.

On the Atlantic Coast—Union Bank Shareholders Object.

St. Johns, Nfld., Nov. 15.—The steamer Aurora returned this morning from the whale fisheries off Davis straits. No black fish were killed, but 750 porpoises were captured. The crew of the Aurora report that the entire fleet met with equally poor success. They got but three whales among them.

tion and damage to the ships crowded in the harbor. Members of the crew report they saw nothing of Nanassus during this trip. They also report that they fear the Dundee whaling fleet has been caught in the ice, and that the boats will be compelled to remain frozen in all winter.

Shareholders of the Union bank, at a meeting held to-day, determined to resist the payment of assessments on their shares, called for by the receiver, until the directors have surrendered all their property for the benefit of the directors of the bank.

RAILROAD EXTENSION.

Is Hindered by Hard Times—A Pioneer's Daughter Dead.

Toronto, Nov. 15.—An influential deputation waited on the government yesterday supporting the application filed by the C. P. R. for the extension of time in which to complete two sections of the Montreal and Ottawa railway, running through Prescott and Russell. Sir William Van Horne and Judge Clark of the C. P. R., W. C. Edwards, M. P., and Mr. Branturel, M. P. P., were included in the deputation. The province granted \$100,000 in 1892 on the condition that it be completed this year, and in default that the subsidy be transferred to the Central Canada Railway. Financial stringency and general dullness were assigned as reasons for the default, and it was urged strongly that these causes promise to disappear. The C. P. R. practically assumes responsibility for constructing the road. Premier McArthur promised to consider the matter.

Mrs. Crawford, widow of John W. Crawford, once lieutenant-governor of Ontario, died yesterday, aged 78. She was a daughter of Judge Sherwood, once speaker of the legislature of Upper Canada, and had lived here since 1825.

Calgary, Nov. 15.—The jury in the Creagh libel case has returned a verdict of guilty, with a recommendation to mercy.

FRIENDLY ADVICE.

IS THE MEANS OF RENEWING HEALTH TO A SUFFERER.

Dr. Williams' Pink Pills Succeed Where Doctors Had Failed for Thirty Years.

The Sufferer One of Northernmost and Co.'s Best Known Men.

From the Trenton Advocate.

Mr. John Frost's case is a most remarkable one. He is one of the best known residents in the county of Northumberland, being a retired farmer of most ample means, and having financial dealings with hundreds throughout the township. We have known him intimately for over ten years. From him we gleaned the following facts in February last: "I was born in England and at twelve years of age arrived in Canada with my parents, who settled in Prince Edward county and remained there for three years. We then moved to Hardon township in the neighboring county of Hastings. For thirty years I was a resident of Rawdon, three years I resided in Seymour township, and I am at present, and have been for the



Getting Into My Rig Was Atoning.

past ten years, a resident of Murray township for thirty years. I have been a martyr to rheumatism. During that time I have been treated by scores of doctors, and found partial relief from but one. I have during the same period tried numerous remedies, but all failed to cure me. Scarcely a month passes that I am not laid up, and frequently I am confined to bed six or eight weeks, unable to move hand or foot, and suffering untold agonies. Two well known doctors told me at one time that I would have to have an arm taken off to save my life. I tell you I have been a great sufferer in my time, and I would give anything to find relief. My business causes me a great deal of driving, and getting in and out of my rig is agony.

Knowing his story to be true, and anxious that Dr. Williams' Pink Pills should have a severe test, we prevailed on Mr. Frost, much against his will, to give them a trial. He got six boxes and commenced to use them. At the start he smiled at our confidence in the pills. We saw him after he had used the first box, and he admitted some relief and said he believed there was something in the remedy. He continued their use, and by the time he had used the six boxes he was as sound and proud a man as could be found in five counties. A couple of months have passed since the cure was effected, and we deferred giving a history of the case in order that we could see for a certainty that the cure was permanent. We see him several times a week actively attending to his business and at all times loud in his praise of Pink Pills. All who know Mr. Frost know that his word is as good as his bond. Yesterday we said to him: "Now, Mr. Frost, do you really feel that you are cured of rheumatism?" Do you feel any twinges of the old trouble at all?" He replied, "I am cured. The Pink Pills have thoroughly routed the disease out of my system and I feel a new man. The use of the Pills has given me new life and I am telling every one I meet about the cure." Such is the case, and having known Mr. Frost for several years, the sufferer he was, and seeing him now active and almost youthful again, the rapid change from suffering to health seems almost a miracle. However, we are not at all surprised, for on all sides we hear of cures effected by the use of Pink Pills. The druggists remark on the rapid sale and the satisfaction they give their customers.

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Lloyd's Agency Hawaiian Consulate.

Little Drops of Water

Little savings lay the foundation of a fortune. We are trying to help you to lay the foundation. We expect ours in Small Profits giving you goods at jobbers' prices.

Soap : : The best 15 cent bar in town. Ross bar, 5 cents. Electric at 65 cents a box, or 7 bars for 25 cents is very desirable.

Our Blend Tea at 20 cents is a cup winner. Those Eastern Oysters in tin and shell are toothsome. Just in: Ontario Sweet Apple Cider, by the gallon or bottle, "au naturel."

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THE OCCIDENTAL HOTEL,

COR. WHARF AND JOHNSON STS., VICTORIA, B. C.

This popular and well known Hotel will re-open about November 15th under the management of W. JENSEN, its founder, with everything new and bright.

It will be conducted as in former years, aiming to make it homelike for its guests.

PEDDLERS MAY NOW PEDDLE

The Privy Council Has Decided in Their Favor in the Toronto City Appeal.

Municipal Corporations Have no Authority for Such Prohibitory Legislation.

London, Nov. 16.—The imperial privy council this morning handed down its decision in the matter of the appeal of the city of Toronto vs. peddlers, dismissing the appeal with costs to the appellant.

The title of the action is the City of Toronto vs. Virgo. It was an appeal from the decision of the supreme court of Canada relative to hawkers of goods. Virgo was a peddler who was restrained from hawking goods on the streets. He brought an action against the city for damages. He acted as the figurehead in this suit for the Peddlers' Association, who believed that the by-law enacted by the city council of Toronto in 1891 preventing peddlers from plying their calling and crying their wares upon business streets was unlawful.

The court of assizes decided in favor of the city and the court of appeals affirmed the judgment. The peddlers then carried the case to the supreme court of Canada, which delivered judgment in favor of the peddlers, reversing the decision of the lower courts. Thereupon the city appealed to the privy council, which has just now handed down its judgment in favor of the peddlers.

The appeal is dismissed with costs, their lordships holding that it was not the intention of the act to give mun-

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