

and even necessary for their safety, although there was and is a competent court for the purpose of trying the case at Yokohama as well as at Victoria.

From the frank and courteous manner in which the Yacotta conducted the seizure, it is not too much to infer that they anticipated the danger which afterwards arose from the Indians in ordering the vessel to Yokohama, they might have insisted on Capt. Heater bringing his schooner to this port. Capt. Heater, under the circumstances, was amply justified in the course he took in this particular; and I am of opinion he could not, with safety, have adopted any other course.

The act itself does not confine the direction to proceed to one particular port for adjudication. The words in Sec. 2 are directory "may direct the ship by an addition to the provisional certificate, or to the endorsement, to proceed forthwith to a specified port" (the real condition of this part of the section is contained in the words following) "being a port where there is a British court having authority to adjudicate in the matter"—a condition which Victoria fulfills. Yokohama is not named in the act, though it is quite within its purview. The breach of the direction is punishable by a heavy fine, \$100—\$500 each, on the owner and master, who would not without pressing necessity incur such a penalty. The payment of this fine for such a change of direction is without prejudice to any other liability, such, for instance, as the liability of the ship and her equipment, to forfeiture in case it should be so adjudicated. And I am clearly of opinion that it is within the intent and meaning of this provision of the act, that in case of some emergency, such as stress of weather, danger to life or to the ship, or other circumstances of equal importance arising, beyond the master's control, good faith would still be kept with the British authorities by taking her to the nearest available port, having a court of competent jurisdiction, to be adjudicated in the matter.

The chief counsel suggested that Yokohama was probably the most desirable port for the Russian authorities for the collection of duties, and in this case all the evidence was within their reach, open to them for examination right on the spot (under Sec. 2, sub-sec. 2 of the act), which would have made their examination evidence, when embodied in or annexed to the protocol; and the officers spoke excellent English.

Two cases under the act, that of the Maud S. decided in an able judgment by the court at Yokohama, and of the Ososka & Hattie, decided here, were referred to, but the circumstances of each of these cases were different in several respects from the present one; and as the learned counsel for the plaintiff justly observed, each case must be tried on its own merits.

We gathered from the reported statements of the officers seizing and searching the Alnoke, that they quite recognized the stress of weather, inability to take observations for determining positions, which have been sworn to, and the unexpected current forcing them silently towards Copper Island, as the real cause of the vessel being within the zone prohibited by the act. They leave it indeed to us to infer, that they leave it to the report of the commission and the subsequent decision of the captain of the Yacotta, to which the report forms the preamble, upon sec. 9 of His Imperial Majesty's government's "Instructions" (an instrument which, with any explanation of its purpose or importance, was not laid before the court), for they make no specific mention of sealing out or order in relation to the protocol; although for the purpose of seizure, search and sending the Alnoke for adjudication they use the powers these enactments confer—but they base their decision of seizure expressly on the reason of her (the Alnoke) being found within the limits of "territorial waters." And when Capt. Heater is sent away he is directed to leave, without delay, the limits of "territorial waters," and not the limit of the 30 mile zone prohibited only to British subjects by the British act and order in council of 1893.

I only note this to show that the court acts and decides in the present case solely and exclusively under the provisions of those two enactments, and recognizes them, as interpreted by the law, as the sole guide upon the evidence adduced, to its decision.

I have entered into the particulars of this case at considerable length, because of the importance of the issues involved, and the numerous points which have arisen during the trial. Upon a careful consideration of all the circumstances of the case, I am of opinion that the master, of whose truthfulness I have no doubt, has given an honest account of the matter and that he was under a bona fide mistake in his calculations, as to his real position on, at least, the last four days before the seizure, and that this mistake was owing to the continued stress of heavy weather, and the unexpected influence of a heavy current setting him on to the south and of Copper Island, and this was the reason and none other, of his involuntary presence within the prohibited zone, and that he did not discover or had not the means of discovering his mistake, until he caught a glimpse of the land on the 22nd, and that such a bona fide mistake is not in the law a conversion of the act. Also that immediately on making this discovery he was round and made all sail out of the prohibited waters, and had seven hours battling with the wind and sea to get out when he was overhauled by the Yacotta.

The several questions of light, number of skis on board, dropping a boat on the 15th for a couple of miles to sea, and the change of route to Victoria, were all satisfactorily explained; I am, therefore, of opinion on a full review of the facts, and a proper construction of the law applicable thereto, that neither Capt. Heater nor the Alnoke was, according to the true meaning of the act, within the prohibited zone, sealing or attempting to seal or otherwise there in contravention of the act. I therefore pronounce in favor of the ship and dismiss the action and order that each party do pay their own costs.

HENRY P. FLEWELL CHASE, D.J.A.

LONDON, March 19.—In the House of Commons to-day, replying to a question, the Secretary to the Admiralty stated that in 1893 France launched battleships of an aggregate tonnage of 29,950; Russia, \$2,490 and the United States 30,600.

LONDON, March 19.—A Rio de Janeiro dispatch says it is believed that Gama and about seventy of his officers, who left the bay yesterday on Portuguese war vessels, will be ashore at Montevideo, and from there they will join the insurgents in Southern Brazil.

MELILLA, March 19.—A party of Rifles on the coast three miles from this town fired to-day, on a transport which was conveying Spanish troops back to Malaga. They wounded one man, the Governor of Melilla is inquiring into the affair. No complications are expected to result from the shooting.

THE CITY.

FROM THE DAILY COLONIST, March 21.

A court of revision for North Cowichan Municipality will be held in the Agricultural hall, Duncan, at 10:30 a. m. on April 21.

The Kingston now connects with the Port Townsend Southern Railway daily for the south, the railroad time table being changed to enable passengers by the steamer to catch the morning train.

At the meeting held on Sunday at Vancouver the Mainland Steamship Association and the Vancouver Association passed resolutions deploring the drowning in mid-ocean off the ship Star Buck, of their associate brother George Harcourt, of their association, who was blown off Cape Mudge in the steamer Estelle, recording the high esteem in which they were held, and extending to their friends and relatives the heartfelt sympathy of the association.

The concert in aid of the Victoria West Methodist church, held in Fairall's hall on the Esquimalt road last evening, was fairly well attended. Mayor League occupied the platform, rendered the opening address, and the programme, rendered, included, as will be seen, selections by several favorite local artists. It was as follows: Piano solo, Miss Le Page; song, J. G. Brown; song, G. F. W. Page; vocal duet, Messrs. Brown and Firth; song, Rev. Solomon Cleaver; song, H. Firth; recitation, Miss Dunington; songs, Miss Humber, F. Richardson and Miss Anderson.

In a few days tenders will be called for the erection of the new Pemberton gymnasium on the Central school grounds. The plans as drawn up by the architect, A. C. Ewart, show a one story brick building with stone foundation. The gymnasium proper will be 30 feet wide by 60 feet long, besides the separate entrance and dressing rooms for the girls and boys respectively, and there will be gallery to seat about 130 spectators. The building will be very neat in design. It will be placed between the main school building and Fort street, facing school street.

The Victoria West hall was ablaze with lights and reounded with merriment last evening, the festive occasion being the marriage of Dr. Alfred R. Baker to Miss Ethel, eldest daughter of Alfred Olden. The wedding took place at 8:30 o'clock in the presence of upwards of one hundred young ladies and gentlemen, the friends of the contracting parties. Rev. Solomon Cleaver performed the ceremony. Appropriate music was furnished by the Bantley family orchestra. The bride, who was prettily dressed in white silk, was supported by Miss Jennie Semple and her two small nieces, Miss Viola Semple and Mamie McNaughton, while George Stealy was best man. After the marriage ceremony there was a dance. Between 9 and 10 o'clock the wedding supper was served. The happy couple leave on the steamer City of Poughkeepsie this morning on an extended honeymoon trip.

At the Single Tax club meeting last evening a telegram from Louis F. Post was read, stating that he would be in the Province from May 23 to June 3, and that dates might be arranged accordingly for his lecture. In this connection the chairman suggested that Mr. Post be properly received and entertained, and after considerable discussion it was decided that Mr. Post should be in Victoria during the Queen's Birthday celebration. Upon motion by Mr. Cohen a committee composed of President Howell, Messrs. Cameron, Sanger, Cohen and Firth were appointed to arrange for two lectures, one free, to be held in the Market hall building, if possible. The President and Mr. Cohen will be a committee to arrange about the entertaining of Mr. Post. Business being disposed of, Messrs. Maher, Berridge and others spoke upon Single Tax questions until 10 o'clock, when the meeting broke up. Next week a paper on the "Historic aspect of landism" will be read.

THE DANUBE.

More supplies for the northern canneries were shipped on the steamship Danube, which left here for Port Simpson and way ports last evening. The steamer also carried about 50 Japs and Chinamen for the canneries. Besides these several dusky natives were on board, who were believed to be implicated in the Savary Island murder case, and who are now returning home, there being no reason for holding them. As cabin passengers, the Danube took: Mr. and Mrs. Brewster, H. Kirkland and wife, W. Nicholson and wife, J. Clayton, J. G. Hyde, D. O. Lewis, Thomas Pige, R. E. G. Hyde, J. Rod, Miss Nightingale, L. W. Cameron, W. B. Skelton, Indian Agent A. W. Vowell, and Miss Hazelton. The last named lady is bound for the scene of the wreck of the schooner Mary Brown on the northern end of Banks Island. Mr. Vowell is simply taking the round trip on the steamer.

"OSCAR AND HATTIE'S" EXPERIENCES.

Advice from Yokohama received yesterday by way of San Francisco, reports the arrival of the sealing schooner Oscar and Hattie after a very sensational experience. When off the coast of Japan on the 21st February she met with a storm which almost proved her last. Her outboard and inboard masts were carried away, and she arrived heavily strained and leaking so badly that even in harbor in smooth water she made but little headway, the rate of three inches an hour. She left Yokohama on the 1st March to go into dock at Tokyo for repairs.

"TENNANT PRUNE."

TO THE EDITOR.—In justice to Mr. Hutcherson, I wish to state, in answer to Messrs. McGill and McDonald, that Mr. Palmer, the inspector of fruit pests, at the same time and meeting alluded to, also condemned the "Tennant Prune." It may be all that it is claimed to be in Oregon, but in the experience of the fruit growers of this province it has proved a failure.

J. B. ANDERSON, Member of the Board of Horticulture.

BUREAU.—On Saturday, the 17th instant, the wife of Louis Bueland, the 17th instant, James William James, at Victoria West, at Mrs. Manasse's residence, the wife of Charles Isaac James of a daughter.

DEED.

BLAND.—At his residence, Mary street, Victoria West, on the 17th instant, James William Bland, a native of London, England, in the 63rd year of his age.

SMITH.—In this city, on the 18th instant, Alice Louise, second daughter of Mr. T. W. Carver, aged 15 years.

McDONALD.—In this city on the 18th instant, Peter McDonald, son of Captain George McDonald, Ireland, aged 45 years.

THE BOTANICAL CLUB.

The members of the High school who, on Friday last, enrolled as members of the Botanical club of Canada, yesterday organized a local association, who were known as the Victoria High School Botanical Club. Officers were elected as follows: President, A. J. Pines; R.A.; Secretary, Miss A. D. Cameron; Treasurer, Miss M. C. Maclean. It was unanimously resolved that all Victoria members of the Botanical Club of Canada who wish to meet with the High School Club be welcomed as associate members, and invited to join the club on its excursions and at its meetings. To become a member of the Botanical Club of Canada it is only necessary to forward name and address, to the General Secretary for the Province, Mr. Pines. Already a number not connected with the school have signified their wish to meet with the club.

The members listened in a very interested manner to a short talk by Mr. Pines, in which he gave them some instructions in regard to collecting, and presented plants. The pupils showed by their attentive listening, and determined to make the most of their opportunities during the opening season. References to the contemplated High school herbarium were heartily cheered, an indication that the pupils intend to work enthusiastically in this connection. Already specimens of the first beautiful heralds of the spring flora have been brought in by High school pupils.

The following High school names have been added to the membership roll since last report: Misses Pearl Flemming, Minnie Annie, Beatrice Tobin, Lillian Sutherland, Emily Cor, Rita Milne, Winnie Creech, Paul Eckerley, May Dunlop, Alice Doran, Maud Northcott, Bertie Nelson, Rose Jackson, Beattie Morrison, Maurice Berkeley, Walter Story, Paul Renwick, Christopher Lord, Hans Kroger, Ewen Cameron, Earl Clarke, Morris Thomas, Kenneth Woolston, Edward Tuok. Those enrolled not connected with the High school are: Miss Elizabeth Watson, Miss E. G. Lawson, teacher Victoria West, Wm. McMaster, Edgar Robinson. These, with those already reported, make a total membership of eighty-five.

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THE CITY.

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THE local branch of the British and Foreign Bible society is to hold its annual public meeting this evening at 8 o'clock in the First Presbyterian church, Pandora street, when addresses will be given by ministers of the city churches and others. As this is a society which is unfettered by any denominational bounds, and is the liberal helper of the missions of every church, it is hoped that all who can will attend.

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PROVINCIAL LEGISLATURE.

Fourth Session of the Sixth Parliament.

FOURTY-FIRST DAY.
WEDNESDAY, March 21, 1894.

The Speaker took the chair at 2 p.m. Prayers by Rev. Dr. Campbell. Mr. MARTIN presented a petition from the ratepayers of Yale district asking for a resident physician at North Bond. The petition was found to be out of order and could not be received.

Mr. MARTIN presented a report from the private bills committee recommending that the bills respecting the Comstock electric railway and light company and the Hall mines company be placed on the orders for reconsideration. Report received and ordered to be printed.

Mr. MARTIN presented a report from the mining committee suggesting amendments to the mining act. Received and adopted.

GOLD COMMISSIONERS' REPORT.

Mr. KILLICK asked: Who furnished the information on which N. Fitzstubs, gold commissioner for West Kootenay district, based that part of his annual report to the Hon. the Minister of Mines, dated the 1st day of January, 1894, which refers to the northern division of said district?

Hon. Mr. BAKER—Mr. Fitzstubs furnished his annual report and I am not cognizant of the sources of his information.

PRIVATE BILLS.

The Chilliwack drainage bill was read a third time and passed.

The report from committee on the bill respecting certain public works in the township of Richmond was adopted.