

The defence was the same as that in *Reg. v. "Ainoko"* (ante p. 252). No observations had been made after August 2, and there was a strong south-west wind until the afternoon of the 4th, the position of the vessel being calculated by dead reckoning, but as the schooner had no log line by which to determine her speed, the calculation was more than usually inexact. The navigator of the schooner, Captain Pinckney, kept no ship's log, but had a memo. book in pencil, according to which he had an observation on the 3rd, of longitude  $172^{\circ} 8'$ , and according to him her position on the day of seizure was latitude  $55^{\circ} 11' 11''$ , longitude  $170^{\circ} 39' W$ .

*Pooley*, Q.C., for the Crown.

*Helmcken*, Q.C., for the ship.

**DRAKE**, Local Judge : The master's supposition of his locality was a mere estimate based on his idea of her speed from looking over the side, and his log book shows evident marks of alteration. If the vessel had been properly found with a log line of any description the error would have been greatly reduced and her position more nearly approximated to what it eventually turned out to be. In his evidence he says that he got his last observation on the 2nd, which differs from his log. A master takes upon himself the responsibility of his position, and if through error, want of care or inability to ascertain his true position, he drifts within the zone, and seals there, he thereby commits a breach of the regulations.

There appears to be a discrepancy in the position as given by the cutter "Perry" on the day of seizure, and that subsequently given as the correct locality, and it arose in this way : The position as given on first seizing was calculated from the last observation taken that morning, and allowing for dead reckoning up to the time of seizure. This was subsequently corrected after another observation had been taken in the afternoon, but in giving this correction, on working over the calculations again, a clerical error, which made a difference of some four to five miles, was discovered, and this error was communicated to the schooner, and the official log corrected afterwards. On arriving at Unalaska the "Perry's" chronometer was rated and the exact error ascertained, and the several positions were gone over again, and the result was that the exact position at the time of the seizure was latitude  $55^{\circ} 50'$ , longitude  $170^{\circ} 37'$ . This made the "Beatrice" seven miles within the prohibited limits ; the previous calculations made the vessel within the zone, but not quite so far in—she was not, therefore, in any way prejudiced by the corrections made.

It was proved that there was a current running north which might vary from half a mile to two miles, depending on the wind and swell. The "Beatrice" had not allowed sufficiently for this, but that is not a sufficient excuse ; no attempt to take seals should be made unless the master is certain of his position. I therefore declare the "Beatrice" and her equipment forfeited, but allow her to be redeemed on payment within thirty days of the sum of £400.