

his position in pencil day by day ; taking those positions as correctly showing his daily change of position, he, on the 24th, was only six miles further west than he was on the 23rd. The real position where he was seized varied from his alleged position on his chart by many miles.

The master states that he got an observation on the 16th and none since, except an imperfect one on the 22nd, which shows his position so greatly different from what he calculated it was that he did not rely on it—what it was is not entered anywhere. There are no entries to show whether his dead reckoning was reasonably calculated ; neither course of vessel, direction or force of wind are entered. His chronometer was slow. The master by some manoeuvres, difficult to follow, satisfied his own mind that on the 24th day of July his chronometer was two minutes slow, and was losing two seconds a day, and he allowed for this error when he obtained a sight for longitude on the 14th August. When the vessel arrived at Ounalaska on the 26th day of August, his chronometer was found 12 minutes and 11 seconds slow, and it was shown by Lieutenant Daniels that if he had obtained an observation for longitude with the chronometer as it was, he must have been more than 100 miles to the east of his position as laid down on his chart. How this sudden change in his chronometer arose is not explained further than stating that it took a jump occasionally. The evidence as to sealing in the zone is proved by the captain. He, on the 23rd, was only $6\frac{1}{4}$ miles from his position on the 24th, when he was seized, which was 35 miles only from the N. W. end of St. Paul's Island, and he captured 16 seals on that day. They therefore were captured in the prohibited waters, as he was at least 19 miles inside the limit.

The defence set up is that by Article 1 of the 1st schedule the Act only applies to British subjects, and there was no proof that the master of the "Viva" was a British subject, and by s. 1, sub-sec. 2, it is declared to be a misdemeanor if any person commits, procures, aids or abets any contravention of the Act, therefore it was necessary before a vessel could be condemned that it must be shown that a British subject was employing the ship.

If the master was proceeded against for a misdemeanor it would be necessary to prove that he was subject to the penal clauses of the Act, but the contravention being once established, the vessel employed being a British ship, becomes liable to forfeiture. If every man employed on the vessel was a foreigner it would not relieve the liability of the ship, once a breach was proved.

The defendant further claims exemption on the ground of want of proof of any intention on the master's part to contravene the Act. A man's intention is judged by his acts, and when once a vessel is found within the prohibited zone taking or having taken seals, then the master has to satisfy the Court that he took all reasonable precautions to avoid any breach of the regulations.

Did the "Viva" do so? According to the master he had no observations from the 16th August ; he kept no ship's log showing the weather, wind and courses ; his supposed position is marked only from day to day in pencil on his chart, and he sealed on the 16th, 22nd and 23rd of August without knowing where he really was. This can hardly be considered as taking all reason-