

infracton of an Act of the United States Congress, No. 120, being an Act to prevent the extermination of fur-bearing animals in Alaska. The Act is directed against killing seals in the waters adjacent to the Islands of St. Paul and St. George, and does not refer to any other waters in Behring Sea; but on referring to section 1,956 of the Revised Statutes, the language used is somewhat different, prohibiting the killing of fur-bearing animals within the limits of Alaska Territory or the waters thereof. The first question then to be decided is what is meant by the waters thereof. If the defendants are bound by the treaty between the United States and Russia ceding Alaska to the United States, then it appears that Russia in 1822 claimed absolute territorial sovereignty over the Behring Sea, and purported to convey practically one-half of that sea to the United States. But are the defendants, as men belonging to a country on friendly terms with the United States, bound by this assertion of Russia? And can the United States claim that the treaty conveys to them any greater right than Russia herself possessed in these waters? In other words, the mere assertion of a right contrary to the comity of nations can confer on the grantees no rights in excess of those recognized by the laws of nations. In enquiring what that right was and how far it was submitted to by the other powers interested, namely, Great Britain and the United States, we find the United States Minister at St. Petersburg in 1822, combatting the pretensions of Russia to a jurisdiction over the waters of Behring Sea for a distance of one hundred miles from the coast (for this was the extent of Russia's claim in 1822) in the following expressive language: "The existence of territorial rights to the distance of 100 miles from the coast and the prohibition of approaching to the same distance from these coasts and from those of all intervening islands are innovations on the law of nations and measures unexampled." We thus find that the assumption of a limited sovereignty over the waters of Alaska was challenged by the United States, and in consequence was not persisted in, and on the 17th April, 1824, a convention was concluded between the United States and Russia, whereby it was agreed, "that in any part of the great ocean commonly called the Pacific Ocean, or South Sea, the respective citizens, subjects of the high contracting powers, should be neither disturbed nor restrained either in navigation nor in fishing, or in the power of resorting to the coasts upon points which might not then already have been occupied for the purpose of trading with the natives, saving always the restrictions and conditions contained in certain articles attached to the treaty referring to illicit trade with the Indians."

THE RUSSO-BRITISH TREATY.

The Government of Great Britain, on the 28th February, 1825, also entered into a treaty with Russia in consequence of the same extravagant pretensions of Russia, which treaty contains the following provisions:—"It is agreed that the respective subjects of the high contracting parties shall not be troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same or fishing therein, or in landing at such parts of the coast as shall not have been already occupied in order to trade with the natives under the conditions and restrictions specified in the then following articles." These restrictions are not dissimilar from those attached to the treaty with the United States. In order to ascertain what were the pretensions of Russia which led to these treaties it is necessary to refer to the edict of the Autocrat of all the Russias. By section 1 it is enacted:—"That the pursuits of commerce, whaling and fishing, and all other industries on all islands, ports and gulfs, including the whole of the north-west coast of America, beginning from Behring Straits to 51° of north latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Straits to the south cape of the Island of Bruck, namely, 45° 50' northern latitude, is exclusively granted to Russian subjects. Section 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation along with the whole cargo."