

The evidence of the husband and wife, however, as to what passed between them prior to the execution of the settlement showed, in the opinion of the Court, that it was entirely voluntary and without consideration and was not stipulated for by the claimant as a condition of the marriage, but was made with the intention of putting all the defendant's property then owned and after acquired beyond the reach of his creditors, of whom the plaintiff was then one, and that the settlement was not a bona fide one.

It appeared also that nothing had been done to carry out the covenants in the marriage settlement until the execution of the bill of sale which the husband gave to his wife, as he admitted, in order to protect her as a creditor, and at a time when he knew that the plaintiff's execution would shortly be issued against him and without any solicitation or pressure from the claimant.

Held, following *Ex parte Kilner*, 13 Ch. D. 248, that the onus of proof was upon the claimant and that she had failed to satisfy the Court that the bill of sale was founded on an agreement made for good consideration, and that even if the ante-nuptial settlement could be said to be valid and binding the bill of sale could not be supported under the circumstances, and that the appeal should be dismissed with costs.

Mercer v. Peterson, L.R. 2 Ex. 309, and *Ramsay v. Margrett*, (1894) 2 Q.B. 18, distinguished.

Culver, Q.C., and *Hull*, for plaintiff.

Wilson, for claimant.

Province of British Columbia.

ADMIRALTY DISTRICT.

THE QUEEN v. THE SHIP "VIVA."

Maritime law—Behring Sea Award Act, 1894—Infraction by foreigner.

The punitive provisions of the Behring Sea Award Act, 1894, operate against a ship guilty of an infraction of the Act, whether she is "employed" at the time of such infraction by a British subject or a foreigner.

[VICTORIA, DEC. 7, 1896. DRAKE, J.]

DRAKE, D.L.J.—The "Viva," a schooner registered at the Port of Victoria, was seized on 24th August, 1896, in latitude 57° 30' N., longitude 171° 23' 30' W., at a point within the prohibited zone, 35 miles from N. W. end of St. Paul's Island. The vessel was boarded by the U. S. S. "Rush" about 6 a.m., at which hour all the boats were aboard and the hunters at their breakfast. The master asked if he might put his boats out, which was refused; the object of making this request is not apparent, unless it was to accentuate the ignorance of the master of being within the prohibited zone.

The official log of the "Viva" shows the capture of 16 seals on the previous day, and the master details the course he had taken between the hour he got his boats on board and the time of his seizure, and says his position was latitude 57° 44', longitude 173° 20' 1" W., and on the previous day latitude 57° 47', longitude 172° 50'. He kept no ship's log, but laid down on the chart