A SEALERS' MEMORIAL

Statement of the Case to Be Presented to the Governor General.

The Quebec International Conference Is Asked to Consider the Claims.

Compensation Desired Should the Canadian Sealing Industry Be Further Restricted.

Now that the international conference is soon to meet at Quebec to consider matters affecting Canada and the United States, the settlers have prepared the following memorial respecting their interests which they will forward to the Governor-General, with the request that the facts as presented on the sealing industry should be brought to the attention of the conference. The document is a very comprehensive one and sets out fully the views of the sealers. It is as follows:

To His Excellency the Governor-General:

The petition of the undersigned owners and agents of British sealing vessels, humby sheweth:

1. Your petitioners represent some of the vessels which have been and now are engaged in prosecuting the fur seal fisheries.

2. Appended to this memorial marked "A" is a list of these sealing vessels, with a statement of their registered tonnage, showing a total of 3,636 gross tons represented by your petitioners.

3. In 1894, during the presence of the honorable minister of marine and fisheries for Canada, in Victoria, B.C., he was presented with a memorial from representatives of the Victoria Sealers' Association, as follows:

"The Victoria sealing industry comprises 65 schooners, representing 4,202 tons, with a value of $643,800, employing 807 whites and 903 Indians, making with their wives and families—of those employed—about 8,500 directly dependent on this industry. The money derived from the season's catch, taking the average catches and the prices for the past three years, amount to $750,000 annually.

"In 1893 the restrictions imposed on pelagic sealing deprived us of the months of May and June for sealing on the coast, being the two best months of our spring sealing.

"In the Behring sea we were restricted from sealing during the month of July. Restrictions were also made prohibiting our vessels using firearms and from sealing within a sixty-mile zone around the Pribylov islands, thus depriving us of one of the two best months of sealing in the sea, and the best portion of the Behring sea. These restrictions have become permanent and are a hardship upon us, leaving us in such a position that it is only by the greatest economy that we are able to carry on our business without loss, to say nothing of the chances of our vessels being seized and confiscated for being within the limits of a very wide zone, however unintentional.

"From information we have received through American newspapers, as well as from other sources, we have reason to believe that the American government is now endeavoring to obtain the consent of the British government for further restrictions, and it is against any further restrictions we would ask you to assist in protesting; for any further restrictions on our industry would compel us to abandon the business altogether, as it would be impossible for us to continue to fit our vessels out without incurring certain loss, and this industry, of so much value to British Columbia, and Victoria in particular, would be lost to us forever, and our fleet of sailing vessels would be rendered useless.

(Signed) "R. SEABROOK,
"President.
"RICHARD HALL,
"Secretary.
"The Victoria Sealers' Association."

4. Recent events induce your petitioners to present more fully the facts which particularly affect them in this business.

5. The Right Hon. Prime Minister of Canada during negotiations with the United States, wrote to the United States representative, Mr. John W. Foster, on 24th November, 1896, as follows:

"Your proposition practically embodies the suggestions made by myself and my colleagues, and meets, I need hardly say, with the full approval of the Canadian government. Though the regulations prepared by the Paris tribunal for the killing of seals in Behring sea and in the Pacific ocean have been made revisable only at the end of five years we are quite willing to enter at once and without waiting for the end of the period thus fixed, into an agreement to review the whole question for the object of settling by treaty stipulations, not that question alone, but all others in which at present the relations between the two countries are not as satisfactory as they ought to be, viz.: 'The protection of fish in the waters of rivers and lakes contiguous to the United States and Canada, the subject of reciprocal immigration, commercial reciprocity, or any other unsettled question between the United States and Canada which either government may see proper to bring forward.

"Immediately on my return I requested my colleague, Sir Louis Davies, to obtain information as to the number of sealers who are fitting out for the coming year's operations, and as to the approximate compensation it would be expected to be paid to them in case pelagic sealing was prohibited for a year.

"The information furnished me is to the effect that the fleet is preparing as usual; that the prohibition of pelagic sealing for a year would practically destroy the business for several years, because the masters, the mates and white crews, for the larger part belonging to other parts of Canada, would leave British Columbia. The sum which would likely be demanded as compensation is far beyond what it would be possible for us to induce parliament to vote even if we could recommend it."

In replying to this, Mr. Foster on December 2nd, 1897, used this language:

"When it is proposed to negotiate for the surrender of the legal right of pelagic sealing we are told that this cannot be brought about by a fair compensation to those engaged in the industry, but that the question must be included no relation to it whatever and that it with a number of other objects having must await the fate of all these matters, some of which, as commercial reciprocity and the tariff, are very complex in their character, and others, as the northeastern sea fisheries, of long standing and very difficult of adjustment.

"Notwithstanding the President feels that the subject of the proper protection of the seals should not be complicated with other questions of intricate public policy and conflicting interests, in his earnest desire to promote in the friendly state of relations between the two neighboring countries, he has consented that all those questions should be embraced in one series of negotiations it meanwhile a modus vivendi could be agreed upon which would save the seals from destruction while the negotiations were in progress."

6. In view of further negotiations proposed to be carried on at Quebec between Great Britain and the United States, your petitioners crave leave to explain the extraordinary position in which their interests have already been placed owing to diplomatic considerations, and to respectfully submit their claim for special attention at the hands of those acting for Her Majesty's government in the approaching conference.

7. When pelagic sealing became an industry on the Pacific coast of Canada, British subjects invested their means in it, without a suggestion of any kind having been made to or by the Imperial government, that the rights of British subjects would be interfered with or curtailed.

8. In the history of hunting seals the world over, no regulations or restrictions were ever applied to vessels on the high seas. To quote from a recent despatch of the Colonial office to the Foreign office:

"The nation which is now so zealous for prohibiting the killing of seals on the high seas was in 1822, with equal zeal asserting a claim of right for its citizens not only to kill seals on the high seas, but to land and slaughter them on the shores of a friendly nation."

9. So soon as Her Majesty's government learned of the action on the part of the government of the United States in 1886, when seizures of British vessels were made while sealing on the high seas in the Behring sea, a formal protest against these seizures as contrary to the law of nations was promptly entered.

10. The action and attitude of the United States then and afterwards, threatened the peaceful relations of the two countries; and from that day to the present time, it is submitted that, such concessions as have been made limiting the right of a comparatively new British subjects, were made for purposes of the foreign relations of the Empire.

11. Diplomatic correspondence was carried on from 1886 until the year 1891.

12. Pelagic sealing continued, indeed your petitioners had no alternative, notwithstanding the embarrassment, wholly due to the illegal seizures and threats of molestation made by the United States in 1887 and 1889 and afterwards.

13. In 1890 during the discussion of a proposed submission of the question of right to arbitration and the arrangement of a modus vivendi, a memorandum was given to the secretary of state of the United States by the British ambassador wherein it was stated: "It is entirely beyond the power of Her Majesty's government to exclude British or Canadian ships from any portion of the high seas even for an hour, without legislative sanction."

14. The British argument presented to the Paris tribunal shortly states that position maintained by the government of Great Britain, as follows:

"1. Freedom of the sea for the benefit of all the world.

2. That rights of property, and rights in relation to property, be confined within the limits consecrated by practice, and founded on general expediency.

3. That, apart from agreement, no nation has the right to seize the vessels of another nation on the high seas in time of peace for offenses against property, except piracy.

4. That any regulations to be established should have just and equitable regard for all interests affected."

15. Your petitioners up to the day of the submission of the question to arbitration in 1892 relied, as they felt warranted in doing, upon the principles embodied in these propositions and upon the power of British Empire to maintain them.

16. To quote from the report of the minister of marine and fisheries for Canada in 1895:

"If then it is an industry which may be lawfully and peacefully pursued by British subjects, it is not clear by what reasoning Her Majesty's government can be expected to proscribe their participation in it, merely because by their competition they may interfere with, or materially impair, the interests of such nations or their lessees as may have the advantage of owning the land upon which the seals, for a certain period of the year, are under their protection or at their mercy."

17. That the Imperial government thoroughly understood the real object of the United States from the beginning of these proceedings in 1886 was to secure a monopoly of the fur seal industry, and to destroy or make possible rivalry or competition at the hands of Canadian sealers, is abundantly shown by the British case and British arguments at Paris.

18. The counter case of Great Britain before the arbitration at Paris in dealing with the history of the United States legislation respecting the seal fisheries gives United States authority for saying a monopoly of this business was intended to be established by the congress of the United States shortly after Russia transferred the seal islands to the United States of America. Referring to the proposed plan of the United States authorities for preserving seal life, submitted to the authorities, Sir Charles Russell discribed it as a "monopoly to the United States."

19. The following is from the report of the minister of marine and fisheries for Canada, 1895:

"It should not be forgotten that the whole question owes its origin to the promulgation and adoption by the United States government, of an exceptional policy with regard to certain comparatively prescribed waters in Behring sea, and in the interests of the lessees of the sealing privileges of the Pribylov islands."

20. That the views of your petitioners are not unreasonable in so far as they suggest the existence of imperial reasons in the interest of peace for the sacrifice of the rights of a few, is shown by the following extract from the Canadian Fisheries Blue Book for 1895:

"That the question of seal life, involving as it did, the international regulations, was included for the consideration of the tribunal, was wholly due to the United States government.

"The Canadian government earnestly endeavored to keep that question out of the realm of arbitration, seeking a decision on that of right alone, which was raised by the action of the United States government in respect of British ships on the high seas."

21. It was not until after the modus vivendi of 1891 that any intimation was received by your petitioners that their rights on the high seas would be limited. In fact, so late as that year, the British government contended, through Her Majesty's representative at Washinton, that no regulations restricting the operations of pelagic sealers were necessary at all. For state reasons, therefore, and in the interest of peace between the nations, the British ambassador proposed, a convention which embodied regulations which he did not "hesitate to affirm were amply sufficient to remove all risk of the depletion, or even appreciable diminution of the fishery."

22. The regulations proposed:

"That pelagic sealing should be prohibited in the Behring sea, the Sea of Ockotsk, and the adjoining waters, during the months of May and June, and the months of October, November and December."

2. "That all sealing vessels should be prohibited from approaching the breeding islands within a radius of ten miles."

These regulations were not accepted by the authorities of the United States, but contrasted with existing conditions which have been imposed, it will be seen how much the interests of your petitioners have been sacrificed.

23. In 1891 the British ambassador at Washington was authorized by the Marquis of Salisbury to submit a modus vivendi ("for the purpose of avoiding differences and with a view to promote friendly settlement of the questions pending between the two governments," etc.

24. The modus vivendi was agreed on to the 15th of June, 1891, and it was provided:

1. "Her Majesty's government will prohibit until May next, seal killing in that part of Behring sea lying eastward of the line of demarkation described in article 1 of the treaty of 1867 between the United States and Russia, and will promptly use its best efforts to secure the observance of this prohibition by British subjects and vessels." Provision was also made for enquiry at the seal islands by commissioners.

25. On the 13th of August, 1892, dealing with international arrangements which might become necessary for the purpose of preserving the fur seal race from extermination, the British experts reported in favor of a season from the 15th of September till the 1st of May.

26. If the action of the United States in 1886 had not occurred, will it be argued that the Imperial parliament would have imposed regulations even of this character?

27. Certainly with this report no further or other restrictions would have obtained. The regulations which were proposed by Great Britain at Paris show the extreme concessions then deemed expedient. These were:

1. All vessels engaged in pelagic sealing shall be required to obtain licenses at one or other of the following ports:

Victoria, in the province of British Columbia.

Vancouver, in the province of British Columbia.

Port Townsend, in Washington Territory, in the United States.

San Francisco, in the State of California, in the United States.

2. Such license shal only be granted to sailing vessels.

3. A zone of twenty miles around the Pribylov Islands shall be established, within which no seal hunting shall be permitted at any time.

4. A close season from the 15th of September to the 1st of July shall be established, during which no pelagic sealing shall be permitted in Behring sea.

5. No rifle or nets shall be used in pelagic sealing.

6. All vessels shall be required to carry a distinguishing flag.

7. The masters in charge of sealing vessels shall keep accurate logs as to the time and places of sealing, the number and sex of the seals captured, and a true copy or an abstract thereof in their official logs.

8. Licenses shall be subject to forfeiture for breach of above regulations.

The majority of the arbitrators, however, imposed further restrictions, as for instance: "Instead of a zone of twenty miles being established, the zone was made sixty; the close season, instead of permitting vessels to enter the Behring sea on the first of July, did not permit them to enter until the 1st of August in each year; instead of prohibiting rifles and nets merely, the use of firearms and explosives was forbidden as well.

Your memorialists, however, were as will appear later on, made to suffer further and other restrictions and embarrassments.

28. The treaty of arbitration of February 29th, 1892, providing for the tribunal at Paris, was accompanied by a further modus vivendi. Under this modus vivendi Her Majesty's government prohibited seal killing in Behring sea during the pendency of the arbitration. Article 5 of the modus vivendi reads as follows:

"If the result of the arbitration be to affirm the right of British sealers to take seals in Behring sea within the bounds claimed by the United States under its purchase from Russia, then compensation shall be made by the United States to Great Britain (for the use of her subjects) for abstaining from the exercise of that right during the pendency of the arbitration upon the basis of such regulated and limited catch or catches as in the opinion of the arbitrators might have been taken without an undue diminution of the seal herds; and on the other hand, if the result of the arbitration should be to deny the right of British sealers to take seals within their waters, then compensation shall be made by Great Britain to the United States (for itself, its citizens and lessees) for this agreement to limit the island catch to 7,500 a season, upon the basis of the difference between this number and such larger catch as in the opinion of the arbitrators might have been taken without an undue diminution of the seal herds.

"This amount awarded, if any, in either case, shall be such as under all the circumstances is just and equitable, and shall be promptly paid."

Referring to this subject the Canadian Fisheries Blue Book for 1895 says:

THE MODUS VIVENDI CLAIMS.

"Last spring the department received a formal petition from the owners of certain sealing schooners, praying for compensation on account of losses incurred by being prevented from carrying on the occupation of pelagic sealing in Behring sea during the years 1891, 1892 and 1893.

"In order to afford a proper understanding of this branch of the question and for convenient reference, a review of the circumstances connected with the modus vivendi in Behring sea, in so far as it affects the claims advanced, may be of interest.

"For the purpose of avoiding irritating differences and to promote a friendly settlement of the questions arising out of the Behring sea seizures, pending between Her Majesty's government and that of the United States, a modus vivendi was agreed to between those two governments on the 15th June, 1891, by which Her Majesty's government engaged to prohibit, until May, 1892, the killing of furseals within that portion of Behring sea, lying to the east or American side of the line of demarkation laid down in the treaty of session of 1867, between Russia and the United States; and to use prompt efforts to ensure the prohibition.

"The United States, on the other hand, engaged to prohibit, during the same period, the killing of seals by the lessees of Pribylov Islands, beyond the number of 7,500.

"This arrangement involved the expulsion of all British sealing vessels found in Behring sea on the American side, and their seizure if found there after warning.

"Prior to the date of signature of the modus vivendi, 15th June, the sealing fleet had cleared for the North Pacific ocean and Behring sea as usual, as no molestations had taken place in that sea during the previous year. A fleet of forty-eight vessels had cleared from Victoria previous to 15th May. Under such circumstances, strong protests were received from all parties interested in the sealing industry, and representations were made against the prohibition of a hitherto legitimate business, without any notification whatever of the intention of taking such a step.

"New vessels had embarked in the enterprise and others had been built and equipped in anticipation of profitable results.

"The Canadian government contended at the time of the arrangement, that compensation should be given the sealers, who might be prevented from prosecuting their vocation, especially as Canada did not possess the means at the late date of giving warning to the sealers."

The Imperial blue book (U.S. No. 11, 1893, pp. 47 and 48) contains a despatch from the foreign office to the colonial office, dated 31st May, 1893, speaking of the possible claim of Her Majesty's government for compensation under this article:

It says: "As a matter of fact, however, it has been found that while the United States under the modus vivendi of last year, were restricted to a catch of 7,500, the pelagic catch, although the sealing vessels kept outside the prohibited limits was larger than in previous years. This fact has been strongly brought forward by the United States counsel before the tribunal.

"It is not probable that under such circumstances, the arbitrators would consider that the British sealers were, under any circumstances, entitled to compensation for a loss of catch during 1892, and it is possible that the British case might be prejudiced by the claim being urged."

"It was eventually decided in this line, and Sir Charles Russell in summing up his argument, stated that Great Britain would not ask from the tribunal any finding for damages under article 5 of the modus vivendi of 1892, and Mr. Phelps admitted that the United States had on their side abandoned any claims under this head."

* * * *

"This resulted in the filing of a formal petition accompanied by modified claims aggregating $974,698.31, which amount was subsequently swelled by $99,784.86, made up of additional claims since filed, totalling $1,074,483.17.

"The contention of the petitioners was, that it could not have been the intention of Her Majesty's government to allow them to suffer loss, by being prevented from carrying on what has been declared to be a lawful business; and if, for State reasons, it was decided to refrain from demanding of the United States recompense therefor, such a course must have been pursued on the understanding they would cause proper compensation to be made for the losses the sealers had been compelled to sustain, in order to further the greater interests of the Empire, which were involved in the dispute referred to arbitration."

29. So the diplomatic concession of a closed season in Behring sea, made at the expense of your petitioners, was followed by no indemnity of any kind whatsoever.

30. The embarrassment to the capital invested in this industry by British subjects, and the loss suffered by individuals on account of the position taken by the United States, cannot, it is submitted, be gauged by any mere assessment of damages such as were effected by the treasury commissioners in 1892 or by the commissioners under the treaty of 1898.

31. In the case of the concession to the United States by the modus vivendi of 1891, while the Imperial government did recognise the principle of compensation; "full compensation" did not obtain, there being considered only the actual "out of pocket" expenses.

32. Neither was an average catch considered.

33. Mr. Gleadowe, of Her Majesty's treasury, in 1892, in his report on the subject said:

"There can be no doubt that the Canadian sealers have as a body reaped very large profits from the fishery in past years. * * * The price of skins has risen very rapidly, and there can be no doubt that compensation based upon the average take of former years at the enhanced prices obtaining last year would amount to a very large sum. The sealers have gathered from the particulars which they have been asked to furnish in support of their claims the basis upon which it is intended that compensation is to be given, and they have not unnaturally contrasted the amount which is likely to be awarded on this basis with that which they might have expected upon the basis of an average catch, much to the disadvantage, from their point of view, of the former, and their protests may readily be imagined." * * * "In conversation with the sealers I have drawn attention to the a priori probability of the modus vivendi enhancing the price of skins, but I cannot say that I think any appreciable deduction should on this ground be made from the compensation to be otherwise awarded. It forms, however, a useful set-off when claims are advanced which are not altogether inadmissable but cannot well be reduced to figures. 7. The profits made by the sealers in past years have been undoubtedly very large, except in the few cases where their schooners have been seized. In many cases, they must have made from 100 to 200 per cent upon the capital invested." * * * "As a body the sealers have impressed us very favorably. Some of them are old sailors who have invested their savings in a schooner and sail with her themselves, but the majority are men engaged in trade here, who have fitted out schooners as they would invest their money in any other speculation which promised large profits." * * * "13. The compensation claimed amounts altogether to $705,000, or not far short of £150,000, if a proportionate allowance be made in cases where 'full compensation,' without the mention of any specific sum has been claimed. These figures are, however, based upon an average catch, and must be enormously reduced to bear any relation to the out-of-pocket expenses." * * * "14. As regards the schooners, we have been much impressed with the excellence of the way in which, as a general rule, they are built and found in every respect. Compared with craft of a similar tonnage in other industries they are very expensively fitted out, and everything about them appears good."

34. That some consideration is due for exceptional interference with a particular business, the action of the Imperial government in 1892 admits. It was, however, in the case, wholly inadequate, and heavy losses have, therefore, in this respect fallen and remain upon the few whose capital was invested in a legitimate interest.

35. The treaty of 1894, under which certain damages were assessed, was expressly confined to the actual loss sustained in connection with the operations of the particular vessels mentioned in the treaty, which had been directly interfered with by the United States authorities.

36. It did not pretend to cover such results, as mentioned in this memorial, as, for instance, those due to the continual hostile attitude of the United States in its operation upon the credit of such as were interested in the sealing business.

37. Nor has any means been afforded to show how much they have lost, and the extent of the sacrifice of their interests which has been made by the Imperial government in the interest of peace of the nation and for the benefit of their fellow-subjects in this regard. It is obvious, moreover, that while the sealing business in Behring sea began its development in 1886, there never has been a year when, by the uninterrupted pursuit of this venture, without threat, let or hindrance, on the high seas in Behring sea, the true value of the business could be estimated, and yet from particular cases already in the public records, some of which are given in schedule "B" hereto appended, it is apparent that but for the action of the United States from 1886 down to this day, and the concessions on the part of Her Majesty's government, those British subjects who in good faith invested their capital in pelagic sealing, would have been entitled to and would have enjoyed extraordinary profit.

38. Moreover, extraordinary extensions of the restrictions under the Paris award were proposed to and adopted by the Imperial parliament, where the sealers had no direct representation, and where their particular interests and rights were neither discussed nor considered. That the restrictions imposed under the award were materially extended by the Imperial authorities is evident from the following references in the annual report of the minister of marine and fisheries, 1895:

"The actual restrictions upon the sealers, dictated by the Paris regulations may be summed up thus:

"The sealing season is restricted to about six weeks in Behring sea, and the use of fire-arms in hunting is forbidden therein, while the sealers are debarred from approaching nearer to the Pribylov islands than 60 miles.

"A protection area is established in the open sea, embracing a huge water area of say 2,000 miles north to south, and a like distance from east to west, or in other words, the whole of the waters of the North Pacific ocean which wash the shore of North America, wherein it is possible for a seal to be found, and from that shore across the ocean to the 180th meridian.

"Within this vast expanse, pelagic sealers are absolutely prohibited from taking seals during three of the best sealing months of the year, while during the rest of the time their operations are restricted to certain methods.

"Every sealing vessel must carry a formal license, authorizing her to engage in the business, which she can obtain only upon the master satisfying the collector of the fitness and expertness of the hunters engaged for the voyage.

"The vessel must likewise provide herself with and fly a flag distinctive of her character as a sealer.

"These are the specific restrictions, absolute under the terms of the award, from the observance of which it is neither expected nor sought by the sealers to be exempt. But they are in constant danger of much further interference and disaster, in no way warranted by the award regulations.

"The extraordinary area over which the award applies, has induced legislation of an exceptional character, sanctionizing interruption and search at sea, which has already resulted in the seazure of vessels, entirely innocent of even attempted infractions of the law, and consequent breaking up of their voyages with attendant loss and disaster."

* * *

"The subjects of Her Majesty in Canada have yielded a loyal obedience to the regulations, and the interferences which have taken place since the award, have been considered by those interested to be of a vexatious character, prompted by strict and unwarranted interpretation of the scope of the legislation and instructions thereunder.

THE AGREEMENT FOR THE SEALING UP OF IMPLEMENTS.

"This agreement, which had been entered into between the two governments, for1894, but to which Canada had been unable to accede, was intended to afford a opportunity to the masters of sealing vessels to establish their bona fides by voluntarily having their sealing implements secured under seal when traversing, during the close season, on their homeward voyages or otherwise, the waters affected by the Paris award.

"The contention being that by thus rendering it impossible to use implements, the sealers would be free from molestation on the suspicion of having contravened the award regulations by hunting seals at a time when such operations were prohibited.

"The arrangement was opposed by Canada, on the ground that it formed a very substantial expansion of the measure of interference with British vessels at sea, warranted by the terms of the award."

* * *

"The experience of 1894 showed conclusively that while the agreement did not operate to secure the sealers from unnecessary interference and seizure, it was interpreted as providing a new ground, wholly outside the award, for seizing British sealing vessels, as demonstrated by the seizure by United States authorities of the schooners Wanderer and Favorite, charged with having each one unsealed gun on board, notwithstanding that in the case of the former vessel the master had taken the precaution of voluntarily having his fishing implements sealed; the one discovered by the boarding officer, after minute search, being the private property of the mate who had stored it away."

* * *

BOARDING OF BRITISH VESSELS BY UNITED STATES PATROL SHIPS.

"The following statement will show the several boardings of the vessels forming the Canadian sealing fleet, during the sealing season in Behring sea, giving the date and position at sea of each boarding and the names of the boarding vessel and officer.

* * *

"This list represents a total of thirty-five vessels visited. An examination will show that between the 3rd August and 20th September, the aggregate number of boardings was 196, anaverage of three to each sealing vessel, distributed among the fleet as follows:

Boarded once	7	vessels
" twice	10	"
" three times	4	"
" four times	6	"
" five times	5	"
" six times	3	"

"Upon search of the vessel and examination of the skins, the boarding officers certified in the official log book, the time of boarding, the position of the vessel at sea, and the number of seal skins at the time on board.

"Considerable dissatisfaction has been expressed by the masters of the sealing fleet, over the trouble and inconveniences to which they are subjected by these inquisitorial visits and searches.

"A statement by one of the masters describes the methods adopted by the boarding officers. The vessel was searched against his will, the skins which had been carefully salted and put in the hold, were pulled out of the salt and left scattered around, necessitating their being re-salted and re-packed.

"This represents one boarding only, but it served to show the irritating and vexations espionage which the sealers have undergone, when boarded five, or six times in about six weeks.

* * *

"It has been represented that the extent of interference by boarding officers seems to be practically unlimited, and no matter what may be the result of the searches, the inconvenience and disaster accruing must invariably be borne by the sealers."

* * *

THE SHELBY.

"This vessel was seized in the North Pacific ocean by the United States steamship Corwin on the 11th day of May, 1895, in latitude 52:52:10 north, longitude 134:10:58 west. The position of the vessel would thus be about 70 miles off Queen Charlotte island, on the British Columbia coast, approximately 500 or 600 miles from her home port, and between 1,200 and 1,500 miles from the passes through the Aleutian islands to Behring sea. It was contended that the vessel was on her way home with her spring catch, she being one of those which cleared for operations on the American side of the North Pacific ocean.

"The vessel was charged with being employed in pursuing seals within the prohibited waters during the period prohibited by law, the close season being from 1st of May to 31st July.

"The action against the vessel resulted in her condemnation, the court holding that the presence of the ship within the award area required the clearest evidence to remove the presumption against her which in the present instance was lacking.

"As no actual taking of seals had been shown, however, it was considered that justice could be satisfied by the imposition of a fine in lieu of forfeiture. She was consequently adjudged to pay a fine of £100 and all costs."

* * *

THE BEATRICE

"Was seized by the United States ship Rush, in latitude 55:01 north, longitude 168:55 west, about 29 miles west outside the 60-mile zone in Behring sea.

"The reason given for the seizure of the vessel, as endorsed on the certificate of registry was: "The schooner Beatrice has been seized by the United States revenue cutter Rush for violation of article 5 of the Paris award, viz.: not accurately entering the catch of seals in her official log."

"It appears, however, that the charge against the vessel was not so much that the master had not accurately entered the catch of seals in the official log—the entries which had been made were found to be quite accurate—as that he had allowed some days to elapse between the date of the last entry and that of the boarding of his vessel by the United States officer.

"The captain explained that although the official log was not entered up to date, yet his diary log, or memorandum, was all right, and the log would have been written up from the slate by noon of the day upon which he was boarded at about 8 o'clock a.m."

The article of the award relied upon for this seizure reads as follows:

"Article 5. The masters of the vessels engaged in fur seal fishing shall enter accurately in their official log book the date and place of each fur seal fishing operation, and also the number and sex of the seals captured upon each day. These entries shall be communicated by each of the two governments to the other at the end of each fishing season."

"Read in connection with the Merchants' Shipping act, which applies to all log entries on sealing vessels, it is difficult to conceive how grounds for the seizure of the vessel could be justified. Instead of demanding that all log entries shall be made on the day of the occurrence, the act specifically contemplates their insertion at a subsequent date, and even legalizes entries to be made twenty-four hours after arrival at the final port of discharge.

"It is therefore, obvious that the sealers might, with as much reason and justification, contend for the one extreme application of the law as the United States authorities do for the other extreme interpretation.

"Another point insisted by this seizure is as to the liability of the vessel at all, in respect of log entries, offences of the nature being punisable by the imposition of a fine upon the master."

39. Witness also the despatch before referred to from the Colonial office to the Foreign office, where it is said:

"The constant patrolling of the limited area of the fishery by steam vessels must tend to disturb the seals and diminish the catch, which in Behring sea is made almost entirely from sleeping seals, even if the constantly repeated boarding to which the British vessels have been subjected had not constituted a material hindrance to the operations of the sealing fleet. The extent to which British sealing vessels have been unnecessarily harrassed by the United States patrol vessels during 1895 and 1896 may be judged from the fact that in 1894, when the British sealing fleet numbered only twenty-two vessels, thirty-six boarding operations were performed, an average of one and a half per vessel, while in 1895, when a fleet of forty British vessels were engaged, the number of boardings rose to 183, an average of four and a half per vessel, and in 1896 the British fleet of fifty-seven vessels was subjected in Behring sea alone to 71 boardings by the United States patrol, an average of three times per vessel. It is interesting to note that in 1895 seventy-six United States vessels were subjected to only 156 bordering operations. It is borne in mind that each boarding operation by United States vessels the whole catch is pulled out of the salt in which it is packed, and each skin care fully examined, and then left to be resalted and re-packed by the crew of the sealing vessel, some idea may be formed of the extent to which the operations of the sealing fleet are subjected to active obstruction, in addition to the loss caused through the effect of the constant movements of the steam patrol-vessels in scaring the seals. In addition, most of the vessels were boarded one or more times by Her Majesty's ships."

* * *

"The so-called serious defect in the British act for the enforcement of the regulations is the next point in Mr. Sherman's indictment. He refers to the omission of the clause, contained in the act passed to carry out the modus vivendi of 1891, which provides that the presumption of guilt would lie against the vessel having on board fishing or shooting implements, or seal skins at forbidden times or in forbidden waters, and declares that the practical effect is to make it impossible to convict British sealing vessels although there may be the strongest presumptive evidence of guilt, evidence which, under the act of congress, would in most cases procure the conviction of an American sealing vessel.

"It would have been of much assistance to Her Majesty's government if Mr. Sherman had mentioned one or two of these cases, as only ten British vessels have been seized during the ten years that the act has been in force. Of these, two were seized in 1894, not for violation of the award, but having unsealed arms on board, the alleged arms in one case being a musket with the barrel cut down used for signalling to the vessel's boats. There was absolutely no evidence in either case that the arms had been used, and the admiral decided not to bring vessels so improperly seized to trial. One vessel was seized last year by the United States on the pretext that there was a shot hole in one of the skins though the most exhaustive search failed to reveal any arms on board, and after a few days' detention the United States officer in charge of the patrol released her. There remain only seven vessels, therefore brought to trial in three years, and of these four have been convicted and heavy fines or forfeiture inflicted. The cases referred to by Mr. Sherman are therefore reduced to three. One of these vessels was seized on the ground that the master had not entered up in his log for two days the number of seals taken, and the court promptly dismissed the case with costs against the prosecutor. The other vessel released had been seized on a charge of using fire arms in killing seals in Behring sea. Having been previously sealing on the Japan coast, where the use of fire arms is allowed, on entering Behring sea the master had his ammunition and arms counted by the United States officers at Attu before beginning sealing. When searched subsequently there appeared to be some discrepancy in the ammunition, and one skin had a hole in it presenting an appearance like that of a shot hole. The discrepancy in the ammunition was fully accounted for, but the vessel was sent for trial, and of course acquitted. The third case of acquittal was somewhat similar to the last, except that the evidence was even less strong, and the commander of the British patrol deemed only sent her to trial because his instructions gave him no discretion where a distinct offence is charged against a vessel by a United States officer."

of the minister of M. and F. for Canada, 1896, (p. 382) is to the same effect:

"The main object of the Canadian government has been to protest against the persistent attempt to stamp the industry of pelagic sealing as being, contra bonos mores, and to characterize it as a class of poaching or piracy, demanding extraordinary espionage and inordinate and abnormal interference and restriction, which has been so consistently maintained towards British sealers, both before and since the award.

The course above proposed, it was considered, would very materially impair, if not entirely remove the fallacious arguments for an admission of the necessity to resort to any extension of the already cumbersome restrictions upon the legitimate business of pelagic sealing, in manner in which British vessels have been searched and ransacked by United States vessels at sea, because the use of firearms to kill seals within the waters of Behring set is forbidden, was fully explained in the report for 1895, at page 148, under the heading "Boarding of British vessels by United States patrol ships." It was hoped that the arrangements above explained would satisfy the United States government that no fire-arms would be used, where such use was illegal, especially in the case of the vessels which were provided with certificates that no such implements were on board."

41. Under the condition of affairs which has obtained, your petitioners find themselves and their industry to-day so limited, trammelled and circumscribed by international regulations, and by the continued unwarrantable interference on the part of cruisers or revenue cutters pretending to act under international arrangements, unable to exhibit the business as a steady source of revenue and benefit.

42. Your memorialists do not desire to conceal the fact that a decline has recently occurred in the value of seal skins whether due to a change temporarily or permanent in the public fashions and fancy, or to the exclusive legislation on the part of the United States, or to both of these causes. Nevertheless, had it not been for the exceptional interference with their business in past years, it is claimed that your memorialists would have reaped such advantages from the condition of the market in those years that such contingencies as the present could have been provided against.

43. Your memorialists, in view of the foregoing facts, earnestly crave that special consideration be given to their peculiar position, and that no adjustment or arrangement be agreed upon which ignores the causes and reasons for which ignores the causes and reasons for the present unfortunate and unsatisfactory condition of those engaged in the fur seal industry.

44. It is submitted that the sacrifices which have been imposed upon your memorialists, and those whose interests are identical, on account of the foreign policy of the Empire, should not be overlooked, and if further concessions are to be made to the United States for Imperial reasons, or for benefits to other British Canadian industries or interests, the principle of full compensation should obtain.

Your memorialists also submit that under the foregoing circumstances the interests of your memorialists should not be measured by the present rate of profit in the sealing ventures.

45. Your memorialists would respectfully urge that no indemnity for the past or for further restrictions of this industry, will be satisfactory or fair, which does not provide for payment of the capital actually invested as well as for a sum sufficient to cover the losses sustained by the sealers in consequence of the restrictions already imposed is well as those which may be imposed.

Your memorialists suggest that the sum of not less than $200.00 per ton (gross registered tonnage) of each vessel, be deemed the amount to cover the

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