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CORRESPONDENCE

RELATIVE TO THE

SEIZURE OF BRITISH AMERICAN VESSELS

IN

BEHRINGS SEA

BY THE UNITED STATES AUTHORITIES

IN

1886-87.



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1888.

CORRESPONDENCE

Relating to the seizure of British vessels in Behring's Sea.

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Vessels now being fitted out for this year's trip to Behring's Sea. Owners enquire whether, when not near land, they may depend upon being unmolested by United States cruisers.

Please reply by cable.

LANSDOWNE.

Sir H. T. Holland to Lord Lansdowne.

DOWNING STREET, 23rd April, 1887.

MY LORD,—With reference to previous correspondence, I have the honor to transmit to you for communication to your Ministers, copy of a letter from the

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Foreign Office enclosing copies of two despatches from Her Majesty's Minister at Washington on the subject of the Alaska fisheries question.

I have, &c.,

H. T. HOLLAND.

Governor General, the Most Honorable the Marquis of Lansdowne, G.C.M.G., &c.

From Foreign Office to Colonial Office.

FOREIGN OFFICE, 13th April, 1887.

SIR,—With reference to your letter of the 2nd instant, I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Secretary Sir Henry Hoiland, copies of two despatches, as marked in the margin, on the subject of the Alaska fisheries question.

I am, &c.,

J. PAUNCEFOTE.

The Under Secretary of State, Colonial Office.

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 2nd April, 1887.

MY LORD,—I have the honor to inform Your Lordship that the Commander of the United States revenue cutter "Gallatin" has been cited to appear before the Admiralty Court in the Boston District to answer to the allegation that in June last while in command of the United States steamer "Corwin" he took by force from the American schooner "Sierra" her arms and ammunition at a point in the open sea thirty miles north of Ounalaska, while she was navigating the waters of the North Pacific Ocean on a hunting and fishing expedition, thus breaking up her voyage to the damage of the plaintiffs of \$22,500.

I have instructed Her Majesty's Consul at Boston to watch this case and report the decision of the court.

I have, &c.,

L. WEST.

The Marquis of Salisbury, K.G., &c.

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 29th March, 1887.

MY LORD,—I have the honor to report to Your Lordship that the United States steamship "Thetis" has sailed from New York and will proceed round Cape Horn and up the west coast to Alaska. It is reported that the Secretary of the Treasury has received a letter from the Alaska Commercial Company complaining that private parties are taking seals in the waters about Alaska, and asking for more revenue cutters to be sent for their protection. The company further ask that the United States Government should prohibit all killing of seals within the eastern half of Behring's Sea, or from a point beginning at Behring's Straits and passing from the north-west end of St. Lawrence Island in a south-westerly direction to the island of Alton at the extreme westerly point of the Aleutian Archipelago.

I have, &c.,

L. S. S. WEST.

The Marquis of Salisbury, K.G., &c.

No. 115.

Sir H. T. Holland to Lord Lansdowne.

DOWNING STREET, 12th May, 1887.

MY LORD,—I have the honor to transmit to you, for communication to your Ministers, with reference to previous correspondence, a copy of a letter from the

Foreign Office, enclosing a copy of a despatch from Her Majesty's Minister at Washington, respecting the seizure of British vessels engaged in seal fishing in Behring's Sea last autumn.

I have, &c.

H. T. HOLLAND.

Governor General, the Most Honorable the Marquis of Lansdowne, G.C.M.G.

[Enclosure No 1.]

The Foreign Office to the Colonial Office.

FOREIGN OFFICE, 5th May, 1887.

SIR,—With reference to the letter from this office of the 15th ultimo, I am directed by the Marquis of Salisbury to transmit to you, to be laid before secretary Sir Henry Holland, a copy of a despatch, No. 97, dated 13th April, 1887, with its enclosures from Her Majesty's Minister at Washington, relative to the question of the seizure last autumn in Behring's Sea of three British schooners engaged in seal fishing.

Copies of the laws of the United States relating to Alaska to which reference is vide U. S. statutes *re* made in Mr. Bayard's note of the 12th ultimo to Sir L. West, are Alaska, sec. 1956-1971. also enclosed.

I am, &c.

P. W. CURRIE.

The Under Secretary of State, Colonial Office.

[Enclosure No. 2.]

Sir L. S. West to the Marquis of Salisbury.

WASHINGTON, 13th April, 1887.

MY LORD,—With reference to Your Lordship's telegram No. 7 of 2nd instant, I have the honor to enclose to your Lordship, herewith, copy of a note which I addressed to the Secretary of State, as well as copy of reply thereto, stating that the records of the judicial proceedings in cases of the British vessels seized in Behring's Sea, were received at the State Department on Saturday last, and are now under examination; and that the remoteness of the scene of the fur seal fisheries has delayed the Treasury officials in framing appropriate regulations, and issuing orders to the United States police vessels, which information I had the honor to telegraph to Your Lordship this day.

I have, &c.,

L. S. WEST.

The Marquis of Salisbury, K.G., &c., &c., &c.

[Enclosure No. 3.]

Sir L. S. West to Mr. Bayard.

WASHINGTON, 4th April, 1887.

SIR,—In view of the approaching fishing season in Behring's Sea, and the fitting out of vessels for fishing operations in those waters, Her Majesty's Government have requested me to inquire whether the owners of such vessels may rely on being unmolested by the cruisers of the United States when not near land.

Her Majesty's Government are also desirous to know whether the documents referred to in your note of 3rd February last, connected with the seizure of certain British vessels beyond the three-mile limit, and legal proceedings connected therewith, have been received, and I have the honor, therefore, to request you to be good enough to enable me to reply to their inquiries on the part of Her Majesty's Government with as little delay as possible.

I have, &c.,

L. S. WEST.

The Hon. T. F. Bayard, &c., &c., &c.

[Enclosure No. 4.]

Mr. Secretary Bayard to Sir L. West.

DEPARTMENT OF STATE, WASHINGTON, 12th April, 1887.

SIR,—I have the honor to acknowledge your note of 4th instant, relative to the fisheries in Behring's Sea, and inquiring whether the documents referred to in my note of 3rd February, relating to the cases of seizure in those waters of vessels charged with violating the laws of the United States regulating the killing of fur seals, had been received. The records of the judicial proceedings in the cases in the District Court in Alaska referred to were only received at this department on Saturday last, and are now under examination.

The remoteness of the scene of the fur seal fisheries, and the special peculiarities of that industry, have unavoidably delayed the Treasury officials in framing regulations and issuing orders to United States vessels to police the Alaskan waters for the protection of the fur seals from indiscriminate slaughter and consequent speedy extermination.

The laws of the United States in this behalf are contained in the Revised Statutes relating to Alaska, in section 1956-1971, and have been in force for upwards of 17 years, and prior to the seizures of last summer but a single infraction is known to have occurred, and that was promptly punished.

The question of instructions to Government vessels in regard to preventing the indiscriminate killing of fur seals, is now being considered, and I will inform you at the earliest day possible what has been decided, so that British and other vessels visiting the waters in question can govern themselves accordingly.

I have, &c.,

T. F. BAYARD.

Hon. Sir L. WEST, &c., &c., &c.

ANNEX.

CHAPTER III.

Provisions relating to the Unorganized Territory of Alaska.

Section.

- 1954. Customs, &c., laws extended to Alaska.
- 1955. Importation of fire-arms and distilled spirits may be prohibited.
- 1956. Killing of fur-bearing animals prohibited.
- 1957. What courts to have jurisdiction of offences.
- 1958. Remission of fines, &c.
- 1959. Saint Paul and Saint George Islands declared special reservations.
- 1960. Killing of seal upon them prohibited except in certain months.
- 1961. Killing of certain seal prohibited.
- 1962. Limit to number of seals to be killed.
- 1963. Right to take seal may be leased.
- 1964. Bond.
- 1965. Who may lease.
- 1966. Covenants in lease.
- 1967. Penalty.
- 1968. Penalty upon leases.
- 1969. Tax upon seal skins.
- 1970. Lease may be terminated.
- 1971. Lessees to furnish copies to masters of their vessels.
- 1972. Certain sections may be altered.
- 1973. Agents and assistants to manage seal fisheries.
- 1974. Their pay, &c.
- 1975. Not to be interested in right to take seals.
- 1976. Agents may administer certain oaths and take testimony.

Sec. 1954. The laws of the United States relating to customs, commerce, and navigation, are extended to and over all the mainland, islands, and waters of the territory ceded to the United States by the Emperor of Russia by Treaty concluded at Washington on the 30th day of March, A. D. 1867, so far as the same may be applicable thereto.

Sec. 1955. The President shall have power to restrict and regulate or to prohibit the importation and use of fire-arms, ammunition, and distilled spirits, into and within the Territory of Alaska; the exportation of the same from any other port or place in the United States, when destined to any port or place in that territory, and all such arms, ammunition, and distilled spirits, exported or attempted to be exported from any port or place in the United States and destined for such Territory, in violation of any regulations that may be prescribed under this section, and all such arms, ammunition, and distilled spirits, landed or attempted to be landed or used at any port or place in the territory, in violation of such regulations, shall be forfeited; and if the value of the same exceeds \$400 the vessel upon which the same is found, or from which they have been landed, together with her tackle, apparel and furniture, and cargo, shall be forfeited; and any person wilfully violating such regulations shall be fined not more than \$500, or imprisoned not more than six months. Bonds may be required for a faithful observance of such regulations from the master or owners of any vessel departing from any port in the United States having on board fire-arms, ammunition, or distilled spirits, when such vessel is destined to any place in the territory, or if not so destined, when there is reasonable ground of suspicion that such articles are intended to be landed therein in violation of law; and similar bonds may also be required on the landing of any such articles in the territory from the person to whom the same may be consigned.

Sec. 1956. No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal, within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offence, be fined not less than \$200 nor more than \$1,000, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur-seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant any special privileges under this section.

Sec. 1957. Until otherwise provided by law, all violations of this chapter, and of the several laws hereby extended to the Territory of Alaska and the waters thereof, committed within limits of the same, shall be prosecuted in any district court of the United States in California or Oregon, or in the district courts of Washington; and the collector and deputy collectors appointed for Alaska Territory, and any person authorized in writing by either of them, or by the secretary of the Treasury, shall have power to arrest persons and seize vessels and merchandize liable to fines, penalties or forfeitures under this and the other laws extended over the territory, and to keep and deliver the same to the marshal of some one of such courts; and such courts shall have original jurisdiction, and may take cognizance of all cases arising under this Act and the several laws hereby extended over the territory, and shall proceed therein in the same manner and with the like effect as if such cases had arisen within the district or territory where the proceedings are brought.

Sec. 1958. In all cases of fine, penalty or forfeiture embraced in the Act approved the 3rd March, 1797, ch. 13, or mentioned in any Act in addition to or amendatory of such Act, that have occurred or may occur in the collection district of Alaska, the secretary of the Treasury is authorized, if, in his opinion, the fine, penalty or forfeiture was incurred without wilful negligence or intention of fraud, to ascertain the facts in such manner and under such regulations as he may deem proper without regard to the provisions of the Act above referred to, and upon the facts so to be ascertained he may exercise all the power of remission conferred upon him by that

Act, as fully as he might have done had such facts been ascertained under and according to the provisions of that Act.

Sec. 1959. The islands of Saint Paul and Saint George, in Alaska, are declared a special reservation for Government purposes; and until otherwise provided by law it shall be unlawful for any person to land or remain on either of those islands, except by the authority of the Secretary of the Treasury; and any person found on either of those islands, contrary to the provisions hereof, shall be summarily removed; and it shall be the duty of the Secretary of War to carry this section into effect.

Sec. 1960. It shall be unlawful to kill any fur-seal upon the Islands of Saint Paul and Saint George, or in the waters adjacent thereto except during the months of June, July, September, and October in each year; and it shall be unlawful to kill such seals at any time by the use of fire-arms, or by other means tending to drive the seals away from those islands; but the natives of the islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing, and for the manufacture of boats for their own use; and the killing in such cases shall be limited and controlled by such regulations as may be prescribed by the Secretary of the Treasury.

Sec. 1961. It shall be unlawful to kill any female seal, or any seal less than one year old, at any season of the year, except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to the Islands of Saint Paul and Saint George, or on the beaches, cliffs, or rocks where they haul up from the sea to remain; and every person who violates the provisions of this or the preceding section shall be punished for each offence by a fine of not less than \$200 nor more than \$1,000, or by imprisonment not more than six months, or by both such fine and imprisonment; and all vessels, their tackle, apparel, and furniture, whose crews are found engaged in the violation of either this or the preceding section, shall be forfeited to the United States.

Sec. 1962. For the period of twenty years from the 1st July, 1870, the number of fur seals which may be killed for their skins upon the Island of Saint Paul is limited to 75,000 per annum; and the number of fur-seals which may be killed for their skins upon the Island of Saint George is limited to 25,000 per annum; but the Secretary of the Treasury may limit the right of killing, if it becomes necessary for the preservation of such seals, with such proportionate reduction of the rents reserved to the Government as may be proper; and every person who knowingly violates either of the provisions of this section shall be punished as provided in the preceding section.

Sec. 1963. When the lease heretofore made by the secretary of the Treasury to "The Alaska Commercial Company," of the right to engage in taking fur-seals on the islands of Saint Paul and Saint George, pursuant to the Act of the 1st July, ch. 189, or when any future similar lease expires, or is surrendered, forfeited or terminated, the secretary shall lease to proper and responsible parties, for the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, their comfort, maintenance and education, as well as to the interests of the parties heretofore engaged in trade and the protection of the fisheries, the right of taking fur-seals on the islands herein named, and of sending a vessel or vessels to the islands for the skins of such seals, for the term of twenty years, at an annual rental of not less than \$50,000, to be reserved in such lease and secured by a deposit of United States bonds to that amount; and every such lease shall be duly executed in duplicate, and shall not be transferable.

Sec. 1964. The Secretary of the Treasury shall take from the lessees of such islands in all cases a bond, with securities, in a sum not less than \$500,000 conditioned for the faithful observance of all the laws and requirements of congress, and the regulations of the Secretary of the Treasury touching the taking of fur seals and the disposing of the same, and for the payment of all taxes and dues accruing to the United States connected therewith.

Sec. 1965. No persons other than American citizens shall be permitted, by lease or otherwise, to occupy the islands of Saint Paul and Saint George, or either of them,

for the purpose of taking the skins of fur-seals therefrom, nor shall any foreign vessels be engaged in taking such skins; and the Secretary of the Treasury shall vacate and declare any lease forfeited if the same be held or operated for the use, benefit or advantage, directly or indirectly, of any persons other than American citizens.

Sec. 1966. Every lease shall contain a covenant on the part of the lessee that he will not keep, sell, furnish, give or dispose of any distilled spirits or spirituous liquors on either of those islands to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine; and every revenue officer, officially acting as such on either of the islands, shall seize and destroy any distilled or spirituous liquors found thereon; but such officer shall make detailed reports of his doings in that matter to the collector of the port.

Sec. 1967. Every person who kills any fur seal on either of those islands, or in the waters adjacent thereto, without authority of the lessees thereof, and every person who molests, disturbs, or interferes with the lessees, or either of them, or their agents or employees, in the lawful prosecution of their business, under the provisions of this chapter, shall for each offence be punished as prescribed in section 1961; and all vessels, their tackle, apparel, appurtenances, and cargo, whose crews are found engaged in any violation of the provisions of sections 1965 to 1968, inclusive, shall be forfeited to the United States.

Sec. 1968. If any person or company, under any lease herein authorized, knowingly kills, or permits to be killed, any number of seals exceeding the number for each island in this chapter prescribed, such person or company shall, in addition to the penalties and forfeitures herein provided, forfeit the whole number of the skins of seals killed in that year, or, in case the same have been disposed of, then such person or company shall forfeit the value of the same.

Sec. 1969. In addition to the annual rental required to be reserved in every lease, as provided in section 1963, a revenue tax or duty of 2 dollars is laid upon each fur seal skin taken and shipped from the Islands of Saint Paul and Saint George, during the continuance of any lease, to be paid into the Treasury of the United States; and the Secretary of the Treasury is empowered to make all needful regulations for the collection and payment of the same, and to secure the comfort, maintenance, education, and protection of the natives of those islands, and also to carry into full effect all the provisions of this chapter except as otherwise prescribed.

Sec. 1970. The Secretary of the Treasury may terminate any lease given to any person, company, or corporation on full and satisfactory proof of the violation of any of the provisions of this chapter or the regulations established by him.

Sec. 1971. The lessees shall furnish to the several masters of vessels employed by them certified copies of the lease held by them respectively, which shall be presented to the Government revenue officer for the time being who may be in charge at the islands as the authority of the party for landing and taking skins.

Sec. 1972. Congress may at any time hereafter alter, amend or repeal sections from 1960 to 1971, both inclusive, of this chapter.

Sec. 1973. The Secretary of the Treasury is authorized to appoint one agent and three assistant agents, who shall be charged with the management of the seal fisheries in Alaska, and the performance of such other duties as may be assigned to them by the Secretary of the Treasury.

Sec. 1974. The agent shall receive the sum of \$10 each day, one assistant agent the sum of \$8 each day, and two assistant agents the sum of \$6 each day while so employed; and they shall also be allowed their necessary travelling expenses in going to and returning from Alaska, for which expenses vouchers shall be presented to the proper accounting officers of the Treasury, and such expenses shall not exceed in the aggregate \$600 each in any one year.

Sec. 1975. Such agents shall never be interested, directly or indirectly, in any lease of the right to take seals, nor in any proceeds or profits thereof, either as owner agent, partner or otherwise.

Sec. 1976. Such agents are empowered to administer oaths in all cases relating to the service of the United States, and to take testimony in Alaska for the use of the Government in any matter concerning the public revenues.

Sir R. G. W. Herbert to the Officer Administering the Government of Canada.

DOWNING STREET, 27th May, 1887.

MY LORD,—I am directed by the Secretary of State to transmit to you for communication to your Ministers with reference to previous correspondence the documents specified in the annexed schedule.

I have, &c.,
R. G. W. HERBERT.

The Officer Administering the Government of Canada.

Date.	Description of Document.
6th May.....	Sir L. S. S. West to Foreign Office. The seizures in Behring's Sea.

The Foreign Office to the Colonial Office.

FOREIGN OFFICE, 19th May, 1887.

SIR,—I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, copy of a despatch, as marked in the margin, from Her Majesty's Minister at Washington, relative to the seizures in Behring's Sea.

I am, &c.,
J. PAUNCEFOTE.

The Under Secretary of State, Colonial Office.

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 6th May, 1887.

MY LORD,—With reference to my despatch No. 88, of April 2nd last, I have the honor to inform Your Lordship that the case of the owners of the American ships seized for sealing in Behring's Sea, against the captain of the United States cruiser "Corwin," has been postponed until the Government is prepared for the defence.

I have, &c.,
L. S. WEST.

The Marquis of Salisbury, &c., &c., &c.

No. 206.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, 14th July, 1887.

MY LORD,—I referred to the Secretary of State for Foreign Affairs a copy of Your Lordship's despatch, No. 169, of the 21st of May last, enclosing a copy of an approved report of your Privy Council, respecting the action of the United States authorities towards British subjects, in connection with the seizure of Canadian sealing schooners in Behring Sea.

I now enclose, for communication to your Government, a copy of a letter received from the Foreign Office in reply, from which it will be seen that the Marquis of Salisbury is of opinion that it will be desirable, before any further representations are made to the United States Government, with a view to obtaining reparation, that Her Majesty's Government should be in possession of the record of

the judicial proceedings in the District Court in Alaska, and that instructions have been sent by telegraph to Sir L. West.

You will be so good as to transmit to me a copy of any printed papers which have been laid before the Parliament of the Dominion on this subject.

I have, &c.,

H. T. HOLLAND.

Governor General,

The Most Honorable the Marquis of Lansdowne, G.C.M.G., &c., &c., &c.

[Enclosure No. 1.]

The Foreign Office to the Colonial Office.

FOREIGN OFFICE, 8th July, 1887.

SIR,—I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter, of the 27th ultimo, relating to the case of the seizure of certain British vessels when engaged in seal fishing last autumn in Behring's Sea.

In reply, I am to request that you will state to Sir H. Holland that in Lord Salisbury's opinion it is very desirable that, before any further representations are made to the United States Government with a view to obtaining reparation, Her Majesty's Government should be in possession of the records of the judicial proceedings in the District Court in Alaska, and instructions have been sent by telegraph to Sir L. West, directing him to request that he may be furnished with these documents by the United States Government for the use of Her Majesty's Government.

I am further to request that this Department may be supplied with a copy of the papers which have been laid before the Canadian Parliament in regard to this question.

I am, &c.,

J. V. LISTER.

The Under Secretary of State, Colonial Office.

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Sir H. T. Holland to Lord Lansdowne.

DOWNING STREET, 15th August, 1887.

MY LORD,—I have the honor to transmit to you, for communication to your Ministers with reference to previous correspondence, copy of a letter from the Foreign Office, enclosing copies of two despatches which have been addressed to Her Majesty's Minister at Washington, respecting the seizure of British sealing schooners in Behring Sea by an American revenue vessel.

I have, &c.,

H. T. HOLLAND.

Governor General, the Most Honorable the Marquis of Lansdowne, G.C.M.G., &c.

[Enclosure No. 1.]

Foreign Office to the Colonial Office.

FOREIGN OFFICE, 12th August, 1887.

SIR,—With reference to your letter of 23th July last, I am directed by the Marquis of Salisbury to transmit to you for the information of Sir H. Holland, copies of two despatches, Nos. 193 and 194, 10th instant, which have been addressed to Her Majesty's Minister at Washington in regard to the seizure of British sealing schooners in Behring Sea by the United States authorities.

I am, &c.,

J. V. LISTER.

The Under Secretary of State, Colonial Office.

[Enclosure No. 2.]

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, 10th August, 1887.

SIR,—I have to inform you that a telegram has been received from the Commander-in-Chief of Her Majesty's Naval Forces in the Pacific, dated Victoria, British Columbia, on the 7th instant, from which it appears that an American revenue vessel had seized three more British Columbian sealing schooners when a long distance from land, and that they had been taken to Sitka. He further stated that several other vessels in sight from Sitka were being towed in.

It will be within your recollection that in the correspondence which has recently taken place in regard to the previous seizures of three British vessels by the United States revenue cruiser "Corwin," Mr. Bayard stated in a note dated the 3rd February (a copy of which accompanied your despatch No. 34 of the following day), that "without conclusion at this time of day of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

I request that you will at once communicate with the United States Government as to the nature of the information which has reached them in regard to these further seizures of British vessels by the United States authorities.

You will at the same time say that Her Majesty's Government had assumed, in view of the assurance conveyed to you in Mr. Bayard's note of the 3rd February last, that pending a conclusion of the discussion between the two Governments on the general question involved, no further similar seizures of British vessels would be made by order of the United States Government.

I am, &c.,

SALISBURY.

[Enclosure No. 3.]

The Marquis of Salisbury to Sir L. S. West.

FOREIGN OFFICE, 10th August, 1887.

SIR,—I have to acknowledge the receipt of your despatch, No. 196, of the 12th ultimo; enclosing printed copies of the records in the United States District Court for the district of Alaska, in the cases of the British Columbian sealing schooners "Onward, Carolina and Thornton."

I should be glad if you would inform me whether the owners or masters of any of these vessels have entered an appeal against the judgments delivered by the Court, and whether, if they have not already done so, such a course is still open to them.

It is also desirable that Her Majesty's Government should be furnished with a full report of the proceedings at the trials of the masters which resulted in their conviction and sentence to imprisonment and fine.

I have further to request that you will endeavor to ascertain and report to me when it is probable that the appeals referred to in your despatches Nos. 88 and 113 of the 2nd April, 1887, and of the 6th May, 1887, respectively, of the owners of the American ships which were seized on similar grounds, will come on for hearing, and whether any arrangement has been or can now, in your opinion, advantageously be made between the owners of the British and American vessels on the one side and the Government of the United States on the other, that one of these cases should be regarded as a test case, by which, in so far as the American legal tribunals are concerned, the remaining cases might be held to be concluded.

It must, however, be clearly understood that any such arrangement, if made, would only affect the legal remedies which were open to the masters and owners of these vessels in the American courts, and would in no degree limit the right of Her Majesty's Government, after all such legal remedies were considered to be exhausted

to intervene through diplomatic channels and on international grounds on behalf of such masters or owners.

It is presumed that the records of the proceedings in the cases of the seizures of the British schooners which accompanied your despatch No. 196 were communicated officially to Her Majesty's Legation, and, if so, I request that you will furnish me with a copy of the note by which they were accompanied.

I am, &c.,

SALISBURY.

Sir L. West to the Marquis of Salisbury.—(Received July 22.)

WASHINGTON, 12th July, 1887.

MY LORD,—With reference to your Lordship's telegram of the 8th instant, I have the honor to transmit herewith printed copies of the judicial proceedings in the United States District Court for the district of Alaska in the several cases of the schooners "Onward," "Carolina" and Thornton," proceeded against on a charge of killing fur seal in Alaska.

I have, &c.,

L. S. SACKVILLE WEST.

[Enclosure in No. 55.]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

The United States, Libellant, vs. the Schooner "Thornton," her tackle, &c.—On Libel of Information for being engaged in the Business of Killing Fur Seal in Alaska.

Transcript of Record.

On the 28th day of August, 1886, was filed the following libel of information:—

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.
AUGUST SPECIAL TERM, 1886.

To the Hon. LAFAYETTE DAWSON, Judge of said District Court :

The libel of information of M. D. Ball, Attorney for the United States for the District of Alaska, who prosecutes on behalf of said United States, and being present here in court in his proper person, in the name and on behalf of the said United States, against the schooner "Thornton," her tackle, apparel, boats, cargo and furniture, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:—

That Charles A. Abbey, an officer in the Revenue Marine Service of the United States, and on special duty in the waters of the district of Alaska, heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the said district, on waters navigable from the sea by vessels of 10 or more tons burden, seized the ship or vessel, commonly called a schooner, the "Thornton," her tackle, apparel, boats, cargo and furniture, being the property of some person or persons to the said attorney unknown, as forfeited to the United States, for the following causes:—

That the said vessel or schooner was found engaged in killing fur seal within the limits of Alaska territory, and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true, and within the admiralty and maritime jurisdiction of this court, and that by reason thereof, and by force of the Statutes of the United States in such cases made and provided, the aforementioned and described schooner or vessel, being a vessel of over 20 tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that the said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the before-mentioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo and furniture may, for the cause aforesaid, and others appearing, be condemned by the definite sentence and decree of this honorable court, as forfeited to the use of the said United States, according to the form of the statute of the said United States in such cases made and provided.

M. D. BALL,

United States District Attorney for the District of Alaska.

Whereupon forthwith issued the following monition :

District of Alaska, Sct.,

The President of the United States of America to the Marshal of the District of Alaska, greeting :

Whereas a libel of information hath been filed in the District Court of the United States for the District of Alaska, on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the district aforesaid, on behalf of the United States of America, against the schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, as forfeited to the use of the United States for the reasons and causes in said libel of information mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, &c., may be cited in general and special to answer the premises, and all proceedings being had, that the said schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, &c., may, for the causes in the said libel of information mentioned, be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the District of Alaska, on the 4th October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honorable Lafayette Dawson, Judge of the said court, and the seal thereof affixed at the city of Sitka, in the District of Alaska, this 28th day of August, in the year of our Lord 1886; and of the independence of the United States, the 11th.

(Seal.)

ANDREW T. LEWIS, *Clerk.*

On September 6, 1886, was filed the following affidavit:—

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States of America vs. the Schooner "Thornton."

United States of America, District of Alaska, ss.

C. A. Abbey, being duly sworn, deposes and says:—

That he is, and at all times herein mentioned was, a captain in the United States Revenue Marine, and in command of the United States revenue cutter "Corwin."

That affiant and the following named officers of said "Corwin" are material and necessary witnesses for the United States in the above entitled action: J. C. Cantwell, lieutenant; J. U. Rhodes, lieutenant; J. H. Douglas, pilot.

That owing to scarcity of provisions and fuel upon the said cutter "Corwin," the said "Corwin" and deponent and said witnesses will be obliged to and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than 100 miles from the place of trial of said action before the time of said trial.

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That Hans Guttormsen was master, and in possession of said schooner "Thornton" at the time of seizure thereof.

C. A. ABBEY.

Subscribed and sworn to before me, this 6th day of September, 1886.

ANDREW T. LEWIS, *Clerk.*

On the same day was entered the following order :

In the Matter of the United States vs. Schooner "Thornton," Case No. 50; Schooner "Carolina," Case No. 51; Schooner "Onward," Case No. 49; Schooner "San Diego," Case No. 52.

In the above entitled actions urgent necessity and good cause appearing therefrom from the affidavits of C. A. Abbey, now on motion of M. D. Ball, United States District Attorney for Alaska, and counsel for the United States herein, it is ordered that the depositions of the witnesses C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglas, C. T. Winslow, Albert Leaf, C. Wilhelm, Thomas Singleton, and T. Lorenson, be taken before the clerk of the said District Court on Tuesday, the 7th day of September, 1886, at 7 o'clock, p.m., or as soon thereafter as the matter can be reached at the office of said clerk at Sitka, Alaska; and if not completed on said evening, then the taking of said depositions to be continued by said clerk, from time to time, until completed. That notice of time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munro, and Charles E. Raynor, and upon W. Clark, Esq., attorney-at-law, on or before the 7th of September at 12 a.m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886, now at this time W. Clark, Esq., being present in court, waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return:—

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States of America vs. the Schooner "Thornton."

To Hans Guttormsen greeting: you are notified that by order of Lafayette Dawson, Judge of the said District Court, the depositions of C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglas will be taken before the clerk of the said District Court at his office in Sitka in said district on Tuesday, the 7th September, 1886, at 7 o'clock, p.m., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said clerk from time to time until completed.

Dated the 7th September, 1886.

ANDREW T. LEWIS, *Clerk.*

United States of America, District of Alaska, ss.

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within-named Hans Guttormsen, at Sitka, District of Alaska, by then and there personally delivering to the said Hans Guttormsen, copy of said notice; and then and there gave him the privilege of being present at the taking of said depositions.

Dated the 9th of September, 1886.

BARTON ATKINS, *United States Marshal.*

Q. Were you so on the 1st day of August last? A. I was.

Q. State what occurred on that day in the line of your duty. A. I saw a small boat on the port bow; we came up to her, and found she had about eight fur seal aboard. The men in the boat were armed with breech-loading rifles. In answer to the commanding officer, the men admitted they were killing fur seal. Shortly after we picked up a second boat, and then sighted the schooner "Thornton." There were dead seal in the second boat. I did not examine the other boats; I was sent on board the schooner, saw Haus Guttormsen apparently acting as captain, and Henry Norman as mate. I asked them what they were doing? The captain replied, "Catching seals." I signalled this to Captain Abbey, who directed me to seize her, which I did, and the "Corwin" took the schooner in tow. The fur seal in the boats were bleeding, and must have been killed within a few hours.

Q. How many men were on board of the "Thornton" at the time of seizure? A. About fifteen.

Q. Was this a reasonable number for ordinary purposes of commerce and navigation? A. It was an unusually large number for the size of the vessel.

Q. Do you recognize this paper? A. I do. It is the official inventory made by me of the furniture, tackle, and cargo of the schooner "Thornton" (inventory embraces the usual furniture, rigging, nautical instruments, boats and stores of a vessel of this class, with a cargo of 403 seal skins, 3 seal pup skins, and 1 hair seal skin, and they are receipted for by I. Anderson, Deputy United States Marshal, Oonalaska, the 14th August, 1886); the item 403 seal skins mentioned in the inventory are fur seal skins; this inventory gives a full and correct list of all the furniture, tackle, and cargo of said vessel, with the exception of the following: arms and ammunition, octant, and one chronometer. There is one boat belonging to the "Thornton" that was sent down on the "San Diego" and included in the inventory of the "San Diego." The "Thornton" had four boats.

JOHN C. CANTWELL, *3rd Lieutenant,*
United States Revenue Marine.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

(Seal.) ANDREW T. LEWIS, *Clerk,*
United States District Court.

JOHN U. RHODES, being duly sworn, deposes and says:—

Q. State your name, age, and occupation? A. John U. Rhodes, over 21 years of age, and lieutenant in the United States Revenue Marine, and attached to the Revenue steamer "Corwin," and was so on the 1st August, 1886.

Q. State what happened on the last named day in connection with the schooner "Thornton?" A. I was on the "Corwin" at the time the "Thornton" was seized on that day. We first picked up a boat bearing the name "Thornton;" it had about eight dead fur seal in it, the men in the boat had breech-loading rifles; we afterwards picked up another boat, and then sighted the schooner "Thornton," and went on board, and was put in charge of her. We afterwards picked up two more boats; the men in the boats claimed that the boats belonged to the "Thornton," and were put on board of her. There were between fifteen and twenty dead fur seal on deck and one hair seal. These seals were most of them bleeding and evidently recently killed. The captain and several of the hunters said they had killed twenty-one, I think it was, fur seals that day, and would have got more if they had had more daylight and if the cutter had not come up.

Q. Do you recognize these papers? A. I do. This paper marked (Ex. "G") is the clearance paper of the schooner "Thornton" (this paper represents the British steam schooner "Thornton," Haus Guttormsen, master 2230 tons, navigated with fifteen men, bound for the Pacific Ocean, Behring Sea, and Okhotsk Sea, on a hunting and fishing voyage, as having cleared from Victoria, British Columbia, the 15th May, 1886). This paper marked (Ex. "H") is her bill of health (issued

same date and place with clearance). I found these papers in the schooner "Thornton" at the time of seizure, and then took possession of them.

Q. What was the list of arms and ammunition found aboard the schooner "Thornton" at the time of seizure? A. Four rifles, 6 shot-guns, 867 shot-gun cartridges, 420 rifle-gun cartridges, 108 lbs. powder, 1 keg powder partly filled, 2 bags bullets, 11 bags buck-shot, 5 boxes wads, 3½ boxes primers.

Q. What has become of these arms and ammunition? A. They were delivered to the United States Marshal at Sitka, and are now in his custody.

JOHN U. RHODES, *Lieutenant,*
United States Revenue Marine.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to the deponent.

(Seal.) ANDREW T. LEWIS, *Clerk,*
United States District Court.

JOHN U. RHODES, being duly sworn, deposes and says:—

Q. State your name, age and occupation? A. John U. Rhodes, Lieutenant United States Revenue Marine, at present on duty on the United States Revenue steamer "Corwin," and over the age of 21 years.

Q. State what nautical instruments, if any, were seized on the schooner "Thornton" except such as are included in her general inventory? A. One chronometer, No. 1,374, made by Kessels, and one octant.

Q. What has become of this property? A. I turned it over to the United States Marshal at Sitka, and it is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

(Seal.) ANDREW T. LEWIS, *Clerk,*
United States District Court.

J. H. DOUGLAS, being duly sworn, deposes and says:—

Q. State your name, age, and occupation? A. J. H. Douglas, am over the age of 21 years, am a pilot in the Revenue Marine Service of the United States, and have been so for the seven years last past. I am now and on the 1st August, 1886, was pilot on the revenue steamer "Corwin."

Q. State what occurred on the last-named day in connection with the schooner "Thornton"? A. We sighted a boat on our port bow and soon after saw another boat, steamed to the first boat and ordered her to come alongside, which she did. The name "Steamer Thornton" was on the stern of the boat. There were two or three men in the boat with arms, and six or eight dead fur seal, which had the appearance of having been lately killed. I asked the men what luck they had. One of them replied, "We have six or eight, but not as good as some days." We took possession of the boat and contents by order of Captain Abbey. We then picked up the second boat, finding it engaged in the same business, then we sighted a schooner drifting without sail or steam, which proved to be the steam-schooner "Thornton." On coming up with her, she was seized by order of Captain Abbey, and taken in tow. We then picked up two more boats belonging to the "Thornton," having dead fur seal on board. This was in Behring Sea, about 65 miles south-east from St. George's Island, and about 500 or 600 miles to the eastward of the western boundary line of Alaska Territory.

Q. State what experience you have had in the fur sealing business, and your knowledge of the habits of the fur seal?—A. I have been cruising for more than fifteen years off and on in Alaskan waters, always as an officer or pilot, and have visited the Pribiloff Islands, St. Paul and St. George, several hundred times, and am perfectly familiar with the sealing business as conducted on those islands, and understand the migrating habits of the fur seals. From about the first May to about the first

July of each year the fur seal is migrating north, and mostly through the Unimak and Akutan Passes to these islands for breeding purposes. They go to no other place in the known world except these islands and Copper Island for breeding purposes.

After the breeding season of about a month they begin to migrate south, and until November of each year are migrating south through Behring Sea. During this season, from May to November, the fur seal are plenty in the waters adjoining the Pribiloff Islands, and are migrating to and from these islands, and are at all times very plenty between Unimak Pass and said islands in a track about 30 miles wide, which seems to be their highway to and from said islands. The schooner "Thornton" and her boats when seized were directly on this track.

J. H. DOUGLAS.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to deponent.

(Seal.)

ANDREW T. LEWIS, *Clerk,*
United States District Court.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States vs. the Schooner "Thornton," No. 50.

Whereas, on the 6th day of September, 1886, the said District Court duly made and entered in the journal of said court an order in the above entitled action, directing that the testimony and depositions of the witnesses: C. A. Abbey, J. C. Cantwell, J. U. Rhodes and J. H. Douglas be taken before me, the clerk of said court, at the time or times and place, and upon such notice as was specified in said order.

Now, therefore, this is to certify:—That in pursuance of said order, on the 7th September, 1886, at 7 p. m., each and all of the above-named witnesses appeared before me at the clerk's office of said court at Sitka, District of Alaska, United States of America: that M. D. Ball, Esq., District Attorney of said Court and District, and W. H. Payson, Esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, Esq., then and there appeared on behalf of, and as attorney and proctor for the said schooner and her owners herein; and Hans Guttormsen then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th September, 1886, and completed the same on said last-named day. That the said parties by their said attorneys and proctors then and there appeared, and were present on each of said last-named days, and at all times during the taking of said depositions. That each of said witnesses was first duly cautioned and sworn by me, then and there, that the evidence he should give in said action, should be the truth, the whole truth and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then and there read the same over to him, and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

In witness whereof I have hereunto set my hand and the seal of said District Court, this 9th day of September, 1886.

ANDREW T. LEWIS, *Clerk, United States District Court in and for the District of Alaska, United States of America.*

On the 20th day of September, 1886, was filed the following claim of master for owner:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

(In Admiralty.)

In the matter of the Libel of Information against the Schooner "Thornton," her Tackle, Apparel, Furniture, and Cargo—Claim of Master for Owner.

And now Hans Guttormsen, master of schooner "Thornton" intervening for the interest of J. D. Warren, of Victoria, British Columbia, the owner of the said schooner "Thornton," her tackle, apparel, furniture, and cargo, as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner "Thornton," her tackle, apparel, furniture, and cargo, as set forth in the said libel of information, and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, Esq., United States District Attorney for the District of Alaska.

And the said Hans Guttormsen avers that the said J. D. Warren was in possession of the said schooner at the time of the attachment thereof.

And that the said J. D. Warren above named is the true and *bond fide* owner of the said schooner, her tackle, apparel, cargo and furniture as seized by the said marshal as aforesaid and that no other person is the owner thereof. Wherefore he prays to defend accordingly.

HANS GUTTORMSEN.

Subscribed and sworn to before me this 18th day of September, A.D. 1886.

(Seal.) ANDREW T. LEWIS, *Clerk of United States*

District Court for the District of Alaska.

W. CLARK AND D. A. DINGLEY,
Precursors for Claimant.

On the same day was filed the following amended libel of information.

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

(August Special Term, 1886.)

To the Honorable LAFAYETTE DAWSON, Judge of said District Court :

The amended libel of information of M. D. Ball, Attorney for the United States, for the District of Alaska, who prosecutes on behalf of said United States and being present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:—

That C. A. Abbey, an officer in the Revenue Marine Service of the United States, duly commissioned by the President of the United States, in command of the United States Revenue cutter "Corwin," and on special duty in the waters of the District of Alaska heretofore, to wit on the 1st day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the Civil and Judicial District of Alaska, to wit—within the waters of that portion of Behring's Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:—

One schooner "Thornton" of Victoria, British Columbia, four boats with oars, sails and gear; carpenter's and caulking tools and materials: five tons of coal, ten yards of canvas, clock, chronometer, nautical instruments, provisions, sails and running gear, ropes, twine, lamps, oil, casks, buckets, engine and gear, twenty sacks salt, 403 fur seal skins, one hair seal skin, three pupseal skins, four rifles, six shot guns, and arms and ammunition for same and all other property found upon or appertenant to said schooner.

That said C. A. Abbey was then and there duly commissioned and authorized by the proper Department of the United States to make said seizure.

That all of the said property was then and there seized as forfeited to the United States for the following causes:—

That the said vessel, her captain, officers and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory and within the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Oonalaska in the said territory, and delivered into the keeping of Isaac Anderson, a Deputy United States marshal of this district, with the exception of the said arms and ammunition, which latter were brought into the port of Sitka in said district and turned over to the United States marshal of this district, and all of said property is now within the Judicial District of Alaska, United States of America.

And the said M. D. Ball, Attorney as aforesaid, further informs and alleges:—

That on the 1st day of August, 1886, Henry Norman, and certain other persons whose names are to said United States attorney unknown, who were then and there engaged on board of the said schooner "Thornton" as seamen and seal hunters, did, under the direction and by the authority of Hans Guttormsen, then and there master of said schooner, engage in killing and did kill, in the Territory and District of Alaska, and in the waters thereof, to wit, twenty fur seals in violation of section 1,956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 403 fur seal skins, three pup skins, one hair seal skin, and other goods so seized on board of said schooner "Thornton" constituted the cargo of said schooner at the time of the killing of said fur seals, and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court, and that by reason thereof, and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over twenty tons burden, and her said tackle, apparel, boats, cargo and furniture, became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in his behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process why said forfeiture should not be decreed; and that after due proceedings are had, all of said property be adjudged, decreed, and condemned as forfeited to the use of the United States; and for such other relief as may be proper in the premises.

Dated the 20th September, 1886.

M. D. BALL,

United States District Attorney for the District of Alaska.

On the same day was filed the following demurrer:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren, and Schooner "Thornton."—Demurrer.

The demurrer of J. D. Warren, claimant of the property proceeded against in the above cause to the information filed herein.

1. The said claimant by protestation, not confessing all or any of the matters in said amended information contained to be true, demurs thereto and says that the said matters in manner and form, as the same are in the information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2. The said claimant by protestation denies that this court has jurisdiction to determine or try the question hereby put in issue.

3. And that the said claimant is not bound in law to answer the same.

Wherefore claimant prays that said information may be dismissed with costs.

W. CLARK AND D. A. DINGLEY,

Proctors for Claimant.

Which demurrer was overruled by the court, and on the same day was filed the following answer:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and Schooner "Thornton."—Answer of Claimant.

The answer of J. D. Warren, owner and claimant of the said schooner "Thornton," her tackle, apparel, cargo, and furniture, as the same are set forth in the information filed herein in behalf of the United States.

And now comes J. D. Warren, claimant as aforesaid and for answer to the said information against the said schooner "Thornton," her tackle, apparel, furniture and cargo, as set forth in said information says that the said schooner "Thornton," her tackle, apparel, furniture, and cargo as set forth in the information mentioned, did not nor did any part thereof become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore, the said claimant prays that said information be dismissed with costs of this claimant attached.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

On the 22nd September, 1886, were filed the following exceptions to answer:—

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

United States of America v. the Schooner "Thornton."—No. 50.

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:—

1. Said answer is not properly or at all verified as required by rule 27 of the United States Admiralty rules;
2. Said answer is not full, explicit or distinct to each or any allegation of the libel herein, as required by said rule;
3. Said answer does not deny or admit any of the allegations of fact in said libel but merely denies a conclusion of law.

M. D. BALL AND W. H. PAYSON, *Proctors for Libellant.*

21st September, 1886.

Which exceptions were sustained by the court, and on the same day was filed the following amended answer:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and Schooner "Thornton."—Amended Answer.

To the Honorable LAFAYETTE DAWSON,

Judge of the United States District Court for the District of Alaska.

Hans Guttormsen, master of the schooner "Thornton," intervening for the interest of and in behalf of J. D. Warren, owner and claimant of said schooner "Thornton," her tackle, apparel, furniture and cargo for amended answer to the libel of information herein, against said schooner, her tackle, apparel, furniture and cargo, alleges as follows:—

1. That he denies each and every material allegation in said libel of information contained;
2. Denies that the said schooner "Thornton," her tackle, apparel, furniture, cargo, and the property appertaining thereto, as set forth and described in said libel of information or any part thereof became forfeited to the United States;
3. Denies that said schooner, her captain, officers, and crew, or any one of them were found engaged in killing fur-seal within the limits of Alaska Territory, and within the waters thereof, in violation of section 1,956 of the Revised Statutes of the United States, as set forth in said libel of information or at all;
4. Denies that they killed any number of fur-seal, or other fur-bearing animals, within the waters of Alaska, or the Territory of Alaska, or in any part thereof;

5. That all and singular the premises herein are true.

Wherefore said master prays that this honorable court will be pleased to pronounce against the libel herein and that the same may be dismissed with costs to the claimants to be taxed.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

United States District of Alaska, ss.

Hans Guttormsen, being first duly sworn, says he is master of the schooner "Thornton," that he has heard read the foregoing answer, and knows the contents thereof, and that the same is true of his own personal knowledge.

H. GUTTORMSEN.

Subscribed and sworn to before me this 22nd day of September, A.D. 1886.

ANDREW T. LEWIS,

Clerk of the United States District Court for the District of Alaska.

On the 4th day of October, 1886, the motion cited p. 54 was returned with the following indorsement:—

Sitka, District of Alaska, ss.

Be it remembered, that, in obedience to the annexed monition, I have attached the within-described property and now hold the same in my possession subject to the order of this honorable court;

And I have given due notice to all persons claiming said property to be and appear before this District Court on the 4th day of October, 1886, at 10 o'clock a.m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claims and allegations in that behalf:—

And I have caused said notice to be published, and the same has been published in the *Alaskan*, a newspaper published at Sitka in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until 4th day of October, 1886.

BARTON ATKINS, *Marshal, District of Alaska.*

SITKA, ALASKA, 4th October, 1886.

On the same day was filed the following decree:—

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

United States vs. the Schooner "Thornton."—No. 50.

The marshal having returned on the monition issued to him in the above entitled action that, in obedience thereto, he has attached the said schooner "Thornton," her tackle, apparel, boats, cargo and furniture, and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock, a.m., at the District of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf; and Hans Guttormsen, the captain of said vessel having heretofore filed a claim to all of said property on behalf of J. D. Warren, of Victoria, British Columbia, the owner thereof, and no other person having appeared, and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, Esq., and W. H. Payson, Esq., appearing as advocates for said libellant, and W. Clark as advocate for said claimant, and said cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced and decreed as follows:—

1. That all persons whatsoever other than said claimant be, and they are, hereby declared in contumacy and default.

2. That the said schooner "Thornton," her tackle, apparel, boats, and furniture, and her cargo of 403 fur seal skins, and all other property found upon and appurtenant to said schooner, be, and are hereby condemned as forfeited to the use of the United States.

3. That unless an appeal be taken to this decree, within the time limited, and prescribed by law, and the rules of this court, the usual writ of *venditioni exponas* be issued to the marshal, commanding him to sell all of the said property and bring the proceeds into this court to be distributed according to law. Costs to be taxed are awarded against said claimant.

Dated October 4, 1886.

LAFAYETTE DAWSON, *District Judge.*

Done in open court, this 4th day of October, 1886, at Sitka, District of Alaska, United States of America.

, *Clerk.*

On the same day was filed the following motion to set aside Decree:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and Schooner "Thornton."—*Motion to set aside Decree.*

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and moves the court to set aside the decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

Which motion was over-ruled by the court, and on the same day was filed the following notice of appeal:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and Schooner "Thornton."—*Notice of Appeal.*

And now come W. Clark and D. A. Dingley, proctors for and in behalf of the claimant herein, and notifies this honourable court that they hereby appeal from the decree rendered herein to the Circuit Court having appellate jurisdiction over this district, and that said appeal is taken on questions of law and fact, and prays the court for an order on its clerk to prepare a complete transcript of the record herein, as the law requires.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

On the 9th day of February, 1887, was entered the following order:—

In the matter of the United States vs. Schooner "Onward," Case No. 49; Schooner "Thornton," Case No. 50; Schooner "Carolina," Case No. 51; Schooner "San Diego," Case No. 52; Arms and Ammunition Schooner "Sierra," No. 57; Arms and Ammunition Schooner "San Diego," No. 58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States, and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of *venditioni exponas* do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes, and furniture, of whatever description, and of the arms and ammunition attached in said causes.

And as to the said attached vessels, that the sale of the same (except the schooner "San Diego," which shall be sold at Sitka) shall be made at Port Townsend, in the District of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the District of California, and that sale of said schooner "San Diego," and all the other attached property be made at Sitka, in the District of Alaska. Thirty days' notice of such sale

to be given at each of the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively.

And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a District Court of the United States for this, the said District of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE, UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA,
SITKA, 10th March, 1887.

I, Andrew T. Lewis, clerk of the said court, do certify that the foregoing transcript of the record in the case of the United States vs. the schooner "Thornton," her tackle, apparel, &c., on libel of information, pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of such original, except the full text of the exhibits referred to in the testimony therein, the purport of which only is stated, and that the purport of said exhibit is correctly stated, as the same appears of record at my office and in my custody.

Witness my hand and the seal of said court, this 10th day of March, 1887.

(Seal.) ANDREW T. LEWIS, *Clerk.*

No. 325.

Lord Lansdowne to Sir Henry Holland.

19th August, 1887.

SIR,—I have the honor to enclose herewith for your information copies of a report received by my Minister of Marine and Fisheries from the Collector of Customs at Victoria, B.C., dated 9th instant, in regard to the seizure of the sealers "Grace Dolphin" and "W. P. Sayward," by United States Revenue Cutter "Richard Rush."

I beg to call your special attention to the deposition, enclosed in Mr. Hamley's report, of Captain Laing, of the "W. P. Sayward." You will observe that Captain Laing states particularly that the seals of which the skins were found on board his vessel were not taken in the Behring Sea.

It is scarcely necessary to dwell upon the grievous hardships occasioned by these seizures, for which, as far I am aware, no justification has yet been forthcoming, not only to the owners and to the officers and crews but to the Indian hunters on board, who were, it appears, "left to find their way home as they could" from Sitka to their own villages, distant about 700 miles from that place.

LANSDOWNE.

[Enclosure No. 1.]

CUSTOM HOUSE, VICTORIA, B.C., 9th August, 1887.

SIR,—On the 5th instant I sent you word by telegram that three more Canadian vessels had been seized in Behring Sea and sent to Sitka: "Grace," "Dolphin" and "W. P. Sayward." This news reached us by the steamer "Olympian," and the day following the mate of the "W. P. Sayward," one of the seized vessels, came down on the steamer "Idaho." I had him here at the custom house and his statements in some particulars were so important that I thought it desirable that it should be taken down before a notary public and the deposition forwarded to you. I enclose it herewith. The seizure was made on the 9th July by the master of the revenue cutter "Rush" in Behring Sea, from 30 to 40 miles from any land. The skins, 47 in number, all taken, he says, in the Pacific, were lodged in the Alaska Company's warehouse at Oonalaska and the vessel herself sent to Sitka. There is no doubt now, from the declaration of the master of the United States revenue cutter made

openly on the deck of the "W. P. Sayward" that, in seizing this and the other Canadian vessels he was acting under direct instructions from the United States Government.

I forward also the information laid in the District Court at Sitka by the United States Attorney Ball against the master and mate of the "W. P. Sayward." The indictments against the masters and mates of the other vessels are in the same forms and terms, the complaint being that they had killed fur seals in Behring Sea contrary to the statutes of the United States, and against the peace and dignity of the United States of America.

The case is to be heard in the District Court at Sitka on the 22nd of this month. The mate of the "W. P. Sayward" was allowed out on bail in \$500, and returned last night for the trial.

I have the honor to be, sir, your obedient servant,
W. HAMLEY.

Hon. GEO. E. FOSTER, Minister of Marine and Fisheries.

[Enclosure No. 2.]

I, Andrew Laing, of Victoria, mate of the British schooner "W. P. Sayward," do solemnly and sincerely declare that I left Victoria, B.C., in the schooner "W. P. Sayward," on the 16th day of May, 1887, bound on a sealing voyage with a crew of seven men and sixteen Indian hunters with eight canoes. We commenced sealing off Cape Scott on the north of Vancouver Island, and killed 479 fur seals in the Pacific Ocean and entered the Behring Sea on the 2nd of July, 1887, passing between Unimak Island and the Island of the Four Mountains. The weather was very thick and foggy, and we did no sealing in Behring Sea in consequence. On the 9th July we were captured by the United States steamer "Richard Rush," being then from thirty to forty miles off the nearest land. We were taken to Oonalaska, where we arrived on the 10th July, and they laid us alongside the steamer "St. Paul," belonging to the Alaska Commercial Company. They removed the seal skins and took them ashore to the wharf and put them in the company's warehouse, and they resalted the skins with salt taken from our vessel. They put an officer from the "Rush" on board and towed us out to sea and told us to go to Sitka. We arrived there on the 22nd July and on the next day an investigation was held before Judge Dawson, who bound us over to appear on the 22nd August for trial. The vessel was left in charge of the United States officers, and we were only allowed to remove our clothing. The Indians were left to find their way home as they could; they were about 700 miles from their villages.

I further say that when we were taken I spoke to the captain of the "Rush" and told him we had not taken a seal in Behring Sea; he replied that, "I am sorry for you, I have to obey orders and take everything I come across in Behring Sea."

And I make this solemn declaration by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled: "An Act for the suppression of voluntary and extra judicial oaths."

A. LAING.

Taken and declared before me at Victoria, }
B.C., this 8th day of August, 1887. }

M. W. TRYWHITT DRAKE, *Notary Public.*

[Enclosure No. 3.]

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.
THE UNITED STATES

vs.
GEORGE R. FERRY AND A. LAING. }

Information.

District of Alaska, s. s.

George R. Ferry and A. Laing are accused by M. D. Ball, United States district attorney for Alaska, by this information, of the crime of killing fur seals within the waters of Alaska Territory—committed as follows:—

The said George R. Ferry and A. Laing, on the 8th day of July, A.D. 1887, in the District of Alaska, and within the jurisdiction of this court, to wit, in the Behring Sea, within the waters of Alaska Territory, did kill ten fur seals, contrary to the statutes of the United States in such cases made and provided, and against the peace and dignity of the United States of America.

Dated at Sitka the 23rd day of July, 1887.

DISTRICT OF ALASKA, S.S.

I, M. D. Ball, United States district attorney for Alaska, being duly sworn, say the within information is true, as I verily believe.

M. D. BALL.

Subscribed and sworn to before me this 23rd day of July, A.D. 1887.

H. E. HAYDON, *Clerk.*

By A. A. MEYER, *Deputy Clerk.*

[L.S.]

I certify that the within is a true copy of the information filed in the cause.

H. E. HAYDON,

Clerk.

By A. A. MEYER,

Deputy Clerk.

Personally appeared before me, Montague W. Tyrwhitt Drake, notary public, duly authorized, admitted and sworn, residing and practising in Victoria, B.C., Andrew Laing, mate of the British schooner "W. P. Sayward," who stated that the above written information was served upon him by Mr. M. D. Ball, on the 23rd July, 1887.

M. W. TYRWHITT DRAKE, *Notary Public.*

[L.S.]

No. 66.

Sir L. S. Sackville West to Lord Lansdowne.

WASHINGTON, 23rd August, 1887.

MY LORD,—With reference to Your Excellency's telegram of the 8th instant, I have the honor to inclose herewith for the information of Your Excellency's Government, copies of the reports of Captain Shepard of the United States cruiser "Rush," respecting the seizure of the British sealing vessels "Anna Beck," "Sayward," "Dolphin," and "Grace."

I have, &c.,

L. S. SACKVILLE WEST.

His Excellency the Marquis of Lansdowne, G.C.M.G., &c., &c.

[Enclosure No. 1.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT, 19th August, 1887.

SIR,—I have the honor to acknowledge the receipt of your letter of the 13th instant, in which you refer to information received through the British Minister as to the recent seizures by United States cruisers of three British Columbian sealing schooners in Behring's Sea, and request such information as this Department possesses or can obtain from its agents, relative to said seizures, and in reply thereto, I enclose herewith copies of the reports of the captain of the revenue cutter "Rush," dated the 4th, 11th and 18th ult., reporting the seizures of the British steam schooner "Anna Beck" on the 2nd, the British steam schooner "W. P. Sayward" on the 9th, the British steam schooner "Dolphin" on the 12th, and the British steam schooner "Grace" on the 17th ultimo.

I am, &c.,

C. S. FAIRCHILD, *Secretary.*

The Honorable the Secretary of State, &c., &c., &c.

[Enclosure No. 2.]

*Captain Shepard, U. S. R. M., to Mr. Fairchild.*UNITED STATES REVENUE MARINE STEAMER "RUSH,"
OUNALASKA, A. T., 4th July, 1887.

SIR,—I have the honor to report to the department the seizure on 30th June of the schooner "Challenge," of Seattle, Washington Territory, H. B. Jones, master, and Albert Douglas, of Seattle, W. T., President of the Douglas Fur Company, "managing owner," for violations of section 1,961 R. S., they having skins of female fur seals and skins of unborn seal on board, which latter the captain and mate admitted were taken from the female seal killed by themselves or the crew of the vessel.

The "Challenge" when found was anchored at Akantan Island, Alaska. I took her in tow of the "Rush" and proceeded to Ounalaska and delivered her skins, 151 in number, to the United States deputy marshal at this place, and have taken her arms and ammunition on board the "Rush" for safe keeping.

The crew, consisting of fifteen men all told, were shipped at Port Townsend, W. T., by H. Bash, United States shipping commissioner, and were found present, excepting W. Couratz, of Germany, seaman, whom Captain Jones reports was taken sick and sent ashore at Goose Island, British Columbia, and "Hines," an Indian of British Columbia, was shipped in his stead at that place.

On 2nd July, in lat. 54° 58' 00" N., and long. 157° 26' 00" W., Cape Cheerful, Ounalaska Island, bearing S. E. $\frac{1}{2}$ E: 66 miles, I boarded and examined the British steamer schooner "Anna Beck," of Victoria, B. C., Louis Olsen, master, Joe Bosquit, of Victoria, B. C., managing owner, on a sealing voyage, and having about 334 seal skins on board, 19 of which the captain admitted were taken in Behring Sea. His boats had recently been taken out of the water and considerable fresh seal blood and gurry were found on deck, indicating that seal had been skinned and dressed on board that day. I seized the vessel for violation of section 1,956 R. S., took her in tow and proceeded to Ounalaska.

This vessel was seen on 30th June in nearly the same position as when we found her, by Capt. Page of the steamer "Dora," with several boats out hunting seal.

I found on board a crew of 19 men all told (7 white and 12 Indians), and the captain reported that on 30th June two boats containing two Indians each were lost in the fog and could not be found, in addition to the above number.

I have delivered the "Anna Beck" with outfit and 334 seal skins to the United States deputy marshal at Ounalaska. No arms or ammunition were found on board.

As the officers of these vessels have to be taken before the United States District Court at Sitka for trial, to which place there is no established mode of conveyance from here, I have placed the officers and crews of both vessels on board the schooner "Challenge" and despatched Benjamin Lorenzen, one of the crew of this vessel, duly qualified as a Deputy United States marshal, in charge, to Sitka, with instructions, on his arrival at that place, to deliver the vessel, captains and mates to the United States marshal and to set the crews at liberty, Lorenzen to remain at Sitka until the arrival of the "Rush" at the end of the season.

I am, &c.,

L. G. SHEPARD, *Captain U. S. R. M.*

The Honorable C. S. FAIRCHILD, Secretary of the Treasury.

[Enclosure No. 3.]

*Captain Shepard, U. S. R. M., to Mr. Fairchild.*U. S. REVENUE MARINE STEAMER "RUSH,"
OUNALASKA, ALASKA, 11th July, 1887.

SIR,—I have the honor to inform the department that on 9th July, in the Behring Sea, lat. 54° 43' N., long. 167° 51' W., Cape Cheerful, Ounalaska Island,

bearing S. E. true 59 miles distant, I boarded and examined the British schooner "W. P. Sayward," 59-79 tons register, of Victoria, B. C., Geo. B. Ferry, master, and W. D. Warren, of Victoria, B. C., managing owner, and found her to be on a sealing voyage; had been four days in the Behring Sea.

The captain reported 485 seal skins on board, 64 of which were taken in the Behring Sea; found the vessel under short sail and one canoe and two Indians out hunting seal.

Her crew consisted of six white men all told, and 17 Indians from British Columbia, and two Indians belonging to the crew of the British schooner "Anna-Beck," who had lost that vessel in a fog. I took charge of the vessel's papers and seized her for violation of sec. 1,956 R. S., took her in tow and proceeded to Ounalaska, arriving at midnight.

I have delivered the 485 seal skins found on board to the U. S. deputy marshal at this place, and will send the vessel and her crew to Sitka, Alaska, in charge of one of the crew of this vessel, duly qualified as a U. S. deputy marshal, with instructions to deliver the vessel with her outfit, the captain and mate, to the U. S. marshal at Sitka, on arrival at that port, and to set the crew at liberty.

I am, &c.,

L. G. SHEPARD, *Captain U. S. R. M.*

[Enclosure No. 4.]

Captain Shepard, U. S. R. M., to Mr. Fairchild.

UNITED STATES REVENUE MARINE STEAMER "RUSH,"
OONALASKA, ALASKA, 18th July, 1887.

SIR,—I have the honor to inform the department that on 12th July, in the Behring Sea, lat. 51° 38' N., long. 157° 03' W., Cape Cheerful, Ounalaska Island, bearing S. E. $\frac{1}{2}$ S., 40 miles distant, I boarded and examined the British steam-schooner "Dolphin," 60-10 tons register, of Victoria, B. C., J. D. Warren, master and managing owner, and found her to be on a sealing voyage. The vessel had been three days in the Behring Sea and had 618 seal skins on board. Ten canoes and one boat were out hunting seal at the time.

From the canoes 12 or more dead seal were taken on board the schooner while we were near her, and three skins from seal recently killed were found in the boat. Seized the vessel for violation of section 1,956 R. S., and transferred her arms and ammunition on board the "Rush," namely, 4 breech-loading rifles, 26 breech-loading shot-guns, 10 muzzle-loading shot-guns, 1 bomb gun, 4 revolvers, 3,404 rounds ammunition for breech-loading rifles, 250 rounds ammunition for shot-guns, 4 kegs powder, 50 lbs. shot, and other small ammunition. Seized the 4 breech-loading rifles and ammunition for same for violation of sec. 1,955 R. S., and sec. 4, Executive Order, paragraph 53, dated 4th May, 1887. I placed Lieutenant Dunwoody in charge, with instructions to take her into Ounalaska, where she arrived the following day. The crew consisted of 7 white men and 26 Indians from British Columbia.

On July 17th, in the Behring Sea, lat. 55° 03' N., long. 168° 40' W., Cape Cheerful, Ounalaska Island, bearing S. E. $\frac{1}{2}$ E., 96 miles distant, I boarded and examined the British steam schooner "Grace," 76.87 tons register, of Victoria, B. C., Wm. Petit, master, and J. D. Warren, of Victoria, B. C., managing owner, and found her to be on a sealing voyage; had been ten days in the Behring Sea, and had 769 seal skins on board. When boarded she had 12 canoes and one boat out hunting seal. Saw one seal shot and taken into the boat while we were near her. Counted 12 seal taken on board the schooner from one canoe, and all the canoes contained more or less seal recently killed. The captain reported taking 90 seal during the day, and 150 the day previous. Seized the vessel for violation of section 1,956 R. S., and 2 breech-loading rifles and ammunition for same for violation of section 1,955, R. S., and section 4, Executive Order, paragraph 53, dated 4th May, 1887.

The crew consisted of 6 white men, 24 Indians and 1 Chinaman. Placed Lieut. Benham in charge, and after waiting seven hours for her canoes to return, some of

which had been a long distance from the vessel, took her in tow and proceeded to Unalaska arriving at 9.30 this a.m.

I have delivered the seal skins from these vessels to the United States deputy marshal at this place and will send the vessels in charge of men from this vessel duly qualified as United States deputy marshals to Sitka to be delivered to the United States marshal for the District of Alaska.

By request of Captain J. D. Warren, of the "Dolphin," managing owner of the schooner "Anna Beck" (seized 2nd July, as previously reported), I will send her to Sitka in like manner.

Also, on 16th July, in the Behring Sea, lat. 55° 46' N., long. 170° 38' W., Delnoi Point, St. George Island, showing N. 30 E., 63 miles distant, I boarded and examined the schooner "Lily L.," 63-42 tons register, of San Francisco, California, J. W. Todd, master, and C. D. Ladd, of San Francisco, managing owner, and found her to be on a sealing voyage; at the time had three boats out, one of which on returning to the vessel contained two seal recently killed. Captain Todd and Mr. Ladd representing the owner, admitted they came into these waters for the purpose and had taken seal in the Behring Sea and claimed a right to do so anywhere outside the 9-mile limit from the shore.

I seized the vessel for violation of section 1,956, Revised Statutes. There being only two commissioned officers on board this vessel I placed boatswain Winslow on board the schooner to represent the United States and instructed her captain to take her into Unalaska, which he agreed to do, there being too much sea running at the time to undertake to tow her to that place. On her arrival I will make further report to the department.

I am, &c.,

L. G. SHEPARD, *Captain.*

No. 338.

Lord Lansdowne to Sir H. T. Holland.

QUEBEC, 27th August, 1887.

SIR,—With reference to my despatch, No. 325, of the 19th instant in regard to the seizure of the sealers "Grace," "Dolphin," and "W. P. Sayward," by No. 9. the U. S. revenue cutter "Richard Rush," I have the honor to forward herewith copy of an approved Minute of the Privy Council of Canada, dated 23rd inst., to which are appended copies of the following documents:—

- | | |
|------------------------------|--|
| Enclosure No. 1
of No. 9. | 1. A letter from W. Hamley, Collector of Customs at Victoria, B.C., to the Minister of Marine and Fisheries. |
| Enclosure No. 2
of No. 9. | 2. The affidavit of Andrew Laing, mate of the seized schooner "Sayward," sworn to at Victoria on the 8th August, 1887. |
| Enclosure No. 3
of No. 9. | 3. The information filed in the District Court of the United States for the District of Alaska against the master and mate of the "Sayward." |

It is requested that these papers, copies of which were enclosed in my despatch above mentioned may be transmitted to the Foreign Office in order that a remonstrance may be addressed to the U. S. Government against the unwarrantable action of the commander of the "Rush," and a claim made for all damages arising from the seizure of the "Sayward" and the detention of her officers and crew.

I have, &c.,

LANSDOWNE.

Sir H. HOLLAND.

[Enclosure No. 1.]

CERTIFIED COPY of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd August, 1887.

On a report, dated 17th August, 1887, from the Minister of Marine and Fisheries, submitting with reference to the seizure by the United States steamer

"Richard Rush," on the 9th July last, in the Behring Sea, of the British schooner "W. P. Sayward," of Victoria, the following papers:—

- Enclosure No. 1 of No. 9. 1. A letter from W. Hamley, Collector of Customs at Victoria, B.C., to the Minister of Marine and Fisheries.
- Enclosure No. 2 of No. 9. 2. The affidavit of Andrew Laing, mate of the seized schooner, sworn to at Victoria, on the 8th August, 1887, and,
- Enclosure No. 3 of No. 9. 3. The information filed in the district court of the United States for the District of Alaska against the master and mate of the "Sayward."

The Minister observes that upon reference to the affidavit of the mate of the schooner "Sayward," it appears that all the seals on board the vessel were taken in the Pacific Ocean, and before the vessel entered Behring Sea, so that even the alleged claim on the part of the United States Government to jurisdiction in the Behring Sea is not available in the case now complained of; and would also call attention to the reply of the commander of the United States steamer "Richard Rush," in which he states his orders were "to take everything he came across in the Behring Sea."

The Committee recommend that Your Excellency be moved to forward copies of the annexed papers to the Right Honorable the Principal Secretary of State for the Colonies, for transmission to the Foreign Office, in order that a remonstrance may be made to the United States Government for so unwarrantable an act as that committed by the commander of the "Richard Rush," and a claim made for all damages arising out of the seizure of the schooner "W. P. Sayward" in the open sea and the detention of officers and crew, and also that copies of the papers be sent to Her Majesty's Minister at Washington.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. MCGEE, *Clerk of the Privy Council.*

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, 1st September, 1887.

MY LORD,—I have the honor to transmit to you for communication to your Government with reference to previous correspondence, a copy of a despatch from Her Majesty's Minister at Washington, enclosing correspondence with the United States Secretary of State relative to the recent seizure of sealing vessels in Behring Sea, which has been received from the Foreign Office.

I have, &c.,
H. T. HOLLAND.

Governor General the Most Honorable the Marquis of Lansdowne, &c.

Sir L. S. West to the Marquis of Salisbury.

WASHINGTON, 15th August, 1887.

MY LORD,—In obedience to the instruction contained in Your Lordship's telegram, No. 31 of the 10th inst., I informed the Secretary of State that three British Columbian schooners had been seized in Behring Sea by United States cruisers a long distance from Sitka, and that several other vessels were in sight, being towed in. I also intimated to Mr. Bayard that in view of the assurances given in his note of the 3rd of February last, Her Majesty's Government had assumed that, pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government. Copy of my note is herewith enclosed. I have likewise the honor to enclose to Your Lordship copy of a note which I have received in reply to the above communication, in which Mr. Bayard states that he can discover no ground whatever, from the expressions contained in his note referred to, for the assumption by Her Majesty's Government that it contained any such assurances, but that he will ascertain without delay whether the circumstances attendant upon the cases of the

seizures in question are the same as those which induced the executive to direct the release of the vessels mentioned in his note of 3rd February.

I have, &c.,

L. S. SACKVILLE WEST.

Sir L. West to Mr. Bayard.

WASHINGTON, 11th August, 1887.

SIR,—I have the honor to inform you that Her Majesty's Government have received a telegram from the commander-in-chief of Her Majesty's naval forces in the Pacific, dated Victoria, B.C., 7th August, reporting the seizure by United States cruisers of three British Columbia sealing schooners in Behring Sea a long distance from Sitka, and that several other vessels were in sight being towed in. In conveying this information to you, I am requested at the same time by the Marquis of Salisbury, to state that in view of the assurances given in your note of the 3rd of February last, Her Majesty's Government had assumed that pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government.

I have, &c.,

L. S. S. WEST.

The Hon. T. F. BAYARD, &c., &c.

Mr. Bayard to Sir L. S. S. West.

WASHINGTON, 13th August, 1887.

SIR,—I have the honor to acknowledge the receipt of your note of the 11th instant received yesterday afternoon, informing me of a telegraphic communication from the commander-in-chief of Her Majesty's naval forces in the Pacific, dated at Victoria, British Columbia, 7th August, reporting the seizure of three British Columbian sealing schooners "in Behring Sea, a long distance from Sitka," and that "several other vessels were in sight being towed in."

The reference to my note to you of the 3rd of February last, which you make under the instruction of the Marquis of Salisbury, has caused me to examine the expressions contained therein, and I can discover no ground whatever for the assumption by Her Majesty's Government that it contained assurances "that pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government."

Until your note of the 11th instant was received, I had no information of the seizure of the sealing vessels therein referred to, and have no knowledge whatever of the circumstances under which such seizures have been made.

I shall at once endeavor to supply myself with the information necessary to enable me to reply to you more fully.

The cases of seizure referred to in my note of 3rd February, 1887, had occurred during the previous August, and upon the basis of the information then obtained I write you as follows:

"In this connection I take occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

Having no reason to anticipate any other seizures, nothing was said in relation to the possibility of such an occurrence, nor do I find in our correspondence on the subject any grounds for such an understanding as you inform me had been assumed to exist by Her Majesty's Government.

A short time since when you called upon me and personally obtained copies of the record of the judicial proceedings in the three cases of seizure in August last in

Behring Sea, nothing was said in relation to other cases. Whether the circumstances attendant upon the cases which you now report to me are the same as those which induced the executive to direct the release referred to, remains hereafter to be ascertained, and this with as little delay as the circumstances will permit.

I have, &c.,

T. F. BAYARD.

Sir L. S. SACKVILLE WEST.

No. 308.

Sir H. T. Holland to Lord Lansdowne.

DOWNING STREET, 1st September, 1887.

MY LORD,—I have the honor to transmit to Your Lordship, for communication to your Ministers, with reference to previous correspondence, a copy of a letter from the Admiralty, with one from the Commander-in-Chief in the Pacific, respecting the capture of the sealing schooner "Anna Beck" by an American revenue vessel in Behring Sea.

I have, &c.,

H. T. HOLLAND.

Governor General the most Honorable the Marquis of Lansdowne, G.C.M.G., &c.

"TRIUMPH" AT ESQUIMALT, 5th August, 1887.

(EXTRACT).—I did not visit Sitka, thinking it as well whilst the Behring Sea sealing question is unsettled that I should not do so.

Since my return I hear that the "Anna Beck," a sealing schooner, has been seized by an American revenue vessel in Behring Sea, it is reported 60 miles north-east from St. George Island, but no reliable information as to the spot has yet reached me; as soon as it does I will forward particulars.

I have, &c.,

M. G. SEYMOUR, *Rear Admiral and Commander in Chief.*

The Secretary to the Admiralty.

[Enclosure No. 1.]

Admiralty to Colonial Office.

ADMIRALTY, 24th August, 1887.

(EXTRACT).—I am commanded by my Lords Commissioners of the Admiralty to transmit the accompanying extracts from a letter, dated 5th August, No. 127, from the Commander-in-Chief, Pacific, reporting the state of affairs at Metlakatla, and the seizure of a sealing schooner named the "Anna Beck" by an American revenue vessel in the Behring Sea.

I am, &c.,

R. D. AWDRY.

The Under Secretary of State, Colonial Office.

Sir Henry Holland to Lord Lansdowne.

DOWNING STREET, 14th September, 1887.

MY LORD,—With reference to previous correspondence, I have the honor to acquaint you for the information of your Ministers, that the Marquis of Salisbury caused to be referred to the law officers the correspondence which has passed respecting the seizure of the three British sealing vessels, the "Thornton," the "Carolina" and the "Onward" by the United States revenue cruiser "Corwin," in Behring Sea, and that they advised that a claim for compensation might properly be made against the United States Government.

I telegraphed to you on the 7th instant that it was proposed to prefer a claim for compensation against the United States Government, and enquiring what answer your Ministers would suggest, but as at present advised it does not seem to me desirable to put forward the claims which accompanied your despatch N o. 9 of the 15th of January, as some of them are apparently much exaggerated and a new issue would be raised as to the reasonableness of the claims.

In the meantime the Marquis of Salisbury has addressed the despatch, of which I enclose a copy, to Her Majesty's Minister at Washington, desiring him to communicate it to the Secretary of State.

Your Ministers will, no doubt, take this matter into consideration at the earliest moment.

I have, &c.,

H. T. HOLLAND.

Governor General the Most Honorable the Marquis of Lansdowne, &c., &c., &c.

[Enclosure No 1.]

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, 10th September, 1887.

SIR,—By a despatch of the 30th October last (No. 214), the late Earl of Iddesleigh instructed you to call the attention of the United States Secretary of State to the circumstances of the seizure in Behring Sea, by the American cruiser "Corwin," of some British Canadian vessels; and his Lordship directed you to state to Mr. Secretary Bayard that Her Majesty's Government felt sure that if the proceedings which were reported to have taken place in the United States District Court were correctly described, the United States Government would admit their illegality, and would cause reasonable reparation to be made to the British subjects for the wrongs to which they had been subjected and for the losses which they had sustained.

By a previous despatch of the 9th September, you had been desired to ask to be furnished with any particulars which the United States Government might possess relative to the seizures in question; and on the 20th October you were instructed to enter a protest on behalf of Her Majesty's Government, and reserve for consideration hereafter all rights to compensation.

Nearly four months having elapsed without any definite information being furnished by the United States Government as to the grounds of the seizures, my predecessor instructed you, on the 8th June last, to express to Mr. Bayard the concern of Her Majesty's Government at the delay, and to urge the immediate attention of the United States Government to the action of the American authorities in their treatment of these vessels and of their masters and crews.

On the 3rd February Mr. Bayard informed you that the record of the judicial proceedings which he had called for was shortly expected to reach Washington, and that, without conclusion at that time of any questions which might be found to be involved in these cases of seizures, orders had been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

On the 4th April, under instructions from me, you inquired of Mr. Bayard, in view of the approaching fishing season in Behring Sea, whether the owners of British vessels might rely when not near land on being unmolested by the cruisers of the United States, and you again asked when the record of the judicial proceedings might be expected.

Mr. Bayard informed you, in reply (12th April), that the papers referred to had reached him, and were being examined; that there had been unavoidable delay in framing appropriate regulations and issuing orders to the United States vessels to police the Alaskan waters; that the Revised Statutes relating to Alaska, Sections 1,956 and 1,971, contained the laws of the United States in relation to the matter; and that the regulations were being considered, and he would inform you at the

earliest day possible what had been decided, so that British and other vessels might govern themselves accordingly.

In view of the statements made by Mr. Bayard in his note of the 3rd February, to which I have referred above, Her Majesty's Government assumed that, pending a conclusion of the discussion between the two Governments on the general question involved, no further similar seizures of British vessels would be made by order of the United States Government. They learn, however, from the contents of Mr.

Enclosure Nos. 1 and 2 of No. 16. Bayard's note of the 13th August, inclosed in your despatch No. 245 of the 15th August, that such was not the meaning which he intended should be attached to his communication of the 3rd February; and they deeply regret to find a proof of their misinterpretation of the intentions of the United States Government from an announcement recently received from the commander-in-chief of Her Majesty's naval forces in the Pacific, that several more British vessels engaged in seal hunting in Behring Sea have been seized when a long distance from land by an American revenue vessel.

Her Majesty's Government have carefully considered the transcript of record of the judicial proceedings in the United States District Court in the several cases of the schooners "Carolina," "Onward" and "Thornton," which were communicated to you in July, and were transmitted to me in your despatch No. 196 of the 12th of that month, and they cannot find in them any justification for the condemnation of those vessels.

The libels of information allege that they were seized for killing fur seal within the limits of Alaska Territory, and in the waters thereof, in violation of section 1,956 of the Revised Statutes of the United States; and the United States Naval Commander Abbey certainly affirmed that the vessels were seized within the waters of Alaska and the Territory of Alaska; but according to his own evidence they were seized 75, 115 and 70 miles respectively, south south-east of St. George's Island.

It is not disputed, therefore, that the seizures in question were effected at a distance from land far in excess of the limit of maritime jurisdiction which any nation can claim by international law, and it is hardly necessary to add that such limit cannot be enlarged by any municipal law.

The claim thus set up appears to be founded on the exceptional title said to have been conveyed to the United States by Russia at the time of the cession of the Alaska Territory. The pretension which the Russian Government at one time put forward to exclusive jurisdiction over the whole of Behring Sea was, however, never admitted either by this country or by the United States of America. On the contrary, it was strenuously resisted, as I shall presently show, and the American Government can hardly claim to have received from Russia rights which they declared to be inadmissible when asserted by the Russian Government. Nor does it appear from the text of the Treaty of 1867 that Russia either intended or purported to make any such grant; for, by article 1 of that instrument, Russia agreed to cede to the United States all the territory and dominion then possessed by Russia "on the continent of America and in the adjacent islands" within certain geographical limits described, and no mention was made of any exclusive right over the waters of Behring Sea.

Moreover, whatever rights as regards their respective subjects and citizens may be reciprocally conferred on the Russian and American Governments by treaty stipulation, the subjects of Her Majesty cannot be thereby affected, except by special arrangement with this country.

With regard to the exclusive claims advanced in times past by Russia, I transmit to you documents communicated to the United States Congress by President Monroe in 1822, which show the view taken by the American Government of these pretensions.

In 1821 the Emperor of Russia had issued an edict establishing "Rules for the limits of navigation and order of communication along the coast of the Eastern Siberia, the north-western coast of America, and the Aleutian, Kurilo and other islands."

The first section of that edict said: "The pursuit of commerce, whaling and fishery, and of all other industry on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring Straits to the 51st degree of northern latitude; also from the Aleutian I-lands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Sea to the south cape of the Island of Arup, viz., to the 45° 50' of northern latitude, is exclusively granted to Russian subjects;" and section 2 stated: "It is, therefore, prohibited to all foreign vessels not only to land on the coast and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo."

A copy of these regulations was officially communicated to the American Secretary of State by the Russian Minister at Washington, on the 11th February, 1822, whereupon Mr. Quincy Adams, on the 25th of that month, after informing him that the President of the United States had seen with surprise the assertion of a territorial claim on the part of Russia, extending to the 51st degree of north latitude on the American continent, and a regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within 100 Italian miles of the shores to which that claim was made to apply, went on to say that it was expected before any Act which should define the boundary between the territories of the United States and Russia, that the same would have been arranged by treaty between the parties, and that "to exclude the vessels of American citizens from the shore *beyond the ordinary* distance to which territorial jurisdiction extends, has excited still greater surprise;" and Mr. Adams asked whether the Russian Minister was authorized to give explanations of the "grounds of right, upon principles generally recognized by the laws and usages of nations, which can warrant the claims and regulations."

The Russian Minister in his reply, dated the 28th February, after explaining how Russia had acquired her possessions in North America, said:—

"I ought in the last place to request you to consider, sir, that the Russian possessions in the Pacific Ocean extend on the north-west coast of America, from Behring Straits to the 51st° of north latitude, and on the opposite side of Asia and the islands adjacent from the same strait to the 45th°. The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to shut seas (*mers fermées*), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners; but it preferred only asserting its essential rights without taking advantage of localities."

On the 30th March, Mr. Adams replied to the explanations given by the Russian Minister. He stated that, with respect to the pretension advanced in regard to territory, it must be considered not only with reference to the question of territorial rights, but also to that of prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts; that from the period of the existence of the United States as an independent nation their vessels had freely navigated these seas, the right to navigate them being a part of that independence; and with regard to the suggestion that "the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea in latitude 51° north is not less than ninety degrees of longitude or 4,000 miles." Mr. Adams concluded as follows: "The President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights."

The convention between the United States and Russia of the 17th April, 1824, put an end to any further pretension on the part of Russia to restrict navigation or fishing in Behring Sea, so far as American citizens were concerned; for by article I it was agreed that in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contract-

ing powers shall neither be disturbed nor restrained, either in navigation nor fishing, saving certain restrictions which are not material to the present issue; and a similar stipulation in the convention between this country and Russia in the following year (15th May, 1825), put an end, as regarded British subjects, to the pretensions of Russia, to which I have referred, and which had been entirely repudiated by Her Majesty's Government in correspondence with the Russian Government in 1821 and 1822, which for your more particular information I enclose herein.

Her Majesty's Government feel sure that in view of the considerations which I have set forth in this despatch, which you will communicate to Mr. Bayard, the Government of the United States will admit that the seizure and condemnation of these British vessels, and the imprisonment of their masters and crews, was not warranted by the circumstances, and that they will be ready to afford reasonable compensation to those who have suffered in consequence, and issue immediate instructions to their naval officers which will prevent a recurrence of these regrettable incidents.

I am, &c.,
SALISBURY.

Sir H. T. Holland to Lord Lansdowne.

DOWNING STREET, 16th September, 1887.

My Lord,—I have the honor to transmit to you, for communication to Your Lordship's Ministers, copies of despatches from Her Majesty's Minister at Washington, respecting the seizure of British Columbian vessels in Behring Sea which have been received from the Foreign Office.

I have, &c.,

H. T. HOLLAND.

Governor General, the Most Honorable the Marquis of Lansdowne, G.C.M.G., &c.

[Enclosure No. 1.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 20th August, 1887.

MY LORD,—It would appear from reports of Captain Shepard, of the United States revenue cutter "Rush," that the "Snyward" was captured 50 miles and the "Dolphin" 40 miles from Cape Cheerful, while the "Grace" was seized 95 miles from Onnalaska.

Cape Cheerful does not appear on any map or chart, but is supposed to be the northernmost point of the Island of Onnalaska.

The Islands of St. George and St. Paul (Pribyloo Islands) are distant 180 miles from Onnalaska, so that at the time of the seizure of the "Grace" that vessel would have been 85 miles distant from them.

To reach the breeding grounds on the Islands of St. George and St. Paul, the seals pass regularly through the channel which separates the Island of Onnalaska from the Island of Akutan, and that which separates Akutan from the Island of Unimak, called respectively the Akutan and Unimak Passes, and it is here that the sealers lay in wait for them on their passage.

It is maintained that the capture of seals in this manner is in violation of section 1,956 of the Revised Statutes of the United States, and that ships so capturing them are within the limits of Alaska territory or in the waters thereof.

But, apart from the question of territorial limit and right to seize vessels in the open sea, it is argued by impartial persons that unless some arrangement is made for the protection of these valuable animals on their passage to the breeding grounds, the genus, as in the case of beaver, will gradually become extinct.

It is a known fact that few, if any, seals pass outside the Island of Onnalaska to their breeding grounds, which exist only on the Pribyloo Islands, and that their passage is as regular as their breeding season.

I have, &c.,

L. S. S. WEST.

[Enclosure No. 2.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 22nd August, 1887.

MY LORD,—Since writing my preceding despatch I have received privately from Mr. Bayard copies of the reports of Captain Shepard, alluded to therein, respecting the seizure of the British vessels "Anna Beck," "W. P. Sayward," "Dolphin" and "Grace," copies of which I have the honor to enclose to Your Lordship herewith.

The State Department is not in possession of any further information.

I have, &c.,

L. S. SACKVILLE WEST.

P. S.—I have communicated copies of Captain Shepard's reports to the Governor General of Canada.

L. S. S. W.

Lord Lansdowne to Sir Henry Holland.

(Telegram.)

23rd September, 1887.

I understand that after Mr. Bayard's announcement of the 3rd February respecting Behring Sea seizures instructions were sent in accordance with it to the Alaska authorities by telegraph that an instrument for the release of the vessels was thereupon issued by the district judge, but that subsequently, on the assumption that the telegram was forged, he rescinded the order; that no steps have been taken by the department since; the vessels are still detained. My Government trusts the facts will be enquired into.

No. 372.

Lord Lansdowne to Sir H. T. Holland.

QUEBEC, 26th September, 1887.

SIR,—In continuation of my despatch No. 338 of the 27th of August, and in reference to previous correspondence, I have the honor to enclose herewith No. 11. a copy of an approved Minute of the Privy Council of Canada, dated 21st of September, 1887, covering copies of a report of my Minister of Marine and Fisheries relating to the seizure and detention of the Canadian sealing schooner "Alfred Adams," and of other Canadian sealing vessels by the United States authorities in the Behring Sea.

The letter directed to the United States District Attorney at Sitka, marked "D" in the Minister's report, which came into the possession of my Government under the circumstances described in the declaration of Captain Dyer, of the "Alfred Adams," has been forwarded, together with copies of the papers, to Her Majesty's Minister at Washington.

The circumstances under which the "Adams" was seized do not differ materially from those attending previous seizures in the same waters. I have already laid before you the reasons which have led my Government to protest against the assumption that the statutes under which other seizures, and I presume this also, have been made. Statutes governing the conduct of persons fishing within "the territory of Alaska" or "in the waters thereof" [*vide* U. S. Revised Statutes, 1,955-1,956] are applicable to the whole of the waters of the Behring Sea; and in cases where, as in those under discussion, the vessels seized were found fishing at a great distance from the nearest land.

I trust that the earnest attention of Her Majesty's Government will be given to the statements contained in the Minister's report. No satisfactory explanation has yet been given of the action of the United States Government subsequent to Mr. Bayard's announcement of 3rd February, of the present year, when it was stated by

him to Her Majesty's Minister at Washington, that "orders had been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to and the release of all persons under arrest in connection therewith."

You will observe from Mr. Foster's recapitulation of the evidence which he has been able to collect and the documents attached to his report that an impression prevails upon the spot to the effect that orders such as those described by Sir L. West, were actually issued from Washington. There appears at all events to be some reason for believing that a telegram authorizing the release of the vessels then under detention was in fact received by the district judge, and that instructions were thereupon issued by him for the purpose of carrying out these orders. The circumstances under which those instructions are said to have been subsequently rescinded by the district judge have not unnaturally given rise to the gravest suspicion.

The Minister has called attention with great force in his report to the injury sustained by persons engaged in the sealing industry from the suspense and uncertainty in which they have been kept during the past year owing to the refusal of the United States Government to give any explicit assurances as to the treatment which they might expect at its hands.

I have, &c.,

LANSDOWNE.

The Right Honorable Sir H. HOLLAND, &c., &c. &c.

[Enclosure No. 1.]

CERTIFIED COPY of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 21st September, 1887.

The Committee of the Privy Council have had under consideration the annexed report of the Minister of Marine and Fisheries with reference to the seizure and detention of Canadian sealing vessels by the United States authorities in Behring Sea.

The Committee concur in the said report, and they advise that Your Excellency be moved to transmit a copy of this Minute and the annexed papers to the Right Honorable the Secretary of State for the Colonies.

All which is submitted for Your Excellency's approval.

JOHN J. MCGEE, Clerk Privy Council.

[Enclosure No. 2.]

OTTAWA, 15th September, 1887.

With reference to previous correspondence concerning the seizure and detention of Canadian sealing vessels by the United States authorities in Behring Sea, the Minister of Marine and Fisheries begs to submit for the consideration of His Excellency the Governor General in Council the following papers:—

(a.) A letter from Collector Hamley, of Victoria, B.C., dated 1st September, 1887, enclosing certain papers in reference to the seizure of the Canadian sealing schooner "Alfred Adams" in Behring Sea;

(b.) The declaration of William Henry Dyer, of Victoria, B.C., master of the Canadian schooner "Alfred Adams";

(c.) A certificate of seizure of the "Alfred Adams" signed by L. G. Shepard, captain of the United States revenue steamer "Rush";

(d.) A sealed and unopened letter directed to the United States district attorney and the United States marshal, Sitka, Alaska.

(e.) A letter from Collector Hamley, of Victoria, B.C., dated 26th July, relating to the detention of the Canadian schooners "Onward," "Carolina" and "Thornton," seized in August, 1886, by the United States cutter "Corwin" in Behring Sea.

(f.) Copy of a telegram and order purporting to be from the United States Attorney General and Judge Dawson respectively, relating to the release of the above named vessels; and

(g.) A letter, dated 3rd September, 1887, from the law firm of Drake, Jackson & Helmcken, of Victoria, containing additional information relating to the same.

From the above mentioned papers, it appears that on the 6th of August, 1887, the Canadian schooner "Alfred Adams," whilst engaged in catching seals in the open sea, more than fifty miles distant from the nearest land, was forcibly seized by an armed vessel of the United States, her ship's papers taken, her cargo of seal skins, thirteen hundred and eighty-six (1,386) in number, together with all her arms, ammunition and fishing implements transferred to the United States cutter, and her captain ordered to proceed with sealed orders to Sitka and to deliver himself, his vessel and men, into the hands of the United States marshal at that place.

This treatment of the "Alfred Adams," whilst peaceably pursuing her lawful calling on the high seas, is but a repetition of the unjustifiable seizures of Canadian vessels made by the United States authorities in Behring Sea, and which have been dealt with at length in previous reports to Council.

The Minister, therefore, does not consider it necessary in this instance to traverse the ground already so fully covered and recommends that a copy of this report, with the papers attached, be forwarded to Her Majesty's Government for their earnest and immediate consideration, and that a copy thereof be sent to the British Minister at Washington, together with the sealed letter given by Captain Shepard to the master of the "Adams," with the request that it be forwarded to Mr. Secretary Bayard. With reference to the attached papers "E," "F" and "G," the Minister observes that, from the first, "E," it appears that inquiries made by the Collector of Customs at Victoria, B.C., in July last, resulted in his obtaining the information that Judge Dawson had, up to that date, received no orders for the release of the Canadian sealing vessels seized in 1886, that the vessels had not been sold and remained still under seizure, and that Judge Dawson when questioned as to the report that a telegram had been sent to him by the Attorney General of the United States ordering the release of the vessels, had replied that he had heard of this report before but that nothing of the kind had reached either himself or the United States marshal at Sitka. The paper marked "F" purports to be a copy of a telegram dated 26th January, 1887, from the United States Attorney-General Garland to Judge Dawson ordering him to release the vessels seized in August preceding, and of order founded thereon from Judge Dawson to the United States marshal at Sitka, bearing date 19th February, 1887, directing him to release the "Carolina," "Onward," "Thornton," and "San Diego" together with all their tackle, apparel, skins, guns, ammunition, small boats and everything pertaining to said vessels. The third paper marked "G," is a copy of a letter from the law firm of Drake, Jackson & Helmcken, of Victoria, B.C., to the Minister of Justice, informing him that they are advised that a telegram was received by Judge Dawson from the United States Attorney General ordering the release of the vessels above referred to, that Judge Dawson did issue an order accordingly, but that he afterwards rescinded the order on the assumption that the telegram was a forgery and that since "no official letters of any sort, either confirming the telegram or respecting the affair has been received at Sitka."

The Minister observes that if the information conveyed in the above mentioned papers is correct, of which there appears no reasonable doubt, it reveals a state of affairs by no means satisfactory.

On the 3rd of February, 1887, Mr. Secretary Bayard informed the British Minister at Washington, that "orders have been issued, by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith." A telegram in accordance with Mr. Bayard's communication appears to have been sent to Alaska, and an order based thereon to have been issued by the district judge, but to have been afterwards rescinded, and no further action has been taken up to date of latest information. Meanwhile the vessels remain under seizure, the seal skins are forfeited, and the property of Canadian citizens forcibly withheld from them under circumstances which involve very great loss and damage.

The Minister further observes that, with a view of guiding the action of Canadian citizens interested in sealing in the northern seas, repeated attempts were made previous to the commencement of the present season to obtain an official expression from the United States Government of the policy they proposed to pursue in their treatment of foreign vessel sealing in Behring Sea, but that these efforts proved altogether unavailing. From Mr. Bayard's communication of 3rd February, 1887, above referred to, the fair inference, however, was to be drawn that, until the question in dispute between the two Governments, as to the legality of the previous seizures had been finally disposed of, no further seizures would be made. And there is no doubt that on the strength of this communication and in the absence of any explicit statement of policy to the contrary, Canadian citizens did, in the beginning of the present season, embark upon their customary sealing expeditions to Behring Sea, under the reasonable impression that they would not be interfered with by the United States authorities, so long as they conducted their operations in the open sea, only however to find their vessels seized, their property confiscated, and their ventures completely ruined.

It is respectfully submitted that this condition of affairs is in the highest degree detrimental to the interests of Canada, and should not be permitted to continue. For nearly two years Canadian vessels have been exposed to arbitrary seizure and confiscation in the pursuit of a lawful occupation upon the high seas, and Canadian citizens subjected to imprisonment and serious financial loss; while an important and remunerative Canadian industry has been threatened with absolute ruin. This course of action has been pursued by United States officers in opposition to the contention in the past of their Government in regard to the waters in which these seizures have taken place, in violation of the plainest dictates of international law and in the face of repeated and vigorous protests of both the Canadian and British Governments.

The Minister advises that Her Majesty's Government be again asked to give its serious and immediate attention to the repeated remonstrances of the Canadian Government against the unwarrantable action of the United States in respect to Canadian vessels in Behring Sea, with a view to obtain a speedy recognition of its just rights and full reparation for the losses sustained by its citizens.

The whole respectfully submitted.

GEO. E. FOSTER, *Minister of Marine and Fisheries.*

[Enclosure No. 3a.]

Hon. Mr. Hamley to Hon. Mr. Foster.

CUSTOM HOUSE, VICTORIA, 1st September, 1887.

SIR,—On the 7th August, the master of the United States revenue cutter "Rush" seized in Behring Sea, 60 miles from any land, the Canadian schooner "Alfred Adams."—Her register, clearance, guns and ammunition and the seal skins she had taken (1,386) were all taken from her and the vessel herself ordered to Sitka. No one from the revenue cutter was put on board by Captain Shepard, and the master of the "Alfred Adams" instead of going as he was desired to Sitka, returned to Victoria, arriving here 31st August. I forward the master's deposition before a notary public and what Captain Shepard is pleased to term a certificate of the schooner's seizure signed by himself. Mr. Drake, a solicitor, is at Sitka waiting for the case to be heard in court; the trial was delayed for the arrival of the "Rush" and she was expected about the beginning of this month. Mr. Drake, will no doubt, report direct to the Minister of Justice.

I have the honor to be, sir, your obedient servant,

W. HAMLEY.

I enclose also a sealed letter addressed by Captain Shepard to the district attorney and United States marshal, at Sitka, which the master of the "Alfred

Adams" brought down with him and which you can deal with in any way you think fit.

W. HAMLEY.

The Honorable GEO. E. FOSTER, Minister of Marine.

[Enclosure No. 46.]

Declaration of W. H. Dyer.

In the matter of the seizure of the sealing schooner "Alfred Adams" by the United States revenue cutter "Richard Rush."

I, William Henry Dyer, of Victoria, B. C., master mariner, do solemnly and sincerely declare that:—

1. I am the master of the schooner "Alfred Adams," of the port of Victoria, British Columbia, engaged in the business of catching seals. On the 6th of August, 1887, while on board the said schooner and in command of the same, being in latitude 54° 48' N. and longitude 167° 49' West, the United States revenue cutter "Richard Rush" steamed alongside, lowered a boat commanded by the first lieutenant and boat's crew. The said lieutenant came on board the said "Alfred Adams" and ordered me to take the ship's register, log-book, articles and all other of the ship's papers on board the "Richard Rush." In obedience to his command I took all said papers and accompanied the said lieutenant on board the "Rush." When I arrived on board the "Rush" the captain of the "Rush" asked me what was my business in the Behring Sea. I replied taking seals. He enquired how many skins I had. I replied 1,386. He then said he would seize the ship, take the skins, arms, ammunition and spears. I stated I did not think the ship was liable to seizure, as we had never taken a seal within 60 miles of Ounalaska nor nearer St. Paul's than 60 miles south of it, and that we had never been notified that the waters were prohibited unless landing and taking them from the Island of St. Paul's. He stated he must obey the orders of his Government, and that our Government and his must settle the matter, and ordered me to proceed on board the said schooner and deliver up my arms, ammunition, skins and spears. He sent two boats belonging to the "Rush" in charge of the first and second lieutenant of the "Rush" respectively, and manned with sailors from the "Rush," who came on board the said schooner (I returning in company with the first lieutenant). They took from the said schooner 1,386 (thirteen hundred and eighty-six) skins, four kegs of powder (3 triple F and 1 blasting powder), 500 (five hundred) shells, three cases of caps and primers, nine breech-loading double-barrelled shot guns, one Winchester rifle, all in good order, and twelve Indian spears, and he then gave me a sealed letter addressed to the United States marshal and United States district attorney at Sitka; he also gave me an acknowledgment of the goods taken and also gave me a certificate that the said schooner was under seizure, and after being alongside for about three and a half hours, I received orders in writing to proceed to Sitka and report to the United States district attorney and marshal. We then parted company. My crew consisted of myself, mate, two seamen, one Chinese cook and twenty-one (21) Indians. Previous to the said seizure we had spoken the schooner "Kate," of Victoria, and had been informed by the mate of that vessel that the crews (and particularly the Indians) taken to Sitka on schooners previously seized had been very badly treated. The Indians became very mutinous on learning that we were to proceed to Sitka and report to the United States authorities, and declared they would not go to Sitka, and to avoid trouble I came to Victoria instead of going to Sitka. I arrived in Victoria on the 31st August, 1887, at about 7 p.m.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Oaths Ordinance, 1869.

W. H. DYER.

Declared before me this 1st day of
September, 1887, at Victoria,
British Columbia.

H. DALLAS HELMCKEN, a Notary Public in
and for the Province of British Columbia.

[Enclosure No. 5c.]

Certificate of Seizure.

UNITED STATES REVENUE STEAMER "RUSH,"
BEHRING SEA, 6th August, 1887.

To whom it may concern :

This will certify that I have this day seized the British schooner "Alfred Adams," of Victoria, B.C., Captain W. H. Dyer, master, for violation of law, and have taken charge of his ship's papers, viz : Register, shipping articles, clearance bill of health and log book; also her arms and seal skins.

Very respectfully,

L. G. SHEPARD, *Captain U.S.R.M.*

[Enclosure No. 6c.]

Hon. Mr. Hamley to Hon. Mr. Foster.

CUSTOM HOUSE, VICTORIA, 26th July, 1887.

DEAR SIR,—Captain Carroll, master of the American steamer "Olympian," has been taking parties of excursionists to Sitka, and I asked him to see the judge, Mr. Dawson, and find out something we could trust respecting the seized vessels. Dawson told him he had received no orders whatever for the release of the vessels; they have not been sold, and remain as they were, under seizure. Captain Carroll told Dawson of the telegram, dated last January, purporting to have been sent by Mr. Garland, Attorney General at Washington, in the President's name, ordering the vessels to be released. Dawson said he had heard of it before, and that it must have been, as he termed it, a "put up thing," as nothing of the kind had reached either himself or the United States marshal at Sitka.

The serious part is, that our people trusting to the story of the order for release, have sent thirteen vessels again this year to the sealing grounds—one has been seized already, and if the others fall in the way of the revenue cutters they will probably be seized also. I may perhaps hear something more from the Admiral when he returns from Alaska, and if so I will write to you again.

Yours very truly,

W. HAMLEY.

To the Honorable GEO. E. FOSTER, &c., &c.

[Enclosure No. 7f.]

Attorney General to Judge Dawson.

WASHINGTON, D.C., 26th January, 1887.

To Judge LAFAYETTE DAWSON and M. D. BALL, United States District Attorney, Sitka, Alaska:

I am directed by the President to instruct you to discontinue any farther proceedings in the matter of the seizures of the British vessels "Carolina," "Onward," and "Thornton," and discharge all vessels now held under such seizure and release all persons that may be under arrest in connection therewith.

A. H. GARLAND, *Attorney General.*

[Enclosure No. 8f.]

Judge Dawson to United States Marshal.

To BARTON ATKINS, United States Marshal for the District of Alaska :

You are hereby directed to release the vessels "Carolina," "Onward," and "Thornton," and "San Diego," which were seized in Behring Sea for violation of section (1,956). United States statutes, together with their tackle, apparel, skins, guns, ammunition, small boats and everything pertaining to said vessels, this 1st day of February, 1887.

LAFAYETTE DAWSON, *District Judge, District of Alaska.*

[Enclosure No. 9g.]

Messrs Drake, Jackson, & Helmcken to Minister of Justice.

VICTORIA, B.C., 3rd September, 1887.

SIR,—We have the honor to inform you that we are in receipt of a letter from our Mr. Drake, written from Sitka under date 28th August, in which he states that a telegram was received at Sitka, relative to the schooners seized last year, from the United States Attorney General Garland, directing their release and discharge of the men. The judge gave an order accordingly which was afterwards rescinded on the assumption that the telegram was a forgery. No official letter of any sort either confirming the telegram or respecting the affair has been received at Sitka. The schooners now seized and at Sitka are the "Anna Beck," "W. P. Sayward," "Dolphin," and "Grace." The "Alfred Adams," was also seized. The trial of the present men, Mr. Drake states, would not take place until after the arrival of the revenue cutter "Rush"; also that judging from the past and the views held by the court, the result would most probably be the same and urges that immediate steps should be taken to prevent the imprisonment of the masters, and that he would obtain declarations from the masters duly certified, and enter a protest at the trial.

The "Rush" was not expected at Sitka until yesterday.

Regarding the seizure of the "Alfred Adams," we have to state that that schooner has arrived here safely. The declarations of her captain, Dyer, and his men have been duly taken, which her owners, Messrs. Guttman & Frank of this city yesterday handed to Hon. Mr. Hamley, Collector of Customs, together with a sealed letter which the commander of the "Rush" handed to Captain Dyer to be delivered to the district attorney at Sitka. These papers no doubt Mr. Hamley has already forwarded to the proper department.

We have since forwarded a copy of this information to the Right Honorable Sir John A. Macdonald, K.C.B.

We have, &c.,

DRAKE, JACKSON & HELMCKEN.

The Honorable J. S. D. THOMPSON, Minister of Justice, Ottawa.

Deputy Minister of Justice to Deputy Minister of Fisheries.

[Enclosure No. 10.]

DEPARTMENT OF JUSTICE, CANADA, OTTAWA, 12th September, 1887.

SIR,—I have the honor to enclose for your information a copy of a letter which has been received by the Minister of Justice from Messrs. Drake, Jackson & Helmcken, in which they report with reference to the sealing vessels which have been seized in the Behring Sea by the United States authorities.

I am to state that the Minister of Justice has taken no action with respect to this communication, but that he is of the opinion that the Minister of Marine and Fisheries should at his earliest convenience take steps to communicate the substance thereof to the Colonial Office and to the British Minister at Washington.

I have, &c.,

GEO. W. BURBIDGE,

The Deputy Minister of Fisheries, Ottawa.

D. M. J.

Lord Lansdowne to Sir L. S. West.

CITADEL, QUEBEC, 26th September, 1887.

SIR,—With reference to previous correspondence I have the honor to forward herewith for your information a copy of an approved Minute of the Privy Council of Canada, dated 21st inst., covering copies of a report of my Minister of Marine and Fisheries and other papers relating to the seizure and detention of the Canadian sealing schooner "Alfred Adams" and other Canadian vessels by the United States authorities in Behring Sea.

Enclosures of No. 22.

The sealed letter addressed to the United States district attorney and United States Marshal at Sitka, Alaska, came into the possession of my Government under the circumstances described in the statutory declaration of Captain Dyer, of the "Alfred Adams." I shall be much obliged if you will have the goodness to cause the letter to be forwarded to Mr. Secretary Bayard. I should add by way of explanation that the envelope of the letter which is described by the Minister in his report as "sealed and unopened," appears to have been worn through at one end during the transmission of the papers by post.

LANSDOWNNE.

The Honorable L. S. SACKVILLE WEST, K.C.M.G.

Sir H. Holland to Lord Lansdownne.

DOWNING STREET, 29th September, 1887.

MY LORD,—I communicated on 27th inst. to the Secretary of State for Foreign Affairs, copies of your Lordship's despatches Nos. 325 and 338 of the 19th and 27th of August, respectively, relating to the seizure in Behring Sea by a United States revenue cutter of the British Columbian vessels "Grace," "Dolphin" and "W. P. Sayward."

I now have the honor to transmit to you for the information of your Ministers, a copy of a letter from the Foreign Office, enclosing a copy of a despatch which the Marquis of Salisbury has addressed upon this subject to Her Majesty's Minister at Washington.

I have, &c.,

H. T. HOLLAND.

Governor General, the Most Honorable the Marquis of Lansdowne, G.C.M.G., &c.

[Enclosure No. 1.]

Foreign Office to Colonial Office.

FOREIGN OFFICE, 27th September, 1887.

SIR,—I laid before the Marquis of Salisbury your letter of the 15th instant, enclosing despatches and other papers received from the Government of Canada, relative to the seizure in Behring's Sea by the United States revenue cutter "Richard Rush," of the British Columbian vessels, the "Grace," the "Dolphin" and the "W. P. Sayward."

Lord Salisbury has instructed Her Majesty's Minister at Washington to make representations to the United States Government in regard to these cases, in connection with those of the "Carolina," "Onward" and "Thornton;" and His Lordship has directed Sir L. West to call attention to the fact that in the case of the "W. P. Sayward" according to her mate's deposition no seals were taken by her crew in Behring Sea, as is alleged in the libel of information filed in the United States District Court.

I enclose a copy of the despatch addressed to Sir L. West for the information of Secretary Sir H. Holland.

I have, &c.,

W. P. CURRIE.

The Under Secretary of State, Colonial Office.

[Enclosure No. 2.]

Lord Salisbury to Sir L. S. West.

FOREIGN OFFICE, 27th September, 1887.

SIR,—I transmit to you herewith copies of two despatches, No. 325, 19th and No. 338, 27th, ultimo, addressed to Her Majesty's Secretary of State for the Colonies by the Governor General of Canada, forwarding papers relative to the seizure in

Behring Sea by the United States revenue cutter "Richard Rush," of three British Columbian vessels, the "Grace," the "Dolphin," and the "W. P. Sayward."

I have to request that you will make a representation to the United States Government on the subject of the seizure and detention of these vessels, in connection with the representations which I instructed you to make in the cases of the "Onward," the "Carolina" and the "Thornton," and that you will reserve all rights to compensation on behalf of the owners and crew.

You should point out to Mr. Bayard, that in the case of the "W. P. Sayward" according to the deposition of her mate, no seals had been taken by her crew in Behring Sea, as is alleged in the libel of information filed on behalf of the United States district attorney in the District Court of Alaska.

I am, &c.,
SALISBURY.

The Hon. Sir L. S. WEST, K.C.M.G., &c., &c.,

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, 29th September, 1887.

MY LORD,—I have the honor to acquaint you that I duly communicated to the Secretary of State for Foreign Affairs, your telegraphic message of the 23rd instant, reporting that the vessels seized in Behring's Sea last year were still detained by the United States authorities.

No 21.

I have now to transmit to you for communication to your Ministers a copy of a despatch which Lord Salisbury has addressed to Her Majesty's Minister at Washington, dated 27th instant, directing him to enquire the reason why these vessels have not been released.

I have, &c.

H. T. HOLLAND.

Governor General the most Honorable the Marquis of Lansdowne, &c., &c., &c.

[Enclosure No. 1.]

Lord Salisbury to Sir L. West.

FOREIGN OFFICE, 27th September, 1887.

SIR,—I transmit to you, for your information, a copy of a letter from the Colonial Office, dated 24th instant, enclosing a telegram from the Governor General of Canada, from which it appears that the British schooners "Carolina," "Onward" and "Thornton," referred to in your despatch No. 34 of the 4th February last have not yet been released.

In his note of the 3rd February, enclosed in your above-mentioned despatch, Mr. Bayard stated that "orders have been issued, by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

Her Majesty's Government regret to learn that delay has taken place in the release of the three vessels, and I have to instruct you to enquire the reason why the directions of the President, as above quoted, have not been carried out.

I am, &c.,

SALISBURY.

[Enclosure No. 2.]

Colonial Office to Foreign Office.

DOWNING STREET, 24th September, 1887.

Sir,—With reference to your letter of the 12th August last, and to recent correspondence, I am directed by Secretary, Sir Henry Holland, to transmit to you, for such action upon it as the Marquis of Salisbury may think proper to take a telegram received this day from the Governor General of Canada,

Enclosure No. 1:
of No. 8.

No. 21. relating to the question of the release of the British Columbia sealing vessels seized by the United States authorities in Behring Sea.

This telegram appears to relate to the vessels seized last year.

I am to request to be informed of any communication which may be made to the United States Government in order that a reply may be sent to the Governor General.

I am, &c.,

JOHN BRAMSTON.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, 8th October, 1887.

MY LORD,—I have the honor to transmit to you for the information of your Government, with reference to previous correspondence, a copy of a despatch from Her Majesty's Minister at Washington, dated the 23rd ult., on the subject of Behring Sea seizures and to the question of bringing before the Fisheries Commission the Alaska seal fishery question.

I have, &c.,

JOHN BRAMSTON,

For the Secretary of State.

Sir L. West to the Marquis of Salisbury.

BRITISH LEGATION, WASHINGTON, 23rd September, 1887.

MY LORD,—I have the honor to acknowledge the receipt of Your Lordship's despatch, No. 219, of the 10th instant, and to inform Your Lordship that I communicated it this day to the Secretary of State and at his request left a copy of it in his hands.

I have, &c.,

L. S. WEST.

The Marquis of Salisbury, K.G., &c.,

No. 81.

Sir L. S. West to Lord Lansdowne.

WASHINGTON, 14th October, 1887.

MY LORD,—With reference to my telegram of this day's date I have the honor to enclose to Your Excellency copy of a note which I have received from the Secretary of State expressing regret that the misconception which has arisen of the intentions and orders of the President for the release of the British schooners "Onward," "Carolina" and "Thornton" should have delayed their prompt execution and stating that renewed orders have been forwarded.

I have, &c.,

L. S. SACKVILLE WEST.

His Excellency the Marquis of Lansdowne, G.C.M.G., &c.

[Enclosure No. 1.]

Mr. Bayard to Sir L. S. West.

DEPARTMENT OF STATE, WASHINGTON, 13th October, 1887.

SIR,—Continuing my reply to your note of the 29th ultimo, enquiring the reason for the delay in complying with the order issued in January last, for the release of British vessels seized last year in Behring Sea, I beg leave to inform you that I have this day received a communication from my colleague, the Attorney General, informing me that his telegram to the United States marshal at Sitka, of 26th January last, ordering the release of the British schooners "Onward," "Carolina" and

"Thornton," owing to some misconception and mistake on the part of the official to whom it had been addressed, had not been acted upon.

A renewed order has gone forward for their release—as had been distinctly directed last January, and which I had no reason to doubt had been promptly obeyed.

In my note to you of the 11th instant, I stated it to be my impression that no Enclosure No. 2 of hindrance to their re-possession by the owners of the vessels named No. 34. existed.

This impression it now appears, was not well founded, and as my object is to give you the fullest information within my power in relation to all transactions touched in our correspondence, I hasten to communicate the latest report made to me from the Department of Justice.

I take leave also to express my regret that any misconception of the instructions and orders of the President should have delayed their prompt execution.

I have, &c.

T. F. BAYARD.

The Honorable Sir L. WEST, K.C.M.G.

No. 498.

Lord Lansdowne to Sir H. Holland.

20th October, 1887

SIR,—With reference to previous correspondence upon the subject of the seizure of British sealing vessels in Behring Sea, I have the honor to forward, for your information, a clipping from the *Toronto Mail* of the 17th instant, publishing in full the Canadian brief prepared by Mr. Drake, Q.C., and filed in the Alaska courts on behalf of the officers of the British sealers seized in Behring Sea.

I also enclose for your information a clipping from the *New York Herald* of the 13th instant, giving the United States brief filed in the District Court at Sitka, by Mr. A. K. Delaney, as counsel for the United States Government.

I have, &c.,

LANSDOWNE.

The Right Honorable Sir Henry Holland, Bart., &c., &c.

[Enclosure No. 1.]

Extract from Toronto "Mail."

BEHRING SEA.

MR. DRAKE'S MASTERLY ANSWER TO AMERICAN PRETENSIONS.

The Russian Claim Discussed—Position Assumed by the States Untenable—Going Beyond the Recognized Law of Nations—The Seizures Entirely Illegal.

(From our own Correspondent.)

OTTAWA, 16th October.—Hitherto only a brief *resumé* of Mr. Drake's brief in the Alaska courts has been published. As the United States press has recently been making a great parade over the American Government's case, it may not be out of place to give in full the brief prepared by Mr. Drake himself, and filed on behalf of the officers of the British sealers seized in Behring Sea.

THE BRIEF.

United States Court District of Alaska. The United States Plaintiff, vs. J. D. Warren and J. C. Riley, Defendants.

Brief in support of the demurrer, filed herein the 30th August, 1887, on behalf of the masters and owners of the British schooners "Anna Beck," "Dolphin," "Grace" and "W. P. Sayward," seized by the United States cutter for an alleged

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."

RUSSIA'S CLAIM.

Thus it appears that Russia claimed 100 miles from the coasts of all the islands, as well as the mainland of Behring Sea, and south to 45° 50'. It was this claim that led to the indignant remonstrance of the United States and Great Britain, and to the treaties before referred to, and shows that Behring Sea was included in the term "Pacific Ocean." The pretensions of Russia were never revived, and the citizens of Great Britain as well as the United States had free access at all times to these waters in navigating and fishing without any restriction. And Russia's claim was never revived until she purported to cede to the United States a portion of Behring Sea. Russia could not sell what she did not own, and the United States could not claim that which it was not in the power of Russia to sell. The treaty with England has never been abrogated, and was in force when the cession to the United States took place, and there was no need to protest against the extravagant pretensions of Russia in purporting to dispose of the high seas, as until last year no attempt has been made to enforce such a claim. The United States have always been the strongest upholders of the law of nations, and on this head Kent's Commentaries, page 28: "The open sea is not capable of being possessed as private property; the free use of the ocean for navigation and fishing is common to all mankind, and the public jurists generally and explicitly deny that the main ocean can ever be appropriated." He also refers to the claim of Russia, and in another place he states that "the United States have recognized the limitation of a marine league for general territorial jurisdiction by authorizing the district courts to take cognizance of all captures made within a marine league of the American shore." See Act of Congress, June 5, 1794. And in Wharton's International Law Digest, page 32, the author says: "The limit of one sea league from shore is provisionally adopted as that of the territorial sea of the United States," and "our jurisdiction has been fixed to extend three geographical miles from our shore, with the exception of any waters or bays which are so land-locked as to be unquestionably within the jurisdiction of the United States, be their extent what they may." Behring Sea is not a gulf or bay, and is not land-locked by the lands of the United States. Wharton again states that "a vessel on the high seas beyond the distance of a marine league from the shore is regarded as part of the territory of the nation to which she belongs." And Mr. Seward in a letter to Mr. Tassara, December 16, 1862, tersely states the principle as follows:—"There are two principles bearing on the subject which are universally admitted, (1) that the sea is open to all nations, and (2) that there is a portion of the sea adjacent to every nation over which the sovereignty of that nation extends to the exclusion of every other political authority.

A third principle bearing on the subject is that the exclusive sovereignty of a nation abridging the universal liberty of the seas extends no further than the power of the nation to maintain it by force stationed on the coast extends. "*Terræ dominium finitur, ubi finitur armorum vis*" (the sovereignty of the coast ends where the power to control it by force of arms terminates). It thus appears that by the comity of nations, sanctioned and approved by American jurists, that the high seas are open to all, that the territorial authority only extends to a marine league or, at all events, not further than a force on shore can protect the coasts.

It also appears that the United States, in claiming sovereignty over the Behring Sea, is claiming something beyond the well-recognized law of nations, and bases her claim upon the pretensions of Russia which were successfully repudiated by both Great Britain and the United States. A treaty is valid and binding between the parties to it, but it cannot affect others who are not parties to it. It is an agreement between nations and would be construed in law like an agreement between individuals. Great Britain was no party to it and therefore is not bound by its terms.

It is therefore contended that the proceedings taken against the present defendants are *ultra vires* and without jurisdiction. But, in order to press the matter further, it may be necessary to discuss the Act itself under which the alleged jurisdiction is assumed. The Act must be construed by what appears within its four

corners and not by any extrinsic document. It is an Act defining a criminal offence, and an Act which abridges the privileges and immunities of citizens must be most strictly construed; and nothing but the clearest expression can or ought to be construed against the interest of the public in applying this principle to the present case. The terms used in the Act itself are "the waters adjacent to the Islands of St. George and St. Paul." "Adjacent," in Wharton, page 846, is held to be adjacent to the coast and within the territorial jurisdiction of the country. This language then does not apply to these defendants who are fifty miles from the nearest coast. In section 1,956 the language is "the waters of Alaska." This must also be construed by the universal law as applying to the territorial limit only. And in a letter from Mr. Everts to Mr. Foster in April, 1879, referring to a case in which certain American merchant vessels were seized by the Mexican authorities for an alleged breach of the revenue laws, although distant more than three miles from shore it was held to be an international offence and was not cured by a decree in favor of the assailants by a Mexican court. So here it is submitted that a decree of your Honor's court will not give any validity to the seizures here made, and the defendants in filing their demurrer and submitting this argument do not thereby waive their rights or submit to the jurisdiction of the court.

No. 409.

Lord Lansdowne to Sir H. Holland.

OTTAWA, 20th October, 1887.

SIR,—I have the honor to transmit to you a copy of an approved report of a Committee of the Privy Council, to which is appended a copy of a despatch from His Honor the Lieutenant Governor of British Columbia, covering a Minute of his Executive Council, dated 15th instant, setting forth the value to British Columbia of the present sealing industry in Behring Sea.

You will observe that the Executive Council of British Columbia consider that the rights of British subjects, as regards the Behring Sea, should be included in the scope of the duties of the International Fisheries Commission.

I have, &c.,

LANSDOWNE.

The Right Hon. Sir H. HOLLAND, Bart, &c., &c.

[Enclosure No. 1.]

CERTIFIED Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 15th October, 1887.

The Committee of the Privy Council have had under consideration a despatch, dated 15th September, 1887, from the Lieutenant Governor of British Columbia, enclosing copy of a Minute of his Executive Council on the subject of the seizure of British sealing vessels in Behring Sea, and pointing out the threatened destruction of an important and growing industry in British Columbia, by a repetition of outrages on the part of United States cruisers.

The Minister of Marine and Fisheries, to whom the despatch and enclosures were referred, recommends that the Government of British Columbia be informed that no opportunity has been neglected on the part of the Dominion Government of bringing to the attention of the Government of Her Majesty the unlawful seizure of Canadian vessels in Behring Sea, and requesting that a speedy and satisfactory settlement of the losses sustained be urged upon the United States Government, and that the representations made by the Government of British Columbia have been forwarded to Her Majesty's Government.

The Committee advise that the Secretary of State be authorized to transmit a copy of this Minute to the Lieutenant Governor of British Columbia for the information of his Government.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. MCGEE, *Clerk Privy Council.*

[Enclosure No. 3.]

HARRISON HOT SPRINGS, BRITISH COLUMBIA, 15th September, 1887.

SIR,—I have the honor to transmit herewith copy of a Minute of my Executive Council, approved by me on the ninth instant, representing the value to the Province of British Columbia of the present sealing industry in Behring Sea, the number of vessels, men, &c, engaged in the same, the loss to the Province certain to ensue from the destruction of this trade by the seizures and confiscations made by the United States cruisers. That the rights of British subjects should have the same protection and consideration on the Pacific as on the Atlantic, and that full compensation and redress for injuries already received, and assurances of future non-interference should be obtained from the United States Government.

That this question should be included in the scope of the duties of the International Fishery Commission now understood to be in process of organization, and that it is desirable said commission should hold some of its sittings in Victoria, for reasons therein set forth, &c.

I have the honor to be, sir, your obedient servant,

HUGH NELSON, *Lieutenant Governor.*

The Honorable the Secretary of State, Ottawa.

[Enclosure No. 4.]

Copy of a Report of a Committee of the Honorable the Executive Council, approved by His Honor the Lieutenant Governor on the 9th day of September, 1887.

On a memorandum from the Honorable the Minister of Finance and Agriculture, dated the 6th September, 1887, setting forth:—

That there are usually engaged in seal fishing in Behring Sea seventeen vessels wholly owned by people residing in this city, of the aggregate value of \$125,000.

That the outfit for each semi-annual voyage of these vessels represents an expenditure of \$75,000, equal to \$150,000 a year.

That each of these vessels, on an average, employs a crew of five whites and about twenty Indians or fifteen to eighteen whites as hunters.

That the probable aggregate value of the product of each voyage is \$200,000, or \$400,000 a year.

That this industry, though as yet only in its infancy, is a very important one for so small a community.

That the glaring and unlawful seizures and confiscations in Behring Sea during last season, and the present year, are completely crushing out this infant industry and causing ruin, and in several known instances, actual distress to those who have invested their all in the business and relied upon it for a livelihood.

That the destruction of this industry not only entails ruin and distress upon those directly engaged therein, but it affects most injuriously the trade of the Province, and drives from these waters a race of hardy and adventurous fishermen, who, with their families, are large consumers, and who would in time become a very important element of strength, if not the nucleus of the future navy of Canada on the Pacific.

That the rights and interests of British subjects, whether in fisheries or in commerce, are entitled to the same consideration and protection on the Pacific as on the Atlantic, and that it is, therefore, the duty of the Dominion Government to employ every proper means for obtaining immediate and full compensation and redress for past injuries and wrongs as well as to guard against the possibility of a repetition of these high-handed outrages in the future.

That it is believed to be desirable that this question should be included in the scope of the duties of the International Commission now understood to be in process of organization for the settlement of the fishery disputes existing between Canada and the United States of America, and it is considered most important that the said Commission should hold one or more of its sittings in this city, in order that those more directly acquainted with and interested in the Pacific fisheries may have a better opportunity of being heard and making the Commissioners more thoroughly acquainted with the subject than would otherwise be possible.

The Committee advise approval and that a copy of this Minute be forwarded to the Honorable the Secretary of State for Canada.

Certified.

JNO. ROBSON, *Clerk Executive Council.*

No. 356.

Sir Henry Holland to Lord Lansdowne.

DOWNING STREET, 20th October, 1887.

MY LORD,—I am directed by the Secretary of State to transmit to you for communication to your Ministers the documents specified in the annexed Schedule.

I have, &c.,

H. HOLLAND.

The officer Administering the Government of Canada.

Date.	Description of Document.
4th October.....	Admiralty to Colonial Office. Encloses list of schooners engaged in sealing.

[Enclosure No. 1.]

The Admiralty to the Colonial Office.

ADMIRALTY, 4th October, 1887.

SIR,—I am commanded by the Lords Commissioners of the Admiralty to transmit for the information of the Secretary of State for the Colonies, copy of a letter from the Commander in Chief on the Pacific Station, dated 14th September, No. 158, enclosing a list of the schooners that have been sealing, extracted from the *Victoria Colonist* newspaper dated 13th September.

A similar letter has been sent to the Foreign Office.

I am, &c.,

EVAN MACGREGOR.

The Under Secretary of State, Colonial Office.

(Enclosure No. 2.)

Rear Admiral Seymour to the Secretary of the Admiralty—Seizure of Sealing Schooners.

“TRUMP” AT ESQUIMALT, 14th September, 1887.

SIR,—The sealing season being now over, I have the honor to enclose a list of the schooners that have been sealing, cut from the *Victoria Colonist* of yesterday's date. It is not yet known whether the five vessels “to arrive” have been seized or not but they are overdue here.

With regard to the schooner "Alfred Adams" I am credibly informed she was boarded by the American revenue cruiser in Behring Sea, her skins, 1,500 in number taken out, as well as her arms, and she was told to proceed to Sitka. No one being put on board, the captain brought his vessel down here.

No orders whatever have ever been received here with regard to the release of the schooners seized last year, which are now, I believe, high and dry at Ounalaska, worm-eaten and worthless.

I have, &c.,

M. CALME SEYMOUR,
Rear Admiral and Commander in Chief.

[Enclosure No. 3.]

From the "Daily Colonist," Victoria, B. C., of Tuesday, 13th Sept., 1887.

THE SEAL CATCH.

LIST OF VESSELS ARRIVED WITH THEIR TOTAL CATCH—SCHOONERS SEIZED.

The following is the list of sealing schooners which have arrived in port with their northern catches, also those to arrive and those seized. The coast catch by Indians and the spring catch by American sealers disposed of in Victoria are also appended:—

Vessels arrived.

Name.	Spring Catch.	Northern Catch.	Total.
Pathfinder.....	400	2,377	2,817
Penelope.....	1,000	1,500	2,500
Mary Ellen.....	367	2,090	2,457
Lottie Fairfield.....	400	2,600	3,000
Mary Taylor.....	200	800	1,000
Mountain Chief.....	400	687	1,087
Black Diamond.....	....	964	.....
Adela.....	164	1,350	1,514

Vessels to arrive.

Name.	Spring Catch.	Northern Catch.	Total.
Ada.....	349	.....	.....
Kate.....	1,030	.....	.....
Favorite.....	.....	.....	.....
Theresa.....	307	.....	.....
Triumph.....	21	.....	.....

Vessels seized.

Dolphin.....	} 1,500
Grace.....	
Anna Beck.....	
W. P. Sayward.....	
Alfred Adams.....	

The number of seals caught by American schooners and sold in this city is as follows:—

Helen Blum.....	436
Sylvia Handy.....	139
San Jose.....	197
City of San Diego.....	200
Vanderbilt.....	617
Discovery.....	250

The Neah Bay schooner "Lottie's" northern catch was disposed of the other day and amounted to 700 skins.

This makes the total catch as far as could be gleaned yesterday, 19,046 skins by British vessels and 2,539 skins disposed of by American schooners.

The catch off the west coast by the Indians and sold to storekeepers was 500.

The total number of skins brought into port for this season will represent in dollars at \$6.50 per skin the handsome sum of \$140,302.50.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, 4th November, 1887.

MY LORD,—I have the honor to transmit to you for the information of your Ministers, with reference to your despatch, No. 372, of the 26th of September, the accompanying copy of a correspondence between this department and the No. 22. Foreign Office, 12th and 20th October, 1887, respecting the seizures of British vessels in Behring's Sea.

Her Majesty's Minister at Washington has now been instructed to give to the Enclosure No. 2. Secretary of State of the United States a copy of Mr. Foster's report of No. 22. of the 15th of September on which subject telegraphic communications have passed between myself and Your Lordship.

I have, &c.,

H. T. HOLLAND.

Governor General the Most Honorable the Marquis of Lansdowne, &c., &c., &c.

[Enclosure No. 1.]

The Colonial Office to the Foreign Office.

DOWNING STREET, 17th October, 1887.

SIR,—I am directed by Secretary, Sir H. Holland, to transmit to you to be laid before the Marquis of Salisbury, copy of a despatch from the Governor No. 22. General of Canada, dated 26th September, with its enclosures, respecting the seizures in Behring Sea of the British schooner "Alfred Adams."

These papers appear to Sir H. Holland to point to a serious state of things, which seem to make it necessary that some decided action in the matter should be taken by Her Majesty's Government. And he would suggest for the consideration of Lord Salisbury, whether it would not be desirable to instruct Sir L. West unless he has already done so, formally to protest against the right assumed by the United States of seizing vessels for catching seals beyond the territorial waters of Alaska.

I am to add that Sir H. Holland makes this suggestion as Mr. Bayard is reported in the newspapers to have stated that no protest against their right to seize, had been made, and to have assumed therefore that Her Majesty's Government did not really dispute it.

I am, &c.,

JOHN BRAMSTON.

The Under Secretary of State, Foreign Office.

[Enclosure No. 2.]

The Foreign Office to the Colonial Office.

FOREIGN OFFICE, 20th October, 1887.

SIR,—I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 17th instant, enclosing copies of a correspondence received from the Governor General of Canada, relative to the seizures made by the authorities of the United States of certain British vessels when engaged in seal fishing in Behring Sea.

With reference to the latest case reported, that of the Canadian schooner "Alfred Adams," I am to request that you will inform Sir H. Holland that a telegram has been sent to Her Majesty's Minister at Washington, directing him to make a protest to the United States Government against the seizure of that vessel and the con-

tinuance on the high seas of similar proceedings by the authorities of the United States.

With regard to the report that it had been stated by Mr. Bayard that no protest had been made against the right of those authorities to make the seizures, and that it had therefore been assumed that Her Majesty's Government did not really dispute the right, I am to remind you that Sir L. West, acting on the instructions which were given to him by the late Earl of Idlesleigh on the 20th of October, 1886, addressed a note to the United States Secretary of State protesting in the name of Her Majesty's Government against the seizure of the three Columbian schooners "Thorn-ton," "Onward" and "Caroline" by the United States revenue cruiser "Corwin." This correspondence was forwarded with my letter of the 16th of November last.

I am further to point out that the directions given to Sir L. West in regard to subsequent seizures of other British vessels in Behring's Sea during the present fishing season which were embodied in Lord Salisbury's despatches, Nos. 219 and 229 of the 10th and 27th ultimo (copies of which were also communicated to you on those dates respectively) amount to a protest against the assumption by the United States Government of their right to seize British vessels on the high seas in those waters.

I am to request that in laying this letter before Sir H. Holland, you will move him to ascertain by telegraph whether the report of Mr. Foster (the Canadian Minister of Marine and Fisheries) of the 15th ultimo, has been communicated by Lord Lansdowne, with the papers attached, to Her Majesty's Minister at Washington as suggested in the report.

On learning that this has been done, Lord Salisbury proposes to authorize Sir L. West to give a copy of them to Mr. Bayard.

I am, &c.,

J. PAUNCEFOTE.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, 16th November, 1887.

MY LORD,—I have the honor to transmit to you, for communication to your Ministers, with reference to your despatches of the numbers and dates, No. 408, 20th October, No. 372, 26th September, telegram, 23rd September, the accompanying printed correspondence received from the Foreign Office respecting the seizure of the British Columbian sealing vessels in Behring Sea.

I have, &c.,

H. T. HOLLAND.

Governor General the Most Honorable the Marquis of Lansdowne, K.C.M.G.

[Enclosure No. 1.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 12th October, 1887.

MY LORD,—In accordance with the instructions contained in your Lordship's telegram, No. 39, of the 27th ultimo, I addressed a note to the Secretary of State, copy of which I had the honor to enclose to your Lordship in my despatch, No. 273, of the 28th ultimo, inquiring the reason why the vessels referred to in his note of the 3rd February last had not been released, and I now enclose copy of the reply which I have received thereto.

I have, &c.,

L. S. SACKVILLE WEST.

[Enclosure No. 2.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, WASHINGTON, 11th of October, 1887.

SIR,—I have the honor to acknowledge your note of the 29th ultimo, stating that Her Majesty's Government had been officially informed that the British vessels referred to in my note to you of the 3rd February last had not been released, and asking the reason for the delay in complying with the order of the executive in that regard.

Upon receiving your note I at once wrote my colleague the Attorney General as the head of the Department of Justice, in order that I might be enabled to reply satisfactorily to your enquiry.

I am still without an answer from him, which, when received, shall be promptly communicated to you.

In the meantime, in acknowledging your note, I take occasion to state my impression—that if the three vessels seized, and ordered to be released, have not been repossessed by their owners it is not because of any hindrance on the part of any official of this Government, or failure to obey the order for release, but probably because of the remoteness of the locality (Sitka) where they were taken after arrest for adjudication, and the proceedings having been *in rem*, the owners have not seen proper to proceed to Alaska and repossess themselves of the property in question.

I have, &c.,

T. F. BAYARD.

[Enclosure No. 3.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 12th October, 1887.

MY LORD,—With reference to your Lordship's despatch, No. 220, of the 15th ultimo, respecting the judicial proceedings in the cases of the schooners "Carolina," "Onward" and "Thornton," I have the honor to refer to the memoranda contained in my despatches, No. 261, of the 8th, and No. 263, of the 9th September. From what I can ascertain, the notice of appeal in these cases is still lying in the Sitka court, for there is no court to which, under the Act of Congress, the injured parties could appeal, and as in the case of the American vessel "San Diego," no further steps can be taken in the matter.

I have, &c.,

L. S. SACKVILLE WEST.

[Enclosure No. 4.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 12th October, 1887.

MY LORD,—In accordance with the instructions contained in your Lordship's despatch, No. 229, of the 27th ultimo, I addressed a note to the Secretary of State, Enclosure No. 2 copy of which I have the honor to enclose herewith, making similar of No. 24. representations respecting the seizure of the British vessels "Grace," "Dolphin" and "W. P. Sayward," as were made in the cases of the "Onward," "Carolina" and "Thornton," and reserving all rights to compensation on behalf of the owners and crews.

I have, &c.,

L. S. SACKVILLE WEST.

[Enclosure No. 5.]

Sir L. West to Mr. Bayard.

WASHINGTON, 12th October, 1887.

SIR,—In connection with the representation which I was instructed to make to you respecting the seizure of the British schooners "Onward," "Carolina," and "Thornton," by the United States cruiser "Corwin," in Behring Sea, I have the honor to inform you that I am now further instructed to make similar representations in the cases of the British Columbian vessels "Grace," "Dolphin," and "W. P. Sayward," seized lately by the United States revenue cutter "Richard Rush," and at the same time as in the case of the "Onward," "Carolina" and "Thornton," to receive all rights to compensation on behalf of the owners and crews.

I am also instructed to point out to you that according to the deposition of the mate of the "W. P. Sayward," copy of which is enclosed, no seals had been taken by her crew in Behring Sea as is alleged in the libel of information filed on behalf of the United States district attorney in the District Court of Alaska.

I am, &c.,

L. S. SACKVILLE WEST.

[Enclosure No. 6.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 14th October, 1887.

MY LORD,—I have the honor to enclose to Your Lordship herewith, copy of the reply which I have received to my note of the 12th instant, copy of which was enclosed in my despatch of No. 278, of the 12th instant, respecting the seizure of the "Grace," "Dolphin," and "W. P. Sayward."

I have, &c.,

L. S. SACKVILLE WEST.

[Enclosure No. 7.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, WASHINGTON, 13th October, 1887.

SIR,—I have the honor to acknowledge your note of yesterday in relation to the cases of the seizure of the British schooners "Onward," "Carolina," and "Thornton," in Behring Sea, by United States revenue vessels in August, 1886, and also your instructions to include by similar representations the cases of the British Columbian vessels "Grace," "Dolphin," and "W. P. Sayward," seized by the United States revenue authorities in Behring Sea, with notification that Her Britannic Majesty's Government reserve all right to compensation on behalf of the owners and crews of the above mentioned vessels.

The affidavit of the mate of the "W. P. Sayward" has been read, and the facts therein stated will be at once investigated.

I have, &c.,

THOMAS F. BAYARD.

[Enclosure No. 8.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 14th October, 1887.

MY LORD,—With reference to the note from the Secretary of State, copy of which was enclosed in my despatch, No. 276, of the 12th instant, I have the honor to enclose to Your Lordship herewith, copy of a further reply to my note of the 29th ultimo, expressing regret that misconception of the intentions and orders of the President for the release of the sealers "Onward," "Carolina"

and "Thornton," should have delayed their prompt execution and stating that renewed orders have been forwarded.

I have communicated copy of this note to the Marquis of Lansdowne, the substance of which I telegraphed to Your Lordship this day.

I have, &c.,

L. S. SACKVILLE WEST.

[Enclosure No. 9.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, WASHINGTON, 13th October, 1887.

SIR,—Continuing my reply to your note of the 29th ultimo, enquiring the reason for the delay in complying with the order issued in January last, for the release of British vessels seized last year in Behring Sea, I beg leave to inform you that I have this day received a communication from my colleague the Attorney General, Enclosure No. 7 informing me that his telegram to the United States marshal at Sitka, of No. 22. of the 26th January last, ordering the release of the British schooners "Onward," "Carolina" and "Thornton," owing to some misconception and mistake on the part of the official to whom it had been addressed had not been acted upon.

A renewed order has gone forward for their release, as had been distinctly directed last January, and which I had no reason to doubt had been promptly obeyed.

In my note to you of the 11th instant, I stated it to be my impression that no Enclosure No. 2 of hindrance to their repossession by the owners of the vessels named No. 34. existed.

This impression, it now appears, was not well founded, and as my object is to give you the fullest information within my power in relation to all transactions touched in our correspondence, I hasten to communicate the latest report made to me from the Department of Justice.

I take leave also to express my regret that any misconception of the intentions and orders of the President should have delayed their prompt execution.

I have, &c.,

T. F. BAYARD.

[Enclosure No. 10.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, 20th October, 1887.

MY LORD,—I have the honor to enclose to Your Lordship herewith copy of a note, which upon the receipt of Your Lordship's telegram of the 19th, I addressed to the Secretary of State protesting against the seizure of the Canadian vessel "Alfred Adams," in Behring Sea, and against the continuation of similar proceedings by the United States authorities on the high seas.

I have, &c.,

L. S. SACKVILLE WEST.

[Enclosure No. 11.]

Sir L. West to Mr. Bayard.

WASHINGTON, 19th October, 1887.

SIR,—I have the honor to inform you that I am instructed by the Marquis of Salisbury, Her Majesty's Principal Secretary of State for Foreign Affairs, to protest against the seizure of the Canadian vessel "Alfred Adams," in Behring Sea, and against the continuation of similar proceedings by the United States authorities on the high seas.

I have, &c.,

L. S. SACKVILLE WEST.

No. 399.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, 24th November, 1887.

MY LORD,—With reference to my despatches of the 4th and 16th instant, I have the honor to transmit to you herewith, for communication to Nos. 33 and 34. your Government a copy of a despatch received through the Foreign Office from Her Majesty's Minister at Washington with its enclosure relating to the seizure of the "Alfred Adams," in Behring's Sea.

I have, &c.,

H. T. HOLLAND.

Governor General, the Most Honorable the Marquis of Lansdowne, G.C.M.G.

[Enclosure No. 1.]

Sir L. S. West to the Marquis of Salisbury.

WASHINGTON, 23rd October, 1887.

MY LORD,—With reference to my despatch No. 288 of the 20th instant, in which Enclosure No. 10 I had the honor to enclose copy of the note which, according to instructions, I addressed to the United States Government on the subject of the seizure of the "Alfred Adams," in Behring Sea, I have the honor to transmit herewith copy of Mr. Bayard's reply, in which he acknowledges the receipt of my above-mentioned communication.

I have, &c.,

L. S. SACKVILLE WEST

[Enclosure No. 2.]

Mr. Bayard to Sir L. S. S. West.

DEPARTMENT OF STATE, WASHINGTON, 22nd October, 1887.

SIR,—I had the honor to receive last evening your note of the 19th instant, conveying the instructions addressed to you by the Marquis of Salisbury, that you Enclosure No. 11 should protest against the seizure of the Canadian vessel "Alfred Adams," in Behring Sea, and against the continuance of similar proceedings by the United States authorities on the high seas.

I have, &c.

T. F. BAYARD.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, 7th December, 1887.

MY LORD,—I have the honor to transmit to your Lordship herewith, for your information and for that of your Ministers, a copy of a despatch, received through the Foreign Office, which has been addressed by the Secretary of State for Foreign Affairs to Her Majesty's Plenipotentiaries at the Fisheries Conference at Washington, relative to a proposed International Convention for the protection of seals in Behring Sea.

I have, &c.,

H. T. HOLLAND.

Governor General the Most Honorable the Marquis of Lansdowne, G.C.M.G., &c., &c.

Lord Salisbury to Her Majesty's Plenipotentiaries at the Fisheries Conference.

FOREIGN OFFICE, 2nd December, 1887.

GENTLEMEN,—I received on the 26th instant a telegram from Mr. Chamberlain, enquiring whether a proposal for an international conference in regard to the Behring Sea fisheries had been accepted by Her Majesty's Government.

You are aware from the correspondence which is in your possession, that communications with reference to a proposal which would appear to have been addressed to some of the maritime powers by the United States Foreign International Convention for the protection of seals in the Behring Sea, were received last October from the German and Swedish Chargés d'Affaires in London.

No definite invitation, however, for an international understanding on this question has yet been received from the Government of the United States by Her Majesty's Government.

In answer to a question from Mr. Phelps, I have expressed myself as being favorably disposed to negotiating for an agreement as to a close season in all seal fisheries to whomsoever belonging, but I carefully separated the question from all controversies as to fishery rights.

I am, &c.,

SALISBURY.

Her Majesty's Plenipotentiaries.

Lord Lansdowne to Sir Henry Holland,

OTTAWA, 19th January, 1888.

SIR,—In reference to my former despatches upon the subject of the seizure of Canadian sealing vessels, during the years 1886-87 by U.S. cruisers for fishing in Behring Sea, I have the honor to report that my Minister of Marine and Fisheries has received from the Customs authorities at Victoria an intimation addressed by the U.S. marshal at Sitka to Mr. Spring, the owner of the "Onward," one of the three vessels seized in 1886, to the effect that that vessel as well as the "Thornton" and "Carolina," with their tackle, apparel and furniture, as they now lie in the harbor of Ounalaska, are to be restored to their owners. A copy of this intimation is enclosed herewith.

2. The information received by my Minister is to the effect that the condition of these three vessels owing to the length of time during which they have been lying on the shore is now such as to render it questionable whether they could under present circumstances be repaired and removed with advantage. The difficulty of doing this would be increased from the fact that the vessels have been released at a season of the year in which, owing to the great distance between Victoria and Ounalaska, it would be scarcely possible for the owners to fit out steamers for the purpose of going up to Ounalaska to repair their vessels and bring them home.

3. I also enclose herewith a copy of an extract from a British Columbia newspaper (the name and date of the publication are not given) from which it would appear that the district judge has made an order for the sale of arms and ammunition taken from the three schooners in question, upon the supposed ground that as the instructions sent by the United States Government to Sitka for the liberation of the vessels, made no mention of the arms and ammunition on board of them, the court concluded that these should be confiscated and sold. It would seem from the same extract, that the remaining vessels held in Alaska are not included in the order sent by the United States Government for the release of the "Thornton," "Carolina" and "Onward," and are therefore likely to be sold with their contents and equipment.

5. I have already dwelt at sufficient length upon the extent of the hardships involved to the crews and the owners of these vessels by the action of the United States Government, and I will only upon the present occasion remind you that another fishing season is approaching, and that as far as my Government is aware, no declaration has been made by that of the United States in regard to the policy which it intends to adopt during the course of the year which has just commenced.

I have, &c.,

LANSDOWNE.

The Right Honorable Sir HENRY HOLLAND, Bart., &c., &c., &c.

Mr. Barton Atkins to Mr. C. Spring.

DISTRICT OF ALASKA, OFFICE OF U. S. MARSHAL.

SITKA, 5th December, 1887.

SIR,—I take pleasure in informing you and the other owners of the schooners seized in the Behring Sea by the U. S. S. "Corwin," that I am in receipt of orders from Washington to restore to their owners the schooners "Onward," "Thornton" and "Carolina," their tackle, apparel and furniture, as they now lie in the harbor of Ounalaska. Orders for their release have been forwarded to their custodian at Ounalaska.

Very respectfully,

BARTON ATKINS,

U. S. Marshal, District of Alaska.

Mr. C. SPRING, Victoria, B. C.

[*Extract from an American newspaper (name and date unknown).*]

ALASKA NEWS.

THE SEALERS AND WHAT WILL BE DONE WITH THEM.

Judge Dawson has made an order for the sale at Juneau of the arms and ammunition taken from the British schooners "Thornton," "Carolina" and "Onward" captured last year by the "Corwin." Attorney General Garland sent instructions to Sitka to have the three vessels liberated, but as he made no mention of the arms and ammunition the court concluded that they must be sold, and gave directions accordingly.

The marshal has further been authorized to sell the schooner "W. P. Sayward" (British) and the "Alpha," "Kate," "Anna" and "Sylvia Handy" (American), together with their boats, tackle and furniture. By stipulation entered into last September between Mr. Delaney, acting for the United States, and Mr. Drake, Q. C., representing the Canadian Government, the remaining British schooners cannot be sold until the expiration of three months from the 11th of January next, and then only by the district attorney giving the owners ninety days' notice.

APPLICATION GRANTED.

In the cases of the schooners "Lily L.," "W. P. Sayward," "Annie," "Allie J. Alger," "Alpha," "Kate and Anna," and "Sylvia Handy," an application made by Attorney W. Clark, counsel for the owners, for leave to appeal to the Supreme Court of the United States was granted.

A motion presented by the same attorney, for a stay of proceedings for three months in the cases of the "W. P. Sayward," "Alpha," "Kate and Anna" and the "Sylvia Handy," was refused by the court on the ground that the owners had had ample time in which to prepare for their appeals, and it was entirely their own fault if they had not done so.

FURTHER CORRESPONDENCE

(656)

Relating to the Seizure of British Vessels in Behring Sea.

Sir L. West to Mr. Bayard.

WASHINGTON, 28th September, 1887.

SIR,—I have the honor to inform you that Her Majesty's Government have been officially informed that the British vessels mentioned in your note of the 3rd February last have not been released, and that I am instructed to inquire the reason for the delay in complying with the orders sent to this effect, as stated in your above mentioned note.

I have, &c.,

L. S. SACKVILLE WEST.

Sir L. West to Mr. Bayard.

WASHINGTON, 2nd February, 1887.

SIR,—I have the honor to inform you that, under date of the 27th ultimo, the Marquis of Salisbury instructs me to inquire whether the information and papers relative to the seizure of the British schooners "Carolina," "Onward" and "Thornton" have reached the United States Government.

I have, &c.,

L. S. SACKVILLE WEST.

The Earl of Iddesleigh to Sir L. West.

FOREIGN OFFICE, 30th October, 1886.

SIR,—Her Majesty's Government are still awaiting a report on the result of the application which you were directed by my despatch, No. 181, of the 9th ultimo, to make to the Government of the United States for information in regard to the reported seizure by the United States revenue cutter "Corwin" of three Canadian schooners while engaged in the pursuit of seals in Behring Sea.

In the meanwhile, further details in regard to these seizures have been sent to this country, and Her Majesty's Government now consider it incumbent on them to bring to the notice of the United States Government the facts of the case as they have reached them from British sources.

It appears that the three schooners, named respectively the "Carolina," the "Onward," and the "Thornton," were fitted out in Victoria, British Columbia, for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver's Island, Queen Charlotte Islands, and Alaska.

According to the depositions enclosed herewith* from some of the officers and men, these vessels were engaged in the capture of seals in the open sea out of sight of land, when they were taken possession of on or about the 1st August last by the United States revenue cutter "Corwin," the "Carolina" in latitude 55° 52' north,

* See printed correspondence, p. 4, 5 and 6, letters of Ogilvie and Munroe, depositions of Dellas, McLardy and Munsie.

longitude 168° 53' west; the "Onward" in latitude 50° 52' north, longitude 167° 55' west, and the "Thornton" in about the same latitude and longitude.

They were all at a distance of more than 60 miles from the nearest land at the time of their seizure, and on being captured were towed by the "Corwin" to Ounalaska, where they are still detained. The crews of the "Carolina" and "Thornton," with the exception of the captain and one man on each vessel detained at that port, were, it appears, sent by the steamer "St. Paul" to San Francisco, California, and then turned adrift, while the crew of the "Onward" were kept at Ounalaska.

At the time of their seizure the "Carolina" had 686 seal skins on board, the "Thornton" 404, and the "Onward" 900, and these were detained, and would appear to be still kept at Ounalaska, along with the schooners, by the United States authorities.

According to information given in the *Alaskan*, a newspaper published at Sitka, in the territory of Alaska, and dated 4th September, 1886, it is reported:—

1. That the master and mate of the schooner "Thornton" were brought for trial before Judge Dawson, in the United States District Court at Sitka, on the 30th August last.

2. That the evidence given by the officers of the United States revenue cutter "Corwin" went to show that the "Thornton" was seized while in Behring Sea, about sixty or seventy miles south south-east of St. George Island, for the offence of hunting and killing seals within that part of Behring Sea, which (it was alleged by the *Alaskan* newspaper) was ceded to the United States by Russia in 1867.

3. That the judge in his charge to the jury, after quoting the first article of the treaty of the 30th March, 1867, between Russia and the United States, in which the western boundary of Alaska is defined, went on to say: "All the waters within the boundary set forth in this treaty, to the western end of the Aleutian Archipelago and chain of islands, are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must therefore attach against any violation of law within the limits heretofore described. If, therefore, the jury believe from the evidence that the defendants, by themselves or in conjunction with others, did, on or about the time charged in the information, kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal or animals, on the shores of Alaska, or in the Behring Sea, east of 193° of west longitude, the jury should find the defendants guilty, and assess their punishment separately, at a fine of not less than \$200 nor more than \$1,000, or imprisonment not more than six months, or by both such fine, within the limits herein set forth, and imprisonment.

4. That the jury brought in a verdict of guilty against the prisoners, in accordance with which the master of the "Thornton," Hans Guttormsen, was sentenced to imprisonment for thirty days and to pay a fine of \$500, and the mate of the "Thornton," Norman, was sentenced to imprisonment for thirty days and to pay a fine of \$300, which terms of imprisonment are presumably now being carried into effect.

There is also reason to believe that the masters and mates of the "Onward" and "Carolina" have since been tried, and sentenced to undergo penalties similar to those now being inflicted on the master and mate of the "Thornton."

You will observe from the facts given above, that the authorities of the United States appear to lay claim to the sole sovereignty of that part of Behring Sea lying east of the westerly boundary of Alaska, as defined in the 1st article of the treaty concluded between the United States and Russia in 1867, by which Alaska was ceded to the United States, and which includes a stretch of sea extending in its widest part some 600 or 700 miles easterly from the mainland of Alaska.

In support of this claim, those authorities are alleged to have interfered with the peaceable and lawful occupation of Canadian citizens on the high seas, to have taken possession of their ships, to have subjected their property to forfeiture, and to have visited upon their persons the indignity of imprisonment.

Such proceedings, if correctly reported, would appear to have been in violation of the admitted principles of international law.

I request that you will, on the receipt of this despatch, seek an interview with Mr. Bayard and make him acquainted with the nature of the information with which Her Majesty's Government have been furnished respecting this matter, and state to him that they do not doubt that, if on inquiry it should prove to be correct, the Government of the United States will, with their well known sense of justice, at once admit the illegality of the proceedings resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected, and for the losses which they have sustained.

Should Mr. Bayard desire it, you are authorized to leave with him a copy of this despatch.

I am, &c.,

IDDESLEIGH.

Sir L. WEST.

ADDITIONAL CORRESPONDENCE.

(65c)

Relating to the seizure of British Vessels in Behring Sea.

Sir L. West to Mr. Bayard.

WASHINGTON, 4th February, 1887.

SIR,—I have the honor to acknowledge the receipt of your note of the 3rd instant, informing me that without conclusion at this time of any questions which may be found to be involved in the cases of seizure of British vessels in Behring Sea, orders have been issued, by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to and the release of all persons under arrest in connection therewith.

I have, &c.,

L. S. S. WEST.

The Honorable T. F. BAYARD, &c., &c., &c.

Sir L. West to Mr. Bayard.

WASHINGTON, 8th July, 1887.

SIR,—With reference to your note of the 17th April, stating that the records of the judicial proceedings in the cases of the British vessels seized in Behring's Sea had been received, I have the honor to inform you that the Marquis of Salisbury has instructed me to request you to be good enough to furnish me with a copy of the same for the information of Her Majesty's Government.

I have, &c.,

L. S. S. WEST.

The Honorable T. F. BAYARD, &c., &c.

Sir L. West to Mr. Bayard.

WASHINGTON, 26th October, 1887.

SIR,—With reference to my note of the 19th instant, protesting against the seizure of the British schooner "Alfred Adams," I have the honor to transmit to you herewith copy of the report of the Canadian Minister of Marine and Fisheries and other papers relating thereto.

I have, &c.,

L. S. S. WEST.

The Honorable T. F. BAYARD, &c., &c.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, WASHINGTON, July 11th, 1887.

SIR,—Complying with the request contained in your note of the 8th instant, conveyed to me under the instruction of your Government, I have the honor to enclose you two printed copies of the judicial proceedings in the United States District Court for the District of Alaska, in the several cases of libel against the schooners "Onward," "Carolina," and "Thornton," for killing fur seal in Alaska waters.

Accept, &c.,

T. F. BAYARD.

The Honorable Sir L. WEST, &c., &c.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

THE UNITED STATES, LIBELLANT,

vs.

THE SCHOONER "ONWARD," HER TACKLE, &c.

On libel of information for being engaged in the business of killing fur-seal in Alaska waters.

TRANSCRIPT OF RECORD.

On the 28th day of August, 1886, was filed the following libel of information:—

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.

AUGUST SPECIAL TERM, 1886.

To the Honorable LAFAYETTE DAWSON, judge of the said District Court.

The libel of information of M. D. Ball, attorney for the United States for the District of Alaska, who prosecutes on behalf of the said United States, against the schooner "Onward," her tackle, apparel, boats, cargo and furniture and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

That Charles A. Abbey, an officer in the revenue marine service of the United States and on special duty in the waters of the District of Alaska, heretofore, to wit, on the second day of August, 1886, within the limits of Alaska Territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the "Onward," her tackle, apparel, boats, cargo and furniture, being the property of some person or persons unknown to the said attorney, as forfeited to the United States for the following causes:

That the said vessel or schooner was found engaged in killing fur seal within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court; and that by reason thereof, and by force of the statute of the United States in such case made and provided, the beforementioned and described schooner or vessel, being a vessel of over twenty tons burden, her tackle, apparel, boats, cargo and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the beforementioned schooner or vessel may be cited in general and special to answer the premises, and that all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo and furniture, may for the cause aforesaid, and others appearing, be condemned by the definite sentence and decree of this honor-

able court, as forfeited to the use of the said United States according to the form of the statute of the said United States in such case made and provided.

M. D. BALL, *U. S. District Attorney for the District of Alaska.*

Whereupon forthwith issued the following monition :

DISTRICT OF ALASKA, SCT.

The President of the United States of America to the Marshal of the District of Alaska, greeting :

Whereas a libel of information hath been filed in the District Court of the United States for the District of Alaska, on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the district aforesaid, on behalf of the United States of America, against the schooner "Onward," her tackle, apparel, boats, cargo and furniture, as forfeited to the use of the United States for the reasons and causes in the said libel of information mentioned, and praying that the usual process and monition of the said court in that behalf be made, and that all persons interested in the said schooner "Onward," her tackle, apparel, boats, cargo and furniture, &c, may be cited in general and special to answer the premises and all proceedings being had, that the said schooner "Onward," her tackle, apparel, boats, cargo and furniture may for the causes in the said libel of information mentioned be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner "Onward," her tackle, apparel, boats, cargo and furniture, to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the District of Alaska, on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the Honorable Lafayette Dawson, judge of said court, and the seal thereof affixed at the city of Sitka, in the District of Alaska, this 28th day of August, in the year of Our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and eleventh.

[Seal.]

ANDREW T. LEWIS, *Clerk.*

On the 6th day of September, 1886, was filed the following affidavit :

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES OF AMERICA.

vs.

THE SHOONER "ONWARD."

UNITED STATES OF AMERICA, } SS.
District of Alaska.

C. A. Abbey being duly sworn, deposes and says :

That he is and at all times herein mentioned was, a captain in the United States revenue marine, and in command of the United States revenue cutter "Corwin."

That affiant and the following named officers and men of said "Corwin" are material and necessary witnesses for the United States in the above entitled action, to wit : J. W. Howison, lieutenant ; C. F. Winslow, boatswain ; Albert Leaf, seaman ; J. C. Cantwell, lieutenant ; J. H. Douglas, pilot ; and J. U. Rhodes, lieutenant.

That owing to scarcity of provisions and fuel upon said cutter "Corwin," the said "Corwin" and deponent and said witnesses will be obliged to, and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than one hundred miles from the place of trial of said action before the time of said trial,

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That Daniel Monroe was master and in possession of the said schooner "Onward" at the time of seizure thereof.

C. A. ABBEY.

Subscribed and sworn to before me }
this 6th day of September, 1886. }

ANDREW T. LEWIS, *Clerk.*

On the same day was entered the following order:

IN THE MATTER OF THE UNITED STATES

vs.

SCHOONER "THORNTON,"	CASE No.	50.
do "CAROLINA,"	do	51.
do "ONWARD,"	do	49.
do "SAN DIEGO,"	do	52.

In the above entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now, on motion of M. D. Ball, United States district attorney for Alaska, and counsel for the United States herein, it is ordered that the depositions of the witnesses, C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglas, C. T. Winslow, Albert Leaf, C. Wilhelm, Thomas Singleton and T. Lorensen be taken before the clerk of the said District Court on Tuesday the 7th day of September, 1886, at 7 o'clock, p.m., or as soon thereafter as the matter can be reached, at the office of said clerk, at Sitka, Alaska, and if not completed on said evening, then the taking of said depositions to be continued by said clerk, from time to time, until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe and Charles E. Raynor, and upon W. Clark, Esq., attorney at law, on or before 7th September, at 12, m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886, now at this time W. Clark, Esq., being present in court waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return of service:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES OF AMERICA

vs.

THE SCHOONER "ONWARD."

To Daniel Monroe greeting: You are notified that by order of Lafayette Dawson, judge of said district court, the depositions of C. A. Abbey, J. W. Howison, C. F. Winslow, Albert Leaf, J. C. Cantwell, J. H. Douglas, and J. U. Rhodes will be taken before the clerk of said District Court at his office, in Sitka, in said district, on Tuesday, 7th September, 1886, at 7 o'clock, p.m., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said clerk, from time to time, until completed.

ANDREW T. LEWIS, *Clerk.*

Dated 7th September, 1886.

UNITED STATES OF AMERICA, } SS.
 District of Alaska.

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within named Daniel Monroe, at Sitka, District of Alaska, by then and there personally delivering to said Daniel Monroe a copy of said notice. And then and there gave him the privilege of being present at the taking of said depositions.

BARTON ATKINS, *United States Marshal.*

Dated 9th September, 1886.

On the 10th day of September, 1886, were filed the following depositions:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
 OF ALASKA, UNITED STATES AMERICA.

UNITED STATES

vs.

THE SCHOONER "ONWARD."—No. 49.

Depositions of witnesses sworn and examined before me on the 7th day of September, A.D. 1886, at 7 o'clock p.m., of said day, and on 8th and 9th September, 1886, thereafter, at the clerk's office of said court, in Sitka, District of Alaska, United States of America, by virtue and in pursuance of the order of said court, made and entered in the above entitled action on 6th September, A.D. 1886, directing that the testimony and depositions of said witnesses be taken before me at said first mentioned time and place and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said District Court between the United States as plaintiff and the schooner "Onward" as defendant, on behalf of and at the instance of the said plaintiff, the United States, and upon notice of the time and place of taking said depositions, served upon Daniel Monroe, the captain of said schooner, and in possession thereof at time of seizure, and upon W. Clark, Esq., his attorney, the owners thereof being unknown and without the jurisdiction of this court.

Captain C. A. ABBEY, being duly sworn, deposes and says:—

I am a captain in the United States revenue marine service, at present in command of the United States revenue steamer "Corwin," on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests generally.

Q. What were you doing and what occurred on 2nd of August last in the line of your duty? A. Cruising in Behring Sea, about 115 miles south south-east from St. George Island and in about latitude _____ and longitude _____; between four and five o'clock in the morning, when 1st Lieut. J. W. Howison reported to me that there was a schooner alongside of us, which in answer to his hail replied that she was taking fur seals here in Behring Sea. I then directed him to seize her and place her in charge of C. T. Winslow, boatswain of the "Corwin," I having no commissioned officer to spare at that time. I then got a hawser to her and proceeded to Oonalaska harbor where I placed the vessel, cargo, tackle, furniture and appurtenances in charge of Deputy United States marshal Isaac Anderson, of Oonalaska; the cargo of fur seal skins being stored in "Kench," in one of the warehouses of the Alaska Commercial Company and under seal.

The arms and ammunition I took aboard the "Corwin" and brought to Sitka, and delivered them to the United States marshal there; the said vessel, tackle, furniture and cargo are now in the custody of the United States marshal of this district.

Q. Was this the vessel against which the libel of information is filed? A. It is.

Q. Did this all occur within the waters of Alaska and the Territory of Alaska and within the jurisdiction of this court? A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of (10) tons burden or over? A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this 9th day
of September, A. D. 1886, after having been
read over by me to deponent.

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

J. W. HOWISON, being duly sworn, deposes and says:—

Q. State your name, age and occupation? A. J. W. Howison, am over 21 years of age, 1st Lieutenant in the United States revenue service and executive officer on the United States revenue steamer "Corwin" and was such on the 2nd of August of this year.

Q. State what happened on 2nd August, 1886, in the line of your duty? A. Between 4 and 6, a. m., I spoke to the schooner "Onward," of Victoria, B.C., and asked if they were catching seal in Behring Sea and they answered yes. I reported the same to the commanding officer of the "Corwin," who ordered the vessel seized. I lowered the boat with the boatswain, C. T. Winslow, and two men and a line, pulled to the schooner and put the boatswain and two men on board, told the captain of the schooner, Daniel Monroe, that I seized him for catching fur seal in Behring Sea. I ran a line from the "Onward" to the schooner "Carolina," already in tow, and returned to the "Corwin."

Q. State the place of this seizure as near as you can recollect? A. The position is given as latitude 55° north, and longitude 167° 40' west, that is about 110 or 115 miles to the south and east of St. George.

J. W. HOWISON.

Subscribed and sworn to before me this 9th day
of September, A. D. 1886, after having
been read over by me to deponent.

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

Lieut. JOHN C. CANTWELL, being duly sworn, deposes and says:—

Q. State your name, occupation and age? A. John C. Cantwell, 3rd Lieutenant United States revenue marine service, at present on duty United States revenue steamer "Corwin," and over the age of twenty-one years—and was so during two years last past.

Q. Do you recognize this paper? A. I do. It is the official inventory made by me on or about the 12th of August, 1886, of the furniture, tackle, appurtenances and cargo of the schooner "Onward." This inventory was made in consequence of the seizure of the vessel and gives a true and complete list of the furniture, tackle, appurtenances and cargo of said vessel, with the exception of the arms and ammunition. (Said inventory contains the usual ship's furniture of a vessel of the class of the "Onward," navigating instruments, lights, tools, sails, ship's stores and 400 seal skins. The receipt of I. Anderson, Deputy United States marshal at Onalaska, 14th August, 1886, for said furniture, stores and cargo is attached thereto.)

"By witness" the item "400 seal skins" in said inventory means fur seal skins.

JOHN C. CANTWELL, *3rd Lieutenant, U. S. R. M.*

Subscribed and sworn to before me this 9th day
of September, 1886, after having been read
over by me to deponent.

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

JOHN U. RHODES, being duly sworn, deposes and says:—

Q. State your name, age and occupation? A. John U. Rhodes. I am over the age of twenty-one years and a lieutenant in the United States revenue marine and attached to the revenue steamer "Corwin."

Q. Do you recognize this paper? A. I do. This paper marked (Ex. "M") is the clearance paper of the schooner "Onward," Victoria, B.C. I found this paper on the said schooner at the time of her seizure and then and there took possession of it. (Said clearance describes the "Onward" as a British schooner of 35.20 tons, navigated with four men, wood built, and bound for Pacific Ocean and Behring Sea, having on board ballast for fishing and hunting voyage.) It is dated at Victoria, B. C., 12th April, 1886.

Q. What arms and ammunition, if any, did you find aboard the schooner "Onward" at the time of her seizure? A. Twelve guns, one keg powder, partly filled, one can of powder, half a bag of buck-shot, two small bags caps.

Q. What was done with these arms and ammunition? A. They were brought to Sitka on the "Corwin" and turned over to the United States marshal at Sitka and are now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day }
of September, A. D. 1886, after having }
been read over by me to deponent.

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

JOHN U. RHODES being duly sworn, deposes and says:—

Q. State your name, age and occupation? A. John U. Rhodes, lieutenant United States revenue marine, at present on the United States revenue steamer "Corwin," and over the age of twenty-one years.

Q. Was any other property seized upon the schooner "Onward" except what is included in the general inventory? A. There was a box containing clothing and nautical instruments, the box was marked Daniel Monroe, master of the schooner "Onward."

Q. What was done with this property? A. I turned it over to the United States marshal at Sitka, and it is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day }
of September, A. D. 1886, after having }
been read over by me to deponent.

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

CHARLES T. WINSLOW, being duly sworn, deposes and says:—

Q. State your name, age and occupation. A. My name is Charles T. Winslow, 48 years of age. I am a boatswain on the revenue cutter "Corwin," and was so on 2nd August, 1886.

Q. State what occurred on the last mentioned day. A. At about 5 or 6, a.m., I was ordered by Lieut. Howison to go on board the schooner "Onward," which he had seized, and I did so.

Q. What did you see on board, if anything? A. About amidships on deck I saw 20 or 30 dead fur seal that had not been skinned, and some of them were bleeding. There were nine canoes on board with bloody water in them and with spears and outfit suitable for seal killing. Captain Monroe, of the "Onward," then told me he had caught 25 fur seal the day before the seizure and 125 the day before that. This was in answer to my statement that the "Carolina" had 75 seal in her boats.

CHARLES T. WINSLOW.

Subscribed and sworn to before me this 8th day }
of September, A. D. 1886, after having }
been read over by me to deponent.

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

ALBERT LEAF, being duly sworn, deposes and says:—

Q. State your name, age and occupation. A. Albert Leaf, over 21 years of age, and a seaman employed on the revenue cutter "Corwin," and was so on the 2nd day of August last.

Q. What happened on the last named day in connection with the schooner "Onward"? A. I was placed on board the schooner "Onward" by Lieut. Howison when the vessel was seized. I saw dead fur seal with fresh blood on them on the forward deck and fresh fur seal skins on the deck, and there were salted fur seal skins in the hold. I saw nine canoes with blood in them, and spears equipped for seal killing. All this was upon the schooner "Onward" at the time of her seizure.

ALBERT LEAF.

Subscribed and sworn to before me this 8th day }
of September, A.D. 1886, after having }
been read over by me to deponent.

ANDREW T. LEWIS, Clerk U. S. Dist. Court.

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES

vs.

THE SCHOONER "ONWARD."—No. 49.

Whereas on the 6th day of September, 1886, the said District Court duly made and entered in the journal of said court an order directing that the testimony and depositions of the witnesses: C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, C. T. Winslow and Albert Leaf be taken before me, the clerk of said court, at the time or times and place and upon such notice as are specified in said order.

Now, therefore, this is to certify—that in pursuance of said order, on 7th September, 1886, at 7 o'clock, p.m., each and all of the above-named witnesses appeared before me at the clerk's office of said court at Sitka, District of Alaska, United States of America; that M. D. Ball, Esq., district attorney of said court and district, and W. H. Payson, Esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, Esq., then and there appeared on behalf of and as attorney and proctor for the said schooner and her owners herein, and Daniel Munroe then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September, 1886, and completed the same on said last named day. That the said parties by their said attorneys and proctors then and there appeared and were present on each of said last named days and at all times during the takings of said depositions. That each of said witnesses was then and there duly cautioned and sworn by me, that the evidence he should give in said action should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then read the same over to him; and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

Witness my hand and the seal of said District }

Court this 9th day of September, A.D. 1886. }

[L.S.]

ANDREW T. LEWIS, Clerk of the United States District Court
in and for the District of Alaska, United States of America.

On 20th September was filed the following amended libel of information :—
 IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT OF ALASKA,
 UNITED STATES OF AMERICA.

August Special Term, 1886.

To the Honorable LAFAYETTE DAWSON, Judge of said District Court.

The amended libel of information of M. D. Ball, attorney for the United States for the District of Alaska, who prosecutes on behalf of the said United States and being present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit :—

That C. A. Abbey, an officer in the revenue marine service of the United States, duly commissioned by the President of the United States, in command of the United States revenue cutter "Corwin," and on special duty in the waters of the District of Alaska heretofore, to wit, on the 2nd day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner "Onward," her tackle, apparel, boats, cargo and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit :—

One schooner "Onward," of Victoria, B.C., nine canoes, carpenters' tools, caulking implements, three anchors, chronometer, clock, nautical instruments, sails, running rigging, rope, twine, lamps, oil, three tons of salt, casks and buckets, 400 fur seal skins, provisions, twelve guns and ammunition for same, and all other property found upon or appurtenant to said schooner. That said C. A. Abbey was then and there duly commissioned and authorized by the proper department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes :—

That said vessel and her captain, officers and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Oonalska in said territory, and delivered into the keeping of Isaac Anderson, a deputy United States marshal of this district, with the exception of said arms and ammunition, which latter were brought into the port of Sitka in said district and turned over to the United States marshal of this district and all said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney aforesaid, further informs and alleges :—

That on the 2nd day of August, 1886, James Marketich and certain other persons whose names are unknown to said United States attorney, who were then and there engaged on board of the said schooner "Onward" as seamen and seal hunters did, under the direction and by the authority of Daniel Munroe, then and there master of said schooner, engage in killing and did kill, in the Territory and District of Alaska, and in the waters thereof, to wit, 20 fur seal, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 400 fur seal skins, and other goods so seized on board of said schooner "Onward" constituted the cargo of said schooner at the time of the killing of said fur seals, and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable court, and that by reason thereof, and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons burden, and her tackle, apparel, boats, cargo and furniture, became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore

described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process why said forfeiture should not be decreed; and that after due proceedings are had, all of said property be adjudged, decreed and condemned as forfeited to the use of the United States; and for such other relief as may be proper in the premises.

Dated 20th September, 1886.

M. D. BALL, *United States District Attorney for the District of Alaska.*

On the same day was filed the following claim:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

In Admiralty.

In the matter of the libel of information against the schooner "Onward" her tackle, apparel, furniture and cargo.

Claim of Master for Owner.

And now Daniel Monroe, master of the schooner "Onward," intervening for the interests of Charles Spring & Co., of Victoria, B. C; the owners of the schooner "Onward," her tackle, apparel, furniture and cargo, as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner "Onward," her tackle, apparel, furniture and cargo, as set forth in the said libel of information and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, Esq., United States district attorney for the District of Alaska.

And the said Daniel Monroe avers that the said Charles Spring & Co. were in possession of the said schooner "Onward" at the time of the attachment thereof, and that the said Charles Spring & Co., above named, are the true *bona fide* owners of the said schooner, her tackle, apparel, furniture and cargo as seized by the marshal aforesaid and that no other person is the owner thereof.

Wherefore he prays to defend accordingly.

DANIEL MONROE.

Subscribed and sworn to before me this }
18th day of September, A.D. 1886 }

[L.S.] ANDREW T. LEWIS, *Clerk of U. S. District Court for the District of Alaska.*
W. CLARK & D. A. DINGLEY, *Proctors for Claimant.*

On the same day was filed also the following demurrer:—

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.

UNITED STATES

vs.

CHARLES SPRING AND SCHOONER "ONWARD."

Demurrer.

The demurrer of Charles Spring & Co., claimants of the property proceeded against in the above cause to the amended information filed herein.

1st. The said claimants by protestation, not confessing all or any of the matters in said amended information to be true, demurs thereto and says that the said matters in manner and form, as the same are in said information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2nd. The said claimants by protestation deny that this court has jurisdiction to determine or try the question hereby put in issue.

3rd. And that said claimants are not bound by law to answer the same.

Wherefore the said claimants, Charles Spring & Co., pray that the said information may be dismissed with costs.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

Which demurrer was overruled by the court.

On the same day was filed the following answer of claimants:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

UNITED STATES

vs.

CHARLES SPRING & Co., AND SCHOONER "ONWARD."

Answer.

The answer of Charles Spring & Co., claimants and owners of said schooner "Onward," her tackle, apparel, furniture and cargo, as the same are set forth in the information filed herein in behalf of the United States.

And now comes Charles Spring & Co., claimants as aforesaid and for answer to the said information against the said schooner "Onward," her tackle, apparel, furniture and cargo as set forth in said information says that the said schooner "Onward," her tackle, apparel, furniture and cargo as set forth in the information mentioned did not, nor did any part thereof become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore, the said claimants pray that said information be dismissed with costs to these claimants attached.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

UNITED STATES, }
DISTRICT OF ALASKA. } SS.

Personally appeared before me, W. Clark, who being first duly sworn upon his oath, says:—

I am the duly authorized proctor for the claimants above named, that the foregoing answer is true as I verily believe. That the reason this affidavit is made by me and not by claimants, is because said claimants are non-residents and are absent from the District of Alaska.

(This was treated as subscribed and sworn to by Daniel Monroe, master.)

Subscribed and sworn to before me this }
day of September, A. D. 1886. }

On 22nd September, 1886, were filed the following exceptions to answer:—

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

UNITED STATES

vs.

THE SCHOONER "ONWARD."—No. 49.

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:—

1st. Said answer is not properly or at all verified as required by rule 27 of the United States Admiralty rules.

2nd. Said answer is not full, explicit or distinct to each or any allegation of the libel herein, as required by said rule.

3rd. Said answer does not deny or admit any of the allegations or facts in said libel, but merely denies a conclusion of law.
21st September, 1886.

M. D. BALL AND W. H. PAYSON, *Proctors for Libellant.*

Which exceptions were sustained by the court and on the same day was filed the following amended answer:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

UNITED STATES

vs.

CHARLES SPRING & Co., AND SCHOONER "ONWARD."—No. 49.

Amended Answer—In Admiralty.

To the Honorable LAFAYETTE DAWSON, Judge of the United States District Court for the District of Alaska.

Daniel Monroe, master of the schooner "Onward," intervening for the interests and in behalf of Charles Spring & Co., owners and claimants of said schooner "Onward," her tackle, apparel, furniture and cargo for amended answer to the libel of information herein against said schooner, her tackle, apparel, furniture and cargo, alleges as follows:—

1st. That he denies each and every material allegation in said libel of information contained;

2nd. Denies that the said schooner "Onward," her tackle, apparel, furniture, and cargo, and the property appertaining thereto as set forth and described in said libel of information or any part thereof became forfeited to the United States;

3rd. Denies that said schooner, her captain, officers and crew or any one of them were found engaged in killing fur seal within the limits of Alaska waters and within the territory of Alaska in violation of section 1956 of the Revised Statutes of the United States as set forth in said libel of information or at all;

4th. Denies that they killed any number, great or less, or any number at all, of fur seal or other fur bearing animals within the waters of Alaska, or within the said territory of Alaska or in any part thereof.

5th. That all and singular the premises herein set forth are true.

Wherefore said master prays that this honorable court will be pleased to pronounce against the libel herein and that the same may be dismissed with costs to these claimants attached.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

UNITED STATES, }
DISTRICT OF ALASKA. } SS.

DANIEL MONROE, being first duly sworn upon his oath, says:—

I am the master and captain of the schooner "Onward." That I have heard read the foregoing answer and know the contents thereof and that the same is true of my own personal knowledge.

DANIEL MONROE.

Subscribed and sworn to before me this }
22nd day of September, A.D. 1886. }

ANDREW T. LEWIS, *Clerk of the U. S. District Court for the District of Alaska.*

On the 4th day of October, 1886, was filed the following return to the monition issued on the 28th day of August, 1886, cited on page 3 of this transcript:

SITKA,
DISTRICT OF ALASKA. } SS.

Be it remembered, that, in obedience to the annexed monition, I have attached the within described property and now hold the same in my possession subject to the order of this honorable court;

And I have given due notice to all persons claiming said property to be and appear before this District Court on the 4th day of October, 1886, at 10 o'clock, a.m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claims and allegations in that behalf;

And that I have as ordered by said court caused said notice to be published, and the same has been published in the *Alaskan*, a newspaper published at Sitka, in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until the said 4th day of October, 1886.

BARTON ATKINS, *Marshal, District of Alaska.*

SITKA, ALASKA, 4th October, 1886.

On the same day the following decree was entered:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

UNITED STATES

vs.

THE SCHOONER "ONWARD."—No. 49.

The marshal having returned on the monition issued to him in the above entitled action that in obedience thereto he has attached the schooner "Onward," her tackle, apparel, boats, cargo and furniture and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock, a.m., at the District of Alaska, United States of America, then and there to appear and make their allegations in that behalf; and Daniel Monroe, the captain of said vessel, having heretofore filed a claim to all said property on behalf of Charles Spring & Co., of Victoria, B. C., the owners thereof, and no other persons having appeared and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, Esq., and W. H. Payson, Esq., appearing as advocates for the said libellant, and W. Clark, as advocate for said claimants; and the cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced and decreed as follows:—

1st. That all persons whatsoever other than said claimants be and they are hereby declared in contumacy and default.

2nd. That said schooner "Onward" her tackle, apparel, boats and furniture and her cargo of 400 fur seal skins, and all other property found upon or appurtenant to said schooner, be and the same are hereby condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of court the usual writ of *venditioni exponas* be issued to the marshal, commanding him to sell all of said property and bring the proceeds into this court to be distributed according to law. Costs to be taxed are awarded against said claimants.

Dated 4th October, 1886.

LAFAYETTE DAWSON, *District Judge.*

Done in open court this 4th day of October, 1886, at Sitka, District of Alaska,
United States of America.

ANDREW T. LEWIS, *Clerk.*

On the same day the following motion was filed:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA.

UNITED STATES

vs.

CHARLES SPRING & Co. AND SCHOONER "ONWARD."

Motion to set aside Decree.

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and moves the court to set aside the decree entered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

Which motion was, by the court, overruled and thereupon the following notice of appeal was filed :

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA.

UNITED STATES

vs.

CHARLES SPRING & Co. AND SCHOONER "ONWARD."

Notice of Appeal.

And now come W. Clark and D. A. Dingley, proctors for and in behalf of the claimants herein, and notifies this honorable court that they hereby appeal from the decree rendered herein to the Circuit Court having appellate jurisdiction over this district and that said appeal is taken on questions of law and fact, and pray the court for an order on its clerk to prepare a complete transcript of the record herein, as the law requires.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

On the 9th day of February, 1887, was entered the following order:—

IN THE MATTER OF THE UNITED STATES

vs.

SCHOONER "ONWARD,"	No.	49.
do "THORNTON,"	do	50.
do "CAROLINA,"	do	51.
do "SAN DIEGO,"	do	52.
ARMS AND AMMUNITION SCHR. "SIERRA,"	do	57.
ARMS AND AMMUNITION SCHR. "CITY OF SAN DIEGO,"	do	58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of *venditioni exponas* do issue from the clerk of the said court to the marshal of the said district, for the sale of the attached vessels, with their tackle, cargoes and furniture of whatsoever description, and of the arms and ammunition attached in said causes; and as to said attached vessels that the sale of the same (except the schooner "San Diego," which shall be sold at Sitka) shall be made at Port Townsend, in the district of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the district of California, and that sale of said schooner "San Diego," and all the other attached property be

made at Sitka, in the district of Alaska. Thirty days' notice of such sales to be given at each of the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively. And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this, the said district of Alaska, to be held on the first Monday of September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE, U. S. DISTRICT COURT, DISTRICT OF ALASKA,
SITKA, 10th March, 1887.

I, Andrew T. Lewis, clerk of the said court, do certify that the foregoing transcript of the record in the case of the United States vs. the schooner "Onward," her tackle, apparel, &c., on libel of information, &c., pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of such original record, except the full text of the exhibits referred to in the testimony therein, the purport of which only is stated, and that the said purport of exhibits is correctly stated, as the same appears of record at my office and in my custody.

[Seal.]

ANDREW T. LEWIS, *Clerk.*

IN THE UNITED STATES DISTRICT COURT, FOR THE DISTRICT OF
ALASKA.

THE UNITED STATES, LIBELLANT,

vs.

THE SCHOONER "THORNTON," HER TACKLE, &c.

On libel of information for being engaged in the business of killing fur seal in Alaska.

TRANSCRIPT OF RECORD.

On the 28th day of August, 1886, was filed the following libel of information:—

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA,
AUGUST SPECIAL TERM, 1886.

To the Honorable LAFAYETTE DAWSON, Judge of said District Court.

The libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of the said United States, and being present here in court in his proper person, in the name and on behalf of the said United States, against the schooner "Thornton," her tackle, apparel, boats, cargo and furniture and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:—

That Charles A. Abbey, an officer in the revenue marine service of the United States and on special duty in the waters of the district of Alaska, heretofore, to wit, on the first day of August, 1886, within the limits of Alaska territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the "Thornton," her tackle, apparel, boats, cargo and furniture, being the property of some person or persons to the said attorney unknown, as forfeited to the United States for the following causes:—

That the said vessel or schooner was found engaged in killing fur seal within the limits of Alaska territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court; and that by reason thereof, and by force of the statutes of the United States in such cases made and pro-

vided, the aforementioned and described schooner or vessel, being a vessel of over twenty tons burden, her tackle, apparel, boats, cargo and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the before-mentioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo and furniture, may for the cause aforesaid, and others appearing, be condemned by the definite sentence and decree of this honorable court, as forfeited to the use of the said United States according to the form of the statute of the said United States in such cases made and provided.

M. D. BALL, *United States District Attorney for the District of Alaska.*

Whereupon forthwith issued the following monition:—

DISTRICT OF ALASKA, SCT.

The President of the United States of America to the marshal of the district of Alaska, greeting:

Whereas a libel of information hath been filed in the District Court of the United States for the district of Alaska, on the 28th day of August in the year 1886, by M. D. Ball, United States attorney for the district aforesaid, on behalf of the United States of America, against the schooner "Thornton," her tackle, apparel, boats, cargo and furniture, as forfeited to the use of the United States for the reasons and causes in said libel of information mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner "Thornton," her tackle, apparel, boats, cargo and furniture, &c., may be cited in general and special to answer the premises and all proceedings being had, that the said schooner "Thornton," her tackle, apparel, boats, cargo and furniture may for the causes in the said libel of information mentioned be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner "Thornton," her tackle, apparel, boats, cargo and furniture, to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the District of Alaska, on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the Honorable Lafayette Dawson, judge of said court, and the seal thereof affixed at the city of Sitka in the District of Alaska, this 28th day of August, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and eleventh.

[Seal.]

ANDREW T. LEWIS, *Clerk.*

On 6th September, 1886, was filed the following affidavit:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES OF AMERICA

vs.

THE SCHOONER "THORNTON."

UNITED STATES OF AMERICA, }
District of Alaska. } SS.

C. A. ABBEY, being duly sworn, deposes and says:—

That he is and at all times herein mentioned was, a captain in the United States revenue marine, and in command of the United States revenue cutter "Corwin."

That affiant and the following named officers of said "Corwin" are material and necessary witnesses for the United States in the above entitled action: J. C. Cantwell, lieutenant; J. U. Rhodes, lieutenant; J. H. Douglas, pilot.

That owing to scarcity of provisions and fuel upon said cutter "Corwin," the said "Corwin" and deponent and said witnesses will be obliged to, and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than one hundred miles from the place of trial of said action before the time of said trial:

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That Hans Guttormsen was master and in possession of said schooner "Thornton" at the time of seizure thereof.

C. A. ABBEY.

Subscribed and sworn to before me this }
6th day of September, 1886. }

ANDREW T. LEWIS, *Clerk.*

On the same day was entered the following order:

IN THE MATTER OF THE UNITED STATES

vs.

SCHOONER "THORNTON,"	Case No. 50.
do "CAROLINA,"	do 51.
do "ONWARD,"	do 49.
do "SAN DIEGO,"	do 52.

In the above entitled actions urgent necessity and good cause appearing therefrom from the affidavits of C. A. Abbey, now on motion of M. D. Ball, United States district attorney for Alaska, and counsel for the United States herein, it is ordered that the depositions of the witnesses, C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglas, C. T. Winslow, Albert Leaf, C. Wilhelm, Thos. Singleton and T. Lorensen be taken before the clerk of the said District Court on Tuesday, the 7th day of September, 1886, at 7 o'clock, p.m., or as soon thereafter as the matter can be reached, at the office of said clerk, at Sitka, Alaska, and if not completed on said evening, then the taking of said depositions to be continued by said clerk, from time to time, until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe and Charles E. Raynor, and upon W. Clark, Esq., attorney at law, on or before 7th September, at 12, m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court, this 6th day of September, 1886, now at this time W. Clark, Esq., being present in court waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return:—
**IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
 OF ALASKA, UNITED STATES OF AMERICA.**

THE UNITED STATES OF AMERICA

vs.

THE SCHOONER "THORNTON."

To Hans Guttormsen, greeting: You are notified that by order of Lafayette Dawson, judge of said District Court, the depositions of U. A. Abbey, J. C. Cantwell, J. U. Rhodes and J. H. Douglas will be taken before the clerk of said District Court at his office, in Sitka, in said district, on Tuesday, 7th September, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said clerk, from time to time until completed.

Dated 7th September, 1886.

ANDREW T. LEWIS, Clerk.

UNITED STATES OF AMERICA, }
 DISTRICT OF ALASKA. } SS.

This is to certify that on the 7th day of September, 1886, before 12 o'clock, noon, of that day, I served the annexed notice on the within named Hans Guttormsen, at Sitka, District of Alaska, by then and there personally delivering to said Hans Guttormsen a copy of said notice; and then and there gave him the privilege of being present at the taking of said depositions.

Dated 9th September, 1886.

BARTON ATKINS, U. S. Marshal.

On 10th September, 1886, were filed the following depositions:—
**IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
 OF ALASKA, UNITED STATES OF AMERICA.**

THE UNITED STATES

vs.

THE SCHOONER "THORNTON."—No 50.

Depositions of witnesses sworn and examined before me on the 7th day of September, 1886, at 7 o'clock, p.m., of said day and on 8th and 9th September, 1886, thereafter, at the clerk's office of said court in Sitka, District of Alaska, United States of America, by virtue and in pursuance of the order of said court, made and entered in the above entitled action on September 6th, 1886, directing that the testimony and depositions of said witnesses be taken before me at said first mentioned time and place and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said District Court between the United States as plaintiff and the schooner "Thornton" as defendant, on behalf and at the instance of the said plaintiff, the United States, and upon notice of the time and place of the taking of said depositions, served upon Hans Guttormsen, the captain of the schooner and in possession thereof at time of seizure, and upon W. Clark, Esq., his attorney, the owners thereof being unknown and without the jurisdiction of this court.

Captain C. A. ABBEY, being duly sworn, deposes and says:—

Q. State your name and occupation? A. Captain C. A. Abbey, in the United States revenue marine service, at present in command of the United States revenue Steamer "Corwin" on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests in Alaska generally.

Q. What were you doing and what occurred on the 1st day of August last in the line of your duty? A. I was cruising in Behring Sea about 70 miles south south-east from St. George Island in about latitude and longitude . I found the four boats of the British steam schooner "Thornton," of Victoria, B.C., engaged in killing fur seal. Each boat had in her from three to eight freshly killed seal, arms and ammunition, rowers and hunters who stated that they belonged to the said schooner "Thornton" and were engaged in taking or killing fur seal. Some of them, if not all, were seen shooting at the fur seal which were swimming in their neighborhood. On this evidence I caused the vessel to be seized by Lieut. Cantwell, took her in tow and proceeded with her to Oonalaska where I placed the vessel, cargo, tackle, furniture and appurtenances in charge of Deputy United States Marshal Isaac Anderson of Oonalaska; the cargo of fur seal skins being stored in "Keuch," in one of the warehouses of the Alaska Commercial Company and under seal. One boat of the "Thornton" was sent to Sitka by the schooner San Diego and placed in custody of the United States marshal at Sitka. All of this property is now in the custody of the United States marshal at Sitka, including her arms and ammunition which I brought to Sitka on the "Corwin."

Q. Was this the vessel against which the libel of information is filed? A. It is.

Q. Did this all occur within the waters of Alaska and the Territory of Alaska and within the jurisdiction of this court? A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of ten tons burden or over? A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this }
9th day of September, A.D. 1886; after }
having been read over by me to deponent. }

[SEAL.]

ANDREW T. LEWIS, *Clerk United States District Court.*

Lieut. John C. CANTWELL, being duly sworn, deposes and says:—

Q. State your name, occupation and age? A. John C. Cantwell, 3rd lieutenant United States revenue marine service, at present on duty United States revenue steamer "Corwin" and over the age of twenty-one years.

Q. Were you so on the 1st day of August last? A. I was.

Q. State what occurred on that day in the line of your duty? A. I saw a small boat on the port bow; we came up to her and found she had about 8 fur seal on board. The men in the boat were armed with breach-loading rifles. In answer to the commanding officer the men admitted they were killing fur seal. Shortly after we picked up a second boat and then sighted the schooner "Thornton." There were dead seal in the second boat. I did not examine the other boats, I was sent on board the schooner, saw Hans Guttormsen apparently acting as captain and Henry Norman as mate. I asked them what they were doing. The captain replied, Catching seals. I signaled this to Captain Abbey, who directed me to seize her, which I did and the "Corwin" took the schooner in tow. The fur seal in the boats were bleeding and must have been killed within a few hours.

Q. How many men were on board of the "Thornton" at the time of seizure? A. About fifteen.

Q. Was this a reasonable number for ordinary purposes of commerce and navigation? A. It was an unusually large number for the size of the vessel.

Q. Do you recognize this paper? A. I do. It is the official inventory made by me of the furniture, tackle, and cargo of the schooner "Thornton." (Inventory embraces the usual furniture, rigging, nautical instruments, boats and stores of a vessel of this class with a cargo of 403 seal skins, 3 seal pup skins and one hair seal skin, and they are receipted for by I. Anderson, Deputy United States marshal, Oonalaska, 14th August, 1886.) The item 403 seal skins mentioned in the inventory are fur seal skins. This inventory gives a full and correct list of all the furniture, tackle and cargo of said vessel, with the exception of the following:—Arms and ammunition, octant and one chronometer. There is one boat belonging to the

"Thornton" that was sent down on the "San Diego" and included in the inventory of the "San Diego. The "Thornton" had four boats.

JOHN C. CANTWELL, *3d Lieut. U. S. R. M.*

Subscribed and sworn to before me this 9th day }
of September, A.D. 1886, after having been }
read over by me to deponent.

[Seal.]

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

JOHN U. RHODES, being duly sworn, deposes and says :—

Q. State your name, age and occupation? A. John U. Rhodes, over 21 years of age and lieutenant in the United States revenue marine and attached to the Revenue steamer "Corwin," and was so on the 1st day of August, 1886.

Q. State what happened on the last named day in connection with the schooner "Thornton"? A. I was on the "Corwin" at the time the "Thornton" was seized on that day. We first picked up a boat bearing the name "Thornton," it had about 8 dead fur seal in it, the men in the boat had breech-loading rifles, we afterwards picked up another boat and then sighted the schooner "Thornton" and went on board and was put in charge of her. We afterwards picked up two more boats, the men in the boats claimed that the boats belonged to the "Thornton" and were put on board of her. There were between 15 and 20 dead fur seal on deck and one hair seal. These seal were most of them bleeding and evidently recently killed. The captain and several of the hunters said they had killed 21, I think it was, fur seals that day, and would have got more if they had had more daylight and if the cutter had not come up.

Q. Do you recognize these papers? A. I do. This paper marked (Ex. "G") is the clearance paper of the schooner "Thornton" (this paper represents the British steam schooner "Thornton," Hans Guttormsen, master, 22-30 tons, navigated with 15 men, bound for the Pacific Ocean, Behring Sea and Okhotsk Sea, on a hunting and fishing voyage, as having cleared from Victoria, British Columbia, 15th May, 1886). This paper marked (Ex. "H") is her bill of health (issued same date and place with clearance). I found these papers in the schooner "Thornton" at the time of seizure and then took possession of them.

Q. What was the list of arms and ammunition found aboard the schooner "Thornton" at the time of seizure? A. 4 rifles, 6 shot guns, 867 shot gun cartridges, 420 rifle gun cartridges, 108 lbs. powder, 1 keg powder, partly filled, 2 bags bullets, 11 bags buck-shot, 5 boxes wads, 3½ boxes primers.

Q. What has become of these arms and ammunition? A. They were delivered to the United States marshal at Sitka and are now in his custody.

JOHN U. RHODES, *Lieut. U. S. R. M.*

Subscribed and sworn to before me this 8th day }
of September, A.D. 1886, after having been }
read over by me to the deponent.

[Seal.]

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

JOHN U. RHODES, being duly sworn, deposes and says :—

Q. State your name, age and occupation? A. John U. Rhodes, lieutenant United States revenue marine, at present on duty on the United States revenue steamer "Corwin," and over the age of 21 years.

Q. State what nautical instruments, if any, were seized on the schooner "Thornton," except such as are included in her general inventory? A. One chronometer, No. 1374, made by Kessels and one octant.

Q. What has become of this property? A. I turned it over to the United States marshal at Sitka, and it is now in his custody.

JOHN U. RHODES.

Subscribed and sworn before me this 9th }
day of September, A.D. 1886, after having }
been read over by me to deponent.

[Seal.]

ANDREW T. LEWIS, *Clerk U. S. District Court.*

J. H. DOUGLAS, being duly sworn, deposes and says:—

Q. State your name, age and occupation? A. J. H. Douglas; am over the age of 21 years; am a pilot in the revenue marine service of the United States, and have been so for the seven years last past. I am now, and on the first of August, 1886, was pilot on the revenue steamer "Corwin."

Q. State what occurred on the last named day in connection with the schooner "Thornton?" A. We sighted a boat on our port bow and soon after saw another boat; steamed to the first boat and ordered her to come alongside, which she did. The name "Steamer Thornton" was on the stern of the boat. There were two or three men in the boat with arms, and six or eight dead fur seal which had the appearance of having been lately killed. I asked the men what luck they had had. One of them replied: "We have six or eight, but not as good as some days." We took possession of the boat and contents by order of Captain Abbey. We then picked up the second boat, finding it engaged in the same business; then we sighted a schooner drifting without sail or steam, which proved to be the steam schooner "Thornton." On coming up with her she was seized, by order of Capt. Abbey, and taken in tow. We then picked up two more boats belonging to the "Thornton," having dead fur seal on board. This was in Behring Sea, about 65 miles south-east from St. George's Island, and about 500 or 600 miles to the eastward of the western boundary line of Alaska territory.

Q. State what experience you have had in the fur sealing business, and your knowledge of the habits of the fur seal? A. I have been cruising for more than fifteen years off and on in Alaskan waters, always as an officer or pilot, and have visited the Pribiloff Islands, St. Paul and St. George, several hundred times, and am perfectly familiar with the sealing business as conducted on those islands and understand the migrating habits of the fur seals. From about the 1st of May to about the 1st of July of each year the fur seal is migrating north and mostly through the Unimak and Akutan Passes to these islands for breeding purposes. They go to no other place in the known world except these islands and Copper Island for breeding purposes.

After the breeding season of about a month they begin to migrate south and until November of each year are migrating south through Behring Sea. During this season, from May till November, the fur seal are plenty in the waters adjoining the Pribiloff Islands, and are migrating to and from these islands, and are at all times very plenty between Unimak Pass and said islands, in a track about thirty miles wide, which seems to be their highway to and from said islands. The schooner "Thornton" and her boats when seized were directly on this track.

J. H. DOUGLAS,

Subscribed and sworn to before me this 8th }
day of September, A.D. 1886, having been }
read over by me to deponent.

[Seal.]

A. T. LEWIS, *Clerk U. S. District Court.*

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES

vs.

THE SCHOONER "THORNTON."—No. 50.

Whereas on the 6th day of September, 1886, the said District Court duly made and entered in the journal of said court an order in the above entitled action, directing that the testimony and depositions of the witnesses: C. A. Abbey, J. C. Cantwell, J. U. Rhodes and J. H. Douglas, be taken before me, the clerk of said court, at the time or times and place and upon such notice as was specified in said order:

Now therefore this is to certify that in pursuance of said order, on 7th September, 1886, at 7 o'clock, p.m., each and all of the above-named witnesses appeared before me at the clerk's office of said court at Sitka, District of Alaska, United States of America; that M. D. Ball, Esq., district attorney of said court and district, and W. H. Payson, Esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, Esq., then and there appeared on behalf of and as attorney and proctor for the said schooner and her owners herein; and Hans Guttormsen then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September, 1886, and completed the same on said last named day. That the said parties by their said attorneys and proctors then and there appeared and were present on each of said last named days and at all times during the taking of said depositions. That each of said witnesses was first duly cautioned and sworn by me, then and there, that the evidence he should give in said action should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then and there read the same over to him; and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

In witness whereof I have hereunto set my hand and the seal of said District Court, this 9th day of September, 1886.

ANDREW T. LEWIS,

Clerk U. S. Dist. Court in and for the Dist. of Alaska, United States of America.

On the 20th day of September, 1886, was filed the following claim of master for owner:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

In Admiralty.

In the matter of the libel of information against the schooner "Thornton," her tackle, apparel, furniture and cargo.

Claim of master for owner.

And now Hans Guttormsen, master of the schooner "Thornton" intervening for the interest of J. D. Warren, of Victoria, B.C., the owner of the said schooner "Thornton," her tackle, apparel, furniture and cargo, as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner "Thornton," her tackle, apparel, furniture, and cargo, as set forth in the said libel of information and as the same are attached by the marshal under process

of this court at the instance of M. D. Ball, Esq., United States district attorney for the District of Alaska.

And the said Hans Guttormsen avers that the said J. D. Warren was in possession of the said schooner at the time of the attachment thereof.

And that the said J. D. Warren above named is the true and *bond fide* owner of the said schooner, her tackle, apparel, cargo and furniture as seized by the said marshal as aforesaid and that no other person is the owner thereof. Wherefore he prays to defend accordingly.

HANS GUTTORMSEN.

Subscribed and sworn to before me this }
18th day of September, A. D. 1886. }

ANDREW T. LEWIS, *Clerk of the U. S. Dist. Court for the District of Alaska.*

[Seal.]

W. CLARK and D. A. DINGLEY, *Proctors for Claimant.*

On the same day was filed the following amended libel of information:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

August Special Term, 1886.

To the Honorable LAFAYETTE DAWSON, Judge of said District Court:—

The amended libel of information of M. D. Ball, attorney for the United States for the District of Alaska, who prosecutes on behalf of said United States, and being present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:—

That C. A. Abbey, an officer in the revenue marine service of the United States, duly commissioned by the President of the United States, in command of the United States revenue cutter "Corwin," and on special duty in the waters of the District of Alaska heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska Territory and in the waters thereof and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner "Thornton," her tackle, apparel, boats, cargo and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:—

1. Schooner "Thornton" of Victoria, B. C., 4 boats with oars, sails and gear; carpenters' and caulking tools and materials; 5 tons of coal, 10 yds. of canvas, clock, chronometer, nautical instruments, provisions, sails and running gear, ropes, twine, lamps, oil, casks, buckets, engine and gear, 20 sacks of salt, 403 fur seal skins, 1 hair seal skin, 3 pup seal skins, 4 rifles, 6 shot guns, and arms and ammunition for same, and all other property found upon or appurtenant to said schooner.

That said C. A. Abbey was then and there duly commissioned and authorized by the proper Department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:—

That said vessel, her captain, officers and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory and within the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Onalaska in said territory, and delivered into the keeping of Isaac Anderson, a deputy United States marshal of this district, with the exception of the said arms and ammunition, which latter were brought into the port of Sitka, in said district, and turned over to the United States marshal of this district, and all of said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney as aforesaid, further informs and alleges:—

That on the 1st day of August, 1886, Henry Norman, and certain other persons whose names are to said United States attorney unknown, who were then and there engaged on board of the said schooner "Thornton" as seamen and seal-hunters, did, under the direction and by the authority of Hans Guttormsen, then and there master of said schooner, engaged in killing and did kill, in the Territory and District of Alaska, and in the waters thereof, to wit, 20 fur seals, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 403 fur seal skins, 3 pup skins, 1 hair seal skin, and other goods so seized on board of said schooner "Thornton" constituted the cargo of said schooner at the time of the killing of said fur seals, and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court, and that by reason thereof, and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons-burden, and her said tackle, apparel, boats, cargo and furniture, became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore-described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process, why said forfeiture should not be decreed; and that after due proceedings are had, all of said property be adjudged, decreed and condemned as forfeited to the use of the United States; and for such other relief as may be proper in the premises.

Dated 20th September, 1886.

M. D. BALL, *U. S. Dist. Attorney for the District of Alaska.*

On the same day was filed the following demurrer:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA,

UNITED STATES

vs.

J. D. WARREN AND SCHOONER "THORNTON."

Demurrer.

The demurrer of J. D. Warren, claimant of the property proceeded against in the above cause to the information filed herein.

1st. The said claimant by protestation, not confessing all or any of the matters in said amended information contained to be true, demurs thereto and says that the said matters in manner and form, as the same are in the information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2nd. The said claimant by protestation denies that this court has jurisdiction to determine or try the question hereby put in issue.

3rd: And that the said claimant is not bound in law to answer the same.

Wherefore the claimant prays that said information may be dismissed with costs.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

Which demurrer was overruled by the court, and on the same day was filed the following answer:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA.

UNITED STATES

vs.

J. D. WARREN AND SCHOONER "THORNTON."

Answer of Claimant.

The answer of J. D. Warren, owner and claimant of the said schooner "Thornton," her tackle, apparel, cargo and furniture, as the same are set forth in the information filed herein in behalf of the United States,

And now comes J. D. Warren, claimant as aforesaid, and for answer to the said information against the said schooner "Thornton," her tackle, apparel, furniture and cargo as set forth in said information says that the said schooner "Thornton," her tackle, apparel, furniture and cargo as set forth in the information mentioned, did not nor did any part thereof become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore, the said claimant prays that said information be dismissed with costs to this claimant attached.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

On the 22nd of September, 1886, were filed the following exceptions to answer:—

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED
STATES OF AMERICA.

UNITED STATES

vs.

THE SCHOONER "THORNTON."—No. 50.

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:—

1st. Said answer is not properly or at all verified as required by rule 27 of the United States Admiralty rules;

2nd. Said answer is not full, explicit or distinct to each or any allegation of the libel herein, as required by said rule;

3rd. Said answer does not deny or admit any of the allegations of fact in said libel, but merely denies a conclusion of law.

21st September, 1886.

M. D. BALL AND W. H. PAYSON, *Proctors for Libellant.*

Which exceptions were sustained by the court, and on the same day was filed the following amended answer:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA.

UNITED STATES

vs.

J. D. WARREN AND SCHOONER "THORNTON."

Amended Answer.

To the Honorable LAFAYETTE DAWSON, Judge of the United States District Court for the District of Alaska.

Hans Guttormsen, master of the schooner "Thornton," intervening for the interest of and in behalf of J. D. Warren, owner and claimant of said schooner

"Thornton," her tackle, apparel, furniture and cargo for amended answer to the libel of information herein, against said schooner, her tackle, apparel, furniture and cargo, alleges as follows:—

1st. That he denies each and every material allegation in said libel of information contained;

2nd. Denies that the said schooner "Thornton," her tackle, apparel, furniture, cargo, and the property appertaining thereto as set forth and described in said libel of information or any part thereof became forfeited to the United States;

3rd. Denies that said schooner, her captain, officers and crew or any one of them were found engaged in killing fur seal within the limits of Alaska Territory and within the waters thereof in violation of section 1956 of the Revised Statutes of the United States as set forth in said libel of information or at all;

4th. Denies that they killed any number of fur seal or other fur bearing animals within the waters of Alaska or the Territory of Alaska or in any part thereof.

5th. That all and singular the premises herein are true.

Wherefore said master prays that this honorable court will be pleased to pronounce against the libel herein and that the same may be dismissed with costs to the claimants to be taxed.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

UNITED STATES, }
District of Alaska. } SS.

Hans Guttormsen being first duly sworn, says he is master of the schooner "Thornton," that he has heard read the foregoing answer and knows the contents thereof and that the same is true of his own personal knowledge.

H. GUTTORMSEN.

Subscribed and sworn to before me this }
22nd day of September, A. D. 1886. }

ANDREW T. LEWIS, *Clerk of the U. S. Dist. Court for the District of Alaska.*

On the 4th day of October, 1886, the motion cited, page 5, was returned with the following endorsement:—

SITKA, }
District of Alaska. } SS.

Be it remembered, that, in obedience to the annexed monition, I have attached the within described property and now hold the same in my possession subject to the order of this honorable court;

And I have given due notice to all persons claiming said property to be and appear before this District Court on the 4th day of October, 1886, at 10 o'clock, a.m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claims and allegations in that behalf:—

And I have caused said notice to be published, and the same has been published in the *Alaskan*, a newspaper published at Sitka in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until 4th day of October, 1886.

SITKA, ALASKA, 4th October, 1886.

BARTON ATKINS, *Marshal, Dist. of Alaska.*

On the same day was filed the following decree:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

UNITED STATES

vs.

THE SCHOONER "THORNTON."—No. 50.

The marshal having returned on the monition issued to him in the above entitled action that in obedience thereto he has attached the said schooner "Thornton,"

her tackle, apparel, boats, cargo and furniture, and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock, a.m., at the District of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf; and Hans Guttormsen, the captain of said vessel, having heretofore filed a claim to all of said property on behalf of J. D. Warren, of Victoria, B. C., the owner thereof, and no other persons having appeared and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, Esq., and W. H. Payson, Esq., appearing as advocates for said libellant, and W. Clark as advocate for said claimant; and said cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced and decreed, as follows:—

1st. That all persons whatsoever, other than said claimant, be and they are hereby declared in contumacy and default.

2nd. That the said schooner "Thornton," her tackle, apparel, boats and furniture and her cargo of 403 fur seal skins, and all other property found upon and appurtenant to said schooner, be and the same are hereby condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of this court, the usual writ of *venditioni exponas* be issued to the marshal commanding him to sell all of the said property and bring the proceeds into this court to be distributed according to law. Costs to be taxed are awarded against said claimant.

Dated 4th October, 1886.

LAFAYETTE DAWSON, *District Judge.*

Done in open court this 4th day of October, 1886, at Sitka, District of Alaska, United States of America.

Clerk.

On the same day was filed the following motion to set aside decree:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA.

UNITED STATES

vs.

J. D. WARREN AND SHOONER "THORNTON."

Motion to set aside Decree.

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimant herein, and moves the court to set aside the decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

Which motion was overruled by the court, and on the same day was filed the following notice of appeal:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA.

UNITED STATES

vs.

J. D. WARREN AND SHOONER "THORNTON."

Notice of Appeal.

And now come W. Clark and D. A. Dingley, proctors for and in behalf of the claimant herein and notifies this honorable court that they hereby appeal from the

decree rendered herein to the Circuit Court having appellate jurisdiction over this district, and that said appeal is taken on questions of law and fact, and prays the court for an order on its clerk to prepare a complete transcript of the record herein, as the law requires.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

On the 9th day of February, 1887, was entered the following order:—

IN THE MATTER OF THE UNITED STATES

vs.

SCHOONER "ONWARD,"	Case No. 49.
do "THORNTON,"	do 50.
do "CAROLINA,"	do 51.
do "SAN DIEGO,"	do 52.
ARMS AND AMMUNITION SCHR. "SIERRA,"	do 57.
ARMS AND AMMUNITION SCHR. "SAN DIEGO,"	do 58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of *venditioni exponas* do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes and furniture of whatsoever description, and of the arms and ammunition attached in said causes; and as to said attached vessels that the sale of the same (except the schooner "San Diego," which shall be sold at Sitka) shall be made at Port Townsend in the district of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the district of California, and that the sale of said schooner "San Diego," and all the other attached property be made at Sitka in the district of Alaska. Thirty days' notice of such sale to be given at each of the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively. And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this, the said district of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE, U. S. DISTRICT COURT, DISTRICT OF ALASKA,
SITKA, 10th March, 1887.

I, Andrew T. Lewis, clerk of the said court, do certify that the foregoing transcript of the record in the case of the United States vs. the schooner "Thornton," her tackle, apparel, &c., on libel of information pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of such original, except the full text of the exhibits referred to in the testimony therein, the purport of which only is stated, and that the purport of said exhibits is correctly stated, as the same appears of record at my office and in my custody.

Witness my hand and the seal of said court this 10th day of March, 1887.

[Seal.]

ANDREW T. LEWIS, *Clerk.*

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA.

THE UNITED STATES, LIBELLANT,

vs.

THE Schooner "CAROLINA," HER TACKLE, &c.

On libel of information for being engaged in the business of killing fur-seal in Alaska.

TRANSCRIPT OF RECORD.

On the 28th day of August, 1886, was filed the following libel of information:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.
AUGUST SPECIAL TERM, 1886.

To the Honorable LAFAYETTE DAWSON, Judge of said District Court :

The libel of information of M. D. Ball, attorney for the United States for the District of Alaska, who prosecutes on behalf of said United States, and being present here in court in his proper person, in the name and on behalf of the said United States, against the schooner "Carolina," her tackle, apparel, boats, cargo and furniture and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows :—

That Charles A. Abbey, an officer in the revenue marine service of the United States and on special duty in the waters of the District of Alaska, heretofore, to wit, on the first day of August, 1886, within the limits of Alaska Territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit, in the waters of that portion of Behring Sea belonging to said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the "Carolina," her tackle, apparel, boats, cargo and furniture, being the property of some person or persons to said attorney unknown, as forfeited to the use of the United States for the following causes :

That the said vessel was found engaged in killing fur seal within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court; and that by reason thereof, and by force of the statutes of the United States in such cases made and provided, the aforementioned and described schooner or vessel, being a vessel of over twenty tons burden, her tackle, apparel, boats, cargo and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the beforementioned and described schooner or vessel, may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo and furniture, may for the causes aforesaid, and others appearing, be condemned by the definite sentence and decree of this honorable court, as forfeited to the use of the said United States according to the form of the statutes of the said United States in such case made and provided.

M. D. BALL, *U. S. Dist. Attorney for the Dist. of Alaska.*

Thereupon issued forthwith the following monition :—

DISTRICT OF ALASKA, SCT.

The President of the United States to the marshal of the District of Alaska, greeting :

Whereas a libel of information hath been filed in the District Court of the United States for the District of Alaska, on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the district aforesaid, on behalf of the United States of America, against the schooner "Carolina," her tackle, apparel, boats, cargo and furniture, as forfeited to the use of the United States for the reasons and causes in the said libel of information mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner "Carolina," her tackle, apparel, boats, cargo and furniture, &c., may be cited in general and special to answer the premises and all proceedings being had, that the said schooner "Carolina," her tackle, apparel, boats, cargo and furniture may, for the causes in the said libel of information mentioned, be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner "Carolina," her tackle, apparel, boats, cargo and furniture, to detain the same in your custody

until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the District of Alaska, on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the Honorable Lafayette Dawson, judge of said court, and the seal thereof affixed at the city of Sitka, in the district of Alaska, this 28th day of August, in the year of Our Lord one thousand eight hundred and eighty-six and of the Independence of the United States the one hundred and eleventh.

[Seal.]

ANDREW T. LEWIS, *Clerk.*

On the 6th day of September, 1886, was filed the following affidavit:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES OF AMERICA

vs.

THE SCHOONER "CAROLINA."

UNITED STATES OF AMERICA, }
District of Alaska. } SS.

C. A. ABBEY, being duly sworn, deposes and says:—

That he is, and at all times herein mentioned was, captain in the United States revenue marine, and in command of the United States revenue cutter "Corwin."

That affiant and the following named officers and men of said "Corwin" are material and necessary witnesses for the United States in the above entitled action; to wit:—J. C. Cantwell, lieutenant; Thos. Singleton, seaman; J. U. Rhodes, lieutenant; T. Lorenson, seaman; and J. H. Douglas, pilot.

That owing to scarcity of provisions and fuel upon said "Corwin," the said "Corwin" and deponent and said witnesses will be obliged to, and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than one hundred miles from the place of trial of said action before the time of said trial;

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That James Blake was mate of said schooner at the time of its seizure, and is the only person or officer of said schooner now within the jurisdiction of this court, or upon whom service of notice can be made as affiant is informed and believes.

C. A. ABBEY.

Subscribed and sworn to before me this }
6th day of September, 1886. }

ANDREW T. LEWIS, *Clerk.*

On the same day was entered the following order:—

IN THE MATTER OF THE UNITED STATES

vs.

SCHOONER "THORNTON,"	Case No. 50.
do "CAROLINA,"	do 51.
do "ONWARD,"	do 49.
do "SAN DIEGO,"	do 52.

In the above entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now on motion of M. D. Ball, United States district attorney for Alaska, and counsel for the United States herein, it is ordered that the depositions of the witnesses, C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglas, C. T. Winslow, Albert Leaf, C. Wilhelm, Thos. Singleton and T. Lorensen be taken before the clerk of the said District Court, on Tuesday, the 7th day of September, 1886, at 7 o'clock, p.m., or as soon thereafter as the matter can be reached, at the office of said clerk, at Sitka, Alaska, and if not completed on said evening, then the taking of said depositions to be continued by said clerk, from time to time, until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Monroe and Charles E. Raynor, and upon W. Clark, Esq., attorney at law, on or before 7th September, at 12, m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886, now at this time W. Clark, Esq., being present in court waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return thereof:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES

vs.

THE SCHOONER "CAROLINA."

To James Blake, greeting: You are notified that by order of Lafayette Dawson, judge of said District Court, that the depositions of C. A. Abbey, J. C. Cantwell, J. U. Rhodes and J. H. Douglas will be taken before the clerk of said District Court at his office, at Sitka, in said District, on Tuesday, 7th September, 1886, at 7 o'clock, p. m., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said clerk from time to time until completed.

Dated 7th September, 1886.

ANDREW T. LEWIS, *Clerk.*

UNITED STATES OF AMERICA, }
DISTRICT OF ALASKA. } SS.

This is to certify that on the 7th day of September, 1886, before 12 o'clock, noon; of that day, I served the annexed notice on the within named James Blake, at Sitka, District of Alaska, by then and there personally delivering to said James Blake a copy of said notice. And then and there gave him the privilege of being present at the taking of said depositions.

Dated 9th September, 1886.

BARTON ATKINS, *U. S. Marshal.*

On the 9th day of September, 1886, were filed the following depositions:—

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES OF AMERICA

vs.

THE SCHOONER "CAROLINA."—No. 51.

Depositions of witnesses sworn and examined before me on the 7th day of September, A.D. 1886, at 7 o'clock, p. m., of said day, and on 8th and 9th September, 1886, thereafter, at the clerk's office of said court in Sitka, District of Alaska, United

States of America, by virtue and in pursuance of the order of said court, made and entered in the above entitled action on 6th September, 1886, directing that the testimony and depositions of said witnesses be taken before me at said first mentioned time and place and at such subsequent time as the taking of the same might be continued to by me, in said action then and there pending in said District Court between the United States as plaintiff and the schooner "Carolina" as defendant, on behalf of and at the instance of the said plaintiff, the United States, and upon notice of the time and place of taking of said depositions, served upon James Blake, the mate of said schooner, he being the only officer of schooner upon whom service could be made, and upon W. Clark, Esq., his attorney, the owners of said schooner being unknown and without the jurisdiction of this court.

Capt. C. A. ABBEY, being duly sworn, deposes and says:—

Q. State your name and occupation? A. Captain C. A. Abbey, in the United States revenue marine service, at present in command of the United States revenue steamer "Corwin" on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests in Alaska generally.

Q. What were you doing and what occurred on the 1st of August last in the line of your duty? A. Cruising in Behring Sea, about 75 miles south south-east from St. George's Island and I found the British schooner "Carolina," of Victoria, British Columbia, drifting with sails down. Her boats were absent and she was evidently a sealer. I saw dead seal lying upon her forward deck, inquired of the schooner in which direction her boats were.

I then ordered her to be seized by Lieut. Cantwell for killing fur seal in the waters of Alaska, took her in tow and proceeded to hunt up her boats, all four of which I found with freshly killed fur seal in them, arms, ammunition and hunters, some of whom I saw shooting at the seal in the water. These boats all went on board the "Carolina." On this evidence I caused the vessel to be seized by Lieut. Cantwell, I took her in tow and proceeded with her to Oonalaska where I placed the vessel, tackle, cargo, furniture and appurtenances in charge of Deputy United States Marshal Isaac Anderson, of Oonalaska; the cargo of fur seal skins being stored in "Keuch," in one of the warehouses of the Alaska Commercial Company and under seal. The arms and ammunition of this vessel I took on board the "Corwin" and brought to Sitka and delivered into the custody of the United States marshal there.

The vessel, tackle, furniture and cargo are now in the custody of the United States marshal of this district.

Q. Was this the vessel against which this libel of information is filed? A. It is.

Q. Did this all occur within the waters of Alaska and the Territory of Alaska and within the jurisdiction of this court? A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of (10) ten tons burdens or over? A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this 9th day }
of September, A.D. 1886, after having been }
read over by me to deponent.

ANDREW T. LEWIS, Clerk.

Lieut. JOHN C. CANTWELL, being duly sworn, deposes and says:—

Q. State your name, occupation and age? A. John C. Cantwell, 3rd lieutenant, United States revenue marine service, at present on duty on the United States revenue steamer "Corwin" and over the age of twenty-one years.

Q. Were you so on the 1st day of August last? A. I was.

Q. State what occurred on that day in the line of your duty? A. A schooner was sighted from the "Corwin" and I was directed by Capt. Abbey to board her. I found her to be the schooner "Carolina," of Victoria, British Columbia, James Ogilvie, captain, and James Blake, mate. I saw dead seal upon her deck and the captain admitted that he was engaged in taking seal and that four of the schooner's boats were at the time absent from the vessel engaged in killing seals. I signalled

this fact to Captain Abbey and he directed me to seize the vessel which I did and the "Corwin" took us in tow.

Q. Do you recognize these papers? A. I do. This paper marked (Ex. "I") is the certificate of registry of the schooner "Carolina," of Victoria, B.C. (Said certificate is dated 21st March, 1870, and represents said schooner as of 31.90 tons burden and owned by Francis Armstrong, of Victoria, B.C.) This paper marked (Ex. "J") is the bill of health of the said schooner. (Said bill of health is dated at Victoria, B.C., 19th May, 1886, and represents said schooner "Carolina" as then ready to depart for Behring Sea and Okhotsh Sea and other places beyond the sea, with James Ogilvie, master, and eleven persons including said master.) This paper marked (Ex. "K") is the coasting license of said schooner. (Said license is in the usual form, to James Ogilvie, master of the schooner "Carolina," dated at Victoria, B.C., 16th Feb., 1886, and in terms expires on the 30th day of June, 1886.) This paper marked (Ex. "L") is the clearance of the said schooner. (Said clearance is for said schooner as of 31.90 tons, navigated with eleven men, James Ogilvie, master, bound for Pacific Ocean, Behring Sea and Okhotsh Sea, on a fishing and hunting voyage, and is dated at Victoria, B.C., 19th May, 1886.) All of which papers were found on board of the "Carolina" at the time of seizure, and taken possession of by me.

Q. State how many men the "Carolina" had on board as crew when seized?
A. Thirteen or fourteen.

Q. State whether this is a reasonable number of men for ordinary purposes of commerce and navigation? A. It is an unusually large number for that purpose on a vessel of that size.

JOHN C. CANTWELL, 3rd Lieut., U.S.R.M.

Subscribed and sworn to before me this 9th day }
of September, A. D. 1886, after having }
been read over by me to deponent.

[Seal.]

ANDREW T. LEWIS, Clerk U.S. District Court.

JOHN U. RHODES, being duly sworn, deposes and says:—

Q. State your name, age and occupation? A. John U. Rhodes, lieut. United States revenue marine, at present on duty on the United States revenue steamer "Corwin," and over the age of 21 years.

Q. State what arms and ammunition was seized on the schooner "Carolina" at the time of her seizure? A. 4 rifles, 1 musket, 5 shot guns, 171 shot gun cartridges, 353 rifle cartridges, 14½ bags buck-shot, ½ bag of bullets, 40 bags of wads, 21 boxes wads, 13 boxes primers, 1½ boxes of caps, 91 lbs. powder.

Q. Were there any nautical instruments seized on the "Carolina" except what is included in the general inventory? A. 1 octant, 1 quadrant.

Q. What has become of this property? A. It has all been delivered to the United States marshal at Sitka, and is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day }
of September, A. D. 1886, after having been }
read over by me to deponent.

[Seal.]

ANDREW T. LEWIS, Clerk U.S. District Court.

J. H. DOUGLAS, being duly sworn, deposes and says:—

Q. State your name, age and occupation? A. J. H. Douglas, am over the age of 21 years, am a pilot in the revenue marine service of the United States, and have been so for 7 years last past. I am now, and on the first of August, 1886, was, pilot on the revenue Steamer "Corwin."

Q. State what experience you have had in the fur sealing business and your knowledge of the habits of the fur seal? A. I have been cruising for more than 15 years off and on in Alaskan waters always as an officer or pilot and have visited the

Pribiloff Islands, St. Paul and St. George several hundred times, and am perfectly familiar with the sealing business as conducted on those islands, and understand the migrating habits of the fur seal. From about the first of May to about the first of July of each year the fur seal is migrating north through the Unimak and Akutan Passes to these islands for breeding purposes. They go to no other place in the known world except these islands and Copper Island for breeding purposes. After the breeding season of about a month they begin to migrate south, and until into November of each year are migrating south through Behring Sea. During this season, from May till November, the fur seal are plenty in the waters adjacent to the Pribiloff Islands, are migrating to and from these islands, and are at all times very plenty between Unimak Pass and said islands in a track about 30 miles wide, which seems to be their highway to and from said islands. The schooner "Carolina" and her boats when seized were directly in this track. I was present at time of seizure.

J. H. DOUGLAS.

Subscribed and sworn to before me this 9th }
day of September, A.D. 1886, after hav- }
ing been read over by me to deponent. }

[Seal.]

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

THOMAS SINGLETON, being duly sworn, deposes and says:—

Q. State your name, age and occupation? A. Thomas Singleton, am over the age of 21 years, and am a seaman. Was employed on the steamer "Corwin" on the 1st day of August, 1886, when the "Carolina" was seized. I was sent on board the "Carolina" right after the seizure and saw a number of dead fur seal on deck and some of them had blood on them. Saw also some fresh fur seal skins in the boats.

THOMAS SINGLETON.

Subscribed and sworn to before me this 8th }
day of September, 1886, after having }
been read over by me to deponent. }

[Seal.]

ANDREW T. LEWIS, *Clerk U. S. Dist. Court.*

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

THE UNITED STATES

vs.

THE SHOONER "CAROLINA."—No. 51.

Whereas on the 6th day of September, 1886, the said District Court duly made and entered in the journal of said court an order in the above entitled action directing that the testimony and depositions of the witnesses: C. A. Abbey, J. J. Cantwell, J. U. Rhodes, J. H. Douglas and Thos. Singleton be taken before me, the clerk of said court, at the time or times and place and upon such notice as are specified in said order:

Now therefore this is to certify that in pursuance of said order, on 7th September, 1886, at 7 o'clock, p.m., each and all of the above-named witnesses appeared before me at the clerk's office of said court at Sitka, District of Alaska, United States of America; that M. D. Ball, Esq., district attorney of said court and district, and W. H. Payson, Esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, Esq., then and there appeared on behalf of and as attorney and proctor for the said schooner and her owners, and James Blake then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September,

1886, and completed the same on said last named day. That the said parties, by their said attorneys and proctors, then and there appeared and were present on each of said last named days, and at all times during the taking of said depositions. That each of said witnesses was then and there first duly cautioned and sworn by me, that the evidence he should give in said action, should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then and there read the same over to him; and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

In witness whereof I have hereunto set my hand and the seal of said district court this 9th day of September, 1886:

[L.S.]

ANDREW T. LEWIS, *Clerk of the United States District Court in and for the District of Alaska, United States of America.*

On the 20th September, 1886, was filed the following amended libel of information:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

August Special Term, 1886.

To the Honorable LAFAYETTE DAWSON, Judge of said District Court.

The amended libel of information of M. D. Ball, attorney for the United States, for the district of Alaska, who prosecutes on behalf of said United States and being present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:—

That C. A. Abbey, an officer in the revenue marine service of the United States, duly commissioned by the President of the United States, in command of the United States revenue cutter "Corwin," and now on special duty in the waters of the district of Alaska heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner "Carolina," her tackle, apparel, boats, cargo and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:—

1 Schooner "Carolina" of Victoria, B.C., 4 canoes, 1 yawl, carpenters' tools, clock, chronometer, nautical instruments, sails and running gear, 2 anchors, ropes, twine, oars, paddles, rowlocks, &c., lamps, tanks, provisions, 685 fur seal skins, 12 pup seal skins, 1 hair seal skin, 4 rifles, 5 shot guns, and ammunition for same, and all other property found upon or appurtenant to said schooner.

That said C. A. Abbey was then and there duly commissioned and authorized by the proper department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:—

That said vessel, her captain, officers and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Onalaska in said territory, and delivered into the keeping of Isaac Anderson, a deputy United States marshal of this district, with the exception of the said arms and ammunition, which latter were brought into the port of Sitka in said dis-

trict and turned over to the United States marshal of this district and all of said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney as aforesaid, further informs and alleges:—

That on the 1st day of August, 1886, James Blake and certain other persons whose names are to said United States attorney unknown, who were then and there engaged on board of the said schooner "Carolina," under the direction and by the authority of James Ogilvie, then and there master of said schooner, engage in killing and did kill, in the territory and district of Alaska, and in the waters thereof, to wit, 20 fur seals, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 685 fur seal skins, 12 pup seal skins and 1 hair seal skin, and other goods so seized on board of said schooner "Carolina" constituted the cargo of said schooner at the time of the killing of said fur seals, at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable court, and that by reason thereof, and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons burden, and her said tackle, apparel, boats, cargo and furniture, became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process, why said forfeiture should not be decreed; and that after due proceedings are had, all of said property be adjudged decreed and condemned as forfeited to the use of the United States and for such other relief as may be proper in the premises.

Dated 20th September, 1886.

M. D. BALL, *U. S. Dist. Attorney for the District of Alaska.*

On the same day was filed the following claim by proctor for owners :

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

In Admiralty.

In the matter of the libel of information against the schooner "Carolina," her tackle, apparel, furniture and cargo.

Claim by Proctor for Owners.

And now W. Clark, the duly authorized proctor for Munzie & Co., owners of the property above named, intervening for the interest of the said Munzie & Co., of Victoria, B.C., owners of the said schooner "Carolina," her tackle, apparel, furniture and cargo as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner "Carolina," her tackle, apparel, cargo and furniture, as set forth in the said libel of information and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, Esq., United States district attorney for the District of Alaska.

And the said W. Clark, proctor as aforesaid, avers that the said Munzie & Co., were in possession of the said schooner "Carolina" at the time of the attachment thereof, and that the said Munzie & Co. above named are the true and *bona fide* owners of the said schooner "Carolina," her tackle, apparel, cargo and furniture as seized by the marshal as aforesaid and that no other person is the owner thereof.

Wherefore he prays to defend accordingly.

W. CLARK. .

W. CLARK AND D. A. DINGLEY, *Proctors for Claimant.*

On the same day was filed the following demurrer:—
 IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
 ALASKA.

UNITED STATES

vs.

MUNZIE & Co. AND SCHOONER "CAROLINA."

Demurrer.

The demurrer of Munzie & Co., claimants of the property proceeded against in the above cause to the amended information filed herein.

1st. The said claimant by protestation, not confessing all or any of the matters in said amended information contained to be true, demurs thereto and says that the said matters in manner and form, as the same are in said information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2nd. The said claimants by protestation deny that this court has jurisdiction to determine or try the question hereby put in issue.

3rd. And that said claimants are not bound in law to answer the same.

Wherefore the said claimants pray that the said information may be dismissed with costs.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

Which was overruled by the court,

On the same day was filed the following answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
 ALASKA.

UNITED STATES

vs.

MUNZIE & Co. AND SCHOONER "CAROLINA."

Answer.

The answer of Munzie & Co., owners and claimants of the said schooner "Carolina," her tackle, apparel, furniture and cargo, as the same are set forth in the information filed herein in behalf of the United States.

And now come Munzie & Co., claimants as aforesaid and for answer to said information against the said schooner "Carolina," her tackle, apparel and cargo, as set forth in said information, says that the said tackle, apparel and cargo, as set forth in the information mentioned, did not, nor did any part thereof, become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore, the said claimants pray that said information be dismissed with costs to these claimants attached.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

On 22nd day of September, 1886, were filed the following exceptions to answer:—

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED
 STATES OF AMERICA.

UNITED STATES

vs.

THE SCHOONER "CAROLINA"—No. 51.

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:—

1st. Said answer is not properly or at all verified as required by rule 27 of the United States Admiralty rules.

2nd. Said answer is not full, explicit or distinct to each or any allegation of the libel herein, as required by said rule.

3rd. Said answer does not deny or admit any of the allegations of fact in said libel, but merely denies a conclusion of law.

September 21st, 1886.

M. D. BALL AND W. H. PAYSON, *Proctors for Libellant.*

Which exceptions were sustained by the court, and on the same day was filed the following amended answer:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ALASKA.

UNITED STATES

vs.

MUNZIE & Co. AND SCHOONER "CAROLINA."

In Admiralty—Amended Answer.

To the Honorable LAFAYETTE DAWSON, Judge of the United States District Court for the District of Alaska.

James Blake, the duly authorized mate of the schooner "Carolina," for Munzie & Co., intervening in the interest of and on behalf of the said Munzie & Co., owners and claimants of said schooner "Carolina," her tackle, apparel, furniture and cargo for amended answer to the libel of information herein against said schooner, her tackle, apparel, furniture and cargo alleges as follows:—

1st. That he denies each and every material allegation in said libel of information contained.

2nd. Denies that the said schooner "Carolina," her tackle, apparel, furniture and cargo, and the property appertaining thereto as set forth in said libel of information or any part thereof became forfeited to the United States.

3rd. Denies that said schooner, her captain, officers and crew or any one of them were found engaged in killing fur seal within the limits of Alaska Territory and within the waters thereof in violation of section 1956 of the Revised Statutes of the United States as set forth in said libel of information or at all.

4th. Denies that they killed any number of fur seal or other fur-bearing animals within the waters of Alaska or within said territory of Alaska, or in any part thereof.

5th. That all and singular the premises herein set forth are true.

Wherefore he prays that this honorable court will be pleased to pronounce against the libel herein, and that the same may be dismissed with costs to these claimants to be taxed.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

UNITED STATES, }
DISTRICT OF ALASKA. } SS.

JAMES BLAKE being first duly sworn upon his oath, says:—

I am the mate of said schooner intervening for the within named claimants. That I have read the foregoing answer and know the contents thereof, and that the same is true as I verily believe.

JAMES BLAKE.

Subscribed and sworn to before me this 22nd }
day of September, A.D. 1886. }

ANDREW T. LEWIS, *Clerk of the U. S. District Court for the District of Alaska.*

On the 4th day of October, 1886, the following return was made to the motion heretofore cited, page 5 :

SITKA,
DISTRICT OF ALASKA. } SS.

Be it remembered, that, in obedience to the annexed motion, I have attached the within described property, and now hold the same in my possession, subject to the order of this honorable court ;

And I have given due notice to all persons claiming said property to be and appear before this District Court on the 4th day of October, 1886, at 10 o'clock, a.m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claim and allegations in that behalf ;

And I have, as ordered by the said court, caused said notice to be published, and the same has been published in the *Alaskan*, a newspaper published at Sitka, in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until said 4th day of October, 1886.

BARTON ATKINS, *Marshal, District of Alaska.*

SITKA, ALASKA, 4th October, 1886.

On the same day was filed the following decree:—

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT
OF ALASKA, UNITED STATES OF AMERICA.

UNITED STATES

vs.

THE SCHOONER "CAROLINA."—No. 51.

The marshal having returned on the motion issued to him in the above entitled action that in obedience thereto he has attached the said schooner "Carolina," her tackle, apparel, boat's cargo and furniture, and has given due notice to all persons claiming the same, to appear before this court on this 4th day of October, 1886, at 10 o'clock, a.m., at the District of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf; and W. Clark, Esq., proctor for Munzie & Co., of Victoria, B.C., having heretofore filed a claim to all of said property on behalf of said Munzie & Co., the owners of said property, and no other persons having appeared, and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, Esq., and W. H. Payson, Esq., appearing as advocates for said libellant, and W. Clark, Esq., as advocate for said claimants; and said cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced and decreed as follows:—

1st. That all persons whatsoever other than the said claimants be and they are hereby declared in contumacy and default.

2nd. That said schooner "Carolina" her tackle, apparel, boats and furniture, and her cargo of 685 fur seal skins, 12 pup seal skins, and 1 hair seal skin, and all other property found upon or appurtenant to said schooner, be and the same are hereby condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of court the usual writ of *venditioni exponas* be issued to the marshal commanding him to sell all the said property and bring the proceeds into this court to be distributed according to law. Costs to be taxed are awarded against said claimants.

Dated 4th October, 1886.

LAFAYETTE DAWSON, *District Judge.*

Done in open court this 4th day of October, 1886, at Sitka, District of Alaska,
United States of America.

Clerk.

On the same day was filed the following motion to set aside decree:—
 IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
 ALASKA.

UNITED STATES

vs.

MUNZIE & Co., AND SCHOONER "CAROLINA."

Motion to set aside Decree.

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and move the court to set aside the decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base the said decree.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

Which motion was overruled by the court, and on the same day was filed the following notice of appeal:—

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
 ALASKA.

UNITED STATES

vs.

MUNZIE & Co. AND SCHOONER "CAROLINA."

Notice of Appeal.

And now come W. Clark and D. A. Dingley, proctors for and in behalf of the claimants herein and notifies this honorable court that they hereby appeal from the decree rendered herein to the Circuit Court having appellate jurisdiction over this district and that said appeal is taken upon questions of law and fact, and pray the court for an order on its clerk to prepare a complete transcript of the record herein, as the law requires.

W. CLARK AND D. A. DINGLEY, *Proctors for Claimants.*

On the 9th day of February, 1887, was entered the following order:—

IN THE MATTER OF THE UNITED STATES,

vs.

SCHOONER "ONWARD,"	No. 49.
do "THORNTON,"	do 50.
do "CAROLINA,"	do 51.
do "SAN DIEGO,"	do 52.
ARMS AND AMMUNITION SCHOONER "SIERRA,"	do 57.
do do "CITY OF SAN DIEGO,"	do 58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of *venditioni exponas* do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes and furniture of whatsoever description, and of the arms and ammunition attached in said causes,—And as to said attached vessels that the sale of the same (except the schooner "San Diego," which shall be sold at Sitka) shall be made at Port Townsend, in the District of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the District of California, and that sale of said schooner "San Diego," and all the other attached property be made at Sitka, in the District of Alaska. Thirty days' notice of such sales to be given at each of

the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively. And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this, the said District of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE U. S. DIST. COURT, DISTRICT OF ALASKA
SITKA, 10th March, 1887.

I, Andrew T. Lewis, clerk of the United States District Court for the District of Alaska, do certify that the foregoing transcript of the record in the case of the United States vs. the schooner "Carolina," her tackle, apparel, &c., on libel of information, pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of said original record, except the full text of the exhibits referred to in the testimony therein, of which the purport only is stated, and that the said purport of said exhibits is correctly stated, as the same appears of record at my office and in my custody.

Witness my hand and the seal of said court the day and year above written.

[Seal.]

ANDREW T. LEWIS, *Clerk.*

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