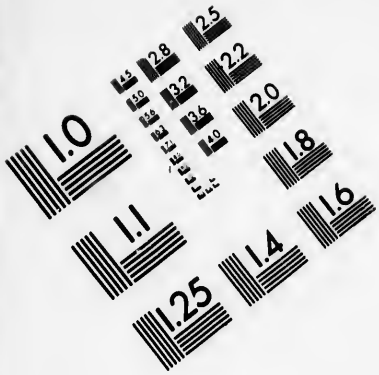

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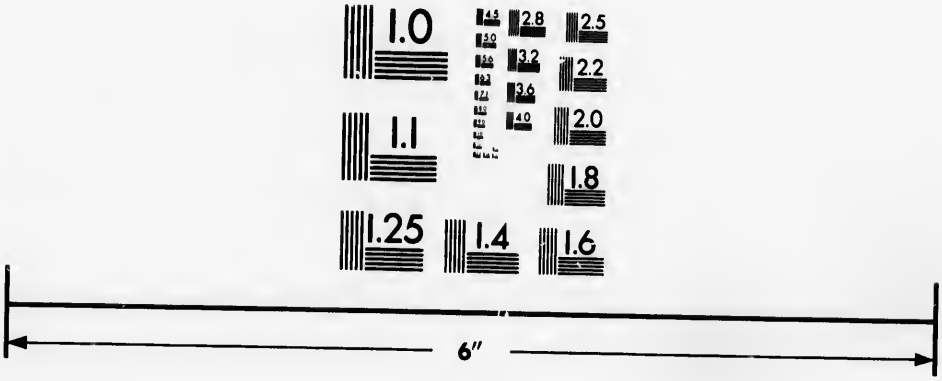

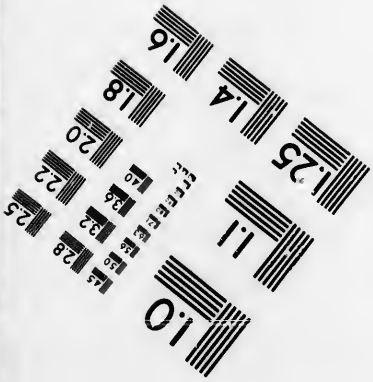

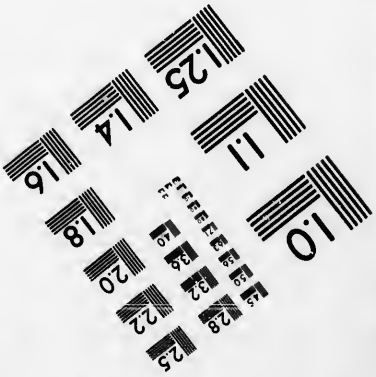

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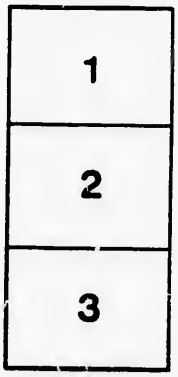

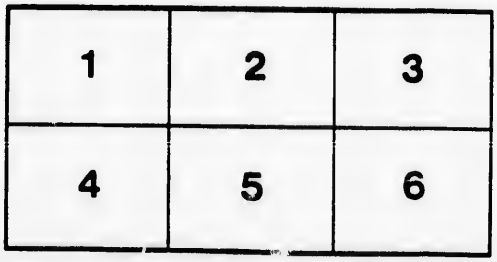

FROM REPORT OF THE DEPARTMENT OF MARINE AND FISHERIES 1895

THE BEHRING SEA QUESTION

EMBRACING

THE FUR SEALING INDUSTRY OF THE NORTH PACIFIC OCEAN AND THE INTERNATIONAL AGREEMENT

BETWEEN

RUSSIA AND GREAT BRITAIN

By R. N. VENNING

OTTAWA
GOVERNMENT PRINTING BUREAU
1896

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THE FUR SEALING INDUSTRY OF THE NORTH PACIFIC OCEAN, AS AFFECTED BY THE BEHRING SEA AWARD AND CONSEQUENT LEGISLATION, AS WELL AS BY THE INTERNATIONAL AGREEMENT BETWEEN GREAT BRITAIN AND RUSSIA.

BY R. N. VENNING.

Part I.—THE BEHRING SEA QUESTION.

A general outline of the standing of this question has, from year to year, been recorded in the departmental reports, the last, that for 1894, in dealing with the operations of the year immediately following the promulgation of the Paris Award Regulations, reviewed somewhat fully the machinery for that year provided to give effect to the award and consequent legislation.

The text of the legislation provided by the respective governments, as well as that of the instructions to the naval officers charged with the patrol of the waters affected by the award, formed part of the article, as also did that of the temporary and tentative agreement reached during 1894, for the sealing up of the implements of the sealing vessels traversing the North Pacific Ocean, east of the 180th meridian, during the close season.

DEPARTURE OF THE SEALING FLEET.

The following schedule shows the sealing fleet and the point of destination of each vessel which cleared for the spring fishery on the north-west coast of America, and on the coast of Japan, respectively:

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British Columbia Sealing Fleet, 1895.

Vessel.	Tonnage.	Master.	Crew.		Owners and Managing Owners.	Destination.	Sailed.
			White.	Indian.			
Agnes McDonald	107	M. F. Cutler	25		J. Collister	Japan	Jan. 10, 1895.
Amoko	75	George Heater	6	24	William Grant	B. C. coast	do 26, 1895.
Amateur	18	C. Jipson	2	15	C. Jipson	do	do 28, 1895.
Annie C. Moore	113	C. Hackett	9	36	Charles Hackett	do	do 23, 1895.
Annie E. Paint	82	A. Bissett	26		E. B. Marvin & Co	Japan	do 8, 1895.
Arietis	86	O. Scarf	22		William Munsie	do	do 25, 1895.
Aurora	41	T. Harold	7	20	T. Harold	B. C. coast	Feb. 1, 1895.
Beatrice	66	Macauley	5	24	William Grant	do	Jan. 19, 1895.
Beatrice	49				Wrede & Doering	do	do 19, 1895.
Borealis	37	E. Robbins	21		Thomas Harold	Japan	do 4, 1895.
Brenda	100	C. E. Locke	26		R. P. Rithet & Co., Ltd	do	do 14, 1895.
C. D. Rand	51	J. J. Whiteley	6	24	Robert Ward & Co., Ltd	B. C. coast	do 15, 1895.
Carlotta G. Cox	76	C. J. Harris	23		E. B. Marvin & Co	Japan	do 10, 1895.
Casco	63	C. LeBlanc	19		George Collins	do	do 10, 1895.
City of San Diego	46	S. Pike	17		H. F. Sieverd, William Munsie	do	do 4, 1895.
Diana	50	A. Nelson	19		E. B. Marvin & Co., George Collins	do	do 8, 1895.
Dora Sieverd	93	Sieverd	8	30	Robt. Ward & Co., Ltd., & H. F. Sieverd	B. C. coast	do 19, 1895.
E. B. Marvin	96	W. D. Byers	26		H. P. Rithet & Co., Ltd., & E. B. Marvin & Co.	Japan	do 10, 1895.
Enterprise	69	J. Daley	6	28	Thos. Earl, Robt. Ward & Co., Ltd	B. C. coast	Feb. 7, 1895.
Favourite	80	L. McLean	7	36	R. P. Rithet & Co., Ltd	do	do 4, 1895.
Fawn	59	M. Keefe	6	26	Thomas Earle	do	Jan. 29, 1895.
Fisher Maid	21	Chipps	1	12	Chipps	do	do 26, 1895.
Florence M. Smith	99	L. McGrath	9	36	C. J. Kelly, Marvin & Co	do	Feb. 14, 1895.
Geneva	92	W. O'Leary	27		Hall, Goepel & Co	Japan	Dec. 31, 1894.
Kate	58	O. Bucholz	6	24	Captain Warren	B. C. coast	Jan. 30, 1895.
Katharine	81	I. Gould	6	24	I. Gould	do	do 23, 1895.
Kilmeny	18	R. Southley	3	12	F. A. Nicholson	do	Feb. 6, 1895.
Labrador	25	J. Williams		17	J. Williams	do	do 4, 1895.
Libbie	93	F. Hackett	8	28	C. Hackett	do	Jan. 23, 1895.
Mary Ellen	63	G. R. Ferey	9	20	V. Jacobson	Japan	do 11, 1895.
Mary Taylor	43	R. Lavender	15		A. Bechtel	B. C. coast	do 15, 1885.
Mascot	40	E. Larenz	7	16	H. F. Sieverd	Japan	Dec. 28, 1894.
Maud S	97	R. E. McKeil	8	36	Rithet & Co., Ltd	B. C. coast	Jan. 22, 1895.
May Bell	58	E. Shields	7	24	William Munsie	do	do 22, 1895.
Mermaid	73	W. Whiteley	24		Robert Ward & Co	Japan	do 8, 1895.
Mountain Chief	23	J. Nawassum	3	16	J. Nawassum	B. C. coast	Feb. 4, 1895.
Ocean Belle	83	P. Martin	23		Hall, Goepel & Co	Japan	Jan. 4, 1895.
Oscar & Hattie	81	T. Magneson	6	34	Thomas Earle	B. C. coast	do 23, 1895

British Columbia Sealing Fleet, 1895—*Concluded.*

Libbie	93	F. Hackett	8	28	C. Hackett	do	Jan. 23, 1895.
Mary Ellen	63	G. R. Ferey	9	20	V. Jacobson	Japan	do 11, 1895.
Mary Taylor	43	R. Lavender	15		A. Bechtel	B. C. coast	do 15, 1885.
Mascot	40	E. Larenz	7	16	H. F. Siewerd	Japan	Dec. 28, 1894.
Maud S	97	R. E. McKeil	8	36	Rithet & Co., Ltd	B. C. coast	Jan. 22, 1895.
May Bell	58	E. Shields	7	24	William Munsie	do	do 22, 1895.
Mermaid	73	W. Whiteley	24		Robert Ward & Co	Japan	do 8, 1895.
Mountain Chief	23	J. Nawassum	3	16	J. Nawassum	B. C. coast	Feb. 4, 1895.
Ocean Belle	83	P. Martin	23		Hall, Goepel & Co	Japan	Jan. 4, 1895.
Oscar & Hattie	81	T. Magneson	6	34	Thomas Earle	B. C. coast	do 23, 1895

BRITISH COLUMBIA Sealing Fleet, 1895—*Concluded.*

Vessel.	Tonnage.	Master.	Crew.		Owners and Managing Owners.	Destination.	Sailed.
			White.	Indian.			
Otto	86	J. McLeod	6	28	William Munsie	B. C. coast	Jan. 24, 1895.
Pachwellis	19	J. Nyetam		16	James Nyetam	do	Feb. 4, 1895.
Pioneer	59	W. E. Baker	24		A. Bechtel	Japan	Jan. 11, 1895.
Rosie Olsen	39	A. Whidden	6	20	A. K. Munroe	do	Dec. 27, 1894.
Sadie Turpel	56	J. Anderson	19		D. Campbell	do	Jan. 19, 1895.
Sapphire	109	W. Cox	8	36	E. B. Marvin & Co	B. C. coast	do 23, 1895.
San Jose	31	M. Foley	6	21	Rithet & Co	do	do 29, 1895.
Saucy Lass	38	D. Martin	6	20	Alexander Rosse	Japan	do 11, 1895.
Shelby	16	C. Claussen	10		Louis Wille	B. C. coast	Feb. 13, 1895.
South Bend	21	C. F. Dillon			C. F. Dillon	do	do 15, 1895.
Teresa	63	G. Meyer	7	24	Thomas Babbington	do	do 1, 1895.
Triumph	88	C. N. Cox	8	36	E. B. Marvin & Co	do	Jan. 23, 1895.
Umbrina	98	C. Campbell	25		R. P. Rithet & Co	Japan	do 14, 1895.
Vera	60	W. Shields	20		E. B. Marvin & Co	do	do 18, 1895.
Victoria	63	R. Balcom	5	25	do	B. C. coast	do 29, 1895
Viva	92	M. Pike	23		William Munsie	Japan	do 4, 1895.
Walter E. Earle	68	L. Magmeson	6	28	Thomas Earle	B. C. coast	Feb. 16, 1895.
Walter L. Rich	76	S. Balcom	6	25	George E. Munroe	do	do 29, 1895.

CUSTOMS, CANADA,
COLLECTOR'S OFFICE, May 11, 1895,
Victoria, B.C.

A. R. MILNE,
Collector.

The list represents a total of 56 vessels, 22 of which were destined for the Asiatic coast and 34 for the North American coast.

An examination of the schedule shows that 3 vessels cleared in December 1894, the "Rosie Olsen," the "Mascot" and the "Geneva," on the 27th, 28th and 31st respectively, all of them bound for the Asiatic side. These were consequently the earliest clearances for the sealing season of 1895; the remainder of the fleet following them in January and February, forty clearing in the former and thirteen in the latter month; so that by the end of February the whole of the spring sealing fleet had cleared for the sealing grounds, and distributed themselves along both shores of the North Pacific Ocean.

In addition to this fleet of 56 vessels, there remained in the port of Victoria the following sealers intending to participate in the Behring Sea seal fishery at the expiry of the close-season on the 31st July:—

"Henrietta"	31	Tons.
"Minnie"	46	do
"Penelope"	70	do
"South Bend"	21	do
"Venture"	48	do
"Wanderer"	25	do
"W. P. Sayward"	60	do

LEGISLATION.

No change has been made in the Imperial legislation—"Behring Sea award Act, 1894,"—but in order that due effect should be given to the arrangements under articles 4 and 7 of the award, provided for by Order in Council of 1894, a subsequent Imperial Order in Council was passed on the 2nd February, 1895, of which the following is the text:—

AT THE COURT AT OSBORNE HOUSE.

ISLE OF WIGHT,

The second day of February, 1895.

Present.

THE QUEEN'S MOST EXCELLENT MAJESTY.

Lord President. Lord Kensington.
Marquess of Ripon. Mr. Cecil Rhodes.
Lord Chamberlain.

Whereas by "The Behring Sea Award Act, 1894," it is enacted that Her Majesty the Queen in Council may make orders for carrying into effect the provisions of the Behring Sea Arbitration Award set out in the First Schedule to that Act, and therein referred to as the scheduled provisions:

And whereas arrangements have been made between Her Majesty and the Government of the United States for giving effect to Articles 4 and 7 of the said scheduled provisions, and it is expedient that effect should be given to those arrangements by an Order in Council under the said Act:

Now, therefore, Her Majesty, in virtue of the powers vested in Her by the said recited Act, and of all other powers enabling her in that behalf, is hereby pleased, by and with the advice of her Privy Council, to order, and it is hereby ordered, as follows:—

1. On the application of the owner or master of any British sailing-vessel intended to be employed in fur-seal fishing under the provisions of the recited Act, a Secretary of State, or any person duly authorized by him for the purpose, may, if satisfactory evidence as required by the said article 7 has been given by such owner or master of the fitness of the men to be employed by him on said vessel in the said fishing, grant a special license in the form in the schedule hereto, authorizing that vessel (for the year mentioned in the license) to fish for fur-seals during the period in the manner and in the waters in which fur seal is allowed by the recited Act; and the said special license, when so granted, shall be carried on board the said vessel at all times while so employed.

2. Every British sailing-vessel provided with a special license under this Order shall show, under her national colours, a flag, not less than 4 feet square, of two equal triangular pieces, yellow and black, joined from the right-hand upper corner of the fly to the left-hand lower corner of the luff, the part above and to the left to be black, and the part to the right and below to be yellow.

3. If in the case of any vessel there is any contravention of these regulations, a Secretary of State, or any person duly authorized by him for the purpose, whether any penalty has been recovered under the recited Act or not, may revoke the special license, whether the same was granted by a Secretary of State or by such person.

4. This Order may be cited as "The Behring Sea Award Order in Council, 1895," and "The Behring Sea Award Order in Council, 1894," and this Order may together be cited as "The Behring Sea Award Orders in Council, 1894 and 1895."

And the Right Honourable the Earl of Kimberly, K. G., and the Most Honourable the Marquess of Ripon, K. G., two to Her Majesty's Principal Secretaries of State, and the Lords of the Admiralty are to give the necessary directions herein as to them respectively appertain.

And whereas the immediate operation of the immediate operation of this Order is urgent, this Order shall come into operation forthwith.

C. L. PEEL.

THE LICENSE.

The Order in Council above quoted, necessitated some change in the form of license which had been tentatively adopted in 1894, although the changes were entirely of a formal character, involving no inconvenience or additional restrictions to, or upon the sealers.

Moreover, certain objections had been interposed by the Canadian Government to the form of license provided for by the Imperial Order in Council of 1894.

It was thought that it would be preferable if the issue of the licenses were not limited to a Secretary of State, and the master, as well as the owner, of a vessel could apply for the license and satisfy the issuing officer as to the fitness of his hunters. Otherwise, it appeared to the Canadian government, that unnecessary delay and complication were not unlikely to arise.

Her Majesty's Government concurred in the view of the Canadian Government in this respect, and the modifications in form, necessitated by the Imperial Order in Council of 1895, were such as removed all cause for objection.

The license accordingly issued in the following form :—

THE BEHRING SEA AWARD ACT, 1894.

THE BEHRING SEA AWARD ORDER IN COUNCIL, 1895.

Special License.

Whereas the British sailing vessel.....is intended to be employed in fishing for fur-seals under the provisions of "The Behring Sea Award Act, 1894."

And whereas satisfactory evidence of the fitness of the men who are to be employed on board the said vessel in the said fishing, has been given by.....
..... the owner, or (owners or master)
.....of the said vessel.

And whereas I, Alexander Roland Milne, Collector of Customs at the Port of Victoria, in the Province of British Columbia, Canada, have been duly authorized by a Secretary of State to grant special licenses under the provisions of the above mentioned Act and Order in Council.

Now, therefore, in pursuance of the above mentioned Act and Order in Council I hereby authorize the said vessel for the year.....
to be employed in fur-seal fishing during the period of time, in the manner and in the waters in which fur-seal fishing is allowed by the above mentioned Act.

This special license is subject to revocation in case of any contravention of the above mentioned Act or Order in Council.

Given under my hand this.....day of.....189....

.....
Collector of Customs.
at the Port of.....

The announcement of the issue of the Imperial Order in Council, with attendant changes in the license form, reached the department only subsequent to the departure of the sealing fleet, thus the issue of the new license form was impracticable, consequently all the vessels included in the foregoing list which cleared on sealing voyages during 1895, left port with licenses in the form as agreed upon for the previous year.

THE AGREEMENT FOR THE SEALING UP OF IMPLEMENTS.

This agreement, which had been entered into between the two governments, for 1894, but to which Canada had been unable to accede, was intended to afford an opportunity to the masters of sealing vessels to establish their *bona fides* by voluntarily having their sealing implements secured under seal when traversing, during the close season, on their homeward voyages or otherwise, the waters affected by the Paris Award.

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

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

It, however, was purely optional with the master of the vessel who was free to either avail himself of the expedient or not, as he might elect.

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

The gun found on board the "Wanderer" was a signal rocket gun, used to recall the boats at night and wholly unfitted for use in killing seals. The practical effect of the agreement had, therefore, been to constitute the possession of fire-arms on board a sealing schooner during the close season, an offence punishable by seizure notwithstanding that no such offence was contemplated by the award or the Imperial legislation effecting it.

Early in the month of May, Her Majesty's Government announced the decision reached not to renew for 1895 this agreement with the United States' Government, which decision was immediatly communicated to the collector of customs at Victoria.

THE PATROL FLEET.

The United States patrol fleet detailed for the duty of enforcing the award regulations consisted this year of seven vessels, viz.:

The revenue cutters, "Rush," "Bear," "Corwin," "Wolcott," "Grant," "Perry," and the United States Fish Commission steamer "Albatross."

The vessels detailed by Her Majesty's Government for similar duty, were H.M.S. "Pheasant" and H.M.S. "Nymph."

BOARDING OF BRITISH VESSELS BY U. S. PATROL SHIPS.

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

SEALING SEASON, 1895.

List of Boardings in Behring Sea by United States Revenue Cutters.

Vessels.	Tonnage.	Masters.	Boarding Vessels.	Dates.	Latitude.	Longitude	—
				1895.	° ′	° ′	
Vera	60	W. Shields	U.S.R.C. Rush	Aug. 24	54 59 N.	168 03W.	Position and catch certified correct by F. M. Dunwoody, 1st Lieut.
do	60	do	do Grant	do 31	55 05 N.	168 15W.	do do F. H. Dinock, 2nd do
C. G. Cox	76	Charles Harris	do do	do 21	55 .. N.	170 24W.	do do J. G. Berry, 2nd do
do	76	do	do Perry	do 28	55 21 N.	170 08W.	do do E. V. Johnson, 2nd do
Triumph	98	Clarence N. Cox	do Rush	do 5	55 05 N.	167 05W.	do do F.S. VanBoskerck, 3rd do
do	98	do	do Grant	do 9	54 51 N.	167 20W.	do do J. G. Berry, 2nd do
do	98	do	do Rush	do 12	54 57 N.	167 20W.	do do F. M. Dunwoody, 1st do
do	98	do	do Corwin	do 19	55 32 N.	168 13W.	do do D. A. DeOtts, 1st do
do	98	do	do Grant	Sept 3	55 05 N.	169 25W.	do do K. W. Perry, 2nd do
Katherine	81	Isaac Gould	do do	Aug. 11	54 57 N.	167 58W.	do do K. W. Perry, 2nd do
do	81	do	do Rush	do 24	54 47 N.	168 27W.	do do J. G. Ballinger, 2nd do
Borealis	37	Edgar F. Robbins	do Perry	do 26	56 .. N.	172 32W.	do do E. V. Johnson, 2nd do
Minnie	46	Victor Jacobson	do Grant	do 11	54 55 N.	167 57W.	do do J. G. Berry, 2nd do
Agnes McDonald	107	M. P. Cutler	do Rush	do 5	54 53 N.	167 43W.	do do F. M. Dunwoody, 1st do
do	107	do	do Grant	do 10	54 59 N.	168 30W.	do do K. W. Perry, 2nd do; F. H. Dinock, 2nd do
do	107	do	do do	do 14	55 23 N.	168 27W.	do do K. W. Perry, 2nd do; F. H. Dinock, 2nd do
do	107	do	do Rush	do 24	54 55 N.	168 10W.	do do J. G. Ballinger, 2nd do
Libbie	92	Fred Hackett	do Grant	do 22	55 59 N.	173 11W.	do do J. G. Berry, 2nd do
do	92	do	do Perry	do 25	56 12 N.	172 12W.	do do C. S. Craig, 2nd do
do	92	do	do Rush	Sept. 2	56 11 N.	172 47W.	do do J. G. Ballinger, 2nd do
Mary Ellen	79	George R. Fery	do do	July 27	.....	.....	Boarded in Ounalaska Harbour.
do	79	do	do Bear	Sept. 19	.....	.....	do do
Maud S	97	Robt. E. McKeil	do Rush	Aug. 19	55 03 N.	169 49W.	Position and catch certified correct by F. M. Dunwoody, 1st Lieut.
do	97	do	do Grant	do 19	55 .. N.	169 42W.	do do F. H. Dinock, 2nd do
Annie E. Paint	7[illegible]	Alfred Bissett	do Rush	do 16	55 24 N.	170 18W.	do do F. M. Dunwoody, 1st do
do	7[illegible]	do	do Grant	do 19	55 .. N.	170 17W.	do do K. W. Perry, 2nd do
do	78	do	do Perry	do 26	56 03 N.	172 35W.	do do C. S. Craig, 2nd do
do	78	do	do Rush	Sept. 2	56 06 N.	172 12W.	do do F.S. VanBoskerck, 3rd do
Henrietta	30	W. D. McDougall	do do	Aug. 3	55 31 N.	166 18W.	do do F.S. VanBoskerck, 3rd do
do	30	do	do do	do 21	54 27 N.	167 14W.	do do J. G. Ballinger, 2nd do
Wanderer	25	Henry Paxton	do Grant	do 15	54 09 N.	167 15W.	do do D. F. Lozier, Captain. K. W. Perry, 2nd Lieut.

List of Boardings in Behring Sea by United States Revenue Cutters—*Concluded.*

Vessels.	Tonnage.	Masters.	Boarding Vessels.		Date.	Latitude.	Longitude	——			
					1895.	° ′	° ′				
Wanderer	25	Henry Paxton	U.S.R.C. Rush		Aug. 24	54 55 N.	168 20W.	Position and catch certify correct by		J. G. Ballinger,	2nd Lieut
do	25	do	do	do	do 31	54 55 N.	167 59W.	do	do	F. M. Dunwoody,	1st do
do	25	do	do	do	Sept. 16	55 27 N.	169 41W.	do	do	F.S. VanBoskerck,	2nd do
Dora Siewerd	93	H. F. Siewerd	do	do	Aug. 5	55 02 N.	168 07W.	do	do	J. G. Ballinger,	2nd do
do	93	do	do	do	do 23	55 20 N.	168 02W.	do	do	F. M. Dunwoody,	1st do
do	93	do	do	do	Sept. 1	55 28 N.	170 26W.	do	do	F. M. Dunwoody,	1st do
Kate	58	Otto Buckholz	do	do	Aug. 22	54 43 N.	167 19W.	do	do	F. M. Dunwoody,	1st do
do	58	do	do	Grant	Sept. 3	55 13 N.	169 53W.	do	do	J. G. Berry,	2nd do
Aurora	41	Thomas Harold	do	Rush	Aug. 4	55 30 N.	168 26W.	do	do	F. M. Dunwoody,	1st do
										J. G. Ballinger,	2nd do
do	41	do	do	Grant	do 9	55 01 N.	167 30W.	do	do	J. G. Berry,	2nd do
do	41	do	do	Rush	do 23	54 49 N.	167 35W.	do	do	F.S. VanBoskerck,	3rd do
do	41	do	do	Grant	Sept. 3	55 13 N.	169 03W.	do	do	J. G. Berry,	2nd do
Florence M. Smith	98	Luke McGrath	do	do	Aug. 11	54 40 N	167 26W.	do	do	J. G. Berry,	2nd do
do	98	do	do	Corwin	do 14	54 56 N.	167 15W.	do	do	F. A. DeOtts,	2nd do
do	98	do	do	Perry	do 15	54 43 N.	167 12W.	do	do	E. V. D. Johnson,	2nd do
Annie C. Moore	113	Charles Hackett	do	Grant	do 12	55 .. N.	169 56W.	do	do	K. W. Perry,	2nd do
										F. H. Dinock,	2nd do
Ainoko	75	George Heater	do	do	Sept. 2	55 14 N.	166 37W.	do	do	J. G. Berry,	2nd do
Walter L. Rich	76	Spratt Balcam	do	Rush	Aug. 12	54 53 N.	167 14W.	do	do	F. M. Dunwoody,	1st do
do	76	do	do	do	do 18	55 07 N.	170 25W.	do	do	F.S. VanBoskerck,	3rd do
do	76	do	do	Perry	do 28	55 24 N.	170 17W.	do	do	C. S. Craig,	2nd do
do	76	do	do	Grant	do 31	55 11 N.	168 08W.	do	do	J. G. Berry,	2nd do
do	76	do	do	do	Sept. 3	55 05 N.	169 16W.	do	do	K. W. Perry,	2nd do
do	76	do	do	Bear	do 20	55 12 N.	167 30W.	do	do	G. M. Daniels,	2nd do
do	76	do	do	Grant	Aug. 9	54 52 N.	167 33W.	do	do	J. G. Berry,	2nd do
Sapphire	109	William Cox	do	Perry	do 11	54 30 N.	167 06W.	do	do	C. S. Craig,	2nd do
do	109	do	do	Rush	do 12	54 48 N.	167 31W.	do	do	F. M. Dunwoody,	1st do
do	109	do	do	do	do 17	55 09 N.	170 37W.	do	do	do	1st do
do	109	do	do	Grant	do 21	55 02 N.	170 18W.	do	do	K. W. Perry,	2nd do
do	109	do	do	Rush	Sept. 2	56 46 N.	172 55W.	do	do	F. M. Dunwoody,	1st do
Beatrice, Vancouver	49	L. Olsen	do	do	Aug. 20	55 10 N.	168 55W.	83 skins found on board in excess of catch in official log,		J. G. Ballinger,	2nd Lieut
Labrador	25	John G. Searle	do	do	do 22	54 47 N.	167 11W.	Position and catch certified correct by		F. M. Dunwoody,	1st do
Victoria	63	Ruben Balcam	do	do	do 24	54 52 N.	167 54W.	do	do	do	1st do
do	63	do	do	do	do 31	54 53 N.	167 45W.	do	do	do	1st do
do	63	do	do	Grant	Sept. 2	55 19 N.	166 54W.	do	do	K. W. Perry,	2nd do
do	63	do	do	do	Aug. 10	55 06 N.	168 16W.	do	do	do	2nd do
Teresa	63	George Myers	do	do	do 12	55 05 N.	169 22W.	do	do	do	2nd do

do	109	do	do	do	17..	55 09 N.	170 54W.	do	do	K. W. Perry,	2nd do
do	109	do	do	Grant	do 21..	55 02 N.	170 18W.	do	do	F. M. Dunwoody,	1st do
do	109	do	do	Rush	Sept. 2..	56 46 N.	172 55W.	do	do	J. G. Ballinger,	2nd Lieut
Beatrice, Vanconver.	49	L. Olsen	do	do	Aug. 20..	55 10 N.	168 55W.	83 skins found on board in excess of catch in official log,			
Labrador	25	John G. Searle	do	do	do 22..	54 47 N.	167 11W.	Position and catch certified correct by F. M. Dunwoody,			1st do
Victoria	63	Ruben Balcam	do	do	do 24..	54 52 N.	167 54W.	do	do	do	1st do
do	63	do	do	do	do 31..	54 53 N.	167 45W.	do	do	do	1st do
do	63	do	do	Grant	Sept. 2..	55 19 N.	166 54W.	do	do	K. W. Perry,	2nd do
do	63	do	do	do	Aug. 10..	55 06 N.	168 16W.	do	do	do	2nd do
Teresa	63	George Myers	do	do	do 12..	55 05 N.	169 22W.	do	do	do	2nd do
do	63	do	do	Rush	do 18..	54 08 N.	170 26W.	do	do	J. G. Ballinger,	2nd do
do	63	do	do	do	do 24..	54 47 N.	168 27W.	do	do	do	2nd do
do	63	do	do	do	do 31..	55 57 N.	168 20W.	do	do	F. M. Dunwood;	1st do
do	63	do	do	Grant	Sept. 2..	54 23 N.	167 00W.	do	do	K. W. Perry,	2nd do
Penelope	69	William Heater	do	do	Aug. 11..	54 44 N.	167 21W.	do	do	J. G. Berry,	2nd do
do	69	do	do	Rush	do 12..	54 02 N.	167 06W.	do	do	F. M. Dunwoody,	1st do
do	69	do	do	Corwin	do 14..	54 43 N.	167 13W.	do	do	D. F. A. DeOtts,	2nd do
do	69	do	do	Perry	do 15..	54 30 N.	166 55W.	do	do	E. V. D. Johnson,	2nd do
do	69	do	do	Grant	Sept. 3..	54 58 N.	169 09W.	do	do	K. W. Perry,	2nd do
Favourite	80	L. McLean	do	Rush	Aug. 5 .	55 16 N.	168 13W.	do	do	F. M. Dunwoody,	1st do
do	80	do	do	Perry	do 11..	55 04 N.	166 07W.	do	do	E. V. D Johnson,	2nd do
E. B. Marvin	99	W. D. Byers	do	Grant	do 21..	55 02 N.	170 27W.	do	do	J. G. Berry,	2nd do
do	99	do	do	Perry	do 26..	56 00 N.	172 28W.	do	do	C. S. Craig,	2nd do
do	99	do	do	Rush	Sept. 2.	56 18 N.	172 47W.	do	do	F.S. VanBoskerck,	3rd do
Beatrice, Shanghai	66	D. G. Macauley	do	Grant	Aug. 11..	54 52 N.	169 15W.	do	do	K. W. Perry,	2nd do
Oscar and Hattie	81	Theo. Magnesen	do	do	do 9..	55 01 N.	167 26W.	do	do	J. G. Berry,	2nd do
do	81	do	do	Rush	do 12..	54 49 N.	168 03W.	do	do	J. G. Ballinger,	2nd do
do	81	do	do	Grant	do 14..	55 17 N.	168 25W.	do	do	K. W. Perry,	2nd do
do	81	do	do	do	do 18..	55 20 N.	170 05W.	do	do	F.S. VanBoskerck,	3rd do
do	81	do	do	do	do 20..	55 00 N.	169 48W.	do	do	J. G. Berry,	2nd do
do	81	do	do	do	do 31..	55 20 N.	167 43W.	do	do	K. W. Perry,	2nd do
San Jose	31	M. Foley	do	do	do 14 .	55 05 N.	167 25W.	do	do	W. V. E. Jacobs,	2nd do
do	31	do	do	do	do 11..	54 47 N.	167 38W.	do	do	J. G. Berry,	2nd do
do	31	do	do	Rush	do 24..	55 10 N.	167 58W.	do	do	F. M. Dunwoody,	1st do
do	31	do	do	Grant	Sept. 2.	54 57 N.	168 45W.	do	do	K. W. Perry,	2nd do
South Bend.	20	C. F. Dillon	do	Rush	Aug. 22..	54 58 N.	166 36W.	do	do	F. M. Dunwoody,	1st do
do	20	do	do	Perry	Sept. 3..	.....	.....	Boarded and inspected at Ounalaska,		C. S. Craig,	2nd do
Enterprise	69	John Daley	do	Rush	Aug. 7..	55 24 N.	169 02W.	Position and catch certified correct by J. G. Ballinger,			2nd do
do	69	do	do	do	do 17..	55 05 N.	169 53W.	do	do	F. M. Dunwoody,	1st do
do	69	do	do	Grant	do 20 .	55 11 N.	170 03W.	do	do	J. G. Berry,	2nd do
do	69	do	do	Perry	do 28..	55 18 N.	170 17W.	do	do	E. V. Johnson,	2nd do
do	69	do	do	Rush	Sept. 1..	55 03 N.	169 53W.	do	po	F. M. Dunwoody,	1st do
Saucy Lass	42	Daniel Martin	do	Grant	Aug. 11.	54 47 N.	167 38W.	do	do	J. G. Berry,	2nd do
do	42	do	do	Rush	do 12..	54 48 N.	167 31W.	do	do	F. M. Dunwoody,	1st do
C. D. Rand (of Vancouver)	51	John J. Whiteley	do	do	do 5..	54 57 N.	167 45W.	do	do	F.S. VanBoskerck,	3rd do
do	51	do	do	do	do 11..	54 33 N.	166 36W.	do	do	F. M. Dunwoody,	1st do
do	51	do	do	do	do 31..	54 50 N.	168 08W.	do	do	do	1st do
do	51	do	do	Grant	do 31..	55 18 N.	167 48W.	do	do	John G. Berry,	2nd do
do	51	do	do	do	Sept. 3..	55 03 N.	169 23W.	do	do	K. W. Perry,	2nd do

PORT OF VICTORIA, B.C.

A. R. MILNE,
Collector.

This list represents a total of thirty-five vessels visited. An examination will show that between the 3rd August and the 20th September, the aggregate number of boardings was 106, an average of three to each sealing vessel, distributed among the fleet as follows:—

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

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

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

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

This represents one boarding only, but it serves to illustrate the irritating and vexatious espionage which the sealers have undergone, when boarded five or six times in about six weeks.

It is obvious that these licensed vessels, pursuing a legitimate calling, the character of which is essentially most hazardous both to life and capital, are at all times subject to what they consider the most provoking and unfriendly, if not, indeed, wholly unwarranted interference.

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

While the searching of the vessels and examination of the skins in Behring Sea, appears to be largely designed to detect skins of seals killed by fire-arms, which are forbidden there, it is noteworthy that a large majority of the vessels cleared for the Behring Sea voyage equipped for spearing only, and carried no fire-arms; yet this fact in no way secured them immunity from the search and attendant inconvenience above explained.

The efficiency and completeness of the patrol in Behring Sea must, in the light of the above circumstances, be amply demonstrated, and it would seem that the *bona fides* of the Canadian sealing fleet cannot be successfully assailed, notwithstanding the abnormally strict supervision which has been exercised over it.

It is gratifying that the good faith, good citizenship and law-abiding character of the Canadian sealers, is emphasized by the fact that in no instance has a British vessel been reported as even dangerously near the sixty-mile zone.

In addition to the vessels contained in the foregoing list the following were in Behring Sea but were not boarded: "Director," "May Belle," "Mascot," "Otto," "Fawn."

THE SEASON'S CATCH.

The following table prepared by Collector Milne, of Victoria, B.C., comprises a complete detailed return of the season's operations by the British sealing fleet, as well as returns of the catches by the United States fleet, and that of the respective lessees of the American and Russian Seal Islands, thus embracing the total take of seals in the North Pacific Ocean.

Return of the Seal Catch for the Season of 1895.

Vessels.	Tons.	Masters.	Crews. Whites.	Crews. Indians.	Boats.	Canoes.	Catch. B. C. Coast.	Catch. Japan Coast.	Catch. Vicinity of Copper Island.	Catch. Behring Sea. Males.	Catch. Behring Sea. Females.	Totals.
Agnes McDonald	107	M. F. Cutler	28	14	8	7		711		593	669	1,973
Ainoko	75	G. Heater	7	26	2	13	325			479	515	1,319
Amateur	18	C. Jipson	2	14		7	65					65
Annie C. Moore	113	C. Hackett	8	30	2	15	105			730	812	1,647
Annie F. Paint	82	A. Bissett	26		8			1,121	135	191	575	2,022
Arietis	86	O. Scarf	22		7			680	426			1,106
Aurora	41	T. Harold	7	22	2	11	108			186	527	821
Beatrice, Shanghai	66	D. G. Macauley	5	28	1	14	230			608	838	1,676
Beatrice, Vancou'r	49	L. Olsen	18		6	2				93	109	202
Borealis	37	E. Robbins	21		6			801	110	96	641	1,648
Brenda	100	C. E. Locke	*	*				881				881
C. D. Rand	51	J. J. Whiteley	7	16	3	8	143			182	459	784
Carlotta G. Cox	76	C. J. Harris	26		8			920	22	176	449	1,567
Casco	63	C. LeBlanc	19		6			1,308	351			1,659
City San Diego	46	S. Pike	17		5			370	243			613
Diana	50	A. Nelson	19		6			872	292			1,164
Director	87	F. W. Gilbert	23		7				71	317	300	688
Dora Sieward	93	H. F. Sieward	7	36	2	18	503			766	813	2,082
E. B. Marvin	96	W. D. Byers	27		8			949	10	125	251	1,332
Enterprise	69	J. Daley	7	30	2	15	221			947	782	1,950
Favourite	80	L. McLean	5	36	1	18	150			927	720	1,797
Fawn	59	M. Keefe	6	28	1	14	248			460	316	1,024
Fisher-maid	21	C. Chipps	1	12		6	109					109
Florence M. Smith	99	L. McGrath	8	41	2	20	285			563	594	1,443
Fortuna	97	J. Cousins	18		5			219				219
Geneva	92	W. O'Leary	29		9			1,137	470			1,607
Henrietta	31	W. D. McDougall	7	8	2	4				45	156	201
Kate	58	O. Buckholz	6	21	2	10	181			279	394	854
Katherine	81	J. Gould	7	21	2	11	159			288	403	850
Kilmeny	18	R. Southby	3	8		4	15					15
Labrador	25	J. G. Searle	4	11		6	51			76	183	310
Libbie	92	F. Hackett	8	21	2	11	234			451	1,016	1,701
Mary Ellen	63	G. R. Ferey	10	20	5	10		854		106	356	1,316
Mary Taylor	43	R. O. Lavender	18		5		369		434			803
Mascot	40	E. Lorenz	7	16	2	8		787	168	126	223	1,304
Maud S	97	R. E. McKeil	9	32	2	16	287			750	642	1,679
May Belle	58	E. Shields	7	28	2	13	234			437	676	1,347
Mermaid	73	W. H. Whiteley	24		7			1,113	753			1,866
Minnie	46	V. Jacobson	8	18	3	9				266	393	659
Mountain Chief	23	J. Nawassum	2	16		6	39					39
Ocean Belle	83	P. Martin	23		7			1,056	562			1,618
Oscar & Hattie	82	T. Magnesen	9	24	3	12	147			652	515	1,314
Otto	86	J. McLeod	8	32	3	14	285		30	432	364	1,111
Pachwellis	19	J. Myetam		14		7	66					66
Penelope	69	W. Heater	5	24	2	12				238	532	770
Pioneer	66	W. E. Baker	24		7			845	790			1,635
Rosie Olsen	39	A. B. Whidden	*	*				627				627
Sadie Turpel	56	J. Anderson	19		6			798	470			1,268
Sapphire	108	William Cox	8	37	3	19	192			827	956	1,975
San Jose	31	M. Foley	5	20	2	10	147			318	251	716
Saucy Lass	38	D. Martin	6	21	1	10	257			269	432	958
Shelby	16	C. Claussen	10		4		124					124
South Bond	21	C. F. Dillon	4	10	1	4				37	111	148
Teresa	63	G. Myer	8	17	2	9	102			335	532	969
Triumph	98	C. N. Cox	8	43	3	19	353			862	995	2,210
Urbrina	99	C. Campbell	25		7			1,187	562			1,749
Vera	60	W. Shields	19		6			853	15	177	272	1,317
Victoria	63	R. Balcam	7	25	2	12	187			601	566	1,354
Viva	92	M. Pike	23		7			601	367			968
Walter L. Rich	76	S. Balcam	9	24	2	12	145			678	534	1,357
Wanderer	25	H. Paxton	2	10	1	5				259	97	356
Indian canoes catch							3,787					3,787
Totals	3,892		705	854	210	421	9,853	18,687	6,281	15,949	19,969	70,739

* Wrecked.

Total Canadian catch	70,739
Catch of "Director" off Falkland Islands	620
do American schooners landed at Victoria	2,255
Total	73,614

Total Pacific Catch.

Seals landed at Victoria	73,614
do American ports by U. S. schooners	20,307
Seals catch on Pribyloff Islands (North American Commercial Co.)	15,000
do Copper Islands (Russian Seal Skin Co.)	17,920
	126,841

Victoria, B.C., 2nd November, 1895.

Collector Milne sums up the result of the operations of the Canadian fleet as revealed in this statement as follows:—

There have been licensed during the past year 64 British vessels sailing from this port.

Of this number 22 sailed during December, 1894, and January, 1895, to Japan; 33 were engaged in the British Columbia Coast catch, and 9 Indian schooners, which likewise confined their operations to the British Columbia Coast up to the first of May.

CREWS.

There were engaged in this industry 705 white seamen and 854 Indians, showing this year a decrease in the white seamen and an increase in the number of Indians, the fact of the increase of Indians was owing to the demand for spear-men in Behring Sea, where fire-arms could not be used.

BOATS AND CANOES.

The record shows that there were 210 boats and 421 canoes in use this year, exhibiting a decrease of 56 boats and an increase of 162 canoes; this as with the crews, was owing to the number of Indian spear-men going to Behring Sea.

BRITISH COLUMBIA COAST CATCH.

The figures show the total British Columbia Coast catch to be 9,853, exhibiting a decrease of 1,850 skins compared with 1894, although a larger number of vessels were engaged. The cause assigned for this decrease, was chiefly owing to the boisterous weather which prevailed along the British Columbia Coast, and when the weather moderated the seals had passed northward, so that the larger, herds could not be reached before the 1st of May, the commencement of the close season.

JAPAN CATCH.

The total result of the operations on the Japanese coast show that there were only taken 18,687 skins as against 49,483 in 1894, being a marked decrease of 30,796.

This decrease caused me to make diligent inquiry from the masters and crews, and the conclusion arrived at was, that stormy weather usually prevailed all along the Japanese Coast, preventing the schooners from lowering their boats sometimes for days together, also it seems to be the consensus of opinion amongst them, that the schooners this year were in advance of the seal herd which had apparently gone further to the south than usual.

COPPER ISLAND CATCH.

Twenty schooners were sealing in the vicinity of Copper Island, which obtained a catch of 6,281 as against 24 vessels last year with a catch of 7,437.

BEHRING SEA.

In the month of June, last, 33 vessels cleared from this port for Behring Sea, proceeding to the West Coast, where they obtained Indian hunters, and proceeded direct to Unalaska where they were all instructed if they reported themselves to the custom house that no difficulty was anticipated. On the clearance papers from this port, it was plainly stated that they had no fire-arms, nets or explosives, and that their hunting outfit consisted only of spears. On the 1st of August they all left the Port of Unalaska, United States of America, and at once sailed to the sealing grounds.

There were also eight vessels which entered Behring Sea from the westward, which had been engaged sealing on the Japanese side making a total of 41 British vessels, fishing in Behring Sea, the result of their fishing being 35,918, as against 27 vessels in 1894 with a catch of 26,425, an increase of 9,493 seals.

The weather being good and seals reported to be fairly plentiful, but in this regard some conflicting accounts were given, no doubt measured by their individual success.

REMARKS.

The catch for the past seven years has been:—

1889	35,310
1890	43,325
1891	52,365
1892	49,743
1893	70,592
1894	95,048
1895	73,614

representing an average, in round figures, of 60,000 skins per annum.

It will thus be seen that the yield of the present year, notwithstanding Collector Milne's explanations of unpropititious weather and unfavourable circumstances, is largely in excess of the average for the past seven years.

Prior to the extraordinary and abnormal take of 1894, under the most favourable conditions of weather and other circumstances, that of 1893, greatly exceeded any in previous years, in the history of the sealing industry, yet the take of the present year is considerably larger than it was.

The significance of the decrease in the catch as compared with 1894, cannot, it is thought, be so marked as might at first appear if the two years alone are considered.

The contention that the seal herds are being rapidly exterminated, and that only a vestige of their former greatness remains, does not appear to gather much strength from an impartial examination of the figures representing the annual catch. Indeed, considered in the light of the explanations offered by the sealers, the result of the present year's operations may be regarded as affording reasonable grounds for an exactly opposite conclusion.

Perhaps one of the most noteworthy incidents in the industry this year, is the catch by the schooner "Director," in the North Atlantic Ocean, off Falkland Islands, of 620 seals.

Inquiries were instituted for the purpose of collecting any information in connection with the incident, which might be of interest to the question of the sealing industry generally.

It was ascertained that Captain Frederick W. Gilbert, of the schooner "Director," 87 tons register, with a crew of 25 men, sailed from Halifax, N. S., on the 20th December, 1894, bound for the Asiatic side of the North Pacific Ocean.

On reaching the 10th degree of south latitude, the master was obliged to change his course, by reason of his supply of provisions and water being insufficient to enable him to complete his voyage.

The run from Halifax to the Falkland Islands was made in forty-eight days. While off the southern end of the islands, he encountered several groups of seals. He consequently devoted thirty-six days to sealing in that neighbourhood, as well as off the east and west end of Staten Island, resulting in the capture of 620 seals, which he took to the port of Victoria.

The captain reports that he was compelled to suspend his sealing operations, owing to a change in the weather, which became quite stormy, and as it was getting late in the season he proceeded on his voyage to Victoria, reaching there on the 21st May, 1895.

Captain Gilbert reported that all the seals were secured at sea, far distant from any of the sealing preserves and were shot in the same manner as are those taken in the North Pacific Ocean, by the Victoria sealing fleet. He met with no interference.

In reply to the inquiries made, it was ascertained that no record existed of the landing, in the past, of any sealskins at a British Columbia port, which did not form part of the catch of the sealers operating in the North Pacific ocean, either on the American or Asiatic sides thereof.

The skins are reported to have been in good condition, and to be of the same kind as those usually sold by Messrs. Lampson & Co., London, and are classed and known with the Lobos Island sealskins, from the mouth of the River Platte, and bring about the same prices as those taken in the North Pacific Ocean.

The character of the skins is represented as being very similar to that of those usually secured by the British Columbian fleet.

The "Director," under the command of Capt. Gilbert, fitted at Victoria for the August and September season in Behring Sea, where a catch of 688 sealskins was secured.

In this connection the following "Supplement to the Fur Trade Review" may be of interest.

SUPPLEMENT TO THE FUR TRADE REVIEW.

SEPTEMBER 1, 1895.

Lobos Island Seals.

The bids for the lease of the Lobos and adjacent islands, and for the privilege of taking the fur seals thereon for a period of eight years from November 1, 1895, was opened by the officials of the Uruguay government, owner of above islands, at Montevideo, Uruguay, on August 16, at 2 p.m., and reported to us by Messrs. Lyon Brothers. Twenty tenders were received. Among the number bidding were the Alaska Commercial Co., The North American Commercial Co., P. M. Grumwaldt, of Paris, representing the company operating the Copper Island concession, and others. Messrs. Lyon Brothers, of this city, co operating with a syndicate composed of Messrs Flint, Eddy & Co., Wm. M. Ivins, and other wealthy South American parties, bid $200,000, cash payment within sixty days; and $1 per skin annually for all skins taken over 12,000; and $1.50 per skin for all over 15,000. The highest bid received was $40,000 per annum; 20 cents per skin municipal tax; 16 cents per skin export duty; 4 cents per even kilo of oil tendered. Mr. Grumwaldt, and the syndicate co-operating with him, bid $28,000 per annum. As the specifications in the call issued by the Uruguay Government stated that the bid accepted would be the one for the best interests of said government, the only bids taken into consideration was the one by the Messrs Lyon Brothers, of this city, which guaranteed a cash payment of $200,000, the $40,000 annual bid; and the one at $32,000. After carefully weighing the matter for several days the contract was awarded on August 28, to the company offering $32,000 a year, and the municipal export oil tax besides.

The Uruguay government, profiting by the complex status of the present contract with the N. A. C. Co., and the United States, had an especial provision inserted in the contract awarded to the effect that if the seals disappear the annual payment has to be made.

For the benefit of our readers we give below the number of skins taken for the last twenty-two years.

Year.	No. of Skins.	Year.	No. of Skins.
1873	8,190	1884	14,872
1874	9,449	1885	12,247
1875	9,204	1886	17,072
1876	11,353	1887	17,788
1877	13,066	1888	21,150
1878	14,493	1889	15,700
1879	14,093	1890	20,150
1880	16,382	1891	13,871
1881	14,473	1892	15,870
1882	13,595	1893	17,779
1883	12,843	1894	20,763

DISASTERS.

The collector of customs at Victoria reports three serious disasters to the sealing fleet during the past year.

The schooner "Rosie Olsen" was wrecked on the 18th June, while entering the port of Hakodate, in the Island of Yesso, Japan, for water, and became a total loss; although the crew and the cargo of sealskins were saved.

The schooner "Brenda" was wrecked on the 1st July last, while entering the Little Kurile Straits for water. She struck on a rock and became a total loss. The crew was rescued, and the sealskins and portions of the rigging saved by the schooner "Geneva," which fortunately was in the vicinity at the time of the disaster.

The "Walter A. Earle" was capsized at sea on April 14th, in latitude 58° north, longitude 139° west. This vessel had a crew of 28 persons, and was sealing on the British Columbia coast when the storm overtook her. Unlike the other cases, this disaster was attended by the loss of all hands on board. The wreck was subsequently found, bottom up, in the vicinity of Cape Tonki, and was towed into Kodiak. Fifteen bodies were found in the hold.

Seizures of British Sealers by United States Cruisers.

The strict patrol and supervision maintained this year, resulted in the seizure by United States authorities, of three Canadian sealing schooners: the "Shelby," "E. B. Marvin" and "Beatrice."

The "Shelby."

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

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

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

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

The text of the decision is as follows:

IN THE EXCHEQUER COURT OF CANADA.

British Columbia Vice-Admiralty Division.	The Queen *vs.* the Ship "Shelby."

The British vessel "Shelby," Christian Claussen, Master, was seized by an officer of the United States ship "Corwin," on the 11th May, 1895, in latitude 52° 52′ 10″, north, and longitude 134° 10′ 58″ west, being a point within the prohibited waters of the Pacific Ocean as defined by the Behring Sea Award Act, 1894, for an alleged contravention of the Act: such contravention being the employment of the vessel in pursuing seals within the prohibited waters during the period prohibited by law.

By force of the scheduled provisions of the Behring Sea Award Act, 1894, which, under section 1, are to have the same effect as if enacted by the Act, the pursuit of seals within the aforesaid limits is prohibited, and by subsection 2 of section 1, if there is any contravention of the Act, any person committing, procuring, aiding or abetting such contravention is guilty of a misdemeanour, and the ship employed in such contravention, and her equipment, and everything on board thereof, are liable to forfeiture to Her Majesty: Provided that the court, without prejudice to any other power, may release the ship, equipment or thing, on payment of a fine, not exceeding five hundred pounds.

At the time of her seizure the "Shelby" was fully manned and equipped for killing, capturing and pursuing seals, and had on board implements and seal skins.

By section 1, subsection 6, of the Seal Fishery (North Pacific) Act, 1893, which Act was in force at the time of the seizure, if, during the prohibited times and in prohibited waters, a British ship is found, having on board thereof fishing and shooting implements, or seal skins, it shall lie on the owner or master of such ship to prove that the ship was not used or employed in contravention of the Act. The Acts of 1893, and 1894 being in *pari materia* are to be read as one Act: McWilliams vs. Adams, 1 Macq., H. L. Cas., 120.

The "Shelby," therefore, having been found within the prohibited waters with seal skins and implements for taking them on board, is to be deemed to have been employed in contravention of the Act unless the contrary be shown.

Has it then been shown that the ship was not used or employed in contravention of the Act? The most important witness to prove this, if such were the case, would clearly have been Captain Claussen, the master, but he was not called, nor was the failure to call him satisfactorily accounted for. The only reason offered for his absence was that he was away on a fishing expedition. His evidence might have been taken *de bene esse*, but no effort to procure his evidence seems to have been made. The mate, August Reppon, was called as a witness, and stated that the "Shelby" stopped sealing on the 30th April, when the ship's log shows the vessel to have been in latitude 58° 30′ north and longitude 139 30′ west, and that she then set sail for Victoria. On the 11th May, after ten days' sailing, she was found by the "Corwin" in latitude 52° 52′ 10″ north and longitude 134° 10′ 58″ west, a distance approximately of 400 miles from the point of starting, or less than an average of 40 miles a day. The proper course for the ship to have steered for Victoria was E.S.E. magnetic; but it appears that frequently, when the course of the wind as indicated by the log would have permitted that course to be made good, the vessel was not headed in that direction.

For instance, on the 2nd May, she was headed on a southerly course; on May 3rd in a south by west course, and on the 5th May in an east by north course, whereas the wind on each of these days was favourable to an east-south-east course. Captain Moggridge states, from an examination of the log, that the schooner ought to have made a considerably greater distance on her course during those ten days, and, in view of the fact as stated in evidence that the "Shelby" had a favourable current of a knot an hour, or thereabouts, it is clear that she ought to have made a much greater distance. The "Corwin" in coming from the south to the point where she picked up the "Shelby," experienced strong head winds, which were favourable winds for the "Shelby," and the prevailing winds at that time of the year, as shown by the Coast Pilot are westerly, favourable to the east-south-east course to be made by the "Shelby".

The "Corwin" seized the "Shelby" for contravention of the Act, placed a crew on board of her and ordered her to Sitka, a distance of 260 miles, which she reached under sail in a little over two days. At Sitka, the "Shelby" was ordered to Victoria, a distance of over 760 miles, as shown by the chart, which place she made likewise under sail, in fourteen days.

The mate, when asked to explain why he went out of his course, particularly on the 2nd, 3rd and 5th of May, ascribes the fact to defects in the compass, which he says varies three or four points; but this statement is shown by his own evidence to be but an equivocation, and to have had no effect whatever on the course actually made or intended to be made, for whilst it is true that the compass varies, and varies considerably, such variation is regular, known precisely, and duly allowed for. Having committed himself on his examination at the hearing to the variation of the compass reason, which he was compelled to admit on cross-examination was no reason at all, he was by permission of the court recalled a day or two after the evidence had closed, and he then ascribes the deviations from the course to the state of the wind.

I find myself entirely unable to place any dependence on the evidence of the Mate Reppon, and this leaves the deviations from the regular course from the 1st to the 11th May, and the fact that 400 miles only was made in ten days, altogether unaccounted for. It is true that Denny Florida, a hunter, August Schone, the cook, and Victor Emmanuel Laerquest, one of the seaman, all testify, and I have no doubt with truth, that no seals were taken during these days, nor were the boats lowered; but it appears also that none were seen during these days. Their evidence leaves the question of deviations from the course, untouched, and, in the absence of evidence explaining it, the only reasonable conclusion is that the deviations were occasioned by the attempt to pursue seals. At all events, it has not been proved to my satisfaction that the vessel was not employed in the pursuit of seals during these dates. In Reg. v. the "Minnie," 4 Exch. 151, it was held by Crease, J., that the presence of the ship within the prohibited waters required the clearest evidence of *bona fides* to exonerate the master of the intention to infringe the provisions of the Act, and that as his explanation of the circumstances was unsatisfactory, the ship must be condemned.

This ruling is, I think, in thorough accord with subsection 6, of section 1, and I am bound to follow it. It applies exactly to this case. Here the captain has offered no explanation at all, and the explanation of the circumstances, suspicious in themselves, given by the mate, is unsatisfactory. The vessel, therefore, must be condemned.

I am inclined to think that this is a case, as no actual taking of seals is shown, but negatived upon the evidence, where a fine might meet the justice of the case, instead of forfeiture. I have power, under subsection 2 of section 1 of the Act of 1894, to substitute a fine for forfeiture. I will hear counsel upon this point.

The costs of suit must follow the condemnation.

The result was a fine of £100.

The "E. B. Marvin."

The position of this vessel when seized by the United States revenue cutter "Richard Rush," was latitude 56° 26′ north, longitude 172° 59′ west, about 40 miles outside the 60-mile zone in Behring Sea.

The reason for the seizure as endorsed on the certificate of registry, was "for violation of article 6 of the Paris award (Behring Sea Award Act, 1894) viz., use of fire-arms and explosives in fur seal fishing."

The use of these implements for seal hunting, is forbidden at all times in Behring Sea.

It appears that the vessel was boarded by an officer from the United States ship "Grant," on the 21st August, a thorough search made, and an entry made in the log as to the correctness of the number of skins taken.

Again on the 26th August, she was boarded by an officer from the United States revenue cutter "Perry," every skin overhauled, including those previously examined, and left strewn around the hold.

On the 2nd September, she was for the third time boarded; this time by an officer from the United States ship "Richard Rush." The vessel was under slow sail with all boats out hunting. Upon an examination of the skins, their number was found to be correct.

The vessel had on board 386 seal skins, one of which was selected by the boarding officer, which he expressed the opinion contained a shot hole. The master of the schooner considered that the puncture did not look like a shot hole, and explained that no guns had been used while in Behring Sea. It is also stated that Captain Garforth of Her Majesty's ship "Pheasant," compared the skin with one which had been shot and shared the captain's view that it did not look like a shot hole.

Apart entirely from the doubt existing, as to whether the hole had been made by a shot wound, and the presumption sought to be raised against the vessel was wholly dependent upon the insuperable condition that it should be established beyond question, the presence of such proof would have been in itself insufficient to afford adequate evidence that the "Marvin's" crew had used the prohibited implements.

It is a fact well known among those engaged in the sealing industry, that seals are frequently secured by spearers which had previously been shot at and wounded, in the same or in previous years.

Several of the sealers carrying nothing but spears, this year, secured a number of seals in the skins of which shot were found.

Little reliance can, therefore, be placed on the presence of even a proved shot wound in a seal, to establish its ultimate capture by the use of fire-arms.

The evidence in this case, turned more particularly upon a discrepancy in the number and kinds of ammunition found on board ,and that described in the manifest made by the American custom's officer at Attou, to whom the master of the vessel had applied to have his arms sealed, but who was not authorized to seal them.

The court held that any suspicion that might have been created, had been satisfactorily cleared up by the master, and the suit was dismissed without costs.

The full text of the decision may be of interest:

IN THE EXCHEQUER COURT OF CANADA.

British Columbia, Vice-Admiralty Division. } The Queen *vs.* The Ship "E. B. Marvin."

This was an action for condemnation of the British vessel "E. B. Marvin," her equipment an everything on board of her, and the proceeds thereof, instituted by Arthur Yerbury Moggridge, Commander in H.M.S. "Royal Arthur," on behalf of Her Majesty, on the ground that at the time of the seizure presently mentioned the said vessel was in Behring Sea fully armed and equipped for taking fur seals, and was engaged in fur seal fishing in Behring Sea from the 9th August, 1895, to the 2nd September, 1895, continuously, and did during the said time use fire-arms and explosives for the purpose of killing fur seals, contrary to the provisions of the "Behring Sea Award Act 1894."

The facts of the case as proved before me show that the vessel, Wm. Douglas Byers, master, left the port of Victoria on the 11th January, 1895, for the North Pacific on a fur sealing voyage, fully manned and equipped with the necessary outfit for seal fishing, including a supply of fire-arms and explosives.

On the 18th June, 1895, Captain Byers received instructions to proceed to Attu for the purpose of getting his fire-arms sealed up, and, on the 27th July, he reported with his vessel to Captain Carmine, the American custom-house officer at Attu, who informed him that he had no authority to seal up his arms and ammunition, but, after making a manifest of the things on board, gave Captain Byers a clearance permitting his vessel to proceed to Behring Sea for the purpose of hunting fur seals.

The manifest with which Captain Byers went to sea from Attu included 1,152 loaded brass shells, 903 empty brass shells, and 138 empty paper shells. Having proceeded on her voyage, the vessel was overhauled and searched, but allowed to go free, on the 21st August by the U.S.S. "Grant," and by the "Perry" on the 26th August, and, on the 2nd September, after the hunters had left the vessel for the day's sealing, the U.S.S. "Rush" hove in sight and boarded her. The cargo then on board of 336 seal skins was diligently examined by the officers of the "Rush," and, with the exception of one skin, showed no appearance of anything but spearing. In one skin, however, a hole was discovered which might have been caused by a bullet or buckshot, and the officers of the "Rush" believed that it was so caused, and as an additional circumstance leading to suspicion of arms being used, a count of the ammunition on board showed a considerable discrepancy from the manifest; the actual count made by the officers of the "Rush" showing 1,081 brass shell cartridges loaded, 734 brass shells empty, 44 paper shells loaded, and 170 paper shells empty, none of the empty shells, however, having been exploded. Under these circumstances the "Marvin" was placed under seizure.

The hunters came home in the afternoon of the same day with a further catch of some forty seals, all taken apparently in a perfect legitimate manner, as the hunters had neither fire-arms nor ammunition in their boats.

The vessel was taken to Ounalaska, and there handed over to Lieutenant Garforth of H.M.S. "Pheasant," who again counted the ammunition. His count differed somewhat from that of the "Rush," and besides those cartridges and shells formerly counted by the officers of the U.S. vessel, two card-board boxes of empty brass shells were produced by Captain Byers from the "Marvin's" lockers, and together with those already counted made a total of loaded and unloaded brass and paper cartridges and shells amounting to 2,194, or within one the number appearing on the manifest, but differing in kinds, Lieutenant Garforth's count showing 1,104 brass shells loaded, as against 1,152 on the manifest; 742 brass shells empty, as against 903 on the manifest; 305 paper shells empty, as against 138 on the manifest, and 43 paper shells loaded, while there were no paper shells loaded on the manifest. Captain Byers tells us that when the officers of the "Rush" made their count he knew there were more shells on board somewhere, and asked the officers to wait until the hunters came back, as they would probably know where the missing shells where, and that when the hunters came back they did inform him of the shells which were afterwards produced from the lockers. He further tells us that the count made at Attu and appearing on the manifest was made by the hunters, whose word was taken for the number entered on the manifest. He accounts for the discrepancy between paper and brass shells by the ones being mistaken for the other.

I am of opinion that Captain Byers's explanation is a reasonable one. By section 1, subsection 6, of the "Seal Fishery (North Pacific) Act, 1893," the finding on board of fishing or shooting implements or seal skins casts the onus upon the owner or master of the ship of proving that the ship was not used or employed in contravention of the Act; but that Act is repealed by the Act of 1895 (which came into force on June 27th, 1895), in which no similar provision relative to the onus of proof appears.

Upon inspection of the cartridges, I observe that the butt of the brass and paper cartridges is identical, both being of brass, and I can very well believe that in counting them in boxes, this mistake might easily have occurred. I attach no importance to the hole in the skin. Mr. Lubbe, a fur dealer, who was called as a witness, whilst expressing his belief that a hole pointed out by him was a buckshot hole, pointed out a different hole, and one which had not been perceived by the officers of the "Rush." I am by no means persuaded that neither hole was caused by a shot, although of course either might have been; but then again, even if caused by a shot, it by no means follows that the shot was from the "Marvin." On the contrary, it is quite possible that if the hole was a shot wound, such shot might have been fired by a stranger some time before; for Mr. Lubbe tells us that the wound would not heal over for two or three weeks, and he also tells us that it is no uncommon thing to find nests of old shot in the skins of seals killed by spearing or in other ways. Captain Byers, who gave his evidence in a straightforward and unequivocal way, assures us that no shooting whatever took place, and the fact that the hunters came back after the seizure without arms or ammunition, the further fact that no indications whatever of shot are found in any of the other skins, and the tally, within one, of the total count on the manifest: strongly corroborate him.

I think that the discrepancy at first in the number and kind between the ammunition found, and that described in the manifest, created sufficient suspicion to warrant the arrest; but this circumstance of suspicion, I think, has been satisfactorily cleared up by Captain Byers.

The suit will, therefore, be dismissed without costs.

THE "BEATRICE"

Was seized by the United States ship "Rush," in latitude 55° 01′ north, longitude 168° 55′ west, about twenty-nine miles outside the sixty-mile zone in Behring Sea.

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

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

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

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

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

Read in connection with the Merchants Shipping Act, which applies to all log entries on sealing vessels, it is difficult to conceive how grounds for the seizure of the vessel could be assumed.

Instead of demanding that all log entries shall be made on the day of the occurrence, the Act specifically contemplates their insertion at a subsequent date, and even legalizes entries to be made 24 hours after arrival at the final port of discharge.

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

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

When the case came up for adjudication, the court dismissed the action for condemnation, with costs, directing a reference as to the damages to which the ship is entitled for her illegal arrest and detention.

Here is the text of the decision:

IN THE EXCHEQUER COURT OF CANADA.

BRITISH COLUMBIA, ADMIRALTY DISTRICT. 18th November, 1895.	Regina vs. the ship "Beatrice," her equipment and everything on board of her, and the proceeds thereof.

The charge against the "Beatrice" is that whilst engaged in seal fishing the master did not enter in her official log book, the date and place of each fur sealing operation, and also the number and sex of the seals captured each day, as required by the "Behring Sea Award Act, 1894." No other offence is charged against the ship, and for the offence above mentioned the present action is brought for the forfeiture of the vessel, her equipment, and everything on board.

It appears that the "Beatrice" was seal fishing from the 2nd to the 20th August, on which latter date she was seized by the United States ship "Rush." It seems that the entries had been duly made in the official log up to and including the 14th August, but none since, although fur seals had been captured on each subsequent day.

Article 5 of the scheduled provisions of "The Behring Sea Award Act, 1894," enacts that the masters of the vessels engaged in the fur sealing shall enter accurately in their official log book the date and place of each fur seal fishing operation, and also the number and sex of the seals captured upon each day. Subsection 3, of section 1 enacts, that the provisions of the Merchant Shipping Act, 1854, with respect to official logs (including the penal provisions), shall apply to every vessel employed in fur seal fishing; and section 281 of the Merchant Shipping Act, 1854, provides that every entry in an official log shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence, and of the entry respecting it, and that in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after her arrival.

Under section 1, subsection 2, of "The Behring Sea Award Act, 1894": "If there is any contravention of the Act (and the scheduled provisions are made part of the Act), the ship employed in such contravention, and her equipment and everything on board thereof, shall be liable to be forfeited to Her Majesty as if an offence had been committed under section 103 of the Merchant Shipping Act, 1854."

Assuming that the contravention of the Act, owing to the neglect of the master to keep up his log, can the ship be said to be "employed" in such contravention, as it is only when employed in the contravention that she is subject to forfeiture?

If the contravention had been the taking of seals at a prohibited time or place, or in a prescribed way, the vessel might fittingly be said to be "employed" in the contravention. But the keeping of the log is another matter,—that is the master's duty. I cannot see how the vessel can be said to be employed in keeping the official log, or in omitting to keep it.

But beyond this, following the general provisions of subsection 2, which among other things imposes the forfeiture of a vessel employed in contravention of the Act, is subsection 3, which says that the provisions of the Merchant Shipping Act, 1854, with respect to official logs, (including the penal provisions), shall apply to every vessel engaged in fur seal fishing. The penal provisions of the Merchant Shipping Act, (section 284) subject only the master to a particular penalty, for not keeping the official log book, such penalty being a fine of five pounds, or thirty pounds, according to the offence. No penalty or forfeiture whatever attaches to the ship. The particular provision of the Merchant Shipping Act, inflicting a fine only upon the master, seems to be incompatible with the general provisions of subsection 2, of the Act of 1894, imposing a forfeiture, and such being the case, and following the well recognized rule of construction laid down in Churchill v. Crease, 5 Bing., 180; Pinkerton v. Cook, 16 M. & W., 615, and Taylor v. Olaham, L. R. 4, ch. D., 359, subsection 2, imposing forfeiture of the vessel, must be read as expressly excepting a contravention by omission to keep a log. Hence the vessel is not liable to be proceeded against, although the master might be punished by a fine.

But I am by no means persuaded that the captain was punishable for, or guilty of, any culpable omission in respect of the official log. As before pointed out, by section 281 of the Merchant Shipping Act, every entry in an official log is to be made as soon as possible after the occurence to which it relates.

"As soon as possible" means "within a reasonable time," Atwood v. Emery, 1, C. B., N. S., 110; Cannel v. Beaven Ins. Co., 39 U. C., Q. B., 8; Holt v. Western Assurance Co., 19, U. C., Q. B., 326; and what is a reasonable time must depend upon the facts governing the case in which the question arises.

Here it was proved in evidence that the captain kept a book of account with his hunters, who are paid according to the seals taken, and this book was kept in the cabin, constantly open and in use, and contained a daily entry of the particulars of the catch. Besides this the captain kept his ship's log, in which were entered daily particulars of the voyage other than the capture of the seals whilst the official log book was kept locked up. The crew, besides the hunters, consisted only of the captain, mate and the cook. The hunters would leave the ship in their boats at five a.m., and generally remained out until evening, and the crew of three left on board would have their time well occupied, particularly in rough or foggy weather, in navigating the essel and keeping the boats in sight or hearing.

At night when the boats came in, the captain would take on deck particulars of the capture, and then go below and enter them in the account book. When time and convenience afforded relaxation from other duties, the captain would make entries in his official log which had, in this case, been duly posted up to and including the 14th August.

The ship's log shows that between the 15th and 20th August there was considerable foggy and dirty weather. I am unable to say, under these circumstances, that the captain permitted an unreasonable time to elapse in making entries in the official log.

On those grounds I am of opiniion that the action for condemnation wholly fails, and as in my judgment, the charge upon which the vessel was arrested was of something for which arrest could not legally be made, no question of resonable cause for the arrest arises, and, as the ship was arrested when in pursuit of a legal and profitable employment, she is entitled to recover damages therefor.

I, therefore, dismiss the action for condemnation with costs; and I direct a reference as to the damages to which the ship in entitled for her illegal arrest and detention.

It is represented that the owners of the schooners "E. B. Marvin" and "Beatrice" have suffered severe loss by the seizure, and interruption of the season's voyage. The actual loss of the "E. B. Marvin" alone, assuming that her catch would have aggregated about the same as other vessel or similar size, class and equipment, will probably be between $5,000 and $10,000.

The Cases of the "Wanderer" and "Favourite."

The seizure of these vessels by the United States authorities in 1894, each for the possession of one unsealed gun on board, was referred to in the report for 1894, p. 145.

The action of the United States authorities was shown to have been without warrant, under the machinery provided by the Imperial Government to give effect to the award of the Paris Tribunal of Arbitration. It was likewise stated that prompt representations had been made to Her Majesty's Government against the action of the United States authorities, while claims to compensation for loss and damages sustained, had been filed by the owners of the vessels.

The nature of the claims advanced is for interruption of voyage and consequent loss of catch, based upon the average take of vessels of the same class and equipment, which that year pursued their voyages uninterruptedly.

It does not appear from the information procurable on the subject of these seizures, that any evidence existed of even an attempt at unlawful operations on the part of either of these vessels. The sole charge against them being the presence of an unsealed gun on board each, while the agreement under which the guns were to be sealed left it entirely at the option of a master of a vessel, whether his implements should be sealed or not, and even then the precaution was provided for only during the close season for seals.

Hence as regards the "Favourite," the agreement was inapplicable, even in its voluntary nature, since that vessel was seized for the alleged offence during the open season; whereas the captain of the "Wanderer" had had his implements placed under seal; the single unsealed gun being the personal property of the mate of the vessel.

It is understood that claims on behalf of these vessels have been presented to he United States Government for consideration.

The Case of The Steamer "Coquitlam."

A review of the position of this case will be found in the Departmental Reports, 1892, Part II., Fisheries, page 56, and 1894, page 151. In the latter it was shown that a hearing was expected to be reached in the United States Court of Appeal at San Francisco, early in the present year.

It was not, however, reached until the fall session, when the question arose as to the jurisdiction of the court, on the point involved touching the limit of sea to which the United States jurisdiction extends.

The Court of Appeal remitted the case to the Supreme Court of the United States, on the ground that it had not the power to decide an international question.

The certificate of the Court of Appeal is as follows :—

(16094)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 804.

THE STEAMER "COQUITLAM" &c., THOMAS EARLE AND UNION STEAMSHIP COMPANY, CLAIMANTS, APPELLANTS.

VS.

THE UNITED STATES.

On Certificate from the United States Circuit Court of Appeals for the Ninth Circuit.

INDEX:

Judd & Detweiler, Printers, Washington, D. C., December 9th, 1895.

THE STEAMER "COQUITLAM," ETC., *VS.* THE UNITED STATES.

At a stated term, to wit, the October term, A.D. 189. of the United States Circuit Court of Appeals for the Ninth Circuit, held at the court-room, in the city and county of San Francisco, on Monday, the fourth day of November, in the year of our Lord one thousand eight hundred and ninety-five.

Present:—The Honourable Joseph McKenna, Circuit Judge; the Honourable William B. Gilbert, Circuit Judge.

The Steamer "Coquitlam," etc., Thomas Earle and Union Steamship Company, Claimants, Appellants. } No. 200.

VS.

THE UNITED STATES.

It appearing that the above entitled cause was in due time and in the manner required by the Act establishing the United States Circuit Courts of Appeal appealed to this court from the decree of the District Court of Alaska, rendered upon the 18th day of December, 1893, and that said cause is a suit in the Admiralty brought by the United States for the forfeiture of the steamer "Coquitlam" by reason of her alleged violation of the revenue laws of the United States, and that the jurisdiction of this court to hear and determine said appeal is disputed by the appellee upon the grounds; first, that this court has no jurisdiction to entertain such appeal under the provisions of section 6 of the Act creating the Circuit Courts of Appeal for the reason that said District Court of Alaska is not a District Court within the meaning of said section, and is not a District Court belonging to this circuit; and, second, that said District Court of Alaska is not a Supreme Court of a Territory within the meaning of section 15 of said Act and the rule of the Supreme Court assigning appeals from the Supreme Court of said Territory to this court:—

And it appearing that there are other appeals in Admiralty causes from said district court of Alaska now pending in this court, and that it is of importance that the question of jurisdiction of this court to entertain the same be speedily and finally determined, and this court being in doubt concerning the true determination thereof:—

It is ordered that the said question whether this court has jurisdiction to entertain the appeal in this cause be, and the same is hereby certified to the Supreme Court of the United States for its decision, and that the clerk of this court forthwith transmit a copy hereof under the seal of this court to the clerk of the Supreme Court of the United States.

I, Frank D. Moncton, Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, do hereby certify the foregoing to be a full, true, and correct copy of an original order this day entered in the cause entitled The Steamer "Coquitlam," etc., Thomas Earle and Union Steamship Company, claimants, appellan s, vs. The United States, as the same appears of record on the minutes of our said United States Circuit Court of Appeals.

Attest my hand and seal of said Circuit Court of Appeals this 4th day of November, A.D. 1895.

(Seal United States Circuit Court of Appeals, Ninth Circuit.)

(Signed) F. D. MONCTON, Clerk.

Endorsed on cover. Case No. 16,094, United States Circuit Court of Appeals, Ninth Circuit. Term No. 804. The Steamer "Coquitlam," &c., Thomas Earle and Union Steamship Company, Claimants, Appellants, vs. The United States. Certificate, filed November 27th, 1895.

The only question before the Supreme Court raised by the certificate is, therefore, the question of jurisdiction of the Court of Appeal from the District Court of Alaska, but it is understood that the solicitors for the owners of the vessel have duly arranged for the exhaustion of legal remedy, by formally entering the case in the Supreme Court of the United States within the time limited.

THE BEHRING SEA CLAIMS.

At page 146 of the report of the Fisheries division of the Department of Marine and Fisheries, for last year, this branch of the question was shown to have reached the point at which the resolution, providing for the appropriation of the amount necessary to settle the claims, by the payment of a lump sum agreed upon, was defeated in the United States Congress, leaving the matter still a subject for further diplomatic correspondence between the two governments.

In S ptember last, a Parliamentary paper was presented to the Imperial House of Commons, containing correspondence from May, 1894, to August, 1895, on the subject of the settlement of the claims, embracing that particular phase of the question.

The London "Times," in referring to the papers, gave the following *resumé* of correspondence, which is reproduced here, as forming a concise digest of the somewhat bulky matter :—

On May 10, 1894, Lord Kimberley, after hearing from the Colonial Office, telegraphed instructions to Sir J. Pauncefote to urge the United States Government to begin negotiations and to telegraph for the Canadian delegate. On June 12, Sir J. Pauncefote sent the Secretary of State of the United States a list of the Canadian claims, which amounted in all to $542,169, or, with interest, $700,000. The Secretary of State suggested the settlement of these claims by the payment of a lump sum ; if this were agreed to the Canadian Government should send an expert to Washington to discuss the amount. The lump sum offered was $400,000 ; while Canada claimed $450,000 ; and after some argument, $425,000 was agreed upon. The correspondence as to the lump sum was submitted to the House of Representatives in January of this year, and was rejected by them in February. Thereupon Sir J. Pauncefote was instructed to ask for the resumption of the discussion on the convention, to which the answer was that the United States were ready to resume negotiations, but the convention could not be submitted to Congress till December. The despatches up to April 16 are chiefly concerned with an account of the negotiations on the convention, and of Senator Morgan's resolution proposing the appointment of a committee to examine into the liability of the United States to pay the claims and into the liability of Great Britain and Canada. A summary of Senator Morgan's memorandum on the liability of the United States was also forwarded. The correspondence then ceases between April 16 and August 31, by which date Lord Salisbury had taken his place at the Foreign Office. In his letter to Sir J. Pauncefote, who was then returning to his post, Lord Salisbury incloses a memorandum setting out at somewhat greater length some of the points in support of the claims already referred to in Sir J. Pauncefote's despatches. Lord Salisbury says that Sir. J. Pauncefote's arguments brought forward in suppot of the claims have the entire approval and concurrence of Her Majesty's Government, and the attempt made by Senator Morgan to dispute them seems to be largely founded on misapprehensions. Lord Salisbury has no doubt that when the full facts are before the public in the United States the liability of that country which has never been denied by the Government, will be generally recognized both inside and outside of Congress. The following passages may be quoted from Lord Salisbury's memorandum :—

The statement communicated to the press by Senator Morgan entirely ignores the fact the five questions submitted to the arbitrators in accordance with article VI. of the treaty of the 29th February, 1892, embodied the whole of the grounds urged on behalf of the United States Government in justification of the seizures out of which the claims arise. This is abundantly clear, not only from the correspondence which led to the framing of these questions, but also from the proceedings of the tribunal . . . . ."

"The seizures were, in fact, formal acts of the United States Government in the exercise of the rights and jurisdiction which they claimed, and the tribunal, in declaring that they had no title to such rights and jurisdiction, necessarily declared that the loss and injury inflicted on British subjects, in pursuance of those rights and jurisdiction, were unwarranted, and as they also found that the seizures "were made by the authority of the United States Government," their decision was a declaration that the United States Government, having inflicted an unwarranted wrong, were liable to pay compensation for such wrong.

"That this was the view of the arbitrators and of those engaged in conducting the case on behalf of the United States Government is clear from the proceedings of the tribunal."

It may be remembered that the Treaty of Arbitration was signed in 1892, and the Tribunal or Court of Arbitration met in Paris in 1893. The findings finally proposed by the agent of Great Britain and agreed to as proved by the agent for the United States, and submitted to the tribunal for its consideration, and found by them unanimously, "including Senator Morgan, therefore," are then recited, and the memorandum goes on to say :—

"It will be observed from these findings that the question of justification was regarded as conclusively settled by the decision of the five questions, and that the only negotiations contemplated were "negotiations as to the liability of the United States Government to pay the amounts mentioned in the schedule (C) to the British case," not simply negotiations as to the liability of the United States Government to pay compensation at all : and, further, that the only reservations made on behalf of the United States Government were "the questions as to the value of the said vessels or their contents, or either of them, and the question as to whether the vessels mentioned in the schedule to the British case, or any of them, were wholly or in part the actual property of citizens of the United States."

The eminent lawyers and statesmen charged with the conduct of the United States case certainly never contemplated that the decision of the arbitrators would not be accepted as concluding the liability of the United States except in regard to the points expressly reserved in the findings of facts.

Lord Salisbury's memorandum concludes :—

"The Behring Sea claims arise out of the direct action of the United States Government—action declared by an international tribunal to be entirely unjustifiable. They are made out, not for profits based on the results of profitable seasons, but on the actual results of the seasons in which they arose. Some of the claimants not only lost their property, but suffered a rigorous imprisonment in a severe climate.

The arrangements made between the two Governments for the payment of a lump sum amounting to little more than half of the claims preferred, without any allowance whatever for interest, cannot be regarded as otherwise than a settlement favourable to the United States, bearing in mind that

the claims had already been outstanding for ten years, and that more than a year had elapsed since the decision of the arbitrators had been given.

It is not easy to believe that if the late Congress had been fully acquainted with the circumstances it would have refused its sanction to so reasonable a proposal, recommended as it was by the Federal Government, or would have declined even an appropriation for the payment of the claims, subject to their examination by a commission to be appointed for that purpose, or for the simple expenses of such a commission.

The negotiations which were proceeding for the establishment of a convention for the assessment of the claims, were, it will be seen, interrupted by the voluntary offer by the United States' Government to satisfy the claims by a "lump sum" payment to Her Majesty's Government, which was regarded on all sides a most expeditious and economical method of adjusting this long-standing subject.

The inability of the United States Government to reach the proposed settlement, revived for consideration the terms of a necessary convention.

Accordingly negotiations to that end were resumed, resulting in a conference at Washington in October of the present year, at which Canada was represented by the Premier and the Minister of Justice.

At this conference the basis of the terms of reference was decided upon, and considerable diplomatic correspondence has since ensued touching the precise terms of the convention for the appointment of a commission.

A draft was finally agreed upon, which, it is expected, will shortly be presented to the United States Congress for acceptance prior to formal ratification by the respective governments.

No detailed list of the Behring Sea claims has yet been officially published in Canada, and as both the Imperial and United States Governments have, this year, included a complete list in the parliamentary and executive papers, brought down by them respectively, such claims are included in this report for general information.

LIST AND SUMMARY OF CLAIMS.

Memoranda of additions and amendments made since original presentation of list of British claims for compensation for the seizure of British sailing vessels in Behring Sea.

"ADA."

Claim of the master, Captain Gaudin, for personal loss and damage..... $3,000

This claim was, by a mistake on the part of the agent of the owner of the "Ada,' not included when the other claims in connection with this vessel were entered' Captain Gaudin thought that it had been so included, and it was only on seeing the printed list of the British claims that he discovered that such was not the case. He at once requested that the omission might be rectified and his claim added to the list, and Her Maj sty's Government, after causing an inquiry to be made into the circumstances of the case, decided that his application should be granted.

Captain Gaudin's claim has accordingly been added to the schedule of the claims entered with respect to the schooner "Ada."

"HENRIETTA."

[Seized by the U.S. warship "Yorktown" on September 4, 1892.]

Value of vessel	$ 4,000
Value of outfit and equipment	3,000
Value of 420 seal skins, at $18	7,560
Value of balance of estimated full catch for season in Behring Sea for three boats and three canoes, viz., 561 skins, at $18	10,098
Legal and personal expenses in defending action against vessel and cargo at Sitka, and in preparing and forwarding this claim	2,000
Claim of owner, with interest at 7 per cent, to date of payment	26,658

The United States Secretary of state, Mr. Gresham, stated that from the date on which the "Henrietta" was handed over to her captain, the United States Government ceased to bear any responsibility or to exercise any control with regard to that vessel, and that 'therefore' they were unable to comply with the request of Her Majesty's Government that she should be sent to a British port for trial; but he added that the claim of her owner for compensation would receive due consideration when presented.

The claim in question has, therefore, been added to the general list of British claims.

"BLACK DIAMOND."

[Additional claim submitted by the master, Mr. Henry Paxton, for damages alleged to have been sustained by reason of the above schooner having been ordered out of Behring Sea in 1886 by the United States authorities.]

Estimated catch for August, 1886, 1,000 skins, at $7.50 each (the price of skins at Victoria during the fall of 1886)... ..... $7,500

This claim was sent in too late for insertion in the general list of British claims. In view of the length of time that had elapsed since the occurrence of the action complained of, Her Majesty's Government deemed it advisable to cause an inquiry to be made as to the reason for the delay in presenting the claim. The reason given was that at the time of the seizure of the vessel, the co-owners, who were three in number, were doubtful as to how far an appeal to the United States Government for redress would be entertained. In the following year one of the owners was lost at sea, and another left the country, and it was only after the publication of the award that the surviving owner consulted his solicitor, and was informed that he had a good and equitable claim for compensation. The claim was then drawn up and presented at once.

Her Majesty's Government also ascertained from the solicitors in question that the fact of the "Black Diamond" being boarded by the revenue officers of the United States and ordered out of Behring Sea in 1886 is entered in the records of the custom-house of Unalaska, and that due protest was made by the master of the vessel on the arrival of the vessel at Victoria.

Under the circumstances Her Majesty's Government considered that the reasons alleged for the delay were reasonable, and gave instructions that the claim should be presented to the United States Government, together with the other similar claims.

"JUANITA."

It will be noticed that the original claim of the owner of the "Juanita," which was stated at $14,695, has been amended so as to amount to $17,697.66.

The ground upon which this claim was amended was that the owner made his original statement on the basis of $8 per skin, whereas it was ascertained afterwards that the skins had been sold at San Francisco at an average of $9.67 per skin.

List and summary of the claims for compensation in respect of the seizures of British vessels in Behring Sea by the authorities of the United States.

"CAROLENA."

[Seized by U. S. S. "Corwin," August 1, 1886.]

For—	Amount of claim as put forward by owner.
Value of vessel, 32 tons	$4,000 00
Value of outfit (inconsumable)	3,002 89
Insurance	352 50
Wages of crew up to date of seizure	1,832 22
Passage of crew from San Francisco to Victoria	71 72
Passage of mate, Sitka to Victoria, after release from prison	100 00
Personal expenses of owner	250 00
Legal expenses	1,250 00
Estimated seal catch for 1886	16,667 00
	27,526 33
Deduct value consumed during a full voyage	3,213 32
Claim by owner, with interest at 7 per cent to date of payment	24,313 01

"THORNTON."

[Seized by the U.S.S. "Corwin," 1st August, 1886.]

Value of vessel, 78 tons	6,000 00
Value of outfit (inconsumable)	2,94. 63
Insurance	591 40
Wages paid to date of seizure to crew, etc.	1,370 04
Passage money of crew from San Francisco to Victoria	177 16
Passage money of crew and expense of captain and mate after release, Sitka to Victoria	200 00
Personal expenses of owners	1,000 00
Legal expenses	1,250 00
Estimated catch of seals for 1886	16,667 00
	30,197 23
Deduct value consumed on a full voyage	3,379 58
Claim by owners, with interest at 7 per cent to date of payment	26,817 65

"ONWARD."

[Seized by U.S.S. "Corwin," 2nd August, 1886.]

Value of vessel, 94 tons	4,000 00
Value of outfit (inconsumable)	1,778 69
Insurance	260 00
Wages paid for voyage	1,820 00
Passage, etc., of master and mate	200 00
Personal expenses of owner	250 00
Legal expenses	1,250 00
Estimated catch	16,667 00
	26,225 69
Deduct value consumed during full voyage	2,955 98
Claimed by owner, with interest at 7 per cent to date of payment	23,269 71

"FAVOURITE."

[Warned out of Behring Sea by U.S.S. "Corwin," 2nd August, 1886.]

Estimated loss of catch of 1,000 seals	7,000 00
Claim by owner, with interest at 7 per cent to date of payment	7,000 00

List and Summary of the Claims for Compensation, &c.—*Continued.*

"W. P. SAYWARD."

[Seized by U.S.S. "Richard Rush," 9th July, 1887.]

For—	Amount of claim as put forward by owner.
	$ cts.
Passage of crew, &c.	255 00
Passage of officers	250 00
Legal expenses of owners	850 00
Probable seal catch, 1887, 3,500 seals, at $5.50	19,250 00
Loss by detention, October 1, 1887, to February 1, 1888	1,200 00
Loss of profit in season 1888 (February 1 to October 1)	6,000 00
Personal expenses of owners	250 00
Claim by owner, with interest at 7 per cent to date of payment	28,055 00
Cost of suit before Supreme Court United States, in re-seizure of "W. P. Sayward"	62,847 12
Total	90,902 12

"GRACE."

[Seized by U.S.S. "Richard Rush," July 17, 1887.]

Value of vessel, 182 tons	12,000 00
Nonconsumable outfit	1,742 57
Passage of master and crew	200 00
Personal expenses of owners	250 00
Legal expenses	850 00
Probable catch, 1887, 4,200 seals, at $5.50	23,100 00
Claim of owner, with interest at 7 per cent to date of payment	38,142 57

"ANNA BECK."

[Seized by U.S.S. "Richard Rush," June 28, 1887].

Value of vessel	8,000 00
Nonconsumable outfit	977 50
Passage of master and crew	460 54
Personal expenses of owner	250 00
Legal expenses	850 00
Probable seal catch, 1887, 3,150, at $5.50	17,325 00
Claim of owner, with interest at 7 per cent to date of payment	27,863 04

"DOLPHIN."

[Seized by U.S.S. "Richard Rush," July 12, 1887.]

Value of vessel, 174 tons	12,000 00
Value of nonconsumable outfit	2,051 50
Passage of master and crew	300 00
Personal expenses of owner	250 00
Legal expenses	850 00
Probable catch, 1887, 4,500, at $5.50	24,750 00
Claim of owner, with interest at 7 per cent to date of payment	40,201 50

List and Summary of the Claims for Compensation, &c.—*Continued.*

"ALFRED ADAMS."

[Seized by U.S.S. "Richard Rush," July 10, 1887.]

For—	Amount of claim as put forward by owner.
	$ cts.
Value of outfit seized	683 00
Personal expenses	200 00
Legal expenses	300 00
Probable catch, 3,500, at $5.50	19,250 00
Claim of owner, with interest at 7 per cent to date of payment	20,433 00

"ADA."

[Seized by U.S.S. "Bear," August 25, 1887.]

Value of vessel, 68 tons	7,000 00
Value of nonconsumable outfit	2,500 00
Passage, &c., of master	100 00
Personal expenses	250 00
Legal expenses	850 00
Probable catch, 1887, 2,876, at $5.50	15,818 00
Claim of owner, with interest at 7 per cent to date of payment	26,518 00

"TRIUMPH."

[Ordered not to enter Behring Sea by U.S.S. "Richard Rush," August 4, 1887.]

Illegal boarding and searching of "Triumph," as set forth in affidavit	2,000 00
1,000 seal skins	8,000 00
Legal and other expenses	250 00
Claim of owner, with interest at 7 per cent to date of payment	10,250 00

"JUANITA."

[Seized by U.S.S. "Richard Rush," July 31 1889.]

620 seal skins, at $8	4,960 00
Balance of estimated catch for 1889, at $8	9,424 00
Spears, &c	36 00
New ship's papers	25 00
Legal and other expenses	250 00
Claim of owner, with interest at 7 per cent to date of payment	14,695 00
For amended claim, see memoranda preceding	17,697 66

"PATHFINDER."

[Seized by U.S.S. "Richard Rush," 29th July, 1889.]

854 skins seized, and estimated balance of catch (1,246) at $12.25 a skin	25,725 00
Guns, &c., seized	765 00
New papers	25 00
Legal expenses	250 00
Claim of owner, with interest at 7 per cent to date of payment	26,765 00

List and Summary of the Claims for Compensation, &c.—*Continued.*

"TRIUMPH."

[Ordered out of Behring Sea by U.S.S. "Richard Rush," 11th July, 1889.]

For	Amount of claim as put forward by owner.
	$ cts.
Balance of estimated catch of 2,500 at $8 a skin	19,424 00
Legal and other expenses	250 00
Claim by owner, with interest at 7 per cent to date of payment	19,674 00

"BLACK DIAMOND."

[Seized by U.S.S. "Richard Rush," 11th July, 1889.]

76 skins seized at $8	608 00
2,024 skins, balance of estimated catch at $8	16,192 00
Rifles, spears, &c., seized	110 00
New ship's papers	25 00
Legal and other expenses	250 00
Claim of owner, with interest at 7 per cent to date of payment	17,185 00

"LILY."

[Seized by U.S.S. "Richard Rush," 6th August, 1889.]

333 skins seized, at $8	2,664 00
Balance of catch, 1,767 at $8	14,136 00
Spears and salt seized	101 00
New ship's papers	25 00
Legal and other expenses	250 00
Claim of owner, with interest at 7 per cent to date of payment	17,176 00

"ARIEL."

[Ordered out of Behring Sea by U.S.S. "Richard Rush," 30th July, 1889.]

Balance of estimated catch of 2,000 (1,156) at $8	9,248 00
Legal and other expenses	250 00
Claim of owner, with interest at 7 per cent to date of payment	9,498 00

"KATE."

[Ordered out of Behring Sea by U.S.S. "Richard Rush," 13th August, 1889.]

Balance of catch	10,960 00
Legal and other expenses	250 00
Claim of owner, with interest at 7 per cent to date of payment	11,210 00

LIST and Summary of the Claims for Compensation, &c.—*Continued.*

"MINNIE."

[Seized by U.S.S. "Richard Rush," 5th July, 1889.]

For	Amount of claim as put forward by owner.
	$ cts.
420 skins seized	3,360 00
Balance of catch	12,752 00
Guns and spears seized	98 00
Legal and other expenses	250 00
Claim of owner, with interest at 7 per cent to date of payment	16,460 00

"PATHFINDER."

[Seized by U.S.S. "Thomas Corwin," 27th March, 1890.]

Seizure and detention from 27th March, 1890, to 29th March, 1890	2,000 00
Claim of owner, with interest at 7 per cent to date of payment	2,000 00

PERSONAL CLAIMS FOR 1886.

Claimed by	For	Amount claimed.
		$
David Moore, master of "Onward"	Illegal arrest and imprisonment	4,000
Margotich, mate of "Onward"	do do	2,500
Hans Guttormsen, master of "Thornton"	do do	4,000
Harry Norman, mate of "Thornton."	do do	2,500
Jas. Ogilvie, master of "Carolena"	do do	2,500
Jas. Black, mate of "Carolena"	do do	2,500
Total for 1886		18,000

PERSONAL CLAIMS FOR 1887.

J. D. Warren, master of "Dolphin"	Sufferings and losses navigating four vessels from Unalaska to Sitka.	2,635
John Riely, mate of "Dolphin"	do do	1,000
George P. Ferey, master of "W. P. Sayward"	do do	2,000
A. B. Laing, mate of "W. P. Sayward"	do do	1,000
Louis Olsen, master of "Anna Beck"	do do	2,000
Michael Keefe, mate of Anna Beck	do do	1,000
W. Petit, master of "Grace"	do do	2,000
C. A. Lundberg, mate of "Ada"	do do	2,000
Total for 1887		13,635
Total for 1886 and 1887		31,635
To be added to 1886, personal claims Captain Gaudin, of "Ada."		3,000
Amended total 1886 and 1887		34,635

List and Summary of the Claims for Compensation, &c.—*Continued.*

RECAPITULATION.

Year.	Vessel.	Amount claimed.	Total.
1886	Carolena	$24,313 01	
	Thornton	26,817 65	
	Onward	23,269 71	
	Favourite	7,000 00	
	Personal claims	18,000 00	
1887	W. P. Sayward	28,055 00	899,400 37
	Grace	38,142 57	
	Anna Beck	27,863 04	
	Dolphin	40,201 50	
	Ada	26,518 00	
	Alfred Adams	20,433 00	
	Triumph	10,250 00	
	Personal claims	13,635 00	
1889	Juanita	14,695 00	205,098 11
	Pathfinder	26,765 00	
	Triumph	19,674 00	
	Black Diamond	17,185 00	
	Lily	17,176 00	
	Ariel	9,498 00	
	Minnie	16,460 00	
	Kate	11,210 00	
1890	Pathfinder		132,663 00
			2,000 00
	Total claims without interest		439,161 48
	Costs of suit before Supreme Court, United States, in re seizure of W. P. Sayward		62,847 12

TOTAL.

1886.	Vessels	881,400 00
	Personal claims	18,000 00
1887.	Vessels	191,463 11
	Personal claims	13,635 00
1889.	Vessels	132,663 00
1890.	Vessels	2,000 00
		439,161 48
W. P. Sayward costs		62,847 12
Total		502,008 60
Extra for Juanita		3,002 66
Extra for Black Diamond (1886)		7,500 00
Extra for Ada		3,000 00
Total		515,511 26
Henrietta		26,658 00
Amended total		542 [illegible] 26

In addition to the above, claims have been filed in respect of the sealing schooners "Winnifred," seized in 1891 under the *modus vivendi*, and not handed over to British authority; "Wanderer," for abandonment of voyages in 1887 and 1889, fearing seizure; and "Oscar and Hattie," seized at Attou Island in 1892.

THE MODUS VIVENDI CLAIMS.

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

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

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

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

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

Prior to the date of signature of the *modus vivendi*, 15th June, the sealing fleet had cleared for the North Pacific Ocean and Behring Sea as usual, as no molestations had taken place in that sea during the previous year. A fleet of 48 vessels had cleared from Victoria previous to 15th May. Under such circumstances, strong protests were received from all parties interested in the sealing industry, and representations were made against the prohibition of a hitherto legitimate business, without any notification whatever of the intention of taking such a step.

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

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

The Imperial Government authorized an answer to be given to the protests, that while it was thought that the total cessation of sealing in Behring Sea would greatly enhance the value of the products of the coast fishery, it was not anticipated that the sealers would suffer to any great extent by exclusion from Behring Sea. They would, however, be prepared to consider any case in which it was clearly established that direct loss had been suffered by a British subject, through the enforcement of the prohibition against sealing in the Behring Sea.

Claims were accordingly filed on behalf of the owners of the several vessels engaged in the sealing industry.

A commissioner, appointed by Her Majesty's Government, was accompanied to Canada by a claims adjuster, and proceeded to Victoria, where the adjustment of claims was made.

The awards aggregated $100,234; sixteen claims were rejected and twenty-five were reduced and paid.

In the case of each vessel, however, whether the claim was rejected or allowed, a sum of $100 was awarded to the owner towards expenses of promoting the claim.

The *modus vivendi*, it will be remembered, expired in May, 1892.

The sealing fleet that year departed principally during January, some months prior to date of expiry.

About the middle of March, telegraphic notification reached the Canadian Government that as a settlement of the question had been agreed upon by arbitration, proposals had been made for intermediate regulations restraining the catch

of seals in Behring Sea, in the event of ratification of the treaty, and that the sealers should be notified of their liability to interruption if they entered such waters.

Negotiations finally resulted in a convention for the renewal of the *modus vivendi* of 1891, until the end of October, 1893, thus closing the sea to the sealers for two more sealing seasons.

The convention renewing the closure of the sea differed from *modus vivendi* of 1891, however, in that it provided for compensation to the sealers in a certain event, calculated upon any take of seals in accordance with any international regulations for the protection of these animals, which might be decided upon by the Arbitration Tribunal; and in another certain event, compensation to the United States Government on a similar basis.

The exact terms of the compensation clause, which forms the base of the claims presented in the petition referred to, are as follows :—

ARTICLE 5.

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

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

The cases of 1892 and 1893, are not analogous to those of 1891, and rest entirely upon the intention as expressed in the *modus vivendi* of 1892. They did not come within the scope of the acquiescence of Her Majesty's Government, as did those of 1891.

Hence, it is important to consider the attitude of the representatives of Her Majesty's Government and those of the United States Government at Paris, in respect of the finding required of the arbitrators under the Treaty of 1892 providing for the arbitration.

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

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

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

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

When the claims reached the department, the attitude of Her Majesty's Government in connection with the above incident was explained to the claimants.

This resulted in the filing of a formal petition accompanied by modified claims aggregating $974,698,31, which amount was subsequently swelled by $99,784.86. made up of additional claims since filed, totalling $1,074,483.17.

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

The claims were presented to Her Majesty's Government for consideration.

The mutual withdrawal of the question before the tribunal was solely an action between the two governments towards each other. Then the question of assessment alone remained unsettled.

While each government, by not pressing the point at the time, relieved the other of the responsibility of providing recompense formally stipulated for, the validity of the claims, as claims, did not appear to be affected, beyond shifting the responsibility, since the claimants themselves had not withdrawn them.

The provision for compensation for the temporary relinquishment of the right to take seals, was the outcome of considerable consideration prior to a decision to enter into such an agreement, and it was not thought that the fact that sealers were successful in the exploitation of certain other localities, had any direct bearing on the question of conditional temporary relinquishment of rights in Behring Sea.

The reply of Her Majesty's Government was that it should be pointed out to the petitioners, that the *modus vivendi* was adopted in the interests of the fishery, and it is impossible in these circumstances, to admit that any claim to compensation can arise, except in so far as actual outlay may have been incurred, owing to the absence of notice of the contemplated restrictions.

The compensation given in respect of the season of 1891 was, therefore, properly confined to recouping expenditure which had been made for the fishery, prior to the announcement of the *modus vivendi*.

In the seasons of 1892 and 1893, due notice was given, and the owners of sealing vessels were able to transfer operations to other parts of the Pacific, where it would appear from the statistics of the fishery that they were as successful as they would have been in Behring Sea, if it had not been considered that restrictions on that side, both by land and sea, were necessary to prevent the extinction of a profitable industry. And in such circumstances the regret of Her Majesty's Government was expressed at being unable to comply with the prayer of the petition.

THE CLAIMS OF 1891.

The distribution of the British Award in respect of the claims of 1891, had been entrusted jointly to the Agent of the Department of Marine and Fisheries and the Collector of Customs at Victoria.

The work of reaching those entitled to participate was most difficult, and the paying off of the claims and adjusting the same to the satisfaction of the claimants appearing on the articles of agreement of each ship (imperfect as many of these agreements were) was troublesome and necessarily slow.

It is, therefore, the more gratifying that the awards paid to the claimants have been satisfactory, and that no contention or dispute of any kind has arisen.

Great difficulty has been experienced in reaching the mates, crews and hunters who were engaged on the different vessels in 1891. Some of them were found in Japan, China, Nova Scotia, Newfoundland and England.

A small balance of unpaid claims remained at the beginning of the present year, and Her Majesty's Government was asked whether an immediate surrender of the unexpended balance should be made, or whether my Lords of the Treasury preferred to fix a time limit at which the right of claim should expire. To this a reply was received favouring the latter course, and the following notice was, in March, 1895, published, fixing the date at 31st March, 1896.

Notice is hereby given that of the amount allotted to hunters and seamen in the award of Her Britannic Majesty's Government, as compensation for loss in respect of the Modus Vivendi in Behring Sea during 1891, a balance of the sum allotted to hunters and seamen on board certain of the vessels, whose claims have not yet been presented, remains unpaid.

The Lords Commissioners of her Majesty's Treasury have granted an extension of the time for receiving claims from the hunters and seamen on lay (or their legal representatives) to share in the compensation, up to the 31st day of March, 1896.

All outstanding claims must, therefore, be sent to the Collector of Customs, at the Custom House at Victoria, British Columbia, on or before that date, and no claims will be received or considered thereafter."

PROPOSALS FOR CHANGES IN THE AWARD REGULATIONS.

The result of the pelagic sealing operations of 1894, the first year of the application of the award regulations, proved in point of number of skins taken more successful than during any previous year since the beginning of the Canadian industry.

The success of the operation of the Canadian sealers, in the face of the restrictions imposed upon them by the award, was viewed by the United States authorities with alarm.

It appears that the regulations were considered by everybody concerned in the conduct of the arbitration to be very effectual, and indeed in some quarters it was contended that they were unduly prohibitory.

In the United States Senate Executive Document, No. 67, 53rd Congress, 3rd Session, will be found many opinions on them, from a United States point of view, given at the conclusion of the labours of the arbitrators, and apparently the unanimous views of the representative authorities of the United States, who were conversant with every detail of the question up to the event of arbitration, are therein shown to be quite pronounced as to their completeness and effectiveness in crippling the industry of pelagic sealing.

The opinions were ventured that their effect would be to virtually prohibit pelagic sealing in Behring Sea, and to any injurious extent in the North Pacific Ocean; that the number of seals taken would not be great enough to endanger the existence of the herd, or seriously to interfere with the profits of the industry on the Pribylov Islands; that they must render the business of such little profit that it would not be worth pursuing; that the more the logical and necessary results of an enforcement of the regulations as decreed were considered, the more convincing it became that profitable pelagic furseal fishing would be inconsistent therewith.

Holding these views on the subject, the United States representatives are further shown, in the correspondence contained in the document above cited, to be very pronounced in their advocacy of expeditiously effecting a code of regulations which was regarded as amply effective in the establishment of a new condition of affairs, calculated to discourage the industry by rendering the continuance of its prosecution insufficiently lucrative.

The experience, however, of the one year's operations, was sufficient to cause an entire reversal of opinion in the United States, as to the adequacy of the award regulations.

They are stated to be wholly unequal to a proper protection of the seals, and the facts disclosed by the events of 1894, are said to declare that they do not secure that protection and conservation for the seal herds which was credited to them, or which they were designed to provide, and the total extermination of the seal herds is predicted as an evil within measurable distance.

Spears, which were held to be practically harmless in the beginning of the controversy, when compared with fire-arms, are now regarded as most deadly, and infinitely more destructive to seal life than the latter implements.

Thus the conditions and tests of many years are wholly reversed by the short experience of one season of the award regulations, and a request is advanced to Her Majesty's Government for an immediate reconsideration of findings of the Paris Tribunal, providing restrictions upon sealing at sea, which of themselves provide for their reconsideration and modification after five years trial, if both parties to the agreement are convinced of such necessity.

At page 160 of the United States Senate Executive document above cited, will be found a communication from the late United States Secretary of State, Mr. Gresham, to Her Majesty's Ambassador at Washington, dated 23rd January, 1895, in the following language:—

EXCELLENCY: I have the honour to inform you for communication to your government, of the deep feeling of solicitude on the part of the President of the United States with regard to the future of the Alaskan seal herd, as disclosed by the official returns of seals killed at sea during the present season in the North Pacific Ocean, filed in the respective custom houses of the United States and British Columbia, and by reliable estimates of skins shipped to London from the Asiatic coast by way of the Suez Canal.

It would appear that there were landed in the United States and Victoria 121,143 skins, and that the total pelagic catch, as shown by the London trade sales and careful estimates of skins transshipped in Japanese and Russian ports, amounts to about 142,000, a result unprecedented in the history of pelagic sealing. It would further appear that the vessels engaged in Behring Sea, although only one-third of the total number employed in the North Pacific, in four or five weeks killed 31,585 seals, not only over 8,000 more than were killed in Behring Sea in 1891 (the last year the sea was open,) but even more than the total number killed during the four months on the American side of the North Pacific this season.

This startling increase in the pelagic slaughter of both the American and Asiatic herds has convinced the President, and, it is respectfully submitted, cannot fail to convince Her Majesty's Government, that the regulations enacted by the Paris Tribunal have not operated to protect the seal herd from that destruction which they were designed to prevent, and that unless a speedy change in the regulations be brought about, extermination of the herd must follow. Such a deplorable result, should, if possible, be averted.

The experience of the past year under the regulations has demonstrated that not alone are the United States and Great Britain deeply interested in the preservation of the seal herd; Russia and Japan have interests, commercially, almost as important. Any new system of regulations of necessity, should embrace the whole North Pacific Ocean from the Asiatic side to the American side, and should be binding upon the citizens and subjects alike of all these countries.

In order to add to our scientific knowledge upon this question as to the habits of the seal, its feeding grounds, and the effect of pelagic sealing upon the herd, and other similar questions, the President deems it advisable to suggest to Her Majesty's Government, and to the Governments of Russia and Japan, that a commission be appointed, consisting of one or more men from each country, eminent for scientific knowledge and practical acquaintance with the fur trade. This commission should visit the Asiatic side of the North Pacific as well as the American, and also the islands which the seals frequent, and report to their respective governments as to the effects of pelagic sealing on the herd, and the proper measures needed to regulate such sealing so as to protect the herd from destruction and permit it to increase in such numbers as to permanently furnish an annual supply of skins.

I am directed by the President to propose for the consideration of your government, and the governments of Russia and Japan, the appointment of such a commission, and I am further directed to suggest that during its deliberations, the respective governments agree upon a *modus vivendi*, as follows:

"That the regulations now in force be extended along the line of the thirty-fifth degree of north latitude from the American to the Asiatic shore, and be enforced during the coming season in the whole of the Pacific Ocean, and waters north of that line. Furthermore, that sealing in Behring Sea be absolutely prohibited pending the report of such commission."

Inasmuch as the sealing season will shortly commence, and the fleet will leave the western coast for the sealing grounds, I beg to suggest the necessity of speedy action in regard to this proposition.

The Canadian views on the subject were, that such an attitude could only be maintained on the hypothesis that pelagic sealers have no rights, and that there operations must either be absolutely and in set terms prohibited by law, or so hampered and restricted, by illiberal legislation, that the business must cease through the forced withdrawal of the participants.

The effect of such a proposition would be to re-open the whole question; moreover, it must be untenable in the face of the vindication of pelagic sealing as a legitimate industry by the Paris Tribunal.

Prior to that event the question might have arisen, is pelagic sealing a legitimate enterprise, or is it not? Such a question could not at the present time arise. Its character has been authoritatively settled, and it is the only method by which the subjects, and citizens of the nations of the world, not owning seal rookeries can participate in the fur seal fishery; and it is not the method by which it is generally admitted that the seal rookeries of the southern hemisphere were broken up.

The fact appears to be entirely disregarded that the destruction of seal life in these other regions, has been brought about solely by killing on land and, it is

thought, cannot in any instance on record be attributed to the much less objectionable and more sportsman-like method of hunting seals in the open ocean, where their chances of escape are so much greater.

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

A tribunal composed of seven eminent jurisconsults, selected from five of the great nations of the world, has confirmed the view that pelagic sealing is a legitimate enterprise, and that those interested therein may ply their calling under certain specified restrictions, but it is expected to enlist the aid of Great Britain to prevent British subjects from enjoying rights secured by arbitration in the face of great trouble and expense.

This decision and the regulations were the result of mature thought, deliberation and consideration, arrived at after full and complete examination of the most exhaustive and effective argument and presentments against pelagic sealing, that it was possible for the United States government to collect and classify, in a period of time extending over about eight years.

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

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

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

Nothing was claimed or even suggested at the time, beyond the effectual expulsion of all sealing vessels from the waters of Behring Sea.

This was the full measure of the claim of the United States government. The objections to pelagic sealing, outside that area, were unformed and developed only in proportion to the growth of the industry, and the production of skins available for competition in the markets of the world.

By the time the decision of the Paris Tribunal was reached, the restrictions imposed upon the ocean sealing industry had assumed most ponderous proportions, so much so that there were those directly interested in the business, who despaired of being able to continue participating in a venture which held the investment of their all, while as has been shown, their opinion in this respect was shared by those interested in effecting a permanent cessation of the industry.

The actual restrictions upon the sealers, dictated by the Paris Regulations may be summued up thus:

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

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

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

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

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

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

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

Thus a very substantial extension of the inhibitions is made possible and practicable, and taken on the whole it would indeed be difficult to find any other legitimate industry subject to as rigorous and exceptionally comprehensive restrictions as are imposed upon this class of the community whose vocation is, of itself, abnormally hazardous both to life and property.

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

That the year's operations resulted in an increased take of seal skins is not at all surprising. Such a condition might be regarded as the natural outcome of the growing experience of the sealers, which could not fail to increase their chances of success.

Moreover, although Behring Sea was in 1894, reopened to operations, after a closure of three years by *modus vivendi*, the exploitation of the Asiatic waters proved more remunerative than did that of those affected by the award and situated on the American side of the 180th meridian.

If it be assumed that the efficiency of the award regulations is to be determined entirely and outside all other considerations, by the extent to which they can be applied to the detriment of all others than the lessees of the seal islands, or by the measure of their instrumentality in destroying the business of pelagic sealing, then an argument for an immediate reconsideration of those regulations may be admitted, but as it is, had the Paris award resulted in a practical prohibition of that branch of the industry, the Canadian sealers might as well have advocated the repeal of existing regulations and a return to unrestricted operations outside territorial jurisdiction.

The position assumed is apparently opposed to the spirit and intention of the treaty creating the arbitration, as well as the findings of the award itself; and the anticipated destruction of the seal herds is an inference drawn from a presumption of conditions impossible of demonstration by the experience of one season.

It is by no means certain that the advocates of ocean sealing could not, in their turn from past experience, show that the methods of the lessees of the sealing privileges on the islands, are operating to the detriment of their rights and privileges, established and regulated by the Paris award, as well as to the depletion of the seal herd. In fact this is a point which may fairly come up for consideration when the time provided for a revision of the award regulations is reached, if such a revision is deemed expedient.

It may also be worthy of mention that during the year 1894 a fleet of 35 United States sealing vessels engaged in the industry of pelagic sealing.

Both parties to the arbitration would seem to be bound by treaty obligation to conform to findings, designed and conceded to settle the difficulties which had arisen. Otherwise, of what avail would be the efforts of the representatives of the different nations, who lent their valuable aid to bring about an adjustment of the question.

A perusal of the proposition fails to disclose any suggestion of restrictions on the operations on the islands. Pelagic sealing alone is to be investigated by the proposed commission, and while it is contemplated to make the award regulations effective from America to Asia, with the additional absolute prohibition of sealing in Behring Sea, the operations on the islands may proceed, and Her Majesty's

Government is invited to assist three powers, jointly interested in suppressing pelagic sealing, which British subjects may lawfully pursue with profit to themselves and credit to the flag under which the precarious calling is conducted.

In the light of all the circumstances, and especially considering the following paragraph of the award itself:—

"The said concurrent regulations shall be submitted every five years to a new examination, so as to enable both interested governments to consider whether in the light of the past experience, there is occasion for any modification thereof." It would not seem that sufficient ground has been advanced warranting any action in the direction sought.

As to the inclusion of Japan and Russia, in a convention of the nature proposed, it is obvious that such a proposition must fail to meet with favour in Canada, since it contemplates the reference of British interests, mainly Canadian, to the consideration of a commission composed of representatives from four nations in which the joint interests of three of them must necessarily be opposed to those of the other nation wholly at variance therewith.

Moreover, both Russia and Japan had the option of accepting the joint invitation of Great Britain and the United States, to give adherence to the regulations as laid down by the award, as shown in the report of last year, at page 146, under the heading "Identic Note."

Her Majesty's Government has already effected an agreement with Russia, providing protective zones around the Russian seal islands and along the Russian shores, based upon a proposal from Russia herself, which has been renewed during the past two years, and which has apparently worked satisfactorily.

Nevertheless, both Her Majesty's Government and Canada have invariably evinced every desire to aid in a reasonable and impartial inquiry into the question of both land and ocean sealing, to augment the information in possession of all parties on the different branches of the industry, and on seal life generally.

PART II—AGREEMENT BETWEEN GREAT BRITAIN AND RUSSIA IN RESPECT OF THE SEAL FISHERIES IN THE NORTH PACIFIC OCEAN.

In the report for the year 1894, under the heading "pelagic fur-sealing," p. clv., the agreement entered into between Great Britain and Russia was treated, and the legislation provided, "Seal Fishery (North Pacific) Act, 1893," 56 Victoria, chapter 23, was quoted at p. clxiii.

The report for 1894 continued the subsequent phases of the question, embracing the renewal of the agreement, the necessary Imperial Order in Council, and the events arising out of the application of the arrangement.

Some remarks upon the practical effects of the legislation in its applicability to the British sailing fleet were also made.

THE ACT AS AMENDED.

As the Act of 1893 expired on 1st July, 1895, it became necessary to provide legislation continuing the agreement with Russia. The existing Act was, therefore, repealed and re-enacted with amendments, on the 27th June, 1895.

The text of this Act is as follows, and it provides for its continuance in force until 31st December, 1897 :—

58-59 VIC., CHAP. 21.

An Act to provide for prohibiting the catching of Seals at certain periods in Behring Sea and other parts of the Pacific Ocean adjacent to Behring Sea, and for regulating the Seal Fisheries in those seas.—27th June, 1895.

Whereas it is expedient to repeal the Seal Fishery (North Pacific) Act, 1893, and to re-enact it with amendments :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1.) Her Majesty the Queen may, by Order in Council, prohibit, during the period specified in the Order, the catching of seals by British ships in such parts of the seas to which this Act applies as are specified in the Order.

(2.) While an Order in Council under this Act is in force—

(*a*) a person belonging to a British ship shall not kill, take or hunt, or attempt to kill or take, any seal during the period and within the seas specified in the Order; and

(*b*) a British ship shall not, nor shall any of the equipment or crew thereof, be used or employed in such killing, taking, hunting, or attempt.

(3.) If there is any contravention of this section, any person committing, procuring, aiding or abetting such contravention shall be guilty of a misdemeanour within the meaning of the Merchant Shipping Act, 1894, and the ship and her equipment and everything on board thereof shall be subject to forfeiture to Her Majesty.

2.—(1.) Her Majesty the Queen may by Order in Council make, as respects such parts of the seas to which this Act applies as are specified in the Order, regulations—

(*a*) for entering in the official log of a ship particulars respecting the hunting, killing and taking of seals, and

(*b*) for regulating the hunting and taking of seals, with power to prohibit or restrict the use therein of any particular kind of vessels, methods or implements.

(2.) If there is any contravention of any such regulation any person who committed, procured, aided or abetted such contravention shall be liable to a fine not exceeding one hundred pounds.

(3.) If the regulations under this section provide for the entry of particulars in the official log of a ship, the provisions of the Merchant Shipping Act, 1894, with reference to official logs (including the penal provisions), shall apply to every ship engaged in seal fishing within such of the seas to which this Act applies as are specified in the Order,

3.—(1.) Any offence or fine under this Act may be prosecuted or recovered in like manner as if it were an offence or fine under the Merchant Shipping Act, 1894.

(2.) For the purpose of the forfeiture of any ship under this Act, section seventy-six of the Merchant shipping Act, 1894, shall apply.

(3.) Where any commissioned officer on full pay in the naval service of Her Majesty the Queen has reasonable cause to believe that during the period and in the seas specified in an Order in Council under this Act, any British ship has been used or employed in contravention of this Act, or of any regulation made thereunder, he may stop and examine her, and detain her or any portion of her equipment or any of her crew, and may seize the ship's certificate of registry.

(4.) For carrying into effect an arrangement with any foreign State, an Order in Council under this Act may provide that the powers under this Act of such commissioned officer may, subject to any limitations, conditions, modifications and exceptions specified in the Order, be exercised in relation to a British ship and the equipment, crew and certificate thereof by such officers of the said foreign State as are specified in the Order, or in relation to a ship of the said foreign State and the equipment crew and papers thereof by such British officers as are specified in the Order.

4.—(1.) Where an officer has power under this Act to seize a ship's certificate of registry, he may, subject to the directions of an Order in Council under this Act, either retain the certificate and give a provisional certificate in lieu thereof, or return the certificate with an endorsement of the grounds on which it was seized; and in either case may, if the ship appears to him to be liable to forfeiture, direct the ship, by an addition to the provisional certificate or to the endorsement, to proceed forthwith to a specified port, being a port where there is a British court having authority to adjudicate in the matter, and if this direction is not complied with, the owner and master of the ship shall, without prejudice to any other liability, each be liable to a fine not exceeding one hundred pounds.

(2.) Where in pursuance of this section a provisional certificate is given to a ship, or the ship's certificate is endorsed, any officer of customs in Her Majesty's dominions or British consular officer may detain the ship, until satisfactory security is given for her appearance in any legal proceedings which may be taken against her in pursuance of this Act.

5.—(1). A statement in writing, purporting to be signed by an officer having power in pursuance of this Act to stop and examine a ship, as to the circumstances under which or grounds on which he stopped and examined the ship, shall be admissible in any proceedings, civil or criminal, as evidence of the facts or matters therein stated.

(2.) If evidence contained in any such statement was taken on oath in the presence of the person charged in the evidence, and that person had an opportunity of cross-examining the person giving the evidence and of making his reply to the evidence, the officer making the statement may certify that the evidence was so taken, and that there was such opportunity as aforesaid.

6.—(1). Her Majesty the Queen in Council may make, revoke and alter Orders for the purpose of this Act, and every such Order shall be forthwith laid before both Houses of Parliament and published in the London *Gazette*.

(2.) Any such Order may contain any limitations, conditions, modifications and exceptions, which appear to Her Majesty in Council expedient for carrying into effect the object of this Act.

7.—(1). This Act shall apply to the animal known as the fur seal, and to any marine animal specified in that behalf by an Order in Council under this Act, and the expression "seal" in this Act shall be construed accordingly.

(2.) This Act shall apply to the seas within that part of the Pacific Ocean known as Behrings Sea, and within such other parts of the Pacific Ocean as are north of the forty-second parallel of north latitude, and shall be in addition to and not in derogation of the provisions of the Behring Sea Award Act, 1894.

(3.) The expression "equipment" in this Act includes any boat, tackle, fishing or shooting instruments, and other things belonging to a ship.

(4.) This Act may be cited as the Seal Fisheries (North Pacific) Act, 1895.

(5.) The Seal Fishery (North Pacific) Act, 1893, is hereby repealed as from the passing of this Act, but shall be deemed until that passing to have continued in force, and any Order in Council in force under that Act shall continue as if it had been made in pursuance of this Act.

(6.) This Act shall remain in force until the thirty-first day of December, one thousand eight hundred and ninety-seven, and no longer unless continued by Parliament.

For the purpose of carrying out the provisions of the foregoing Act the following Order in Council has been passed :—

THE SEAL FISHERIES (NORTH PACIFIC) ORDER IN COUNCIL.

At the Court at Windsor, the 21st day of November, 1895.

PRESENT :

The Queen's Most Excellent Majesty.
Lord President,
Lord Privy Seal,
Marquess of Lansdowne.

Whereas by "The Seal Fisheries (North Pacific) Act, 1895" it is enacted that Her Majesty the Queen may by Order in Council prohibit, during the period specified by the Order, the catching of seals by British ships in such parts of the seas to which that Act applies as are specified by the Order; and that for carrying into effect an arrangement with any foreign state an Order in Council may provide that the powers under the Act of any commissioned officer on full pay in the naval service of Her Majesty the Queen may, subject to any limitations, conditions, modifications and exceptions specified in the Order, be exercised in relation to a British ship, and the equipment, crew, and certificate thereof, by such officers of the said foreign state as are specified in the Order, and that any such Order may contain any limitations, conditions, modifications and exceptions which appear to Her Majesty in Council expedient for carrying into effect the object of that Act;

And whereas the said Act applies to the seas within that part of the Pacific Ocean known as Behring Sea, and within such other parts of the North Pacific Ocean as are north of the forty-second parallel of north latitude;

And whereas an arrangement has been made between Her Majesty the Queen and His Majesty the Emperor of Russia whereby British ships engaged in hunting seals within such parts of the said seas as are hereinafter specified may be seized by Russian cruisers:

And whereas Her Majesty was pleased, by and with the advice of Her Privy Council, on the 24th day of August, 1895, to make an Order in Council as a *Provisional* Order within the meaning of the Rules Publication Act, 1895:

And whereas the provisions of the Rules Publication Act, 1893, have been complied with;

Now, therefore, Her Majesty, in virtue of the powers vested in Her by the said first recited Act, and of all other powers enabling her in that behalf, is hereby pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:—

1. From and after the date of the present Order, until Her Majesty in Council shall otherwise direct, the catching of seals by British ships is hereby prohibited within such parts of the seas to which the recited Act applies as are comprised within the following zone (in this Order referred to as "the prohibited zone"), that is to say:—

(1.) A zone of ten marine miles on all the Russian coasts, Behring Sea and the North Pacific Ocean; and

(2.) A zone of thirty marine miles round Kormandorsky Islands and Tulenew (Robben Island).

2. The powers under the recited Act of a commissioned officer on full pay in the Naval Service of Her Majesty may be exercised in relation to a British ship, and the equipment, crew, and certificate thereof, by the captain or other officer in command of any war vessel of His Majesty the Emperor of Russia (hereinafter referred to as an "authorized Russian officer"), but subject to the limitations, conditions, modifications and exceptions following, that is to say:—

(1.) The said powers shall not be exercised by an authorized Russian officer, except in relation to British ships engaged in hunting seals within either of the prohibited zones.

(2.) A British ship shall not be liable to seizure or detention by an authorized Russian officer by reason of the contravention of any regulations made under section 2 of the recited Act.

(3.) The powers under section 3 of the recited Act of detaining any portion of the equipment or any of the crew, and the powers under section 4, of giving a provisional certificate in lieu of a ship's certificate which is seized and retained, or of endorsing on a certificate the grounds on which it was seized, and of directing the ship to proceed forthwith to a specified port, shall not be exercised in relation to a British ship by an authorized Russian officer.

(4.) Where an authorized Russian officer in exercise of the said powers, stops and examines and detains a British ship or her certificate of registry, he shall as soon as possible hand over the ship, or deliver or transmit the certificate, as the case may be, either to the commanding officer of a British cruiser, or to the nearest British authority, as defined by this Order, and shall then, or within a reasonable time thereafter, satisfy such officer or authority, that they were reasonable grounds for the detention or seizure and that the case is proper to be adjudicated in a British court, and also furnish to such officer or authority the evidence sufficient, in the opinion of such officer or authority, for such adjudication; and if the said Russian officer fails to satisfy such officer or authority or to furnish to such officer or authority such sufficient evidence as aforesaid, the said officer or authority may release the ship.

3.—(1.) Where the commanding officer of a British cruiser receives a British ship from an authorized Russian officer, and is satisfied that there were reasonable grounds for the detention of seizure, and that the case is proper to be adjudicated in a British court, he may exercise the powers conferred by section 4, of the recited Act, as if he had himself stopped and examined and detained the ship, and that section shall apply accordingly.

(2.) Where the commanding officer of a British cruiser, or a British authority, receives a British ship from an authorized Russian officer, and sends the case for adjudication in a British court, he shall, for the purposes of section 76, of "The Merchant Shipping Act, 1894," be deemed to have himself seized or detained the said ship.

4. For the purposes of this Order, the expression "British authority" means any officer of customs in Her Majesty's dominions, and any British Consular officer having authority as such in any port or place.

5. "The Seal Fishery (North Pacific) Order in Council, 1894," is hereby revoked, without the prejudice to anything done or suffered under that order.

6. This Order may be cited as "The Seal Fisheries (North Pacific) Order in Council, 1895."

And the Most Honourable the Marquess of Salisbury, K.G., and the Right Honourable Joseph Chamberlain, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them respectively appertain.

(Sgd.) C. L. PEEL.

THE ACTS OF 1893 AND 1895 COMPARED.

The following is the result of an examination of the amended Act, as compared with that of 1893, which constituted the first legislation under the Russian agreement, originated that year.

Section 1, ss. 1 and 2, and paragraphs (*a*) and (*b*) re-enact without change, corresponding sections in the Act of 1893.

Section 1, ss. 3, section 2 and its subsection 1 (*a*) (*b*) 2 and 3, as well as section 3, *ss.* 1, 2, 3, and 4, replace with additions, subsections 3, 4, 5 and 6 of section 1, in the Act of 1893.

Subsection 3 of section 1, differs from the original Act in phraseology, but while meeting some of the Canadian suggestions omits subsections following and provides for them in different form by section 3.*

It also brings the misdemeanor within the Merchant Shipping Act of 1894, instead of 1854, &c., as in the Act of 1893. This is an apparent incidental necessity, however.

Section 2, and its subsections 1, 2 and 3, are new. Thereby, the adoption of regulations by Order in Council, is empowered, as to log records of hunting, killing and taking seals, and for regulating, hunting and taking of seals, with power to prohibit and restrict the use of any particular kind of vessel, method or implement, within the North Pacific Ocean, north of the 42nd degree of north latitude.

Subsection 2 provides a penalty for contravention of any such regulations similar to that in the "Behring Sea Award Act, 1894."

Subsection 3 applies the provisions (including penal provisions) of the Merchant shipping Act of 1894, (with reference to official logs), to every ship engaged in the seal fisheries within the areas to which the Act applies, as are specified in the Order. (If the regulations provide for such log entries). A similar provision as to the Merchant Shipping Act of 1854 exists in the Behring Sea Award Act, which Act provides for log entries under the Paris Award.

*NOTE:—A memorandum with appendix containing certain suggestions by the Canadian Government will be found at p. 48, Imperial print "Russia No. 1, 1895. (C. 7713) presented to Imperial Parliament, June, 1895.

Section 3, ss. 1 and 2, provides for prosecution, of offence, fine and recovery, and forfeiture of ship, under the Merchant Shipping Act of 1894. These subsections replace ss. 3 of section 1 of the Act of 1893, and are similar to the Behring Sea Award Act, 1894.

Subsection 3 replaces ss. 4 of section 1 of the Act of 1893.

The following provides a comparison:

ACT OF 1893.

(4.) Any commissioned officer on full pay in the naval service of Her Majesty the Queen shall have power, during the period and in the seas specified by the Order, to stop and examine any British ship, and to detain her or any portion of her equipment, or any of her crew, if *in his judgment* the ship is being *or is preparing* to be used or employed in contravention of this section.

SUBSTITUTION PROPOSED BY CANADA.

(7.) Any commissioned officer on full pay in the naval service of Her Majesty the Queen shall have power, during the period and in the seas specified by the Order, to stop and examine any British ship, and to detain her or any portion of her equipment, or any of her crew, *if the ship is being used or employed in contravention of this section.*

IMPERIAL ACT 1895, UNDER REVIEW.

(3.) Where any commissioned officer on full pay in the naval service of Her Majesty the Queen, *has reasonable cause to believe*, that during the period and in the seas specified in an Order in Council under this Act, any British ship has been used or employed in contravention of this Act, or of any regulation made thereunder, he may stop and examine her, and detain her, or any portion of her equipment, or any of her crew, and may seize the ship's certificate of registry."

This clause, while not going to the full extent of the above suggested one, yet makes it necessary that the officer shall *have reasonable cause to believe* that the vessel had been used and employed in contravention of the Act or regulations, while it does not contemplate any *preparation* for the offence *in the judgment* of the officer.

Subsection 4 of section 3 re-enacts in changed phraseology subsection 5 section 1 of the Act of 1893, but apparently does not change the intention or significance thereof. Hence it still continues the right of visit and search, the principle of which has been protested against.

Subsection 6 of section 1 of the Act of 1893, does not appear to be re-enacted, nor is there apparently any provision of a similar nature in the new Act.

This clause was as follows:—

(6.) If during the period and within the seas specified by the order, a British ship is found having on board thereof fishing or shooting implements or seal-skins or bodies of seals, it shall lie on the owner or master of such ship to prove that the ship was not used or employed in contravention of this Act.

And was one of the points of objection to the Act of 1893, as providing *prima facie* evidence of guilt under which several ships had their voyage broken up without recourse.

The proof of innocent intent is thus removed from the vessel, and presumably, as a natural consequence, the proof of offence must necessarily devolve upon the complainants.

Section 4, ss. 1, re-enacts with changes, section 2, ss. 1 of the Act of 1893, touching the powers of officers in seizing a ship's certificates, &c., and directing her to proceed to port under seizure. The changes make his action respecting seizure, "subject to the directions of an Order in Council under this Act," and the sending her to port under seizure, "if the ship appears to him to be liable to forfeiture." This change renders the clause better than it was, and reference to subsection 4 of section 2 of the Order in Council previously quoted, will show that the Russian authorities are required to hand over any seized vessel (British) to the nearest British authority, upon whom it will then lie to decide, in the light of evidence advanced, whether there was reasonable ground for the detention, and if the case is a proper one for adjudication in a British court.

Nevertheless, the owner and master each are still held liable to the extra specific fine for not complying with the order to go to the port directed, although it may fairly be contended that the master alone should be liable.

Subsection 2 of section 4 re-enacts subsection 2 of section 2 of the Act of 1893, as to customs and consular officers detaining ships, until satisfactory security is given to appear for trial.

Section 5, ss. 1 and 3 *are identical* with section 3, ss. 1 and 2 of Act of 1893, as to evidence by statement in writing of an officer empowered to stop and examine a ship, if taken on oath, in presence of the person charged, under certain circumstances.

Section 6, ss. 1 and 2 *are identical* with section 4, ss. 1 and 2 of the Act of 1893 as to the power of Her Majesty in Council to revoke and alter orders, and limit conditions, and modify the same, except that the word "qualifications" is changed to "modifications."

Section 7, ss. 1 and 2 are the same as section 5 of ss. 1 and 2, as to application and construction, except that s.s. 2 of the new bill adds: "And shall be in addition to, and not in derogation of the provisions of the Behring Sea Award Act, 1894."

Subsection 3 interpreting the expression "equipment," is identical with ss. 3 of section 5 of the 1893 Act.

Subsections 4 and 5, citing the Act and repealing the previous Act from the passage of this Act, and continuing the Order in Council in force under the Act of 1893, necessarily vary in form.

Subsection 6 is new. It reads:

"This Act shall remain in force until the 31st day of December, 1897, and no longer, unless continued by Parliament."

It will be observed that the present Act, while re-enacting that of 1893, goes considerably further, inasmuch as it takes power to make Orders in Council providing regulations, which under the text of the agreement with Russia, the Act of 1893, or the Orders in Council thereunder, are not in existence; although regulations of a similar nature obtain under the "Behring Sea Award Act" of 1894, affecting the water area to which the award and its consequent legislation is applicable.

The area affected by this Act is the same as by that of 1893, that is to say — All that part of the Pacific Ocean (including Behring Sea) as is north of the 42nd parallel of north latitude, from America to Asia. This includes all the area affected by the Behring Sea award, except a strip on the southern limit between the 42nd and 35th degrees of north latitude, and comprises the Pacific Ocean north of a point opposite Yesso Island, in Japan, on the Asiatic side, and of a point off the state of Oregon, in America.

After taking power to make these regulations (by Order in Council) the Act proceeds to provide machinery against any breaches thereof, if such regulations are made.

The offences under the Act are, therefore, dependent upon the Orders in Council, which it empowers Her Majesty to make.

The Act itself (subsection 5 of section 7) continues in force the Order in Council under the Act of 1893; but this does not affect the power taken to make other substantive Orders in Council, of an entirely different and more comprehensive nature.

The contention has been, and still is, that the agreement with Russia does not call for any inhibitions beyond those in force in 1893, and that of themselves they were much more restrictive and comprehensive than a fair and reasonable interpretation of the agreement, in the light of the peculiar conditions of the industry, demanded.

As the practical application of the Act, however, can only be judged from the Orders in Council made thereunder, reference is directed to the Order in Council above quoted. Subsection 2 of section 2 reads as follows: "A British ship shall not be liable to seizure or detention by an authorized Russian officer by reason of a contravention of any regulations made under section 2 of recited Act." In this respect

the Act is thus kept within the scope of the agreement, and it is understood that the power taken would be applied more particularly in the direction of collecting information and statistics upon the sealing question generally.

The Act throughout substitutes the Merchant Shipping Act of 1894 as applicable, for those of 1854 and 1876, cited in the Act of 1893; the necessity for this, however, is obvious.

It may further be observed that the Act of 1893, section 1, subsection 4, authorized the seizure of a vessel, etc., if in the judgment of the boarding officer, the ship was being or preparing to be used or employed in contravention.

This, among other points, formed the subject of protest on the part of the Canadian Government, and the present Act, if not wholly meeting the objections in this respect, in necessitating on the part of the officer, reasonable cause for belief that the vessel had been so used or employed before stopping, examining or seizing her, certainly concedes a very considerable point in that direction.

The absence in the Act of subsection 6 of section 1 of the Act of 1893, which provided a *prima facie* case against the vessel, and threw upon her the onus of proof of innocence, is very significant, and it would seem that, in thus shifting the responsibility of proof upon the other side, perhaps one of the most objectionable features in the Act of 1893, is greatly diminished.

All the vessels seized in 1893—the "Maud S," "Ainoko," "Minnie" and "Arctic," had their seasons broken up without recourse, because of the *prima facie* case against them, notwithstanding all subsequently satisfied the courts of their innocence, except the "Minnie," which vessel was condemned merely through the absence of sufficient proof to discharge the presumption thus raised against her mere presence, in a locality where she had a right to be, for other purposes than those prescribed in the Act.

The new Act, therefore, greatly restricts the facilities for interference with British ships, in this connection, and, therefore, by comparison inures generally to their advantage.

The second addition as contained in ss. 1 of section 4, "if the ship appears to him to be liable to forfeiture," seems also to render the Act more favourable than was that of 1893.

The right of visit and search over British vessels by foreign officers is continued (sec. 4, ss. 3).

The principle involved in this concession to foreign powers has formed the subject of much representation.

The fact that the right is jointly conferredby each power upon the other, is not (under the peculiar circumstances obtaining) deemed a sufficient answer to the objections.

It is impossible that reciprocal rights can be conveyed between Russia and Great Britain in respect of the pelagic sealing industry, since their interests in this matter are diametrically opposite.

Owning seal islands, Russia's self interest is to compass the prohibition of pelagic sealing, and to this end prohibits it by her own subjects. Where, then, is England to exercise any so-called reciprocal privilege?

On the other hand, the interests of Great Britain in the catching of seals by her subjects, lies wholly in pelagic sealing, inasmuch as it is the only method by which they can participate in that branch of the industry, as she does not own rookeries. Hence, at the outset, the interests of the two countries in this respect are necessarily antagonistic. It is, therefore, easy to understand that while Russia might willingly concede powers to Great Britain to assist in policing their waters, to stamp out a practice (although legitimate) against Russian interests, Great Britain could not be actuated by the same reason to confer similar powers. Thus the position must of necessity be a one-sided one.

Apparently, to go beyond the mere appearance of reciprocity, Russia *would require to throw open her operations on land* to constant inquisitorial examination, espionage and surveillance by British representatives, and even that concession could in no manner be regarded as constituting an equivalent for the rights conferred upon Russians over British vessels on the high seas.

THE CLAIMS OF THE "WILLIE M'GOWAN" AND "ARIEL."

The departmental report for 1893, contained the text of the findings of the Russian Commission appointed to inquire into the seizures by Russian authorities, in the vicinity of the Komandorsky Islands during 1892.

In respect of the "Willie McGowan" the commission decided that it was not justified in declaring that the seizure was altogether regular, and as regards the "Ariel," the decision was that although there were indications of the vessel having been in territorial waters, yet the majority of the commission did not consider her seizure to be justified from a legal point of view, on account "of the absence of a condition which is essentially and generally admitted, that is to say the "Ariel's" boats had not been sealing in our waters."

The Russian government accordingly signified their readiness to proceed to an assessment of the indemnity to be paid to the owners of these two vessels.

During the present year Her Majesty's government applied through the Canadian government, for such vouchers and documentary evidence as could be obtained supporting the various items of the claims of the "Willie McGowan" and "Ariel," which had been advanced, as the assessment thereof was about to be entered upon.

This department immediately communicated with the parties interested in Nova Scotia and British Columbia, to the desired end, and a mass of material of the nature required for the establishment of the different points involved has been forwarded for transmission to St. Petersburg.

There is, therefore, reason to hope that before long some definite official intimation of the settlement of these claims may reach Canada.

The seizure of the other vessels which occurred contemporaneously was maintained by the commission, and is still the subject of diplomatic correspondence.

R. N. VENNING.

Ottawa, 31st December 1895.

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