

SECRET.

UNION OF SOUTH AFRICA.

PRIME MINISTER & EXTERNAL AFFAIRS.

(F)

383

Fisheries

P.M. 107 / 7 /

P.M. 107 / 7

old

SUBJECT.

Application by Kerguelen Seal and Whaling Company to Conduct Whaling operations in the Antarctic.

Relative Files.

7

[199]



British Company registered in His Majesty's Dominions.

14. HIS Majesty will not during the continuance of the Licence grant to any other person or persons any rights to occupy the Islands for the purposes specified in this License.

AND THIS LICENSE FURTHER WITNESSETH and it is hereby declared and agreed that His Majesty does not undertake and shall not be called upon to maintain any establishment or any officer on the said Island or to make any compensation to the Licensee for any loss it may sustain by reason of the absence thereof or by reason of His Majesty's not finding it expedient from political or other considerations to retain the sovereignty of the said Islands or convenient to protect the said Licensee in the enjoyment of the exclusive privilege intended to be hereby granted AND THIS LICENSE FURTHER WITNESSETH that if it shall appear to the Secretary of State that any of the above recited representations is incorrect or if the payment by the Licensee of any money due in respect of rent or royalties under the Licence hereby granted shall be in arrear for six calendar months after the same shall become payable or if any of the above covenants on the part of the Licensee shall be broken or left unfulfilled or if it shall appear to the Secretary of State to be expedient on political grounds or otherwise to revoke this Licence the Secretary of State on behalf of His Majesty may by notice under his hand addressed to the Licensee at its registered office or at its last known place of business and forwarded so addressed by

post

Islands a substantial column or beacon of not less than six feet square at the base nor less than twenty feet in height.

11. IT shall be lawful for the Commanding Officer of any vessel in His Majesty's Service and for all persons authorised by any such Commanding Officer and also for all persons authorised in that behalf by the Secretary of State at all times to enter upon the said Islands and every part thereof and upon all works and premises of the Licensee therein or thereon and to examine and inspect all works and operations of the Licensee and generally to make all such examinations and investigations as any such person so entering shall in his discretion think expedient for the purpose of ascertaining whether all the covenants and obligations of the Licensee hereunder are being duly carried out and complied with and the Licensee its agents and servants and all persons in its employment or under its control will whenever requested so to do give to every person so entering all such facilities of examination and investigation and all such information relating to anything done or omitted by the Licensee hereunder or otherwise upon the said Islands as any such person shall require.

12. The Licensee will not hinder or interfere with the exercise of the rights of any persons who may establish to the satisfaction of the Secretary of State that they have the rights of user over the said Islands or either of them.

13. THE Licensee shall at all times be and remain a

British

granted the Licensee will not take or kill in any year more than fifty fur seals and will not at any time hunt take or kill any female seal harem bull or pup nor during the breeding season hunt take or kill any seal whatsoever The Licensee will further furnish a report annually to the Secretary of State on all kinds of seals including sea elephants seen whether hunted or not on the Islands or in the territorial waters thereof and also on any whales that may be seen south of the Equator in the course of the Licensee's operations The Secretary of State reserves the right to revise the conditions with regard to the taking of seals including sea elephants at any time after the Licence has been in force for a period of five years provided that the maximum number of fur seals which may be taken annually will not be reduced beyond twenty five.

9. THE Licensee will at its own expense and to the satisfaction of the Secretary of State maintain good order on the Islands and will properly feed support and treat all labourers and others there employed by it and will conform to and enforce all regulations if any from time to time established by the authority of the Secretary of State for maintaining good order or for the welfare of persons employed on the Islands and will not without the sanction in writing of the Secretary of State inflict any punishment or resort to any method of compulsory labour.

10. THE Licensee will within one year from the date hereof erect and ( during the continuance of this Licence) maintain for the purpose of land marks to be visible to vessels approaching or passing near the Islands on each of the

Islands

for submission then in substitution for the royalty hereinbefore provided there shall be payable on such unsold quantities a royalty calculated on the average selling price during the last three years of the currency of the License.

5. The Licensee will furnish the Secretary of State with any such further certificates or returns as he may require either in addition to or in substitution for the certified Annual Return aforesaid for the purpose of calculating the amount of the royalty due in any year or for scientific purposes.

6. THE Licensee will keep true and proper books of account of all whales seals (including sea elephants) guano minerals and precious stones which shall be gotten from or taken on the said Islands or from or in the territorial waters thereof and of the dates at which and the quantities in which the same or the oil products thereof shall be exported therefrom and such books shall be open to the inspection of any person authorised in that behalf by the Secretary of State and any such person shall be entitled to take copies of or extracts from the said books.

7. NOT more than three whale catchers shall be used. The floating factory shall carry if not more than two whale catchers are used not less than nine and if three whale catchers are used not less than twelve pressure boilers each ten feet long by seven feet diameter or of equivalent cubic capacity for dealing with the residue of the carcass after the blubber has been removed.

8. IN the exercise of the right to take seals hereby

granted

getting or of transporting the same from the said Islands to the place of sale The Secretary of State shall be entitled to revise the rate of export duty on oil at any time after the Licence has been in force for a period of three years provided that the rate shall not be increased to more than 5/- a barrel.

4. THE Licensee will within six months after the expiry of each year of the said term submit to the Secretary of State progress returns for the expired year shewing (a) number and description of whales taken and name of month in which taken (b) number of barrels of oil of various grades produced (c) quantity of baleen obtained (d) quantity of guano minerals and precious stones shipped and exported and the selling prices of same, such returns to be certified by a firm of Chartered Accountants in accordance with the books to be kept by the Licensee as hereinafter provided and will pay to the Secretary of State or other person or persons authorised to receive it the amount found by the Secretary of State to be due under the last preceding covenant such payment to be made within one month after the amount thereof shall have been communicated to the Licensee. In the event of any guano minerals or precious stones shipped and exported from the said Islands during the year with which any return is concerned remaining unsold at the expiration of the said year such unsold quantities shall be carried over and shall be brought into account in the return for any succeeding year in which the same are sold. In the event of there being any such unsold quantities at the time when the return in respect of the last year of the term hereby granted is due

for

absolute discretion grant or withhold or grant on such terms and conditions as he may think fit.

2. THE Licensee will at the beginning of each year of the term hereby granted ( that is to say) on the ninth day of October, 1926, and on each succeeding ninth day of October pay in advance by way of yearly rent to the Secretary of State for the use of His Majesty or to some person or persons authorised by him to receive the same the sum of ONE HUNDRED POUNDS in respect of Prince Edward Island and Marion Island and the sum of ONE HUNDRED POUNDS In respect of Heard Island and MacDonal'd Island.

3. IN addition to the said two several sums of One hundred pounds the Licensee will in the second and each subsequent year of the term hereby granted and also in the year next following the expiration or sooner determination of the said term pay to the Secretary of State for the use of His Majesty or to some person or persons authorized by him to receive the same:-

(a) an export duty at the rate of 2/6 a barrel of 40 gallons of whale oil and seal oil including sea elephant oil.

(b) a royalty of two and one half per cent on all guano minerals and precious stones.

which shall have been shipped and exported by the Licensee from the said Islands or any of them during the preceding year of the said term. Such royalty shall be calculated on the selling price at the place of sale outside the Islands of such guano minerals and precious stones without any deduction from such price for the cost of winning or

getting



such application subject to the covenants conditions agreements and declarations hereinafter contained and subject also to the payment by the Licensee of the rent and royalties hereinafter covenanted to be paid AND WHEREAS the Licensee has accordingly paid to the Secretary of State for the use of His Majesty the sum of £100 in respect of the rent of Prince Edward Island and Marion Island and the sum of £100 in respect of the rent of Heard Island and Macdonald Island for the first year of the term hereinafter granted as is hereby admitted NOW THIS LICENSE WITNESSETH that in consideration of the premises and of the covenants hereafter specified to be performed and observed on the part of the Licensee His Majesty DOETH hereby grant to the Licensee the exclusive right to occupy the said Islands for its own use for the purposes aforesaid during the term of TEN YEARS from the ninth day of October, 1926, with permission to construct on the said Islands all such buildings jetties and other works as may be requisite for its operations in that behalf and to display the British flag as occasion may require in proof of such occupation AND THIS LICENCE ALSO WITNESSETH that in consideration of the premises the Licensee for itself its successors and assigns hereby COVENANTS with His Majesty His Heirs and Successors in manner following that is to say that:-

1. THE Licensee will not assign or underlet the present Licence or part with any interest therein without having first obtained the consent in writing of the Secretary of State which consent the Secretary of State may in his

absolute

THIS LICENCE made the ninth day of October, 1926,  
BETWEEN The King's Most Excellent Majesty of the first  
part His Majesty's Principal Secretary of State for the  
Colonies ( hereinafter called the Secretary of State) of  
the second part and the KERGUELEN SEALING AND WHALING  
COMPANY LIMITED whose registered office is at Capetown  
(hereinafter called the Licensee) of the third part WHEREAS  
it has been represented to His Majesty by the said  
Licensee that it is desirous of occupying certain Islands  
belonging to His Majesty and not within the jurisdiction of  
any Colonial Government situate in the South Indian Ocean  
called Prince Edward Island and Marion Island lying in or  
about Latitude  $46^{\circ} 36'$  South Longitude  $37^{\circ} 57'$  East and  
Latitude  $46^{\circ} 49'$  South Longitude  $37^{\circ} 49'$  East respectively  
and Heard Island and Macdonald Island lying in or about  
Latitude  $53^{\circ} 10'$  South Longitude  $73^{\circ} 32'$  East and Latitude  
 $53^{\circ} 3'$  South Longitude  $72^{\circ} 32'$  East respectively for the  
purposes of taking whales in the territorial waters of the  
said Islands and of flensing, rendering boiling down or  
treating whole carcasses or any part thereof by means of a  
floating factory and of taking seals including sea elephants  
upon the said Islands and within the territorial waters  
thereof and of searching for working and removing guano  
minerals and precious stones therefrom and that the said  
Islands are uninhabited and that so far as the Licensee is  
aware no other person has or claims to have any right or  
interest to or in the said Islands or to anything thereon  
AND WHEREAS the licensee has applied to His Majesty to  
grant to it an exclusive Licence to occupy the said  
Islands and to hold the same for its own use for the  
purposes aforesaid AND WHEREAS His Majesty on the faith  
of such representations hath been pleased to accede to

such

*Noted*

*M 107/7*



THIS LICENSE made the ninth day of October, 1928,  
TELEGRAM.

FROM: SECRETARY OF STATE FOR DOMINION AFFAIRS.  
TO: MINISTER OF EXTERNAL AFFAIRS.

(Serial 113. 4th. October. Secret. Application has been received from Kerguelen Seal and Whaling Company at Cape Town for licence to conduct whaling operations based on a portion of the Antarctic continent which lies between Enderby Land and Western extremity of Queen Mary's Land. These areas were mentioned in summary of Proceedings of Imperial Conference 1926, as amongst those to which British title by discovery exists. It will be remembered that Conference approved report of special committee recommending that title should be asserted to all areas enumerated in summary of proceedings and that particular area now in question should be placed under the control of His Majesty's Government in the Commonwealth of Australia if they were willing (see Paper E. 130 Revise enclosed in my despatch of the 5th. January 1927 Secret).

*Records*

*M 50/267  
12th Prime Minister*

*2 J. J. J.*

Issue of licence desired would appear valuable method of asserting title to areas in question but Commonwealth Government, while anxious that licence should be issued, intimated that there would be difficulties in issuing it themselves before administration of areas in question had been vested in Commonwealth Government. For various reasons they thought necessary action to effect this should be deferred for the time being and suggested that as a first step licence might be issued by His Majesty's Government in Great Britain.

Action is being taken accordingly. Copy of licence will be sent by mail.

Evdw.

*Entered on  
J. J. J.*

*Noted* *Mr 107/7*  
TELEGRAM.

FROM: SECRETARY OF STATE FOR DOMINION AFFAIRS.  
TO : MINISTER OF EXTERNAL AFFAIRS.

NOV 1928

*Revised*

113. 4th. October. Secret. Application has been received from Kerguelen Seal and Whaling Company at Cape Town for licence to conduct whaling operations based portion Antarctic continent which lies between Enderby Land and Western extremity of Queen Mary's Land. These areas were mentioned in summary of Proceedings of Imperial Conference 1926, as amongst those to which British title by discovery exists. It will be remembered that Conference approved report of special committee recommending that title should be asserted to all areas enumerated in summary of proceedings and that particular area(s) now in question should be placed under the control of His Majesty's Government in the Commonwealth of Australia if they were willing (see Paper E. 130 Revise enclosed in my despatch of the 5th. January 1927 Secret).

Issue of licence desired would appear valuable method of asserting title to areas in question but Commonwealth Government, while anxious that licence should be issued, intimated that there would be difficulties in issuing it themselves before administration of areas in question had been vested in Commonwealth Government. For various reasons they thought necessary action to effect this should be deferred for the time being and suggested that as a first step licence might be issued by His Majesty's Government in Great Britain.

Action is being taken accordingly. Copy of licence will be sent by mail.

*EvDW.*

TELEGRAM.

FROM: SECRETARY OF STATE FOR DOMINION AFFAIRS.

TO : MINISTER OF EXTERNAL AFFAIRS.

10th. November. 127 Secret. My telegram of 4th. October 113 Secret. Copy of license issued to Kerguelen Seal and Whaling Company was enclosed in my despatch of 22nd. October Secret. In addition to this license the company hold (i) license from French Government, (ii) Licenses issued by His Majesty's Government in Great Britain in respect of Heard and Macdonald Islands. Representations have been received from Messrs. Irvin and Johnson (South Africa) Ltd. acting on behalf of Company that it would be desirable to separate rights held under French license from those derived from license issued by His Majesty's Government in Great Britain. They therefore propose that a new company should be formed in the Union of South Africa to take over license mentioned in my telegram under reference and licenses in respect of Heard and Macdonald Islands. Details of their proposals have been examined and found satisfactory and they have now been informed *that* if a new company should be formed on the lines proposed no objection will be raised to transfer to it of above licenses. Copy of correspondence follows by mail.

JH/SW.

~~Secret~~



M. 107/7

TELEGRAM.

FROM: SECRETARY OF STATE FOR DOMINION AFFAIRS.  
TO : MINISTER OF EXTERNAL AFFAIRS.

10th. November. 127 Secret. My telegram of 4th. October 113 Secret. Copy of license issued to Kerguelen Seal and Whaling Company was enclosed in my despatch of 22nd. October Secret. In addition to this license the company hold (i) license from French Government, (ii) Licenses issued by His Majesty's Government in Great Britain in respect of Heard and Macdonald Islands. Representations have been received from Messrs. Irvin and Johnson (South Africa) Ltd. acting on behalf of Company that it would be desirable to separate rights held under French license from those derived from license(s) issued by His Majesty's Government in Great Britain. They therefore propose that a new company should be formed in the Union of South Africa to take over license mentioned in my telegram under reference and licenses in respect of Heard and Macdonald Islands. Details of their proposals have been examined and found satisfactory and they have now been informed that if a new company should be formed on the lines proposed no objection will be raised to transfer to it of above licenses. Copy of correspondence follows by mail.

has not arrived

Prime Minister  
your information re

12/11/28

23 Oct 1928  
copy of  
license  
sent to  
Mr. Irvin  
12/11/28

Entered 2 copies to Mr. Irvin  
for H.E. + Capt. Clifford

12/11/28  
11. AM.

no trip copy  
AS

JN/EW.

107/7

This matter should be  
submitted to Min. of Justice  
for reference

*Approved*  
11/11/15

R DOMINION AFFAIRS.  
AFFAIRS.

t. My telegram of 4th.  
issued to Berguelen  
d in my despatch of  
e this license the  
Government, (ii) Licenses  
Great Britain in re-  
t. Representations  
and Johnson (South  
say that it would be  
ler French license  
ed by His Majesty's  
therefore propose that  
Union of South  
i in my telegram under  
ward and Macdonald

islands. Details of their proposals have been examined  
and found satisfactory and they have now been informed  
if a new company should be formed on the lines proposed  
no objection will be raised to transfer to it of above  
licenses. Copy of correspondence follows by mail.

*11/11/15*  
*11/11/15*  
*11/11/15*

*Letter to the Hon. Secy  
to the Dept. of Justice*

*11/11/15*

*20/11/15*

21/11/15

*W. H. S.*  
*N. 8*

*Am. 107/7*



UNION OF SOUTH AFRICA

Downing Street,

Secret.

22 October, 1928.

**SECRET**

Sir,

With reference to my Secret telegram No.113 of the 4th October, I have the honour to transmit, for the information of His Majesty's Government in the Union of South Africa, the accompanying copies of the Whaling Licence which has been issued to the Kerguelen Sealing and Whaling Company, Limited, of Capetown, in respect of that portion of the Antarctic Continent which lies between Longitude 45° East and Longitude 90° East and its adjacent islands and territorial waters.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

*J. Amery*

Licence

*Asst. Secretary*  
*15. 11. 28*

THE MINISTER OF EXTERNAL AFFAIRS,  
UNION OF SOUTH AFRICA.

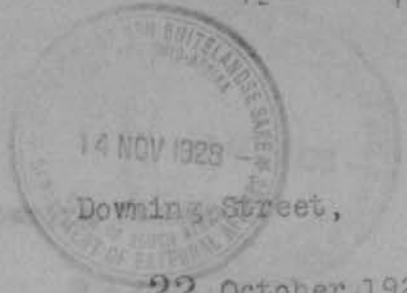
*M. van Dyk*  
*17/10/28*



DUPLICATE

Mh. 107/7

UNION OF SOUTH AFRICA



Secret.

22 October, 1928.

SECRET

Sir,

With reference to my Secret telegram Noll3 of the 4th October, I have the honour to transmit, for the information of His Majesty's Government in the Union of South Africa, the accompanying copies of the Whaling Licence which has been issued to the Kerguelen Sealing and Whaling Company, Limited, of Capetown, in respect of that portion of the Antarctic Continent which lies between Longitude 45° East and Longitude 90° East and its adjacent islands and territorial waters.

Licence

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(Signed) L. S. AMERY.

THE MINISTER OF EXTERNAL AFFAIRS,  
UNION OF SOUTH AFRICA.

(d) That all costs incurred in or about the preparation completion and execution of these presents shall be borne by the licensees.

(e) That all notices to be given to the licensees hereunder shall be sufficiently served by delivering the same to the licensees or to any person appearing to be in command of any vessel or establishment of the licensees or by posting the same in a registered letter addressed to the licensees at their registered office or usual or last known place of business or abode.

In witness whereof the Secretary of State for Dominion Affairs on behalf of His Majesty has hereunto set his hand and seal and the licensees have caused their corporate seal to be hereunto affixed the day and year first above written.

Sealed signed and delivered by His Majesty's Secretary of State for Dominion Affairs in the presence of— L. S. AMERY (Seal).

AUBREY P. EDGCUMBE,  
Dominions Office, Downing Street, S.W.1,  
Civil Servant,

and

J. J. PASKIN,  
Colonial Office, Downing Street, S.W.1,  
Civil Servant.

The Corporate Seal of the Kerguelen Sealing and Whaling Company was hereunto affixed in the presence of— (Seal).

To be sealed in accordance with the Company's constitution.

whale-catcher or other vessel or shore establishment of the licensees and to examine and inspect all works and operations of the licensees and generally to make all such examinations and investigations as any such person shall in his discretion think expedient for the purpose of ascertaining whether all the covenants and agreements on the part of the licensees and conditions herein contained are being duly observed and performed and will whenever requested so to do give to every such person all such facilities of examination and investigation and all such information relating to anything done or omitted by the licensees hereunder or otherwise within the said area as any such person shall require.

15. THAT the licensees will use their best endeavours by themselves and their employees to protect fur seals and fur seal pups from killing wounding and injury and to prevent any person from killing wounding or injuring any fur seal or fur seal pup and will as soon as possible after arrival of any vessel of the licensees at any port in His Majesty's dominions or elsewhere cause report to be made to the Secretary of State aforesaid of any sealing or seal hunting which has taken place to the knowledge of the licensees or any of their employees in the said area or elsewhere in the Southern Ocean the South Pacific or the South Atlantic and any names or marks of identity known to the licensees or any of their employees of every person and vessel so engaged in sealing and seal hunting.

16. THAT the licensees will furnish to the Secretary of State aforesaid an annual report respecting their operations in the said area.

17. THAT the licensees will communicate to the said Secretary of State all geographical and scientific information which they may obtain with regard to the islands of the said area or to the other islands or land or permanent ice barriers in the Southern Ocean and also with regard to the whaling industry or to the exploitation of the riches of the sea and land therein and also will inform the Secretary of State of any voyages made by other persons to the said area and their activities therein.

18. THAT the licensees their employees and their vessels will conform to all laws and regulations now in force or hereafter enacted by competent authority and to all such instructions and regulations as His Majesty may issue with regard to the control or government of the said area or to whaling operations in the Southern Ocean.

19. THAT the licensees shall at all times be and remain a British company registered in His Majesty's dominions.

PROVIDED ALWAYS AND IT IS HEREBY DECLARED by and between the parties hereto in manner following that is to say:—

(a) That if at any time any rent licence fee or royalty due and payable under the provisions hereof shall be in arrear and unpaid for the space of one calendar month after the same ought to have been paid or if at any time there shall be any breach non-observance or non-performance by the licensees of any of the covenants and agreements on the part of the licensees and conditions herein contained or if it shall appear to His Majesty's Secretary of State for Dominion Affairs to be expedient on political grounds or otherwise to revoke this licence it shall be lawful for the said Secretary of State on behalf of His Majesty thereupon or at any time thereafter by notice in writing given to the licensees at their registered office or at their last known place of business to determine as upon a date to be stated in such notice these presents and the rights and liberties hereby granted without the necessity of making any demand or giving any previous notice and upon the giving or publication of such notice as aforesaid these presents and the rights hereby conferred shall immediately cease and determine WITHOUT PREJUDICE to the rights of His Majesty in respect of any unpaid rent licence fee or royalty or of any antecedent breach non-observance or non-performance of any of the covenants and agreements on the part of the licensees and conditions herein contained.

(b) That the licence rights and liberties hereby granted are not exclusive to the licensees and that these presents are not prejudicial to the right of His Majesty to grant to any other person or persons the like rights and liberties as are by these presents conferred on the licensees or such other rights and liberties as His Majesty may think fit.

(c) That His Majesty shall not be responsible for the protection in the said area of the licensees their employees or property and does not undertake and shall not be called upon to maintain any establishment or any office in or over the lands and territorial waters of the said area and shall not be liable to the licensees for any loss sustained for lack of such protection or establishment or office.

4. THAT the licensees will on or before the 1st day of November in every year submit to the said Secretary of State on behalf of His Majesty an annual detailed statement of the quantities of whale oil shipped and exported from the said area during the preceding year reckoned as aforesaid such statement to be certified by their Auditor or Auditors in accordance with the books to be kept by the licensees as hereinbefore provided, and will annually on or before the day aforesaid furnish to the said Secretary of State a statement in such form as may be prescribed by him of the number and description of whales dealt with during the preceding year reckoned as aforesaid and will furnish the said Secretary of State with such further certificates or returns as he may require either in addition to or in substitution for the certified annual statements aforesaid for the purpose of calculating the amount of the royalty due in any year.

5. THAT the licensees will not assign transfer or part with the licence or any interest therein without the consent of His Majesty signified in writing by the said Secretary of State first had and obtained which consent His Majesty may in his absolute discretion grant or withhold or grant on such further terms and conditions as he may think fit.

6. THAT the licensees shall not employ in taking whales more than one floating factory nor more than four whale-catchers, and shall not employ more than the aforesaid four whale-catchers in the actual pursuit or capture of whales or in towing carcasses.

7. THAT the licensees will in carrying on their whale fishery provide the necessary boilers for boiling down the flesh of all whales taken and not only the blubber and will boil down the whole flesh accordingly and will so conduct their operations as to produce in every season not less than one barrel of press oil for every three barrels of blubber oil produced by them during that season.

8. THAT the licensees will not take kill or wound any female whale accompanied by a calf or any right whale or as far as possible any whales recognised to be small and immature.

9. THAT the licensees will not carry on sealing operations and will not take remove appropriate kill or wound or in any way use either for their own benefit or for the benefit of any other person or persons (save as hereinafter expressly excepted) any other animal or bird whatsoever or any product of any bird or animal or the eggs of any bird in the said area and will not export the eggs or plumage of any bird or any product of any bird or animal as aforesaid nor seal oil or the oil of any other fish or animal other than whale oil as herein set out:

Provided always that the licensees may by themselves their agents and servants take kill or snare such animals seals (other than fur seals or fur seal pups) birds fishes and eggs as may be required and used by their servants or agents for the purpose of food and also such as may be required for scientific purposes.

10. THAT the licensees will not export from the said area and will not enter into any port in any part of the world with any bird seal or other animal or any product of any bird seal or other animal which is excluded from the terms of the licence hereby granted or which the licensees have hereby covenanted not to take remove or appropriate.

11. THAT the licensees will produce for inspection by the Secretary of State for Dominion Affairs all ships papers log books and documents and such other papers books letters and documents as may be required by the said Secretary of State.

12. THAT the licensees will hoist and maintain the British flag over any and every establishment that they may erect or maintain in the lands or territorial waters of the said area.

13. THAT the licensees will allow any person or persons employed by them in their operations to accept from His Majesty and to carry out a commission to exercise in the said area such authority in the name of His Majesty as His Majesty may see fit to grant unto him and will also carry and maintain free of charge upon their vessels any official or officials whom the said Secretary may depute to visit the said area.

14. THAT the licensees will permit the Commanding Officer of any vessel in His Majesty's service and all persons authorised by any such Commanding Officer and all persons authorised by the said Secretary of State or holding any commission as set out in the last preceding clause hereof to enter in and upon any floating factory

REVISE.

THIS LICENCE made the third day of October, 1928, BETWEEN HIS MOST GRACIOUS MAJESTY GEORGE THE FIFTH by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India of the first part and the KERGUELEN SEALING AND WHALING COMPANY, LIMITED, whose registered office is at Capetown (hereinafter called "the licensees," which expression shall include their executors, administrators and permitted assigns where the context so requires or admits) of the second part.

WHEREAS the licensees are desirous of carrying out whaling operations in the Southern Ocean and are desirous of securing a licence from His Majesty for the use of that portion of the Antarctic Continent which lies between Longitude 45° East and Longitude 90° East and its adjacent islands and territorial waters (hereinafter referred to as "the said area") as a base for such operations:

AND WHEREAS His Majesty is pleased to accede to the desire of the licensees subject to the licensees entering into the covenants conditions and agreements hereinafter contained and subject also to the payment by the licensees of the rent and royalties hereinafter specified:

NOW THIS LICENCE WITNESSETH that in consideration of the premises and of the covenants hereinafter specified to be performed on the part of the licensees HIS MAJESTY DOTH HEREBY GRANT unto the licensees the right to occupy and to make such use of the soil of the portion of the Antarctic continent lying between 45° East and 90° East or of any island or islands in the neighbourhood and to erect such buildings and equipment thereon as may help and facilitate the whaling industry of the licensees in the said area TOGETHER WITH the right and permission to establish and maintain in the territorial waters of the said area not more than one floating establishment (hereinafter called "a floating factory") for the conversion of whales into commercial products and to use not more than four vessels (hereinafter called "whale-catchers") for the purposes of the whaling industry and to use any further transport or other vessels (not being floating factories or whale-catchers) which the licensees may in their discretion think necessary or desirable in connection with the whaling industry TO HOLD and enjoy the rights hereby conferred unto the licensees for a term of four years computed from the third day of October 1928 YIELDING AND PAYING THEREFOR to His Majesty during the said term hereby granted:—

(i) A fixed or certain yearly rent of £1 in respect of the use of the lands and territorial waters of the said area:

(ii) An annual licence fee of £200 for any floating factory at any time used by the licensees in the said area during the 12 months ending on the 31st day of October of every year during the said term:

(iii) A royalty of 2s. 6d. per barrel on all whale oil obtained by the licensees from whaling operations based on the said area during the 12 months ending on the 31st day of October of every year during the said term.

AND the licensees do hereby for themselves and their assigns and to the intent that the obligations may continue throughout the said term covenant with His Majesty in manner following that is to say:—

1. THAT the licensees will pay the said respective rent in advance and the licence fee and royalties in one sum annually not later than the 1st day of June in every year in respect of the preceding year.

2. THAT the licensees will make all payments payable by the licensees hereunder by paying the same to His Majesty's Secretary of State for Dominion Affairs for the use of His Majesty or to some person or persons authorised by him to receive the same.

3. THAT the licensees will keep true and proper books of account of all whale oil extracted in the course of operations based on the said area and shipped and exported by the licensees setting out the respective quantities in which the same are exported and the respective dates of export of such respective quantities and will permit the said Secretary of State or any person authorised by him at all times to inspect such books of account and take copies thereof or extracts therefrom and will whenever required by the said Secretary of State make and transmit to him such true copies or extracts from the said books as he may require.

VE/AC.

P.M. 107/7.

**SECRET.**

PRETORIA.

15th November, 1928.

The Secretary for Mines & Industries,  
Pretoria.

WHALING OPERATIONS IN THE  
ANTARCTIC.

I am directed to forward herewith, for the information of the Honourable the Minister of Mines and Industries, copies of Secret telegrams Nos. 113 and 127 dated 4th October and 10th November, 1927, from the Secretary of State for Dominion Affairs, together with a copy of the Whaling Licence which has been issued by His Majesty the King to the Kerguelen Sealing and Whaling Company <sup>ny Limit</sup> Limited, of Cape Town, in respect of that portion of the Antarctic Continent which lies between Longitude 45° East and Longitude 90° East and its adjacent Islands and territorial waters.

*De V. J. van der ...*  
**SECRETARY FOR EXTERNAL AFFAIRS.**

1. THAT the Government will pay the cost of the licence for the whaling operations in the Antarctic region for the year 1928-29 in respect of the portion of the continent...

2. THAT the Government will make all payments payable by the whaling companies by paying the same to His Majesty's Secretary of State for External Affairs for the use of His Majesty's Exchequer...

3. THAT the whaling companies will keep and preserve books of account of all whales whaled in the region of operations... and shipped and reported to the whaling companies and the respective governments... which the same are required and the whaling companies will permit the Secretary of State to inspect and will permit such books of account and other documents... and will also permit required by the said Secretary of State... to inspect and will also permit or extracts from the said books of account...

Trans. - Op. 5. 11/28/28 of the 1928. The S. & A.

MM 107/7

**SECRET**



UNION OF SOUTH AFRICA.

Downing Street,

Secret.

11 December, 1928.

Sir,

With reference to my Secret telegram No.127 of the 10th November, I have the honour to transmit, for the information of His Majesty's Government in the Union of South Africa, the accompanying copy of correspondence with Messrs Irvin and Johnson (South Africa) Limited, regarding the proposed formation of a new company to take over the whaling licences issued by His Majesty's Government in Great Britain to the Kerguelen Sealing and Whaling Company, Limited, of Cape Town.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

Fr. Irvin & Johnson  
6th November  
To do. 7th Nov.

*Mr. T. M. ... 3.1.29*

Passed to Sec. for Mail + Despatches *Is Amery*  
~~CONFIDENTIAL~~  
for INFORMATION  
~~DISPATCH~~

Date 5/1/29 Initials WCO

THE MINISTER OF EXTERNAL AFFAIRS,  
UNION OF SOUTH AFRICA.

*Secretaries*  
*2. 1. 29*

200/17

It may be of interest if I point out that Irvin and Johnson (South Africa) Limited, do not receive anything from the new company in the way of preliminary expenses, or in any other way, except only the sum of £1500. (Fifteen hundred pounds), being the cost of the license, which sum, is, however, payable to us by 1500 (fifteen hundred) fully paid £1 shares in the new company.

The proposed directors of the new company are all directors of Irvin and Johnson (South Africa) Limited.

If there is any further information required about this matter we shall be happy to submit it to you immediately on request.

We regret the delay in writing you about this matter, but we only received the telegraphic advice from Capetown this morning. May we respectfully ask you to give the matter your early attention and to advise us of the position in due course.

Thanking you,

Yours etc.,

Irvin and Johnson (South Africa) Ltd.,

(Sgd) Arthur F. Bearpark.

Date: 5/10/17



Copy.  
To C/O The Standard Bank of South Africa Limited,  
77, King William Street,  
London, E.C.4.

November 6th, 1928.

The Secretary of State for the Dominions,  
Downing Street,  
London, S.W.1.

Dear Sir,

With reference to the license for whaling which you granted, through our Chairman, Mr. Van der Horst, which license we have formally applied for sanction for transfer to a new company, we now beg respectfully to inform you that our Capetown Office has telegraphed urging us to obtain your sanction to the proposed transfer, because they find it necessary to have this sanction before the 8th instant, on which date our option over the vessel which we propose to convert into a factory, expires.

For your information we beg to advise that the new company to which it is proposed to transfer the license - subject to your sanction - has been formed merely to facilitate working and to avoid confusion with our other industries, but we have to state that the major portion of the capital, and the whole control of the business will remain exclusively in our hands.

The new company is to be registered under the laws of the Union of South Africa, and the nominal capital is to be £150,000, the major portion of which, as stated above, will be held by Irvin and Johnson (South Africa) Limited.

It

Copy.

11556/23.

Downing Street,

7th November, 1928.

Gentlemen,

I am directed by Mr. Secretary Amery to acknowledge the receipt of your letter of the 6th November giving details of the proposals for the formation of a new company to take over the whaling licence recently granted to the Kerguelen Sealing and Whaling Company, Limited of Capetown, in respect of that portion of the Antarctic Continent which lies between Longitude 45° East and Longitude 90° East and its adjacent islands and territorial waters.

2. I am to inform you that if a new Company should be formed in the manner indicated in your letter the Secretary of State will be prepared to approve of the transfer to it of the licence issued to the Kerguelen Sealing and Whaling Company Limited.

3. It was understood from Mr. Van der Horsts' letter of 4th October that it was the intention that the whaling licences issued to you in respect of the Heard and Macdonald Islands should also be transferred to the proposed new company when formed and provided that the proposals in your letter under reply are adopted no objection would be raised to this procedure.

4. I am to request that Mr. Amery may be furnished with full particulars with regard to the new company as soon as it has been formed and registered.

5. This letter is sent in consultation with the Colonial Office.

I am etc.,

(Sgd) H.F. Batterbee.

MESSRS. IRVIN AND JOHNSON (SOUTH AFRICA)  
LIMITED.

3/5  
Copy

VOTES AND PROCEEDINGS

7th November, 1929.

of the  
HOUSE OF ASSEMBLY.

I am directed by Mr. Secretary to

acknowledge the receipt of your letter of the 18th March, 1929, giving details of the proposals for the

XXIV. Mr. Papenfus: - To ask the Minister of the Interior:

- (1) Whether his attention has been directed to an article contributed to the local press by the second officer of a ship which left the Union for the purpose of hunting whales and other marine mammals at Kergeulen and other islands, and whether, i.e., the following passage occurs: "On arrival at Heard Island a number of men were sent ashore whenever possible to shoot or club sea elephants on the rocks and beaches. Anything in oil is welcomed, no matter whether they are fathers, mother or youngsters. They all help to fill the tanks";
- (2) whether the Minister is aware that Kergeulen Island has been constituted by the French people a sanctuary for sea elephants and seals;
- (3) whether the rare mammals in question are not threatened with extinction by such expeditions as those referred to above; and
- (4) whether the Minister will direct the attention of the friendly power or powers concerned to the slaughter referred to, and whether the Government will take action to prevent expeditions from the Union of the character named from trespassing for unlawful purposes upon the territory of friendly powers?

Cape Times 18 March 1929

## MAROONED ON HEARD ISLAND.

### CAPE TOWN SEALERS' NARROW ESCAPE.

The experiences of the crew of the Kildalkey, while whaling and sealing at Kerguelen and Heard Islands, is related below by Mr. J. Tennant, the second officer:

The sealing fleet usually leaves Cape Town in the month of September, and the five or six vessels sail in company for their headquarters at Kerguelen, but last year the 600-ton vessel Kildalkey and the whale-catcher Imhoff went south in August, to intercept some of the whales before they migrated to the Antarctic Regions.

#### BLUE WHALES CAPTURED.

A fair number of blue whales were captured by the Imhoff and towed alongside the Kildalkey to be flensed, so that by the time the floating factory arrived the Kildalkey's tanks were filled with blubber, which was transferred to the factory ship. We lived on tinned meat most of the time, but found wild rabbits and whale meat a welcome change, and occasionally varied our diet with seabirds' and penguins' eggs.

Seabirds were seen in countless thousands around the Kerguelens; there are albatrosses, mollyawks, Cape pigeons, giant petrels, Cape doves, and many varieties of gull, while on the island, besides the land birds, there are king penguins, and the smaller rock penguins. The weather at all times of the year is consistently bad. Fierce gales, with blinding snowstorms, continually rage in these latitudes.

#### SEA ELEPHANTS CLUBBED.

In the middle of October the Kildalkey was ordered 300 miles south to the little frequented Heard Island, to commence sealing operations. A large number of lofty ice-bergs were seen on the passage from Kerguelen. On arrival at Heard Island a number of men were sent ashore whenever possible to shoot or club the sea elephants on the rocks and beaches. Any thing with oil is welcome, no matter whether they are fathers, mothers or

youngsters. They all help to fill the tanks. On the islands there are a great many sea leopards, but they yield no oil and are therefore quite safe from us.

In January the men went ashore as usual, when the weather suddenly changed, and an exceptionally heavy gale sprang up; the motor boat was hurriedly sent ashore to bring the men off to the ship, but the heavy seas prevented a landing and we were forced to leave 17 men on shore.

The Kildalkey put to sea and steamed off the island during the night. At daylight the weather moderated sufficiently to close in with the land and try to float food ashore. Heavy seas were still breaking on the rocks and no boat dare venture too close to the treacherous coast. But this method proved unsuccessful, and we therefore cruised round the island, keeping a good lookout for the men. At last one man was seen at Atlas Cove, the only sheltered spot on the island, and after great difficulty a boat was sent and he was brought on board. He said that the remaining 16 men were walking over the ice-covered mountains, endeavouring to reach the cove, and as the weather had moderated somewhat, the Kildalkey anchored and sent the boat ashore.

#### ELEVEN MISSING.

Eventually five men were sighted, and with little trouble were taken on board, but they said that 11 men had dropped back owing to hunger and fatigue, and were wearily trudging over ice, snow and jagged rocks. For the past 56 hours they had subsisted on the blood of penguins. By the terrible condition of the men we had rescued we knew that the men up in the hills must be near the limit of endurance. The wireless operator and myself volunteered to go to their assistance, taking with us a bottle of brandy and small comforts. At midday we set out and searched for our missing ship mates along the beach, and up the sides of the hills. The recent heavy snowstorm made the journey extremely difficult.

After walking some three or four miles we came across the men in twos and threes. It is impossible to give any idea of the joy with which they welcomed us. They were famished, and literally tore the bread from our hands and gulped it down like wolves. The last man we found to be delirious, and he had long since given up hope of being rescued. After a liberal dose of brandy he soon came to his senses and even asked for a smoke. He was almost frozen, so we helped him to remove his wet clothing and gave him some of our own. We then set off on our weary tramp to Atlas Cove, and were delighted to see the Kildalkey's boat waiting for us.

A few days of good food and rest and all the men had completely recovered, but it was a close call for several of the marooned men; and the memory of their experience on Heard Island will never be forgotten.

The Kildalkey arrived in Cape Town last week, after seven strenuous months passed in the inhospitable regions of the roaring furies, and we were overjoyed to be among our friends and relatives once more.

C O P Y.

HOUSE OF ASSEMBLY.

FRIDAY, 22nd MARCH, 1929.

QUESTION NO. XXIV. Mr. Papenfus asked the Minister of the Interior (Replied to by the Minister of Mines and Industries):-

- (1) Whether his attention has been directed to an article contributed to the local press by the second officer of a ship which left the Union for the purpose of hunting whales and other marine mammals at Kergeulen and other islands, and whether, i.a., the following passage occurs: "On arrival at Heard Island a number of men were sent ashore whenever possible to shoot or club sea elephants on the rocks and beaches. Anything in oil is welcomed, no matter whether they are fathers, mothers or youngsters. They all help to fill the tanks";
- (2) whether the Minister is aware that Kergeulen Island has been constituted by the French people a sanctuary for sea elephants and seals;
- (3) whether the rare mammals in question are not threatened with extinction by such expeditions as those referred to above; and
- (4) whether the Minister will direct the attention of the friendly power or powers concerned to the slaughter referred to, and whether the Government will take action to prevent expeditions from the Union of the character named from trespassing for unlawful purposes upon the territory of friendly powers?

R E P L Y:

- (1) Yes.
- (2) No.
- (3) The Government is not in possession of any information on this point.
- (4) The Union Government has no reason to believe that any expedition from the Union of South Africa is trespassing for unlawful purposes upon the territory of a friendly power, and therefore does not propose to take the steps indicated in the question under reference.

*Answer*

*25/3/29*