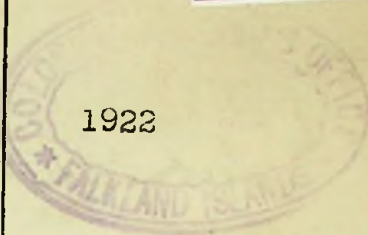


WHALING

(South Shetlands)

1922

No. 352/22



C.S.

A. G. Bennett

SUBJECT.

192 2

27th April

Previous Paper.

Report on survey of moorings at  
Deception Island, South Shetlands

*Procedure with regard to breaches of the  
Whaling Regulations*

MINUTES.

- Letter from Mr A. G. Bennett, d 27th April 1922* ————— Encl (1)
- Copies of maps* ————— Encl (1a)
- Letter to Captain of "Thor 1"* ————— Encl (2)

*RA 14/1/26*

*Yr. Subm. illu  
2 To Mr. Hamilton for his advice?*

*ttttt 20/4/22  
M.  
28 April 1922*

*M. Magistrate S. Shetlands  
Accordingly*

*ttttt 29 April 1922*

*Hon. Col. Sec.*

*my observations attached please.*

*2/. A duplicate is transmitted, for  
filing in the S. Shetland box.*

*J. Hamilton.  
S.M. South Shetland  
8/5/22.*

Subsequent Paper.

Minute by Govt Naturalist d \_\_\_\_\_ Encl (3)  
Letter to Capt Hansen Vermili of 2nd January 1922 Encl (3a)  
Memo by Mr A.G. Bennett of 6 May 1922 — — Encl (3b)

Y.S.  
Submitted.

2. The wording as shown to be approved and the Whaling Officer to have discretionary power in the allotment of unoccupied berths?
3. The question of the penalty proposed to be inflicted on Captain Hansen Vermili to come before the next meeting of Ex. Co.?

ttttt 9/6/22

H.C.S.

Para 2. approved.

Para 3. Wh. Co. by  
11 May 1922

Extract from the Minutes of a Meeting of Executive Council held on the 15th of June, 1922.

.....  
It was decided that a letter be sent to Captain Hansen Vermili asking him to forward any representations he may desire to make as to why he should not be fined for refusing to carry out the instructions of the Whaling Officer.

W. Barlas.

Ag. Clerk of the Executive Council

15th June, 1922.

Letter to Capt. Vermili Hansen of 28th July 1922 — Encl. (4)

Yr.  
Submitted

2. I am in considerable doubt as to the power of the Governor in Council to inflict penalties although it appears desirable that that power should exist. The word in of the Ordinance, <sup>(sec. 3)</sup> is "impose" and that may only mean "lay down". Late sec. 7 provides for the ~~method~~ <sup>method</sup> of proceeding for a breach of the Regulations.

3. I submit a draft despatch for consideration.

ttttt 2/8/22

H.P.S.

At the time this con was considered I had doubt as to the meaning of "impose" & whether concluding sentence of Section 3 was intended merely to replace the usual form "Such regulation may provide for the infliction of a penalty not exceeding £10 for any breach thereof."

2. As is important that the point should be settled but before despatch goes on & with reference to para 3 of it I should like to see the paper in which Mr. Bennett was given

within judicial power while as the  
S. Shillons a Making office.

3. There is another point: Sec 4 of Ord 5/1908  
requires that regulations shall come into  
force on such day as the Governor may  
direct by notice published in the gazette.  
No <sup>such</sup> notice has been published ~~with the regulations~~.  
Also the regulations have not, as per law, the force of law.
4. In form B of the regulations the word  
"made" has been omitted after "regulations"  
this can be inserted in the licenses when they  
are issued.

*[Signature]*  
2 August 1922

Despatch No 98 to S of S. of 8: Augt 1922 - Encl. (5)

Letter from Capt Hansen Kermile of  
3<sup>rd</sup> October 1922 - Encl (6)

Y.B.  
Submitted.

Captain Hansen admits the  
office and shows himself in the  
mercy of the Government. A more  
warning might be sufficient and the  
case reported to the Inspectorate South  
Georgia? To Ex. Co.?

~~18/12/20~~  
*[Signature]*  
19 Dec 22

Letter to Captain Hansen Kermile of 1<sup>st</sup> January 1923  
— Encl. (7)

Extract from Minutes of Meeting of Executive Council held on the 20th January, 1923.

"Council decided that the explanation and apology might be accepted on this occasion but that Captain Hansen should be severely warned against any further disregard of the orders of a Whaling Officer.

*W. Bulas*

Ag. Clerk of Executive Council.  
29th January, 1923.

Letter to Captain Vermili of 1.2.23 - Encl. (7)

Govt. Naturalist

In note and return please

*ttttt* 2/2/23

Hon. Col. Sec.

Noted and returned  
please.

*J.R. Hamilton*

Govt. Naturalist

15/2/23

S of S despatch No 142 of 5th December 1923 - Encl (8)

*Y.S.*  
*Submitted.*

2. Whether or not it will be sufficient for a Captain to be warned must depend upon the seriousness of the offence?

3. Government Naturalist and whaling officer to be informed?  
*ttttt* 16/2/23  
*Dr.* 14/2/23

*Circumstances may arise in which proceedings will have to be instigated further.*

G.W. Lateralist

To note for standing information of Whaling Officers

17/2/23

Non. Gov. Sec.

Noted and returned please.

2. Z beg to submit draft of Encl (G) instructions on this point.

Jr. Hamilton.

Govt. Naturalist.

9/3/22

A.P.

Articles

When a case is taken over by  
any officer to proceed in respect  
of a case is to be taken over in such a  
manner as will facilitate proceedings.  
In any case the Whaling Officer  
is necessarily the stage on

G.W. Lateralist

I suppose your intention is that  
the information should be laid <sup>by the officer</sup> and  
summons issued <sup>ready</sup> for service on the  
arrival of the offender or offenders in  
harbour. Or does immediate  
institution of proceedings mean judicial  
action by the whaling officer in his  
magisterial position?

2. It will of course be impossible

to take action without the evidence of the Whaling officer. The latter is usually the last to return from the Dependencies and quite rightly.

ttttt 12/3/23

Hon. Col. Sec.

I would submit that, since it is impossible to conduct proceedings in the absence of the Whaling Officer and since it is his duty to remain until the end of the season, all he can do is to make a full report to Headquarters.

2. In the first place I considered that "immediate institution of proceedings" should ~~mean~~ refer to the Chief Whaling Officer in his Magisterial capacity, but I would now beg to withdraw that suggestion since the same person cannot be judge and prosecutor.

3. The initiation of legal proceedings should therefore be left until the arrival of all concerned in Stanley.

4. If the delinquent belongs to a vessel which goes to S. George arrangements should be made for the carriage of the necessary persons

persons to Stanley, or if  
circumstances demand it,  
of the vessel itself.

S. A. further draft sub-  
mitted please.

Encl 10

J. H. Hamilton.  
Govt. Naturalist.

2/11/23.

~~Govt.~~ Note

S. H. South Shetlands

It would be quite in order  
for you as Magistrate to put an  
offender or an alleged offender  
against the Whaling Regulations  
or for the matter of that kind  
the laws or inroads that  
if circumstances require. The  
term judge and prosecutor in use  
is somewhat misleading. A  
Magistrate's duty is to see that  
the laws are enforced and that  
justice is done — the term 'prosecutor'  
gives the impression of a person whose  
object is to secure a conviction. A  
Crown Prosecutor is in no place or  
circumstances in English law so regarded.

17 Nov. 23

H. H. H.  
Hon. Col. Sec.

Thank you,

Yours please

J. H. Hamilton.

S. H. S. Shetlands 13/11/23





The Hon: the Colonial Secretary.

Sir.

I was requested by Capt Hockly, in the name of H.E. the Governor, a few minutes before my departure, to survey the moorings at Deception Island.

Attached will be found the best that I could under the circumstances, single handed, and without instruments, other than a tape and a pocket compass. The latter cannot be accurate in so magnetic a spot. I used a box for a table.

The whole distance was measured with a tape.

I beg to suggest that if the Hektor bring another factory to Deception, they should moor it between Ronald and Solstreif, Hvalen moorings would then become vacant. These together with Nekos (not been used for many years) should be loaned each year to any factory requiring to moor, and who has no permanent moorings there. To be loaned out in the order of request upon arrival in Deception, and to be retained only during the stay of that factory, in that Harbour.

I also request that the Capt, Hansen, Vermili of Thorl is fined under sec 19 of Whaling Regulations (1921), for his refusal to remove the "Thor 1" board from "Hvalen"s moorings

*Al Bennett*

27.4.1922

Re Moorings Deception Island.

The approximate distances between the centre of each ships moorings to the centre of the next, in a straight line, are shown in col:1.

The distance between the extremes are shown in Col:2. measured in a straight line, from one to the other.

Ships, in practice do not anchor in exactly the same place every time. They do not all head the same way, and stand out in progressive steps from Ronald to Neko.

	In a straight line Feet	Mooring to mooring. Feet
Ronald - Solstreif	680	500
Solstreif- Orn	480	410
Orn-Falk	470	510
Falk-S, Foyn	500	550
S, Foyn- Hvalen	450	340
Hvalen-Neko	150	155

Neko-Rocks rather close

*A. J. Bennett*

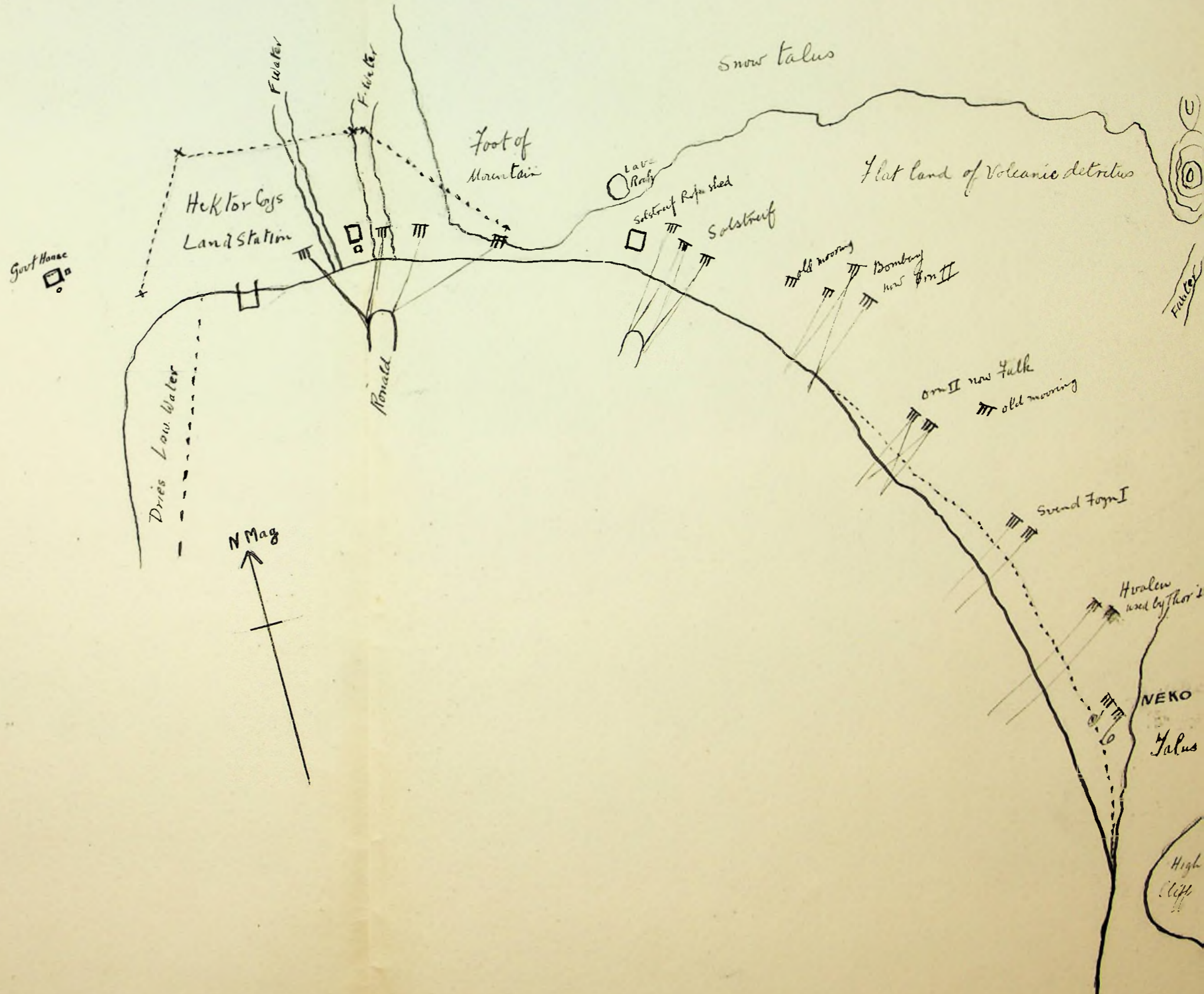
Approximate  
 Mooring in Deception Isd  
 South Shetlands 1921-1922  
 Surveyed by Tape & compass

*Ag. Bennett*

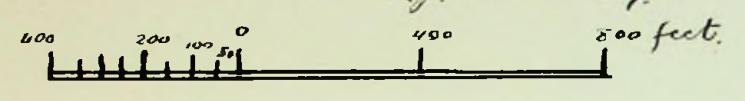


Scale 400 feet = 1 inch

||| Mooring on land.

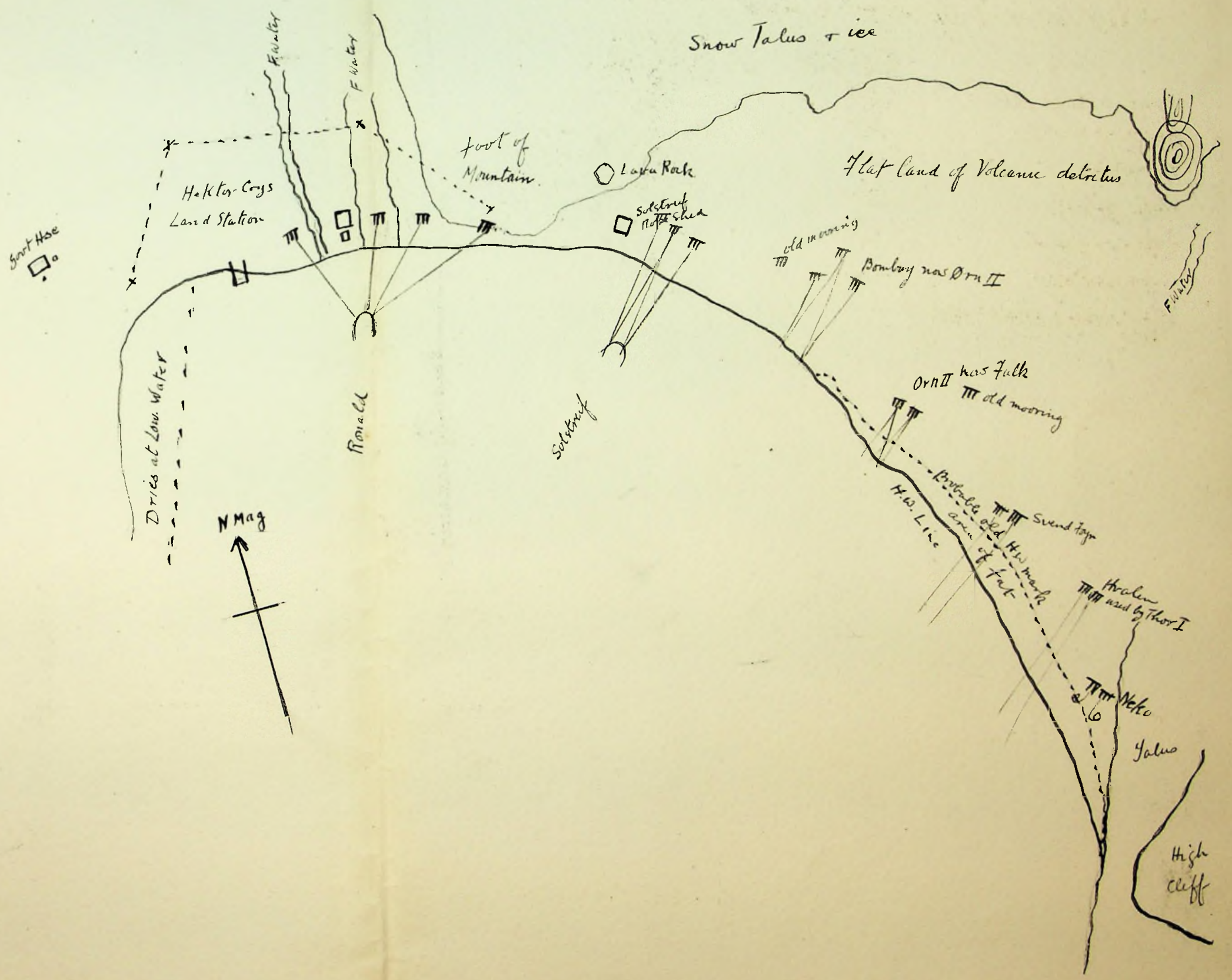


Approximate  
 Moorings in Deception Isd  
 South Shetlands 1921-1922  
 Survey by Tape + compass  
 A.G. Bennett



Scale 400 feet = 1 inch

III = Moorings on land.



*to S. copy*



Sir.

With reference to your verbal request to me yesterday in which you stated, "You considered the moorings that you now use to be unsafe under certain weather conditions, and desired permission to put down a new one". I have the honour to inform you that: The moorings you are now using in Deception Harbour are the property of the Hvalen Co, and in the absence of that Company's ship, the ss Thor 1, has been permitted to use them since 1917. The board marking these moorings now reads "Thor 1". This must be at once removed, and the board reading "Hvalen" put back.

A fresh mooring you are permitted to lay down to secure you against the violent N.E. gales, subject to Section 13 of the Whaling Regulations 1921, and slightly removed from the present ones.

I have the honour to be

Sir,

Your obedient servant.

*A. Bennett*  
Whaling Officer.

To Captain Vermill Hansen.

ss, Thor 1.



1. This Minute Paper contains information on four separate but allied subjects

I.(para)2). Plan of Deception Anchorage.

II(para 3) Position of a possible second factory port the Hektor-Hvalen Companies.

III(para 3) Utilisation of unoccupied berths in Deception Anchorage.

IV(para 5) Action of Captain Hansen Vermili in the matter of the removal of Hvalen's name board from the place occupied by Thor I.

2. The drawing of the plan of Deception Harbour in the inevitably difficult circumstances was a creditable performance. It appears to be reasonably accurate. It would be interesting to compare it with the earlier plan which, I believe, exists at Government House.

3. The Whaling Officer could give permission to masters to use unoccupied berths (mooring places) when asked for such permission. I agree with the proposal as to the berth position for Hektor-Hvalen 2nd factory.

4. It appears that Captain Hansen Vermili made a verbal request to Mr. Bennett for permission to lay down some new moorings, and that the request was granted in writing, although advantage was not taken of the permission.

5. I attach a further statement by Mr. Bennett on the subject of the name board.

Captain Vermili is fully aware that the moorings are the property of Hvalen Co. During the 1920/21 season I gave him a written permit to use them after Captain Øre had agreed that they might be used by Thor I, Capt. Øre being the representative of the interests of the Hektor-Hvalen Companies, and Capt. Vermili understood that Hvalen Co. might again require the moorings.

During that season I observed that the name board had been changed, but knowing that Capt. Øre, Capt. Vermili and myself were all acquainted with the facts as stated above, regarded the changing as a trivial act on the part of Capt. Vermili and therefore as of no importance.

From Mr. Bennett's para. 7, however, it is clear that he considered the act as being of much greater significance and therefore ordered the removal of the board. Capt. Vermili did not show Mr. Bennett his permit of 2nd. January 1921; no mention of the name board is made on it.

The point at issue is not whether or not Thor I should use the mooring place or moorings which were occupied by Hvalen, but whether

whether Capt. Vermili should or should not be fined for disobedience to the order that Evalen's name board should be restored.

Last season was the first in which a Whaling Officer was definitely appointed with powers to give orders (under Regulations of 17th. October 1921) disobedience to which entailed liability to a penalty, and this is the first reported case of such disobedience.

I would therefore suggest that a small fine be inflicted say £2, on Captain Vermili: it would have a salutary effect on all the whalers by demonstrating to them that the threat of penalty was not empty.

*J. E. Hamilton*

(J. E. Hamilton.)

Stipendiary Magistrate.

South Shetland.



*To  
H. ...  
Vermili  
Master 1/8 Tan I*

3a

Port Foster,  
Deception Island.  
South Shetland.  
2nd. January 1921.

*[Faint handwritten text, possibly a letter or report, mostly illegible.]*

Sir,

With reference to your letter of the 14th. December 1920 requesting that the moorings, occupied by Thor I since 1917 and previous to that by Hvalen may be allotted to you, I beg to state that pending the final approval of his Excellency the Governor of the Falkland Islands I hereby allot the moorings mentioned above to your ship.

I am,

Sir,

Your obedient servant,

*[Handwritten signature: J. G. Barwick]*

Stipendiary Magistrate, South Shetland.



To

Hansen

Vermili.

Master 1/k Thor I.

*[Faint handwritten notes and text, including 'To', 'Hansen', 'Vermili.', 'Master 1/k Thor I.', and other illegible text.]*



Appendix to Letter addressed.

31

to Master-manager of Thor I at Deception and  
re mooring name-board.

1/ After two or three verbal requests by Capt H. Vermili  
to be allowed to lay additional moorings, ~~and~~ I  
decided I would answer his verbal request by letter in  
the usual form.

2/ As I was to make a rough survey of all the  
moorings in Deception harbour, I walked along  
the whole length of the shore in order to see  
that the snow, & water derived from it, had sufficiently  
disappeared for the purpose. I then observed that  
"Hvalen" board had vanished from the mooring, ~~properly~~  
belonging to that ship, and a "Thor I" board had  
replaced it.

3/ In Season 1917-18 I loaned this mooring place,  
as a temporary measure, to Thor I.

Knowing the disputes & complications that must  
sooner or later ensue from this, - so far as I know,  
- an ~~un~~ authorised action, I forwarded the above  
cited letter giving <sup>the</sup> permission requested & ordering  
the removal of the objectionable board at the same time.

4/ I was later intending to go to Belgica Straits  
with Thor I. Hearing that this boat would depart one  
particular evening, I went over about 2 pm. to see if it was correct  
& make the necessary arrangements for my passage.

It was on this occasion that Capt H. Vermili  
showed considerable temper on the letter, stating  
amongst other things, that Capt O'Hara of Ronald was

schooling me in this business, <sup>completed</sup> with and that he would not remove the board in question.

I informed him that if he had any objection to make, to do so in writing & not be insulting.

5/ Capt B. Hansen, of Solstreich ~~of~~ invited me to go to Belgica Straits in his ship, (sailing some days later.) as I was returning to Ronald.

6/ Up to this time the question of the Thor I board had not been, even mentioned by anyone in my hearing.

The following day I asked Capt Ohne as manager of Hektor Co (Hvalen Co is an allied concern under the same owners) what he knew of the matter, and from what he said I gathered that he was not a little angry, at what he called impudence.

7/ Failing anything in the way of official authority, to the contrary I look upon the whole business as one of attempted theft on the part of Thor I, of murrings loaned for use, while that vessel was obtaining oil, during war time, on a colonial office permit to proceed to S Shetlands in place of South Georgia.

At this latter place Thor I has murrings as left in 1917. At present there is no space to allot for the purpose in Deception Isd.

W. Berneto

6. 5. 1922

To J. E. Hamilton  
Govt Naturalist

352/22

28th July,

22.

Sir,

I am directed by the Governor of the Falkland Islands to inform you that Mr. A. G. Bennett, Whaling Officer, reported to His Excellency on his return from the South Shetlands at the conclusion of the 1921-22 Whaling Season that you committed a breach of section 20 of the Whaling Regulations, 1921, by refusing to remove a board marked "Thor I" from the moorings in Deception Harbour belonging to the Hvalen Company.

2. I attach a copy of the letter Mr. Bennett sent to you conveying his instructions - which you disobeyed - and I am to inquire if you have any reasons to put forward as to why a fine should not be imposed upon you by the Governor in Council under the provisions of section 3 of the Whale Fishery Ordinance, 1908, and section 19 of the Whaling Regulations, 1921.

I am,

Sir,

Your obedient servant,

H. Henniker-Heaton

Colonial Secretary

Captain Vermili Hansen,

S.S. "Thor I",

Sandefjord,

Norway.

(5)

FALKLAND ISLANDS.

No. 98. 98.

GOVERNMENT HOUSE,  
STANLEY,

6th August, 1922.

Sir,

I have the honour to seek the favour of your views on the subject of the infliction of penalties for breaches of the Whaling Regulations.

2. Section 3 of the Whale Fishery Ordinance, 1903, provides that the Governor in Council may make regulations for the control of the whaling industry and may "impose" penalties not exceeding ten pounds for a breach of such regulations.

Section 7 of the same ordinance gives the procedure by which offences under the regulations may be dealt with. It therefore appears that the word "impose" in section 3 means "lay down" and not "inflict".

3. If the above interpretation is correct I am of opinion that it is advisable that the Governor in Council should be given the actual power of inflicting penalties. Breaches of the Regulations in the South Shetlands fleet can only be reported by the Government Whaling Officer accompanying the fleet, unless he happens to be a

Stipendiary/

THE RIGHT HONOURABLE

D. L. S. CHURCHILL, M.P.,

SECRETARY OF STATE FOR THE COLONIES.

Stipendiary Magistrate, in which case he would have to act both as judge and prosecutor. His position would in other respects be difficult, if a part of his duty were to fine one of the whaling captains. If on the other hand a breach of the regulations is left to be dealt with by the court of summary jurisdiction in Stanley it is probable that a denial of the offence by a captain would be supported by his crew and the object of the regulations would be defeated.

4. An instance occurred in the 1921-22 season in which Captain Vernill Hanson deliberately disobeyed a lawful order given by Mr. Bennett, Whaling Officer, to remove the name board of his vessel "Thor I" from morning, which did not belong to him. Mr. Bennett reported the matter in the usual course on his return but the vessel had left the harbour and I doubt whether the case is of so serious a nature as to justify court proceedings so long after the event, if this whaling captain returns.

5. I am further of the opinion that the whaling captains would themselves prefer that offences should be dealt with by the Governor in Council after they had been given an opportunity of defending themselves from an accusation. Foreigners have a great dislike of being brought before a police court, the procedure of which they do not understand, for a non-criminal offence.

6. I am not at present prepared to suggest that South Georgia should be affected. Breaches can there be dealt with locally, without the delay which would be occasioned by a reference to Stanley.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

J. Middleton,



1770

6

s.s. "THOR.1".

CARDIFF. - SOUTH WALES.

3rd October 1922.

The Colonial Secretary,

Colonial Secretary's Office,

Stanley - FALKLAND ISLANDS.

Ref: NO 352/22.

Sir,

I am in receipt of your favour of 28th July covering copy of a letter addressed by Mr A.G. Bennett to me.

The moorings utilized by s.s. "Thor.1" since 1917 were not, in my opinion, safe under certain weather conditions so I applied for new moorings. Permission was given to me to lay down a fresh mooring and instructions were given to remove the board reading s.s. "Thor.1" on the old mooring. These instructions I regret to say I failed to carry out, as time was rather pressing. I had no intention of wilfully violating the Whaling Regulations and trust you will accept my explanation and apology for any trouble which I might have caused you or the Hvaler<sup>2</sup> Co..

I am, Sir,  
Yours respectfully,

*H. Hansen*  
Master s.s. "Thor.1".

7

352/22.

1st February,

25.

Sir,

I am directed by the Governor to acknowledge the receipt of your letter of the 3rd of October last on the subject of your failure to comply with instructions given to you by the Whaling Officer in the 1921/22 season.

2. His Excellency has been pleased in this instance to accept your statement that you had no intention of wilfully violating the Whaling Regulations, and your apology. I have however to impress upon you that any repetition of the offence would entail severe consequences as this Government attaches great importance to the necessity, in the interests of the Whaling industry, of strict observance of the Regulations and unhesitating compliance with the lawful orders of the Whaling Officer.

I am,

Sir,

Your obedient servant,

Captain Hansen Vermili,  
s.s. "Thor I",  
Sandefjord,  
NORWAY.

H. Henniker-Heaton,  
Colonial Secretary.



8

FALKLAND ISLANDS

Downing Street,

NO. 142

5 December, 1923.

Sir,

encl 5

I have the honour to acknowledge the receipt of your despatch No. 58 of the 8th August, regarding the question of the infliction of penalties for breaches of the Whaling Regulations.

2. I am advised that your interpretation of Section 3 of the Whale Fishery Ordinance 1908 is correct, and that the provision in that section empowering the Governor in Council to "impose" penalties does not include the "infliction" of penalties but merely authorises the Governor in Council to lay down the penalties which may be inflicted, which is in fact done in Section 19 of the existing Whaling Regulations.

3. I should not regard it as desirable, especially in the circumstances of the Falkland Islands, where the Judiciary and Executive are so intimately allied, that the Governor in Council should be empowered by law to inflict penalties for breaches of the regulations. I therefore consider that the procedure as to the prosecution of offenders laid down in Section 7 of the Whaling Ordinance should be maintained; and I may point out

GOVERNOR

J. MIDDLETON, ESQ., C.M.G.,

&c.,            &c.,            &c.,

out, as regards the latter part of paragraph 3 of your despatch, that even if the Governor in Council, were empowered by law to function as a judicial tribunal, it would necessarily have to act, like any other tribunal, in a judicial manner in regard to the taking of evidence for the purpose of establishing proof of an offence.

4. I agree, however, that it would be desirable, if practicable, to devise an alternative procedure dealing with breaches of the Regulations which are not regarded as sufficiently serious to necessitate a formal prosecution. I am inclined to think that it will be sufficient if on the arrival of the vessel at Port Stanley you were to summon the captain, or other person concerned, to Government House, to draw his attention to the infraction of the Regulations which he is believed to have committed, and to warn him that if he does not comply with the Regulations in the following season you will have no alternative but to direct prosecution, which will no doubt delay his return to Europe.

I have the honour to be,

Sir,

Your most obedient

humble servant,

Signed) DEVONSHIRE

Procedure with regard to breaches of the Regulations.

The attention of Whaling Officers is drawn to section 7 of the Whaling Ordinance.

2. Unless the matter is of such urgency as to require immediate institution of proceedings an explicit but brief report should be transmitted immediately to Headquarters, by radiogram if necessary, in order that the matter may be dealt with in Stanley on the arrival there of the person or persons involved.

3. If a radiographic report is sent it should invariably be confirmed by a written one transmitted at the earliest opportunity.

(J.E.Hamilton)

Government Naturalist.

9/3/23.

Procedure with regard to breaches of the Whaling Ordinance or Regulations.

The attention of Whaling Officers is drawn to Section 7 of the Whaling Ordinance.

2. In all cases where a breach of the Ordinance or Regulations takes place a full report should be sent to Headquarters by the earliest opportunity, and if the offence is one of the more serious kind it should be reported at once by radiogram.

3. When such an offence comes under the notice of an Assistant Whaling Officer he should in the first place communicate with the Chief Whaling Officer