

'Sorry for the seals and sea birds': Tasmania, New Zealand and the Management of Macquarie Island 1890-1894

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On 3 October 1890, Sir Philip Fysh, the Premier of Tasmania, sent the following cable to Sir Harry Atkinson, the Premier of New Zealand:

Sorry for the seals and sea birds but cannot be helped. Can anything be done for protection of these animals and birds? We shall be glad to render any assistance we can.¹

This was the second telegram in as many days from an apologetic Sir Philip to his counterpart in Wellington. The first had explained that the House of Assembly had rejected the proposal to transfer Macquarie Island to New Zealand. In taking this action, it had gone against the wishes of the Colonial Office, the government of New Zealand, both Houses of the New Zealand Parliament, and the government and Legislative Council of Tasmania. And it did so decisively. The Treasurer, who was managing government business in the Assembly, gauged the mood of the House to be so antagonistic to the proposal that he did not bother to call a formal division, and let the issue be decided on the voices.² The second outlined the dilemma facing the Tasmanian government, namely that control implied responsibilities for the management of the rediscovered dependency. Management would inevitably be difficult as it involved new intercolonial relationships in a region in which the colony had virtually no ability to exert its power as a state.

Background

In 1825, the British decided to separate Van Diemen's Land more formally from New South Wales. In doing so, they had to define the boundaries of the new colony. Lines of latitude and longitude were used to form a rectangle enclosing the island. There have never been problems with the eastern (150 degrees east longitude), western (140 degrees east longitude) or southern (45 degrees south latitude) boundaries. Numerous problems have occurred over the use of 39 degrees 12 minutes south latitude as the northern boundary as it lies immediately south of Wilson's Promontory in what later became the State of Victoria.

For reasons that are not readily apparent, an additional clause was inserted stating 'and also Macquarrie Island lying to the Southward of the said Island of Van Dieman's [sic] Land'.³ The significance of the allocation of Macquarie Island to Tasmania throughout

¹ Premier's Department (PD), 1-45-file 313, Fysh to Atkinson, October 1890, Archives Office of Tasmania (AOT).

² *Examiner*, 2 October 1890.

³ *Historical Records of Australia*, Series 3, Vol 5, p 1, Commission of Darling, 16 July 1825. The 'rr' spelling is occasionally found in the sources. The use of the plural, 'the Macquaries', was quite common at the time and is frequently used in this paper.

most of the nineteenth century was minimal. Macquarie Island in the 1820s was a sealing outpost attracting vessels from Sydney and Hobart Town, though more from the former than the latter. There was no governmental presence, and as the industry declined in the 1830s contact with the island was lost. Its status as a dependency of Tasmania faded from public memory. In London, however, this clause was copied by generations of clerks from the Commission of one Governor into the Commission of the next.

When regular contact was resumed in the 1870s, the sealers came from the southern New Zealand ports of Dunedin and Invercargill/Bluff. It was widely assumed that Macquarie Island was unclaimed territory.⁴ In 1889, the New Zealand Government asked the Colonial Office to investigate its status. The Colonial Office forwarded the inquiry to the Admiralty. The Admiralty replied that there was no record of it having been claimed by any power and that the United States arguably had the best claim based on a visit of a warship, the USS *Peacock*, in 1841.⁵ The fact that it was already British territory allocated to a neighbouring colony was somehow lost in the files.

Joseph Hatch, a pharmacist and manufacturing chemist of Invercargill, had a lifetime involvement with the trade in furs. Somewhat paradoxically, he also had a peripheral involvement with the conservation of seals. In 1884, he had been elected to the New Zealand House of Representatives. As the member for Invercargill, he inevitably had to participate in debates on amendments to the Seal Fisheries Conservation Act 1878. The first in 1884 was to introduce a total ban on the taking of fur seals in New Zealand waters. The second in 1887 was to increase penalties for illegal sealing. His public stance on both occasions was pro-conservation.⁶

Privately, Hatch was mulling over schemes to circumvent the legislation. The idea he eventually developed was to have his vessel, the *Awarua*, clear customs for a "foreign" port. This would allow for the open recruitment of sealers and the purchase of large quantities of sealing supplies such as salt. Once out of sight of land, the *Awarua* could change course for the once rich sealing grounds of the Auckland and Campbell Islands. Upon returning, any skins could be declared as the product of Bass Strait, the notional destination where sealing was under no restriction. The scheme came unstuck in its first trial. Survivors from the barque *Derry Castle* were inconveniently discovered at the shipwreck depot at Port Ross on Auckland Island. The Captain's attempt to avoid discovery by taking the survivors to Melbourne was futile as reports of the heroic rescue inevitably reached New Zealand. Officialdom was quick to put the correct interpretation on what had happened. Hatch lost his seat at the following election; the captain and the mate were imprisoned.

Hatch was a resourceful schemer. He had escaped gaol by placing the blame on Captain Drew whom, he alleged, had broken his explicit orders not to engage in sealing within New Zealand waters. Hatch now decided that Macquarie Island was a far more sensible destination than Bass Strait, especially after a real voyage to Bass Strait in the winter of 1888 came back with a miserable total of 78 skins.⁷ Macquarie Island was neatly placed for this strategy being directly south of the New Zealand fur seal islands. The Auckland and Campbell Islands

⁴ Roger Kellaway, 'The Tasmania-New Zealand Boundary Dispute 1890', *Proceedings New Zealand Geographical Society*, Vol 21, 2001, pp 75-79.

⁵ *Appendices Journal House of Representatives 1890*, A5: Papers Relative to the Annexation of Macquarie Island, Admiralty to Knutsford, 30 March 1889.

⁶ *Southland Daily News*, 14 October 1887.

⁷ *Southland Daily News*, 11 October 1888.

could be visited both coming and going for a spell of discreet poaching. The presence of the *Awarua* in these latitudes was also more easily explained in case of discovery than the somewhat feeble excuse of stress of weather used in 1887. Furthermore, Macquarie Island had known resources of elephant seal and penguin oil. These could be exploited without restriction on this presumably unclaimed island. Whilst of low value compared to the skins of fur seals, the oil would pay for the voyage.

Hatch's activities were the catalyst for the attempt by New Zealand formally to annex the island, and, upon finding that it was a dependency of another colony, of going through the process of having the island transferred from Tasmania to New Zealand.⁸ As previously mentioned, the governments of both colonies were agreeable to the plan. Only the rejection of the formal petition to Queen Victoria by the Tasmanian House of Assembly prevented the transfer.

The debate in the Assembly had been distinctly ill-informed. Members pursued several themes.⁹ Some put forward the general principle that if New Zealand wanted the Macquaries, it could only be for some reason known to New Zealanders but not to Tasmanians. Others were more specific in their objection. Henry Lette (North Launceston) opposed the transfer on account of New Zealand's policies that restricted the export of Tasmanian timber and jam. Samuel Sutton (South Launceston) noted the resource potential of the island's forests, while David Scott (Cressy) informed the Assembly that the island was 'a fertile one'. Later in the debate, Scott also claimed that the island was an established whaling station.

Essentially, most members of the Assembly felt like Henry Mugliston (Brighton), who argued that Macquarie Island had cost nothing to acquire, was costing nothing to keep, and might as well be retained to see if anything useful could be done with it. The most common possibilities mentioned were as a sealing station, as a base for the exploration of the unknown waters to the south, or as a base to promote the revival of whaling. These themes were not completely unrealistic. It was now known to members that there was an existing sealing station on the island. Most thought that it should in future be run by Hobart entrepreneurs. There was also a recent upsurge of interest in both exploration and whaling in southern waters. Only two weeks before the debate in the Assembly, the Royal Society of Tasmania had contributed £50 to assist the Swedish-Australasian Antarctic Exploration Committee.¹⁰ The revival of Hobart as a whaling port was inevitably of interest to a commercial community that had seen whaling ships on the port register decline from forty at mid-century to only two in 1890. One member, Henry Gill (Kingborough), following the debate actually applied for a lease to use Macquarie Island as a whaling station.¹¹ Interestingly, he shortly afterwards surrendered the lease to a whaling company from Dundee, Scotland.¹² Shipping circles in Hobart were well aware that southern ocean whaling was beginning to appear on the agenda of whaling companies from the Northern Hemisphere.

Only one member of the Assembly, Dr Edward Crowther (Kingborough), spoke of the merits of making Macquarie Island a reserve. The island, he said, should be used for the protection and breeding of seals. The prevention of poaching on New Zealand sub-Antarctic islands was one concern but so was the fate of wildlife in the wider region. He proposed

⁸ Kellaway, 'The Tasmania-New Zealand Boundary Dispute 1890', pp 75-79.

⁹ *Mercury*, 2 October 1890 and *Tasmanian News*, 2 October 1890.

¹⁰ *Tasmanian Mail*, 20 September 1890.

¹¹ *Tasmanian News*, 8 October 1890.

¹² *Southland Times*, 29 October 1890, citing *Mercury* as a source.

that Hatch's operation be closed down, that it not be replaced with a similar venture from Tasmania, and that Parliament 'ought to make this a seal preserve'.¹³ The debate at this point was led off course by WH Burgess (West Hobart) who interjected according to the *Mercury*:

Better send the Conservator of Forests down there. (Laughter).

And according to the *Tasmanian News*:

Mr Burgess: "Send the Conservator down".

Crowther defended the Conservator of Forests, WTH Brown. He was, he said, a man who knew more about his job 'than many other men in Government service did about their work'.¹⁴ Brown was actually keen to take up this suggestion especially when Hatch volunteered to take a governmental official or two south to examine the long forgotten territory.¹⁵ The Minister of Lands, however, thought that Brown's career was marked by too much interest in long tramps in wild country and too little interest in the minutiae of departmental administration and stopped him from taking up the offer.¹⁶

The assertion of Tasmanian sovereignty over its long-forgotten dependency led to the need to consider a management strategy for the region. Some factors were responsibilities inherent for any government claiming territory. The immediate issue was the need to prevent the island being used as a base, which poachers could use to break the laws of a neighbouring colony. This led to the telegram of 3 October noting that Tasmania would act on the issue of seals and sea birds. Shortly afterwards, the responsibility of Tasmania for rescuing shipwrecked sailors/stranded sealers would be drawn forcefully to the attention of the government in Hobart.¹⁷ Another issue was not so pressing but could not be ignored forever. This was that any government claiming territory had to establish effective occupation. One manner in which this could be done was by utilising the resources of the area over which it claimed sovereign rights. Sir Rupert Herbert of the Colonial Office drew this to the attention of Sir Edward Braddon, the Tasmanian Agent-General in London. The core of Herbert's argument was that Tasmania 'having resolved to retain this island, should take steps to utilise the wealth that it possesses'.¹⁸

The need for Tasmania to do something with and about the Macquaries was important. New Zealand was to make a second formal request for transfer of sovereignty in August 1894 and to ask for a twenty-year lease in place of transfer in February 1897. Informal discussions between ministers on the status of Macquarie Island also occurred at other times. One example took place at the Intercolonial Conference of 1895 with discussions between Sir Edward Braddon (who was now the Tasmanian Premier) and Joseph Ward, Treasurer, Postmaster-General and Minister of Marine in the Seddon cabinet.¹⁹ The Tasmanian press

¹³ *Tasmanian News*, 2 October 1890.

¹⁴ *Tasmanian News*, 2 October 1890.

¹⁵ *Southland Times*, 29 October 1890 and *Southland Daily News*, 30 October 1890. Both cite the *Mercury* as a source.

¹⁶ *Tasmanian News*, 11 October 1890.

¹⁷ Redmer Yska, *An Errand of Mercy: Captain Jacob Eckhoff and the Loss of the Kakanui*, Wellington: Banshee Books, 2001.

¹⁸ PD1-45-file 313, 19 November 1890, Braddon to Fysh, AOT.

¹⁹ *Mercury*, 5 February 1895 and *Otago Daily Times*, 5 February 1895.

accepted that continued Tasmanian possession was not guaranteed. For instance, the *Tasmanian Mail*, the weekly companion to the *Mercury*, went so far as to argue that:

If this colony is not prepared to make proper arrangements for the rule of this distant territory it would be far better to relinquish possession of the islands altogether, even though some prospective gain might thereby be foregone.²⁰

Imperial intervention to resolve the situation was not precluded. A conservation issue therefore had wider ramifications than just wildlife. Even the problem of managing seals and penguins on far distant Macquarie Island became tangled with problems of managing seals and seabirds in areas much closer to Hobart and Wellington.

The problem of seals

Fysh had promised Atkinson that he would take whatever action he could to address the concern of the New Zealand government. His first action was to ask the Fisheries Commission to develop an appropriate strategy for the prevention of illegal sealing. This was done on 7 October. The next meeting of the Fisheries Commission was scheduled for the 9th. Detailed reports of many meetings including the one of current interest appear in the Hobart press.²¹ This is fortunate as no other records of this body appear to have survived.

Macquarie Island was placed on the agenda. Bernard Shaw, the Commissioner of Police, pointed out the obvious necessity of Tasmania to assist in the prevention of poaching on islands in the New Zealand sector. His recommendation for practical action, however, was limited to a proposal that a copy of the Fisheries Act be sent to Wellington. Alexander Morton, the Curator of the Hobart Museum, continued the discussion. He began by commenting that 'there had been some most curious statements made about the Island' during the debate in the Assembly. He placed a number of corrections on the record. In particular he noted that there were actually no fur seals on the island, that the most common seal was the sea leopard but the elephant seal was also present, and that the island's forestry potential was limited as 'there was not a single tree upon it'. Morton's solution for illegal sealing was for the proclamation of a close season for the non-existent fur seal. No details were provided. It must have been for a permanent ban as any open season would still have left a possibility for poachers to claim, however sceptical the authorities might be, that skins in their possession had been legally taken outside New Zealand territory.

A subcommittee of the Fisheries Commission was set up to examine the issue in more detail. The chairman, the aptly-named Matthew Seal, reported to the Premier on 14 October 1890.²² Their suggestion was that the problem of framing specific regulations that 'would be of practical utility in assisting them in preventing Macquarie Island being used as a centre for poaching seals on the Auckland and other Islands under their jurisdiction' be handed over to New Zealand officials. Consequently, a copy of the Fisheries Act 1889 was enclosed with the Premier's letter to Atkinson of 23 October 1890 to act as a guide for officialdom in New Zealand.²³ The result was Government Notice 147, published in the *Hobart Gazette* of 21 April 1891 and reprinted in the *New Zealand Gazette* of 7 May 1891:

²⁰ *Tasmanian Mail*, 22 September 1894.

²¹ *Tasmanian News*, 10 October 1890 and *Tasmanian Mail*, 11 October 1890.

²² PD1-45-file 313, 14 October 1890, Seal to Fysh, AOT.

²³ PD1-45-file 313, 23 October 1890, Fysh to Atkinson, AOT.

The taking of seals, whether known by the name of seals, sea elephants, or sea lions, or any other local name upon Macquarie Island, and the islands adjacent thereto in the South Pacific Ocean, being dependencies of the Colony of Tasmania, is hereby prohibited.²⁴

Superficially, this looked like a solution. The regulation banned the taking of seals of any species from the Macquaries for a period of five years. This ensured that sealers employed by Hatch and others could not claim that fur seal skins in their possession were legally obtained from Macquarie Island. The wording 'seals, sea elephants and sea lions' was formally suggested by the New Zealand government.²⁵ The rendering down of sea elephants for oil was the core of Hatch's activity on the island. It seemed on the surface that Hatch's operations should have been terminated. The penalties were severe. The penalties also paralleled the New Zealand legislation of 1887 with the forfeiture of boats and equipment.

Hatch, however, was not without responses. One was to ramp up the penguin oil side of this business. It is perhaps curious how large shipments of elephant seal oil and small, experimental shipments of penguin oil became shipments of penguin oil and oil undefined in 1891 and 1892. Hatch also petitioned the New Zealand Parliament for compensation claiming that due to pressure from the New Zealand Government 'the Tasmanian Government has closed the Macquaries for elephant oiling, etc., much to the petitioner's discomfort and loss'.²⁶ While his claim for £4,000 was unsuccessful, the petition helped create the illusion that the elephant seal industry had been closed down. Hatch also generated confusion over the ownership of the Macquarie Islands saying at different times that they were Tasmanian, that they belonged to New Zealand, and that the problem of ownership was still unresolved. He was, in fact, well aware of the situation. Fairly soon, uncertainty about the legal status of Macquarie Island began to appear in the Invercargill press, despite the fact that both papers had not long before published editorials critical of the decision made by the Tasmanian House of Assembly. In any case, Hatch's problem appeared to resolve itself before the end of 1891 with the appearance of Government Notice 357:

The taking of Seals, whether known by the name of Seals or any other local name, in Tasmania and its Dependencies is hereby prohibited for a period of Three years from the twentieth day of July, One thousand eight hundred and ninety-one, and any person committing any breach of this Regulation shall be liable to a penalty not exceeding £5.²⁷

The restrictions on sealing were redefined. Sealing was banned in all Tasmanian waters for a period of three years. It seemed illogical to protect fur seals on the Macquaries where they did not exist while the fur seals of Bass Strait remained unprotected. There was even a successful request to the Victorian government to protect fur seals on the northern shores of Bass Strait.²⁸ However, sea elephants and sea lions were not specifically mentioned in the above regulation. Cumpston, the author of the standard history of Macquarie Island, concluded that this was a deliberate omission and legitimised Hatch's operation.²⁹ This seems logical from one perspective as there was no attempt to close down the oil works by

²⁴ *Hobart Gazette*, 21 April 1891, p. 843 and *New Zealand Gazette*, 7 May 1891, p. 511.

²⁵ PD1-45-file 313, 29 November 1890, Atkinson to Fysh, AOT.

²⁶ *Southland Times*, 29 August 1891.

²⁷ *Hobart Gazette*, 27 October 1891, p. 2051 and *New Zealand Gazette*, 10 December 1891, p. 1380.

²⁸ PD1-49-file 402, 31 October 1891 and 29 December 1891, AOT.

²⁹ J S Cumpston, *Macquarie Island*, Melbourne: Department of External Affairs, Antarctic Division, 1968, p. 167.

New Zealand Customs. This could have been done quite easily by preventing the landing of seal oil from vessels arriving from Macquarie Island.

Another interpretation, however, would be that sea elephants and sea lions were included within the phrase 'whether known as Seals or any other local name' and remained protected. I am convinced that the latter is the correct interpretation of the Government's intention. The basis for this belief lies in the reaction to reports that Hatch was continuing to work the island. The Tasmanian government was alerted to one voyage by James Roberts of Bluff, who wrote to the Chief Collector of Customs in Hobart saying that Hatch had left for the south with empty casks.³⁰ As the oil on the island was already in casks, it was clearly the intention, he said, of the party 'to obtain a further supply of sea-elephant and penguin oil as well'. The incident was independently noted by the Police Commissioner through an article appearing in an Auckland newspaper and reprinted in the Tasmanian press.³¹

The Tasmanian government pondered its options. The Chief Collector of Customs had not been greatly interested. He had attached a note to Roberts's letter saying that he did not 'see how any action could be taken even if it were deemed necessary'.³² The Premier, however, was concerned. Fysh wrote to Wellington seeking information from the New Zealand Government.³³ Cumpston saw these documents in the files of the Premier's Department, and probably thought that the only action was this letter to New Zealand.³⁴ Additional information, however, is available in newspaper accounts of meetings of the Fisheries Commission. Fysh received a reply from Wellington in March 1892 which provided, not only a list of cargo and crew on the voyage of 16 October 1891, but also information that eight men had been left on the island for the summer. It also reported that Hatch had since organised another trip to the south, which left Bluff on 6 January 1892 with a further 90 empty casks.³⁵ The timing of this second trip strongly suggested that sealing for oil was to take place. Fysh then asked AI Clark, the Attorney-General, to investigate the procedures to follow to have Hatch's vessel, the *Gratitude*, impounded 'on her return to Bluff with the proceeds of the seal poaching expedition'.³⁶ The Attorney-General in turn consulted the Solicitor-General for a legal opinion. The Solicitor-General pondered the legal implications and concluded that a successful prosecution would be unlikely owing to flaws in the framing of the regulation. For instance, the close season was proclaimed under section 12 rather than section 11 of the Fisheries Act. Nor had Parliament ever approved the seizure of boats and equipment. There was not even any right to seize the skins unless they were the result of larceny.

The file was then forwarded to the Fisheries Commission to consider the practical implications.³⁷ They decided that nothing could be done. Not only was the legal situation under question, Tasmanian authorities obviously had no ability to arrest anyone on the Macquaries. It would then be up to New Zealand authorities to make an arrest in New Zealand on the basis of a Tasmanian warrant. However, extradition between colonies applied only to crimes subject to a period of imprisonment of at least one year. Breaches of the Fisheries Act were

³⁰ PD1-49-file 402, 4 December 1891, Roberts to Chief Collector of Customs, Hobart, AOT.

³¹ PD1-52-file 477, 24 December 1891, Shaw to Attorney-General, AOT.

³² PD1-49-file 402, 4 December 1891, Chief Collector of Customs to Treasurer, AOT.

³³ PD1-49-file 402, 22 December 1891, Fysh to Atkinson, AOT.

³⁴ Cumpston, *Macquarie Island*, p 167.

³⁵ *Mercury*, 13 May 1892.

³⁶ *Mercury*, 13 May 1892.

³⁷ *Mercury*, 13 May 1892.

misdeemeanours punishable by fines rather than crimes punishable by gaol. It was believed that Parliament would be unwilling to amend the Act to make the taking of seals a crime.

Hatch would have been aware that the Tasmanian legislation was legally ineffective. The *Mercury* was almost certainly available in the Invercargill Athenaeum. The frequency of direct shipping—two steamers each way per month plus one further steamer on the London-New Zealand run via Hobart—and the intense interest within Southland and Otago about the Zeehan silver field made newspaper availability virtually beyond doubt. It is known that Hatch monitored the press on other occasions.³⁸ Hatch also had a well-placed agent in Hobart, the auctioneer Mr Crouch, who would have kept him informed.³⁹ It was more than evident that prosecution for anything he did on Macquarie Island was unlikely.

Another incident that suggested that the Tasmanian government intended the ban to extend to elephant seals may have occurred in early 1894. Or it may not: the data is inconclusive. In April 1894, the Victorian Premier telegraphed his Tasmanian counterpart that the Consul for Sweden and Norway had been making inquiries in Melbourne about the legal status of Macquarie Island.⁴⁰ The inquiry was to further a plan by the Norwegian steam whaler *Antarctic* to undertake a sealing and whaling expedition in the Southern Ocean. The Tasmanian reply was somewhat nonchalant.⁴¹ It stated that, while sealing was prohibited at Macquarie Island, the fact that the *Antarctic* had already left Melbourne made the information of academic interest only.

Curiously, the captain of the *Antarctic* later informed New Zealand authorities at Port Ross that they had permission from Tasmania to take elephant seals at Macquarie Island.⁴² It has been impossible to establish if this was the case. Captain Kristensen was sometimes flexible with the truth.⁴³ It would do no harm for him to make statements to the captain of a shadowing vessel that would need to be taken to Bluff for checking. It is also clear that the Braddon government promptly responded to a request from New Zealand to arrange for a naval vessel to visit Macquarie Island.⁴⁴ It would not have done so if the government had been completely uninterested in the seals.

I suspect, however, that the attitudes of the Tasmanian government were changing. This opinion is based on three factors. Firstly, there should have been a growing realisation that New Zealand concern about poachers based on the Macquaries hardly corresponded to the reality of the situation: New Zealand had introduced an open season for fur seals in the winter of 1891 and continued declaring open seasons on an almost annual basis. This made commercial-scale poaching pointless. The risks of prosecution were significant. Legal sealing also occurred in winter when skins were at their prime and brought the highest prices. Articles about prosecutions for poaching after 1891 disappeared from the Southland press and were replaced by news of vessels returning from the southern islands with 200, 300 or 400 skins on board. For instance, the *Southland Times* of 6 November 1894 reported that Hatch's *Gratitude* had returned from two months sealing in the Auckland Islands with 310 fur seal, 190 hair seal and 24 casks of blubber. Even sealing cruises to the almost totally annihilated sealeries of the West Coast were allowed. The *Pride of the Ocean* attracted my

³⁸ *Otago Daily Times*, 8 May 1900.

³⁹ *Southland Daily News*, 12 June 1888.

⁴⁰ PD1-65-file 180, 23 April 1894, Premier of Victoria to Braddon, AOT.

⁴¹ PD1-65-file 180, 24 April 1894, Braddon to Premier of Victoria, AOT.

⁴² PD1-65-file 180, 6 June 1894, Summary of Report by Fairchild, AOT.

⁴³ *Southland Daily News*, 17 April 1895, Report by Joyce.

⁴⁴ PD1-65-file 180, 21 May 1894 and 1 June 1894, AOT.

attention as its destination on leaving Invercargill was Guam.⁴⁵ Being a seven-ton cutter, it was not likely to have been bound for the North Pacific. It actually cruised through the fiords of the West Coast going as far north as Jackson Bay. Somehow, the crew managed to take 200 seals.

The Tasmanian government would have been aware of changes in sealing policy in New Zealand. Alexander Morton was the member of the Fisheries Commission most outspoken about seal protection. Some of the policies that he advocated were modelled on New Zealand practice. This is not surprising. As Curator of the Hobart Museum, he would have corresponded with scientists in New Zealand if only through handling the constant exchanges of material between allied institutions.⁴⁶ Furthermore, Morton was the official delegate of the Royal Society to the 1891 Christchurch meeting of the Australasian Association for the Advancement of Science and Secretary of the 1892 meeting in Hobart. Scientific contacts would have supplemented press reports, the New Zealand Parliamentary Papers, and newspapers such as the *Otago Daily Times* as means of bringing changes in New Zealand sealing policy to Tasmanian attention. No mention, however, of the contradiction between New Zealand's claim that Macquarie Island was a haven for poachers and New Zealand's changing policy on seal protection appears in any Tasmanian documentation.

Secondly, there would have been a growing realisation that New Zealand had another agenda in the Southern Ocean. In August 1894, Richard Seddon, the Premier of New Zealand, reopened the question of the transfer of Macquarie Island. This approach followed the first voyage of the *Antarctic* and was justified on the standard grounds of control of illegal sealing on the Campbell and Auckland Islands and the management of castaways and stranded sealers on Macquarie Island.⁴⁷ Braddon prepared a draft reply for the Governor to forward to the Governor of New Zealand. In it, he admitted that 'Tasmania is powerless to administer the island'.⁴⁸ But he went on to state a new policy in that it was 'by no means clear that Tasmanian interests require such control if it could be exercised'. The problems of stranded sealers and the use of Macquarie as a base for poachers to raid the Auckland and Campbell Islands were essentially problems for New Zealand. The stranded sealers were inevitably New Zealanders while the threatened seals were in New Zealand waters.

Although Fysh held a senior position in the cabinet, Braddon believed that the Assembly had taken the correct course in October 1890 in retaining the island. Braddon, I suspect, had also been irked by the tone of the New Zealand approach. If not, any Tasmanian Premier would have been outraged by the communications received from the Royal Navy in Sydney and Auckland. One would expect more from the grant made by each colony to support the Australasian Squadron than a debate on whether Macquarie Island came under the Australian or the New Zealand Naval Division, followed by a reluctant and explicitly stated one-off allocation of a warship to fisheries patrol duty.⁴⁹ The naval vote had to have a use beyond having warships act as a backdrop for the annual Hobart Regatta.

⁴⁵ *Southland Daily News*, 17 December 1894. It was originally thought that Guam could have been a code for Bass Strait. This would have confirmed allegations by Bishop Montgomery that New Zealand sealers routinely plundered the rookeries. The only recorded visit, however, of a NZ sealer to Bass Strait was the *Awarua's* unsuccessful cruise of 1888.

⁴⁶ *Papers and Proceedings of the Royal Society of Tasmania (PPRST)*, Meeting of 9 June 1891, p xi.

⁴⁷ PD1-65-file180, 21 August 1894, Glasgow to Gormanston, AOT.

⁴⁸ PD1-65-file 180, 18 October 1894, Braddon to Gormanston, AOT.

⁴⁹ PD1-65-file 180, various documents in June and July 1894, AOT.

Thirdly, the attitude towards seal protection within Tasmanian waters had clearly changed. The preference of the government upon the expiry of the three years of total protection was for the abandonment of all regulation.⁵⁰ Lobbying by the press, the Royal Society, the Bishop of Tasmania, the Islander community, and the Fisheries Commission led to some modest limitations on Bass Strait sealing being reimposed in October 1894.⁵¹ Female and immature seals were fully protected: mature males could be taken at any time by licensed sealers.⁵² Furthermore, only residents of the Bass Strait Islands of at least one year's standing could obtain a licence.

Macquarie Island was not mentioned in Government Notice 256. Therefore, the taking of any type of seal was again legal. I suspect that the omission was deliberate and significant. The government was possibly considering a proposal put to it in a letter from Hatch in September 1894.⁵³ Hatch began by warning Braddon that Seddon had 'an insane idea of continual annexation of islands, viz: Samoa, then Hector and now Macquarie'. Hatch at the time of writing was in Melbourne. His plan was to come to Hobart and call upon the Minister of Lands. No details of this meeting have been found in the Archives, possibly because papers relevant to the leasing of Macquarie Island were later tabled in the House of Assembly.⁵⁴ Papers 'tabled but not printed' have an unfortunate tendency not to be returned to the departmental files.

Nevertheless, a scheme which involved the leasing of the island seemed likely. This strategy, according to modern theories of the privatisation of the commons, should produce a system of maintaining both seal numbers and a sealing industry. The theory was also known at the time. Morton, in particular, was an advocate of private ownership. It was, he claimed in 1891, the basis of the highly regarded management of the Behring Sea seal fishery by the Russians and was subsequently adopted by the Americans.⁵⁵ It was also being promoted in New Zealand. Joseph Ward, the Minister of Marine, in a debate in the House of Representatives noted that one of the objectives of the Sea Fisheries Bill of 1894 was to establish 14-year renewal licences for the sealeries of the sub-Antarctic islands. The concept was that a lease would encourage sealers to live on the islands and 'conserve and guard the seals'.⁵⁶ But Hatch was unsuccessful in Hobart. In 1897, Alfred Pillinger, the Minister of Lands, reported to a delegation protesting another proposal by Seddon for *de facto* annexation that he had refused Hatch a lease when they had previously met.⁵⁷ Hatch had been more successful in acquiring the lease of Adams Island, one of the Auckland group. It was admittedly a grazing lease, but as one of the objectives of re-introducing sheep to the Aucklands had been to have somebody on the spot to monitor the seal rookeries, it was still somewhat unusual.⁵⁸

The problem of penguins

Joseph Hatch had begun to process penguins for oil in the summer of 1889-90.⁵⁹ Inevitably, an industry that boiled the most anthropomorphic of the seabirds for their oil was going to

⁵⁰ *PPRST*, Meeting of 12 September 1894, p xvii.

⁵¹ *PPRST*, Deputation: Fur Sealing in Bass Strait, 12 September 1894, pp xxxiv-xxxv.

⁵² *Hobart Gazette*, 16 October 1894, p 1992.

⁵³ PD1-65-file 180, 17 September 1894, Hatch to Braddon, AOT.

⁵⁴ Papers on the sale or lease of Macquarie Island were tabled in the Assembly on 28 July 1899 and 10 October 1900. No details appear in the press.

⁵⁵ *Mercury*, 9 October 1891.

⁵⁶ *New Zealand Parliamentary Debates*, Vol 87, 12 October 1894, p 706.

⁵⁷ *Tasmanian Mail*, 10 April 1897.

⁵⁸ *Southland Daily News*, 4 January 1895.

⁵⁹ Cumpston, *Macquarie Island*, p 142.

be controversial. Within months, the New Zealand Parliament had to consider objections to the industry. This was in the form of a petition by Martin Chapman and twenty-one others from Wellington asking that the industry be banned.⁶⁰ The petition was based on the anticipation that the transfer would go ahead as planned. If not, action would still be necessary in order to prevent Hatch from extending his operations from Macquarie into the Campbell and Auckland Islands. The smaller rookeries on these islands would be easily wiped out in a few weeks.

Captain Fairchild of the NZGS *Hinemoa* was the only witness to appear before the Public Petitions Committee. His evidence was somewhat handicapped by the fact that he had never been to the Macquaries. He had, however, extensive experience in southern waters replenishing lighthouses and checking castaway depots. Firstly, he suggested that the petitioners had vastly underestimated the number of birds and the time that it would take to work out a rookery. Nevertheless, he predicted that Hatch could finish off the penguins on Macquarie Island in something like five years, and then switch to the Campbell and Auckland Islands. Secondly, he was firmly of the opinion that an industry, which according to Hatch had killed 15,000 birds in its first year for a return of sixpence apiece, ought to be abolished. The return did not justify the slaughter. In addition, penguins and albatross by their nature were so helpless on land that they merited special protection. It was 'a pity', he concluded, that Tasmania had not already acted.

Fairchild discussed other issues. Sea lions and sea leopards were common but not very valuable. The former would bring perhaps £1 each for skin and oil; the latter perhaps 10 shillings. One concern about the later visit of the *Antarctic* was that a steam whaler had facilities on board that reduced the costs of processing and made these previously uneconomic species attractive.⁶¹ Sea elephants were said to be numerous but at risk owing to their size. It would be no great problem, he said, to go along the beach 'and lance as many as you wish in a day'. In fact, he alleged that Hatch had told him that one reason for going in for penguins was 'to give the sea-elephants a rest'. This is a somewhat intriguing justification for the penguin oil industry.

Cumpston concluded that Fairchild's evidence was 'very unsatisfactory'.⁶² Nevertheless, Fairchild was a government officer and his opinions were significant. For instance, Sir George Grey, member for Auckland Central, raised the penguin problem in the New Zealand House of Representatives on 23 July 1890.⁶³ It was technically a question to the Minister of Marine but framed more as a statement in which he urged the government to stop the slaughter 'of penguins on the islands to the south of New Zealand'. Or, rather, to stop the slaughter completely if the oil had minimal value and to regulate the industry and make it sustainable if, as he suspected, the oil produced had significant value. Grey's stature in the community cannot be overestimated. This was a man who had been Governor of three different colonies including two critical terms in New Zealand, who had settled in New Zealand following his retirement from the Colonial Service, and had since been involved in public life as a parliamentarian.

⁶⁰ *Appendices Journal House of Representatives 1890*, I-1A Public Petitions A to L Committee: Report on the petition (No. 225) of Martin Chapman and others of Wellington relative to the wanton destruction of sea-birds on islands adjacent to New Zealand.

⁶¹ *Southland Daily News*, 23 August 1894.

⁶² Cumpston, *Macquarie Island*, p 148.

⁶³ *New Zealand Parliamentary Debates*, Vol 68, 23 July 1890, p 109.

The petition was also discussed in the South Island press. The *Otago Witness* noted the similarities between the Great Auk of the North Atlantic and the King penguin of the South Pacific.⁶⁴ The former had become extinct less than sixty years ago; the latter was 'now threatened by the unthinking greed of a few men'. Ocean birds, it went on to say, had considerable value. Some values were practical through the manner in which birds indicated the presence of land or provided food for seamen stranded on remote islands. These were matters of concern for ships on the Great Circle route between Australia and South America that passed through the islands south of New Zealand. Other values were overtly commercial. The editor noted the value of muttonbirds as food and discussed at some length the possibility of creating a local market for the eggs of seabirds in a fashion similar to that which apparently existed at San Francisco. 'The temptation', therefore, 'to boil down the young birds into machine oil' ought to be resisted for these reasons alone. Interestingly, at one stage the editor used arguments based on emotions more typical of the modern era than the 1890s. Readers were urged to:

look beyond the paltry profit derived from a little oil, even on the ground of love of nature and nature's children. It would be a sad thing if the harmless of our remote and interesting island groups were sacrificed ...

It is probably not coincidental that the main opposition to the penguin oil industry over the next thirty years was to come from Dunedin, especially from its scientific community organised through the Otago Institute. FR Chapman (the father of Martin), Alexander Hamilton, and most importantly GM Thomson were all involved with penguin issues from an early date. Interestingly, these individuals and the Otago Institute itself had ties with the Royal Society of Tasmania. Thomson was actually a member.⁶⁵

The *Southland Daily News* was another newspaper that commented on the Chapman petition. The editor and publisher was Henry Feldwick, who had defeated Hatch in the election of 1888. While the *News* never hesitated to attack Hatch as a politician, it was a supporter of sealing and penguin oil as local industries. In its review of the Chapman petition, the *News* argued that with proper regulation, there would be 'no reason why the periodic thinning of the numbers of sea-fowl should not be practised'.⁶⁶ A parallel was drawn with the muttonbird industry practised by local Maori. There had been no reduction of numbers of muttonbirds in Foveaux Straits and on islands to the south of Stewart Island over the years. The reason was environmental. 'Nature' the editor continued 'is so prolific in these regions as to be able to repair very speedily reasonable reductions in animal life'. Assuming a transfer to New Zealand control, the penguin oil industry could be monitored through periodic visits by the government steamers. Its economic value could even be enhanced if uses could be found for skins and feathers as well as the oil.

The petition appears to have influenced the debate in the House of Representatives over the transfer.⁶⁷ Mr Marchant (Taranaki) noted that there was a general feeling around the House that the penguins should be protected before 'the whole of these animals might be extinct'. In response, Mr Fergus, the Minister of Public Works and Mines, replied that,

⁶⁴ *Otago Witness*, 2 October 1890.

⁶⁵ EY Speirs, 'George Malcolm Thomson (1848-1933)', *Dictionary of New Zealand Biography*, Vol 2:1870-1900, Wellington: Allen and Unwin, 1993, p 537.

⁶⁶ *Southland Daily News*, 26 September 1890.

⁶⁷ *New Zealand Parliamentary Debates*, Vol 69, 11 September 1890, p 752.

while nothing could be done until the island became New Zealand territory, the legal officers of the government had been instructed to consider the issue with the intention of having legislation ready for the next session. Mr Dodson (Blenheim) thought that more immediate action involving joint action by the two colonies was essential. Sir George Grey concurred. Legislative action on the part of New Zealand was essential in his opinion as preparations were under way for 'a very great slaughter of these animals'. By retaining Macquarie Island, Tasmania acquired the controversy. The letter of 23 October 1890 to Sir Harry Atkinson contained the Fisheries Act 1889. This was seen as the legislation most relevant to the protection of seals.⁶⁸ It also contained copies of the Game Protection Acts and the following suggestion for action by Tasmania:

In the same manner it may be practical to protect the sea birds frequenting Macquarie Island under the provisions of the Game Protection Acts 42 Vict. No 24 and 52 Vict. No 40.

Nothing appears to have been done despite the fact that the Tasmanian government was to soon consider using these Acts to regulate the muttonbird industry on the islands of Bass Strait. The issue re-emerged in the winter of 1891. In a private letter to the Premier, Captain Fairchild of the NZGS *Hinemoa* outlined the problems presented by the penguin oil industry.⁶⁹ Fairchild had by now visited the Macquaries and was unimpressed by what he had seen. The King penguin was the target species of the digester erected at Lusitania Bay. It was, he said, a helpless bird, easily caught and killed and called for a five-year ban on the industry.

The Premier forwarded Fairchild's letter to the Fisheries Commission for comment.⁷⁰ As penguins, unlike seals, had no status within the Fisheries Act, the letter was passed on to the Royal Society for their opinion. Its last appearance in the historical record was the decision by Sir Lambert Dobson that the letter would initially be considered in detail by the Council of the Royal Society. It would then be presented to the membership for discussion 'so that any suggestions made to the government would have had mature consideration'.⁷¹ I am not aware of what happened. The printed *Proceedings* of the Society contain no indication that the issue was ever brought back to the full membership for discussion. The manuscript minutes of the Council of the Royal Society contain no evidence of any further action and the letter books of outwards correspondence were kept in such a manner that it has proven impossible to find any information.⁷²

One possibility is that the penguin issue was overwhelmed by the campaign led by Bishop Montgomery for regulation of the muttonbird industry on the Bass Strait Islands.⁷³ These regulations were gazetted in December 1891 using the Game Protection Amendment Act 1888.⁷⁴ In brief, these regulations established a two-month commercial season, banned the commercial sale of eggs, and tried to prevent damage by fires and livestock to muttonbird rookeries. No specific action was taken to ban the oil and fat trade. The muttonbird oil

⁶⁸ PD1-45-file 313, 23 October 1890, Fysh to Atkinson, AOT.

⁶⁹ Extensive extracts of Fairchild's letter can be found in the newspaper reports of the Fisheries Commission and in the *Proceedings* of the Royal Society.

⁷⁰ *Mercury*, 10 July 1891.

⁷¹ *PPRST*, Meeting of 17 August 1891, p xii.

⁷² RSA/A.5, Minutes of Council 1890-1892 and RSA/B/3, Outward Correspondence 1885-1906, University of Tasmania Archives.

⁷³ *PPRST*, Meeting of 17 August 1891, p xii.

⁷⁴ *Hobart Gazette*, 15 December 1891, p 2449.

trade was almost identical to penguin oiling. Extremely large numbers of immature birds, somewhere between 100 and 120, were needed to produce one gallon of oil. It was also similar in that it attracted negative attention. One gallon was worth nine pence. It was, as ED Atkinson of Wynyard said in May 1892: 'frightful destruction...for a miserable return'.⁷⁵

The Government apparently moved against oiling and part of the fat trade in the autumn of 1892.⁷⁶ No details of any formal action could be found in the *Gazette*. It may, however, have been implied by the late date for the opening of the commercial season.⁷⁷ There was no doubt in reports from Flinders Island that oiling had been banned.⁷⁸ More specifically, the taking of young fledglings was banned. Once the bird was mature enough to be salted down for its meat, the skins and entrails which would otherwise be wasted could be rendered down for the fat. Whether this regulation or the explicit successor regulation of 1897 were effective is debatable. Scattered data collected by Skira show oil being brought to Launceston for the next thirty years. Enforcement was almost impossible despite the fact that one of the main markets for the oil was apparently the government's own railway.

The Tasmanian government, despite the promises of the Premier, adopted no policy for protecting the seabirds of Macquarie Island. Perhaps, it was impossible to legislate against one form of seabird exploitation in the Southern Ocean, while at the same time passively allowing a similar industry to exist on the Bass Strait Islands. Or it may have been legally impossible. Fairchild's letter had been sent via the usual bureaucratic route to the Attorney-General for comment about the possibility of legislating against the penguin oil trade.⁷⁹ No reply has been seen but the clumsy method of using a late start to the commercial muttonbird season versus a simple 'and not for the taking of fat or oil' using the authority of the Game Protection Act 1895 is suggestive.⁸⁰ Or, perhaps, the penguin issue was merely of no significance to Tasmanians at this time.

Defending the indefensible

In New Zealand, there was little reaction to the Tasmanian retention of Macquarie Island outside of Otago and Southland. The *Press*, the *Post* and the *New Zealand Herald* reported the events of October 1890 to the citizens of Christchurch, Wellington and Auckland through brief formal paragraphs. Seal and penguin issues were likewise of no concern. Nothing seems to have appeared in these papers. It was the same in Tasmania where Macquarie Island was a Hobart-only issue. In this, the 1890s are rather different from the coverage given the campaign to shut down the penguin oil industry following the Great War. Penguin protection had by that time become the focus of an international conservation campaign.

Hatch, however, was aware from the beginning that he faced two problems, which were frequently discussed by the Invercargill and Dunedin press. One was the difficulty involved in maintaining communications with Macquarie Island. All through the 1890s, there was criticism of the manner in which Hatch supplied the base with food and concern about what could be done in case of accidents. These issues are not of interest in the present context. Our

⁷⁵ *Mercury*, 11 May 1892.

⁷⁶ Irynej Skira, 'Tasmanian Aborigines and Muttonbirding: A Historical Examination', PhD thesis, University of Tasmania, 1993, p 169.

⁷⁷ *Examiner*, 21 March 1892.

⁷⁸ *Examiner*, 26 April 1892.

⁷⁹ *Mercury*, 14 August 1891.

⁸⁰ *Hobart Gazette*, 7 December 1897, p 2349.

interest lies in the second problem: the instinctive repulsion held by most people towards an industry which reduced penguins to a half pint of oil and an unpleasant residua of beaks, bones and feathers. Hatch was aware of the need to promote penguin oil as a sustainable industry. The arguments and techniques used to do this were developed in the 1890s. A person present in the Theatre Royal, Invercargill in March 1891 or September 1895 would have heard almost the same arguments as a person attending presentations made by Hatch in Hobart's Town Hall a quarter of a century later.⁸¹ It is also possible that they would have joined the audience in endorsing the industry swayed by the force of his rhetoric.

The public meeting was Hatch's preferred forum. He was a colourful and vigorous speaker capable, as the *Southland Times* once said, of cheeking 'his Black Majesty himself if that personage were foolhardy enough to assail him or interfere with the Macquarie oil trade'.⁸² Hatch was highly organised. Meetings would be effectively advertised in the press and displays placed in shop windows around town to encourage a large attendance. The mayor would normally be approached to chair the presentation. On one occasion, Hatch even arranged for 'a special car' to be available at 10 o'clock to allow people from suburban Waikiwi to attend the meeting at the Theatre Royal.⁸³ Finally, Hatch would arrange for the small admission fee to be used for a popular cause. In March 1891, the cause was obvious: the support of the families of men lost on the *Kakanui*.

Hatch was well aware of the effect of technical aids. These were basic at first: little more than posters and the on-stage presence of persons connected with the *Kakanui* disaster. The 1895 meeting, however, is important through the use of a large (100+) set of lantern slides. Hatch had arranged for the Christchurch photographer WH Bickerton to travel south on the *Gratitude* in the summer of 1895. In May, the slides were ready to show to an invited audience of about 50 local identities.⁸⁴ By September, he was ready to show anybody with a shilling for a seat in the stalls:

The strange denizens of the lands and seas thereaway – seals, sea lions, sea elephants, tigers, penguins and raptorial birds are to be shown by means of the limelight.⁸⁵

Both were successful evenings. Hatch based his case for the penguin oil industry on four major arguments. Three were conservation based. Firstly, he argued that the number of penguins at Macquarie Island was almost beyond calculation. Secondly, that the activities of his small party could have no discernible effect on penguin numbers. The industry at most would take some of the birds that would not otherwise survive to maturity. Thirdly, he argued that measures were being taken to maintain penguin numbers through the control of natural predators, and, lastly, he argued that the industry was one of national importance if only through establishing a British presence in this remote area.

Hatch may have been carried away when he attempted to refute claims by Chapman for the existence of three million penguins on Macquarie Island.⁸⁶ Despite Chapman being a 'very clever fellow', he was, according to Hatch, out by a factor of 100. There were, Hatch argued, no fewer

⁸¹ *World*, 16 May 1919 and *World*, 19 November 1919 provides the best coverage of the Hobart meetings of 1919.

⁸² *Southland Times*, 14 April 1891.

⁸³ *Southland Times*, 24 March 1891.

⁸⁴ *Southland Daily News*, 25 May 1895.

⁸⁵ *Southland Daily News*, 13 September 1895.

⁸⁶ *Southland Times*, 24 March 1891. Hatch's argument at the meeting of March 1891 is difficult to follow as people and events are somewhat mixed up.

than 300,000,000 penguins on Macquarie Island. It would be impossible to kill off so many within the timeframe suggested by his critics. If it could be done, penguin oil would transform the economy of Invercargill through the infusion of £7,500,000 of export income. The pounds, shillings and pence work out given sixpence per bird. The claim for 300,000,000 penguins is more difficult to understand. Hatch made several claims for densities of one penguin per square foot or 43,560 birds per acre. However, Hatch's estimates of the number of birds in specific rookeries, such as there being 2.5 million Royals in 30 acres at South End, require densities of almost two birds per square foot.⁸⁷ His son, Arthur Hatch in 1895 went for two birds per square foot when describing the rookeries at the Nuggets, but he abandoned the calculations at this point saying: 'how many penguins this means I don't know—they seem to be innumerable'.⁸⁸

If the calculation had been carried out, it would have produced 3.5 million birds for the two rookeries at the Nuggets using the smallest estimated rookery area of the period. These are numbers well in advance of modern estimates, and they are not supported by data from the period. In 1894 Augustus Hamilton from the Otago Museum paid Hatch for a trip to Macquarie Island to collect skeletons of elephant seals. He noted in his report that penguins seemed to require a spacing of 16 inches from another bird, and that 'any encroachment on this area created an immediate squabble'.⁸⁹ This spacing would halve Hatch's density estimate. The photographs by Bickerton appearing in the *Pall Mall Magazine* also suggest nothing unusually dense about the rookeries of the 1890s.⁹⁰ Scientific accuracy was not important for Hatch's argument. In 1891, he could abuse the 'arrant fools' who thought that penguins and sea elephants were under any threat:

The former were there, absolutely in millions, and as, like other animals, they died and it was always a case of the survival of the fittest, thousands of them were killed every year. His party only required a very few compared with the many thousands that were there. It was the same as with the Maori and the mutton birds.⁹¹

The lantern slides added to the power of his rhetoric. It was not difficult when looking at photographs of the rookeries, that an industry which took 50,000 or 100,000 birds yearly would have minimal impact. WB Scandrett, the Mayor of Invercargill, said as much when proposing a vote of thanks following the first viewing in May 1895:

...the myriad of penguins shown in the pictures were enough to dispel in anyone's mind the idea that was held a few years ago in certain quarters that Mr Hatch's oil industry was at all likely to lead to their extinction.⁹²

The "incredible number of penguins" argument was strengthened by details provided about the selection of birds for the digesters. One-year and possibly two-year old birds were targeted. These were the ones 'carrying a superabundance of oil'.⁹³ Older breeding birds were

⁸⁷ *Southern Cross (Invercargill)*, 13 May 1893.

⁸⁸ *Southland Daily News*, 3 May 1895.

⁸⁹ A Hamilton, 'Notes on a Visit to Macquarie Island', *Transactions New Zealand Institute*, Vol 27, 1894, p 570.

⁹⁰ W H Bickerton, 'The Home of the Penguins of the World', *Pall Mall Magazine*, Vol 13, 1897, pp. 363-373.

⁹¹ *Southland Times*, 24 March 1891.

⁹² *Southland Daily News*, 25 May 1895.

⁹³ *Southern Cross (Invercargill)*, 13 May 1893 and *Southland Daily News*, 16 September 1895. I remain uncertain, however, about the veracity of some of the statements made about season length and bird selection.

left alone. They would not apparently even pay the costs of processing. The birds culled, it was said, were the birds most likely to be taken by predators or die from other causes. The cull would then allow other birds of the same class to survive until the following summer. This thesis was possibly supported by Hamilton who, when viewing the abandoned King penguin works at Lusitania Bay in 1894, noted 'great heaps of refuse' around the digester site. This indicated the scale of the slaughter. Nevertheless, he concluded that no impression 'seems to have been made on the numbers occupying the beach, as every available space seemed full of birds'.⁹⁴

Hatch claimed that other management strategies helped to maintain penguin numbers. Sea lions and sea tigers hid in the kelp and took tens of thousands of penguins each year, while sea hawks and nellys destroyed innumerable eggs and chicks in the nest. Exactly what Hatch did regarding sea lions and sea tigers is not known. In March 1891 he made the somewhat unusual statement that without human intervention 'these tigers would increase and the birds decrease until the latter would probably disappear altogether'.⁹⁵ The treatment of sea hawks and nellys was more obvious, viz: strychnine. Poisoning predatory birds was fairly routine with Hatch firmly of the opinion that sufficient 'birds and eggs were conserved to the extent that goes far to make up for the destruction that takes place in the interest of commerce'.⁹⁶

Conclusion

Hatch's arguments would not have convinced his opponents among the scientific community. The arguments, however, were being placed before the general public in Invercargill; not the members of the Otago Institute in Dunedin. I have, nevertheless, found no historical evidence for any significant effect on seal and penguin populations of Macquarie Island during the 1890s. It was the first wave of sealers who exterminated the fur seal and decimated the elephant seals. In terms of general environmental change, the oil industry had far less impact than the introduction of the domestic cat, the Maori hen and the rabbit. But I do not agree with the proposition that Hatch was successfully managing the island's ecosystem. There are too many unresolved questions about the details of what went on to support this case. For instance, the shift from King to Royal penguins circa 1893 was possibly a conservation move. But it also could have been done for economic reasons. No data to resolve the issue has been uncovered. Nature also moved in cycles of its own which makes interpretation difficult. Only one thing is clear. Hatch's operations were small in scale and technologically primitive. Distance from the New Zealand mainland, the low value of the products, and the notoriously difficult weather were the principal factors protecting the island's environment.

The Tasmanian and New Zealand governments played virtually no role in the protection of 'seals and seabirds', despite the positive correspondence between Fysh and Atkinson in the final months of 1890. Many of the reasons have already been outlined. For instance, Tasmania had no ability to enforce its laws in a territory 900 miles distant from Hobart. Nor was the existing legislation designed to allow enforcement by another colony. In fact, most of the legislation protecting native game was incapable of being enforced within Tasmania. It was, in effect, little more than moral suasion, and thus useless against Hatch.

⁹⁴ Hamilton, 'Notes on a Visit to Macquarie Island', p 564.

⁹⁵ *Southland Times*, 24 May 1891.

⁹⁶ *Southern Cross (Invercargill)*, 13 May 1893.

There is also the likelihood that there are cycles in human affairs as well as in nature. In Tasmania, interest in conservation seems to peak in the 1880s as shown by the creation of posts like the Conservator of Fisheries and the Conservator of Forests. Interest was in decline by 1890. One position had already been disestablished; the other was about to disappear. The conservation cycle is probably inversely linked to the economic cycle. Conservation interest decreased further as the colony slipped into depression in August 1891. Difficult times and high unemployment continued through to 1894. It is therefore not surprising that the Fysh cabinet with Braddon as Agent-General had different priorities to the Braddon cabinet with Fysh as Treasurer. Braddon's policy on matters dealing with seal protection in Bass Strait and at Macquarie Island were probably shaped by the economy more than disinterest in the fate of the seals. Similar circumstances affected New Zealand.