THE FUR-SEAL INDUSTRY
OF ALASKA

Report from the Committee on Expenditures, Dept. of Commerce and Labor.

# House Calendar No. 377.

62D CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1425.

## THE FUR-SEAL INDUSTRY OF ALASKA.

JANUARY 31, 1913.—Referred to the House Calendar and ordered to be printed.

U. S. Congress. House

Mr. ROTHERMEL, from the Committee on Expenditures in the Department of Commerce and Labor, submitted the following

## REPORT.

Mr. McGuire submitted minority views.

The Committee on Expenditures in the Department of Commerce and Labor, proceeding under its general powers to inquire into the leasing of sealing privileges on the Pribilof Islands of Alaska, the conduct of the lessees on the said seal islands, the management by the officials of the Government in charge of the fur-seal herd after the expiration of the said leases, and to inquire into the advisability of the leasing by the Government of any privileges pertaining to said islands, beg leave to report as follows:

Specific charges having been filed with the committee May 15, 1911, alleging that the agents of the Government had conspired with the lessees of the seal islands to take seals in violation of law and the provisions of their contract, and also that the said lessee company had secured the lease from the Government by fraud and perjury, the committee determined to investigate these questions and report its findings of fact to the House. Extended hearings were had, beginning May 31, 1911, and ended July 25, 1912. The testimony has been printed for the committee and covers a series of 31 sessions and contains 1,013 pages.

The committee, after due and careful deliberation, finds the following facts:

I. That when the United States took possession of the fur-seal herd, in 1867–68, by virtue of the treaty of cession from Russia, and leased it to the Alaska Commercial Co., a corporation, for 20 years from May 1, 1870, the herd consisted of about 4,700,000 seals. (See pp. 184–193, Hearing No. 4.) During the period of this lease, 1870–1890, the lessees took 1,856,224 seals, deriving therefrom a net profit of $18,753,911.20, while the net profit of the Government therefrom was but $5,264,230.08. (See pp. 964, 965, Hearing No. 14.)

II. That on March 12, 1890, a second lease was entered into with another corporation, known as the North American Commercial Co., of San Francisco, for a period of 20 years. That when this lease was

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executed, a survey of the herd made in July of that year disclosed the fact that there were but 959,393 seals on the islands. That this reduction of the herd was due to the combined effect of killing 100,000 seals annually on land, since 1870, and the energetic prosecution of pelagic sealing, first begun in 1883–84 and actively prosecuted since 1888. (See pp. 56–60, Hearing No. 2.)

That the herd had been depleted to such an extent in 1884 that the Alaska Commercial Co. had difficulty in securing their average annual quota. In spite of this fact, however, the said company continued to take an annual average of about 100,000 seals, until their lease expired in 1890. On the expiration of this lease the herd had been depleted to such an extent that the new lessee, the North American Commercial Co., had great difficulty in obtaining their quota and commenced to kill female seals and yearlings (see pp. 36–43, Hearing No. 2), which is now and was then prohibited by law and by the regulations of the department. This unlawful killing of seals was reported July 31, 1890, to the Secretary of the Treasury, Hon. Charles Foster, who took no steps officially to prevent a recurrence of such loss to the Government, but, on the contrary, immediately removed the agent who reported it and assigned him to another position in the service. (See pp. 54–55, 64–67, Hearing No. 2; pp. 207–209, Hearing No. 4; pp. 662–672, Hearing No. 10; pp. 939–944, Hearing No. 14.)

That the conduct of the lessees, the North American Commercial Co., through its officers and agents, coupled with the work of and the interest they had in pelagic hunting, so reduced the seal herd of about a million seals that in August, 1910, the number of seals on the islands did not exceed 133,000. (See p. 935, Hearing No. 14.) That the lessees had killed in 20 years 343,356 seals, from which they derived a net profit of approximately $4,976,574, and by reason of which the Government after paying the expenses incident to the management of the fur-seal herd during said period derived no profit, but, on the contrary, suffered a loss of more than $1,350,000. That the record of 40 years of leasing of the seal islands of Alaska (1870–1910) discloses the fact that the Government has suffered a property loss of not less than $30,000,000, caused by the almost complete commercial ruin of the said seal herd, while the net revenue received by the Government, under both leases, amounted to but $3,914,000, approximately.

III. Your committee finds that the second lease which the Government entered into, namely, with the North American Commercial Co., was obtained by fraud, said fraud, in part, having consisted in the filing of a false affidavit on the part of Isaac Liebes, president of said company. (See pp. 833, 835, 836, 837, 839, 840, 844, 846, 847, 848, 852–854, 855, 856, 857, 858, 859, 860, 861, 862, 864, 886–888, 889–890, Hearing No. 13.)

The pages of testimony referred to disclose the fact that the said Liebes, as president of said company, did, on March 12, 1890, declare under oath in the form of a written affidavit, which was placed on file in the Treasury Department with the papers in the case, to the effect that neither he nor any of his associate lessees were engaged in the business of pelagic sealing, or in any violation of law. When in truth and in fact he, the said Isaac Liebes, was, at the very time of the filing of said affidavit, in full knowledge of the fact that his asso-

ciate lessee, Herman Liebes, was the owner of the schooner *James Hamilton Lewis*, and that she had been outfitted by him, illegally cleared January 10, 1890, for hunting fur seals at sea and for the very purpose of committing depredations on the high seas and in American waters and on the seal islands of Alaska during the summer of 1890. That on September 17, 1890, he, the said Isaac Liebes, president, as aforesaid, became part owner of said vessel *James Hamilton Lewis*. That the said Herman and Isaac Liebes, officers and stockholders of the said North American Commercial Co., and as owners of the said *James Hamilton Lewis*, corresponded, combined, confederated with one Alexander McLean, known as a notorious British pirate, for the purpose of committing, and in fact did commit, depredations on the high seas, in American waters, and on the Pribilof Islands by way of unlawfully killing fur seals belonging to the Government of the United States.

Your committee is of the opinion that the conduct of the officers of the North American Commercial Co. during 1890, 1891, and subsequent thereto, was such that the officials of the Government should have promptly revoked the lease and prevented this great loss of property. In this connection it may be stated that the following is a clause which appears in the lease:

> The Secretary of the Treasury reserves the right to terminate this lease and all rights of the North American Commercial Co. under the same at any time on full and satisfactory proof that the said company has violated any of the provisions and agreements of this lease, or any of the laws of the United States, or any Treasury regulation respecting the taking of fur seals, or concerning the islands of St. George and St. Paul or the inhabitants thereof.

That the said North American Commercial Co. gave a bond, dated March 12, 1890, in the sum of $500,000, conditioned for the faithful observance of all laws and regulations of the Treasury Department, said bond being signed by I. Liebes, president; H. B. Parsons, assistant secretary; and Darius O. Mills, Lloyd Tevis, Herman Liebes, by D O. Mills, attorney in fact, and Stephen B. Elkins, as sureties, and approved by William Windom, Secretary of the Treasury, and which said bond is on file in the department as part of the record in the case.

IV. Your committee further finds that Isaac Liebes, president of said North American Commercial Co., did correspond, combine. and agree with one H. H. D. Peirce, then Third Assistant Secretary of State of the United States, and Charles H. Townsend, "seal expert" of the United States Bureau of Fisheries, in preparing, promoting, and collecting a fraudulent claim in the case of the *James Hamilton Lewis* (the sealing vessel owned and outfitted by said Isaac Liebes and Herman Liebes) and Capt. Alexander McLean. the aforesaid British pirate. The said H. H. D. Peirce and Charles H. Townsend, as representatives of the Government, presented the claims of the said Alexander McLean, who was master of the *James Hamilton Lewis*, a sealing vessel owned by said Isaac and Herman Liebes, and which said vessel was fraudulently registered at San Francisco on the 10th of January, 1890.

In 1891 the said schooner, the *James Hamilton Lewis*, commanded by said Alexander McLean, was caught by a Russian vessel and under the claim that the crew headed by the said McLean had raided the seal islands belonging to Russia. Disputes arose as to the question

of whether the Russian Government had a right to seize the schooner *James Hamilton Lewis* and its crew. Damages were claimed by the owners of the vessel as well as the master and crew thereof.

In 1893 proceedings were commenced in the State Department, claiming damages on the part of owners, master, and crew of the *James Hamilton Lewis*. H. H. D. Peirce and Charles H. Townsend, "sealing experts," of the United States Bureau of Fisheries, prepared the cases for the parties interested and presented the claim on the part of the United States against the Russian Government at The Hague in 1902, which resulted in an award of approximately $50,000 in favor of the United States Government for the use of the parties interested, including Alexander McLean and Max Weisman, November 29, 1902. The said H. H. D. Peirce and Charles H. Townsend presented the claim of Max Weisman as the owner of the vessel *James Hamilton Lewis* before the tribunal at The Hague, when in truth and in fact the owner of said schooner at the time of its seizure was Herman Liebes, of San Francisco. The said H. H. D. Peirce and Charles H. Townsend represented to the tribunal in the trial of said case that Alexander McLean, the captain of said vessel, was an American citizen, when in truth and fact he was a British subject and notoriously known as a pirate. (See pp. 754, 755, Hearing No. 12.)

V. Your committee further finds that, in spite of the ruinous record made during the last 20 years by the North American Commercial Co., under the supervision of the Treasury agents of the seal islands of Alaska, H. H. Taylor, president of the said company; C. H. Townsend; and George M. Bowers, Commissioner of the Bureau of Fisheries, did recommend to the Secretary of Commerce and Labor, Hon. Charles Nagel, to enter into another lease of the said islands for 20 years. The testimony discloses that the Secretary of Commerce and Labor had intended to enter into another contract to re-lease the islands to the highest and best bidder. Strenuous objections to any leasing of the islands, however, were made by public-spirited citizens, and this prevented the renewal of the lease.

VI. That since the lessees were prevented from further killing by the expiration of their lease and by the passage of the act of Congress approved April 21, 1910, which act prohibited the re-leasing of the islands for the purpose of killing seals, the Secretary of Commerce and Labor was placed in full control of affairs on the said islands. That although the Government appears to have been greatly benefited by Federal management, as demonstrated by the testimony of Walter I. Lembky, special agent of the Government on the seal islands (see p. 366, Hearing No. 9); also Secretary Nagel's report for 1912 (see p. 106), nevertheless, and in spite of the express prohibition of the law, it is disclosed by the testimony that yearling and female seals have been killed by the agents of the Government in charge of the seal islands. (See pp. 5 23, Hearing No. 1; pp. 897–920, Hearing No. 14.)

VII. That the testimony taken by the committee was the basis in large measure of the action by Congress, August 15, 1912, which establishes a closed term of five years from said date to all commercial killing of fur seals on the seal islands of Alaska.

The committee therefore recommends:

(1) That the Attorney General be requested to take such steps as may be necessary to collect the bond of $500,000 from the said North American Commercial Co. and the sureties thereon.

(2) That the Attorney General be requested to institute civil proceedings against Isaac Liebes personally to recover such damages as he and his confederates did to the seal herd of Alaska from 1890 to 1910.

(3) That the State Department take up with Russia the matter of the case of the *James Hamilton Lewis* for the purpose of rectifying the wrong done by said Liebes, C. H. Townsend, and H. H. D. Peirce against the Government of Russia, a friendly power.

(4) That with a view to carrying this recommendation into effect the Clerk of the House be directed to forward to the Secretary of State a certified copy of this report, together with a complete set of the official hearings before this committee on this subject.

(5) That in view of the closed season of five years provided by act of Congress, of August 15, 1912, the services of the Treasury agents on the said Pribilof Islands can be dispensed with, resulting thereby in a saving to the Federal Government of approximately $25,000 annually.

JOHN H. ROTHERMEL.
JAS. T. MCDERMOTT.
JAMES YOUNG.
D. J. MCGILLICUDDY.

# VIEWS OF THE MINORITY.

Mr. McGuire submitted the following views of the minority:

House resolution 73, as adopted by the House of Representatives May 12, 1911, is as follows:

*Resolved*, That the Secretary of Commerce and Labor be, and he is hereby, directed to furnish for the use and the information of the House of Representatives copies of all letters received, reports, and documents from his agents in charge of the seal islands of Alaska, together with copies of all instructions given to those officials aforesaid since January first, nineteen hundred and four, up to date, which relate to the condition and management of the fur-seal herd, the conduct of the officers of the Government in charge of it, and the conduct of the work of the lessees on the seal islands aforesaid, since January first, nineteen hundred and four, up to date.

The chairman of the Committee on Expenditures in the Department of Commerce and Labor has filed a report in which there is recited what purports to be a history of the fur-seal herd from the year 1867 down to the present time. Beginning with the year 1870 it deals largely with the conduct of the Alaska Commercial Co. and the North American Commercial Co. under their leases for periods of 20 years each running from the 1st of May, 1870, to April 30, 1890, and from May 1, 1890, to April 30, 1910, respectively.

The said report also devotes considerable space to the actions of one Liebes, who was in the year 1890 president of the North American Commercial Co., and of one Alexander McLean, said to have been a notorious British pirate, and with certain alleged malfeasance in office of one H. H. D. Peirce, formerly an Assistant Secretary of State, and one Charles H. Townsend, in that they presented a certain fraudulent claim on the part of the United States against the Russian Government at The Hague in the matter of the sealing vessel, the *James Hamilton Lewis*.

All of these, with the exception of the last few years, are matters that occurred before the creation or organization of the Department of Commerce and Labor, July 1, 1903, and the undersigned members of the committee believe that they are justified in assuming that it is not within the province of the Committee on Expenditures in the Department of Commerce and Labor to investigate the action of certain aliens and officials formerly connected with other departments with regard to matters over which the Department of Commerce and Labor has never had jurisdiction.

We believe that our position in the matter is fully supported by the wording of the resolution of Congress above referred to, adopted on May 12, 1911, with reference to all letters, reports, and documents regarding the fur-seal herd from January 1, 1904, up to date.

The undersigned do not wish to be understood as objecting to the consideration of the matters above referred to or to referring them to the Department of Justice and the Department of State, but it seems clear that they should in nowise form a part of the report based upon the House resolution already quoted under which the hearings were held and the evidence taken.

Although the committee took more than 1,000 pages of testimony, and the last hearing was six months ago, on July 31, 1912, the com-

mittee has never held a single meeting for the purpose of considering the evidence, and the report made by the chairman was never submitted to the committee for its consideration, no meeting of the committee was ever held for that purpose, and we are not satisfied that it has been approved by a majority of the committee. Carbon copies of the report were given to the undersigned members of the committee after the chairman had filed the original.

There are three matters which directly concern the Department of Commerce and Labor that are discussed in the report heretofore filed, all of which appear in the latter part of that report. It is stated that H. H. Taylor, president of the North American Commercial Co., C. H. Townsend, and George M. Bowers, Commissioner of the Bureau of Fisheries, did recommend to the Secretary of Commerce and Labor a re-lease of the said islands for another period of 20 years, and that the Secretary did intend to re-lease the islands and that public-spirited citizens prevented such arrangement.

The committee is probably not particularly interested in whether Mr. H. H. Taylor recommended a renewal of the lease. Mr. Taylor was a private citizen and it was his privilege to recommend anything he thought proper.

Whether C. H. Townsend (a member of the advisory board, fur seal service), George M. Bowers (Commissioner of Fisheries), or Secretary Nagel recommended giving a new lease, can be easily determined by an examination of the record.

In the first place, it must be remembered that up to April 21, 1910, the law made it mandatory upon the Secretary of Commerce and Labor to re-lease the islands upon the expiration of the old lease. (See secs. 4 and 5 of the act of July 1, 1870, Hearing No. 10, p. 462.) As the lease then existing would expire April 30, 1910, it was necessary for the Secretary to begin in due time consideration of what should or must be done in the event that the law was not repealed. It would have been poor administration to delay consideration of the question until the expiration of the old lease.

On February 13, 1909, David Starr Jordan, in a letter to Oscar S. Straus, then Secretary of Commerce and Labor, accepting the chairmanship of the advisory board, fur-seal service, said:

> I may repeat here my hope that the Department of State will proceed as rapidly as possible toward the abolition of pelagic sealing, and my hope also that the Government will not under any circumstances lease the products of the islands, at least in such form as has been in vogue for the past 40 years. I think that the Government should, under the direction of its own naturalists, take the skins that can be spared and sell these to the highest bidder. (See p. 813, Appendix A, Hearings before the Committee on Expenditures in the Department of Commerce and Labor.)

On November 23, 1909, the advisory board, fur-seal service, had a meeting in Washington, at which were present Drs. Jordan, Stejneger, Lucas, and Townsend, and Hon. Edwin W. Sims, of the advisory board; George M. Bowers, Barton Warren Evermann, Hugh M. Smith, Walter I. Lembkey, H. D. Chichester, and Millard C. March, of the Bureau of Fisheries; and George A. Clark, special scientific expert. After protracted conferences six recommendations regarding the management of fur-seal matters were agreed upon. No. 3 of the recommendations is as follows:

> It is recommended that there be adopted a system of regulations similar to those in force on the Commander Islands, the Government to assume entire control in all essential matters pertaining to the fur seals, blue foxes, natives, and the islands in

general, and the lessee to be restricted to the receiving, curing, and shipping of the skins taken. (See p. 814, Appendix A, hearings before the Committee on Expenditures in the Department of Commerce and Labor.)

It should be noted that George M. Bowers and C. H. Townsend were both present, participated in the discussions, and united with the other gentlemen present in this recommendation.

On November 24, 1909, George M. Bowers, Commissioner of Fisheries, transmitted to the Secretary of Commerce and Labor the recommendations of the advisory board, in all of which he concurred.

On December 7, 1909, two weeks after the recommendation of the advisory board had gone to the Secretary, which, if acted upon, would eliminate the lessee about as completely as was possible under the existing law, Senator Dixon introduced three resolutions (Nos. 90, 91, and 92), the first of which recommended a revision of the Paris tribunal regulations, suggested that the then existing lease should not be renewed and that no commercial killing should be done for 10 years, the other two calling upon the Secretary of State and the Secretary of Commerce and Labor for certain documents.

On December 15, 1909, the assistant in charge, scientific inquiry, transmitted to the Commissioner of Fisheries a tentative draft of a lease drawn in conformity with the terms recommended by the advisory board. Accompanying the draft was a memorandum showing wherein it differed from the then existing lease. The draft and memorandum were transmitted to the Secretary of Commerce and Labor on the same date. (Appendix A, p. 737.)

On March 15, 1910, the President sent a special message to Congress recommending the repeal of the law of July 1, 1870, which made it mandatory upon the Secretary of Commerce and Labor to lease the seal islands. (P. 253, Hearing No. 6.)

On March 17, 1910, Senator Dixon introduced S. 7242, providing for the repeal of the law of July 1, 1870. The bill (S. 7242) which Senator Dixon introduced was drawn in the Department of Commerce and Labor by the Solicitor, upon the direction of the Secretary (p. 480, Hearing No. 10), and became a law April 21, 1910. The Secretary appeared before the House and Senate committees and advocated its passage. From this it is clear that the department was not in favor of leasing the islands again, and would have done so only if obliged to by the laws that were in force up to April 21, 1910.

In support of the statement that the testimony discloses that since April, 1910, or the date of the department's control, "yearling and female seals have been killed by the agents of the Government" reference is made to pages 5–23 of Hearing No. 1. An examination of those pages shows that the "testimony" referred to is merely the assertion of Mr. Elliott which has not a particle of evidence supporting it.

The testimony of Agent Lembkey and the other seal agents, the special investigators, C. M. Lampson & Co., and all others who have been on the seal islands or who have seen the skins taken, is to the effect that females have never been killed and that no yearlings have been killed except a negligible few by accident or error in judgment. The regulations then in force required the killing to be restricted to surplus males with skins weighing not under 5 pounds nor over 8½ pounds. (P. 485, Hearing No. 10.) The record of the weights taken on the islands shows that of the 12,920 skins taken in 1910, only 90

fell below the minimum weight. (P. 130, Hearing No. 3.) These were green weights. The London salt weights of the same skins showed 92 below the minimum weight, the agreement being almost perfect.

In order to bolster up the claim that the island weights had been reported heavier than they really were it was necessary for Mr. Elliott to claim that salting increases the weight of the skin. (P. 133, Hearing No. 3.)

But very careful experiments show conclusively that salting has exactly the opposite effect. (Pp. 564 and 974–977 of hearings.) According to Mr. Elliott's own tables a 5-pound skin is the skin of a 2-year-old seal. (See Elliott's monograph, pp. 46 and 168.)

As to the killing of females in 1910 or 1911, there is not a particle of evidence indicating that any were killed.

Assuming that by the term Treasury agents are intended the agents of the Bureau of Fisheries, it may be stated that the services of said agents can not be dispensed with whether or not commercial killing goes on. They are necessary to conduct food killings and prepare the seal skins for market and to conduct the fox business and prepare those skins for market. The agents represent all government on the islands and exercise a sort of quasi judicial authority. To them the natives appeal for justice and redress of grievances among themselves. The agents are the only persons on the islands who are under bond and financially responsible for the payment of moneys to the natives or the issuing of supplies to them.

On page 7 of the report it is stated that the North American Commercial Co. combined and agreed with H. H. D. Peirce and Charles H. Townsend in preparing and promoting and collecting fraudulent claims in the case of the *James Hamilton Lewis*.

On page 8 it is stated that Peirce and Townsend prepared the case for the parties interested and presented their claim on the part of the United States against the Russian Government at The Hague.

These statements are not in accordance with the facts. C. H. Townsend went to The Hague simply as a witness to testify regarding pelagic sealing matters. Townsend had nothing to do with the representing of claimants. He had nothing to do with preparing cases. He was nothing more than a witness before The Hague tribunal.

As it has become necessary to file a separate report, the undersigned members of the committee believe it is proper and advisable to take up the matter of the charges and the answers thereto and to incorporate in this report a full statement as to matters presented to the committee.

BIRD MCGUIRE.
MARTIN B. MADDEN.
CHAS. E. PATTON.

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The Committee on Expenditures in the Department of Commerce and Labor, to which was referred House resolution No. 73, introduced by the Hon. Edward W. Townsend, of New Jersey, and adopted May 12, 1911, directing the Secretary of Commerce and Labor to furnish for the use of the House of Representatives certain correspondence and documents relating to the condition and management of the fur-seal herd, has the honor to make the following report:

## STATEMENT OF THE MINORITY AS TO MATTERS PRESENTED TO THE COMMITTEE.

House Resolution No. 73, as adopted by the House of Representatives May 12, 1911, is as follows:

*Resolved*, That the Secretary of Commerce and Labor be, and he is hereby, directed to furnish for the use and the information of the House of Representatives copies of all letters received, reports, and documents from his agents in charge of the seal islands of Alaska, together with copies of all instructions given to those officials aforesiad since January first, nineteen hundred and four, up to date, which relate to the condition and management of the fur-seal herd, the conduct of the officers of the Government in charge of it, and the conduct of the work of the lessees on the seal islands aforesaid, since January first, nineteen hundred and four, up to date.

Complying with the terms of the resolution, the Secretary of Commerce and Labor, on June 24, 1911, transmitted to the Speaker of the House of Representatives copies of all the letters, instructions, reports, and documents in the files of the department and responsive to the resolution.

These letters, instructions, reports, and documents, having been referred on July 19, 1911, to the Committee on Expenditures in the Department of Commerce and Labor, were printed as House Document No. 93, Sixty-second Congress, first session, with the title: "Seal Islands of Alaska: Letter from the Secretary of Commerce and Labor transmitting, in response to House resolution 73, information relating to the Seal Islands of Alaska." The title of this document was subsequently changed to "Appendix A to hearings before the Committee on Expenditures in the Department of Commerce and Labor, House of Representatives, on House resolution 73, to investigate the fur-seal industry of Alaska."

This document consists of 1,232 closely printed pages.

The committee began its hearings May 31, 1911, and concluded them July 31, 1912. More than 35 sittings were had and about 20 witnesses were heard.

The fullest latitude was allowed each witness in the presentation of his data and the expression of his views.

The testimony taken at all the hearings up to and including that of July 31, 1912, has been printed in 14 separate pamphlets totaling 1,013 pages.

The chairman of the committee received a letter dated May 15, 1911, signed by Henry W. Elliott, in which certain general charges were made regarding the management of the fur-seal service by the Department of Commerce and Labor.

This letter may be found on pages 22 to 33 of the printed report of the hearings before the Committee on Conservation of National Resources, United States Senate, on the bill (S. 9959) to amend an act entitled "An act to protect the seal fisheries of Alaska, and for other purposes," approved April 21, 1910, which hearings were held February 4, 1911.

The general charges as set forth in that letter are as follows:

CHARGE I. I charge that the conduct of the officialism of the Department of Commerce and Labor having the specific control of all details of administration of the public business on the seal islands of Alaska since January 1, 1905, has been guilty of violating the law and regulations which it is and was the sworn duty of that officialism aforesaid to properly and strictly obey.

CHARGE II. I charge that this malfeasance of that officialism above cited has caused an immense loss of public property on the seal islands of Alaska, and that unless your honorable committee take prompt action to check and abolish it this same officialism

will in a short period of continuance of its methods be able to and will succeed in completely destroying the commercial value forever of the fur-seal herd of Alaska.

These charges are general and vague in character. During the progress of the hearings, however, they were put in somewhat more specific form, or more specific charges were made, the most important of which may be stated as follows:

1. That large numbers of yearling male fur seals have been killed on the islands contrary to law and the regulations.

2. That large numbers of female fur seals have been killed on the islands in violation of law.

3. That the killing of male seals on the islands has been so close that a sufficient number of males for breeding purposes has not been reserved.

4. That the males have been killed off so closely that there has not been that struggle for supremacy which is necessary to weed out the weak and develop an adequate supply of strong, virile bulls for breeding purposes, and, as a consequence, the Alaska fur seals are inferior to their ancestors of a few generations ago.

5. That the great decrease in the size of the fur-seal herd since 1890 has been caused by land killing, as practiced by the North American Commercial Co. and under Government supervision.

A great many minor charges were made which, on account of their irrelevancy or lack of definiteness, have not been considered by the committee in this report.

Before entering upon a consideration of the evidence taken by the committee bearing upon these charges a brief general statement of the more important facts in the life history and the political history of the fur seal may be given.

There are in the North Pacific Ocean three closely related species of fur seals. One of these, known as *Callorhinus kurilensis*, has its breeding grounds chiefly on Robben Island, in the Sea of Okhotsk, a short distance south of Cape Patience, Sakhalin Island. This constitutes the Japanese fur-seal herd, which is the smallest of these herds. In 1911 it was said that this herd contained only 6,557 seals. The second species is the Russian fur seal, *Callorhinus ursinus*, whose breeding grounds are on Bering and Copper Islands of the Commander Islands, in Bering Sea, about 150 miles east of Kamchatka, or nearly 1,000 miles west from the Pribilof Islands. This species constitutes the Russian fur-seal herd, which in 1911 contained between 18,000 and 30,000 seals. The third species is the Alaska fur seal, *Callorhinus alascensis*, whose breeding grounds are on St. Paul and St. George, the two principal islands of the Pribilof group, situated in Bering Sea, in longitude 170° west, latitude 57° north, and about 200 miles from the nearest land. This species constitutes the Alaska fur-seal herd, which is much the largest and most important of the three North Pacific herds. The census for 1912 gives 215,638 seals as present in the herd in the past season.

With the transfer of Alaska by Russia to the United States, October 18, 1867, this country came into possession of the Pribilof Islands and the fur-seal herd inhabiting them.

The first law passed by the United States for the protection of the fur seal was approved July 1, 1870. It was entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and provided that the Secretary of the Treasury shall lease for a period of 20 years from the 1st day of May, 1870, the right to engage in the business of taking fur seals on the islands of St. Paul and St. George,

under certain specified conditions. In accordance with the requirements of this law, the Secretary of the Treasury, on September 3, 1870, leased the islands to the Alaska Commercial Co. That company carried on the sealing industry under the terms of this lease during the full period of 20 years. On March 12, 1890, the lease of the Alaska Commercial Co., being about to expire, the Secretary of the Treasury leased the islands to another company known as the North American Commercial Co., for a period of 20 years from the 1st day of May, 1890. This company carried on the sealing industry under the terms of its lease for the full period of 20 years.

Upon the formation of the Department of Commerce and Labor the fur-seal service and all matters relating thereto were, on July 1, 1903, transferred from the Treasury Department to that department where they were administered directly by the chief clerk, the Solicitor, or the Assistant Secretary until December 28, 1908, when, by order of the Secretary, the fur-seal service was transferred to the Bureau of Fisheries, where it has since remained.

It thus appears that the Department of Commerce and Labor has had charge of fur-seal matters since July 1, 1903, and that the Bureau of Fisheries of that department has been in immediate charge since December 28, 1908. Understanding that the lease of the North American Commercial Co. would terminate May 1, 1910, and realizing that under existing law the Secretary of Commerce and Labor would have to release the islands, the Congress on April 21, 1910, passed a law which provided that no new lease shall be given, but that the Government shall take entire charge of all matters on the seal islands. In conformity with the requirements of that law, the taking and marketing of the sealskins has been done by the representatives of the Department of Commerce and Labor.

So long as killing of seals was confined to the land it was easy to regulate the killing in such a manner as to permit an annual take of 60,000 to 100,000 skins and at the same time maintain the herd at a high degree of productivity. This was done by saving all the females and an ample supply of the best males for breeding purposes and killing the surplus 2-year-old and 3-year-old males. But in the last years of the lease of the Alaska Commercial Co. certain persons, chiefly Canadians of Victoria, British Columbia, discovered that the hunting of seals in the open ocean could be carried on with profit. It was found that by falling in with the herd in the late winter and spring months off the coast of Washington, British Columbia, and southeast Alaska during the spring migration back to the Pribilof Islands, and again in Bering Sea in summer and fall, when the mother seals visit their feeding grounds, large numbers of seals could be killed and the business of pelagic sealing, as it was called, made very profitable.

Following this discovery, the development of pelagic sealing was very rapid and the herd diminished correspondingly. Various international complications followed, which finally resulted in the Paris tribunal regulations, the important provisions of which prohibited citizens and subjects of the United States and of Great Britain (1) from hunting seals at any time within a zone of 60 miles around the Pribilof Islands, and (2) from hunting seals from May 1 to July 31 in that part of the Pacific Ocean, inclusive of Bering Sea, north of 35° north latitude and east of 180° of longitude. These regulations

went into effect in 1893. On December 29, 1897, an act of Congress was approved which made it unlawful for any citizen of the United States to hunt seals anywhere in the north Pacific Ocean, including Bering Sea, north of the thirty-fifth degree of north latitude.

The Paris tribunal regulations proved very ineffective, in that they did not prohibit sealing in those portions of Bering Sea frequented by the female seals when they make their periodical trips from the seal islands to their feeding grounds. Furthermore, although the law of December 29, 1897, eliminated citizens of the United States from the ranks of the pelagic sealers, and although the Paris tribunal regulations placed some restrictions on the pelagic sealers of British Columbia, there was nothing to prevent citizens of other nations from engaging in pelagic sealing. It was not long until the Japanese became aware of this fact and alive to their opportunities, and there was soon developed a large Japanese sealing fleet. As the Japanese were not bound by the Paris tribunal regulations it was perfectly lawful for them to kill seals anywhere on the high seas outside of the 3-mile limit. They therefore carried their sealing operations right up to the territorial waters of the Pribilof Islands. There the sealing schooners would form a cordon around and as close to the islands as possible, covering particularly the routes followed by the female seals when going to or returning from their feeding grounds. The result was inevitable; the herd became so reduced that its commercial extinction was threatened.

Fortunately, in the summer of 1911, negotiations were entered into by the United States, Great Britain, Japan, and Russia, which resulted in the convention of July 7, 1911, which it is hoped and believed will put an entire stop to pelagic sealing.

The foregoing summary is made a part of this report in order that a clear understanding may be had of the conditions obtaining at the time when House resolution 73 was introduced.

Under the terms of the resolution it was proper for the committee to carry its inquiries back to January 1, 1904. The charges all relate to the administration of the fur-seal service by the Department of Commerce and Labor and by the Bureau of Fisheries of that department. The records show that the fur-seal service was administered directly by the Department of Commerce and Labor from July 1, 1903, to December 28, 1908, and that it has been handled by the Bureau of Fisheries, under the general supervision of the Secretary of Commerce and Labor, since December 28, 1908. This statement regarding dates is given in order that responsibility may be definitely fixed.

The charges may now be considered.

First: The charge that large numbers of yearling male seals have been killed on the islands contrary to law and the regulations:

An examination of the law shows that the act approved July 1, 1870, made it unlawful to kill any seal less than 1 year old, except such young seals as may be necessary for natives' food. This provision remained in the law until superseded by the act approved April 21, 1910.

The instructions issued to the agent in charge from 1904 to 1911, both inclusive, in so far as they bear upon this question, were as follows: In 1904, no seal that had reached the age of 4 years (i. e., had attained its fifth summer) nor any seal under 2 years of age (i. e.,

that had not attained its third summer) nor any seal whose skin weighed less than 5½ pounds should be killed; and the killing of pups (i. e., seals that have not attained their second summer), even for food or any other purpose, was prohibited.

In 1905 the instructions were identical with those of 1904.

In 1906 the instructions were identical with these of 1904 and 1905, except that the skin-weight limits were fixed at 5 pounds minimum and 8½ pounds maximum.

In 1907, 1908, and 1909 the instructions were identical with those of 1906.

In 1910 and 1911 the instructions were the same as in the preceding four years, except that no age limits were specified, the thought being that the weight limits of 5 and 8½ pounds sufficiently defined the killable seals and fully restricted the killing to 2-year-old and 3-year-old males.

It thus appears that although the law permitted the killing of yearling males (i. e., males that have attained their second summer), the Secretary of Commerce and Labor, in each year after the fur-seal service was placed in that department, issued instructions intended to prevent the killing of yearling seals; and although it was perfectly lawful to kill pups for food (i. e., seals that have not attained their second summer), nevertheless the Secretary uniformly issued directions that such young seals should not be killed under any circumstances.

Therefore, if at any time in the years 1904 to 1911, both inclusive, the agents knowingly killed or permitted to be killed any male seal under 2 years of age (i. e., which had not attained its third summer), they were guilty of violating the law or the instructions of the department, which, of course, had the effect of law.

In support of the charge that underaged seals have been killed reference was made to the London sales sheets of C. M. Lampson & Co. It was claimed that these sheets presented classifications as to ages, weights, and measurements of sealskins which would show that large numbers of skins were undersize and underweight and must have been taken from seals 1 year old or under. Specific reference was made to the sales sheets for December 16, 1904, December 15, 1905, and December 14, 1906. These sheets *as presented to the committee* show (1) the lots into which the skins are assorted; (2) the price; (3) the number of skins in each lot; (4) the category in which the skins of each lot are placed, as "middlings," "smalls," "middlings and smalls," etc.; (5) the age; and (6) the weight. (See pp. 45 to 63 of hearings before the Committee on Conservation of National Resources, United States Senate, on the bill S. 9959, to amend an act entitled "An act to protect the seal fisheries of Alaska, and for other purposes," approved Apr. 21, 1910.) An inspection of original copies of the sales sheets for those years discloses the fact that the copies *as presented to the committee* and *as printed in the Dixon hearings* are *not* true copies, but differ materially from the official sales sheets. True copies of the sales sheets for the years 1904 to 1906 may be found on pages 385–397 of the hearings of this committee.

An examination of these original sheets shows that they make no reference either to ages or weights. The data regarding ages and weights contained in the tables as submitted by the person making the charges are therefore additions to the original tables and merely

represent interpretations of those tables. Whether those interpretations and deductions are justified may well be questioned; but there can be no question as to the impropriety of their being included and submitted to the committee as a part of the original sales sheets.

The evidence obtained by the committee shows that it is not the custom of C. M. Lampson & Co. to weigh or measure the sealskins; they classify them only in a general way as to size, and they sometimes weigh them in lots of 50 or more skins each; but they never make any statements on their sales sheets as to the ages or weights of the skins.

The evidence submitted to the committee shows that it has been the practice of the seal agents to weigh each skin, while green or unsalted, just as taken from the seal. The printed reports of the agent, together with his sworn testimony, show that the weights of the skins each year fell within the limits fixed by the regulations, namely, a minimum of 5½ pounds in 1904 and 1905, and a minimum of 5 pounds and a maximum of 8½ pounds thereafter. We may consider, for illustration, the take of skins in 1910, about which there has been dispute: The agent weighed a total of 13,583 skins, of which 90 weighed less than the legal weight of 5 pounds. C. M. Lampson & Co. weighed the same lot of skins, after they had been in salt several weeks, and found among them 92 skins that weighed slightly less than the legal weight of 5 pounds each. (See hearings, pp. 130 and 131.) The salt weights as certified by C. M. Lampson & Co. are in almost perfect agreement with the island green weights as certified by the Government agents.

But the claim was made that although the London weights on their face agree with the island weights, they do so because the salt weights are considerably heavier than the green weights, that the salting process adds from one-half pound to 2 pounds to the green weight; in other words, the salted skins which weighed 6 pounds and under (of which there were 7,744, or 8,004, according to the charges (see these hearings, pp. 131 and 132), could not have weighed as much as 5 pounds green, and therefore the island green weights were in reality considerably less than the weights reported by the agent.

This matter seems, therefore, to hinge upon the question as to the effect which salting has upon the weight of the skin. Does the salting increase or decrease the weight of a skin?

Fortunately, several experiments have been made for the purpose of determining the fact in this matter. The results of each and all of these experiments are the same, namely, the salting process slightly decreases the weight of the skin. (See these hearings, pp. 416, 546–563, 564, 974–977.) The amount of decrease seems to vary with the amount of blubber left on the skin, the greater the amount of blubber the greater the decrease as a result of salting. (See these hearings, p. 557.) It should be stated that the testimony of taxidermists and others accustomed to handling skins of animals is in agreement with the results obtained by the experiments presented to the committee. (See these hearings, p. 560.)

We are, therefore, of the opinion that no trustworthy evidence has been submitted to substantiate the charge that undersized or underaged seals have been killed in any considerable numbers. The fact that in a total of 13,583 skins taken in 1910, only 90 were under the legal weight speaks well for the care of the agent and the excellent

judgment of the native killers in estimating the weights of skins while yet on the animals' backs.

Second. The charge that large numbers of females have been killed on the islands: The law of July 1, 1870, expressly prohibits the killing of female seals, and that provision of law was in force during the entire period of the lease of the North American Commercial Co. (1890–1910). It is a provision of the law of April 21, 1910, and the instructions issued annually to the agent in immediate charge of the seal islands have always expressly stated that only male seals are to be killed. Therefore, if female seals have been intentionally killed on the islands, such killing was plainly in violation both of the law and the regulations.

The evidence presented in support of the charge that female seals have been killed is as follows:

(*a*) On August 4, 1903, a subcommittee of the Senate Committee on Territories visited St. Paul Island, and while witnessing a killing one of the Senators found three female seals among those which had been knocked down by the clubbers. The agent's explanation of this occurrence is that the drive was made August 4, four days after the close of the killing season and after the harems had broken up and the female seals had mixed up, as is their habit at that season, with the bachelor seals; that the clubbers were more or less excited on account of the presence of so large a number (some 25 or 30) of strangers on the island; and that the knocking down of two or three females was an accident due entirely to the unusual conditions then obtaining.

We accept this view. We do not believe that the killing of these females was intentional or that it would have occurred if the drive had been made in the regular killing season. (See these hearings, p. 377.)

(*b*) It is claimed that if many thousands of seals under 1 year old have been killed, as has been charged, and as it is difficult to distinguish the sexes of the younger classes of seals, it necessarily follows that a large proportion of the young seals killed must have been females.

The truth of this charge is contingent upon the truth of the first charge, namely, that large numbers of young seals, 1 year old or younger, have been killed.

The evidence submitted is entirely inadequate to establish the truth of the first charge. The evidence in support of the second charge is equally inadequate, and we are of the opinion that female seals have never been intentionally killed on the islands since the fur-seal service was transferred to the Department of Commerce and Labor.

Third. The charge that a sufficient number of male seals for breeding purposes has not been reserved may now be considered.

No evidence of the truth of this charge was submitted to the committee. The charge appears to be nothing more than an unsupported expression of opinion. On the other hand, it is admitted by all that the fur seal is a polygamous species in which one male is able to serve 30 to 50 or even 100 females. According to the agent's annual reports it is seen that special attention was given each year to this question. The observations showed that so far as could be

definitely determined every adult cow had received proper service and that there has been each year a considerable number of idle bulls. The average harems have not been too large.

Fourth. The charge that the male seals have been killed off so closely that there has not been that struggle for supremacy which is necessary to weed out the unfit, and that as a consequence the breeding male seals of recent years have been lacking in virility.

Like the preceding charge this has not been supported by any evidence; no data, facts, or figures were submitted to the committee as proof of the assertion. This charge is therefore merely an expression of opinion or theory.

In answer to this charge attention was called to the fact that from October or November to May or June the seals are in the ocean performing a long journey of many thousands of miles; that the rigors, vicissitudes, and dangers of this winter migration are many and so great that the weak and unfit are weeded out and only the physically strong and fit survive these hardships for the six or seven years necessary to bring them to the breeding age. It is also claimed by all who have seen the fur-seal herd in recent years that there is no evidence of deterioration, and it is in evidence that there has been no complaint from London that the skins are not up to the standard.

Fifth. The last charge is that the great decrease in the size of the herd has been brought about by land killing rather than by pelagic killing.

The following facts bearing on this question appear to have been fully established by the evidence presented to the committee:

1. In land killing it has been the uniform practice of the Government to reserve all the females and a sufficient number of males for breeding purposes, and to kill only such males as are not needed as breeders. Females are never intentionally killed under any circumstances.

2. The statistics show that the total number of seals killed on the Pribilof, Commander, and Robben Islands in the years 1890 to 1897 was 357,503 males and no females; and that the number secured during the same period by the pelagic sealers was 635,739, of both sexes.

3. Mr. George Rice, a dyer and dresser of sealskins in London, has stated under oath that at least 80 per cent of the pelagic sealskins are skins of female seals. This means that the number of females secured by the pelagic sealers in the years 1890 to 1897 was 508,591, which exceeds the total number killed on the islands in the same period by more than 151,000. In other words, for every 6 males killed on land 2 males and 9 females were killed in the water.

4. It is also in evidence that all are agreed that of the seals mortally wounded by the pelagic sealers not all are recovered; many sink or escape before they can be reached, and are lost. The loss has been estimated as high as four out of five, and by some even much higher. The lowest estimate is that at least half of those killed are not recovered. Accepting this very conservative estimate, it is safe to say that the number of females killed at sea by the pelagic sealers in 1890 to 1897 was not fewer than 1,017,182.

5. It is also admitted by all that practically every female that is killed at sea is heavy with young or leaves a pup to starve miserably on the land. This means the death in those eight years of at least

1,017,182 more seals of which 508,591 would be females. Thus the total loss of female seals in the eight years must have been not fewer than 1,525,773, to say nothing of the 763,087 males that were killed or died as a result of pelagic sealing.

6. The growth of the herd is directly dependent upon the number of breeding females in the herd. The total increase in any year can not exceed the number of breeding females.

In view of this essential fact, and in the light of the figures showing the enormous destruction of female seals by pelagic sealing, which it is believed are conservative and trustworthy, we are convinced that the sole important cause of the decrease of the fur-seal herd during the last decade has been pelagic sealing, and that land killing as practiced on the Pribilof Islands during that time has had nothing to do with the diminution of the herd.

After a careful examination and consideration of all the evidence, we find that the administration of the fur-seal service by the Department of Commerce and Labor and by the Bureau of Fisheries of that department has been in accordance with the law; that the regulations issued from time to time by the department and the instructions issued to the agents have been properly observed; that the fur-seal herd has been handled intelligently; and that the charges have not been sustained.

BIRD MCGUIRE.
MARTIN B. MADDEN.
CHAS. E. PATTON.

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