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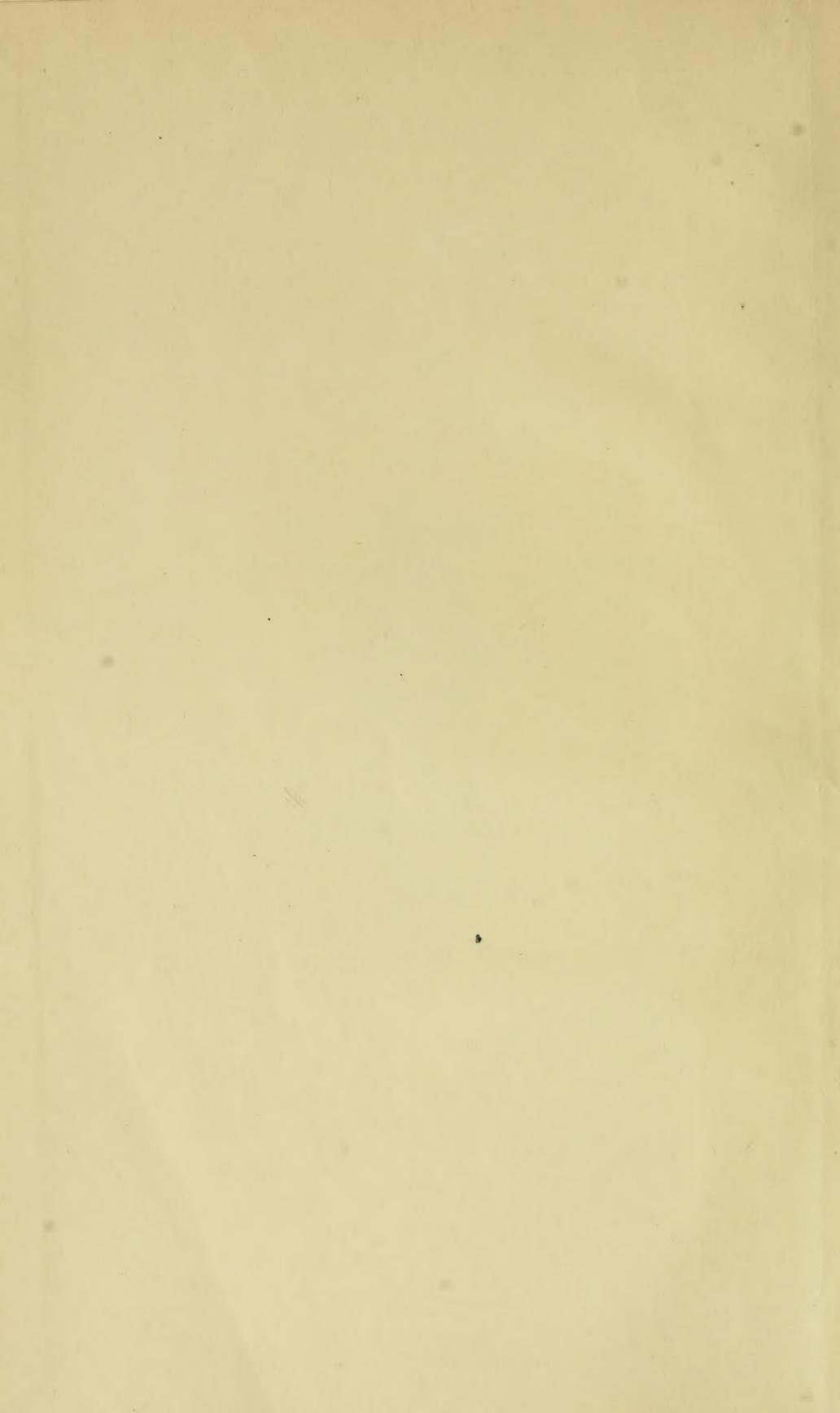
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# ALASKA FISHERIES

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## HEARINGS

BEFORE

*U.S. Congress, House*

## THE COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

*U.S. Cong.* HOUSE OF REPRESENTATIVES

SIXTY-FOURTH CONGRESS

FIRST SESSION

ON

*373*  
*631*

## H. R. 9528

A BILL FOR THE PROTECTION, REGULATION, AND CON-  
SERVATION OF THE FISHERIES OF ALASKA



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1916

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COMMITTEE ON THE MERCHANT MARINE AND FISHERIES.

HOUSE OF REPRESENTATIVES.

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|----------------------------------|-----------------------------------|
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ALASKA FISHERIES.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,  
HOUSE OF REPRESENTATIVES,  
Washington, D. C., Thursday, May 25, 1916.

The committee met at 10.30 o'clock a. m., Hon. Joshua W. Alexander (chairman) presiding.

The CHAIRMAN. Gentlemen, we have under consideration this morning H. R. 9528, which reads as follows:

A BILL For the protection, regulation, and conservation of the fisheries of Alaska.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful to engage in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale in food fish or shellfish, or other aquatic animals or the products thereof, in the Territory of Alaska or in any of the waters of Alaska over which the United States has jurisdiction, without first obtaining license therefor as herein provided. Every person, except employees, engaging in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale in food fish or shellfish, or other aquatic animals or the products thereof, or manufacturing fisheries products, in the Territory of Alaska or in any of the waters of Alaska over which the United States has jurisdiction, shall before commencing operations apply for a license to the Secretary of Commerce, who shall issue the same, and every such person shall, in lieu of all other Federal or Territorial license fees and taxes therefor and thereon, pay annual license fees and taxes on said business and output as in this act provided.*

SEC. 2. LICENSE FEES AND TAXES.—That a license fee of \$5 shall be imposed and paid for each canning, mild-curing, salting, smoking, fish freezing, whaling, or other wholesale fish-dealing establishment; for each fish fertilizer and fish oil works, and for each other fishery establishment, except retail markets, not herein specified.

For each pound net, \$50; for each fish wheel, \$25 (except small wheels in the Yukon and Copper rivers of the type heretofore used, \$2); for each purse seine, \$25; for each beam trawl or other trawl net, \$10; for each gill net boat and equipment, \$2; for each stake net, \$2; for each set net, \$1; for each drag, haul, or beach seine five hundred feet or less in length, \$3, and for each additional five hundred feet in length or fraction thereof, \$5; for any other kind of fishing appliance or method used in taking aquatic products, \$1.

Every licensee employing any fishing appliance or method hereinbefore mentioned shall, by December thirty-first of each year, in addition to the license fees by this act provided, pay for the raw aquatic products taken by him as follows: For king, chinook, or spring salmon, and for steelhead trout or salmon at the rate of \$2 per thousand fish; for red, sockeye, or blueback salmon at the rate of \$1 per thousand fish; for coho or silver salmon and for chum or keta salmon, at the rate of 75 cents per thousand fish; and for humpback or pink salmon, at the rate of 50 cents per thousand fish.

Every person engaged in canning salmon or other food fish or shellfish shall, by December thirty-first of each year, pay a tax on the output as follows, according to species: King, chinook, or spring; red, sockeye, or blueback; coho or medium red; and steelhead trout or salmon, 4 cents per case; chum or keta, and humpback or pink, 3 cents per case; all other food fish and shellfish, 3 cents per case.

Every person engaged in curing or preserving fish, or manufacturing fishery products, except by canning, shall, by December thirty-first of each year, pay a tax thereon as follows: Mild-cured salmon, 75 cents per tierce; pickled salmon, 15 cents per barrel; salt salmon in bulk, 5 cents per hundred pounds; salmon and trout frozen,

iced, or otherwise preserved and not hereinbefore specified, 75 cents per ton, round weight; whale or fish oil, 10 cents per barrel; fertilizer or meal made from whales fish, or other aquatic products, 50 cents per ton; salt cod, 50 cents per ton; pickled herring, 10 cents per barrel; salt herring in bulk or otherwise, 25 cents per ton; all other prepared products not hereinbefore specified, 25 cents per ton.

Nothing in this act shall require the issuance of a license for the taking of fish or other aquatic products for personal, domestic, or family use, and not for sale or barter, when not otherwise unlawful to take same, or for conducting retail trade in fish or fishery products.

SEC. 3. LICENSES AND TAXES, HOW COLLECTED.—That all license fees and taxes shall be payable to and collected by the Secretary of Commerce or his authorized agents, and all taxes if not paid when due shall become delinquent, and draw shall interest at the rate of one per centum per month until paid. And it shall be the duty of all United States district attorneys to enforce the payment of all delinquent taxes in their respective districts, and all property belonging to the delinquents shall be subject to execution and attachment therefor.

SEC. 4. DISPOSITION OF LICENSE FEES AND TAXES.—That all the license fees and taxes derived from the fisheries of Alaska shall be covered into the Treasury of the United States, and fifty per centum thereof shall be transferred annually to the treasurer of the Territory of Alaska for such purposes as the Territorial Legislature of Alaska may direct. The remaining fifty per centum shall be placed in a fund to be known as the Alaska fisheries fund, which fund is hereby created, and the moneys in said fund shall be held subject to appropriation from time to time by Congress for the construction, purchase, maintenance, and operation of fish hatcheries in Alaska, and for other purposes relating to the investigation, development, preservation, and conservation of the Alaska fisheries.

SEC. 5. LICENSES, FORM, RENEWAL, AND TRANSFER.—That all licenses and renewals thereof for fishing appliances issued by the Secretary of Commerce shall be designated by consecutive numbers and shall indicate the kind of the particular appliance for which the license is issued and the name of the person owning the same. The owner or operator of each stationary fishing appliance shall have conspicuously affixed thereto a tag, brand, or lettered notice bearing the license number in black letters not less than six inches in height upon a white ground. For movable apparatus, a tag, brand, or notice showing the license number in figures at least six inches in height, either in dark figures on a light ground or light figures on a dark ground, shall be placed on both sides of the bow of each boat or vessel used in operating same. All licenses shall expire on the thirty-first day of December of the calendar year in which issued.

The failure to renew the license or to have made lawful application therefor for any pound net, fish wheel, or other fixed appliance in any of the waters of Alaska, by the first day of January of any year shall constitute abandonment of the location. Should the locator or owner neglect to construct and operate his appliance in a bona fide manner for the three consecutive years covered by his license, said location shall be deemed abandoned.

Any license may be assigned or transferred to any person entitled to hold a license under the provisions of this act, and notice shall be given of such transfer or assignment within ninety days from the date thereof to the Secretary of Commerce, who shall indorse the date of such notice on the license. If such notice is not given, the transfer shall be void.

SEC. 6. FIXED NET LOCATIONS.—That any person occupying, or desiring to occupy, any location where it may be lawful to construct a pound net in the waters of Alaska, shall cause such location to be accurately surveyed by a competent engineer, unless a survey thereof has already been made, in which event such existing survey may be used, and shall cause three maps to be made of such location from the actual survey thereof, which shall contain a plat and description of said fishing location sufficient for its ascertainment and identification on the premises. Said maps shall also contain a certificate by the claimant, or by his agent or attorney, stating that he claims the fishing location shown thereon, specifying the date and number of the license under which the same is held, or the fact that application has been made therefor. Such maps, with the certificates thereon, shall be filed in the office of the commissioner of records in the district wherein the location is situated, which commissioner shall indorse thereon the hour and date of filing, and shall forward one of these maps to the Secretary of Commerce and another to the Pacific coast office of the Bureau of Fisheries. From and after the date of filing in the office of the commissioner of records, such map shall constitute full and complete notice that the locator has complied with all the provisions of this act and that such location is owned, held, occupied, and claimed by the person designated thereon as the claimant. From and after the filing of such map the claimant of the fishing location shown thereon, his heirs,

administrators, executors, successors, and assigns shall have the exclusive right to hold, occupy, and fish in such location, to renew the license therefor, and to mortgage, sell, and transfer the same during the time that he or they in other respects shall comply with the law pertaining thereto: *Provided*, That it shall not be necessary to file any map or plat of any fishing location before January first of the calendar year next after this act takes effect.

It shall not be necessary to file any map or plat of any fishing location in any case where any map or plat has heretofore been filed with the Secretary of Commerce and a commissioner of records in the district in which the location is situated. All pound net or other fishing locations lawfully occupied during the calendar year next preceding the passage of this act shall continue valid: *Provided*, That if any owner or locator shall fail to construct and operate his appliance in a bona fide manner for the three consecutive years covered by his license, the location shall be deemed abandoned.

Each commissioner of records and the Secretary of Commerce shall keep an index of all such maps, showing the hour and date of filing, the names of claimants and serial number of the maps or plats, in the order filed, all of which shall be indorsed on them when filed.

Locations for set nets may be made by erecting a permanent monument near, or securely anchoring a buoy on the location claimed, upon which shall be posted the number of the license under which such net is operated.

Locations for stake nets may be made by erecting a permanent monument near or driving a pile on the location claimed, upon which shall be posted the number of the license under which each stake net is operated.

This act shall not affect the use or operation of any fixed fishing appliance in a location regarded as lawfully occupied during the calendar year next preceding the passage of this act, and any and all fishing appliances may be maintained upon such location as though this act had not been passed, or they may be changed to conform to the provisions hereof as to passageways, at the option of the claimant, owner, or holder thereof.

SEC. 7. NETS, HOW CONSTRUCTED.—That no lead of any pound net in the Territory of Alaska shall exceed three thousand feet in length, and there shall be an end passageway of at least six hundred feet and a lateral passageway of at least twenty-four hundred feet between all pound nets. The lead of any pound net may be extended to high-water mark on the tidelands owned by the United States or on other tidelands with the consent of the owners thereof.

No supplementary wing or jigger shall be of greater length than three hundred feet measured over all, nor shall the outer end thereof approach within one hundred feet of the lead of any pound net. Not more than one wing or jigger shall be attached to either side of the heart of any pound net.

No stake net shall be constructed in any other manner than by stakes driven in substantially a straight line. No stake net shall be in the form of a pound net or with hearts or pots connected therewith, and it shall be unlawful to erect or maintain any stake net of greater length than one thousand feet or within one thousand feet laterally or three hundred feet endwise of any other stake net: *Provided*, That the restrictions as to distance intervals between stake nets shall not be construed to apply to the use by the native Indians of stake nets not over fifty yards in length to take salmon for domestic consumption and not for sale.

All set nets shall have a lateral passageway of at least three hundred feet and an end passageway of at least one hundred feet. A set net is not a fixed appliance within the meaning of this act.

For the purpose of determining passageways, base lines shall be drawn at right angles to the general course of locations and shall pass through the ends of the locations; the end passageways shall be measured at right angles to such base lines, and the lateral passageways shall be measured parallel with such base lines.

It shall be unlawful to lay or cast any movable fishing appliance within three hundred yards of any other movable fishing appliance or within the distances of lateral and end passageways prescribed in this section: *Provided*, That the restrictions of this section shall not apply to drift gill nets.

It shall be unlawful to erect or maintain any stake net or set net within the distances of any of the lateral and end passages as prescribed in this act.

No purse seine shall exceed eighteen hundred feet in length, and no lead or supplementary piece of net shall be used in connection therewith.

No gill net shall exceed two thousand five hundred feet in length and no beach seine shall exceed three thousand feet in length.

SEC. 8. POUND NETS, HOW CLOSED.—That throughout the weekly close season prescribed by law, each pound net shall be closed by an apron placed across the outer

entrance to the heart thereof, which apron shall extend from above the surface of the water to the bottom, and shall be securely connected to the piles on either side of the heart of such pound net, fastened by rings not more than two feet apart on taut wires stretched from the top to the bottom of the piles. In addition, throughout said weekly close season, there shall be a V-shaped opening in the lead of such pound nets outside the entrance to the heart adjacent to the apron of at least ten feet in width at the top and extending below the surface at least four feet below low water.

SEC. 9. WHERE UNLAWFUL TO FISH.—That it shall be unlawful to take salmon by any means whatsoever, except with hook and line, commonly called angling, and except for the purposes of fish culture or scientific investigation under the direction or with the approval of the Secretary of Commerce, in any waters where the distance from shore to shore is less than three hundred feet, or with any fixed appliance in any waters where the distance from shore to shore is less than five hundred feet, or by any means except with hook and line within five hundred yards outside the mouth of any river less than five hundred feet in width at its mouth: *Provided*, That the use of stake nets shall be allowed in the deltas of the Yukon, Copper, Alseck, Setuck, and Ahrnklin Rivers and on the flats and in the divides between the Setuck and Ahrnklin, and that movable appliances shall be allowed to within one hundred yards outside of the mouths of the before-mentioned rivers and of the Karluk River. For the purposes of this paragraph, the width of a river shall be determined by measurements at right angles to the trend of said waters at mean high water, and all measurements of water referred to herein shall be made at mean high water, and the Secretary of Commerce is hereby authorized to determine and indicate by suitable markers, monuments, or notices the mouth of any river, or other waters referred to herein. It shall be unlawful to efface, destroy, or remove, or in any manner interfere with any marker, monument, or notice provided for in this act.

No fishing appliance shall be operated in any river, lagoon, estuary, or other waters for a greater distance than one-third the width of the waters thereof: *Provided*, That this shall not apply to any drift gill net which by force of the elements may unavoidably and temporarily exceed such distance.

SEC. 10. WEEKLY CLOSE PERIOD.—That it shall be unlawful to take, fish for, or kill any salmon of any species in any manner or by any means whatsoever, except by hook and line solely in angling for sport and not for commercial use, in any of the waters of Alaska, except in the Arctic Ocean and Bering Sea and the waters tributary thereto, Cook Inlet, and the Copper River delta, from six o'clock postmeridian of Friday of each week until six o'clock antemeridian of the Sunday following.

SEC. 11. CLOSING OF WATERS, HOW PROVIDED.—That the Secretary of Commerce may in his discretion set aside any river or lake or parts thereof, and the waters outside thereof for a distance not greater than five hundred yards, in which fishing may be limited or entirely prohibited, but such power shall be exercised only after a hearing, of which due notice must be given by publication not less than sixty days prior thereto in a newspaper in the district affected: and when the interested parties are known to the Secretary of Commerce they shall be personally notified by notice mailed not less than sixty days previous to such hearing. No order made under this section shall be effective until one calendar year after the same is made.

SEC. 12. PLANTING FISH UNLAWFUL WITHOUT CONSENT.—That it shall be unlawful to liberate, release, implant, or place any fish of any kind or description in any of the waters of Alaska without first obtaining the written consent of the Secretary of Commerce.

SEC. 13. UNLAWFUL TO DESTROY FOOD FISH.—That it shall be unlawful for any person to waste or destroy any aquatic animal of commercial value taken or caught in any of the waters of Alaska: *Provided*, That waste or destruction shall not be deemed a violation of this section when resulting from unavoidable causes.

The utilization of any part of food fishes, other than the offal and waste thereof from establishments preparing fish food products, shall, three years after this act becomes effective, be regarded as waste if utilized in the manufacture of fertilizer, fish meal, fish oil, or other products not used for human consumption.

It shall be unlawful to take any salmon or other food fish or shellfish by means of a spear or gaff, except for domestic consumption, and it shall be unlawful to purchase any salmon or other food fish or shellfish taken by means of a spear or gaff for commercial use.

SEC. 14. POLLUTION OF WATERS.—That it shall be unlawful to place or cause to be placed in any of the waters of Alaska any explosive, poisonous, or deleterious substance whatsoever for the purpose of catching, taking, killing, or injuring fish, or to place or deposit in, or discharge or pass into, or cause to be placed where it may pass into any river, lake, lagoon, estuary, or waters of Alaska, any lime or other caustics, tar, petroleum, asphalt, bitumen, or other carbonaceous materials, oils, acids, or sulphates, or

compounds thereof, sawdust, shavings, slabs, edgings, mill or factory refuse, slag, sluicings, tailings, smelter or mine refuse, or any other substance injurious to fish, fish fry, or the food of fish, or which is or may be injurious to the spawn or spawning beds of fishes; and in the case of substances known to be deleterious to fishes, or to fish foods or spawn, it shall not be necessary to prove that the pollution of the waters by these substances in the particular case in question has actually caused the death or destruction of any fish, fish fry, spawn, or fish food: *Provided*, That nothing in this section shall be construed to prohibit the proper use of explosives in connection with the construction of buildings or improvements: *Provided further*, That the placing of fish offal in the waters shall not be deemed a violation.

SEC. 15. DAMS TO BE PROVIDED WITH FISHWAYS.—That every dam or other obstruction across or in any stream shall be provided with a durable and efficient fishway, which shall be maintained in a practical and effective condition in such place, and for which plans and specifications shall be furnished by the Secretary of Commerce upon application to him, and which shall be kept open, unobstructed, and supplied with a sufficient quantity of water to freely admit the passage of fish through the same. Every owner, manager, agent, or person in charge of any such dam or obstruction who shall fail to comply with the provisions of this section shall be guilty of a misdemeanor.

If any person shall fail to construct and maintain any such fishway, or to remove such dam or obstruction in a manner satisfactory to the Secretary of Commerce, then within sixty days after written notice thereof shall have been served on the owner, his agent, or the person in charge, such dam or obstruction shall become a public nuisance, and the Secretary of Commerce may take possession of same in the name of the United States of America and destroy same, and no liability shall attach for such destruction; or the Secretary of Commerce may construct a suitable fishway, and the actual cost of construction of such fishway shall constitute a lien upon the dam and upon all the personal property of the person owning the same. No dam or obstruction shall be erected in any of the waters of Alaska to a height that in the judgment of the Secretary of Commerce shall make a fishway thereover impracticable, except as hereinafter provided.

In the event that any person desires to construct a dam in any of the waters to a height that will make a fishway thereover impracticable, in the opinion of the Secretary of Commerce, then such person shall make application to the Secretary of Commerce for a permit to construct such dam, and the Secretary of Commerce is hereby authorized to grant such permit, in his discretion, upon the condition that the person so applying for such permit shall convey to the Secretary of Commerce a site of the size and dimensions satisfactory to the Secretary of Commerce, at such place as may be selected by the Secretary of Commerce, and the applicant shall erect thereon at his expense a hatchery and hatchery residence, according to plans and specifications to be furnished by the Secretary of Commerce, and shall enter into an agreement with the Secretary of Commerce, secured by a good and sufficient bond, to furnish all water and lights without expense to operate said proposed hatchery; and no permit for the construction of any such dam shall be given by the Secretary of Commerce until the person applying for such permit shall have actually conveyed said land to the Secretary of Commerce and erected said hatchery and hatchery residence in accordance with the said plans and specifications. The provisions of this section shall not apply to cases where dams have been heretofore constructed in streams to a height where the construction of a fishway is impracticable.

SEC. 16. BARRICADES AND OTHER OBSTRUCTIONS.—That it shall be unlawful to erect or maintain any barricade, fence, or other fixed or stationary obstruction, or any fishing appliance other than those lawful under the provisions of this act, except for purposes of fish culture, in any of the waters of Alaska for the purpose of preventing or impeding the ascent of fish to their spawning grounds, and the Secretary of Commerce is hereby authorized and directed to have any and all such unlawful obstructions removed or destroyed.

SEC. 17. HATCHERIES.—That after passage of this act the Secretary of Commerce is hereby directed to purchase, or to acquire by condemnation in the manner in which lands are condemned or appropriated for public use, any and all of the private salmon hatcheries in Alaska which have been heretofore approved under the act of Congress of June twenty-sixth, nineteen hundred and six, the same to be paid for by certificates of purchase in such denominations as may be desired by the sellers, and such certificates may be used at any time for the payment pro tanto of any license fees or taxes upon or against or on account of the catch or pack of said sellers, their successors or assigns.

The exemption from license fees and taxes in favor of the owners of private salmon hatcheries in Alaska as provided by section two of the act of Congress entitled "An

act for the protection and regulation of the fisheries of Alaska," approved June twenty-sixth, nineteen hundred and six, for the release of red and king salmon fry, shall hereafter apply to existing hatcheries until the date of their purchase by the Secretary of Commerce.

SEC. 18. ALL MARINE ANIMALS INCLUDED.—That the catching, killing, or utilization of any fish of any kind or aquatic animal of any kind or species whatsoever not specifically provided for in this act shall be subject to the provisions of this act, but the Secretary of Commerce shall have power to authorize the catching, killing, or utilization of any such fish or marine animal under such regulations as he may prescribe.

SEC. 19. REPORTS, INSPECTIONS, AND REGULATIONS.—That every person licensed to engage in the business of catching, preserving, or preparing fish or other aquatic animals or in manufacturing fishery products shall make detailed annual reports thereof to the Secretary of Commerce, on blanks furnished by him, covering all such facts as may be required with respect thereto for the information and use of the Department of Commerce and Congress. Such reports shall be sworn to by the superintendent, manager, or other person having knowledge of the facts, a separate blank being used for each establishment, and the same shall be forwarded to the Department of Commerce not later than December thirty-first of each year.

The Secretary of Commerce and his duly authorized agents shall have power to inspect all fishing appliances and all property used in catching, packing, curing, preparing, or storing food fish or shellfish or other fish or aquatic animals, or in the fishing industry, and may enter upon any property at any time for any such purpose.

To enforce the provisions of this act the Secretary of Commerce is hereby authorized and directed to make and establish such rules and regulations, not inconsistent with law, as may be necessary for that purpose and for the proper investigation, inspection, and regulation of the Alaska fisheries, and the investigation and protection of marine algae, shellfish, and all other aquatic animals not otherwise provided for by law, and to detail from the officers and employees of the Department of Commerce a force adequate for the performance of the duties required.

SEC. 20. COMPENSATION FOR INJURIES.—That the provisions of the act approved May thirtieth, nineteen hundred and eight, entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," shall, in addition to the classes of persons therein designated, be held to apply to any employee engaged in any hazardous work in Alaska of the Bureau of Fisheries of the Department of Commerce, including the enforcement of the laws for the protection and conservation of the fisheries: *Provided*, That this section shall not be held to embrace any case arising prior to the passage of this act.

SEC. 21. TERRITORIAL LEGISLATION PROHIBITED.—That from and after the passage of this act the Territory of Alaska shall not pass any legislation that has the effect of repealing, altering, or amending this act, nor shall said Territory impose any license fees or taxes upon the business hereinbefore referred to, nor upon the output thereof, nor upon any property, real or personal, used in said business in said Territory, and any such existing statutes heretofore enacted by the Territory of Alaska are hereby expressly disapproved.

SEC. 22. VIOLATIONS; HOW PROSECUTED.—That any violation of this act may be prosecuted in any district court of Alaska or in any district court of the United States in the States of California, Oregon, or Washington. It shall be the duty of the Secretary of Commerce to enforce the provisions of this act and the rules and regulations made thereunder. It shall be the duty of the district attorney to whom any violation is reported by any representative of the Department of Commerce or any other United States official to institute proceedings necessary to carry out the provisions of this act.

SEC. 23. FINES AND PENALTIES.—That any person willfully violating any provision of this act, or any regulation established in pursuance thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment for a term of not more than six months, or by both such fine and imprisonment, at the discretion of the court. Any vessel or other apparatus or equipment used or employed in violation of any provision of this act, or of any regulation made thereunder, may be seized by order of the court or by order of the Secretary of Commerce and turned over to the United States marshal, and by him held subject to the payment of such fine or fines as may be imposed. A further fine of not more than \$250 per diem may, at the discretion of the court, be imposed for each day the obstructions unlawful under section sixteen are maintained.

SEC. 24. DEFINITIONS.—That for the purposes of this act the following definitions are adopted to apply to the words in question wherever the same shall be used:

"Person": Any person, persons, firm, partnership, corporation, association, or society.

"Pound net": Any fixed or floating fish trap or similar device constructed of webbing, wire, brush, or other material, and held in place by piles, anchors, or moorings, but excluding small native nets or traps which may be transported in toto by one man.

"Stake net": A gill net attached or affixed to piles or stakes.

"Set net": An anchored gill net.

"Seine": All forms of nets known as seines, stow nets, drag nets, drag bag nets, bag nets, draw nets, reef nets, and dredge nets.

"Salmon": Wherever the word "salmon" occurs in this act it shall be construed to apply to the red, sockeye, king, silver, steelhead, chum, and pink salmon and trout.

"Case": Forty-eight one-pound cans or containers, or their equivalent in weight of other sizes.

"Barrel": Two hundred pounds of fish, or fifty gallons of oil.

"Tierce": Eight hundred pounds of fish.

"Ton": Two thousand pounds.

"Waters": All the Territorial waters of Alaska, together with all other waters contiguous to Alaska over which the United States has jurisdiction.

"River": Any stream or creek.

"Mean high water": The mean of the lowest and highest high tides.

"Fishery": The act of taking for commercial purposes any aquatic product.

"Location": The actual position in the water of any fishing apparatus.

SEC. 25. REPEALING CLAUSE. That after this act takes effect the act of Congress entitled "An act for the protection and regulation of the fisheries of Alaska," approved June twenty-sixth, nineteen hundred and six, and all acts or parts of acts of Congress or the Territorial Legislature of Alaska inconsistent with the provisions of this act, be, and the same are hereby, repealed.

SEC. 26. WHEN ACT TAKES EFFECT. That this act shall take effect from and after January first of the year next after its passage.

## STATEMENT OF HON. WILLIAM C. REDFIELD, SECRETARY OF COMMERCE.

The CHAIRMAN. Mr. Secretary, the committee will be glad to hear from you now.

Secretary REDFIELD. Mr. Chairman, my thought was that I would speak very briefly indeed to the committee on certain general questions of policy which are involved in this measure, and then make way for the Commissioner of Fisheries, who can speak more fully from the standpoint of that service, and in turn present to you Mr. Ward T. Bower.

In addition, Mr. Thurman, the solicitor of the department, is present, and will answer any questions respecting the legal phases of the bill.

I want, however, to relieve the situation of certain clouds which I think are upon it and which may assist us all if they are so relieved.

The statement made that this bill, H. R. 9528, includes any fur-bearing animals is a mistake: it includes none. By "aquatic animals" are meant such animals as hair seals, whales, white whales, walrus, crabs, shellfish, and the like. It will be quite in accordance with the spirit of the department in the matter if a proviso were inserted that it should not include any fur-bearing animals.

The suggestion that the bill is intended in any manner whatsoever to affect local rights of real estate taxation is a mistake. The department would be very glad to have it made perfectly clear that there is no such purpose of any kind in the measure at all. Neither is it in any degree whatever correct to say that the school fund, or any other fund of the Territory of Alaska, is adversely affected by this measure. We should be very glad to have that made as clear as one can make

it; no such statement is correct; and no questions have ever been asked of the department, to my knowledge, as to whether that was the fact. The fact is that taxation rates, license rates, are not only increased, but are spread over a much larger amount of territory, so to speak; and the intention of the bill is that the 50 per cent which by it shall revert to the Territory of Alaska shall provide more, and not less, money for the express purposes which have been stated to you as repealed by the bill, and that in addition the fisheries of that great Territory shall receive a fund much more adequate for their maintenance than has ever been received before, so that out of that there shall accrue increasingly to Alaska a much larger revenue for these express purposes alleged to be repealed than she has ever had before. The whole spirit of this measure is intended to be helpful to Alaska; to provide for it more and not less money; to provide for it more and not less industry; and to place this enormous business of fishing on a foundation of certitude on which it has never thus far stood.

I would like very much if pages 114, commencing with the heading Alaskan fisheries, to 118 of my annual report could be made a portion of the record, because in that report (I speak of the report for the fiscal year ending June 30, 1915) this subject is dwelt upon in some detail.

(The statement referred to is as follows:)

#### ALASKAN FISHERIES.

The season of 1914 was the most prosperous in the history of the general fisheries of Alaska. The products were valued at \$5,500,000 more than those of the previous season. The catch of salmon was the largest ever made, and was noteworthy for the enormous output of redfish in the Bristol Bay region.

In 1914 the fishing industry of Alaska gave employment to 21,200 persons, of whom slightly over 4,000 were natives. The investment in the fisheries was approximately \$37,000,000, of which \$31,894,000 represented the salmon industry. The catch of salmon aggregated 54,650,000 fish, from which there were prepared 4,056,000 cases of canned fish valued at \$18,920,000, and miscellaneous products valued at \$638,000. The total value of the fisheries products proper in 1914 was \$21,243,000, which amount exceeded that of any other one year. The number of salmon canneries operated in Alaska in 1914 was 81, as compared with 79 in 1913 and 87 in 1912.

The annual census of red salmon ascending Wood River was omitted in 1914, but was resumed in the season of 1915. The number which ascended the river in 1915 was approximately 249,000, which number was less than that for any other year in which the census has been taken.

During the year every possible effort has been made to enforce the laws and regulations, and it is believed that as much has been done as possible with the limited personnel provided.

Section 6 of the act of Congress approved June 26, 1906, entitled "An act of the protection and regulation of the fisheries of Alaska," authorizes the limiting or prohibiting of fishing in certain Alaskan waters when in the judgment of the Secretary of Commerce such action is necessary in the interests of the fisheries, but it is required that before any such order shall be promulgated a hearing shall be held at which all persons interested may be given an opportunity to express their views. Two orders made in accordance with this statute are already effective. Recommendations having been made that the department prohibit commercial fishing in certain other waters, arrangements were made for holding a hearing in regard to the subject at Seattle on October 1, 1915.

In the fiscal year 1914 the five privately owned salmon hatcheries in Alaska liberated 64,897,580 red-salmon fry, thereby earning for their owners tax exemptions on canned salmon amounting to \$25,959.03. In the fiscal year 1915 these hatcheries liberated 79,619,500 red-salmon fry, on which the tax exemption is \$31,847.80, the basis of exemption being 40 cents per 1,000 fry.

In order that the department may properly discharge its functions and obligations with reference to the Alaskan fisheries, there should be a general revision of the fishing

laws to meet new conditions that have arisen. There have been protracted conferences with fishing and fish-preserving interests of Alaska, looking to the drafting of a comprehensive bill that will regulate and protect the fishes and at the same time provide a revenue from the taxation of fishing gear and the prepared products. Among other features of the existing law that require radical treatment is the practice of giving rebates of taxes in proportion to the number of salmon fry liberated from private hatcheries. Such hatcheries should be acquired by the Government at a fair valuation. The proposed measure was introduced in the House of Representatives, but failed to become law. It is earnestly hoped that favorable action will be taken at the next session of Congress.

Congress will be asked to provide further facilities for enforcing the fishery laws. Two staunch motor boats are now desired. These will not meet all the requirements, but will fill a more urgent need. When these are provided they, with the *Roosevelt* and a vessel to replace the *Osprey*, will be a reasonable beginning, and but a beginning, of the means for the supervision which over 20,000 miles of coast require, having a fishery of over \$21,000,000 annual value. One can hardly expect in these distant regions that the law shall be greatly respected when the law has not shown sufficient respect for itself to provide respectable means for its enforcement.

In my last report it was mentioned that the Deputy Commissioner of Fisheries, Dr. E. Lester Jones, was in the spring of 1914 instructed to proceed to Alaska to make an inspection there of conditions affecting the work of the Bureau of Fisheries. His report was submitted on December 31, 1914, and presents in detail, with many illustrations from photographs taken by Dr. Jones and with maps and charts, the facts as he observed them. The report is a valuable contribution to the study of Alaskan conditions. It is available upon request of the Bureau of Fisheries. It shows in a striking way the fearful waste that accompanies what is sometimes called economy. On one page appears a photograph of the fine revenue cutter *Tahoma* lying in the harbor of Unalaska and beneath it a picture of that same vessel a few weeks later with the sea washing over her after she was wrecked on an uncharted rock off Agattu Island, with the American flag floating as an example in this case of what the Government did not do in time to protect its own valuable property.

The recommendations made in the report of Dr. Jones have been given careful consideration. Many of them were included in the fisheries bill (H. R. 21607, 63d Cong.) introduced with the department's approval at the last session. This bill will be reintroduced into the Sixty-fourth Congress. Some of the recommendations have already been adopted and carried out so far as facilities and resources warrant. The substance of others has been already treated in this report. Others are still receiving consideration.

The recommendation that at least five new Government hatcheries be built in places not at present receiving the benefit of fish-cultural operations has the cordial indorsement of this department. It has been the subject of frequent recommendations to Congress. Even if the Government should take over the private hatcheries now in Alaska, there will still be need for these additional ones.

On April 29, 1915, the Legislature of Alaska passed an act imposing additional license fees on certain kinds of business, including fisheries, salteries, fish traps, and gill nets. It at once became apparent that if the Legislature of Alaska exercises this power the result is double taxation on the persons engaged in such kinds of business, and further, a dual control would exist between the Department of Commerce and the Legislature of Alaska over at least a branch of such kinds of business. The latter condition is the one that primarily concerns the Department of Commerce. The control of the fisheries of Alaska is by law placed in that department, which is responsible not only for their preservation but also for their growth and development. Clearly, if the Territory of Alaska has a joint right of control over the whole or any portion of such fisheries the plans of the Department of Commerce for their growth and development may meet with serious interference, and the result may be most harmful to the industry. If, for example, the Legislature of Alaska may impose license fees and taxes to an extent that might seriously impair the industry by making it unprofitable, the Department of Commerce, charged with the responsibility of caring for this industry, would be practically helpless.

Not even the possibility of such a situation, much less the situation itself, should be allowed to exist. As long as Congress sees fit to continue the control of the Alaska fisheries in the Department of Commerce that control should be exclusive. It is respectfully suggested that Congress should either repeal the proviso contained in section 3 of the act of August 24, 1912, which authorizes the Legislature of Alaska to impose other and additional taxes or licenses, or so amend it as to exclude fisheries and kindred occupations in Alaska from its operation. This would leave the law as it stood before the passage of the act of August 24, 1912, and all license fees and taxes

for the carrying on of fisheries and kindred occupations in Alaska would then be fixed by Congress.

It may be urged that section 26 of the act of August 24, 1912, meets the situation. It reads thus:

"All laws passed by the Legislature of the Territory of Alaska shall be submitted to the Congress by the President of the United States, and, if disapproved by Congress, they shall be null and of no effect."

This provision, however, does not meet the case, for unless by its terms Congress actually disapproves of the acts of the Alaskan Legislature they continue to have the force and effect of law. Applying it to the case under consideration it would mean that Congress would have to disapprove each and every license tax or law that might be passed by the Legislature of Alaska on the fisheries in that Territory.

There should be no doubt on this important matter, which is respectfully commended to the attention of Congress. The difficulty appears to arise from the possible double interpretation of the provision of section 3 of the act of August 24, 1912 (37 Stat., 512), which establishes the Territory of Alaska.

The sundry civil bill making appropriations for the fiscal year 1915 provided for an increase in the number of wardens in the Alaska service. This made it possible for the department to extend to a limited extent its work in the way of protecting the fisheries and fur-bearing animals of Alaska.

Secretary REDFIELD. I wish now—and it will be my only part in this, unless you prefer otherwise—to face very squarely the large question of policy which is involved in this bill. It is avowedly based upon the continuance of Federal jurisdiction over the fisheries of Alaska; that is, the existing law of Congress. We have no right to operate except under that law. This bill assumes that law to exist, and is intended to make it more fruitful and helpful to Alaska, and of course the department could proceed in no other way.

But the department is forced to face the fact that there is an effort in mind, if not in being, to take away the fisheries of Alaska from out of the Federal jurisdiction and put them solely under the jurisdiction of the Territory of Alaska itself, and I purposely raise that question, not to discuss it on its merits, for it is a matter of policy which Congress alone can deal with, but to place before you certain facts without comment, so far as I may be able to avoid it, which bear upon that question and which are fundamental to the consideration of this or any other measure affecting the Alaska fisheries.

There is a question, therefore, to be settled in the minds of Congress before this measure can take place, or any other, namely, shall the Federal Government continue the control of the Alaska fisheries or shall Alaska Territory do it solely and alone by itself? As is well known, the various States of this country operate their own fisheries, under the control of their own State laws, and we are in daily touch with every one of them and in perfect accord with them all. The hatcheries of our service operate in the most entire harmony with all the fish commissioners and the fish hatcheries of all the States in the Union. There is not the faintest objection, Mr. Chairman, on the part of the Department of Commerce to Alaska's running all its own fisheries if Congress thinks it ought to do so.

The CHAIRMAN. Will you repeat that statement? I did not catch it.

Secretary REDFIELD. There is not the faintest objection on the part of the Department of Commerce to Alaska's running all its own fisheries, if Congress thinks it ought to do so. I want to make that as clear as day. The Bureau of Fisheries does not seek any extension of its powers; it has plenty to do without it. The Department

of Commerce does not want more work to do in Alaska: it will be content to do less, if Congress so wills.

If it has to do its work, however, it wants to do it better than the law now makes it possible to do it—better for Alaska, as well as better for all the people doing business there. At present the situation is hampered by a dual control, which can only work harm and discord.

The Legislature of Alaska assumes, from an interpretation of the act of August 24, 1912, certain rights of licensing fishing operations, having passed, on April 29, 1915, an act imposing additional licenses. We do not object to their doing so. What we do object to is a system under which the same business is subject at once to a Federal license and a local license in addition to a real-estate tax, whereby there is a dual control and a dual right of taxation; whereby a man continuing the business is subject to an indeterminate and double supervision of this kind over his cannery, exactly as if, for example, the State of Maryland exercised in the city of Washington the right to impose taxes, wholly irrespective of what Congress itself might seek to impose in the city of Washington. That is the present condition in Alaska—a duplex, double system of taxation in the form of licenses.

We think that is wrong. One system ought to exist, and only one; one control, in our judgment, ought to exist, and only one. And that question ought to be settled.

This bill we propose, in part, as a means of settling that in accordance with existing law. But we are not at all afraid to have it settled by a law which shall turn over the whole thing to Alaska, if Congress sees fit, when it knows all the facts, to do so. I hope I have made the attitude of the department perfectly clear, that we are seeking no addition to our powers; that we are willing, if Congress so desires and when the matter shall have been fully discussed, to surrender any and all powers in Alaska that we possess. We will operate our fish hatcheries there, if Alaska takes control, as we do in Oregon, Washington, and California, with pleasure, and no doubt in accord with the local authorities. We should be very glad, indeed, to be permitted to remove our steamers and our launches from Alaskan waters and use them in other places where they are needed, if Alaska is ready to substitute, at its own expense, the steamers and the launches that it needs.

Now, in order that that question may be considered broadly and on its merits, let us consider for a moment what the facts of the situation are. I might put the question in this way: Shall the Government turn over to a population of 55,000 white people, omitting the Indians and Eskimos—and the 55,000 include women and children—jurisdiction over the fisheries in a territory double the area of Texas, and with a coast line greater than that of the entire continental United States, in which the population is scattered so that for hundreds of square miles there is none, and in which this single industry has an investment in excess of \$37,000,000 and has an annual product, finding an international market, in excess of \$21,000,000 per annum.

Now, that is a statement of the problem. If we turned over to the people of the State of Maine the entire fisheries of the Atlantic coast, there would be fifteen times as many people to look after the fisheries,

and the fisheries themselves would be on less than half the coast line. The problem is simply whether, in the course of its development, which we all hope will be large, and which I will do anything in my power to encourage, Alaska has reached the point where it can take control of so enormous a problem and handle it either to its own or the public's satisfaction.

The problem is not altogether an easy one. The investment that would be required if Alaska were to take over this problem, even on the basis of its present imperfect control—for I am very free to admit that the department is not as yet enabled to supervise these fisheries as we wish it could—the plant that would be immediately necessary to take over this control would be one large steamer, costing certainly \$250,000, a small one costing \$50,000; two launches costing \$10,000; and there would be an additional amount necessary to take over the five private hatcheries which survive out of the nine that once were there, at a cost of about \$100,000. There would be necessary, if Alaska were to provide the mere physical machinery necessary to take care of this work, an immediate expenditure of \$410,000, at the least.

We should be glad to have the steamer *Roosevelt*, which we have just purchased for this work, retained upon the Atlantic coast; we should be very glad to withdraw the steamer *Osprey*, for use upon the Columbia River or Puget Sound. We have just been given \$10,000 for additional launches; we should be very glad if we could spend it on the Gulf or the Atlantic. There is no reluctance, gentlemen, on our part, to turn over this whole problem to Alaska, if and when the problem shall have been worked out fully.

The CHAIRMAN. Well, what is the necessity for this legislation. What is there in the industry in Alaska that demands legislation?

Secretary REDFIELD. You ask a question, Mr. Chairman, which will be answered more fully by the Commissioner of Fisheries than I am able to answer. Let me say that we who have this problem in hand have been constantly impressed with its vastness, for if you will be kind enough to look at the map I have placed in your hands you will see that the coast upon which we must operate in Alaska is over four times greater than the entire coast line of Great Britain and Ireland, and greater than the entire Atlantic, Pacific, and Gulf coast lines of the United States; that the shores of Alaska are 26,000 miles of water front.

We have been impressed with the great and vast problem before us; and my annual reports will show, and the appropriations will show, a growing appreciation, still, I regret to say, insufficient, on the part of Congress of this enormous job. So we have purchased this seagoing steamer which we have never had; so we have purchased these launches for use in this work; so, two years ago, a small steamer; and now for the first time we expect to provide reasonably adequate supervision at the end of a number of years of effort. But we find this peculiar condition of double taxation; we find the business uncertain as to who is to control it—to whom are they accountable? Are they accountable to the local community in whole or to what extent?

And we find that the present law is in many minor respects ineffective, and as a result of our experience, therefore, and as a result of study for some months on the part of the former Deputy Com-

missioner of Fisheries, Mr. E. Lester Jones, now Superintendent of the Coast and Geodetic Survey, who will be here next week to speak to you, this bill has been drawn, based frankly upon the continuance of Federal control, in order to relieve the weaknesses that now exist, so far as it may be possible by law in the present situation.

I will be very glad to make way now for the solicitor of the department, or for the Commissioner of Fisheries, who can speak more fully. I simply want to lay down the broad lines of policy before you and to get our attitude clearly before your minds.

The CHAIRMAN. This bill was framed in the department, was it?

Secretary REDFIELD. It was framed in the department, as a result of a great many months of study and as a result of conferences individually with the law officers of the department and the experts of the department and with the parties concerned; and I think I can say that it has the substantially unanimous, if not the wholly unanimous, support of the persons upon whom these taxes are to be imposed.

Mr. GOODWIN. Mr. Secretary, what is the relative ratio as between receipts and expenditures of the fisheries of Alaska? Have you those figures?

Secretary REDFIELD. I do not think I quite understand.

Mr. GOODWIN. I mean the amount of money we expend up there annually and the amount of receipts?

Secretary REDFIELD. From the fisheries?

Mr. GOODWIN. From the fisheries.

Secretary REDFIELD. Our total outlay at present, I think, is \$60,000 a year for Alaska; is it not, Dr. Smith?

Dr. SMITH. Yes, sir.

Secretary REDFIELD. I believe that is all we are allowed to expend there. I believe we shall have more next year. And with that we supervise the fisheries, the total value of whose product is in excess of \$21,000,000 per annum.

Mr. GOODWIN. It is a good investment.

Secretary REDFIELD. The situation has been very humiliating for the Government, and we will join with Judge Wickersham in any criticisms he might make of the past supervision as being inadequate. For example, it has been our unfortunate necessity to call upon the canneries to loan us the boats with which to transport our officers who were to do the supervising of those same canneries, and it is true that the Government has not, up to the last two or three years, certainly, taken this task as seriously as it should, and certainly has not as adequately equipped itself as it should.

But now that day has gone by, and now we have this plant in the service, and I think we are able adequately, and I think economically, as I think those figures show, to do this work, and we have the entire accord and good will, so far as we know, of the fishing industries throughout—all sides of the fishing industry.

Mr. HADLEY. Have you made an estimate of the amount that would be yielded on the basis that the present schedule has yielded back to the Territory?

Secretary REDFIELD. Financially?

Mr. HADLEY. Yes; you were speaking of the amount.

Secretary REDFIELD. Do you know, Dr. Smith?

Mr. HADLEY. Well, if that should come from the other witnesses, we can wait until they make their statements.

Secretary REDFIELD. Yes; I think the others can answer that better than I can.

I want before I go, however, to raise just one more question. I want to clear the air as to any possible monopoly here. It is a matter of record that we have been more than once requested by individual interests of various kinds to grant special privileges in a form which would provide for them some peculiar right not granted to others, or reserve for them some special privilege not open to others.

That has been continuously resisted; and I think the record is perfectly clear that we stand firmly opposed to anything which will in any way whatever grant anybody any special privilege or particular interest over and above those which are extended to all. There is in this bill no such element concealed. I think I had better—

Mr. HARDY (interposing). Did I understand you a while ago to say that if this bill in any way prevented the Territorial legislature from imposing a property tax—that you desired that element of the bill changed?

Secretary REDFIELD. You said property tax?

Mr. HARDY. Property tax; yes.

Secretary REDFIELD. Yes, indeed; I would be very glad to have it changed.

Mr. HARDY. I call your attention to this reading of section 21 of the bill, which you doubtless have noticed, from what you said before:

Nor shall said Territory impose any license fees or taxes upon the business hereinbefore referred to, nor upon the output thereof, nor upon any property, real or personal, used in said business in said Territory, and any such existing statutes heretofore enacted by the Territory of Alaska are hereby expressly disapproved.

Now, that part of this bill, I understood you to say, ought to be amended?

Secretary REDFIELD. It ought to be amended; yes.

Mr. HARDY. And section 1, it would be possible to give that a construction that would prevent taxes on the part of the Territory for local government or support of local institutions; then that ought also to be amended?

Secretary REDFIELD. Ought also to be amended.

Mr. HARDY. Then, I understand that section 4, which takes these taxes and throws half of them into the Treasury of the United States—that, in your judgment, they have so increased the tax that the remaining half will be greater than that now received and distributed to the Territorial purposes?

Secretary REDFIELD. That is the intention of it.

Mr. HARDY. So that by increasing the total amount, even though you take half of it for Federal uses, you still leave more to the Territory than they now get?

Secretary REDFIELD. That is the intention.

Mr. HARDY. I have not been over the bill. This is the first time I have ever read it, I am sorry to say, and I have not read it all yet.

The CHAIRMAN. Judge Wickersham, do you want to ask the Secretary any questions?

Mr. WICKERSHAM. Oh, no.

**STATEMENT OF HON. HUGH M. SMITH, COMMISSIONER OF  
FISHERIES.**

The CHAIRMAN. Will you state, for the record, your name and your official position, Dr. Smith?

Dr. SMITH. Hugh M. Smith, Commissioner of Fisheries.

I would like to make a very brief statement in regard to the history of this bill—the evolution of the bill—because it has been an evolution and not a sudden product.

For a number of years the revision of the present fisheries law has been under consideration. In 1912 and 1913 very protracted hearings were held by the Senate Committee on Fisheries. In 1914, 1915, and 1916 the Bureau of Fisheries gave much attention to the matter of new legislation to meet existing conditions, and held conferences among its own staff and with persons representing the Alaska fisheries.

The present bill is modeled largely on the bill that was introduced in the closing days of the last Congress; it represents another season's experience and observations on the part of the bureau staff, and for that reason differs somewhat from other bills.

The CHAIRMAN. What bill is that to which you refer?

Dr. SMITH. This is the bill introduced by Mr. Carlin in the last days of the last Congress.

The CHAIRMAN. Is that the one that is now pending before the Committee on Ways and Means?

Mr. WICKERSHAM. Yes.

Dr. SMITH. That was referred to the Committee on Ways and Means; yes, sir.

The CHAIRMAN. That is H. R.—

Mr. WICKERSHAM. 753.

The CHAIRMAN. No; that was in the last Congress.

Mr. WICKERSHAM. But the same bill that is now pending before the Committee on Ways and Means—H. R. 753.

Dr. SMITH. This bill presents various features of law that have been presented in other bills for the last three years. The main objects of this bill should be set forth from the department's viewpoint.

The CHAIRMAN. Now, can you give the genesis of this bill, the first, and the subsequent bills from which it was drawn and developed?

Dr. SMITH. Well, this bill began with the earliest fishery legislation for Alaska, in 1889, and contains features that are embodied in all the bills that have become laws, and most of the bills that have been introduced up to the present time; and I will refer in a few moments to the new features of this bill, because, contrary to what Mr. Wickersham has said, there are numerous new features in this bill, which we believe will appeal to the members of the committee.

I take it that the chief interest of Congress in the fisheries of Alaska is in seeing them conducted in such a way that their perpetuation is assured, and that coming generations may be able to draw on these matchless resources for vast supplies of food. This interest is committed to and shared by the Bureau of Fisheries, and actuates it in administering the law and in recommending modifications thereof.

This bill has as its essential purpose the preservation of the fisheries resources of Alaska. The restrictive features are drawn solely with this end in view, after a very thorough consideration of past and present conditions. It is my belief that the bill meets the present requirements and indications in this respect, although a person would be very rash to predict that this bill would be wholly applicable at the end of any given term of years, because, with the tremendous development which has come to the fisheries of Alaska and which is now going on, it is almost certain that modifications of law will be necessary at rather frequent intervals.

So far as can now be seen, however, the protective features of this bill are ample and, I believe, are equal or superior to those of any State having extensive commercial fishing interests to deal with.

It is possible that this bill may be amended in some of its details and amended to advantage. I feel that in its major features it is a measure of such merit that if a similar law had been in force in many of our States the serious depletion of certain fisheries would not have occurred, and that if a similar law were in force in some of the States to-day, sadly depleted fisheries would be restored.

I would like now to refer briefly to the new features of this bill. In the first place there is provided a general license system applicable to all branches of the industry, including the catching, curing, and canning of fish and fish products. This system is primarily for purposes of regulation; incidentally it yields a revenue. The license system is a feature of all up-to-date State fishery legislation and is regarded as highly advantageous, because of the hold that it gives the administrative officers in the enforcement of the law. A man or a corporation can not engage in the fishing industry in Alaska under this bill without obtaining a license, and having obtained a license, if a person or a firm violates the provisions of law, then that license may be withheld and the person or firm will be deprived of the opportunity of conducting the business. I could mention half a dozen or more of the States in which this feature is incorporated in new legislation.

The CHAIRMAN. You might put them into the record if you recall them now.

Dr. SMITH. I will supply the information later.

(The statement referred to is as follows:)

*Memorandum regarding the practices of certain States in the matter of requiring licenses for fishing operations.*

Arkansas: Devices other than hook or line.....	\$25. 00
California:	
Market fishermen's licenses (bond, \$2,000).....	10. 00
Wholesale fish dealers, United States citizens.....	5. 00
Wholesale fish dealers, not United States citizens.....	20. 00
Illinois:	
License fees for net fishing, the amounts in parentheses being for nonresidents—	
Each 100 yards of seine (\$10).....	5. 00
Dip or fyke nets (\$2).....	1. 00
Gill or pound nets, fished with steam tug (\$200).....	25. 00
Gill or pound nets, fished with gasoline launch (\$50).....	15. 00
Gill or pound nets, fished with sail or row boat (\$30).....	10. 00

Iowa:	
Seines, each 500 yards.....	\$10. 00
Pound nets with more than 100 feet leaders.....	4. 00
Pound nets with less than 100 feet leaders.....	1. 00
Each bait, dip, hoop, or fyke net.....	. 50
Each 300 feet of trammel net.....	5. 00
Louisiana:	
Seines, less than 300 feet.....	25. 00
Seines, 300 to 600 feet.....	50. 00
Seines, 600 to 900 feet.....	100. 00
Wholesale fish dealing, depending on the amount of business and whether resident or nonresident operators.....	\$5. 00-150. 00
Buying or selling diamond-back terrapins.....	25. 00-200. 00
Minnesota:	
Seines, pound nets, or dip nets in the Mississippi River.....	5. 00
Pound nets in international waters.....	25. 00
Gill nets in international waters.....	10. 00
Seines in interstate waters, 100 to 500 feet, per 100 feet.....	1. 00
Seines in interstate waters, 600 to 1,000 feet, per 100 feet.....	2. 00
Seines in interstate waters, 1,100 to 1,500 feet, per 100 feet.....	3. 00
Seines in interstate waters, 1,600 to 2,000 feet, per 100 feet.....	4. 00
Seines in interstate waters, 2,100 to 2,500 feet, per 100 feet.....	5. 00
Seines in interstate waters, 2,600 to 4,000 feet, per 100 feet.....	6. 00
Gill nets in interstate waters up to 2,000 feet.....	5. 00
Gill nets, for each additional 1,000 feet.....	5. 00
New York: Various licenses required for commercial fishing.	
North Carolina: Various licenses required for commercial fishing.	
Ohio: Various licenses required for commercial fishing.	
Oregon:	
Pound nets or traps, first class.....	25. 00
Pound nets or traps, second class.....	15. 00
Stationary fish wheels.....	35. 00
Scow fish wheels.....	25. 00
Purse seines (not more than 1,750 feet).....	25. 00
Gill nets.....	7. 00
Set nets.....	3. 75
Licenses to take crabs, clams, mussels, and crawfish.....	1. 00
Wholesale fish dealers (in addition \$1 per ton on gross weight of salmon, shad, and sturgeon handled).....	10. 00
Boats transporting fish to canneries.....	100. 00
Each 1,000 chinook salmon caught in the Columbia River before Aug. 25.....	5. 00
Each 1,000 chinook salmon caught in the Columbia River after Aug. 26.....	3. 00
Each 1,000 blueback salmon.....	1. 50
Each 1,000 silver-side or dog salmon.....	1. 00
Each sturgeon.....	. 07½
Pennsylvania:	
Seines.....	2. 50
Fish baskets.....	1. 00
Each row or small sailboat fishing gill nets.....	5. 00
Each boat of any kind under 10 tons fishing gill nets.....	10. 00
Each boat of any kind, 10 to 20 tons, fishing gill nets.....	15. 00
Each boat over 20 tons fishing gill nets.....	20. 00
Pound nets.....	10. 00
South Carolina:	
Each sturgeon net.....	10. 00
Each shad, unless sold locally.....	. 03½
Each local person or firm shipping sturgeon or caviar.....	50. 00
Nonresidents fishing for shad or sturgeon.....	10. 00
Nonresidents buying or shipping sturgeon or caviar.....	500. 00
Tennessee: Each fish net or basket.....	
Washington:	
First-class pound nets, traps, or weirs on Columbia River.....	25. 00
Second-class pound nets, etc., on Columbia River.....	10. 00
Pound nets, traps, or weirs except on Columbia River, Willapa Harbor, and Grays Harbor.....	50. 00

## Washington—Continued.

First-class purse seines.....	\$50. 00
Second-class purse seines.....	25. 00
Gill or drift nets.....	5. 00
Set nets.....	2. 50
Drag nets not exceeding 250 feet.....	2. 50
Drag nets, 250 to 400 feet.....	7. 50
Drag nets, 400 to 500 feet.....	15. 00
Drag nets, each additional foot.....	. 03
Scow fish wheels.....	15. 00
Stationary fish wheels, first class.....	25. 00
Stationary fish wheels, second class.....	10. 00
Scow, boat, or other craft transporting fish to canneries.....	100. 00
Dealing in salmon, other than canneries, per ton of fish bought or sold.....	. 90
Wisconsin:	
Seines, first 500 feet, per 100 feet.....	1. 00
Seines, second 500 feet, per 100 feet.....	2. 00
Seines, third 500 feet, per 100 feet.....	3. 00
Seines, fourth 500 feet, per 100 feet.....	4. 00
Seines, fifth 500 feet, per 100 feet.....	5. 00
Seines, 2,500 to 4,000 feet, per 100 feet.....	6. 00
Gill nets, first 2,000 feet.....	5. 00
Gill nets, each additional 1,000 feet.....	5. 00
Pound nets.....	5. 00

Dr. SMITH. Another new feature in this bill is the taxing of the catch at its source, so that every person or firm obtaining products from the waters of the Territory shall pay a tax in proportion to the quantity and value of the catch. In view of the yearly increasing amount of food fish that are used in other ways than by canning and salting, the only methods recognized and taxed under existing law, it is suggested to Congress in this bill that if additional revenue is desired and taxation is to be general, it will be proper to impose a nominal tax that will reach the food fish sold fresh, iced, frozen, smoked, mild-cured and prepared in other ways than by salting or canning.

Mr. CURRY. I beg your pardon. Did you say that they were to be taxed when they were caught?

Dr. SMITH. Taxed at the source as soon as possible after capture, or at the time they are put on the market or prepared for sale.

Mr. CURRY. Well, that is different.

Mr. HADLEY. Are they taxed so much a thousand?

Dr. SMITH. Yes, sir; that is provided for in section 2 of the bill.

Mr. CURRY. I did not understand how it was possible for you to collect the taxes on the fish as they are taken out of the water; that is all.

Dr. SMITH. Or as they are——

Mr. CURRY. Caught; yes.

Dr. SMITH. No; as they are disposed of by the fisherman.

Mr. CURRY. Well, that may be practicable.

Dr. SMITH. Whether such fish are sold fresh, or whether they are caught at a plant where the sale of fresh fish is impossible, they may be taxed when put on the market in a salted, smoked, mild-cured, frozen, or iced condition.

Mr. CURRY. You would not tax them twice then?

Dr. SMITH. There is no double taxation, but both fisherman and manufacturer pay a tax.

Mr. CURRY. Suppose I was a fisherman up there, and I caught a lot of fish, and I brought them to a factory and sold them to a factory.

Now, they are taxed, and when they are smoked or salted, are they taxed again?

Dr. SMITH. When they are canned they will be taxed again as a canned product.

Secretary REDFIELD. But not otherwise.

Dr. SMITH. Well, if these fish were brought in the cannery and sold in the cannery as fresh fish, by a fisherman who is not employed by the cannery but is simply disposing of his catch to the cannery, then it is the intention to tax his catch. Is that what you wanted to know?

Mr. HARDY. What section of the bill is that?

Mr. WICKERSHAM. Section 2, page 3.

Mr. CURRY. Then you would tax the independent fisherman for his catch when he sold it to the cannery?

Dr. SMITH. Let me make this perfectly clear: The fish that are canned—placed on the market in a canned condition—will pay a tax as canned fish, regardless of their source.

Mr. CURRY. Yes; we understand that.

Dr. SMITH. But on the fish that the independent fisherman may dispose of there will be a direct tax.

Mr. CURRY. Well, if an independent fisherman sells his catch to the cannery, is his catch taxed when he sells it?

Dr. SMITH. I think that is provided for.

Mr. BRITTON. They are taxed.

Mr. CURRY. Well, is the cannery fisherman taxed? Suppose the cannery sends out a lot of fishermen and they catch fish, are they taxed?

Dr. SMITH. No; I would not suppose so. The tax on fish caught by cannery employees would be paid by the cannery. Under this bill—let me get it perfectly clear—under this new bill the rate of taxation on canned fish is reduced in order that the—

Mr. CURRY (interposing). Well, that is perfectly clear.

Dr. SMITH (continuing). In order that the tax may fall also on the fish in the raw state.

Mr. CURRY. Well, that is taxing the fish twice, it seems to me; that is, an independent fisherman brings in a catch to the cannery. Now, he is taxed on his catch when he sells it, but the cannery sends out fishermen who bring in a catch, and they are not taxed, are they?

Dr. SMITH. It is the intention to tax their catch.

Mr. CURRY. They are to be taxed?

Dr. SMITH. To tax the raw fish as they leave the hands of the fishermen and also to tax the finished product as it leaves the hands of the manufacturers.

Mr. CURRY. Do you not think you could simplify that system of taxation a little bit?

Dr. SMITH. This is a new feature which we are submitting to the committee, because under the present law a very large part of the catch of fish in Alaska, an increasingly large part every year, will and does escape any kind of taxation. All the fish sold—fresh, frozen, mild cured, or smoked—now pay no tax whatever, and that branch of the business is increasing every year.

Mr. HADLEY. This tax falls upon every licensee, I notice by the terms of the bill?

Dr. SMITH. Every licensee.

Mr. HADLEY. Every licensee; and the licensee is the only man who pays taxation, and he pays \$2, \$1, 75 cents, or 50 cents, according to the class of fish, per thousand.

Mr. HARDY. Are you not a little mistaken in saying that if the cannery sends out fishermen to catch fish for them they would not have to pay a tax on the fish in the raw state?

Dr. SMITH. Yes; that is a mistake. It is the intention that their catch shall pay a tax just the same as the independent fishermen's.

Mr. HARDY. In line 6, page 3, it provides that he must pay on the product taken by him, whether he sells it to somebody else or not, it seems to me.

Mr. CURRY. I think the bill is clear, but I did not quite understand your statement.

Dr. SMITH. I was not quite ready to take that point up at this time.

Mr. GOODWIN. Does any representative of the Government supervise the catch and keep tab on the number of fish caught?

Dr. SMITH. Not now.

Mr. GOODWIN. Do you leave it to the honesty of the licensee?

Mr. CURRY. They do not tax them now.

Mr. GOODWIN. There is no tax now on raw fish?

Dr. SMITH. No, sir; only on the canned salmon and the salted salmon, and on oil and fertilizer made from herring.

Mr. GOODWIN. The licensee sells his fish, turns them over to a cannery, does he, and there a tax is imposed, wherever he turns them over? Suppose he goes elsewhere than the Territory of Alaska? Suppose he should drift down to Washington, or somewhere down there, would the same law as this apply there? Suppose he should go to some cannery other than a cannery in Alaska for the sale of his catch, where would the Government get its revenue—its hold?

Dr. SMITH. It is not feasible to take the fish out of Alaska for canning purposes. But there are difficulties that would be presented by this new feature of the bill, and we would have to work them out by experience.

Mr. HARDY. If I understand it right, every licensee who catches any of these fish must pay on his raw catch, whether he catches for himself or for somebody else?

Dr. SMITH. Yes, sir; except for family or home consumption.

Mr. HARDY. Yes; he may be operating by the wholesale and canning his own catch, but he must pay on the raw catch?

Dr. SMITH. Yes, sir.

Mr. GOODWIN. I notice that section 19 of the bill—that bears on the question I was asking—provides that the licensee shall report to the Secretary of Commerce on blanks furnished by him annually the amount of his catch, and that that must be sworn to?

Dr. SMITH. We realize that it will be difficult to reach some of these smaller fishermen; but they are a negligible quantity when the entire industry is considered, and eventually a very perfect system could be evolved.

Mr. HADLEY. We have had that same system in the State of Washington for a great many years, as far as this feature of counting the catch and reporting is concerned. Of course, there they report to the State commission, and the rate varies; but as far as the system is concerned, it is the same system.

Mr. CURRY. This taxes the individual if he sells his catch?

Dr. SMITH. If he makes a living out of his fishing, he would be taxed, but if he was catching for his winter use there would be no tax; there is a special exemption in his favor in that case.

Mr. CURRY. Well, nearly all of the independent fishermen up there are Indians; most of the white fishermen for the canneries go up from Portland or San Francisco or Seattle in the summer time, and the only regular fishermen that make a business of selling to the canneries are Indians.

Mr. WARREN. There are a good many white men; they are generally white men that have married Indian women.

Mr. CURRY. Well, they are Indians in effect.

Mr. HARDY. Well, the same law applies, as I understand, whether they are white men or Indians.

Dr. SMITH. Yes; when they are engaged in the same line of industry.

Mr. HARDY. Each one must pay and each one has the same right of exemption when they are intended for family use.

Dr. SMITH. Yes, sir. Under this bill, in addition to the articles already mentioned, there will be taxed whale oil and fertilizer, salt cod, salt herring, and various miscellaneous products. A larger revenue than ever before will be yielded by this bill, and this will be disposed of in a new way, as has already been pointed out by the Secretary. Under existing law, all revenues arising from the fisheries in Alaska are turned into the Alaskan fund, to be disposed of by the Territory.

Under this bill, 50 per cent of the revenue is disposed of in the same way, and 50 per cent is turned into the Treasury of the United States, to constitute a special fund which is available for appropriation by Congress for fishery work in Alaska.

Mr. GOODWIN. Will that apply only to fisheries work in Alaska?

Dr. SMITH. That is the purpose of this bill.

Mr. GOODWIN. That will not apply to any other work in Alaska—such as roads and schools?

Dr. SMITH. This bill has nothing to do with that feature. The roads and schools are already under the Territorial government, a fund is already created for that purpose, and that fund is continued.

Mr. HARDY. Can you give us any idea as to whether this bill will sustain that revenue from a species of license taxes and product taxes? What is the source of revenue under the present law? Have you any license fees now to a man engaged in catching fish up there? In other words, those license fees fixed in section 2 of the bill, how do they compare with the present revenues?

Dr. SMITH. On the basis of last year's catch, they would yield a revenue considerably in excess of \$200,000, I think.

Mr. HARDY. Under this law?

Dr. SMITH. Under this bill.

Mr. HARDY. Now, what was the revenue yielded under the law as it existed?

Dr. SMITH. A statement that was supplied to us in March, 1916, by the Treasury Department covering the cash receipts from the taxation of the Alaska fisheries for a series of years, from 1906 to 1915, showed \$166,000 received in the year 1915.

Mr. HARDY. And what would have been the receipts under this bill from the same business?

Dr. SMITH. The total receipts under this bill would have been over \$200,000; I do not know how much over, because I have not seen the figures for the total catch for last year. Have you figured it out, Mr. Bower?

Mr. BOWER. It will be approximately \$230,000 or \$240,000.

Mr. CURRY. Then it would not be twice what it was under the present law?

Mr. BOWER. Not this first year.

Mr. CURRY. You paid into the Alaska fund last year \$166,000. Under this bill, you would not pay that much into the Alaska fund?

Mr. HARDY. If your net income would have been \$230,000, you would have paid only \$115,000 into the Treasury under this bill. Now, have you any way of showing to us that the Alaskan part of these revenues under this bill will be something near, or quite near, to what they would be under the present law?

Dr. SMITH. Well, I judge that at the beginning the Territory of Alaska may experience some loss in revenue from this particular source; but ultimately I would expect the revenues of the Territory to be materially increased. The Secretary's statement on this matter had reference to the general effect of the new schedule and not to the actual returns in a given year. Under this bill a larger sum than ever before will become available for the benefit of Alaska.

Mr. HARDY. Well, let me see if I understand, or if I have drawn the right inference there. My understanding is that your idea is that by using part of this revenue for the building up of the business, you will ultimately increase the volume of the business to such an extent as to more than compensate Alaska for what she will lose in the beginning?

Dr. SMITH. That is the idea, sir. And there is this further feature, that at present Alaska obtains a revenue only from salted salmon and canned salmon. Under this bill products prepared in other ways, and other products than salmon, will be subject to a revenue. The tendency of the fisheries is for larger and larger quantities of salmon to be disposed of in other ways than by canning. So that, in proportion to the catch, from now on Alaska would be receiving a relatively smaller revenue owing to the diversion of a larger part of the fish for other purposes than canning.

Mr. HARDY. That is not taxed under the present law?

Dr. SMITH. Not under the present law.

Mr. HARDY. Now, is there any tax under the present law on the raw catch of the fisherman?

Dr. SMITH. That is a new feature of the bill.

Mr. HARDY. That is an additional tax, too?

Dr. SMITH. Yes, sir.

Mr. HARDY. And, as I understand it, you tax the raw material when it is brought to the cannery?

Dr. SMITH. Yes, sir.

Mr. HARDY. Whether by an employee of the cannery or somebody else?

Dr. SMITH. Yes, sir.

Mr. HARDY. And then you tax the finished product when it is put out as canned goods?

Dr. SMITH. Yes, sir.

Mr. HARDY. And then this bill proposes to tax other classes of fish that are sold besides the canned fish?

Dr. SMITH. Yes, sir.

Mr. HARDY. The first and the last of these provisions will be in this law new provisions?

Dr. SMITH. That is true, sir.

Mr. HADLEY. Is the license fee new?

Dr. SMITH. The license fee is absolutely new.

Mr. HARDY. Have you any idea as to what revenue will be derived from that license fee under this bill?

Dr. SMITH. I have no figures at hand; I am willing to accept Mr. Wickersham's figures; he said \$1,100 from fishery establishments.

Mr. HARDY. That is, he was giving the number of establishments; but, as I understand it, even a private fisherman, if he wishes to catch fish for the purpose of selling them to those canneries, will have to take out a license?

Dr. SMITH. This tax of apparatus is a new feature of Federal legislation.

Mr. HARDY. What is that?

Dr. SMITH. This taxation of apparatus is a new feature of Federal legislation; it is embodied in an Alaskan Territorial law. But I call your attention to the fact that there are some 300 pound nets in Alaska, and each of them will pay a tax of \$50 per annum; and other fishing appliances in proportion.

Mr. HARDY. They are taxed, as I understand, by Alaskan legislation now, but not by Federal legislation?

Dr. SMITH. That is true, sir.

Mr. CURRY. Do you think an Indian ought to pay a license tax to fish?

Dr. SMITH. If he is engaged in business in the same way that a white man is, it is perfectly proper to impose a tax on him.

Mr. CURRY. I do not agree with you; the Indian has special rights everywhere.

Mr. HADLEY. Well, if you impose a tax on anybody you must impose them on everybody.

Dr. SMITH. Yes, sir. You see only a nominal tax would be imposed. Suppose an Indian uses a set net, he pays a fee of \$1 for a license. If the committee desires, however, we are willing to waive that altogether. We require him to pay on his catch, but also require him to be licensed. That is the main feature of this section, the control over the operations of the fishermen that is afforded by the insistence that they shall apply for and obtain a license before they shall carry on their business.

The CHAIRMAN. The question of revenue is not in the thought of the bureau?

Dr. SMITH. The question of revenue here was not considered, no, sir; it was purely regulation.

Mr. GOODWIN. I have not had time to read this bill; how is the tax, so much per pound?

The CHAIRMAN. That is provided in section 2, page 3.

Dr. SMITH. It is so much per thousand fish.

The CHAIRMAN. Well, I suggest that we familiarize ourselves with the bill before we have a further hearing.

Mr. GOODWIN. When you say that the question of revenue was not in the mind of the bureau, I want to inquire whether the various rates were applied with a regard to the amount of revenue they would produce?

Dr. SMITH. Not primarily.

Mr. GOODWIN. But you had regard in fixing the rates for the canned product and the other forms to which the rates would apply, to what the several articles ought reasonably to bear, did you not?

Dr. SMITH. Yes, sir.

Mr. GOODWIN. Having regard to the expenses of production?

Dr. SMITH. Yes, sir; the proposed taxes are supposed to be commensurate with the value of the product and to conform with the practice of the various States having similar fisheries.

Just a word or two more in this connection. There is provided an elaborate system of regulating fixed fishing apparatus, and of acquiring and retaining fishing sites. This is needed to prevent conflict, and to produce an orderly setting and operating of such apparatus; it is not intended to create any monopoly, but simply to do what the various States have found it desirable and necessary to do, especially in the matter of the setting of pound nets.

The CHAIRMAN. You provide in the bill that each fisherman shall have certain grounds, the limits of which may be defined, do you not?

Dr. SMITH. Each man who uses a fixed form of apparatus must get authority to use that apparatus in a given site, and use it in a proper way.

The CHAIRMAN. Well, is that a right that continues indefinitely, or for a definite time?

Dr. SMITH. The license for a fishing site is renewable from year to year, but preference is given to the man who is already there, and if he fails to use that site in a reasonable time, it is forfeited.

Mr. HADLEY. What is the time; three years, is it not?

Dr. SMITH. Three years. If any operator shall fail to construct and operate his appliance in a bona fide manner for three consecutive years covered by the license, the location shall be deemed abandoned.

The CHAIRMAN. Might not that right be abused? For instance, might not a certain company, through individuals, get possession of these sites and withhold them from others for this term of three years? In other words, one concern might, through Smith and Jones and Brown and others, select certain locations and procure licenses and remain there for three years and keep everybody else out?

Dr. SMITH. That same practice is going on now. Fishermen are using the sites that they have acquired years ago. Those sites now are more or less legally recognized. The owners of the sites, or the holders of the sites, sometimes file with us a description thereof, or they may notify us that they are going to occupy certain sites in the following year. This provision of the bill is simply to regulate, to legalize, a long-established practice.

Secretary REDFIELD. I do not think you understand the chairman's question, Dr. Smith, it was whether, under this clause, "three consecutive years," as I understood they might not use that to shut out somebody else for three years?

The CHAIRMAN. Yes; is there any reason why they should have this license unused for three years?

Dr. SMITH. Do you think that three years is too long a time in which they should be allowed to hold the license without operating it?

The CHAIRMAN. Yes.

Dr. SMITH. Well, that is a matter for the committee to decide, in the light of the peculiar periodicity in the runs of salmon in Alaska.

Secretary REDFIELD. Mr. Chairman, I will introduce Mr. Warren, of the State of Oregon, who can speak of the practice and experience in that State with respect to this question.

Mr. WARREN. On Puget Sound and the Columbia River they have a requirement that four years may elapse without actual use and operation of a site. Of course, theoretically, that might be subject to abuse, but practically it is not. There are conditions surrounding the use of any particular site from year to year that must be taken into consideration; for example, high winds, the shifting of the water, or periodical runs of fish, might prevent a man using his site each successive year. That is, the humpbacks would run biennially, that is, every second year, and it would not be just to require that a man who held a site on a particular territory should be required to operate that in the alternate year when the fish would not run there, or that he should lose possession of the site when he did not operate it, and some other man be allowed to step in there and get the site, simply and solely because the first man could not operate it during that time. Or, should the fish go there and the licensee should be unable to use the site for other physical reasons, he would not be required to give it up in favor of another man who would come in there another year. So, on the Puget Sound and Columbia River they have stipulated the time within which a man might hold his site before renewal of license, and within which he can not be put out for nonuse or the nonconstruction of his trap, as four years. In the present bill it provides that the licensee may retain the site without operation for three years; in other words, he might not operate it for a period of two years, through unforeseen circumstances and yet not lose his right to it. It was for that purpose that the law was adopted in that form in the States of Oregon and Washington.

Mr. HARDY. Is there not another consideration? Of course, the only reason for following that kind of practice that the chairman was speaking about was to keep down the competitors' catch, and thereby holding up the market for your own product.

Mr. WARREN. No, sir. When you come into a location there are certain places where you can probably drive a trap. Under the law you go in and make application for that particular location, secure your license, and put in your trap. Now, that must be, under the terms of any law, within a certain number of feet of any other form of net or apparatus. When a man gets that he has to pay a license fee, and he has to construct the trap or renew his license, assuming that he gets it in good faith; if he does not construct it, and if he does not renew his license, he forfeits that right. But if, owing to physical conditions or other unforeseen circumstances, he could not do so, he would not lose it.

Mr. HARDY. But what I mean is, under this provision is there any inducement for a man to procure a license and keep an idle place.

Mr. WARREN. That has never worked out that way; on Puget Sound or the Columbia River this practice prevails, and it has never worked out that way there.

Mr. HARDY. You have never found a man paying a license fee to keep a place vacant and idle?

Mr. WARREN. We have never found that condition.

Mr. HARDY. It occurs to me that there would be no profit in it.

Mr. WARREN. No; if a site is not worth fishing it is not worth paying a license fee for.

Mr. HARDY. And if a man pays a license fee it is to his interest to operate it, is it?

Mr. WARREN. It is to his interest to operate it.

The CHAIRMAN. You may proceed, Dr. Smith.

Dr. SMITH. Other new features of the bill are that greater restrictions are thrown about the use of fishing apparatus, looking to the perpetuation of the supply, particularly of salmon. The spaces between the fixed nets are increased; the size of nets is restricted, and the fishing is regulated in various other ways. Restrictions are imposed that are not in the existing law.

Mr. HADLEY. What are the limits as to the distance between pound nets under the new bill?

Dr. SMITH. That is in section 7, page 9; the lateral distance is 2,400 feet.

Mr. HADLEY. Six hundred feet end and 2,400 feet lateral passage-way?

Dr. SMITH. Yes. The present law is 1,800 feet.

Another feature of the bill is that the provisions of existing law regarding the wanton or willful waste of food fish are extended and clarified, and the manufacture of food fish into oil and fertilizer is prohibited after a term of years. For many years there has been in Alaska a plant at which herring have been converted into oil and guano. We are satisfied that this should be discontinued, because a demand for herring as food has sprung up; and a very much greater demand can be created, because there is no reason in the world why the Alaska herring should not compete with the best herring from other countries, like Norway and Scotland.

Mr. HARDY. Do you think the use of them for oil and fertilizer is destroying the supply?

Dr. SMITH. I would not say that there is any permanent diminution in the supply of herring up to this time; but enormous quantities are being taken when there is a demand for such fish in other forms.

Mr. HARDY. Unless the use for these purposes injuriously affects the fishery there would be no reason for prohibiting the use of them for anything. would there? We should leave that to the man catching them, should we not?

Dr. SMITH. There is very considerable opposition to this method of utilizing a valuable food fish among the people of Alaska. We have received numerous complaints, and petitions have been sent in to this committee and to the department praying that this practice be discontinued.

Secretary REDFIELD. Is it not the fact, Dr. Smith, that one concern used 60,000 barrels of herring in one year?

Dr. SMITH. Yes; 60,000 barrels of food fish were converted into oil and guano.

Mr. HARDY. Well, now, if the taking of that 60,000 barrels did not permanently destroy the supply of fish, and the men who took them found that they could get more money out of them in that way than in any other—unless it is destructive to the fishing industry up there and to the permanent supply of fish—why should we interfere? If

you have any commodity, you would sell it for food or for any other purpose, according to the price that you could get for it. It just occurs to me that, unless there is some permanent injury to the fishery, when a man caught the fish what he would do with them would be a question of what was the most profitable use to him.

Dr. SMITH. Then he would also be permitted to catch salmon and convert them into oil and fertilizer.

Mr. HARDY. If the oil and fertilizer would bring more than the use as food, I would use it if it was mine; you would if it was yours. If you had a horse you would ride him if he was worth more to you used in that way than if he was used for meat; you would not kill him for meat if he was worth more to you for riding purposes.

Dr. SMITH. In that case, it would be the man's own horse; but in the case of these fish it is public property in which all the citizens of the United States have an interest.

Mr. CURRY. It is not public property after it is caught.

Dr. SMITH. There is, of course, something to be said on both sides of this fish-fertilizer question.

Mr. HARDY. We used cotton seed as food; but it is also valuable as a fertilizer. I would say that if a man had a fine lot of cotton seed that he wanted to use for fertilizer, another man could not tell him that he must use it for food. But it is a different question, of course, if the fish are used in such quantities as to endanger the source of supply.

Secretary REDFIELD. We have been informed that a million cans of this same herring have been put up—have been taken and used for oil—and there is no question in our minds that the fishery can not stand both uses; we have got to choose between their use as food and as fertilizer.

Mr. HARDY. Now, whichever has the highest value is the one that ought to get the fish; it will get it unless we interfere.

Secretary REDFIELD. That, as a business proposition, is all right for the man that runs the business; but as a public proposition, I should say that it ought to be considered that the low price of food is a more important thing than the low price of oil.

Mr. HARDY. The only way you can justify that is to say that the use of it for those purposes is going to destroy the source of supply, because as long as the source is not destroyed a man can simply get more—

Secretary REDFIELD (interposing). Well, it would diminish the supply of food.

Mr. HARDY. Well, as I understand, you are not diminishing the supply of food.

Dr. SMITH. Up to this time there has been no noteworthy diminution that could be regarded as permanent.

Mr. HARDY. If you had a product of any kind, would you be willing for the United States to interfere with the disposition of that product?

Dr. SMITH. There is hardly a State in the Union that has not a similar provision of law.

The CHAIRMAN. It seems to me that we are not talking about what belongs to an individual, but what belongs to the people as a whole. If you raise corn, you can use it for the purpose of burning it if you want to do so. But these fish belong to the public; and if it is more

important to the public to use them as a food supply the Government can determine that as a matter of policy.

Secretary REDFIELD. May I interrupt you just a moment, Mr. Chairman, to introduce Mr. Strong, of Ketchikan, who can explain very briefly how this is affecting the fishery industry?

The CHAIRMAN. Yes; certainly.

Mr. STRONG. During the last year or two it has had a serious effect. The fertilizer plants take the fish when they can get them in quantities. They take them in boat and scow loads to their plants, and use them up rapidly. There is a demand for herring during the whole year as bait for the halibut fleet, and it is necessary to have a supply throughout the year. But if we permit the fertilizer plants to go in and destroy the schools, to make a clean sweep of them, why there is nothing left.

Mr. HARDY. Then, it does injure the source of your supply?

Mr. STRONG. Yes; otherwise the schools would be there. They would stay for perhaps two or three months, and the halibut fleet would be able to draw the fish from that source as they required bait; but the fertilizer plants are able to go in and deplete a school within a very few days, clean the whole thing out. Thus, it is a great injury to other branches of the business which would produce more wealth to the country.

Mr. HARDY. After all, then, that part of the law is intended to prevent the destruction of the source of supply?

Secretary REDFIELD. Yes.

Mr. STRONG. I suppose so. I have never seen the bill.

Secretary REDFIELD. Mr. Strong is not interested in the bill at all.

Mr. HARDY. Well, if it destroys the source of supply, it should be prevented. But if the only object is to prevent them from being used as fertilizer or oil when that use does not interfere with the supply that is a different thing.

Mr. HADLEY. As a matter of fact, that is the purpose of all these restrictions, is it not?

Secretary REDFIELD. Yes; that is the purpose of all these restrictions.

Dr. SMITH. This business can undoubtedly interfere temporarily with the supply and also permanently injure these fisheries. These plants went in there at a time when there was no demand for herring as food fish. They are entitled to a reasonable time in which to get out, as I hope they may be willing to do. I think we can show them that it is much more profitable to put up Alaska herring at \$10 a barrel, in a salted condition, than it is to convert them into oil and fertilizer.

Mr. HARDY. I think you will find that after a man has caught his fish, if he catches them, he is going to get as much money as he can, without being forced to it.

Mr. BOWER. The halibut fishery is dependent almost wholly on the herring fishery; the two are closely related; and if the herring fishery is depleted the halibut fishery will be bound to suffer.

Mr. HARDY. Well, for that reason you would be justified in limiting the catch of the herring under any circumstances and for any purposes.

Dr. SMITH. The halibut fishing industry is now somewhat injured—

Mr. CURRY (interposing). There are more halibut now than there ever were in Alaska.

Dr. SMITH. Some of the grounds have been depleted, just as they have in other parts of the world, but there are doubtless great reserves of halibut there yet.

Mr. CURRY. More than in all the rest of the world put together, I think.

Dr. SMITH. The catch of halibut on the Pacific coast is ten times greater than on the Atlantic coast.

Another new feature of the bill is that it takes time by the forelock, and seeks to prevent damage to the fishing industry by pollution of the waters by industrial waste, prohibits the use of poisons and explosives for catching fish, and requires that dams shall be equipped with fishways.

Mr. CURRY. What page is that?

Secretary REDFIELD. Sections 14 and 15. I will say, Mr. Chairman, that the experience of the State of Maine, as Mr. Hinds, I am sure, will tell you, has been one that is very sad. You may read "Kennebec salmon" on your restaurant bills of fare; but you will never get them: the sawdust in the lumber mills and the dams killed them long ago. The State of Maine, which once had magnificent salmon fisheries, has had them disappear almost wholly, or very largely, by the very things that this bill prohibits.

Dr. SMITH. And then, finally, among the major new features of this bill, is the discontinuance of private hatcheries and of the tax rebate system that is dependent thereon. The present system has been very much criticized in and out of Alaska, and to our minds the situation is decidedly anomalous. The present conditions certainly warrant a change in the law. Under the old law the Secretary of the Treasury had the authority to require that all persons engaged in catching salmon in Alaska should hatch and release salmon fry in numbers proportionate to the extent of the fishing operations. It is obviously impracticable to carry out any such regulation. As a matter of fact, I believe only nine private hatcheries were ever established, and at present only five are in existence.

Mr. HADLEY. This bill proposes to take those over, does it?

Dr. SMITH. Yes, sir. The law of 1906 exempted from taxation the cannery output of the owners of private hatcheries at the rate of 10 cases of canned salmon for every 1,000 red or king salmon fry liberated.

Mr. CURRY. Do you not think it would be a good idea for the Government to take those private hatcheries over now?

Dr. SMITH. That is provided for in the bill.

Mr. CURRY. I did not notice that.

Secretary REDFIELD. It is in section 17.

Mr. CURRY. That authorized the department to buy some of the hatcheries?

Mr. HADLEY. It directs the Secretary of Commerce to acquire by purchase or condemnation any and all private salmon hatcheries.

Mr. CURRY. You have also public hatcheries up there, have you not—Government hatcheries?

Dr. SMITH. Two Federal hatcheries.

Mr. CURRY. The Government has two hatcheries up there. I believe that the canneries would be pleased to turn their hatcheries over to you without compensation or condemnation proceedings.

Mr. BRITTON. Speaking for the Alaska Packers' Association, they have taken the position that they would prefer to operate hatcheries; but if the United States deems it advisable that the Federal Government should control all their hatcheries, they are perfectly willing to surrender their hatcheries to the United States. But they, of course, think that they should be properly compensated for the value of the hatcheries that they are surrendering. We agreed to the provision that is inserted in this bill that they should be taken over by the United States upon a fair valuation, either by direct purchase or through condemnation, as the United States prefers. That refers to the two hatcheries that are owned by the Alaska Packers' Association.

Mr. CURRY. I believe it costs the packers a good deal more to run their hatcheries than any rebate they get from the Government.

Mr. BRITTON. It costs them about 42 cents per thousand, whereas they get 40; it is expensive for them to run the hatcheries.

Dr. SMITH. It is my judgment that the owners of private hatcheries in Alaska have not received any noteworthy pecuniary benefit or profit from the provisions of existing law. Our own experience in operating hatcheries in Alaska is that 40 cents per thousand fry liberated is a very low charge. As a matter of fact, on the island of Afognak, where we have a hatchery which has had some vicissitudes in recent years on account of volcanic eruption, we have paid several dollars to plant a thousand young salmon.

Mr. HADLEY. All these existing private hatcheries that might be taken over are essential, are they, to the propagation of the industry?

Dr. SMITH. I would not say that; we would like to have the privilege of continuing those which we think are most effective.

Mr. HADLEY. Where are the two Government hatcheries?

Dr. SMITH. One is on Yes Bay, not far from Ketchikan, and the other on the island of Afognak, which is a game and fish reservation.

Mr. CURRY. If you took any over and paid for them, do you not think that you ought to take them all over?

Dr. SMITH. Undoubtedly we would have to take them all over if we took any over—at a fair valuation.

Mr. HARDY. How were those hatcheries established; under what foundation of law, and for whose benefit?

Secretary REDFIELD. I can put this in the record, if you care for me to do so. Here is the original circular quoting the law, and on the back the regulations which apply.

Mr. HARDY. I would like to have just a brief explanation of how and why they were established; who found it to their interest to establish them; what was the cost of the establishment, and what were the profits of the operation.

Dr. SMITH. At a time when the fisheries of Alaska were under the Treasury Department, the Secretary of the Treasury, under authority of law, issued regulations, and a provision of one of the regulations was that any person who was engaged in capturing salmon in Alaska should establish a private hatchery and plant fry in proportion to the magnitude of his operations.

Mr. HARDY. In other words, the purpose of it was to restock the salmon; when the supply was depleted to make him build it back?

Dr. SMITH. That was the idea; to make him compensate——

Mr. HARDY (interposing). For what he got?

Dr. SMITH. For what he destroyed.

Mr. HARDY. Now, you say under that law only nine people established such hatcheries, and only five of them still exist?

Dr. SMITH. That is all, because under this regulation you can see how obviously impracticable it was to have hatcheries established by everybody who was engaged in fishing in Alaska. For instance, the regulation says that each person "shall establish and conduct a hatchery at or near the fisheries operated by him." Well, salmon require very peculiar conditions in which to spawn; and a man may be conducting a fishery for salmon in Alaska where there will be no suitable hatching facilities within hundreds of miles.

Mr. HARDY. Well, the result of this feature of the bill would be to relieve the catchers of that obligation of the present law, and to take that burden on the Government itself?

Dr. SMITH. That obligation now rests on only five—

Mr. HARDY. At least, only five were carrying it out.

Mr. CURRY. Well, it costs them more than they receive from the Government.

Dr. SMITH. I have seen figures which indicate that for a certain year, or for a series of years, one private hatchery expended 42 cents per thousand fry liberated; another one 38 cents.

Mr. CURRY. And they received a rebate of—

Dr. SMITH. They receive a rebate of 40 cents.

Mr. HADLEY. Of course, involved in that there is a question of policy on the part of the Government, and that is, if it is going to conduct the hatcheries, would an ultimate increase in the industry result from the maintenance of these hatcheries? That is a vital element, and it goes beyond the mere question of receipts and expenses.

Secretary REDFIELD. That is the large question.

Mr. HADLEY. That is the large question; and while the private owner may only receive that temporary gain or loss, he may have received definite advantage in the course of years in the catch and the permanence of the industry; and so it would be for the Government to say what would be best as a large question of policy.

Secretary REDFIELD. Yes.

Mr. HARDY. From what you say, Dr. Smith, I imagine that these private plants would not have been maintained by the present owners for the profit in them?

Dr. SMITH. No, sir. As a matter of fact, the largest hatchery in Alaska was established before the requirement of law; it was put in there voluntarily, because it was thought by the owners that it would help their fishery.

The principal objection to private hatcheries that I entertain is that Congress makes no adequate provision for their inspection; and that we can not, or do not, have at each hatchery at certain critical times a qualified inspector whose report would be needed in order that we might determine the efficiency of the hatchery and check up with the superintendent the number of fish reported to be liberated.

Mr. HARDY. That simply amounts to the fact that you can not know about it; they can not do any harm, these hatcheries?

Dr. SMITH. They can not do any harm; they are certainly doing good.

Mr. HARDY. But you do not know how much?

Dr. SMITH. But we are required to certify to their efficiency, and that is impossible with the present force and facilities.

Mr. CURRY. Well, it is to their interest to run a proper hatchery, is it not?

Dr. SMITH. Decidedly so.

There is one other matter, and only one, to which I would call your particular attention in this connection, and that is that a man may comply with the law in all its details, planting his salmon as fry, and yet, in my judgment, he would not be conducting an efficient hatchery. I do not believe any hatchery that simply turns out fry can be efficient. In fact, in these times a hatchery is efficient in proportion to the number of fry it does not turn out; that is, its efficiency is in proportion to the number of fish that it carries beyond the fry stage. All of our recent improvement in salmon hatching in the Pacific States and in Alaska has been in rearing them beyond the fry stage.

Mr. HARDY. What do you mean by the "fry stage"?

Dr. SMITH. The fry stage is while the fish still carry a heavy yolk-sac on their abdomen. They are practically helpless at that stage. They carry this for a number of weeks, and during that time do not eat; they have no functional mouth. The sac is gradually absorbed and then the fish begin to swim, and when the yolk is absorbed and disappears they cease to be fry. No fish should be planted in that state if it can be avoided; but a hatchery can strictly comply with the law and yet be conducting a hatchery that can not by any possibility be considered efficient in the light of our present knowledge and experience.

Mr. HARDY. In other words, you think that the hatchery ought to take the fish beyond the stage required by the present law and then turn them out?

Dr. SMITH. Yes; we are carrying 30,000,000 salmon this year beyond the fry stage, up to the fingerling stage.

Mr. HARDY. Well, when they are turned out in the fry stage, do you just take them out of your hatchery and let them go into the waters?

Dr. SMITH. Such fish are planted on the spawning grounds, where there is a host of enemies and where a tremendous mortality necessarily ensues.

Mr. CURRY. That is not done any more?

Dr. SMITH. The law permits it to be done.

Mr. CURRY. The law permits it to be done, but they would be very foolish to do it.

Secretary REDFIELD. Very foolish. The sundry civil appropriation bill this year carries an appropriation for a lobster rearing plant, so that in that particular industry they can be carried until they are old enough to take care of themselves.

Mr. HADLEY. At the end of last year had the output shown a tendency to decrease or to increase--the quantity of fish caught?

Dr. SMITH. In Alaska?

Mr. HADLEY. Yes.

Dr. SMITH. The catch in 1915 was the largest on record, and the catch in 1914 was also a record one.

Mr. CURRY. There are some matters here in reference to the whaling industry. I would like to know how you intend to handle the whaling industry up there? There was a bill introduced in

Congress at the last session and referred to this committee under which whaling plants were not to be permitted within 75 miles of each other.

Dr. SMITH. That is following the Canadian practice.

Mr. CURRY. And in Alaska there is a certain Minnesota corporation that has all those points now. Would this bill give them a monopoly of the whaling industry?

Dr. SMITH. The whaling industry was intended to be covered by section 18 of this bill. We are not prepared at this time, unless the committee so insists, to recommend any detailed regulations for the whale fishery, or the walrus fishery, or the hair seal fishery, or various other minor fisheries. We have not had enough experience, for one thing, to determine all that those industries need in the way of protective legislation.

Mr. CURRY. Well, there is a corporation that is organized and practically has control of those shore plants. There are other whalers up there at the present time?

Mr. BOWER. There are only two whaling stations in Alaska at the present time, and they are about 1,500 miles apart, I believe, along the coast line. Other than that, the whaling industry in Alaska is practically nil; the offshore whale fishery has practically ceased to exist.

Dr. SMITH. The only way to save the whale fishery is by some international agreement covering the killing of whales on the high seas, in the north Pacific Ocean, Bering Sea, and the Arctic Ocean.

Mr. CURRY. Well, you might have that international agreement; I hope you will come to an agreement with Japan and Russia. I do not know whether Japan would keep her end of the agreement or not; she might if she wanted to.

Dr. SMITH. It will be a very difficult thing to regulate. The protection of whales is something that has not heretofore been thought feasible.

Mr. CURRY. But you have it in the bill.

Mr. HARDY. What section did you say it was?

Dr. SMITH. Section 18. If it is the sense of the committee that there should be some specific provisions for covering the whale fishery, we will be glad to give the matter thought, and will report something for your consideration.

Mr. HADLEY. You say it is the present judgment of your bureau that you could not well attempt to regulate the whaling business?

Dr. SMITH. The shore whaling industry of Alaska as now conducted will, I think, lead to a very great diminution in the number of whales that resort to these shore waters. They are for the most part not the kinds of whales that used to be caught on the high seas, and are now approaching extinction.

Mr. HARDY. I do not exactly understand how the whale comes in section 18; I do not see it spoken of in there by name.

Mr. BOWER. Yes; as an aquatic animal.

Mr. CURRY. The whale is also spoken of by name in section 2.

Secretary REDFIELD. The whale lives in the water, but he is not a fish.

The CHAIRMAN. Are you through, Dr. Smith? Has any one any questions to ask Dr. Smith? Of course, after we become familiar with the text of this bill, we will very likely want to call you back.

Are there any gentlemen here from the Pacific coast who desire to be heard to-day?

Mr. CURRY. Before Dr. Smith gets through, I would like to have him make some suggestions to the committee in reference to this whaling proposition, as he has it in the bill. I do not think that department should be given the power to permit a monopoly of that industry. Of course, we want to see the whales protected.

Dr. SMITH. There is no law or regulation whatever for the killing of whales in Alaska now.

Mr. CURRY. Of course, this act is not to be carried out by any one individual, but by a public office which might be filled by all kinds of men, some of whom might be in favor of creating a monopoly. I think we ought to look over that very carefully.

**STATEMENT OF MR. ALEXANDER BRITTON, ATTORNEY AT LAW, WASHINGTON, D. C.**

Mr. BRITTON. Mr. Chairman and gentlemen, the fishing industry in various years have appeared before different committees of Congress in the effort to assist them in shaping up legislation that would be satisfactory.

At the last session, when Dr. Jones went to Alaska to investigate conditions and returned, we were invited by the Department of Commerce to come in and see if we could not agree on some sort of legislation, and a great deal of time and labor was spent on the preparation of this bill, which is fairly satisfactory to the people interested in the business, and I do not think that we ought to take up the time of your committee in going into the details of that bill, any more than the committee wants it as a matter of information to the committee. We are here to give any information that the committee may want, in the way of explanation or otherwise.

The CHAIRMAN. When you say "we," to whom do you refer?

Mr. BRITTON. Mr. Warren, who is here, and Capt. Reynolds, and myself.

The CHAIRMAN. And you represent what interest?

Mr. BRITTON. I represent the Alaska Packers' Association. Mr. Warren represents his own independent interests, and both of them represent the Pacific Fisheries Association; that is an association of independent salmon packers.

The CHAIRMAN. Well, do you desire to make a statement?

Mr. BRITTON. We are here at your request.

Mr. WARREN. Mr. Chairman, if the committee would like to familiarize themselves more thoroughly with the provisions of the bill, we would be glad to come here later.

The CHAIRMAN. Yes: Our next hearing day is next Thursday, and Dr. Jones will be here then.

Secretary REDFIELD. I would like to have Dr. Bower, who has the whole of the details in his mind, also make a statement at that time.

The CHAIRMAN. Yes; and in the meantime we can familiarize ourselves with this bill.

Mr. HADLEY. Probably we could ask these gentlemen questions better after we have familiarized ourselves with the text. I am not very familiar myself with it, except that I saw at a glance that all the

practical features are based on the statute of Washington, and I am very familiar with that; but I am not familiar with the bill aside from that.

Mr. WICKERSHAM. I would like to ask Mr. Britton if he represents the Booth fisheries also?

Mr. BRITTON. Judge Wickersham asks me that question every time I get on my feet.

The CHAIRMAN. It is the first time he has asked it in this committee.

Mr. BRITTON. As before, I state that I do not.

Mr. WICKERSHAM. Since that time, you have said something about being employed by them; and I was just wondering if that had been consummated.

Mr. BRITTON. I do not, Judge Wickersham.

The CHAIRMAN. If there is nothing further, we will adjourn until Thursday of next week.

(Thereupon, at 5.15 o'clock p. m., the committee adjourned until Thursday, June 1, 1916, at 10 o'clock a. m.)



## ALASKA FISHERIES.

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COMMITTEE ON THE MERCHANT MARINE AND FISHERIES.

HOUSE OF REPRESENTATIVES,  
*Washington, D. C., June 1, 1916.*

The committee met at 10.20 o'clock a. m., Hon. Joshua W. Alexander (chairman) presiding.

### STATEMENT OF MR. E. LESTER JONES, SUPERINTENDENT COAST AND GEODETIC SURVEY, DEPARTMENT OF COMMERCE.

Mr. JONES. Mr. Chairman, I do not know how much detail you would like to have in the general trend of what I shall have to say.

My trip to Alaska was in 1914, and primarily to see at first hand the conditions of the salmon fisheries and, in fact, to inspect and look over anything over which the Bureau of Fisheries has jurisdiction, and other matters. I left here in May, 1914, and returned to Washington in November, stopping en route. I spent something in the neighborhood of five months in Alaska, having every facility furnished entirely by the Government for seeing these conditions at first hand. My trip started at the international boundary line and extended west to the Aleutian Islands and north to the Pribilof Islands, and I visited every section where they take salmon in any quantity, except Bristol Bay, and, owing to the conditions which arose on the Pribilof Islands which necessitated my going there immediately, I was deprived from seeing that section. However, I did not think that was of great importance—losing that opportunity—as I visited about 50 canneries and salteries during my trip.

The CHAIRMAN. Indicate what points you did visit and where those canneries and salteries are located.

Mr. JONES. Here is the international boundary line right here. I spent about two months in southeastern Alaska among those 2,000 islands and I touched at one or more localities on nearly all the large islands and went to many of the important canneries. I not only visited the canneries but I went out on the fishing grounds and studied the various methods of taking the salmon by traps, purse seines, gill nets, spearing, or gaffing for the Chinook or king salmon, etc. Then I went up into the streams and noted the conditions there at the time of spawning. The salmon were spawning part of the time I was in southeastern Alaska. I was very careful to weigh both sides of all questions and I did not use one observation as final, and waited to see a great many; and what I have to say and have said in my report is not based on hearsay but from personal contact. I also

laid special stress upon observing the methods in which the salmon were canned.

I went to the whaling station at Port Armstrong, southeastern Alaska, and Akutan, western Alaska, and watched those operations with a great deal of care.

The CHAIRMAN. Where is the first station located?

Mr. JONES. Right here, southwestern corner of Baranof Island. I went to the only fertilizer factory in Alaska, at Killisnoo, on the western shore, in a little bay on Admiralty Island. I was very anxious to see that, as there had been a great deal of controversy over it, as some of you gentlemen know, during past years as to whether it was wisdom to permit its continuation.

From southeastern Alaska I went to Yakutat, where they are catching so many salmon in Sietuk River, etc. From there I went to Prince William Sound where Cordova and Valdez are located, from the latter place is the beginning of the wagon road to Fairbanks. And I went up the Copper River twice, especially to observe how the salmon were running up that stream and also to note the method used for taking the salmon by dip net. Due to the very rapid water, the salmon work over to the shore, and the fishermen dip them out by hand nets.

I brought this map with me because it has the locations of the canneries indicated on it and therefore easier to refer to. These black dots are the canneries, and you see how they are distributed in southeast Alaska. Note one at Yakutat, and there are a few scattered in the central part of Alaska. Note Cook inlet, where there are several. Where you see the solid black squares instead of the circle, they represent salteries. This symbol (hollow circle) represents the fertilizer factory at Killisnoo.

I might add right here that I went to the hatcheries; not only Government hatcheries at Yes Bay, but also those hatcheries owned by private concerns.

Mr. RODENBERG. What cannery is that right above Killisnoo? There is one somewhere near there, isn't there?

Mr. JONES. Right here, sir [indicating on map]?

Mr. RODENBERG. Yes.

Mr. JONES. That is the Admiralty Trading Co. on the eastern shore of the island. Here is one farther north, in the northern part of the island.

From Cook Inlet I went westward after receiving a radio to proceed to the Pribilof Islands from the Secretary of Commerce, and when I finish my work on these islands I resumed my investigations, laying special stress on the fisheries. Visited principal points on the Aleutian Islands, Sannak Islands, stopped at the Shumagins where the great codfish industry is being carried on. Then from there to the Semidi Islands, also stopping on the Alaskan Peninsula, where there was something of interest in connection with my duties. Then from there I went to Kodiak Island, where there are a number of canneries, the largest of which is at Uyak. Visited the Karluk Hatchery, owned by a private company. Then on Afognak Island, where the Federal Government operates a hatchery.

I finished my trip in southeastern Alaska, where I could see some conditions that did not exist when I left two or three months previous to my return.

I do not know exactly what line you would like me to speak on, unless I go into a great many details, but I will go just as far as you wish, Mr. Chairman.

The CHAIRMAN. Of course, what we want to know is the necessity, in the first place, for this legislation. If there are any conditions there that need correction, why, indicate them.

Mr. JONES. In the first place, I wish to say that I found the Federal officials, who are widely scattered on account of the vast territory they have to cover, doing excellent work and performing their duties very well under the hardest kind of conditions.

The CHAIRMAN. What is the extent of the territory covered there?

Mr. JONES. The coast line of Alaska from the international boundary line up and including the Arctic is 26,000 miles.

The CHAIRMAN. Indicate on the map how far up the fisheries are located?

Mr. JONES. Up here. I should say, taking in the general trend and all around the islands, there are perhaps eighteen or twenty thousand miles. I have not measured it, but I should say approximately that much coast line.

The greatest drawback—

Mr. HADLEY. What is the sailing distance from southeastern Alaska out to Bristol Bay and the Pribilof Islands?

Mr. JONES. You mean direct?

Mr. HADLEY. Yes; the usual course.

Mr. JONES. About 1,400 miles. Cross Sound to Bristol Bay.

Mr. HADLEY. I asked that on account of the effect on administration.

Mr. JONES. Yes, sir. I found the greatest drawback not only in the further protection of the great salmon industry but also in enforcing the law where it was needed, was due almost solely to the fact that there has not been the money provided for vessels and wardens or inspectors, or whatever you wish to call them. To give an example, in southeastern Alaska, which is an immense territory by itself, the fisheries had only one small boat to cover that territory. The boat was not only unable to cover the area but was very slow, and everyone of the modern fishing boats there could distance the Government boat without any trouble. This is the primary reason for any lack of enforcement of the law. I did not find there was any lack of enthusiasm among our men; they simply were helpless.

Another point. They were continually calling on privately owned vessels to take them around. The Government officials are so isolated, especially in central and western Alaska, that the only way they could move about was to go to the cannery superintendents and ask them to take them to such and such a point.

The CHAIRMAN. To inspect their canneries?

Mr. JONES. Yes, sir; and if there was a violation, going there for the purpose of arresting them. Perhaps you can realize the embarrassing position it places one of the officials in. He is handicapped at the start, dependent on them both as to moving about as well as for his food. This point I would like to emphasize more than any other, because people who have not been there and realized the isolation, can hardly appreciate the fact that there should be modern boats and more wardens for patrolling the waters, especially of central and western Alaska.

Mr. CURRY. How are the canneries being conducted? Are there many deliberate violations of the law?

Mr. JONES. The canneries generally surprised me in respect to observing the law. I found them generally in splendid condition and packing their fish well. There were exceptions; but, as a rule, the well-organized canneries are quite as particular as any first-class manufacturer would be in the States.

Mr. CURRY. Now, if they are being conducted in that manner, why should there be such a great increase in the inspection force?

Mr. JONES. I will tell you. I said there were some exceptions, Mr. CURRY, and those very exceptions should be looked after.

Mr. CURRY. Would it take any more people to look after them than you have now, if you had boats?

Mr. JONES. Yes; because some of the officers never get to the canneries. I think the boats are the principal thing needed and money to operate them; they can not get anywhere until they have the boats. I think adding to the force is a secondary consideration. More wardens are needed as some of them should be permanently located at some of these central and western points, but there is no use putting the wardens there unless they have some up to date vessels to carry them about during the salmon season, or any other fishing season.

Mr. HARDY. How much show or opportunity would there be to catch one of these canneries in a violation of the law, if you have first to get his boat to take you up there to look into it?

Mr. JONES. There is none at all. Under the present conditions it is considered a joke in many localities on account of the manner in which Government officials try to enforce the law. When the men on the fishing ground are often warned in advance.

Mr. HARDY. It is bound to be a joke, when you depend on them to carry you there, is it not?

Mr. JONES. It certainly is. But I do not want to convey the impression there is a wholesale violation of law in Alaska: the violations are in the minority. But if the laws are going to be properly enforced, then my contention is that those people should be held to strict account for violating the law. I found that generally the superintendents were in favor of observing the law, and they seek the fullest investigation of their canneries.

Mr. HARDY. The point I am making is that if there were a great number of violations, you could never find it out by the means you have at your hands.

Mr. JONES. Absolutely not, sir.

Mr. CURRY. How could the cannery notify the people that you were coming to investigate them. Are there any telephones from one cannery to another?

Mr. JONES. No, sir. I will cite you one instance: A warden of the fisheries was about to leave a point on one of the cannery's tugs and when the tug was several miles from the fishing ground the captain blew several blasts. The warden said, "What is that for?" "Why," he said, "that is my signal to notify the foreman of the fishing gang when a warden is on one of our tugs so as to give him plenty of warning in case he is violating any law."

Mr. CURRY. That would not be much notice, would it?

Mr. JONES. Four or five miles.

Mr. CURRY. How long would it take you to go that far?

Mr. JONES. Well, I was just speaking in—

Mr. ROSENBERG. I suppose the tug would slow up a little bit about that time, too!

Mr. JONES. I was not giving the literal distance.

Mr. CURRY. Suppose it was 10 miles, it would not give them a chance to clean up the cannery, would it?

Mr. JONES. It was not the cannery I was referring to; it was fishing in places where they had no business.

Mr. CURRY. Of the violations of law you found up there, what is the percentage and what is the character of the violations?

Mr. JONES. To answer the first question, I should say in canneries the violation of the sanitary law—if we haven't one on the statute books we certainly have a moral one—is about 5 per cent; I should say the number violating by improper fishing was 25 per cent.

Mr. CURRY. How are they violating the sanitary law?

Mr. JONES. By packing fish that were unfit to go in the cans.

The CHAIRMAN. Stale fish?

Mr. JONES. Yes, sir. And I will reiterate what I have said, that with the well-organized companies I don't remember finding a cannery that was not reasonably clean. It was just several small canneries, and the sooner these or others doing likewise are wiped out of existence the better, because it struck me that those which were not able to be conducted properly were taking and putting into cans most any kind of salmon they could get hold of.

Mr. CURRY. Do you think that the small canneries ought to be put out of existence?

Mr. JONES. I think so if they can not conduct them properly, or any others for that matter. I found the canneries that were violating the law by putting bad fish into cans for food purposes were the small canneries. I did not find a large cannery violating the law in that way.

Mr. CURRY. If you had a boat or a number of boats of your own, couldn't you inspect these small canneries a little more frequently, possibly?

Mr. JONES. Yes, sir. Under the present conditions, I was referring to. If those canneries could be inspected at times by Government vessels, not knowing the time they would appear, I am sure conditions would be helped. I went there under unusually favorable conditions; no one knew where I was most of the time, and I believe I saw a fairly good average of what canneries are doing all the time.

Mr. CURRY. Of course, a Government inspector can inspect anything out of existence, if he wants to.

Mr. JONES. I beg pardon, sir?

Mr. CURRY. I say, of course, a Government inspector can inspect anything out of existence if he wants to. The Government inspectors of the United States have inspected all of the small slaughterhouses out of existence, and by combinations these big slaughterhouses have centralized the business and instead of reducing the cost of beef they have increased it.

Mr. JONES. Mr. Curry, I positively did not mean to convey to this committee or to anyone else that I was in favor of the small man being put out of business; I never dreamed of such a thing.

Mr. CURRY. I did not think you meant to.

Mr. JONES. I did not mean it in that way; I just mean this, that those people who are not able to go into Alaska and conduct their canneries along sanitary lines, whether they are big or small, should be made to stop, even if it is necessary to close up the cannery. I think that would be largely overcome if the officials had ample ways and means for getting around all the time. And that means, in southeastern Alaska, three or four good boats, instead of one poor boat. One or two in central Alaska and one in Bristol Bay.

Mr. CURRY. I think you ought to have boats of your own to a sufficient number.

Mr. ROWE. Give us an idea of the character of the boats required for the inspection service.

Mr. JONES. You mean the size?

Mr. ROWE. Yes.

Mr. JONES. It should be large enough to carry seven or eight men, in addition to two or three wardens, because it might be necessary to send a number of officials and they might have to live on the boat for days, and they should be comfortable.

Mr. ROWE. Is that large enough to live in those waters?

Mr. JONES. In southeastern Alaska I am referring to now.

Mr. ROWE. In around the islands?

Mr. JONES. Yes, sir; and they should be fast. This is one of the essential points.

Mr. ROWE. How many knots an hour.

Mr. JONES. It should be capable of making 15 or 16 knots at least. It is absolutely useless to pass any law, I do not care what it is, unless the Federal Government provide boats and perhaps a few more men. That is the real reason, or largely so, that the violations that have occurred in Alaska have not been apprehended.

Mr. ROWE. Give us some idea of how you would enforce the laws. You know in many of the operations you are speaking of there you would have to go a great distance, several days' journey?

Mr. JONES. They are not enforced at all in some of the places. They may not be violating the law in those places, but if they are, the violators are not apprehended because it is impossible for the wardens to get to many places they should. Therefore, that cannery, if at all isolated, remains uninspected.

Mr. ROWE. And the courts, if any, are a long ways away from there?

Mr. JONES. There is court held at Juneau, and then they hold court at Ketchikan and they hold court at Unalaska; also at Valdez. Court is held in Bristol Bay, a special session; the Coast Guard cutter goes to this point as well as some other places, and court is held right on board of the cutter, and this may be only a few days in the entire season; I refer to the isolated points.

The CHAIRMAN. You are speaking now of violations of the law by the canneries?

Mr. JONES. Yes, sir.

The CHAIRMAN. You are not speaking with reference to the regulation of the fishing itself?

Mr. JONES. I am speaking generally, because most of the canneries operate their own fishing gangs, directly or indirectly. I mean by that the men are employed by them. You asked me if I could give

you the percentage, Mr. Curry, and how they violated the law. The principal way they are violating it is in fishing in waters that are closed. For instance, seines either purse or haul; the men are allowed or do so of their own volition, go out into these streams and fish at the very times the mouths of those streams should be left open for the fish to go up and spawn.

I did not find in every case, by any means, they are violating the laws, but I did see the law violated. And it comes right back to the point that probably I did not see all the violations; but I watched very carefully, and I did not use a cannery boat all the time I was there or accept any favors, so that there could be no possible criticism by anybody who might feel that I went there in any way prejudiced. I went there in two Government vessels covering my whole trip, the *Osprey* in southeastern Alaska, and the *Albatross* from Juneau west to Bering Sea and back to Juneau.

Mr. CURRY. Did you see many violations of the law?

Mr. JONES. You are speaking of fishing?

Mr. CURRY. Any violations.

Mr. JONES. I saw a number of violations of fishing; in proportion to the amount of fishing that I saw done, not over 25 per cent were violations.

Mr. HARDY. Was it not to the interest of those larger canneries who are seeking to turn out proper products to let you into violations, especially where the smaller canneries or anybody else were putting up unwholesome food? Is it not a fact that the mere indulgence of that practice by a part of the canneries there has a tendency to injure the reputation of the whole business?

Mr. JONES. It no doubt has, sir; and therefore it would be unfair to make too much of the point that the amount of inferior salmon that is canned, because it is so small that I should not lay too much stress on it.

Mr. HARDY. Does not that very amount injure the interests of those who try to keep within the laws?

Mr. JONES. No doubt it would if the true situation of affairs were not made known. That is, the full truth.

The CHAIRMAN. I suppose this is the point the judge has in mind, that it is to the interest of every cannery in Alaska that wants to build up trade for salmon, that the output shall be wholesome, well selected and well canned, and have a good reputation on the market; and if inferior goods come on the market from time to time that that hurts the whole industry?

Mr. JONES. There is no doubt in my mind that a majority of the canneries in Alaska will not condone or allow any such thing to happen if they could prevent it; because I believe they are looking out for their own interests and trying to do things in the very best possible manner as far as canning salmon properly is concerned.

Mr. HARDY. Does not the same thing apply also to the fishermen who are catching at an improper place or times of fishing? Are not those who obey the law interested in seeing that everybody else obeys the law in that matter?

Mr. JONES. Well, I do not know about that. I did not find the large canneries so careful about how they get the fish: it is what kind of fish they put in their cans.

Mr. HARDY. The violators work then to some extent to the advantage of the canneries by bringing the fruits of their illicit labors to the canneries; is that the idea?

Mr. JONES. My point is that the large canneries and the men who are fishing for them were violating the law just as much as the small canneries were in this respect.

Mr. HARDY. And was it not to the interest of the large canneries to support the men who bring fish to them?

Mr. JONES. Some of them may not have known it. The owners of those canneries might not have been conversant with the situation at all.

Mr. HARDY. I think we can all draw our own inference along that line.

Mr. JONES. I have no right to say they were, because most of them do not live there; the superintendents are there and they may be 30 or 50 miles from the fishing ground. I took it up with them and they said they did not authorize any such violations.

Mr. ROWE. What is the practice: don't they pay so much per fish?

Mr. JONES. Yes, sir.

Mr. ROWE. They do not pay the men by the day who go out with the boats, do they?

Mr. JONES. Yes, sir.

Mr. ROWE. Some of them do?

Mr. JONES. Yes, sir; some of them do that way.

Mr. ROWE. I thought the habit up there was——

Mr. JONES. Not altogether.

Mr. ROWE. And they had to bring in so many fish?

Mr. JONES. The independent fisherman gets so much per fish, and there is a great temptation when there are certain favorable conditions made possible by high or low water for them to step over the dead line a little bit. I can understand it.

Mr. ROWE. I think you ought to tell us something about the salmon's habit of spawning so that we will know when you tell us of their stopping in the streams.

Mr. CURRY. Don't you think we ought to get through with this line first?

Mr. ROWE. All right.

Mr. CURRY. In reality, I think possibly the canneries pretty well obey the law, with the exception of a few small canneries.

Mr. JONES. They do in most of the canneries.

Mr. CURRY. Most of the canneries take their men up from San Francisco or from Portland or from Seattle for the season?

Mr. JONES. Yes, sir.

Mr. CURRY. Now, those men fish for the canneries at a monthly wage?

Mr. JONES. Yes, sir.

Mr. CURRY. But many of the fish are bought by the canneries from the independent fishermen who live in Alaska?

Mr. JONES. Yes, sir.

Mr. CURRY. Most of the violations of the law is in the fishing and not in the canning, isn't it?

Mr. JONES. Yes, sir.

Mr. CURRY. And most of the violators are independents--the small men who go out there and catch fish and sell them?

Mr. JONES. No, sir; I could not say that; I would not make that statement, because of the fact that those big gangs employed by the large canneries, in several instances, were violating the laws themselves. And I think it is about a toss-up between the independent fishermen and the large fishermen; at any rate, from my observation it was.

Mr. HADLEY. Your whole point is, as I understand it, you are advocating an extension of the facilities for the purpose of inspection to enforce compliance with the law wherever there may be violations?

Mr. JONES. Yes, sir.

Mr. HADLEY. And that is the sole purpose of this part of your statement?

Mr. JONES. Yes, sir.

Mr. HADLEY. It does not go so much to the merits of this bill as some other features of your statement I presume will, but it is a matter of information for the committee.

Mr. JONES. Mr. Curry asked me the question of the proportion of violations. I was not up there to arrest anybody; I was there to see for the purpose of improving conditions. I did not tell anybody where I was going, although I have no doubt they got wind of it sometimes. The very fact I walked into some canneries and found conditions not exactly what they should be is good evidence they were not forewarned that I was going to be there. I never told anybody where I was going except the captain of the boat.

Mr. CURRY. Did you see any fish canned that would be unhealthy to eat?

Mr. JONES. I did, sir.

Mr. CURRY. Of course, what you want the inspection service for, more than anything else, is, first of all, to preserve the fish, to keep the run from being depleted, and, second, to inspect the canneries so that the canned salmon are canned in such a manner that they would not be injurious to human health?

Mr. JONES. And the latter was a very small proportion. But I found two or three canneries where conditions were such that they were not only actually putting bad fish in the can but the conditions around the cannery were very bad indeed.

Mr. CURRY. You ought to have authority to stop that.

Mr. JONES. I did. I was not there to arrest anybody; simply because that was not the object of my trip.

Mr. CURRY. No; I know.

Mr. JONES. But I did stop it to the extent of having thrown overboard many salmon and also some of the filled cans.

Mr. CURRY. There was one cannery?

Mr. JONES. That was the one I just referred to. There were several about as bad.

Mr. HADLEY. The point is you have the authority, but do not have the means; is not that it?

Mr. JONES. We do not have the means; certainly the authority, to a great extent, is in the law, but they have no way of enforcing it either by making a patrol of the waters or inspecting these canneries.

But the principal thing is there is no method or way of getting to the canneries.

Now, at a number of the large canning companies where they are inspected, at four or five of the canneries I found each cannery the same way, immaculately clean. Sometimes they would have a great many fish there and sometimes they would not have any, but the general impression I got from the visit of 50 canneries or thereabouts was that they were handling the fish in a proper manner. And I hesitated to say regarding these three or four cases, and emphasizing too much the fact that those canneries were putting in cans fish which they should not, because it would be misconstrued. If I just made an offhand statement they were packing salmon in Alaska that was unhealthful, it would not be fair, because I believe 95 per cent of the canneries there are packing fish that are fit for food.

Mr. HARDY. That brings up the very point I suggested a few moments ago—the fact that there is 5 per cent of unfit may damage the whole output?

Mr. JONES. Those canneries, Judge Hardy, that I warned for handling bad fish, I do not know that they will ever do that again, because they had a pretty good warning and the threat of arrest was held over their heads. And it was admitted to me that two of the canneries in question had not the money to handle their business as they should.

Mr. HARDY. Unless those who obey the law help, you will not break up the violations of the law.

Mr. JONES. Did you ask me the question, Mr. Hadley, or was it Mr. Curry—one of you gentlemen asked me a question regarding the violations of fishing. I did not answer it because I was disconcerted at the time.

Mr. HADLEY. I did not ask with regard to violations.

Mr. CURRY. No; I asked in reference to violations of fishing.

Mr. JONES. It is a very easy thing, due to tides and currents.

The CHAIRMAN. Considering this bill—you have read this bill and perhaps may have had some part in framing it?

Mr. JONES. This bill is an improvement. I may say, on the bill introduced in the last Congress and which was introduced automatically in this Congress.

The CHAIRMAN. What bill is that?

Mr. JONES. H. R. 753.

The CHAIRMAN. In this Congress?

Mr. JONES. Yes, sir.

The CHAIRMAN. Who introduced it?

Mr. JONES. Mr. Carlin, of Virginia. I consider this bill now before your committee—9528—a good bill. I have gone over it very carefully and digested it thoroughly and I think the bill is good just as it is. The point for my telling what I have seen, the different methods of fishing and why conditions are so in Alaska, only emphasizes the fact that these conditions will be more or less corrected by this bill now before you, if vessels are furnished to enforce the law. Unless such action is soon taken, I do not see any use of introducing any more legislation.

The CHAIRMAN. I have read your report and you dwell at length on the manner of fishing and the necessity of protecting the mouths of the streams?

Mr. JONES. Yes, sir.

The CHAIRMAN. And the need for an unobstructed course for the fish going to the spawning grounds and the waste in various methods of fishing—are they all covered and those conditions corrected in this bill, do you think?

Mr. JONES. I think they are; yes, sir. I think they will be amply protected if there is an opportunity for patrolling the waters during the fishing seasons. I do not think there is any other argument to offer for the future welfare of Alaska fisheries if the Federal Government will give the vessels to enable the wardens to enforce the law. I found the men who are in charge up there, 10 in all, a fine lot of men. They are conversant with the conditions there and they are doing the best they can. It is a hazardous work going around to these traps, on account of the rough water, etc., and they are doing well.

Mr. HADLEY. Is it not a difficult matter to maintain a strict compliance with the law on account of the hazardous conditions and state of the tide and weather you speak of on the part of the fishermen?

Mr. JONES. I started to speak of this.

Mr. HADLEY. I thought perhaps it would be a fair statement to have introduced in the record, so far as it is true. I am familiar with those conditions on Puget Sound.

Mr. JONES. Regarding the closing of traps, I have seen times in Alaska when one could not think of closing a trap during the weekly close season; nobody could get near the trap without endangering his life.

The CHAIRMAN. On account of rough water?

Mr. JONES. Yes, sir.

The CHAIRMAN. What is the difference in the tides there?

Mr. JONES. They vary. All the way from 4 or 5 feet up to 30 feet. On Bristol Bay and Cook Inlet there is great variance between high and low tide, and it varies all through Alaska.

The CHAIRMAN. Take southeastern Alaska, in among those islands.

Mr. JONES. It does not vary so much.

The CHAIRMAN. The waters are protected there by the islands?

Mr. JONES. Of course, there are some exposed waters—Frederick Sound, Clarence Strait, etc.: it gets pretty rough sometimes, more so than you have any idea of. These waters are wide and the wind blows up and down them with considerable force.

Take the gill nets: it is almost impossible to keep them always where they belong; the current and tide will take them in prohibited waters in spite of the fishermen. They are usually handled by one man, and I think they try to do the best they can.

Mr. CURRY. That is what I meant when I said it was possible to inspect that business out of existence where the inspector wanted to do it.

Mr. JONES. I do not think they want to do that.

Mr. CURRY. You would not want to do it; but human nature is human nature.

The CHAIRMAN. Why would they be interested to do it; what motive would they have to do it if they had any sense?

Mr. JONES. I do not know of any.

Mr. CURRY. Some men are like policemen; they have to do something and make a report to keep their jobs. And some men have the idea it is a whole lot easier to deal with one big cannery than it is with half a dozen small canneries, just the same as the proposition out here in the forest reserves; it is easier for the forester to deal with 1 man with 3,000 head of cattle than it is to deal with 10 men with 300 head of cattle each. It is almost impossible now for a man to get on the forest reserve and get a right to run only 300 head, while any man can get a chance to run 3,000. Of course, I know the Fisheries Department would not do that, and I believe in giving the inspectors the number of ships they want and a reasonable number of men.

Mr. JONES. I did not find any tendency that way, Mr. Curry. In fact, there were a great many cases brought to my attention—I should say 20—where our wardens had shown wise discretion in not prosecuting, claiming the conditions made extenuating circumstances, and therefore warranted letting those people off with a warning. And I think they try to do that as a rule; I do not think there is any desire to persecute; they are broad-minded men, and, as I say, they are thoroughly conversant with the conditions there; some of them have been there for 10 or 15 years, others less—3 or 4 years.

Mr. HADLEY. Is the extent of fishing gear in Alaskan waters any menace to the maintenance of the industry in your judgment if the industry be properly policed and adequate attention be given to the maintenance of the hatcheries?

Mr. JONES. No, sir; I do not think it is.

Mr. HADLEY. Those are two conditions, however, that are essential to the maintenance of the industry?

Mr. JONES. Yes, sir.

The CHAIRMAN. Is there any depletion of the supply of fish appreciable now?

Mr. JONES. The season varies, but I should say not. The year I was there, and I tried to bear this fact in my mind, it was a rather off year. You know how the salmon run, off years for sockeyes and off years for humpbacks, and so on, and no doubt Mr. Bower will tell you of it in detail. That is a matter of record. And I did not find that anybody, comparatively speaking, thought the future supply was in jeopardy. I think we need hatcheries there; I think the work they are doing at the Government hatcheries is splendid, but more money is needed to keep the salmon before releasing them until they reach the fingerling stage.

The CHAIRMAN. If those spawning grounds are protected, is not that the best method of propagating the fish?

Mr. JONES. Yes, sir; and I think artificial propagation is good.

The CHAIRMAN. But the other is the natural way.

Mr. JONES. There are a great many more eggs saved proportionally by artificial propagation than there are by natural propagation.

The CHAIRMAN. You are referring now to the great waste by the bears going to the streams and throwing the fish out?

Mr. JONES. Yes, sir; and also by the gulls.

Mr. ROWE. And also by being killed in going up, isn't it—at Ketchikan stream there, going over the falls?

Mr. JONES. I found one stream where the salmon were piled at a little slough just below the falls. There must have been 250. I opened a number of them, and not one of them had spawned. And it is just another argument in support of hatcheries.

The CHAIRMAN. What impressed me most in reading your report was the necessity of keeping those ways open for them to reach the spawning ground and to remove obstructions, such as fallen timber, in those streams. And then there are falls where, as you say, the fish were unable to get over the obstructions.

Mr. JONES. It is not by any means the hand of man alone that is destroying the salmon. They utilize those fish for food purposes. I saw hundreds of salmon that were being destroyed, owing to the fact that some obstruction in the stream prevented their getting to their spawning ground.

The CHAIRMAN. And then fishermen will go right to those places where they are trying to get by?

Mr. JONES. Not necessarily. I was referring especially to the Silver Salmon Falls, Prince of Wales Island, which are about 18 feet high, and the water below for a mile was just a mass of salmon. I sat at the falls for an hour, and I do not think I counted three fish that scaled the falls, and I am not sure these got up; it looked to me as if they had. And it just emphasized the fact if the Government would spend a little money to blow out such obstructions those fish would get up to the spawning ground and save a great many eggs. Then the bear and the gulls, and for the benefit of you gentlemen who have not read my report, I might just cite a case on Kodiak Island, up in Larson Bay. I saw several thousand salmon struggling up a small stream, and I estimated there were 10,000 gulls actually riding those salmon and picking out their eyes. That is the first thing they will do to them. I know many of those salmon never spawned, because they were lying dead all around me; and they could have been saved, at least their eggs could have been.

I just show here, by way of illustration, the bear and the American maganzer. I killed several of the latter, opened their crops, and found them just packed with little salmon and eggs. And the eagles are very destructive, too. Sometimes you see a hundred eagles right on the side of those streams destroying these salmon which have not spawned.

Mr. HADLEY. What is the estimated average of the number that spawn—of the eggs—in Alaska of red salmon?

Mr. JONES. Three thousand five hundred, I think. The hair seal is very destructive to salmon. I show an illustration here: There are four 50-pound king salmon that these aquatic animals destroyed. I was in a bay one evening and went over to the trap, and there were two hair seals in there. We killed them, and later found every salmon in the trap was destroyed and mutilated by these hair seals. I do not mean they were all torn to pieces, but they were just injured so they could not be used for canning purposes. It is not by any means the hand of man that is taking all the salmon. I do think that the artificial propagation of salmon is very wise and going to help materially the future preservation of the great salmon industry.

With these suggestions put into effect I am not fearful that it is going to be destroyed.

Mr. HADLEY. You approve of the method proposed by this bill of the Government taking over the private hatcheries?

Mr. JONES. I do, sir.

Mr. HADLEY. Does this bill follow the lines of the existing statute in regard to marking lines of streams and protecting the mouths of streams with certain limitations or in anywise change it?

Mr. JONES. It is broader. One of the serious handicaps to the fisherman in placing his net is to know where the dead line is; and I think the Government should put markers at the mouths of streams without delay.

Mr. HADLEY. The bill provides for that?

Mr. JONES. Yes, sir; it does.

Mr. ROWE. How near to the small creeks or brooks that they run up—how near to those streams can they fish?

Mr. BOWER. Under the present law, in the case of the red-salmon streams, they may fish with movable apparatus within 300 feet of the mouth: that is, if the stream is less than 500 feet in width. In the case of other than red-salmon streams they may fish right in the mouth of the stream so long as the fishing gear is not extended more than one-third of the distance across the stream. The present bill marks a distinct departure along this line. It provides that all fishing gear shall be 500 yards away from the mouth of all streams less than 500 feet in width rather than just red-salmon streams, as provided in the present law for fixed fishing appliances. The change in this bill will do a great deal for the protection of the small streams, especially in southeast Alaska. Of course, it must be remembered that there is a considerable catch of salmon entirely away from stream mouths, notably in pound nets, and such fish are undoubtedly of better quality, as a rule.

Mr. HARDY. Mr. Bower, how do you tell what the mouth of the stream is? If a man is entering into the bigger waters for a good long distance here or there, who locates what they call the point of the mouth of the stream when you want to fix 500 feet away from it?

Mr. BOWER. That, under the present situation, rests largely upon the judgment of the warden who is enforcing the law or making the inspection. Now, we aim to correct that by fixing markers and monuments designating the mouth definitely, so that there will be no question at any time and so that the personal equation in this matter will practically cease to exist.

Mr. ROWE. How long is the spawning season; that is, the season while they are running up the streams?

Mr. BOWER. It extends over a period possibly of three months, considering all species of salmon.

Mr. ROWE. In what months for lower Alaska?

Mr. BOWER. Principally the months of June, July, and August.

Mr. ROWE. And there is quite a lot of fishing during all that time, isn't there?

Mr. BOWER. All that time. The active fishing season in southeast Alaska begins along in June and continues into September. In Bristol Bay and the far western district, where approximately one-third of the fish are caught, the season is only about 25 days long,

confined almost solely to the month of July. You see Alaska is so large that conditions vary a great deal in the widely separated sections.

The CHAIRMAN. Is there anything further from Mr. Jones?

Mr. JONES. I was just about to say that I think this bill is correct and a number of the things seem to me advisable; that is, to limit the fishing areas, increasing the distance from the mouth of streams, and it also increases the period of the weekly closed season, and all such things are going to help the perpetuation of the salmon materially.

The CHAIRMAN. What provision is made in this bill for opening up those rivers and creeks and removing those obstructions?

Mr. JONES. There is not anything specifically, sir.

Mr. BOWER. Funds will be provided by the bill which will enable us to undertake that work along more extensive lines than we are able to do at present. To-day we have a man out removing some barriers from streams, a direct result, I think, of the work Dr. Jones did in Alaska two years ago. It is a matter of dollars and cents very largely.

Mr. HADLEY. If appropriations are made for that purpose, you can take care of that, can you not; that is a matter of appropriations, is it not?

Mr. JONES. Mr. Hadley, in this bill the taxes revert to the fisheries, or at least part of them.

Mr. CURRY. The department can do that with the money now appropriated.

Mr. BOWER. Yes, sir; we are doing part of the work now.

Mr. JONES. There is one other thing, Mr. Chairman. I want to speak of the whaling situation and the Killisnoo fertilizer factory. I found both whaling stations being well conducted, utilizing every portion of the whale at the two stations. One I showed you is down on Baranof Island and the other is out on the Aleutian Islands at Akutan, and they are making use of all the whales and not wasting any part of them.

There was some controversy about the waste, and I thought it would be interesting for you to know that now they are utilizing all.

Regarding the Killisnoo fertilizer factory, it mentions in this bill that three years. I think it is, from the passage of the bill—

Mr. BOWER. Section 13.

Mr. JONES (continuing). That it shall be abandoned. Of course, I am sorry that it is going to be so long; but if it seems wise, why, I have no objection to it. In the case of the herring in southeastern Alaska, there is a cry against this practice, largely because supply is being depleted. They use a great many thousand barrels of herring for catching halibut and is absolutely essential in the taking of halibut. In 1914 they had to send away for some of their bait. One of my strongest objections to the factory's continuation is that they use any kind of fish.

Mr. ROWE. That is what I noticed when I was there.

Mr. JONES. I went in there in the evening. When I landed they had just unloaded this big scow and they had codfish, halibut, and salmon lying in that pile of fish. Of course, they explained to me that that had never happened before, but you gentlemen can draw your own

inferences. I think it is wrong to be grinding up for fertilizer all kinds of valuable food fish, and I think all are going to eventually regret it unless that is stopped. I am sorry for this concern, because they have recently bought it. The other concern was probably afraid something like this was going to happen.

Mr. GOODWIN. Is the law now not strong enough to prevent that?

Mr. JONES. No, sir; there is no provision at all, sir. In this pile of fish were 800,000 herring, fine fish, as you will see by the picture right here. I took the photograph. Lying right on top of the herring are the other kind of fish.

Mr. ROWE. They unload them just like they unload coal, don't they?

Mr. JONES. Yes, sir.

Mr. ROWE. With a big drop scoop?

Mr. JONES. Yes, sir. Of course, they are all more or less mashed.

Mr. ROWE. And other boats are waiting to be brought right in as soon as that is unloaded. It is a fierce proposition.

The CHAIRMAN. Are the herring not good food fish?

Mr. ROWE. I presume they are.

Mr. GREENE. Oh, yes.

Mr. ROWE. They are not the same as our herring.

Mr. BOWER. They are very closely related.

Mr. JONES. There is the best illustration of what I could tell you. Of course I think we want to be fair with everybody in the change of any law, but I do not think, with Alaska growing at the rate it is now and the fact they are now using herring and shipping to the States, that this kind of a thing can long continue.

The CHAIRMAN. I say the herring is not only valuable for bait but for food. They are fine food fish, are they not?

Mr. JONES. Certainly, sir.

Mr. ROWE. Is there any provision in this bill for compensation at all to the owners of that property?

Mr. JONES. Section 13.

Mr. BOWER. There is nothing in the way of compensation; they are given three years in which to close up their business. This matter has been covered by previous bills in Congress and I may say that the representatives of the company then concerned agreed to the proposition.

Mr. JONES. You see, that has all come up years ago—I do not know how many. Capt. Reynolds, when was this brought up before the department, this Killisnoo matter?

Mr. REYNOLDS. In 1912.

Mr. JONES. I do not think it is fair to work a hardship on those people or any other people, but I do think that it ought to be stopped. And perhaps we had beter leave it three years and not compensate them, giving them time to get out of it whole.

Mr. ROWE. Can the plant be used for a canning plant?

Mr. JONES. The plant was in pretty poor condition.

Mr. ROWE. It is a tumble-down affair?

Mr. JONES. I do not know what has been done to it since I was there.

Mr. HARDY. Is it not possible that even with a law forbidding the destruction of fish for fertilizer that yet there will be some

offal and some refuse and some unavoidable dying of fish and there might be fertilizer properly useful?

Mr. JONES. There is a company, formed in 1914 and located at Point Ward, just above Ketchikan, and they go around with boats to the canneries and pick up all their offal. Heretofore the canneries have dumped all that offal right off the dock, which has made a terrible condition around some of those towns and the stench was awful. This company is doing business in southeastern Alaska. This reducing plant is waiting to see what disposition is made of the Killisnoo matter, because they want to handle the herring, and if this concern is allowed to go on it would not be fair to permit them to monopolize the business; and if they are allowed to go on this other concern is just waiting to get in on the herring, too.

Mr. HADLEY. I just want to interrupt you a moment on another matter, because I have to go in a short while; I want to ask you, while you are making your statement, if you know what percentage of the Alaska pack is caught by pound nets and what by the other classes of gear?

Mr. JONES. I did know. Mr. Bower could better give that. I think, because I have lost track of those details.

Mr. HADLEY. Then I will ask one other question: From personal observation on the ground, is there any fishing to any extent by power boats—the use of power boats with nets?

Mr. JONES. Yes, sir; they are using power boats almost—you mean in drawing haul seines?

Mr. HADLEY. Yes; and in going from place to place with the boats, without any fixed plant?

Mr. JONES. Yes, sir. The power boats go out and get the fish.

Mr. HADLEY. What class of nets?

Mr. JONES. All kinds. These boats go to the traps and to the purse seines and haul seines.

Mr. HADLEY. They do not use nets in connection with the boats themselves?

Mr. JONES. They simply go back and forth handling the fish from the fishing grounds to the canneries.

Mr. HADLEY. I did not know whether they used the boats in catching the fish or just for delivering the fish.

The CHAIRMAN. There are trawlers?

Mr. JONES. These power boats are used principally for the catching, by trolling, for Chinook salmon. This is almost a new industry, as far as power boats are concerned; they formerly used dug-outs and skiffs; now they are using power boats to catch Chinook salmon.

Mr. HADLEY. I was getting at the method of fishing where two boats are used together, whether they are employing power boats in fishing, where they have stationary fixed appliances for stringing the nets between the boats. Did you see anything of that kind?

Mr. JONES. Yes, sir.

Mr. HADLEY. But it has not developed there to any extent yet?

Mr. JONES. Not to my knowledge.

Mr. HARDY. I want to get a little clearer the question of what I had in mind when I asked the question a few moments ago. Here is

a fertilizer plant now being used in the destruction of food fish and fish that ought to be given to other purposes, and the suggestion is made that if we stop their operations we must compensate them. I wanted to know whether there was anything in the way of that same plant continuing to manufacture fertilizer out of the legitimate refuse that would be left over from the fisheries proper if they exercised the proper effort to get the refuse and utilized that?

Mr. JONES. There would be nothing in the way of their attempting it, but I question very much, with the widely distributed canneries, whether it would be practicable. They already have one in southeastern Alaska which I have mentioned, just above Ketchikan. I do not know how they are doing; it is an experiment. Some of the canneries sell none of the offal to them; they won't bother with it because it gets in their way and they throw it overboard; and whether the Killisnoo people would find it a paying proposition or not, I question it. They certainly could attempt it.

Mr. HARDY. It seems to me there would come in the proper place for the exercise of such ingenuity as the Armour's did when they began to utilize every part of the beef; and if they were required to do it, these big canneries would find it to their interest in maintaining sanitary conditions and cleanliness to cooperate with the fertilizer plant.

Mr. JONES. Judge Hardy, you see the canneries there are so widely distributed that it takes too much time to get around to perhaps 10, 20, or 30 miles to the next cannery, that I doubt seriously whether they could gather that economically enough to make it pay. I do not know, but it is my judgment those canneries are too far apart to warrant picking up of the offal and taking it to one place. With the Armour people all is concentrated.

Mr. HARDY. Yes; that is so. But if those canneries are large institutions there must be a large amount of refuse.

Mr. JONES. Yes, sir.

Mr. HARDY. And in getting rid of it it seems to me they could easily manufacture it.

Mr. JONES. You see the Point Ward Co. has a contract for most all those canneries in there now.

Mr. HARDY. To use their refuse for fertilizer?

Mr. JONES. Yes, sir.

Mr. HARDY. Isn't that the legitimate way for this thing to be done?

Mr. JONES. I think so.

Mr. HARDY. Where is this plant located that is doing the destructive work shown in this picture?

Mr. JONES. It is right there, sir [indicating on map].

Mr. HARDY. How many canneries are there in the vicinity of that fertilizer plant?

Mr. JONES. Three or four. That would not pay them. You see down here at Ketchikan, where this other fertilizer factory or reducing plant is located, there are 25 or 30 canneries.

Mr. HARDY. Then it about gets itself down to this, that where the canneries are close enough to economically assemble the refuse in that one place that would be done by some canneries, but this man who has his independent fertilizer plant probably would have to sell out to them or move to some other place.

Mr. JONES. Yes, sir. I do not know how long all those contracts run; I know he made contracts with some of them for three years.

Mr. HARDY. Then one other question I want to ask you: Is it your opinion that the continuation of the use of a plant simply to grind up all sorts of fish into fertilizer will have the effect of depleting the supply in the long run?

Mr. JONES. Yes, sir.

Mr. HARDY. And be injurious to the whole industry?

Mr. JONES. Yes, sir.

Mr. GOODWIN. Can fish be utilized profitably for fertilizer and for food purposes?

Mr. JONES. I think sometimes under certain conditions there is more money in fertilizer, but the point is this, that they do not confine their business to just herring, but any fish that they take in their haul sein they use apparently for fertilizer.

Mr. GOODWIN. Of course it is all right to use the refuse and offal for that purpose?

Mr. JONES. I am talking about fish. There is no cannery there at Killisnoo; nothing but this reducing plant. And when they have other fish mixed up with the herring they are not going to pick them over, and the point is if they are allowed to exist why should not other companies do it, too. You certainly can not give them the exclusive right.

Mr. GOODWIN. And certainly it is wrong if any of that is done.

Mr. JONES. The company above Ketchikan are just waiting the decision on this bill. Their representative told me when he was in Washington he hoped nothing would be done because his company wanted to go into the herring business and use it partly for fertilizer; southeastern Alaska can not stand this strain.

Mr. HARDY. That is the very point I am making; if it is an industry that is profitable and it does not hurt the supply, I do not think you have any right to interfere with it; but if in those fertilizer plants using herring and other fish, or herring alone, that does menace the entire industry and threaten to deplete the supply, then we ought to interfere with it.

Mr. JONES. Yes, sir.

Mr. GOODWIN. I think we ought to interfere with it anyway to conserve the fish.

Mr. HARDY. That is what I say, if it is necessary to conserve the supply.

Mr. JONES. I think it is going to jeopardize the future supply of herring by allowing that fertilizer factory to exist indefinitely.

Mr. HARDY. That is what I wanted to understand.

Mr. ROWE. Are they canning herring at all up in Alaska?

Mr. JONES. Yes, sir; they are.

Mr. ROWE. Where?

Mr. JONES. Right at Petersburg.

Mr. ROWE. It is a very much larger herring than we buy isn't it?

Mr. JONES. There are some small herring; they take the small ones, too. Of course they have only been saving the large ones because the industry is in its infancy; but it is going to be a big industry, and all sizes will eventually be utilized for food.

Mr. HARDY. What do they ship the large ones for?

Mr. JONES. Because they are more salable.

Mr. HARDY. Especially for food?

Mr. JONES. Yes, sir; and later they will ship smaller ones just as they do in Norway. I think the industry is increasing up there each year.

Mr. HARDY. I have no further questions unless there is something else Mr. Jones wants to present.

Mr. GOODWIN. Mr. Jones, take this bill: You think it goes far enough along all lines, do you not?

Mr. JONES. I do, sir; and I think the method of using part of the license fees and taxes to protect the fisheries is going to give ample funds for increasing the artificial propagation and also the inspection of the canneries and the fishing grounds.

The CHAIRMAN. This bill provides, referring to the revenue features, that the person or persons therein referred to, corporations, associations, and partnerships, shall in lieu of all other Federal or Territorial license fees and taxes therefor and thereon pay annual license fees and taxes on said business and output as provided in the act. Now, for instance, in section 2 it provides that a license fee of \$5 shall be imposed and paid on each canning, mild-curing, salting, smoking, fish-freezing, whaling, or other wholesale fish-dealing establishment—\$5 for each cannery. Then for each pound net, \$50; for each fish wheel, etc., \$25. Then it provides that every licensee employing any fishing appliance or method "hereinbefore mentioned" shall, by December 31 of each year, in addition to the license fees provided in the act, pay for the raw aquatic products taken by him as follows: For king, chinook, or spring salmon, and for steelhead trout or salmon at the rate of \$2 per thousand fish, etc.

Then we have again: Every person engaged in canning salmon or other food fish or shellfish shall, by December 31 of each year, pay a tax on the output as follows, according to species: King, chinook, or spring; red, sockeye, or blueback; coho or medium red; and steelhead trout or salmon, 4 cents per case, etc.

Then again: Every person engaged in curing or preserving fish, or manufacturing fishery products, except by canning, shall, by December 31 of each year, pay a tax thereon as follows: Mild-cured salmon, 75 cents per tierce; pickled salmon, 15 cents per barrel, etc.

Now, these are different taxes or license fees provided by this bill as affecting this industry. What local taxes do they have to pay in Alaska in addition to these? This bill provides that these license fees and taxes shall be in lieu of all other taxes, Federal and Territorial.

Mr. JONES. At the present time you mean, sir?

The CHAIRMAN. Yes. Do you understand from this bill that this industry can not be taxed in any other manner than provided in this bill for local purposes?

Mr. JONES. Yes, sir.

The CHAIRMAN. Or by the Territorial government of Alaska?

Mr. JONES. I do understand it that way, sir.

The CHAIRMAN. These taxes include the tax on plants of the canneries themselves?

Mr. JONES. Yes, sir.

The CHAIRMAN. And all their real and personal property?

Mr. JONES. Mr. Chairman, I can—

The CHAIRMAN. And capital stock invested and their earnings. In other words, this bill is intended to include all forms of taxation and the Territory of Alaska would have no source of revenue from this industry except the 50 per cent provided for in this bill?

Mr. JONES. Yes, sir; that is my understanding.

The CHAIRMAN. In that connection, would this bill diminish the revenue derived by the Territorial government under existing law or increase it?

Mr. JONES. It would increase it.

Mr. ROWE. Have they been consulted—the Territorial government?

Mr. JONES. About this specific item?

Mr. ROWE. About this tax proposition?

Mr. JONES. Not to my knowledge.

Mr. ROWE. Do you know?

Mr. BOWER. I did not catch the question.

Mr. ROWE. Has the Territorial government been consulted about this provision we have in here for taxes?

Mr. BOWER. I know a letter was written by the Commissioner of Fisheries to the governor of Alaska on the subject; I am not able to state the nature of the reply. Dr. Smith is present and perhaps he can do so.

The CHAIRMAN. We will investigate that question thoroughly.

Mr. JONES. May I make a statement?

The CHAIRMAN. Yes.

Mr. JONES. In the bill, which was drawn soon after my return—it was a very difficult thing to shape up a good bill in a few weeks. I did not get back here until about the 1st of December and I had my report to write first, and it was only to fulfill a promise that some measure would be introduced during the short session of Congress that prompted me to hurry the bill as I did. I did not think it was a perfect bill by any means. I refer now to the Carlin bill. In that bill there was no reference made, such as in the bill under consideration, for taxing the raw fish so much per thousand. And when I saw this new bill, with which I had nothing to do in framing, it pleased me very much, because I realized at a glance why it was framed as it is, and I will explain just as I see it. It is to bring about a more equitable plan of taxation. For example, here is a man with a pound net in one section. He pays \$50 for that license. Here is another man, perhaps 20 miles away, who pays \$50 for a similar license. The first man may have an unusually good location or a good season; he may take 100,000 salmon. Now, the man with the other pound net may only take 10,000 fish, and he naturally would object. He says: "Here I am paying \$50, as much as the other man, and he caught ten times as many fish as I did." Now, it strikes me, after studying this bill, that it is fairer to the people concerned than to have just a general license and then a tax for the canned fish. They would pay a tax both on the fish and also on the canned product; or, if they ship the fish as frozen fish, they pay so much per thousand fish and so much per ton when shipping.

Now, the point you bring up, Mr. Chairman, as to whether the Territory receives anything additional to the 50 per cent allowed for in section 2. That struck me as being equitable. It not only gives them more money than they have had in the past under other conditions; but it does away with the responsibility and labor of going

to all these canneries throughout the Territory and assessing them, both the personal and real property, which I do not think under the present conditions they can begin to do, as so many of them are inaccessible. They may get to half of them; but if they do not get to the others, then they have not accomplished what is provided for in this bill.

This is the way it appeals to me. I understand this morning that there was an objection to such a plan, on the exact grounds I do not know; but the Territory would find it much easier and much more satisfactory to have 50 per cent of these license fees and taxes turned over to them than it would be to have the old form of assessment and having to cover a vast territory from Bristol Bay to Ketchikan simply because they have not the way to do it.

I think the bill is drawn very well, this section 2 especially, and much better than provided in the earlier bill which was simply a tentative draft in order to give the gentlemen interested time to digest it between the two sessions of Congress.

Does that answer you fully, sir?

**STATEMENT OF MR. WARD T. BOWER, AGENT, ALASKA FISHERIES SERVICE, BUREAU OF FISHERIES, DEPARTMENT OF COMMERCE.**

The CHAIRMAN. Are you stationed here in Washington or on the Pacific coast?

Mr. BOWER. I am here in Washington part of the time and on the Pacific coast and in Alaska part of the time; perhaps six months here and six months there would be the average of the last several years of my duty.

The CHAIRMAN. How long have you been connected with the Alaska fisheries service?

Mr. BOWER. Six or seven years.

The CHAIRMAN. The last six or seven years?

Mr. BOWER. In the last six or seven years.

The CHAIRMAN. And what part of that time have you spent in Alaska investigating conditions as affecting fisheries?

Mr. BOWER. I have made five trips to Alaska. On one trip I was away from Washington seven months, most of which time was in Alaska. Several seasons I was there a shorter period.

The CHAIRMAN. Did you visit all the fisheries in Alaska at that time?

Mr. BOWER. With one small exception I have visited every part of Alaska where important fishery work is conducted; there is one part of the Bristol Bay region that I never have visited in person.

The CHAIRMAN. I wish we had a good map of Alaska, large enough so that we could see the various locations.

Mr. WICKERSHAM. Mr. Chairman, I have one downstairs, if you will send for it.

Mr. BOWER. At the hearing a week ago to-day the Secretary of Commerce stated in most convincing fashion the broad policy of the department in respect to the bill now at hand, and the Commissioner of Fisheries outlined the chief additional features over the present law contemplated by this measure. If it meets with the pleasure of the committee, I shall, by direction of the Secretary of Commerce,

endeavor to explain more in detail the purposes and advantages of this bill and try to give you some first-hand information of a pertinent character, based upon observations and studies which I have made in the course of half a dozen official trips to Alaska in as many years past.

But, before going into the details of the bill, may I ask your indulgence for a moment to emphasize the importance of the fishery industry of Alaska. Taking the figures for 1914, the last which have been completely compiled, in round numbers the total investment was approximately \$37,000,000. The number of persons engaged was 21,200. The total value of the products was over \$21,000,000. Of the foregoing approximately 85 per cent was represented by the salmon industry; the remainder was given over to the halibut, cod, whale, herring, and other less important industries.

Mr. ROWE. Is that annually?

Mr. BOWER. That is an annual value. It may also be of interest to note the fact that since Alaska was purchased, in 1867, the total yield of aquatic products has been about \$275,000,000, of which approximately \$50,000,000 was for aquatic furs—chiefly fur seals. In the same period the production of mineral wealth has amounted to about \$300,000,000 in round figures. The value of the annual yield of mineral wealth is now considerably in excess of that of the fishery products.

The great potential wealth of the fishery has always impressed me and possibly may be of interest to this committee. I can illustrate the point in this way: When an ounce of gold or a pound of coal is taken from Alaska, it has been removed and destroyed forever so far as the territory is concerned, as it can not be replaced; but in the case of the fishery industry the removal of a given quantity of salmon from the water does not represent a total loss, as year after year the same waters will continue to yield a rich return of a commodity which can be regarded only as a necessity of life.

It is my belief that by intelligent regulation and conservation the fisheries of Alaska can be made to continue not only at their present high level of importance, but may be increased materially. So it is with this object in view that the department for several years has been endeavoring to obtain further authority from Congress to improve conditions and develop the industry. We admit that our work at times in the past has not been all that was required, but the reason for this lies in a lack of funds. We are happy to say that this difficulty now seems in a fair way to be overcome. To give the committee some idea of what the Bureau of Fisheries has expended in Alaska in the past 10 years, a statement has been prepared which I would like to put in the record at this point. This statement shows the expenditures by the Bureau of Fisheries on account of Alaska fisheries for the fiscal years 1906 to 1915, inclusive. The amounts do not include expenditures for the protection of the fur seals or fur-bearing animals in Alaska. A recapitulation of this statement indicates that for fish culture, \$325,000 has been expended; for the protection of fish, \$140,000; for scientific investigation and statistical work, \$4,500; and for investigations by the steamer *Albatross*, \$38,500. The work by the *Albatross* was largely of a scientific nature; at least, one or two of the trips. The total expenditures as shown by the statement are \$508,964, or an average of more than \$50,000 a year.

The CHAIRMAN. That is from 1906?

Mr. BOWER. From 1906, continuing through 1915. The average expenditures are above \$50,000 a year, although the expenditures in the earlier part of that decade were somewhat less. For example, in 1906, they were only \$37,000; in 1907, \$31,000.

(The statement above referred to is as follows:)

*Statement of expenditures by Bureau of Fisheries on account of Alaska fisheries for fiscal years 1906 to 1915, inclusive.*<sup>1</sup>

FISH-CULTURAL WORK.

Year.	Salaries.	Miscellaneous expenses.	Fish hatcheries.	Total.
1906.....			\$25,832.66	\$25,832.66
1907.....	\$5,582.34	\$17,202.44	1,814.20	24,598.98
1908.....	6,696.50	15,772.50	27,712.38	50,181.38
1909.....	12,019.50	14,943.52	1,819.68	38,782.70
1910.....	12,660.00	14,504.03	1,150.46	28,314.49
1911.....	12,014.83	16,050.17	1,308.50	29,373.50
1912.....	15,787.17	16,051.60		31,838.77
1913.....	15,544.75	15,130.77		30,675.52
1914.....	15,204.84	16,281.12		31,485.96
1915.....	15,665.67	18,375.35		34,041.02
	111,175.60	144,311.50	69,637.88	325,124.98

PROTECTION OF FISHERIES.

Year.	Salaries.	Miscellaneous.	Purchase of steamer Osprey.	Total.
1906.....	\$4,500.00	\$1,060.00		\$5,560.00
1907.....	4,500.00	2,500.00		7,000.00
1908.....	4,500.00	2,500.00		7,000.00
1909.....	4,500.00	2,500.00		7,000.00
1910.....	4,500.00	2,500.00		7,000.00
1911.....	6,300.00	2,722.27		9,022.27
1912.....	10,076.43	4,035.02		14,111.45
1913.....	11,043.82	4,367.05	\$13,000.00	28,410.87
1914.....	16,218.70	9,772.72		25,991.42
1915.....	14,908.34	14,771.23		29,679.57
	81,047.29	46,728.29	13,000.00	140,775.58

SCIENTIFIC AND STATISTICAL INVESTIGATION.

Year.	Scientific.	Statistical.	Total.
1907.....			
1908.....	\$353.86		\$353.86
1909.....	307.75		307.75
1910.....	59.75	\$774.25	834.00
1911.....	624.40	1,001.99	1,626.39
1913.....	83.50		83.50
1914.....		620.57	620.57
		738.13	738.13
	1,429.26	3,134.94	4,564.20

WORK BY STEAMER "ALBATROSS."

Approximate cost.

1906, investigation in Yes Bay.....	\$6,000.00
1911, investigation of cod and halibut banks.....	17,000.00
1912, investigation of cod and halibut banks.....	7,500.00
1914, inspection tour, Deputy Commissioner of Fisheries.....	8,000.00
	38,500.00

<sup>1</sup> These amounts do not include any expenditures on account of protection of the fur seals or the fur-bearing animals of Alaska.

*Statement of expenditures by Bureau of Fisheries on account of Alaska fisheries for fiscal years 1906 to 1915, inclusive—Continued.*

## RECAPITULATION.

Fiscal year.	Fish culture.	Protection.	Investigations, scientific and statistical.	Investigations, steamer Albatross.	Total.
1906.....	\$25,832.66	\$5,560.00		\$6,000.00	\$37,392.66
1907.....	24,598.98	7,000.00	\$353.86		31,952.84
1908.....	50,181.38	7,000.00	307.75		57,489.13
1909.....	38,782.70	7,000.00	834.00		46,616.70
1910.....	28,314.49	7,000.00	1,626.39		36,940.88
1911.....	29,373.50	9,022.27	83.50	17,000.00	55,479.27
1912.....	31,838.77	14,111.45		7,500.00	53,450.22
1913.....	30,675.52	28,410.87	620.57		59,706.96
1914.....	31,485.96	25,991.42	738.13	8,000.00	66,215.51
1915.....	34,041.02	29,679.57			63,720.59
Total.....	325,124.98	140,775.58	4,564.20	38,500.00	508,964.76

It has been said by some that the fishery has become depleted seriously, but the department does not regard such as the case, for it may be said that in the year 1916 the yield of fishery wealth by Alaskan waters was greater than ever before in the history of the business. It is true that in some isolated instances streams can be pointed out where the results of overfishing are obvious. Such being the case, it is only another reason why the bill now before us should be enacted into law, as by its provisions we will be enabled to reestablish the fishery by proper regulatory measures and by adequate fish-cultural aid in any of the local regions where the fishery may now be less productive than formerly. The adoption of this bill will provide funds for an increased personnel and additional boats, will enable active scientific research, and will provide hatcheries which are much needed in some parts of Alaska that never have had the benefit of fish-cultural aid. So I hope and trust that it will be to the great credit of this Congress and notably of this honorable committee to write into the statutes the distinctly constructive piece of legislation now at hand.

The bill is for the protection, regulation, and conservation of the fisheries of Alaska. It is a departmental measure, based upon the judgment and experience of officers of the department. In preparing the bill, we have had in view at all times the essential object of protecting and maintaining the fishery at its maximum of productivity, bearing in mind and having due regard for its effect upon other phases of industrial and civic development in Alaska not incompatible with the main objects of the bill. We think it is a good and proper measure in all of its essentials, though in the course of the discussions and deliberations before this committee there may develop the necessity of modification in some of its details.

I have had in mind at this point, Mr. Chairman, unless the committee wishes otherwise, to take up the bill section by section and endeavor to explain what we are trying to accomplish and to indicate, among other things, the differences between the bill and the present law. If it meets with your approval, may I suggest that as each section is taken up it be printed in the record?

## Section 1 is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful to engage in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale in food fish or shellfish, or other aquatic animals or the products thereof, in the Territory of Alaska or in any of the waters of Alaska over which the United States has jurisdiction, without first obtaining license therefor as herein provided. Every person, except employees, engaged in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale in food fish or shellfish, or other aquatic animals or the products thereof, or manufacturing fisheries products, in the Territory of Alaska or in any of the waters of Alaska over which the United States has jurisdiction, shall before commencing operations apply for a license to the Secretary of Commerce, who shall issue the same, and every such person shall, in lieu of all other Federal or Territorial license fees and taxes therefor and thereon, pay annual license fees and taxes on said business and output as in this act provided.*

This introductory section has for its object the licensing of all persons who engage in fishery operations in Alaska, except employees, such as laborers and others who are working for licensees, and excepting, further, retail dealers in fishery products. As noted elsewhere in the bill, exemptions are made from license requirements in favor of those who take fish for domestic consumption and not for commercial use. In the provisions of this first section, every person, with the exceptions just noted, must, before beginning fishing operations, apply for a license to the Secretary of Commerce, who shall issue the same.

(Thereupon, at 12.04 o'clock p. m., a recess was taken until 2.30 o'clock p. m.)

## AFTER RECESS.

The committee reassembled at the expiration of the recess.

**STATEMENT OF MR. WARD T. BOWER—Continued.**

The CHAIRMAN. Mr. Bower, will you proceed with your statement?

Mr. BOWER. This morning I made some introductory remarks regarding section 1 of the bill (H. R. 9528).

The great need of a license system as contemplated by this bill can not be controverted, because it is undoubtedly a well-recognized principle of all regulatory and protective measures of a governmental nature that a license system is essential and necessary to the proper and successful accomplishment of adequate control over the industry or line of business concerned. This has not been possible heretofore in Alaska for the reason that the license system originated by the terms of the act of March 3, 1899, simply necessitated the obtaining of licenses from the clerk of the district court, which was in effect to guarantee the payment of certain license fees upon the product of the business. This was by no means adequate. It covered only certain parts of the business and made no pretense of licensing fishermen, boats, and the various form of fishing appliances, the necessity for licensing which has been recognized and put into effect in various States.

In fact, I believe it may be said that there is not a State in the Union boasting of a fishery of any consequence which does not have

a license system covering these subjects. Therefore, you can at once see the urgency, I may say, of an adequate license system in Alaska, where the annual yield of the fishery products is valued in excess of one-quarter of the total value of the fishery products of the United States.

The CHAIRMAN. That is, about \$21,000,000 a year?

Mr. BOWER. That is, about \$21,000,000.

Mr. HADLEY. Is that \$21,000,000 one-fourth of the average annual output of the United States, or one-fourth the output of any one particular year?

Mr. BOWER. That is the average annual output at the present rate; we have every reason to believe that it will increase.

Mr. HARDY. From your statement some time back of the total amount of products obtained from the time we got the Territory in the sixties, which you say was less than \$300,000,000, until now, it would seem that it has been steadily increasing; and you think it has been increasing very much during recent years?

Mr. BOWER. Very much. Ten years ago the annual yield was valued at approximately \$10,000,000.

Mr. HARDY. And now it has reached about \$21,000,000?

Mr. BOWER. More than \$20,000,000 a year. The general license system proposed in this bill, as well as various other features of the measure, have been patterned and modeled very largely upon the recently revised codes of the States of Washington and Oregon. This has been deemed proper, for the reason that conditions in various respects are quite similar in the salmon fishery of Alaska with the same line of business in those States. That is particularly true of Washington.

Mr. ROWE. Do you know anything about the laws in the British possessions there?

Mr. BOWER. I have only a cursory knowledge of the laws of British Columbia. I know that a license system is in vogue there, and various regulatory measures are in operation, which, I understand, are much more oppressive, if that term may be used properly, than any measures in force in the States of Oregon and Washington.

Now, as to section 2 of the bill: This has to do with license fees and taxes, and I suggest that this section be inserted in the record at this point.

The CHAIRMAN. Section 2 of the bill will be inserted in the record at this point.

(The section referred to is as follows:)

SEC. 2. LICENSE FEES AND TAXES.—That a license fee of \$5 shall be imposed and paid for each canning, mild-curing, salting, smoking, fish freezing, whaling, or other wholesale fish-dealing establishment; for each fish-fertilizer and fish-oil works, and for each other fishery establishment, except retail markets, not herein specified.

For each pound net, \$50; for each fish wheel, \$25 (except small wheels in the Yukon and Copper Rivers of the type heretofore used, \$2); for each purse seine, \$25; for each beam trawl or other trawl net, \$10; for each gill-net boat and equipment, \$2; for each stake net, \$2; for each set net, \$1; for each drag, haul, or beach seine five hundred feet or less in length, \$3, and for each additional five hundred feet in length or fraction thereof, \$5; for any other kind of fishing appliance or method used in taking aquatic products, \$1.

Every licensee employing any fishing appliance or method hereinbefore mentioned shall, by December thirty-first of each year, in addition to the license fees by this act provided, pay for the raw aquatic products taken by him as follows: For king, chinook, or spring salmon, and for steelhead trout or salmon, at the

rate of \$2 per thousand fish; for red, sockeye, or blueback salmon, at the rate of \$1 per thousand fish; for red, sockeye, or blueback salmon, at the rate of \$1 per thousand fish; for coho or silver salmon and for chum or keta salmon, at the rate of 75 cents per thousand fish; and for humpback or pink salmon, at the rate of 50 cents per thousand fish.

Every person engaged in canning salmon or other food fish or shellfish shall, by December thirty-first of each year, pay a tax on the output as follows, according to species: King, chinook, or spring; red, sockeye, or blueback; coho or medium red; and steelhead trout or salmon, 4 cents per case; chum or keta, and humpback or pink, 3 cents per case; all other food fish and shellfish, 3 cents per case.

Every person engaged in curing or preserving fish or manufacturing fishery products, except by canning, shall, by December thirty-first of each year, pay a tax thereon as follows: Mild-cured salmon, 75 cents per tierce; pickled salmon, 15 cents per barrel; salt salmon in bulk, 5 cents per hundred pounds; salmon and trout frozen, iced, or otherwise preserved and not hereinbefore specified, 75 cents per ton, round weight; whale or fish oil, 10 cents per barrel; fertilizer or meal made from whales, fish, or other aquatic products, 50 cents per ton; salt cod, 50 cents per ton; pickled herring, 10 cents per barrel; salt herring in bulk or otherwise, 25 cents per ton; all other products not hereinbefore specified, 25 cents per ton.

Nothing in this act shall require the issuance of a license for the taking of fish or other aquatic products for personal, domestic, or family use, and not for sale or barter, when not otherwise unlawful to take same, or for conducting retail trade in fish or fishery products.

Mr. BOWER. This section designates the license fees and taxes to be imposed upon the fishery. You will note that this section contemplates five different groups of license fees and taxes, namely: First, license fees on plants; second, license fees on fishing apparatus; third, taxes on the raw product; fourth, taxes on canned product; and, fifth, taxes on the product prepared otherwise than by canning.

First, taking up the license fees on plants, there is the fee of \$5 per annum for every class of establishment except retail markets handling fishery products. It may at first thought appear strange that a uniform rate of \$5 has been made upon all classes of fishery establishments irrespective of the amount of business done. It may be explained, however, that this license is more for the purposes of record than as a revenue producer, and the fee of \$5 is to cover the cost of issuing the license. It will be appreciated that it costs just as much to issue a license for a saltery doing a business of \$10,000 a year as it does to issue one for a cannery doing ten times as great a business. Upon the basis of the operations in 1914 approximately 147 plants would have been licensed, yielding a return of \$735 for that particular season.

The CHAIRMAN. What paragraph is that?

Mr. HARDY. The first paragraph of section 2.

The CHAIRMAN. Providing a license fee on every plant?

Mr. BOWER. Yes; of \$5.

The CHAIRMAN. How much did you say it would amount to in the aggregate?

Mr. BOWER. On the basis of operations in 1914, there would have been 147 licenses issued, and that would amount, at \$5 each, to \$735.

The second group of items in this section is the license fees on fishing apparatus. The rates vary from \$50 for each pound net to \$1 for a troller taking salmon or other fish for commercial purposes. The rates for the various classes of fishing gear mentioned have been graduated in a general way, in accordance with the efficiency of the appliance and the catch made by each form of gear. Two of the

items listed—namely, fish wheels, except small wheels in the Yukon and Copper Rivers and beam trawls or other trawl nets—have not been used commercially heretofore in Alaska, but it has been deemed proper to incorporate them in this measure in anticipation of their use in the not far distant future. The rate specified for fish wheels is \$25 per annum, except the small wheels in the Yukon and Copper Rivers of the type heretofore used, which small wheels are assessed at the rate of \$2 per annum. This is for the purpose of making an exception in favor of the Indians who have developed and are using a small and rather primitive form of fish wheel on the two rivers I have named. The salmon caught in these small wheels are used chiefly by the natives for food and in barter with traders for other necessities of life.

It will be noted that a rate of \$2 has been made for each gill-net boat and equipment. It has been deemed more feasible to apply the license fee in this form rather than upon each gill net, for the reason that gill nets are small pieces of equipment, comparatively speaking, and a net often wears out before a season ends; and it therefore hardly seems equitable to enforce the payment of a tax upon another net which is used to replace the one worn out. As a rule, each gill-net boat fishes about two nets, each approximately 150 fathoms long. These nets are set and taken up each day. While these nets are being fished it is customary to have an equal number of reserve nets which are being tanned or are being repaired. It does not seem appropriate to place a tax upon such reserve nets. In a former departmental bill (S. 5856), which was introduced in 1912, it was suggested that the tax on gill nets should be 1 cent per fathom per annum. Subsequently it was deemed better to apply a tax on each gill-net boat and its equipment.

Another item in this group that it may, perhaps, be well to explain is the assessment of \$3 on each haul or beach seine 500 feet or less in length, and \$5 for each additional 500 feet or fraction thereof of such seine. The \$3 rate made on seines under 500 feet in length is intended to cover some of the smaller seines used by Indians for commercial purposes.

At this point, I may digress momentarily to say that at several places in this bill we have endeavored to make exceptions in favor of the Indians, as it is realized that in some regions they are entitled to more consideration than the whites. This is not necessary in some lines of the fishery, particularly in southeast Alaska, where nearly as many salmon are caught by Indians as by whites, the Indians almost without exception having as good boats and fishing gear as the whites; but elsewhere such exception in favor of the Indians seems proper. The chief form of fishing appliance used by the Indians in southeast Alaska is the purse seine, in the operation of which they are probably as expert as the white fishermen. Although the statistics show that the average annual catch of a pound net in Alaska is about 90,000 salmon, while the average purse-seine catch is about 75,000, the license fee of \$25 suggested for purse seines is only half the amount named for pound nets, it being thought that this lower rate on purse seines will redound more to the benefit of the Indians than of the whites.

Stake nets and set nets are assessed at \$2 and \$1, respectively. These are in effect gill nets, in the one case affixed permanently upon stakes and in the other case temporarily by means of an anchor. The

concluding part of this group specifies a fee of \$1 for any other kind of fishing appliance or method not specifically mentioned. This will include chiefly those who engage in trolling for salmon or trout for commercial purposes. It does not contemplate any application to those who fish for sport. It will also cover crab pots and dip nets. It will not necessitate a license for sport fishing or angling, or the taking of fish or other aquatic products for personal, domestic, or family use, which exceptions are indicated by the concluding paragraph of the section under discussion.

The amount of license fees on fishing appliances, as I have just outlined, if applied in 1914 would have produced \$30,573.

The CHAIRMAN. That is on fishing appliances?

Mr. BOWER. That is the amount devoted to fishing appliances.

The CHAIRMAN. The amount produced would have been \$30,573?

Mr. BOWER. \$30,573 in 1914; it would have been somewhat larger in 1915. But I am computing these figures on the basis of the year 1914, because we have complete and final statistics for that year, and it is a good average year for our purposes.

The third group under this section provides for a tax on the raw aquatic products in the salmon fishery. This is applicable to every licensee and is in addition to the other license fees contemplated by this measure. It is graduated, from the rate of \$2 per thousand for chinook salmon and steelhead trout or salmon, down to 50 cents per thousand for humpback or pink salmon, the intermediate rates being \$1 per thousand for red salmon and 75 cents per thousand for coho and chum salmon.

This graduation of rates is chiefly in accordance with the relative size of the several species of fish mentioned. For example, the humpback salmon averages about four pounds in weight, whereas the average weight of the king salmon is more than four times that of the humpback salmon, hence the rate on king salmon is more than four times that for humpback salmon. In the same way, the average size of red salmon is nearly twice that of humpback salmon, hence the rate is twice as much. In the case of coho and chum salmon, their average size is greater than that of the red salmon; but as the cohos and chum are much less valuable than the reds it has been deemed proper to make the proportionately lower tax rate on these two species of 75 cents per thousand.

Now, it will be noted that every licensee, without exception, is subject to this assessment upon his catch of salmon. This includes both the cannery operator and the independent fisherman.

The object sought in applying this tax on the raw product is to distribute equitably and cause the independent fisherman to stand their just proportion of the tax. I think it was explained fully by Dr. Jones in his statement this morning. It will not relieve the cannery men of the payment of the tax on the salmon caught with the fishing gear owned by them, for the companies thus concerned will take out enough licenses to cover all the fishing gear they operate and will perforce pay the tax on the salmon caught by the gear so licensed.

Another, and I may say very important reason, it seems to me for this license tax on the catch of salmon is that it marks a distinct advance in fishery taxation, because it serves automatically to graduate the tax over and above the fixed license fee upon each

piece of fishing apparatus proportionate with its value to the licensee. Thus, for example, all pound nets pay an annual license fee of \$50 each, but if one pound net catches 200,000 salmon in a season because of its favorable location and another less fortunately situated catches only 50,000 in the same period, the value of the first-named pound net is four times that of the latter. Undoubtedly, if the two sites were put on the market, that difference would be apparent.

Mr. HADLEY. Assuming that that catch would continue the same from year to year?

Mr. BOWER. Yes, sir.

Mr. HADLEY. But the fact is that it may reverse itself in the succeeding year?

Mr. BOWER. It may; but this would be the average of the product of the two pieces of apparatus for a series of years.

The CHAIRMAN. And you think that to make a flat rate and let that be the whole tax would be inequitable?

Mr. BOWER. That would be inequitable; yes, sir. So that, under this bill, the more successful net would properly pay four times as much license tax as the other one cited. The need of a graduated system along this line in the States of Oregon and Washington found expression in the grouping of nets in different classifications with varying rates of license fees. These States have also recently adopted the tax on the catch by each of such nets as advocated in the bill now before this committee. I may say that that is where we got the idea. We thought that inasmuch as after long experience in those States it was found proper to apply such a tax it would certainly be found advantageous in Alaska.

The CHAIRMAN. Before we get through I would like to have the laws of Oregon and Washington on the subject printed in the record, if they are not too long. (See pages 112 to 148.)

Mr. BOWER. I think it would be very desirable to incorporate most of those sections, Mr. Chairman.

Mr. ROWE. I think we ought to know what the taxes in Canada are, too. (See pages 156 to 165.)

The CHAIRMAN. Yes; if we can get that information.

Mr. BOWER. It can be obtained in a few days.

Mr. ROWE. Do you know where that information can be obtained, Mr. Hadley?

Mr. HADLEY. No; I do not.

Mr. BOWER. It can be obtained at the Library of Congress.

Mr. GREENE. Do you not think we ought to insert those laws at the close of the record of to-day's hearing, Mr. Chairman?

The CHAIRMAN. Yes.

(The laws referred to will be found attached as an appendix to this day's hearing. Pages 112 to 165.)

Mr. HADLEY. I notice that the rate of taxation on the raw catch is 50 per cent higher than in the present law; thus the rate under this bill on the sockeyes is \$1 a thousand—

Mr. BOWER (interposing). \$2 is the highest rate under this bill.

Mr. HADLEY. And under the present law in Washington it is \$1.50. For many years it was \$1, but two years ago it was changed, and my recollection is that it was made \$1.50.

Mr. BOWER. I have before me the rates now applicable in Washington.

The CHAIRMAN. I suggest that there also be incorporated in the record a table showing the rates in Oregon and the rates in Washington, as compared with the Alaska rates on similar classifications. I think that would be useful.

Mr. BOWER. I shall be very glad to prepare such a table for the committee.

(The table referred to is as follows:)

*License taxes on fisheries in Alaska, Oregon, and Washington.*

All figures under canneries are per case, which in Oregon and Washington is defined to consist of 48 1-pound cans or their equivalent. Figures under other headings are for a yearly license fee, except as otherwise indicated.]

	Alaska.		Oregon. <sup>3</sup>	Washington. <sup>4</sup>
	Federal. <sup>1</sup>	Territorial. <sup>2</sup>		
<b>Canneries:</b>				
Salmon in general.....	\$0.04			
Kings, reds, sockeye.....		\$0.04		
Medium reds.....		.02		
All other salmon.....		.01		
Chinook, before Aug. 26.....			\$0.04 (district No. 1).	\$0.04 (Columbia River).
Chinook, after Aug. 26.....			\$0.02 (district No. 1).	\$0.02 (Columbia River).
Steelhead, blueback, sockeye.....			do	\$0.02.
All other salmon.....			\$0.01 (district No. 1).	\$0.01.
Clams, clam nectar, shad, shrimp, and other food and shell fish.			\$0.01	\$0.01.
Rogue River (salmon)—				
Before Aug. 26.....			\$0.04	
After Aug. 26.....			\$0.025	
District No. 2, except Rogue River (salmon).			\$0.025	
<b>Cold-storage fish plants:</b>				
Business of—				
\$100,000 or over.....		500		
\$75,000 to \$100,000.....		375		
\$50,000 to \$75,000.....		250		
\$25,000 to \$50,000.....		125		
\$10,000 to \$25,000.....		50		
\$4,000 to \$10,000.....		25		
Under \$4,000.....		10		
<b>Pickled salmon, etc.:</b>				
Pickled salmon, per barrel.....	.10			
Salt salmon in bulk, per 100 pounds.....	.05			
Salt or mild-cured fish, except herring, per 100 pounds.....		.025		
Fish oil, per barrel.....	.10			
Fertilizer, per ton.....	.20			
<b>Dealers, etc.</b>				
Wholesalers, including persons freezing, salting, smoking, kipping, and preserving.....			\$10 a year and \$1 a ton of salmon, shad, and sturgeon.	\$10 a year and \$1 a ton of salmon and other food fish. <sup>5</sup>
Retail fish dealers.....			\$5 a year and \$1 for each ton of salmon, shad, and sturgeon over 5 tons.	\$1 a year.
Dealers in food fish from private hatcheries. <sup>6</sup>				\$2.50.

<sup>1</sup> Compiled Laws of Alaska, 1913, secs. 259, 2569.

<sup>2</sup> Laws 1915, c. 70, sec. 1.

<sup>3</sup> Gen. Laws 1915, ch. 188, secs. 8, 9.

<sup>4</sup> Laws 1915, ch. 31, sec. 51.

<sup>5</sup> Except personal catch and fish ultimately canned.

<sup>6</sup> Laws 1915, ch. 31, sec. 93.

## License taxes on fisheries in Alaska, Oregon, and Washington—Continued.

	Alaska.		Oregon.	Washington.
	Federal.	Territorial.		
Private hatcheries <sup>1</sup> .....				\$25.
Fish brokers not operating as packers or canners.....			\$50.....	\$50.
Use of boats in buying or handling fish.....			\$1.....	\$1.
Use of boats on Columbia River for buying fish, except packers or canners paying \$100 license to Washington and Oregon, per boat.....			\$50.....	\$50.
Licenses to take crabs, etc.—				
Crabs.....			\$1.....	\$1.
Clams and mussels.....			\$1.....	\$1.
Crawfish.....			\$1.....	
Oysters from State reserves for seed purposes.....				\$5.
Appliances:				
Fish traps, fixed or floating, including dummy traps.....		\$100.....		
Fish traps or pound nets for taking salmon—				
Puget Sound—				
Double.....				\$100.
Single.....				\$50.
Columbia River and Oregon waters in general—				
First class (\$1,000 catch or over).....			\$25.....	\$25.
Second class (less than \$1,000 catch).....			\$15.....	\$15.
Willapa Harbor and Grays Harbor.....				\$15.
Gill nets:				
General per 100 fathoms.....		1.....		
Puget Sound (salmon).....				\$5 for 600 feet, 1 cent for each additional 1 foot.
Oregon and Washington waters, except Puget Sound (salmon).....			\$7.50.....	\$7.50.
Brush weir for taking smelt and herring.....				\$25.
Stationary fish wheel (salmon).....			\$35.....	\$35.
Scow fish wheel (salmon).....			\$25.....	\$25.
Purse seine.....			\$25 (salmon).....	\$25.
Set bet (salmon).....			\$3.70.....	\$3.75.
Drag seine, per foot.....			\$0.03 (salmon); minimum, \$15.....	\$0.03.
Reef net.....				\$5.
Bag net for taking smelt or herring.....			\$1.....	\$1.
Bag net for taking salmon.....			\$1.....	
Smelt drag bag net on Puget Sound.....				\$1.
Beam trawl.....				\$10.
Set lines for over 100 hooks.....				\$1.
Additional tax on account of catch: <sup>2</sup>				
Chinook salmon, Columbia River, per 1,000—				
Before Aug. 26.....			\$5.....	\$5.
After Aug. 26.....			\$3.....	\$3.
Tyee, king, black mouth, spring and steelhead salmon, per 1,000.....			\$3.....	\$3.
Chinook salmon (not in Columbia River), per 1,000.....				\$3.
Sockeye and blue back salmon per 1,000.....			\$1.50.....	\$1.50.
Coho and chum salmon, per 1,000.....			\$1.....	\$1.
Humpback or pink salmon, per 1,000.....				\$0.50.
Sturgeon, each.....			\$0.075.....	\$0.075.
Smelt, herring and shad, per 100 pounds.....				\$0.03.
Shrimp, per 100 pounds.....				\$0.15.

<sup>1</sup> Laws 1915, ch. 31, sec. 91.<sup>2</sup> In Oregon, except by gill nets, set nets, dip nets and trolling lines; in Washington, except (a) by gill nets, and set nets and drag seines, in Puget Sound, Willapa Harbor, and Grays Harbor, (b) by gill nets and set nets, in Columbia River.

## License taxes on fisheries in Alaska, Oregon, and Washington—Continued.

	Alaska.		Oregon.	Washington.
	Federal.	Territorial.		
Additional tax on account of catch— Continued.				
Crabs, per gross.....			\$0.10.....	\$0.10.
Clams, per ton.....			\$0.75.....	\$0.75.
Exemptions.....	(1)		Clams, crabs, mussels, and crawfish may be taken for family use without a license. <sup>2</sup> Civil War veterans are entitled to a fish license free. <sup>3</sup>	Jiggers may be used for taking smelt or herring for family use without license. Crabs may be taken for family use without license. <sup>4</sup>

<sup>1</sup> Owners of private salmon hatcheries may can 10 cases of canned salmon for every 1,000 red or king salmon fry liberated. Compiled Laws of Alaska, 1913, sec. 260.

<sup>2</sup> Gen. Laws 1915, ch. 188, sec. 16.

<sup>3</sup> Gen. Laws 1915, ch. 21.

<sup>4</sup> Laws 1915, ch. 31, sec. 101.

The CHAIRMAN. You may proceed.

MR. BOWER. Objection has occurred to me that because of the vast distances to be covered and the fact that there will be many Indian fishermen to deal with, the collection of this raw product tax, or tax on the catch, will present a most difficult administrative problem. That has been suggested by one or two gentlemen here from Southeast Alaska. But even so, I believe that the equitableness of the system more than overshadows and easily outweighs any such difficulties.

On the basis of the catch of more than 54,000,000 salmon in 1914, the tax upon the raw product at these rates would amount to \$44,936.

Before passing this part of the bill, I may mention parenthetically that there are two typographical errors in line 7 on page 3. In order to make the proper corrections, a comma should be inserted after the word "king," and the word "Chinock" should be spelled "Chinook."

The CHAIRMAN. That is, just a correction in the spelling of the word "Chinook"?

MR. BOWER. A change in the spelling of "Chinook" and a comma should also be inserted after the word "king."

The CHAIRMAN. Yes.

MR. BOWER. It is now my purpose to refer to the tax on the canned product, which is specified in the next part of the section.

MR. HARDY. Beginning with the fourteenth line on page 3?

MR. BOWER. Yes, sir. It will be noted that the rate named is 4 cents per case for king, red, and coho salmon and for steelhead trout, while it is 3 cents per case on chum and humpback salmon and all other food fish and shellfish.

MR. GREENE. The only objection I see to this is that it may add to the high cost of living; and the consumer must pay these taxes; it might put a lot of money in the Treasury; but will it not add to the burdens of the consumer?

MR. BOWER. It is not so regarded by those who are experienced in such matters.

MR. HADLEY. Before you go into this other classification, I would like to ask a question. You gave an estimate of the income based

on the operations of the year 1914, as to appliances; but you have not given an estimate on the income from licenses, have you? Was that embodied in that estimate?

Mr. BOWER. It was stated as being \$44,936.

Mr. HADLEY. Well, that I did not get.

Mr. BOWER. These different rates are made for the reason that the first-mentioned species bring a better price than those enumerated at the lower rate. Under the law as it now stands a flat rate of 4 cents per case is made on all salmon, irrespective of species. This is not regarded as proper, because of the difference in the market price of the several species. In 1914, the average price of salmon per case of 48 1-pound cans was as follows: Chum, \$3.37; humpback, \$3.50; coho, \$4.39; king, \$5.01, and red, \$5.58. The total production of canned salmon in 1914 was more than 4,000,000 cases, and the yield at the rates suggested in this bill would have been \$145,764; that is the amount which would be raised under this group.

The CHAIRMAN. How much?

Mr. BOWER. \$145,764. This is about \$15,000 less than the yield under the present law, but this shortage of \$15,000 would be made up several times over by the license fees on fishing apparatus and the raw product provided for in this bill.

The fifth and final taxation group covered in section 2 of this bill is the tax on the product prepared otherwise than by canning. A considerable part of this tax is in addition to the license fees now paid to the clerk of the court under the present law of June 26, 1906. This bill calls for a tax of 75 cents a tierce on mild-cured salmon, whereas the rate now paid is 40 cents.

The CHAIRMAN. That is, on 800 pounds?

Mr. BOWER. That is, on 800 pounds. The rate on pickled salmon is 10 cents a barrel, whereas the new bill raises it to 15 cents. The tax on fertilizer as now 20 cents a ton, and by the provisions of the new measure it will be increased to 50 cents a ton. The rate on fish oil remains the same, namely, 10 cents per barrel. Several items at present not taxed are covered in this part of the bill, including whale oil, 10 cents per barrel; frozen and iced salmon, 75 cents per ton; pickled herring, 10 cents per barrel; dried salt herring and herring frozen for bait, 25 cents per ton; halibut, frozen and fletched, 25 cents per ton; and salted cod, 50 cents per ton. It will be noted that the tax is levied on prepared products and does not cover fresh fish—that is, the license tax referred to in this group of section 2—though by the terms of the bill iced and frozen salmon and trout will be classified as prepared products.

I have compiled a table showing the estimated amount of revenue which would be raised under the provisions of H. R. 9528, upon the basis of the Alaska fishery operations in 1914, which might be inserted in the record at this point, if you so wish, Mr. Chairman.

The CHAIRMAN. Well, what was the tax on the prepared products—estimated?

Mr. BOWER. Prepared by canning, do you mean?

The CHAIRMAN. Otherwise than by canning.

Mr. BOWER. Otherwise than by canning it is \$13,532.

Mr. HADLEY. That is outside of the case pack?

Mr. BOWER. Yes; outside of that.

The CHAIRMAN. And I understand that the amount of the tax on the canned product would be \$145,764. Very well; that may be inserted in the record.

(The statement referred to is as follows:)

*Estimated amount of revenue which would be raised under the provisions of H. R. 9528, upon the basis of Alaska fishery operations in 1914.*

License fees on plants:

81 canneries.	
17 mild curing plants.	
15 salteries.	
6 freezing plants.	
17 cod stations.	
2 herring salteries.	
2 whaling stations.	
3 oil and fertilizer works.	
4 wholesale dealers (estimated).	

147, at \$5 -----	\$735
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License fees on fishing apparatus:

252 pound nets, at \$50-----	\$12,600
347 purse seines, at \$25-----	8,675
1,215 gill-net boats and equipment, at \$2-----	2,430
300 stake nets, at \$2-----	600
300 set nets, at \$1-----	300
121 haul seines (average estimated length, 1,000 feet), at \$8-----	968
5,000 other fishing appliances, chiefly trolling lines, crab pots, whaling gear, at \$1-----	5,000

30,573

Tax on raw product:

520,529 king salmon and 4,000 steelheads, at \$2 per thousand fish-----	1,050
29,833,978 red salmon, at \$1 per thousand fish-----	29,834
1,344,666 coho salmon, at 75 cents per thousand fish-----	1,008
6,272,612 chum salmon, at 75 cents per thousand fish-----	4,704
16,680,130 humpback salmon, at 50 cents per thousand fish-----	8,340

44,936

Tax on canned product:

48,039 cases of king salmon, at 4 cents per case-----	1,921
2,201,643 cases of red salmon, at 4 cents per case-----	88,065
157,063 cases of coho salmon, at 4 cents per case-----	6,282
663,859 cases of chum salmon, at 3 cents per case-----	19,915
986,049 cases of humpback salmon, at 3 cents per case-----	29,581

4,056,653 -----	145,764
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25 cases of steelhead trout, at 4 cents per case-----	1
100 cases of Dolly Varden trout, at 3 cents per case-----	3

4

Tax on product prepared otherwise than by canning:

4,097 tierces of mild cured salmon, at 75 cents per tierce...	3,068
26,362 barrels of pickled salmon, at 15 cents per barrel...	3,954
11,400 pounds salt salmon in bulk, at 5 cent per hundred- weight-----	5
114 tons frozen salmon, at 75 cents per ton-----	85
870 tons iced salmon, at 75 cent per ton-----	652
15,903 barrels whale oil, at 10 cents per barrel-----	1,590
3,853 barrels fish oil, at 10 cents per barrel-----	385
97 barrels fish by-products oil, at 10 cents per barrel-----	9
963 tons fish fertilizer, at 50 cents per ton-----	481
1,061 tons whale fertilizer, at 50 cents per ton-----	530
38 tons fish by-products fertilizer, at 50 cents per ton-----	19
116 tons fish by-products meal, at 50 cents per ton-----	58
24 tons black cod, frozen and pickled, at 25 cents per ton...	6

Tax on product prepared otherwise than by canning—Con.	
4,405 barrels pickled herring, at 10 cents per barrel-----	\$440
313 tons dry salted herring, at 25 cents per ton-----	78
668 tons herring frozen for bait, at 25 cents ton-----	167
2,417 tons halibut, frozen and fletched, at 25 cents per ton--	604
2,803 tons salted cod, at 50 cents per ton-----	1,401
	\$13,532
Total-----	235,544

Mr. HINDS. What is the total of that?

Mr. BOWER. The total amount is \$235,544. This amount would be increased during the current year, for the reason that there has been a growth of fishery operations in Alaska.

Mr. BRITTON. Does that statement show the detailed figures with regard to the tax for the year?

Mr. BOWER. It shows the detailed figures: it shows the total number of pound nets operated in 1914, the total number of seines, and so on; every detail is worked out in the table.

Mr. BRITTON. How much did you say your estimate was?

The CHAIRMAN. \$235,544.

Mr. WARREN. And it is \$30,573 for license fees on fishing apparatus; that is included in that total.

Mr. BOWER. Under existing law, in the same period the amount raised would have been \$167,000; but from that there would have been deducted the sum of approximately \$25,000 for hatchery rebates; that would have left a net cash return of \$142,000 to the Territory.

Mr. HADLEY. You say you have estimated that there would have been an increase based on the operations for 1915?

Mr. BOWER. Yes; and I think it is safe to assume that under this bill we may expect the receipts to total \$250,000 a year, because the industry we know increased in 1915, and in the year 1916 there will be a number of additional canneries operated. I think we can safely work on the basis of \$250,000.

The CHAIRMAN. Under existing law, does the entire revenue go to the Territory?

Mr. BOWER. Under existing law the entire revenue on license fees outside of incorporated towns goes into the Alaska fund, and all of that money is expended by the Territory under the direction of Congress—65 per cent for roads, 25 per cent for schools, and 15 per cent for care of indigents.

Mr. HADLEY. You do not mean that the money is expended under the direction of Congress, but that it is apportioned by Congress?

Mr. BOWER. It is apportioned by Congress.

Mr. WICKERSHAM. No; that is not quite what you intended to say. It is appropriated by Congress and is expended by various authorities. For instance, the road fund, the Alaska Road Commission, which is a commission of military officers created by Congress, has the expenditure of that fund, although they expend it in Alaska. The school fund is expended under the direction of the governor for the support of certain classes of schools, and the indigent fund is expended by the judges of the district courts in Alaska for the purposes specified.

Mr. HARDY. All of that is under an act passed about two years ago, is it not?

Mr. WICKERSHAM. It was longer ago than that.

Mr. HARDY. I was on the Committee on Territories when we passed that law.

The CHAIRMAN. Well, if you will permit me at this point, we will put that act in the record to show how the fund is appropriated and expended under existing law.

This is the act of January 27, 1905 (33 Stat. L., p. 616, sec. 1). It provides—

That all moneys derived from and collected for liquor licenses, occupation or trade licenses, outside of incorporated towns in the District of Alaska shall be deposited in the Treasury Department of the United States, there to remain as a separate and distinct fund, to be known as the "Alaska fund," and to be wholly devoted to the purposes hereinafter stated, in the District of Alaska: One-fourth of said fund, or so much thereof as may be necessary, shall be devoted to the establishment and maintenance of the public schools of said District; five per centum of said fund shall be devoted to the care and maintenance of insane persons of said District, or so much of said five per centum as may be needed, and all the residue of said fund shall be devoted to the construction and maintenance of wagon roads, bridges, and trails.

Mr. WICKERSHAM. Of course, Mr. Chairman, that is the old law, and it has been very greatly amended; and then there are other laws that connect with it; and that is only a very small part of the original law.

Mr. BOWER. It has been amended as to the disposition of the amounts. It was amended by the act of May 14, 1906, and again by the act of February 6, 1909, and it was last amended by the act of March 3, 1913.

The CHAIRMAN. We will incorporate those acts in the record of the hearings.

(The acts referred to are as follows:)

\* \* \* That all moneys derived from and collected for liquor licenses, occupation or trade licenses, outside of the incorporated towns in the District of Alaska shall be deposited in the Treasury Department of the United States, there to remain as a separate and distinct fund, to be known as the "Alaska fund," and to be wholly devoted to the purposes hereinafter stated in the District of Alaska. One-fourth of said fund, or so much thereof as may be necessary, shall be devoted to the establishment and maintenance of public schools in said District; five per centum of said fund shall be devoted to the care and maintenance of insane persons in said District, or so much of said five per centum as may be needed; and all the residue of said fund shall be devoted to the construction and maintenance of wagon roads, bridges, and trails in said District. (33 Stat. L., p. 616.)

SEC. 1. That all moneys derived from and collected for liquor licenses, occupation or trade licenses, outside of the incorporated towns in the District of Alaska shall be deposited in the Treasury Department of the United States, there to remain as a separate and distinct fund to be known as the "Alaska fund," and to be wholly devoted to the purposes hereinafter stated in the District of Alaska. One-fourth of said fund, or so much thereof as may be necessary, shall be devoted to the establishment and maintenance of public schools in said District; five per centum of said fund shall be devoted to the care and maintenance of insane persons in said district, or so much of said five per centum as may be needed; and all the residue of said fund shall be devoted to the construction and maintenance of wagon roads, bridges, and trails in said District. (34 Stat. L., p. 192.)

SEC. 7. \* \* \* So much of the act approved January twenty-seventh, nineteen hundred and five, entitled "An act to provide for the construction and maintenance of roads, establishment and maintenance of schools, and care and support of insane persons in the District of Alaska, and for other purposes," as provides that five per centum of the license moneys collected outside of incorporated towns in the District of Alaska shall be devoted to the care and main-

tenance of such insane persons is hereby repealed, and such five per centum, or so much thereof as may be necessary, shall hereafter be applied to and used for the establishment and maintenance of public schools in said district, under the supervision of the governor. (35 Stat. L., p. 601.)

SEC. 1. That all moneys derived from and collected for liquor licenses, occupation or trade licenses, outside of the incorporated towns in the Territory of Alaska shall be deposited in the Treasury Department of the United States, there to remain as a separate and distinct fund, to be known as the "Alaska fund," and to be wholly devoted to the purposes hereinafter stated in the Territory of Alaska. Twenty-five per centum of said fund, or so much thereof as may be necessary, shall be devoted to the establishment and maintenance of public schools in said Territory; ten per centum of said fund shall be, and is hereby, appropriated and authorized to be expended for the relief of persons in Alaska who are indigent and incapacitated through nonage, old age, sickness, or accident; and all the residue of said fund shall be devoted to the construction and maintenance of wagon roads, bridges, and trails in said Territory. \* \* \* (37 Stat. L., p. 728.)

Mr. BOWER. Referring to the point that I was trying to make a moment ago, Alaska gets all of the "Alaska fund" money and it is applied to purposes other than fisheries; the \$142,000 in cash that Alaska was entitled to in 1914 went to other things than the support or aid of the fisheries.

Mr. HADLEY. And under the present bill 50 per cent of the receipts will go to these purposes of the Territory of Alaska, and the other 50 per cent will be applied to the protection of this industry?

Mr. BOWER. That is the intention.

The CHAIRMAN. It will result in a diminished revenue to the Territory of Alaska, outside of the amount expended for the fisheries.

Mr. HADLEY. But the income is somewhat greater as against that.

The CHAIRMAN. Yes.

Mr. JONES. \$18,000.

Mr. ROWE. It might not be, in another of the items. You see you are cutting off here the assessment and collection of taxes on the real estate, are you not? There must be some assessment on the real estate at the present time.

Mr. WICKERSHAM. No; they have not yet done so.

Mr. ROWE. Then that is all right.

Mr. BOWER. Section 3 provides as to the method of collecting licenses and taxes. May I suggest that this section be incorporated in the record?

The CHAIRMAN. Yes; that may be inserted in the record.

(The section referred to is as follows:)

SEC. 3. LICENSES AND TAXES, HOW COLLECTED.—That all license fees and taxes shall be payable to and collected by the Secretary of Commerce or his authorized agents, and all taxes if not paid when due shall become delinquent, and shall draw interest at the rate of one per centum per month until paid. And it shall be the duty of all United States district attorneys to enforce the payment of all delinquent taxes in their respective districts, and all property belonging to the delinquents shall be subject to execution and attachment therefor.

You will notice that this section calls for the payment of license fees and taxes to the Secretary of Commerce or his authorized agents, and that taxes not paid when due shall become delinquent and draw interest at the rate of 1 per cent per month until paid. It is made the duty of United States attorneys to enforce the payment of delinquent taxes. The property of delinquents is subject to execution and attachment for unpaid taxes. This section is designed to provide the proper machinery for the collection of license fees and taxes

and it is believed to be in as simple form as possible and have it safeguard the interests of the Government.

The CHAIRMAN. Yes; you may proceed.

Mr. BOWER. Section 4 covers the disposition of license fees and taxes. It is as follows:

SEC. 4. DISPOSITION OF LICENSE FEES AND TAXES.—That all the license fees and taxes derived from the fisheries of Alaska shall be covered into the Treasury of the United States, and fifty per centum thereof shall be transferred annually to the treasurer of the Territory of Alaska for such purposes as the Territorial Legislature of Alaska may direct. The remaining fifty per centum shall be placed in a fund to be known as the Alaska fisheries fund, which fund is hereby created, and the moneys in said fund shall be held subject to appropriation from time to time by Congress for the construction, purchase, maintenance, and operation of fish hatcheries in Alaska and for other purposes relating to the investigation, development, preservation, and conservation of the Alaska fisheries.

This is one of the most important sections of the bill, as it contemplates some distinct departures from existing law and will inaugurate new means of providing funds for the conduct of the department's work in Alaska. In the first place, it will be noted that all the license fees and taxes derived from the fisheries of Alaska are to be covered into the Treasury of the United States, 50 per cent of which is to be turned over to the Territorial Government of Alaska, while the remaining 50 per cent is to create a new fund to be known as the Alaska fisheries fund, the moneys in which fund shall be appropriated from time to time by Congress for the conservation of the Alaska fisheries and kindred projects.

Now, as to the differences between this measure and the present law, attention is first invited to the fact that at present all moneys derived from the fisheries of Alaska, outside of incorporated towns, are, under the act of June 26, 1906, paid into the Alaska fund, which was created by the provisions of the act of January 27, 1905. These moneys, together with other funds derived from occupational or trade licenses, are by the act of March 3, 1913, applied as follows: Sixty-five per cent for roads, 25 per cent for schools, and 10 per cent for the care of indigents. It will be noted in particular that of the fishery licenses and fees paid under the fishery law of June 26, 1906, only that part collected outside of incorporated towns is paid into the Alaska fund. I think that point very often escapes the attention of many of us who consider the present statutes regarding Alaska.

The CHAIRMAN. Will you repeat that statement?

Mr. BOWER. Only that part of the fees paid under the present law on the fisheries business outside of incorporated towns goes into the Alaska fund. This, however, represents most of the tax, as of the 85 canneries operated in Alaska in 1915 only 5 were within incorporated towns. This number will be increased by 2 or 3 new plants this year.

Mr. WICKERSHAM. May I ask you where those five are?

Mr. BOWER. Those five canneries that are now in incorporated towns? Two are at Ketchikan, one is at Petersburg, one at Wrangell, and one at Cordova.

Mr. WICKERSHAM. Are any of them inside of the town limits?

Mr. BOWER. Well, I have always been of the impression that they are all within the corporate limits.

Capt. REYNOLDS. I think those at Ketchikan are within the town limits; the one at Cordova is strictly within the town limits.

Mr. WICKERSHAM. Well, I am pretty well advised on the subject, and I do not think any one of them is.

Mr. BOWER. And the one at Petersburg is also; it is right in the heart of the town; the town seems to be building around it.

Mr. JONES. The one at Ketchikan is right in the middle of the wharves, and the steamers land right by these canneries.

Mr. WICKERSHAM. Mr. Jones, that is correct; but, unfortunately, the town limits stop at the water line, and they are beyond the limits of the town.

Mr. JONES. The water limit is away outside of the town.

Mr. BOWER. It seems to be true that at Ketchikan the canneries are within the incorporated limits, because Mr. Strong, from that town, who was here a few days ago, told me that they got back a part of the fishery license money.

Mr. WICKERSHAM. It might be true there.

The CHAIRMAN. Mr. Strong is here.

Mr. BOWER. He is in town.

The CHAIRMAN. Yes: he was here the first day of the hearings. There need not be any controversy about that, because it can be determined very easily if it is important.

Mr. BOWER. Continuing along this thought, I will say that the act of April 28, 1904, provided that all license moneys collected by the clerk of the district court for the fishery and various other occupational industries carried on within the limits of an incorporated town should be paid by the clerk of the court to the treasurer of such town. The bill under consideration, providing, as it does, in the first line of section 4, that all license fees from the fisheries shall be covered into the Treasury of the United States, deprives the incorporated towns of Alaska of certain revenues which they now receive. Perhaps some modification of this bill may be advisable so as to permit of the continuance of this practice. It could be accomplished easily by inserting a proviso in section 4 that all license fees derived from the fisheries outside incorporated towns should be covered into the Treasury of the United States, and that the taxes from fisheries within incorporated towns should be paid over to the treasurer of such town. It is believed that if this plan is adopted it should include only the tax on canned product prepared within incorporated towns. This will amount to less than \$8,000 per annum, as I compute it, for, as already mentioned, most of the canneries are outside the limits of incorporated towns. The laws which have to do with fishery license taxes within incorporated towns are as follows:

SEC. 460. \* \* \* Fisheries: Salmon canneries, four cents per case; salmon salteries, ten cents per barrel; fish-oil works, ten cents per barrel; fertilizer works, twenty cents per ton. (Stats. at Large, vol. 30, p. 1336.)

\* \* \* That fifty per centum of all license moneys provided for by act of Congress approved March third, eighteen hundred and ninety-nine, entitled "An act to define and punish crimes in the District of Alaska and to provide a code of criminal procedure for said District," and any amendments made thereto, required to be paid by any resident, person, or corporation for business carried on within said corporation, shall be paid over by the clerk of the United States district court receiving the same to the treasurer of said corporation upon taking his receipt therefor in duplicate, one of which duplicate receipts shall be forwarded to the Secretary of the Treasury of the United States by the clerk as a voucher in lieu of cash, and the other receipt shall be retained by the clerk. The money received by the treasurer of the corporation from the clerk of the court for licenses shall be used, under the direction of the council,

for school purposes: *Provided*, That where it is made to appear to the satisfaction of the district court that the whole amount heretofore or hereafter received by the treasurer of the corporation from the clerk of the court is not required for school purposes, the court may from time to time, by orders duly made and entered with a statement of the facts upon which they are based, authorize the expenditure of the accumulated surplus, or any part thereof, for any of the municipal purposes enumerated in this chapter. Fifty per centum of all license moneys provided for by said act of Congress approved March third, eighteen hundred and ninety-nine, and any amendments made thereto, that may hereafter be paid for business carried on outside incorporated towns in the District of Alaska, and covered into the Treasury of the United States, shall be set aside to be expended, so far as may be deemed necessary by the Secretary of the Interior, within his discretion and under his direction, for school purposes outside incorporated towns in said District of Alaska. (Stats. at Large, vol 31, p. 1438.)

\* \* \* That all license moneys provided for by act of Congress approved March third, eighteen hundred and ninety-nine, entitled "An act to define and punish crimes in the District of Alaska and to provide a code of criminal procedure for said District," and any amendments made thereto, required to be paid by any resident, person, or corporation for business carried on within the limits of any incorporated town, and collected by the clerk of the district court, shall be paid over by said clerk to the treasurer of such corporation, to be used for municipal and school purposes in such proportions as the court may order, but not more than fifty per centum nor less than twenty-five per centum thereof shall be used for school purposes, the remainder thereof to be paid to the treasurer of the corporation for the support of the municipality, and the clerk of said court shall take said treasurer's receipt therefor, in triplicate, one of which receipts shall be forwarded to the Secretary of the Treasury, another to the Attorney General, and the other shall be retained by the clerk: *Provided*, That fifty per centum of all license moneys provided for by said act of Congress approved March third, eighteen hundred and ninety-nine, and any amendments made thereto, that may hereafter be paid for business carried on outside incorporated towns in the District of Alaska, shall be covered into the Treasury of the United States, and set aside to be expended, so far as may be deemed necessary by the Secretary of the Interior, within his discretion and under his direction, for school purposes outside incorporated towns in said District of Alaska. (Stats. at Large, vol. 32, p. 946.)

SEC. 7. That all license moneys collected by the clerk of the district court from any person for any business, trade, or occupation carried on within the limits of any incorporated town in the District of Alaska, pursuant to the provisions of an act entitled "An act to define and punish crimes in the District of Alaska and to provide a code of criminal procedure for said District," approved March third, eighteen hundred and ninety-nine, and all acts or parts of acts amendatory thereof, shall, by said clerk, be paid over to the treasurer of such town, to be used for school and municipal purposes within the town. The clerk shall take a receipt for such money in triplicate, one of which receipts shall be filed with the Secretary of the Treasury, one with the Attorney General of the United States, and one shall be retained by the clerk.

SEC. 8. That all acts and parts of acts inconsistent with this act are, to the extent of such inconsistency, hereby repealed; and the provisions of this act shall apply to and govern all municipal corporations heretofore created in the District of Alaska. (Stats. at Large, vol. 33, pp. 533-4.)

Mr. HARDY. Let me suggest one thing: We have, I think, reserved the question of correcting section 21 of the bill, so as to give back, or not take away from the Territory, the right to levy an ad valorem tax on all these properties; and that correction with reference to canneries in cities and towns might be made in the same section, might it not?

Mr. BOWER. Possibly it could be covered in that way.

Mr. HARDY. I think you were not here when we talked about the effect of this bill, as to whether or not it was intended that these taxes should be in lieu of all other taxes, as the language of the bill makes it; and it was understood that when we came to section 21 we would amend that section. That, at least, was my understanding.

The CHAIRMAN. That is, we said that we would consider the matter.

Mr. HARDY. It was not finally decided, of course.

The CHAIRMAN. No; it was just reserved for consideration.

Mr. HARDY. But the correction you are talking about now can be incorporated in that section.

The CHAIRMAN. Well, it could be done at this place very easily.

Mr. BOWER. It is not a serious matter, so far as the general situation is concerned; but it means a good deal to two or three of those struggling communities; that is, they are thriving, in a sense, but it occurs to me that it would be fair for them to have a little of the money.

At the hearing a week ago to-day I think Mr. Wickersham said that the scheme of license fees and taxation contemplated in the present bill would disorganize utterly the fiscal affairs and policy of the Territory. I think he raised the point that the proposed measure would abolish the Alaska fund. Now, this does not appear to be the case, because a reference to the act of March 3, 1899, and the acts amending that act, will indicate clearly that there are various other lines of business for which license fees are paid besides the fishery industry. If the measure now before this committee should become a law, there would be a continuation of the license fees upon all these lines of business, the proceeds of which now go to the Alaska fund, excepting only the fisheries. Therefore it is difficult to see how the Alaska fund will be abolished.

Mr. WICKERSHAM. I based that upon my fear that the repealing clause of this bill would have that effect; not the provisions in the body of the bill.

The CHAIRMAN. Well, that ought to be safeguarded so that it would not have that effect.

Mr. HADLEY. There ought to be a saving clause in the bill.

Mr. WICKERSHAM. There is no saving clause in the bill.

Mr. BOWER. It would only repeal that part of the act of 1899 respecting the fisheries.

Mr. WICKERSHAM. Well, if that was the language of the provision, it could be easily understood.

Mr. BOWER. Taking up section 5 of the bill, relating to form of licenses and their renewal and transfer, the section reads as follows:

SEC. 5. LICENSES, FORM, RENEWAL, AND TRANSFER.—That all licenses and renewals thereof for fishing appliances issued by the Secretary of Commerce shall be designated by consecutive numbers and shall indicate the kind of the particular appliance for which the license is issued and the name of the person owning the same. The owner or operator of each stationary fishing appliance shall have conspicuously affixed thereto a tag, brand, or lettered notice bearing the license number in black letters not less than six inches in height upon a white ground. For movable apparatus, a tag, brand, or notice showing the license number in figures at least six inches in height, either in dark figures on a light ground or light figures on a dark ground, shall be placed on both sides of the bow of each boat or vessel used in operating same. All licenses shall expire on the thirty-first day of December of the calendar year in which issued.

The failure to renew the license or to have made lawful application therefor for any pound net, fish wheel, or other fixed appliance in any of the waters of Alaska, by the first day of January of any year shall constitute abandonment of the location. Should the locator or owner neglect to construct and operate his appliance in a bona fide manner for the three consecutive years covered by his license, said location shall be deemed abandoned.

Any license may be assigned or transferred to any person entitled to hold a license under the provisions of this act, and notice shall be given of such transfer or assignment within ninety days from the date thereof to the Secretary of Commerce, who shall indorse the date of such notice on the license. If such notice is not given, the transfer shall be void.

This section provides that the licenses and renewals issued by the Secretary of Commerce shall be designated by consecutive numbers and shall indicate the kind of appliance and the name of the person owning it. Provision is made for displaying the license number upon fixed fishing gear, and in the case of movable apparatus the license number is to be shown on the boat used in the operation of such movable apparatus. Under a departmental regulation a notice must be affixed to each pound net, designating the owner thereof; but no provision is made for marking movable apparatus. This is improved in the present bill.

This section also causes all licenses to expire on the 31st of December of the calendar year in which issued. Failure to renew the license or to have made application therefor for any fixed fishing appliance by the 1st day of January shall constitute abandonment of the location; also, should the locator or owner neglect to construct and operate a fishing appliance in a bona fide manner for three consecutive years the site shall be abandoned. This section authorizes the assignment or transfer of any license. Notice of such transfer must be given to the Secretary of Commerce within 90 days from the date thereof. If notice is not given, the transfer shall be void.

In line 11, on page 6, the word "the" should be omitted, as the phrase as it now stands, "the three consecutive years covered by his license," implies that a license may be operative for three years, whereas by omitting this word such doubt as to meaning is removed. The idea is that a licensee may have the right to take out a license for a site to operate a fixed fishing appliance for three consecutive years, and that if in such period he does not make use of the site it shall be deemed abandoned and is open to some other person.

THE CHAIRMAN. That is, for three consecutive years in annual periods?

MR. BOWER. Yes.

MR. BRITTON. Mr. Chairman, I think the word "the" there is all right, because the failure to renew the license from year to year by the language above operates to cause an abandonment of the location.

THE CHAIRMAN. But his license only runs for a year at a time.

MR. BRITTON. His license only runs for a year at a time, and if he does not renew his license then his location is abandoned by that fact alone. But he can continue his license from year to year; but he can not continue the location unless he operates it within the three-year period. You see, he can not keep his location from year to year without getting a license for it; but he can get a license without operating it.

MR. BOWER. We thought, after careful consideration, that it would remove possible ambiguity there to omit the word "the." The same thing occurs later on in the bill.

MR. HARDY. I think we ought to strike out the word "the" and then strike out the words "covered by his license."

MR. BOWER. No, sir; only omit the word "the" in line 11; just the one word to be stricken out.

Mr. HARDY. But the intention is not to allow him to leave or abandon it for three years, whether he has a license or not?

Mr. BOWER. Three years is to be the limit.

Mr. HARDY. Then why put in the words "covered by his license"? If he abandons it for three years, he forfeits it; then why not strike out the words "covered by his license" and simply provide that if he does not operate it "for three successive years, said location shall be deemed abandoned"?

Mr. BRITTON. That might be construed as allowing him to hold it for three years without a license; the purpose is to require him to take out a license every year.

Mr. HARDY. Well, that is in another part—

Mr. BRITTON (interposing). It is in the same section.

Mr. HARDY. In another part of the same section that is provided for. I think that omission of those words would make it more definite.

Mr. BOWER. If a site is declared to be abandoned at the end of three years of nonoperation, some other person would have an opportunity to go in and make use of it. On Puget Sound it is necessary to use a site only once in four years. This is on account of the quadriennial run of sockeye salmon in those waters, and it is not deemed proper to force the holder of a site to operate it when the run of salmon is not so large, or is not profitable. There appears to be no well-defined quadriennial run of salmon in Alaska, but the biennial run of humpback salmon is quite well established.

Another point in the matter of allowing the licensee of a pound-net site to hold it for a term of three years and operate it only one out of the three years is that it is favorable to less intensive fishing than would be the case were it necessary to operate every year. Under the arrangement proposed in this bill, a pound-net site may remain idle two years, be fished the third, remain idle again two years, and be fished again. This seems better than to force a licensee to fish a site every year in order to hold it.

Mr. HADLEY. It also protects an individual who may be in straitened circumstances; some of these fishermen may not be able to fish it every year; they may not be in a financial position to do so.

Mr. BOWER. He simply takes out the license for his location each year, and he is able to resume fishing if it is within the three-year limit.

Mr. HADLEY. I have known of such cases.

Mr. BOWER. Section 6 reads as follows:

SEC. 6. FIXED NET LOCATIONS.—That any person occupying, or desiring to occupy, any location where it may be lawful to construct a pound net in the waters of Alaska, shall cause such location to be accurately surveyed by a competent engineer, unless a survey thereof has already been made, in which event such existing survey may be used, and shall cause three maps to be made of such location from the actual survey thereof, which shall contain a plat and description of said fishing location sufficient for its ascertainment and identification on the premises. Said maps shall also contain a certificate by the claimant, or by his agent or attorney, stating that he claims the fishing location shown thereon, specifying the date and number of the license under which the same is held, or the fact that application has been made therefor. Such maps, with the certificates thereon, shall be filed in the office of the commissioner of records in the district wherein the location is situated, which commissioner shall indorse thereon the hour and date of filing, and shall forward one of these maps to the Secretary of Commerce and another to the Pacific coast office of the Bureau of

Fisheries. From and after the date of filing in the office of the commissioner of records, such map shall constitute full and complete notice that the locator has complied with all the provisions of this act and that such location is owned, held, occupied, and claimed by the person designated thereon as the claimant. From and after the filing of such map the claimant of the fishing location shown thereon, his heirs, administrators, executors, successors, and assigns shall have the exclusive right to hold, occupy, and fish in such location, to renew the license therefor, and to mortgage, sell, and transfer the same during the time that he or they in other respects shall comply with the law pertaining thereto: *Provided*, That it shall not be necessary to file any map or plat of any fishing location before January first of the calendar year next after this act takes effect.

It shall not be necessary to file any map or plat of any fishing location in any case where any map or plat has heretofore been filed with the Secretary of Commerce and a commissioner of records in the district in which the location is situated. All pound net or other fishing locations lawfully occupied during the calendar year next preceding the passage of this act shall continue valid: *Provided*, That if any owner or locator shall fail to construct and operate his appliance in a bona fide manner for the three consecutive years covered by his license, the location shall be deemed abandoned.

Each commissioner of records and the Secretary of Commerce shall keep an index of all such maps, showing the hour and date of filing, the names of claimants and serial number of the maps or plats, in the order filed, all of which shall be indorsed on them when filed.

Locations for set nets may be made by erecting a permanent monument near, or securely anchoring a buoy on the location claimed, upon which shall be posted the number of the license under which such net is operated.

Locations for stake nets may be made by erecting a permanent monument near or driving a pile on the location claimed, upon which shall be posted the number of the license under which each stake net is operated.

This act shall not affect the use or operation of any fixed fishing appliance in a location regarded as lawfully occupied during the calendar year next preceding the passage of this act, and any and all fishing appliances may be maintained upon such location as though this act had not been passed, or they may be changed to conform to the provisions hereof as to passageways, at the option of the claimant, owner, or holder thereof.

This is an important section of the bill, for the reason that it provides a means for the establishment of a definite claim to sites for pound nets or other fixed fishing appliances. This matter is not covered in the present fishery laws. As far as the present statute is concerned, the only definite claim which the owner of a pound net has on his site is that of a possessory right enjoyed under common law. The need of further legislation along this line would therefore seem most obvious.

This section provides that any person occupying or desiring to occupy a location for a pound net must cause such location to be surveyed, unless a proper survey already exists. Three maps of such survey must be filed by the claimant, containing a certificate that the location shown thereon is claimed and is held under a license, or that application for a license has been made therefor. These maps are to be filed with the commissioner of records in the district wherein the location is situated, which officer shall indorse thereon the hour and date of filing, and he shall then forward one copy to the Secretary of Commerce and another to the Pacific coast office of the Bureau of Fisheries, the third copy being retained for his files. The filing of these maps in the office of the commissioner of records constitutes full notice after the date of such filing that the location is owned, held, occupied, and claimed by the person designated thereon as claimant. Also, from and after the time of filing such maps the claimant or his assigns has the right to occupy the site, to transfer

it, and renew the license, so long as he shall comply with the other requirements of law pertaining thereto.

A proviso is incorporated that it shall not be necessary to file any map of any fishing location before January 1 of the calendar year next after this act takes effect. This is for the purpose of giving ample time to those who may be in remote and inaccessible places to obtain surveyors to prepare proper maps of their locations. It will be remembered that the season in certain parts of Alaska is very short and transportation facilities are not good. It will not be necessary to file any map where one has already been filed with the Secretary of Commerce and the commissioner of records.

Mr. WICKERSHAM. Right there let me ask you a question. Have any been filed?

Mr. BOWER. A few maps have been filed with the department.

Mr. WICKERSHAM. How many have been filed with the department?

Mr. BOWER. I should estimate that perhaps a total of 50 pound-net surveys have been filed with the department.

Mr. WICKERSHAM. That is what we know as trap sites?

Mr. BOWER. Yes, sir.

Mr. WICKERSHAM. When were they filed, Mr. Bower?

Mr. BOWER. I think the first of them reached the department about two years ago, and some have been received recently.

Mr. WICKERSHAM. Will you make a list of those, showing the dates when they were filed and file it with the committee?

Mr. BOWER. I shall be glad to do so if the committee wishes.

The CHAIRMAN. Yes; I think it would be very well to do that. (See page 174 for this table.)

Mr. HADLEY. This section is substantially a copy of the Washington law, is it not?

Mr. BOWER. It is patterned very closely on the Washington law.

Mr. HADLEY. I have not examined it lately, but I remember it well, and it seems to be identical, except so far as it is made applicable to the Secretary of Commerce and the commissioner of records.

Mr. BOWER. We have been so favorably impressed by the Washington law that much of it has been written into this bill.

Mr. HADLEY. I might say that that law was passed in Washington in 1905, as I remember it, and it remains now substantially as it was then.

The CHAIRMAN. It has been in operation there long enough to show whether it is an equitable and workable law, has it not?

Mr. HADLEY. Yes; I speak from memory, but I think it was enacted in 1905.

Mr. BOWER. The recent code of the State of Washington does not contain many changes from the original act.

Mr. HADLEY. As I understand the history of it, it is the original act, so far as that section is concerned.

Mr. BOWER. This section also provides that pound-net or other fishing locations lawfully occupied during the calendar year next preceding the passage of this act are to continue valid, provided that such site shall be deemed abandoned if the owner or locator fails to construct and operate a fishing appliance for three consecutive years covered by his license.

I invite your attention to the word "the," in line 14, on page 8, which should be omitted for the same reasons that I mentioned a short time ago in regard to the use of the same word in line 11, on page 6.

This bill will not be retroactive to the extent of causing the removal of fixed fishing appliances lawfully placed in the calendar year preceding the passage of this bill. This refers particularly to the distance intervals between pound nets, which by the terms of the bill now under consideration are greater than under existing law. It does not seem fair or just to cause the removal of some of these traps when they have been established and operated in good faith. The additional limitations and restrictions of this bill are intended more especially to safeguard the future of the fisheries.

The CHAIRMAN. In other words, if those pound nets now are located a less distance apart than provided for in section 7 of this bill they will not be compelled to relocate them?

Mr. BOWER. They will not be disturbed.

Mr. ROWE. You mean for one year?

Mr. BOWER. No; they will be allowed to continue as they are under the present law; but after the new law goes into effect, then all new pound-net sites or sites for fixed appliances must be in accordance with the provisions of this bill.

Mr. HADLEY. What are the limits, lateral or otherwise, under the provisions, and what are they under the present law?

Mr. BOWER. Under the present law the lateral distance interval between pound nets is 1,800 feet, and under this bill the distance is 2,400 feet. This distance of 2,400 feet is the same as that provided in the State of Washington.

Mr. HADLEY. Is the end-passage provision the same?

Mr. BOWER. The end-passage provision is 300 feet under existing law and 600 feet under this bill. I will treat of that when I come to discuss section 7.

This section 6 also specifies a means for obtaining locations for set nets by erecting a monument or anchoring a buoy near the place claimed, and locations for stake nets may be made by driving a pile on the location on which the license number shall be posted.

I suggest that section 7 be inserted at this point.

(The section referred to is as follows:)

SEC. 7. NETS, HOW CONSTRUCTED.—That no lead of any pound net in the Territory of Alaska shall exceed three thousand feet in length, and there shall be an end passageway of at least six hundred feet and a lateral passageway of at least two thousand four hundred feet between all pound nets. The lead of any pound net may be extended to high-water mark on the tidelands owned by the United States or on other tidelands with the consent of the owners thereof.

No supplementary wing or jigger shall be of greater length than three hundred feet measured over all, nor shall the outer end thereof approach within one hundred feet of the lead of any pound net. Not more than one wing or jigger shall be attached to either side of the heart of any pound net.

No stake net shall be constructed in any other manner than by stakes driven in substantially a straight line. No stake net shall be in the form of a pound net or with hearts or pots connected therewith, and it shall be unlawful to erect or maintain any stake net of greater length than one thousand feet or within one thousand feet laterally or three hundred feet endwise of any other stake net: *Provided*, That the restrictions as to distance intervals between stake nets shall not be construed to apply to the use by the native Indians of stake nets not over fifty yards in length to take salmon for domestic consumption and not for sale.

All set nets shall have a lateral passageway of at least three hundred feet and an end passageway of at least one hundred feet. A set net is not a fixed appliance within the meaning of this act.

For the purpose of determining passageways base lines shall be drawn at right angles to the general course of locations and shall pass through the ends of the locations; the end passageways shall be measured at right angles to such base lines, and the lateral passageways shall be measured parallel with such base lines.

It shall be unlawful to lay or cast any movable fishing appliance within three hundred yards of any other movable fishing appliance or within the distances of lateral and end passageways prescribed in this section: *Provided*, That the restrictions of this section shall not apply to drift gill nets.

It shall be unlawful to erect or maintain any stake net or set net within the distances of any of the lateral and end passages as prescribed in this act.

No purse seine shall exceed one thousand eight hundred feet in length, and no lead or supplementary piece of net shall be used in connection therewith.

No gill net shall exceed two thousand five hundred feet in length, and no beach seine shall exceed three thousand feet in length.

Important features of this section are that it limits the length of the lead of pound nets to 3,000 feet, a point not covered in the existing law, and also provides an end passageway of 600 feet and a lateral passageway of 2,400 feet. This is an increase over the present law of 300 feet in the end passageway and 600 feet in the lateral passageway. The lead of a pound net may be extended to high-water mark. No supplementary wing or jigger is permitted of a greater length than 300 feet, nor is the outer end of such jigger permitted to approach within 100 feet of the lead of any pound net. Only one jigger may be attached to each side of the heart of any pound net.

It also provides that stake nets shall not be constructed in any other manner than by stakes driven in substantially a straight line, and no stake net is to be in the form of a pound net. This is to prevent the adaptation of a stake net to the form of a pound net so as to have the advantage of the better catch afforded by a pound net and pay only the license fee for a stake net.

The CHAIRMAN. Well, I suppose you gentlemen who are fishermen know just what kind of nets those are.

Mr. HADLEY. I think it would be well to have somebody describe them for the record.

The CHAIRMAN. A pound net I understand; but that is only one of the many referred to.

Mr. BOWER. A stake net is a gill net fixed to stakes. A set net is a gill net also, but is of a more mobile character and may be held in place by an anchor or buoy.

The CHAIRMAN. We can take that up later.

Mr. BOWER. Yes, sir. Stake nets are limited by this section to a length of 1,000 feet, and must be at least 1,000 feet apart laterally and 300 feet endwise, provided that the distance intervals shall not apply to small nets not over 50 yards in length used by Indians to take fish for their own consumption.

Set nets, which are still less effective in the matter of taking salmon, are to be 300 feet apart laterally and at least 100 feet apart endwise. A set net is not regarded as a fixed appliance.

Other features of this section are means of determining passageways, the limitation of purse seines to a length of 1,800 feet and limiting the length of gill nets to 2,500 feet. All these features are new to the present law. There are a few other less important features of this section which I have not mentioned specifically.

The CHAIRMAN. I see that Mr. Strong is present now. There was a question raised a while ago as to whether or not the canneries at Ketchikan, Alaska, are within the corporate limits of the town.

Mr. STRONG. They are; I think there are four now.

Mr. BOWER. Two of them are new, this year?

Mr. STRONG. Yes.

Mr. BOWER. And two were built before 1914?

Mr. STRONG. Yes.

The CHAIRMAN. But they are all in the corporate limits?

Mr. STRONG. Yes; right in the center of the town. One of them is pretty well to the southern part, but it is a quarter of a mile inside of the corporate limits of the town.

Mr. WICKERSHAM. Well, formerly the corporate limit was on the line of high tide; when was that changed?

Mr. STRONG. That is true; but I think they considered the canneries as within the town, just the same. In fact, the buildings were extended back over the uplands; what I mean is that they were not eliminated from the boundaries of the town.

Mr. WICKERSHAM. Well, I know there was a good deal of trouble there at one time by reason of the fact that a good deal of the town, especially over by the wharves, was between the high tide and the corporate limits of the town.

Mr. STRONG. That is true.

Mr. WICKERSHAM. Has that been eliminated by extending the town lines?

Mr. STRONG. Yes; that was done by extending the town limits, about a year ago.

Mr. WICKERSHAM. By extending the town limits?

Mr. STRONG. Yes, sir.

The CHAIRMAN. You may proceed, Mr. Bower.

Mr. BOWER. The next is section 8, which is as follows:

SEC. 8. POUND NETS, HOW CLOSED.—That throughout the weekly close season prescribed by law, each pound net shall be closed by an apron placed across the outer entrance to the heart thereof, which apron shall extend from above the surface of the water to the bottom, and shall be securely connected to the piles on either side of the heart of such pound net, fastened by rings not more than two feet apart on taut wires stretched from the top to the bottom of the piles. In addition, throughout said weekly close season, there shall be a V-shaped opening in the lead of such pound nets outside the entrance to the heart adjacent to the apron of at least ten feet in width at the top and extending below the surface at least four feet below low water.

This provides a method of closing pound nets during the weekly close season specified later in the bill. Under the present law it is required that 20 feet of the heart on each side next to the pot must be lifted or lowered so as to permit of the free passage of salmon or other fish, and it is also required that the mouth of the tunnel must be closed. It has been found almost a physical impossibility to comply with the terms of the present law—that is, at least at times it has been impossible—where the weather conditions have made it almost out of the question to close a pound net literally in accordance with the terms of existing law. The bill now at hand requires the closing of each pound net by means of an apron across the entrance to the heart. In addition a small opening is required in the lead next to the heart. This is regarded by practical fishermen and by the department as a much simpler method of closing a pound net to

permit the free passage of fish during the weekly close period than is the case under the present law.

The CHAIRMAN. That is, out of the catching season?

Mr. BOWER. Yes; it lets them go—it does not catch them.

Section 9 reads as follows:

SEC. 9. WHERE UNLAWFUL TO FISH.—That it shall be unlawful to take salmon by any means whatsoever, except with hook and line, commonly called angling, and except for the purposes of fish culture or scientific investigation under the direction or with the approval of the Secretary of Commerce, in any waters where the distance from shore to short is less than three hundred feet, or with any fixed appliance in any waters where the distance from shore to shore is less than five hundred feet, or by any means except with hook and line within five hundred yards outside the mouth of any river less than five hundred feet in width at its mouth: *Provided*, That the use of stake nets shall be allowed in the deltas of the Yukon, Copper, Alseck, Setuck, and Ahrnklin Rivers and on the flats and in the divides between the Setuck and Ahrnklin, and that movable appliances shall be allowed to within one hundred yards outside of the mouths of the before-mentioned rivers and of the Karluk River. For the purposes of this paragraph, the width of a river shall be determined by measurements at right angles to the trend of said waters at mean high water, and all measurements of water referred to herein shall be made at mean high water, and the Secretary of Commerce is hereby authorized to determine and indicate by suitable markers, monuments, or notices the mouth of any river, or other waters referred to herein. It shall be unlawful to efface, destroy, or remove, or in any manner interfere with any marker, monument, or notice provided for in this act.

No fishing appliance shall be operated in any river, lagoon, estuary, or other waters for a greater distance than one-third the width of the waters thereof: *Provided*, That this shall not apply to any drift gill net which by force of the elements may unavoidably and temporarily exceed such distance.

A very important feature of this section is that it prohibits absolutely all fishing except angling or except for fish culture or scientific investigation in any waters where the distance from shore to shore is less than 300 feet. This is a distinct departure from the present law, as it is now permissible to operate movable appliances in streams less than 300 feet in width, or of any width provided the net so used does not extend more than one-third the distance across the stream. Fixed appliances are prohibited in waters where the distance from shore to shore is less than 500 feet. This is the same as in the present law.

All fishing, whether with fixed or movable apparatus, except with hook and line, is prohibited by this bill within 500 yards of any (I want to emphasize that word "any") river less than 500 feet in width at its mouth. This differs from the present law, in that fishing is now prohibited with fixed appliances within 500 yards and with movable appliances within 100 yards of the mouth of only those streams which are red-salmon streams. There are now no such restrictions for streams which are not red-salmon streams. The result is that many of them which need protection are overfished. The necessity for this particular provision is at once apparent when it is realized that the habits of salmon are such that they very often school off the mouths before ascending the streams to spawn. It is during this period of loitering about the stream mouths that they fall easy prey to the purse-seine fishermen. Fish that have passed the nets in outer waters and have come so close to the spawning grounds should be allowed to pass by unmolested. The limitations for movable appliances in regard to keeping away from stream mouths are not operative, by the terms of this bill, where the stream is more than 500 feet in width at its mouth.

Let me explain further the prohibition in this bill of all fishing within streams less than 300 feet in width. If this were applied to all waters it would work a great hardship on certain canneries which are almost wholly dependent upon streams less than 300 feet in width for their pack of salmon; therefore a proviso has been incorporated in the bill that the use of stake nets shall be allowed in certain waters, including the deltas of the Copper, Alseck, Setuck, and other rivers. There is one other exception in the bill which will permit of the use of movable appliances to within 100 yards outside the mouth of those rivers and of the Karluk River. These exceptions are necessary, unless the Government wishes to enact legislation which will practically confiscate the business of a few canneries which were established in good faith under the terms of existing law. I can not believe that it would be the desire of Congress to apply any such drastic measure; and, moreover, such action does not seem necessary in order to protect the fishery industry of Alaska.

Mr. HADLEY. Let me ask you this question: Has the department information as to the per cent of salmon spawned under existing law, notwithstanding the existing conditions at the mouths of these small streams?

Mr. BOWER. We know that some of the streams are overfished; and we are aware of the fact that purse-seine fishermen very often work into and up above the mouths of streams and fish down, taking the fish from the spawning grounds.

Mr. HADLEY. I want to know whether the fish do, as a matter of fact, go up the small streams last referred to to spawn in large quantities?

Mr. BOWER. They do; yes, sir; particularly the humpback salmon.

Section 9 also provides that the Secretary of Commerce shall indicate by suitable markers the mouth of every river, and makes it unlawful to destroy or remove any marker or monument provided for in the bill.

It is also stipulated in the bill that no fishing appliance shall be operated in any waters for a distance greater than one-third the width thereof, provided that this shall not apply to drift gill nets which may temporarily exceed such distances. This exception seems proper for the reason that drift gill-net fishermen can not control the movements of their nets while they are in fishing position.

I suggest that section 10 be inserted at this point.

(The section referred to is as follows):

SEC. 10. WEEKLY CLOSE PERIOD.—That it shall be unlawful to take, fish for, or kill any salmon of any species in any manner or by any means whatsoever, except by hook and line solely in angling for sport and not for commercial use, in any of the waters of Alaska, except in the Arctic Ocean and Bering Sea and the waters tributary thereto, Cook Inlet, and the Copper River delta, from six o'clock postmeridian of Friday of each week until six o'clock antemeridian of the Sunday following.

This section provides a weekly close season of 36 hours, from 6 o'clock p. m. Friday to 6 a. m. of the Sunday following. This is the same length of time laid down in the present law, but the period has been advanced 24 hours earlier in the week. The close season under the present law is from 6 p. m. Saturday to 6 a. m. Monday. The chief reason for this change is for the purpose of obviating as far as possible work on Sunday at the canneries. The change has

been advocated by the canning interests, and the department has felt that a close season at another part of the week will be just as effective as it is on Sunday. Under the proposed change, no fish will be caught on Saturday, hence the canneries will, as a rule, find it unnecessary to operate on Sunday. This change, of course, will cause some of the fishermen to work on Sunday who heretofore have not been permitted to do so, but they will be much fewer in number than those employed at the canneries who will not be forced to work on Sunday.

Exception in the matter of a close season is made for the waters of Bering Sea and its tributaries, and Cook Inlet and the Copper River Delta. Exception in the case of Bering Sea is for the reason that the fishing season is very short, usually covering only a period of 25 days in the month of July, and it is necessary for the canneries to fish every day, if possible, in order to operate successfully. Weather conditions are frequently very unfavorable, when all fishing must stop; thus there is in effect a natural close period, because the fish can continue on to the spawning grounds whether the weather is severe or not. Cook Inlet, which is in Central Alaska, is excepted from the weekly close season also because of unfavorable weather conditions. It very frequently happens that the fishermen can not operate in the waters of Cook Inlet.

The waters of the Copper River Delta have been excepted because of the many natural difficulties imposed upon the fishermen who operate in that region. The delta is about 40 miles in width and is broken up into hundreds of small channels and sloughs, and the fish thus have many avenues of escape. One of the chief forms of fishing gear in the Copper River is the stake net, which is in effect a gill net affixed permanently upon a row of stakes. This net when in operation often becomes partly covered up with mud and sediment; and it would be almost a physical impossibility to remove it to prevent its fishing in the weekly close season. Therefore, if such a close period were made operative in the delta of the Copper River it would practically prohibit the use of stake nets. It is not believed that the fishery of the region will suffer depletion if a close season is not applied. The practical benefits of the close season are to permit a certain number of mature fish to ascend to the spawning grounds. No limitation, so far as a weekly close period is necessary in the Copper River Delta in order to accomplish this purpose. All three of the regions excepted in this bill are likewise excepted in the present law.

Section 11 reads as follows:

SEC. 11. CLOSING OF WATERS, HOW PROVIDED.—That the Secretary of Commerce may in his discretion set aside any river or lake or parts thereof, and the waters outside thereof, and the waters outside thereof for a distance not greater than five hundred yards, in which fishing may be limited or entirely prohibited, but such power shall be exercised only after a hearing, of which due notice must be given by publication not less than sixty days prior thereto in a newspaper in the district affected; and when the interested parties are known to the Secretary of Commerce they shall be personally notified by notice mailed not less than sixty days previous to such hearing. No order made under this section shall be effective until one calendar year after the same is made.

This section is for the purpose of creating breeding reserves where commercial fishing is prohibited, or where it may be limited. The

waters which may thus be set aside include any river or lake, or the area for a distance not exceeding 500 yards outside the mouth of a river. Before any closing is made by the Secretary of Commerce under the provisions of this act, due notice must be given and a hearing granted, at which all interested persons may be heard.

Mr. HARDY. Will you go back for a moment? If the object of the provision you referred to a while ago is to give Sunday a day of rest in that weekly close period, why not make it begin Saturday and run clear over Sunday? Run it from postmeridian Saturday until 6 o'clock antemeridian Monday?

Mr. BOWER. That is the way it is in the present law; but as I tried to explain, that forces more people to work than by advancing it 24 hours, as suggested in this bill.

Mr. HADLEY. You see Saturday's catch of fish would be brought in and would have to be canned on Sunday, under that arrangement. Do you see?

Mr. HARDY. Yes.

Mr. BOWER. There may be 300 people in the cannery, and only 100 outside. Therefore, there would be a gain of 200 under this bill who would have a rest on Sunday.

Mr. HARDY. Yes; I thought I would save them both. [Laughter.]

Mr. BOWER. Referring further to section 11, I will say that no closing order under this section is to be effective until one year after it is made. This is slightly different from the present law on this subject, for it is now provided that a closing order may become operative at the beginning of a calendar year next after the issuance of the order. This change insures a little more time and gives the fishery interests more opportunity to plan their work before the closing order may affect any particular region. At the present time waters in three different sections of Alaska have been closed to fishing. There are three different orders which have been promulgated by the Secretary of Commerce to reserve certain waters for spawning areas.

Section 12 of the bill is as follows:

SEC. 12. PLANTING FISH UNLAWFUL WITHOUT CONSENT.—That it shall be unlawful to liberate, release, implant, or place any fish of any kind or description in any of the waters of Alaska without first obtaining the written consent of the Secretary of Commerce.

This is a new feature and is designed simply to guard against the introduction of undesirable fishes in any of the waters of Alaska. In some of the Western States predacious fish, such as bass, crappie, and perch, have been introduced in waters where they have had a destructive effect upon the more valuable trout or salmon. This is particularly true of Washington. It is to guard against this that the section under discussion has been incorporated in the bill. So far as we know, there has been no improper planting of fish in Alaska, and it may be some time before any tendency arises to do so, but it seems advisable to anticipate any such improper practice by legislation at the present time.

Section 13 is as follows:

SEC. 13. UNLAWFUL TO DESTROY FOOD FISH.—That it shall be unlawful for any person to waste or destroy any aquatic animal of commercial value taken or caught in any of the waters of Alaska: *Provided*, That waste or destruction shall not be deemed a violation of this section when resulting from unavoidable causes.

The utilization of any part of food fishes, other than the offal and waste thereof from establishments preparing fish food products, shall, three years after this act becomes effective, be regarded as waste if utilized in the manufacture of fertilizer, fish meal, fish oil, or other products not used for human consumption.

It shall be unlawful to take any salmon or other food fish or shellfish by means of a spear or gaff, except for domestic consumption, and it shall be unlawful to purchase any salmon or other food fish or shellfish taken by means of a spear or gaff for commercial use.

This is to prevent the waste of food fishes. Such waste has sometimes occurred in Alaska, where less valuable fish like chum salmon have been thrown away in considerable numbers when a larger or a more profitable catch of higher priced salmon could be obtained. This is covered by the present law which prevents the wanton waste of food fish.

A new feature in this section of the bill is that three years after the measure becomes operative it will prohibit the manufacture of oil or fertilizer from food fishes. This will affect chiefly the two plants which now prepare oil from herring. This was discussed at considerable length by Dr. Jones in his statement earlier to-day.

Mr. HADLEY. You spoke of "wanton waste" under the existing statutes; is that word "wanton" in the old law?

Mr. BOWER. It is in the old law.

Mr. HADLEY. Is it left out advisedly in this section?

Mr. BOWER. It is left out advisedly in the present section. We have covered it by different phrasing.

Dr. SMITH. I want to ask if the language of this section, particularly the unqualified use of the word "destroy" in line 14 does not have the effect of prohibiting fishing altogether, and whether some modification of the language is not necessary?

The CHAIRMAN. In line 14, section 13?

Dr. SMITH. Yes. It makes it unlawful to "destroy any" fish. Perhaps the point I am trying to make would be met by inserting the word "legally" before the word "taking," in line 15, or perhaps by inserting the word "needlessly" before the word "destroy."

Mr. HARDY. Why not make it "illegally destroy"?

Dr. SMITH. I think the object of the section is quite obvious, but I just raise this question of phraseology.

The CHAIRMAN. I did not quite get your point.

Dr. SMITH. This section, in line 14, makes it unlawful to destroy any aquatic animal of commercial character. Whenever you engage in fishing you destroy your catch; it is a necessary consequence of fishing.

Mr. HADLEY. Well, that is accompanied by the condition that they had previously taken or caught the fish: "Destroy any aquatic animal taken or caught."

Dr. SMITH. Well, you could not destroy them until you had caught them.

Mr. HARDY. When you eat them you destroy them; that is the point Dr. Smith is raising.

Mr. ROWE. Yes; that is a good point.

Mr. GREENE. What is the language you suggest, Dr. Smith?

Dr. SMITH. Perhaps the word "needlessly" before the word "destroy" would meet the situation. The present law has the word "wanton," which is a very difficult situation to prove.

Mr. GREENE. Dr. Smith, I submit to you the inquiry whether that is not sufficiently covered by the word "waste," omitting the word "destroy" altogether, because it seems to me that the word "waste" incorporates the very idea that you are trying to incorporate in the statute; and that suggestion would not eliminate anything you wish to retain.

Dr. SMITH. It seems to me that that would meet the point.

Mr. GREENE. Taking out the words "or destroy."

Mr. BOWER. Take out the words "or destroy," in line 14.

Mr. GREENE. In line 16, you have the words "waste or destruction." That would meet the case; "or destruction," in line 16.

Mr. BOWER. You could take out the words "or destroy," in line 14, and if necessary take out the words "or destruction," in line 16.

Mr. GREENE. That was my suggestion.

Mr. BOWER. I imagine that all purposes will be served, as far as administrative problems arise, if these words are omitted; it would so seem to me at first thought.

The CHAIRMAN. Well, we will consider that.

Mr. BOWER. Another point in this section is that in regard to the commercial use of salmon or shellfish taken by means of spear or gaff.

Dr. SMITH. Will you explain the undesirableness of the practice that is here sought to be prohibited?

Mr. BOWER. On the Chilkoot River, in southeast Alaska, the Indians resort to the practice of hooking or gaffing salmon, this operation being well up toward the spawning grounds. The fish that they get in this manner are not regarded as being as good for canning purposes as those which are caught in the approved forms of apparatus. I remember that two or three years ago an agreement was entered into by three canneries concerned in that part of Alaska that they would not buy any of the salmon which had been hooked or gaffed by the Chilkoot Indians. I think the agreement was lived up to for one season. A fish that is hooked or gaffed in that manner will show a mark in the flesh after it is canned. Of course, that may not be a serious difficulty, but it lessens the value of the product.

The CHAIRMAN. The spears run through the body of the fish, do they?

Mr. BOWER. Run through any part of the fish. Another and a very serious objection is that they gaff many that they do not get; they kill a lot of salmon that are never used commercially. Perhaps that is the most serious feature of the hooking or gaffing on the Chilkoot River. Now, there is no reason why the prohibition of this practice should work a serious hardship on the Indians, because they can very readily adopt the approved methods of fishing, which the Indians are using in other parts of southeastern Alaska. For a number of years there has been a local cry in Alaska that the practice of gaffing salmon should be discontinued. It ought to be discontinued on humanitarian grounds, if for no other reason.

Mr. HADLEY. Of those that they hook or gaff they probably lose more than they take, do you not think so?

Mr. BOWER. Yes; that is the point I endeavored to make as being the most serious feature of it. More salmon that are injured get away than they take; it is a form of waste.

Mr. BRITTON. As a matter of practical application, if you go after an Indian who has been spearing or gaffing these fish and he says that he was trying to get them for domestic consumption, can you tell whether he was doing so in fact, or whether he was intending to use them for commercial purposes?

Mr. BOWER. We can judge by the number he takes.

Mr. BRITTON. I ask that because I see in this section there is an exception in favor of fish intended for domestic consumption; and it seems to me that opens the door to fraud.

Mr. BOWER. I think they ought to be allowed to take salmon in any way they want to for domestic consumption.

The CHAIRMAN. If the canneries are prohibited from buying that kind of fish, would not that accomplish the desired result?

Mr. BRITTON. That is what it ought to be.

The CHAIRMAN. That would prevent the Indians from spearing any more than they needed for domestic consumption.

Mr. BOWER. Yes; I think that is covered by the closing lines of this section, where it says, "It shall be unlawful to purchase any salmon or other food fish or shellfish taken by means of a spear or gaff for commercial use."

The CHAIRMAN. It seems to me that is a practicable way to get at it.

Mr. STRONG. I think it would be very well to make that cover every fish. Now, I know that at Ketchikan fishermen have indulged in this practice; certain parties will go to a stream, and for what they call "sport" will gaff the fish, and hundreds of mutilated fish will afterwards be found in the stream due to that method. Now, those people are not catching fish for commercial purposes. While we are on the subject I should think it would be well to make it cover them all; that no fish should be taken in that way.

Mr. BOWER. They are not taking them for domestic consumption, are they?

Mr. STRONG. Not as a rule. It is generally for sport.

Mr. GREENE (interposing). Well, we do not provide any penalty for violation of this provision, do we?

Mr. BOWER. There is a penalty for violating any provision of the bill.

Mr. HARDY. When they catch them in that way, Mr. Strong, they catch more than could be applied to their own use?

Mr. STRONG. Yes; it is just the destruction of the fish that they are after; it is a disgusting sight.

The CHAIRMAN. It would be no hardship to prohibit that practice?

Mr. STRONG. It would be no hardship. The fish are so thick that you can actually go to the water and grab them with your hands. Some people will take a gaff or jigger and often get two or three fish at a single pull.

Mr. BOWER. I think the provision of the section covers that, because it makes it unlawful to "waste or destroy" fish.

The CHAIRMAN. But we can make the provision more definite.

Mr. HARDY. We could make it illegal to take more than required for domestic use; and then one man could go and catch half a dozen

for that purpose, and another could go out and take a few for sport and kill or injure a great many.

Mr. BOWER. I think it would be desirable to put in a specific phrase to prohibit that practice.

The CHAIRMAN. To prohibit that practice altogether?

Mr. BOWER. Yes, sir.

Capt. REYNOLDS. I have seen people at Ketchikan dropping those things down in the water and taking the chance of injuring 50 fish; it is the sport of tourists to watch them do it that way.

Mr. HINDS. Is that done by whites or by Indians?

Mr. STRONG. Mostly by whites.

Mr. BOWER. We could omit the words "for domestic consumption," in lines 2 and 3, at the top of page 15; that will cover the matter.

Mr. HARDY. Yes; that will leave the law all right, I think.

The CHAIRMAN. Yes; in reading Dr. Jones's report it strikes me that about the easiest thing on earth in Alaska would be to catch a fish.

Dr. SMITH. Yes; as you go along a stream you can pick them up in your hands, they are so thick; the water is not very deep.

Mr. BOWER. Section 14 reads as follows:

SEC. 14. POLLUTION OF WATERS.—That it shall be unlawful to place or cause to be placed in any of the waters of Alaska any explosive, poisonous, or deleterious substance whatsoever for the purpose of catching, taking, killing, or injuring fish, or to place or deposit in, or discharge or pass into, or cause to be placed where it may pass into any river, lake, lagoon, estuary, or waters of Alaska, any lime or other caustics, tar, petroleum, asphalt, bitumen, or other carbonaceous materials, oils, acids, or sulphates, or compounds thereof, sawdust, shavings, slabs, edgings, mill or factory refuse, slag, sluicings, tailings, smelter or mine refuse, or any other substance injurious to fish, fish fry, or the food of fish, or which is or may be injurious to the spawn or spawning beds of fishes; and in the case of substances known to be deleterious to fishes, or to fish foods or spawn, it shall not be necessary to prove that the pollution of the waters by these substances in the particular case in question has actually caused the death or destruction of any fish, fish fry, spawn, or fish food: *Provided*, That nothing in this section shall be construed to prohibit the proper use of explosives in connection with the construction of buildings or improvements: *Provided further*, That the placing of fish offal in the waters shall not be deemed a violation.

This section is to prevent the pollution of the waters of Alaska in ways injurious to fish and to prevent the use of explosives in taking fish. Many States have similar laws upon their statute books. The Legislature of Alaska passed a measure in 1913 to prevent the pollution of waters by means of lumbering wastes. This act is good as far as it goes, but it is not sufficiently comprehensive. The bill now at hand covers the matter much more thoroughly. Provision is made so as to permit the proper use of explosives in construction work. It is also provided that the dumping of fish gurry or waste shall not be considered as a pollution of the waters.

The CHAIRMAN. Do you not think that that ought to be stricken out too?

Mr. BOWER. Well, in my opinion, cannery waste does not pollute seriously the cold waters of Alaska. As a matter of fact, I think it is a good thing to have a certain return of the waste from the fish, as it helps to charge the water with minute forms of animal life upon which the younger fish of the succeeding generation may feed.

The CHAIRMAN. I understand that it does not add anything to the joy of living?

Mr. BOWER. It does not for the time being, but around some of the villages I think the gulls take up a great deal of the refuse. They are splendid scavengers.

Mr. ROWE. There are plenty of lakes in the Northern States where they feed the fish that way; they feed them that way in Maine.

Mr. WARREN. In the State of Oregon we collect refuse from the canneries and feed a great deal of it to the young fish in the rearing ponds, either by making maggot racks and placing them out in the streams, or by cooking and grinding it, or feeding it raw. At the canneries it is eaten up by chubs and other forms of fish almost immediately upon its being dumped.

Mr. GREENE. I do not know that it would be feasible, but I would suggest this: In my own city we used to have fine fishing; we do not to-day, on account of the sewage. I think that is the most important danger as to all streams. I think that must be taken up sometime to prevent the pollution of streams through sewage. In my city, and also in Taunton, 15 miles above, the sewage has destroyed a large proportion of the fishing industry. I remember that when I was a boy we used to go into the river and catch fish very readily.

Mr. BOWER. What river was that?

Mr. GREENE. The Taunton River; the city of Fall River.

Mr. BOWER. We are aiming to prevent any such condition in Alaska.

Mr. GREENE. You have no provision in here as to sewage?

Mr. BOWER. Not specifically.

Mr. GREENE. Well, our city has 130,000 people, and we had supposed that salt water would neutralize all the bad effects of the sewage; but it has not done so. And I think that is one of the most important things. I do not know how New York can stand it for a minute; I know the waters are quite offensive to my sense of smell in New York when I go across the ferry; and that is a very important element, it seems to me, of the pollution of waters—by sewage.

Mr. BOWER. Well, that I think is covered by lines 16 and 17, page 15, where it says "any other substance injurious to fish, fish fry, or the food of fish." I think that blanket provision covers sewage.

Mr. GREENE. Well, you have put so much in here that I do not think anybody would think of sewage. It might be, and probably will be the case, that you will not get any sewage in Alaska for a great many years; but I believe that is a question that will have to be taken up; the sewage destroyed the fish in my community, and ultimately would do so in Alaska.

The CHAIRMAN. Over in Baltimore they are spending millions of dollars in constructing septic tanks to take care of their sewage; it is not discharged into the bay; it became so offensive that they could not stand it longer. And that method is being adopted all over the country.

Mr. GREENE. You would not think it possible in waters like ours, where the tide ebbs and flows every 12 hours; but the sewage in those waters have destroyed our fish, and also our bathing facilities. I have lived in the city for many years; I was connected with the

city government for about 20 years; and I know that we have no bathing facilities except one private bathing beach a considerable distance from the city; no public bathing beach in a city of 130,000 population, where the water of the river runs all the way from 25 to 90 feet deep; no bathing beaches, because the offal from the sewage backing on to the beaches makes them unfit for bathing purposes, besides destroying a large amount of very valuable fish, so that they do not come into our harbors.

Mr. STRONG. I think this matter of the offal is one which will take care of itself in a very few years; I think the time is coming when this offal can be utilized so as to add to the profits in the canning business; there is a waste at the present time, and they are working on methods of making use of it.

Mr. GREENE. The offal of the fish?

Mr. STRONG. The offal of the fish.

Mr. GREENE. I was not referring to that. I have a letter from Mr. George W. Field, for many years our fish commissioner, saying that I had called his attention over a year ago to that proposition, and he was now making an investigation along that line; although he is not now fish commissioner he is now making an investigation on the line of the destruction of fish by reason of the deposit of sewage in the waters.

Mr. HARDY. Do you not think that these general words in this section would be sufficient to cover the situation that the commissioner wrote to you about?

Mr. GREENE. I am not a lawyer, and I can not say as to that, but you lawyers can doubtless decide that question.

Mr. HARDY. But you are familiar with the facts, and I do not think there is any question, from your statement alone, that sewage would be injurious to fishes.

The CHAIRMAN. You may proceed, Mr. Bower.

Mr. BOWER. Section 15 of the bill reads as follows:

SEC. 15. DAMS TO BE PROVIDED WITH FISHWAYS.—That every dam or other obstruction across or in any stream shall be provided with a durable and efficient fishway, which shall be maintained in a practical and effective condition in such place, and for which plans and specifications shall be furnished by the Secretary of Commerce upon application to him, and which shall be kept open, unobstructed, and supplied with a sufficient quantity of water to freely admit the passage of fish through the same. Every owner, manager, agent, or person in charge of any such dam or obstruction who shall fail to comply with the provisions of this section shall be guilty of a misdemeanor.

If any person shall fail to construct and maintain any such fishway or to remove such dam or obstruction in a manner satisfactory to the Secretary of Commerce, then within sixty days after written notice thereof shall have been served on the owner, his agent, or the person in charge, such dam or obstruction shall become a public nuisance and the Secretary of Commerce may take possession of same in the name of the United States of America and destroy same and no liability shall attach for such destruction; or the Secretary of Commerce may construct a suitable fishway, and the actual cost of construction of such fishway shall constitute a lien upon the dam and upon all the personal property of the person owning the same. No dam or obstruction shall be erected in any of the waters of Alaska to a height that, in the judgment of the Secretary of Commerce, shall make a fishway thereover impracticable, except as hereinafter provided.

In the event that any person desires to construct a dam in any of the waters to a height that will make a fishway thereover impracticable, in the opinion of the Secretary of Commerce, then such person shall make application to the Secretary of Commerce for a permit to construct such dam, and the Secretary of Commerce is hereby authorized to grant such permit in his discretion,

upon the condition that the person so applying for such permit shall convey to the Secretary of Commerce a site of the size and dimensions satisfactory to the Secretary of Commerce, at such place as may be selected by the Secretary of Commerce, and the applicant shall erect thereon at his expense a hatchery and hatchery residence, according to plans and specifications to be furnished by the Secretary of Commerce, and shall enter into an agreement with the Secretary of Commerce, secured by a good and sufficient bond, to furnish all water and lights without expense to operate said proposed hatchery; and no permit for the construction of any such dam shall be given by the Secretary of Commerce until the person applying for such permit shall have actually conveyed said land to the Secretary of Commerce and erected said hatchery and hatchery residence in accordance with the said plans and specifications. The provisions of this section shall not apply to cases where dams have been heretofore constructed in streams to a height where the construction of a fishway is impracticable.

There is nothing in the present Alaska law which requires the construction of fishways over dams.

It is the practice in the States to require such structures; and since the Fisheries Code of the State of Washington, which was revised in 1915, covers this subject very comprehensively, we have patterned this section of the bill very closely upon that of Washington. The salient point of this section is that every dam must be provided with a durable and efficient fishway, plans for which are to be furnished by the Secretary of Commerce. Many fishways are defective as to form and type, and as the department has developed a suitable one it seems proper to require the use of that type. Under the provisions of this bill if any person fails to construct and maintain a fishway satisfactory to the Secretary of Commerce or remove the dam which is obstructing the passage of fish, the Secretary may destroy such dam or obstruction or may construct a suitable fishway and assess the cost of it against the property owner. No dam may be erected to a height which in the judgment of the Secretary of Commerce will make a fishway thereover impracticable, unless such person shall erect a hatchway above the same at his expense, to be approved by the Secretary of Commerce, and turn such hatchery over to the Government. Eggs taken below the dam will be carried to the hatchery above, and the young fish resulting will be liberated so as to stock the waters above the dam.

The owner of the dam shall also furnish lights and water free of cost to the Government to operate such hatchery. No permit for such a dam shall be granted until the hatchery shall have been erected and the land conveyed to the Government. The provisions of this section are not to apply in cases where dams have heretofore been constructed to a height where a fishway is impracticable.

So far as I know at the present time, there are only two or three dams in Alaska which are erected to a height which presents the passage of fish and which are too high to permit of the construction of a fishway.

The CHAIRMAN. Under what law are dams in these streams in Alaska regulated?

Mr. WICKERSHAM. I suppose under the power-site law, if it ever gets through.

The CHAIRMAN. Is there any existing law regulating the construction of dams?

Mr. WICKERSHAM. No, I do not know that there is, except that they are controlled either in the Forest Service or on the public lands; I do not know of any other dam in Alaska except that one

at Juneau. There is a very large dam there, almost or quite as large as the Roosevelt Dam in New Mexico. Of course it would be impossible to put the fish over that with any sort of process that would result in good to the fisheries. Where are there any other dams in Alaska, Mr. Bower?

Mr. BOWER. I have in mind a power dam at Ketchikan; but that dam is at a place where the fish could not have gone up anyhow; so it does not make any difference.

Mr. WICKERSHAM. I think the little creek north of Juneau was probably not a fish stream anyway.

Mr. BOWER. It was not; I have been there, and I know that fish never could have ascended as far as the dam.

Mr. WICKERSHAM. I do not know of any situation in Alaska that requires that section; it might arise, of course.

Mr. BOWER. We anticipate that there will be occasions where it will be highly desirable to have such a provision operative. A dam is being constructed, I believe, by the Alaska Gold Mines Co. near Taku Inlet, which is some 20 miles from Juneau, but I think it is away above any place where salmon could ascend under natural conditions.

Mr. WICKERSHAM. Well, do you make any such exception in that section of the law?

Mr. BOWER. No such exception is made.

Mr. WICKERSHAM. I do not know how far it might conflict with the power-site act.

Mr. GREENE. I think it might be well to put that provision in there.

The CHAIRMAN. What I had in mind was that there ought to be some proviso in there that this provision was not intended to conflict with any power-site law enacted by Congress; in other words, we do not want a conflict of jurisdiction.

Mr. HADLEY. We have in Washington, and I believe they have in other States, an absolute and unqualified statute; they do not intend to have any restrictions in it there, and if by implication it would conflict with anything else, it would, of course, go to that extent.

The CHAIRMAN. Well, if you are advised in the matter, it is all right; but somebody asked the question as to a possible conflict.

Mr. HADLEY. Well, I am not advised as to this; it might conflict; I do not know.

Mr. WICKERSHAM. I do not know of a single case in Alaska where that provision would ever have made any difference whatsoever; I do not know of any situation where it could be applied.

Mr. HADLEY. I do not know of the situation up there as to that.

Mr. GREENE. Our member from the State of Washington has had considerable to do with the Washington statute.

The CHAIRMAN. Yes, I know; Mr. Hadley was in the State senate when that measure was framed.

Mr. HADLEY. No, I was not a member of the legislature; but I was pretty closely identified with the business in a professional way, and I was in close touch with the preparation of the act at that time.

The CHAIRMAN. Yes.

Mr. HARDY. Have you in mind any case in which this provision might be useful, Mr. Bower?

Mr. BOWER. Not at the present time, so far as it relates to the requirements in the construction of hatcheries. But I may say that

right now one of our inspectors is investigating a situation which is alleged to exist at Pavlof Harbor, in southeast Alaska. We have had telegraphic advices from one of our representatives in that section, and he has been requested to investigate the alleged construction of a dam.

The CHAIRMAN. It is a good provision to meet possible conditions that may arise.

Mr. WICKERSHAM. Well, they have a general law there prohibiting the daming of fish streams.

Mr. BOWER. Well, there may be nothing in the present law under which we could handle the situation as it now exists, or as we think it may exist, at Pavlof Harbor, where it is reported that a power dam is being erected which will interfere with the passage of fish.

Capt. REYNOLDS. It is possible to construct a dam in Copper River which would prevent any fish going up that river.

Mr. WICKERSHAM. It is possible in any stream to do that.

Capt. REYNOLDS. That is also possible in Wood River and many of the rivers of Alaska.

Mr. BOWER. If a power dam were put in at the canyon on the Copper River, the spawning area for several hundred miles above would be destroyed, without some provision in the law, such as outlined by this bill.

The CHAIRMAN. It strikes me that it is a very desirable and necessary provision.

Mr. BOWER. I hope it will remain in the bill; it was found necessary in Oregon.

Mr. WARREN. In Oregon, the construction of dams practically caused the loss of the fishery on the Clackamas River; they built the dam and the fish could not get up the stream, and they spawned down below and the run was absolutely lost.

Capt. REYNOLDS. We have the same condition in Washington.

Mr. BOWER. In the State of Washington there is the same condition. I am not familiar with the details of it; but I know that the law in Washington is very helpful to the Federal hatchery that operates at that point.

Mr. BRITTON. The idea is that this law will apply to any structure; however authorized, whether under a general or a special law; that this would apply to them all.

Mr. WICKERSHAM. Well, I always think it is bad legislation to pass a law without some reason for it, because it is much more likely then to do harm than it is to do good; but I do not want to make any objection.

The CHAIRMAN. Yes; we will consider that question.

Mr. BOWER. Section 16 reads as follows:

SEC. 16. BARRICADES AND OTHER OBSTRUCTIONS.—That it shall be unlawful to erect or maintain any barricade, fence, or other fixed or stationary obstruction, or any fishing appliance other than those lawful under the provisions of this act, except for purposes of fish culture, in any of the waters of Alaska for the purpose of preventing or impeding the ascent of fish to their spawning grounds, and the Secretary of Commerce is hereby authorized and directed to have any and all such unlawful obstructions removed or destroyed.

The substance of this section is already covered by existing law. It is designed to prevent the blockading or barricading of streams.

This obnoxious and destructive practice was much in vogue during the Russian occupancy of Alaska and until about 20 years ago, when the act of 1896, the first fisheries act for Alaska of any consequence, went into effect. The evils of barricading streams in Alaska have been most serious; in fact, some of the waters have probably never recovered their one-time value as salmon producers. The obstructing of streams by blockades or barricades is done for the purpose of causing the schooling of fish immediately below, thus making their capture easy. The obstruction also results in preventing fish from ascending for spawning purposes, and the ultimate outcome is to render the stream barren of salmon.

In the Alaskan investigations of the *Albatross* in 1897 and subsequently many barricades were destroyed. I may say that hundreds of fixed stream barricades were removed.

Capt. REYNOLDS. There are now no such barricades existing, to your knowledge, are there?

Mr. BOWER. So far as we are aware there are now no such barricades existing.

Section 17 of the bill, relating to hatcheries, is as follows:

SEC. 17. HATCHERIES.—That after passage of this act the Secretary of Commerce is hereby directed to purchase, or to acquire by condemnation in the manner in which lands are condemned or appropriated for public use, any and all of the private salmon hatcheries in Alaska which have been heretofore approved under the act of Congress of June twenty-sixth, nineteen hundred and six, the same to be paid for by certificates of purchase in such denominations as may be desired by the sellers, and such certificates may be used at any time for the payment pro tanto of any license fees or taxes upon or against or on account of the catch or pack of said sellers, their successors or assigns.

The exemption from license fees and taxes in favor of the owners of private salmon hatcheries in Alaska as provided by section two of the act of Congress entitled "An act for the protection and regulation of the fisheries of Alaska," approved June twenty-sixth, nineteen hundred and six, for the release of red and king salmon fry, shall hereafter apply to existing hatcheries until the date of their purchase by the Secretary of Commerce.

This is an important section, as it seeks to do away with the operation of private hatcheries now authorized by law. There are five such hatcheries in Alaska at the present time. This bill requires that the Secretary of Commerce shall purchase these hatcheries or acquire them by condemnation in the manner in which lands are condemned or appropriated for public use. Payment for the hatcheries may be made by certificates of purchase in such denominations as may be desired by the sellers, these certificates to be negotiable for the payment of license taxes upon the fishery product of such sellers, their successors or assigns. It is further stipulated in this section that the exemption from license fees in favor of the owners of private hatcheries as provided for under the present law of June 26, 1906, shall continue to apply to existing private hatcheries until such time as they may be taken over by the Secretary of Commerce. This seems only fair and just.

Mr. GREENE. May I ask what is the purpose of purchasing these hatcheries—condemning them? Why could you not allow these parties that have these hatcheries and are doing business there to continue? Why do you want to take that under the Government?

Mr. BOWER. Well, for a long time there has been a disposition on the part of Alaska that the operation of private hatcheries is wrong in principle. The department feels that, although those hatcheries

are, in most cases, operated satisfactorily, there is not the effort and the close attention to the work that the Government with its facilities would give.

The CHAIRMAN. These people want the Government to take them over, do they not?

Mr. BOWER. There has been no objection raised, so far as I know. I may say that four years ago, when Capt. Moser, of the Alaska Packers' Association, testified before the Senate committee on the subject, speaking for his company, I believe he said in substance that they were resigned to the fact that the Government was the proper authority to control the hatcheries, and they were ready to sell upon the basis of a fair price.

The CHAIRMAN. Well, these hatcheries were erected, in the first place, in order to propagate the fish by those who were interested in that?

Mr. BOWER. Yes, sir.

The CHAIRMAN. If the Government takes them over and that purpose is accomplished, they would have no reason to complain. They ought to turn them over without any pay, really, if the Government would do the work, because I understand that now they are not operating at a profit.

Mr. BOWER. They are not operating at a profit at the present time. I will explain that a little more in a moment, if I may.

The CHAIRMAN. All right.

Mr. BOWER. Now, it seems only fair to give the operators of such hatcheries the benefit of any rebates—I am referring now to the latter part of section 17 of the bill—if considerable time should elapse before the taking over of the hatchery by the Government. Therefore the exemptions of the present law of June 26, 1906, should continue in force until the transaction is consummated. It is not anticipated, however, that any material delay will occur.

I will now speak briefly as to the history of the operation of private hatcheries in Alaska. The act of June 9, 1896, referred to the stocking of streams by private hatchery enterprise. The order of May 2, 1900, of the Secretary of the Treasury, who then had jurisdiction over the fisheries of Alaska, required that every person who took salmon for commercial purposes should operate a hatchery at or near his place of business and return each year salmon fry to the extent of four times the number of adult salmon taken. This was reaffirmed by the order of February 18, 1901. It was renewed by the order of January 24, 1902, which required that instead of red-salmon fry being released in numbers equaling four times the number of mature fish taken by each company the proportionate number be increased to ten times the number of mature fish taken. The matter was reiterated in the order of May 10, 1904, promulgated by the Secretary of Commerce and Labor, which order was issued soon after jurisdiction over the salmon fisheries of Alaska had been transferred from the Secretary of the Treasury.

No active effort was made by the Government to enforce this requirement, as it was realized that the peculiar demands and technical character of successful fish-cultural operations made it almost impossible for most of the companies to establish hatcheries. In 1901 a protest was registered by a number of the companies affected by the order. Only nine private hatcheries were established, of

which four were of little consequence and soon ceased to exist. There are five now in operation.

The order requiring the release of red-salmon fry by those engaged in fishing operations in Alaska continued in effect until the passage of the act of June 26, 1906, which law is still operative. Under the terms of that act an exemption from license tax is allowed the operators of private hatcheries at the rate of 10 cases of salmon for each 1,000 red or king salmon fry liberated. This rebating system was regarded as proper as a means of reimbursing the owners of hatcheries who were conducting institutions along approved lines. No rebates are allowable under the law unless the hatcheries are approved by the Secretary of Commerce. Although most of the private hatcheries are operated along approved lines, the system seems wrong in principle, and the only proper way of handling the situation is for the Government to acquire these hatcheries. For years the people of Alaska have made this feeling known to the Government by means of petitions, and the Legislature of Alaska has memorialized Congress to the same end. The department is in hearty accord with the plan of taking over these hatcheries, and it is especially hoped that this feature of the bill will receive favorable consideration at the present time.

The CHAIRMAN. Where are these hatcheries located?

Mr. BOWER. Four of them are in southeast Alaska and one in central Alaska. There is one at Loring, one at Hetta, and another at Quadra; one at Klawock and the fifth one is at Karluk, on Kodiak Island. Two of them are large establishments; one has a capacity of 110,000,000 eggs and the other 55,000,000 eggs. Those are the ones at Loring and at Karluk. The other three have a capacity varying from ten to twenty million eggs. I am speaking only in round numbers.

Perhaps it might be well to insert in the record at this point a table showing the amount of rebates received in the past 10 years.

The CHAIRMAN. Very well.

Mr. BOWER. These figures do not necessarily represent the tax or rebate paid in any one year; the figures are the amounts paid in for each year, and sometimes back taxes are paid, thus swelling the total in one year and causing a corresponding shortage in the amount of the previous year or the year when due.

(The table referred to is as follows:)

*Amounts received from fishery taxes and amounts of hatchery rebates of taxes in Alaska, as reported by the Treasury Department, Mar. 28, 1916.*

Year.	Cash.	Hatchery rebates.	Total.
1906.....	\$58,832.79	.....	\$58,832.79
1907.....	73,417.09	.....	73,417.09
1908.....	93,748.55	\$8,498.80	102,247.35
1909.....	57,664.24	7,110.40	64,774.64
1910.....	134,940.47	29,703.48	164,643.95
1911.....	88,390.50	35,434.08	123,824.58
1912.....	116,508.11	39,746.00	156,254.11
1913.....	127,709.17	59,474.24	187,183.41
1914.....	146,296.85	43,044.84	189,341.69
1915.....	166,253.81	18,937.40	185,191.21
Total.....	1,063,761.58	241,949.24	1,305,710.82

The next is section 18—

Mr. HARDY. Before you leave that section, what is the value of these private hatcheries that you speak of? About what are they going to cost the Government?

Mr. BOWER. They have not been appraised, but if I were to estimate roughly, offhand, I should say probably all five are worth in the neighborhood of \$75,000; at least that.

Mr. HARDY. Why might not this law have a proviso—

The CHAIRMAN. I think they ought to give them to the Government. I am a little suspicious they are handing us a lemon, anyhow.

Mr. HARDY. I have an idea they are not making any money out of them, and if the Government would run them it would be a good thing to turn them over to them.

Mr. BOWER. They probably think they can run them as well as the Government.

Mr. HARDY. Are they making any money out of them?

Mr. BOWER. I do not know for certain, but I think not.

Mr. GREENE. If they are not making any money, the Government will pretty soon go bankrupt taking over all the broken-down business of the country.

The CHAIRMAN. I am a little bit suspicious of this.

Mr. HARDY. We might make this proviso, that they should give them to the Government; and if they do not want to give them to the Government, they can continue to operate them under the old law, under which they were built.

The CHAIRMAN. Proceed.

Mr. BOWER. Section 18 is as follows:

SEC. 18. ALL AQUATIC ANIMALS INCLUDED.—That the catching, killing, or utilization of any fish of any kind or aquatic animal of any kind or species whatsoever not specifically provided for in this act shall be subject to the provisions of this act, but the Secretary of Commerce shall have power to authorize the catching, killing, or utilization of any such fish or animal under such regulations as he may prescribe.

This section extends the provisions of the act to all species of fish and aquatic animals not specifically mentioned. It further provides that the Secretary of Commerce shall have power to authorize the catching, killing, or utilization of any such fish or animal under such regulations as he may prescribe. Various features of the bill, such as distance limitations imposed upon fishing gear, the weekly close period, the closing of waters, and the erection of barricades and other obstructions refer particularly to salmon. In order to make such limitations apply to all species of fish, such as herring, trout, black cod, and others, it has been deemed proper to incorporate this section in the bill. It is covered in substance by section 11 of the act of June 26, 1906, now in force.

Mr. ROWE. What is the object of putting in animals outside of fish?

Mr. BOWER. We have in mind whales, the walrus, sea lions, and hair seals. It is not contemplated that this shall include the fur seals, which are the subject of special legislation.

Mr. ROWE. Are they exempted here?

Mr. BOWER. They are not exempted here. The thought occurred to me this afternoon that we ought to guard against that in this particular section, so as not to cause any complications with our special legislation and treaties affecting the fur seals and sea otters.

Mr. GREENE. What are you going to do with the whale fisheries? Is it contemplated by the Government to conduct them instead of private individuals?

Mr. BOWER. I have in mind the resolution introduced in the present Congress by Mr. Wickersham, House concurrent resolution 18, which I think was introduced February 24 of this year and referred to the Committee on Foreign Affairs. It seems to me that a very valuable suggestion has been offered in that the whale fishery really ought to be the subject of international treaty. It is something that we can not control so far as the capture of such animals is concerned outside of the 3-mile limit. We have not thought that over thoroughly as yet.

Mr. GREENE. I do not represent any part of the whale fishery now, but I did for 14 years represent here the city of New Bedford; but I know there is a Representative we have whose hair would rise right up on top of his head if he should find any proposition up here to do anything to interfere with the whale fishery. It is one of the oldest industries in Massachusetts, and Massachusetts has spent a great deal of money in the whale fisheries. And if you are going into the whale fisheries I should like to know it; I should object to anything going into this bill until I find out.

Dr. SMITH. The fact that there has been no interference on the part of anybody is responsible for the fact that the whale fishery has gone all to pieces.

Mr. GREENE. That may be.

The CHAIRMAN. I think Mr. Wickersham's suggestion is the only proper way to go about it—that is, by an international agreement just like we have for the seal fisheries on the Pribilof Islands.

Mr. WICKERSHAM. There is up there a large area where the ice comes down, and the walrus by the thousand go on that island, and the natives live on the walrus; and when they are destroyed you would have to make an appropriation for their support, probably. Of course, the Government is putting a little food supply in there in the shape of reindeer, and that may assist somewhat; but there is no necessity for these walrus to be slaughtered and dumped off into the water and go to wreck and ruin. It has been mostly by the tourists and outside of the 3-mile limit where we can not reach it by any law which you make or any law which the Territory makes, excepting a law which will apply to an offense committed outside of the territorial limits.

The CHAIRMAN. I suppose the only way to reach it is by their bringing in any part of the offal into the Territory.

Mr. WICKERSHAM. And then when you do that the people in the other country will take over the whale fishery and the walrus fishery.

The CHAIRMAN. You think this section is broad enough to include that?

Mr. WICKERSHAM. I do not think that section ought to be in there at all.

Mr. HADLEY. I was just going to say, Mr. Chairman, while we are not acting on the bill in this general talk, I do not see personally a reason for the retention of that section unless it embraces something other than fish that it is intended to control. We are only dealing, by the title here, with the protection, regulation, and conservation

of the fisheries of Alaska; and I imagine we would probably run into a conflict with other lines of business that are really not involved here by holding that provision.

Mr. GREENE. This is for the conservation of the fisheries of Alaska.

Mr. HADLEY. I only refer to that so that if the department knows of any good reason it can be suggested.

Mr. BOWER. Let me elaborate, if I may, as to why this section is urgently necessary. If you want to leave out all reference to aquatic animals, all well and good. But I believe this section is urgently needed if the department is to be given adequate authority to police the waters of Alaska and protect and conserve the fisheries. The reason is that if we want to reach the herring or cod or other fishes that are not specifically mentioned in some of the sections earlier in the bill, we have to do it by this section. The solicitor of the department has urged and set forth very clearly that this must be in the bill.

Mr. GREENE. You say you have only the fish in mind; that hits the whale there.

Mr. BOWER. I say omit that, if necessary, and let us apply the limits of the Sunday close season and distance limitations, for example, to the herring fishery; otherwise they will not apply if this section is taken from the bill.

The CHAIRMAN. Suppose you consider that and suggest an amendment.

Mr. BOWER. It has been considered very carefully by the solicitor of the department, and we have also especially—

The CHAIRMAN. After you have given it the proper consideration, suppose you suggest an amendment which will avoid this possible difficulty that is suggested.

Mr. BOWER. The possible difficulty so far as the whale fishery is concerned?

The CHAIRMAN. Yes; and the fur-seal fisheries.

Mr. WICKERSHAM. I want to call the committee's attention to the fact this takes in aquatic animals. Aquatic animals—many of them are land animals; that is to say, they live in the rivers and all up in the country. The muskrat and the beaver and all those animals are aquatic animals, and it is merely an opportunity to establish another bureau for the conservation of the jack rabbits in Alaska. We could avoid that by mentioning specifically the animals to be covered.

The CHAIRMAN. Say "marine animals"?

Mr. WICKERSHAM. Yes; marine animals.

The CHAIRMAN. That would settle it?

Dr. SMITH. Don't you want other water animals protected?

Mr. WICKERSHAM. No.

Dr. SMITH. I would like to say, Mr. Chairman, this is not intended to apply to any fur-bearing animals.

Mr. WICKERSHAM. But it does, Doctor?

The CHAIRMAN. It is broad enough.

Mr. HARDY. I have a memorandum here "not to include fur-bearing animals," which might be put in in a proviso.

Mr. GREENE. Before you close this, I have a lawyer friend who represents New Bedford now, and he is quite bright. I think he would like to have a word to say before it comes to any final determination; I think he would use language very freely if he found this

was in the bill. They would call on me to help pound, too—I represented them so long.

Mr. BOWER. Section 19 is as follows:

SEC. 19. REPORTS, INSPECTIONS, AND REGULATIONS.—That every person licensed to engage in the business of catching, preserving, or preparing fish or other aquatic animals or in manufacturing fishery products shall make detailed annual reports thereof to the Secretary of Commerce, on blanks furnished by him, covering all such facts as may be required with respect thereto for the information and use of the Department of Commerce and Congress. Such reports shall be sworn to by the superintendent, manager, or other person having knowledge of the facts, a separate blank being used for each establishment, and the same shall be forwarded to the Department of Commerce not later than December thirty-first of each year.

The Secretary of Commerce and his duly authorized agents shall have power to inspect all fishing appliances and all property used in catching, packing, curing, preparing, or storing food fish or shellfish or other fish or aquatic animals, or in the fishing industry, and may enter upon any property at any time for any such purpose.

To enforce the provisions of this act the Secretary of Commerce is hereby authorized and directed to make and establish such rules and regulations, not inconsistent with law, as may be necessary for that purpose and for the proper investigation, inspection, and regulation of the Alaska fisheries, and the investigation and protection of marine algæ, shellfish, and all other aquatic animals not otherwise provided for by law, and to detail from the officers and employees of the Department of Commerce a force adequate for the performance of the duties required.

This section requires sworn statements from all persons licensed to take or preserve fish or aquatic products, such statements to be made to the Secretary of Commerce who shall furnish blanks therefor.

The CHAIRMAN. That is an administrative feature.

Mr. BOWER. That is an administrative feature. Another part of the section authorizes the Secretary to inspect all fishing appliances and property used in the industry; this seems proper and necessary. A concluding part of the section authorizes the Secretary of Commerce to establish rules and regulations. This is covered in the law at present.

Mr. WICKERSHAM. That, I think, is the greatest difficulty we have in Alaska, that rules and regulations bill. I do not want to say much about it now; I only want to call the committee's attention that it gives the bureaus here authority to make laws and we object to it.

The CHAIRMAN. We have passed section 20.

Mr. BOWER. Section 20 is as follows:

SEC. 20. COMPENSATION FOR INJURIES.—That the provisions of the act approved May thirtieth, nineteen hundred and eight, entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," shall, in addition to the classes of persons therein designated, be held to apply to any employee engaged in any hazardous work in Alaska of the Bureau of Fisheries of the Department of Commerce, including the enforcement of the laws for the protection and conservation of the fisheries: *Provided*, That this section shall not be held to embrace any case arising prior to the passage of this act.

This section is calculated to provide compensation for injuries to the employees of the department in Alaska. They are engaged in a hazardous work, as was touched upon by Dr. Jones this morning. The act referred to would give them full pay for a year if they were incapacitated, or their estate or dependents would be allowed the same compensation. We had one agent who was injured on the shore at Juneau a number of years ago, which resulted in his death: two

men were lost on St. Paul Island, a man was lost from the steamer *Osprey*, and last fall one of our wardens started out on an official trip and we never have seen him since. We think that shows clearly it is hazardous work.

Mr. WICKERSHAM. Did you ever find his boat?

Mr. BOWER. Yes; the wreck of the boat was found near the Chickamin River, in southeast Alaska.

Section 21 is as follows:

SEC. 21. TERRITORIAL LEGISLATION PROHIBITED.—That from and after the passage of this act the Territory of Alaska shall not pass any legislation that has the effect of repealing, altering, or amending this act, nor shall said Territory impose any license fees or taxes upon the business hereinbefore referred to, nor upon the output thereof, nor upon any property, real or personal, used in said business in said Territory, and any such existing statutes heretofore enacted by the Territory of Alaska are hereby expressly disapproved.

This refers to the prohibition of Territorial legislation. I think that was discussed quite fully by the Secretary of Commerce at the hearing a week ago.

Mr. HARDY. Have you provided any qualification and amendment of that section that would cover the point at issue when the Secretary discussed it?

Mr. BOWER. I have not, and I would like to ask if the committee would not care to defer that until the Secretary's return. I believe he indicated a desire to express himself further along that line. I trust the committee will do so.

Mr. HARDY. For one, as a member of the committee, I want to see some amendment to it.

Mr. HADLEY. We will have subsequent meetings.

Mr. BOWER. Section 22 is as follows:

SEC. 22. VIOLATIONS; HOW PROSECUTED.—That any violation of this act may be prosecuted in any district court of Alaska or in any district court of the United States in the States of California, Oregon, or Washington. It shall be the duty of the Secretary of Commerce to enforce the provisions of this act and the rules and regulations made thereunder. It shall be the duty of the district attorney to whom any violation is reported by any representative of the Department of Commerce or any other United States official to institute proceedings necessary to carry out the provisions of this act.

This section provides that prosecutions may be made as under the present law.

Section 23 is as follows:

SEC. 23. FINES AND PENALTIES.—That any person willfully violating any provision of this act, or any regulation established in pursuance thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment for a term of not more than six months, or by both such fine and imprisonment, at the discretion of the court. Any vessel or other apparatus or equipment used or employed in violation of any provision of this act, or of any regulation made thereunder, may be seized by order of the court or by order of the Secretary of Commerce and turned over to the United States marshal, and by him held subject to the payment of such fine or fines as may be imposed. A further fine of not more than \$250 per diem may, at the discretion of the court, be imposed for each day the obstructions unlawful under section sixteen are maintained.

This provides the fines and penalties. A particular point of section 23 is that there is a minimum fine now provided, namely, that of \$50. This is regarded as an improvement over the present law.

The CHAIRMAN. It is the policy of Congress, I know, in revising the criminal code, and in framing our shipping bill we did so, to cut out the minimum punishment, and that, I think, is a very good policy.

Mr. ROWE. You may have this up against some poor Indians, and \$50 would seem like a fierce amount of money.

Mr. BOWER. Yes; so far as the Indians are concerned it might work as a hardship; at the same time it would act as a deterrent to the violation of the law. That is the object of it.

Mr. ROWE. Why not say "not more than 500"?

Mr. BOWER. That is the law as it now stands.

Mr. ROWE. What is the objection to the way it works?

Mr. GREENE. These large fines will prevent any carrying out of the law where the judges or the juries think it is a little too tough.

Mr. BOWER. The objection at present is that a man may violate the law and catch \$100 worth of fish and he may be subject to a fine of a dollar.

The CHAIRMAN. No; he is subject to a fine of \$500.

Mr. BOWER. He is subject to a fine of not over \$500; but there is difficulty in enforcing the law. Of course, if in the wisdom of the committee it is not deemed proper to fix a minimum—

Mr. ROWE. We might say \$5.

Mr. BOWER. \$50 may be too much as a minimum fine.

Mr. HARDY. Yes; some of those violations might be very minor matters and hardly consciously done.

Mr. BOWER. We have great difficulty in getting convictions in Alaska.

Mr. GREENE. You have great difficulty in getting convictions anywhere by juries.

Mr. ROWE. They do not fix the penalty; the judge fixes the penalty.

Mr. BOWER. The judge fixes the penalty.

Mr. HARDY. They ought not to do that; they ought to let the juries fix the penalty.

Mr. BOWER. In conclusion, I suggest including in the record sections 24, 25, and 26, as follows:

SEC. 24. DEFINITIONS.—That for the purposes of this act the following definitions are adopted to apply to the words in question wherever the same shall be used:

"Person": Any person, persons, firm, partnership, corporation, association, or society.

"Pound net": Any fixed or floating fish trap or similar device constructed of webbing, wire, brush, or other material, and held in place by piles, anchors, or moorings, but excluding small native nets or traps which may be transported in toto by one man.

"Stake net": A gill net attached or affixed to piles or stakes.

"Set net": An anchored gill net.

"Seine": All forms of nets known as seines, stow nets, drag nets, drag bag nets, bag nets, draw nets, reef nets, and dredge nets.

"Salmon": Wherever the word "salmon" occurs in this act it shall be construed to apply to the red, sockeye, king, silver, steelhead, chum, and pink salmon and trout.

"Case": Forty-eight one-pound cans or containers, or their equivalent in weight of other sizes.

"Barrel": Two hundred pounds of fish, or fifty gallons of oil.

"Tierce": Eight hundred pounds of fish.

"Ton": Two thousand pounds.

"Waters": All the Territorial waters of Alaska, together with all other waters contiguous to Alaska over which the United States has jurisdiction.

"River": Any stream or creek.

"Mean high water": The mean of the lowest and highest high tides.

"Fishery": The act of taking for commercial purposes any aquatic product.

"Location": The actual position in the water of any fishing apparatus.

SEC. 25. REPEALING CLAUSE.—That after this act takes effect the act of Congress entitled "An act for the protection and regulation of the fisheries of Alaska," approved June twenty-sixth, nineteen hundred and six, and all acts or parts of acts of Congress or the Territorial Legislature of Alaska inconsistent with the provisions of this act, be, and the same are hereby, repealed.

SEC. 26. WHEN ACT TAKES EFFECT.—That this act shall take effect from and after January first of the year next after its passage.

Section 24 contains the definitions which are applicable in the bill. Section 25 is the repealing clause, and section 26 indicates when the act is to take effect.

The CHAIRMAN. With reference to the repealing clause, early this afternoon attention was called to that, and we want to make it clear that we are not affecting the law creating what is called the Alaska fund.

Mr. BOWER. So as to allow the use of moneys within incorporated towns; is that the point?

The CHAIRMAN. That is one thing; yes.

Mr. ROWE. And then you have some paragraphs in here that are to take effect quite a distance ahead. We do not want this repealing act to go into effect in so far as the law affects those things at the present time, do you—until the new act goes into effect?

Mr. BOWER. That is very true; we must guard against anything of that sort.

The CHAIRMAN. It says, "except as otherwise herein provided."

Mr. ROWE. They have some portions of this going into effect at different times.

Mr. HARDY. That would be cured if they didn't have this repealing clause.

Mr. ROWE. But you have it in there.

Mr. HARDY. There is no need of that in any law.

Mr. ROWE. It is quite often stricken out, I notice.

Mr. HARDY. Yes; this law will repeal everything in conflict and only those matters in the present law which come in conflict; so that if you strike out that one clause repealing everything else, when this gets in operation it will repeal everything in conflict.

Mr. BOWER. Which words would you strike out?

Mr. HARDY. I would strike out—if you have a separate clause repealing everything in conflict, strike that out.

Mr. BOWER. I do not know that we have a separate repealing clause that will conflict.

Mr. HADLEY. Section 25; that is the one that is involved. If you were to add, after the words at the end of section 25, "in so far as the same are inconsistent," would not that be a sufficient saving clause?

Mr. HARDY. But then it is utterly useless, because they are repealed so far as they are in conflict, anyhow.

Mr. HADLEY. I think it is covered as it is; that is just to make it a little clearer.

The CHAIRMAN. That is a matter we can consider; as far as that is concerned, that is a detail.

(Thereupon, at 5.28 o'clock p. m., the hearing was adjourned to Saturday, June 3, 1916, at 10 o'clock a. m.)

# APPENDIX.

## APPENDIX A.

This appendix embraces those sections of the fisheries code of Washington (ch. 31, Laws of 1915) which have particular reference and application in regard to the contemplated modification of the Alaska fishery law.

### THE FISHERIES CODE OF WASHINGTON.

#### SHORT TITLE.

SECTION 1. This act shall be known as the Fisheries Code of Washington.

#### FISH COMMISSION.

SEC. 2. The governor, State treasurer, and commissioner shall constitute a board to be known as the State fish commission, of which the governor shall be chairman and the State fish commissioner secretary. (See Rem. & Bal., secs. 5164, 5241, 5242.)

#### POWER TO INSPECT.

SEC. 7. The commissioner shall have power to inspect all canneries, boats, nets, wheels, traps, and all other appliances, and all property used in catching, packing, curing, preparing, or storing food or shellfish, or in the fish industry, and may enter on any property at any time for any such purpose. (See Rem. & Bal., sec. 5154.)

#### COMMISSION MAY PROHIBIT FISHING.

SEC. 10. The commission may prohibit fishing for both food and game fish in any river or stream, or any part thereof, should they consider it necessary for the protection of the food and game fishes mentioned in this act. When the commission shall desire to close any river or stream to fishing they shall publish in a weekly newspaper in such county or counties through which such stream or river flows for not less than two successive issues a notice stating that from a certain date, which shall not be less than 15 days from the date of said notice, to a date also to be fixed in said notice, said stream or river, or the portion thereof therein described, shall be closed to fishing. It shall be unlawful to take any of the food and game fishes mentioned in this act, by any means whatever, from any stream or river during the closed period defined in such notice, except the Columbia River where the same forms a State boundary. (See Rem. & Bal., sec. 5217.)

#### TO DESIGNATE MOUTHS OF RIVERS.

SEC. 11. The commissioner shall designate the mouths of rivers by driving piles or establishing monuments. In the designation of the mouths of the rivers of this State the commissioner shall be guided by the shore headlands on either side of the river and his designation shall be final. He shall designate by the erection of monuments and signs the fishing limits of rivers, and when the mouth of a river has been so designated the commissioner shall cause a plat of the same showing its location to be filed in his office for public inspection, and shall also furnish the auditor of the county in which the mouth of said

river or stream is located with a copy of said plat, which the auditor shall keep on file for public inspection. (See Rem. & Bal., sec. 5183.)

[Judgment of fish commissioner in designating mouths of rivers will not be collaterally reviewed by the courts. (Hallack v. Davis, 22 Wash., 393.)]

#### TERMS DEFINED.

SEC. 15. Wherever the word "salmon" occurs in this act it shall be construed to include and apply to the sockeye, silver, chinook, steelhead, chum, and hump-back salmon, and the so-called salmon trout, and each and every species of the genus *oncorhynchus* commonly known as salmon. (See Rem. & Bal., sec. 5220.)

#### DEFINITIONS.

SEC. 16. The term "person or persons," when used in this act, shall be taken to include partnerships, associations, and corporations. The term "seine" in this act is intended to cover all forms of nets known as seines, purse seines, or purse nets, trawls, beam trawls, stow nets, drag nets, smelt drag bag nets, bag nets, draw nets, reef nets, and dredge nets. (See Rem. & Bal., sec. 5224.)

#### PUGET SOUND DEFINED.

SEC. 17. Wherever the term "Puget Sound" occurs in this act it shall be construed to include all tidewaters of the Strait of Juan de Fuca, the tidewaters of Georgia Strait, the tidewaters of Washington Sound, the tidewaters of Puget Sound, and all other tidewaters emptying into the same, and all the bays, inlets, and estuaries thereof. (See Rem. & Bal., secs. 5195, 5228.)

[Gulf of Georgia part of Puget Sound. (State ex rel. Alaska Packers' Assn. v. Crawford, 13 Wash., 633.) Fishing locations within ebb and flow of tide in Snohomish River are in the waters of Puget Sound; \* \* \* an estuary being that portion of the lower course of a river subject to tides. (Vail v. McGuire, 50 Wash., 187.)]

#### DISTRICTS DEFINED.

SEC. 18. For all purposes necessary for the administration of this act, the several portions of the State shall be divided into four districts, as follows:

(1) The Puget Sound district, which shall consist of Puget Sound, as by this act defined, and its tributaries.

(2) The Columbia River district, which shall consist of all the waters of the Columbia River and its tributaries within the confines of this State.

(3) The Grays Harbor district, which shall consist of all the waters of Grays Harbor and its tributaries and the Pacific Ocean within 3 miles of the shore line north of the south entrance of Grays Harbor and south of Cape Flattery, and all the rivers and streams emptying therein.

(4) The Willapa Harbor district, which shall consist of the waters of Willapa Harbor and its tributaries, the Pacific Ocean within 3 miles of the shore line between the south entrance of Grays Harbor and North Head, and all the rivers and streams emptying therein.

[The court will take judicial notice that the Snohomish River is a tributary to Puget Sound and of the ebb and flow of the tide below the city of Snohomish. (Vail v. McGuire, 50 Wash., 187.) Commissioner can enforce provisions of fish law as to residents of Oregon fishing in waters of Columbia River within jurisdiction of State of Washington. (Ops. Atty. Gen., 1913-14, p. 425.) See also section 116, this act.]

#### FISHING—WHERE PERMITTED.

SEC. 19. The use of the pound nets, traps, traps fished at both ends of lead, fish wheels, and other fixed appliances, purse nets, drag seines, and other seines for catching salmon, and the use of set nets and gill nets is hereby authorized in all the waters of this State except as prohibited by this act. (See Rem. & Bal., sec. 5191.)

#### FISHING—WHERE PROHIBITED—PUGET SOUND.

SEC. 20. It shall be unlawful to construct, own, operate, or maintain any pound net, trap, fish wheel, or other fixed appliance for the purpose of catching

salmon or other food fishes within any river or stream flowing into Puget Sound or within Puget Sound within a distance of 3 miles of the mouth of any river, measured by the most direct water course or within the part of Puget Sound known as Deception Pass or within one-half mile of the western entrance thereof or within any salt water at a greater depth than 65 feet at low tide.

It shall be unlawful to use any purse net, purse seine, drag seine, or other like seine or net within 2 miles of the mouth of any such river, measured by the most direct water course, or within any such river.

It shall be unlawful, except with hook and line, to take any of the food fishes mentioned in this act in the Skagit River above the Great Northern Railway bridge across the same at Mount Vernon and in the Snohomish River above the Snohomish wagon bridge or above the wagon bridge at Riverton in the Duwamish River, and in all other rivers and streams flowing into Puget Sound. (See Rem. & Bal., sec. 5183.)

[The measurement to determine whether the act has been violated should be made over an all-water course and not in a straight line across the uplands. (*Halleck v. Davis*, 22 Wash., 393.) The term "rivers" as used in this section would include any stream of whatever size, having any substantial flow, to which salmon or other food fishes resort. (Ops. Atty. Gen., 1911-12, p. 149.)]

#### CHAMBERS CREEK.

SEC. 21. It shall be unlawful at any time to take any fish with any appliance whatsoever, except with hook and line, in Chambers Creek, in the county of Pierce, and within 1,500 feet of the Northern Pacific Railway bridge located across the mouth of said Creek. (See vol. 3, Rem. & Bal., sec. 5187.)

#### WILLAPA HARBOR.

SEC. 23. It shall be unlawful to take or fish for salmon, except with hook and line, in any of the following tributaries of Willapa Harbor above tide-water in said rivers, viz:

North River, Willapa River, south fork of Willapa River, Nasel River, Palix River, Nema River, Bear River, Cedar River, and Smith Creek, and for the purposes of this act the head of tidewater shall be:

On North River, where the north boundary line of section 23 of township 15 north, range 10 west of the Willamette meridian crosses said river.

On Willapa River, where Louderbacks Slough empties into the said Willapa River in the eastern portion of section 20, township 14 north, range 8 west of Willamette meridian.

On the south fork of the Willapa River, the drawbridge of the Northern Pacific Railway Co., being the center of lots 8 and 11 of section 24, township 14 north, range 9 west of the Willamette meridian.

On the Nasel River at the gap in the main log boom.

On Cedar River, the mouth of said river, or the line between townships 14 and 15 north, ranges 10 and 11 west of the Willamette meridian.

On the Palix River, where the south line of section 22, township 15 north, range 10 west of the Willamette meridian, crosses said river.

On North Nema River, at the schoolhouse on lot 3 of section 22, township 12 north, range 10 west of the Willamette meridian.

On South Nema River, at what is known as Carruthers Landing, being on the east and west half section line extending through section 27, township 12 north, range 10 west of the Willamette meridian.

On Bear River, at Masnys Landing, or the half section line extending east and west through sections 7 and 8 of township 10 north, range 10 west of the Willamette meridian.

On Smith Creek, at the mouth thereof, being where lots 1 and 2 of section 35, township 15 north of range 10 west of the Willamette meridian abut upon the entrance of Willapa Harbor. (See vol 3, Rem. & Bal., sec. 5187.)

#### GRAYS HARBOR.

SEC. 24. It shall be unlawful to take or fish for salmon, except with hook and line, in the following tributaries of Grays Harbor:

In Chehalis River, above point one-half mile below the mouth of Wynooche River, and one-half mile above the mouth of the Humptulips River, and one-half mile above the mouth of the Elk River, and one-half mile above the mouth of Johns River.

From and after the passage of this act it shall be unlawful to erect any fish trap, pound net, or fish wheel in any of the streams emptying into Grays Harbor, Willapa Harbor, or any of the streams of these districts, as by this act defined: *Provided, however*, The right to erect fish traps, pound nets, or fish wheels on locations existing in said districts in 1914 is hereby recognized. (See vol. 3, Rem. & Bal., sec. 5187.)

## COLUMBIA RIVER.

Sec. 25. It shall be unlawful to take or fish for salmon, except with hook and line, in the Kalama River, Lewis River, Wind River, Little White Salmon River, Big White Salmon River, Wenatchee River, Methow River, Little Spokane River, Colville River, and Yakima River, and in the Columbia River within 1 mile below the mouths of the above-named rivers. No fish trap shall be located on or within 3 miles below the mouth of Lewis River, but fishing with gill nets is permitted in the Columbia River to a point within 1 mile below the mouth of said rivers and a quarter of a mile out from where the same empties into the Columbia River. (See vol. 3, Rem. & Bal., sec. 5187.)

## SET NET NOT FIXED APPLIANCE.

Sec. 26. A set net is not a fixed appliance within the meaning of this act, but it shall be unlawful to erect or maintain any set net within the limits of the end and lateral passage ways prescribed in this act for fixed appliances. (See Rem. & Bal., secs. 5183, 5193, 5216.)

[Under prior acts a set net was held to be a fixed appliance. (*State v. Vosgien*, 82 Wash., 685.)]

## TRAP, POUND NET, AND SET NET LOCATION—HOW ACQUIRED.

Sec. 27. Any person, firm, or corporation occupying or desiring to occupy any fishing location where it may be lawful to construct a pound net, trap or set net in the waters of the State, shall cause such location to be accurately surveyed by a competent civil engineer, unless a survey thereof has already been made, in which event such existing survey may be used, and shall cause a location map to be made of such location from the actual survey thereof, which shall contain a plat and description of said fishing location sufficient for its ascertainment and identification on the premises. It shall also contain a certificate by the claimant, or by his agent or attorney, stating that he claims the fishing location shown thereon, specifying the date and number of the license under which the same is held and containing the post-office address of the claimant. Such map, with the certificate thereon, shall be filed in the office of the county auditor of the county in which such fishing location is situated, and a duplicate copy thereof in the office of the commissioner. From and after the date of filing in the office of the county auditor such map shall constitute full and complete notice that such location is owned, held, occupied, and claimed by the person, firm, or corporation designated thereon as the claimant. It shall be the duty of the county auditor and the commissioner in whose offices any such map may be offered for filing to receive and keep the same on file. They shall also keep an index to all such maps, showing the hour and date of filing, names of the claimants, and serial number of the maps, in the order filed, all of which shall be indorsed on the maps when filed. No informality or omission on the part of such public officers shall impair or prejudice the right of any claimant of such fishing location.

From and after filing such map the claimant of the location thereon shown, his heirs, administrators, successors, and assigns, shall have the exclusive right to hold, occupy, and fish such location, to renew the license therefor, and to mortgage, sell and transfer the same during the time that he or they in other respects shall comply with the law pertaining thereto.

It shall not be necessary to file any map or plat of any location heretofore made under existing laws in any case where any map has heretofore been filed: *Provided*, That all pound net, fish trap, set net, or other fishing locations heretofore made by locators or owners thereof in accordance with existing laws shall be unaffected and unimpaired by any of the provisions of this section, and any location legal when established shall continue valid under the provisions of this act, and the locators or owners of such previously established locations shall continue to occupy, own, hold, and enjoy the same, and may mortgage,

sell, transfer, and lease the same, with the right to renew their licenses therefor in the same manner and with the same legal effect as though said locations had been established under the provisions of this act. Any person, firm, or corporation being the owner, holder, or occupant of any trap or pound net location in the Columbia River, Grays Harbor, or Willapa Harbor, shall, within 90 days after this act takes effect, file with the auditor of the county in which their said locations are situated, a location map as hereinbefore provided in this section, and a copy of the same in the office of the commissioner.

From and after filing such map the claimant of the location thereon shown, his heirs, administrators, successors, and assigns shall have the exclusive right to hold, occupy, and fish such location, to renew the license therefor, and to mortgage, sell, lease, and transfer the same during the time that he or they in other respects shall comply with the law pertaining thereto. (See sec. 29; also Rem. & Bal., secs. 5212, 5214.)

[Where location of a fishing trap was invalid by reason of site being occupied by a prior locator, such invalid location could not ripen into a valid location at the expiration of the prior locator's fishing license under which he fished that site. (*White Crest Canning Co. v. Sims*, 30 Wash., 374; *Womer v. O'Brien*, 37 Wash., 9.) Where the attempted location of a fishing site is invalid as against original locators thereon, it can not be valid as against anybody else. (*White Crest Canning Co. v. Sims*, supra.) A fishing site located in March but license never recorded, and subsequent locators in September find no piles or posts on site to indicate former location is deemed abandoned by first locators. (*White Crest Canning Co. v. Sims*, supra.) A locator failing in accurate survey, etc., of his location is not entitled to an injunction to protect his location; same may be held only by continued compliance with statutory regulation. (*Vail v. McGuire*, 50 Wash., 187.) Site is open water when no trap has been located on a site prior to expiration of existing license. (*Muller v. Apex Fish Co.*, 57 Wash., 140.) Clerical error in description will not invalidate location where plat sufficiently identifies site. (*Muller v. Apex Fish Co.*, supra.) A map sufficiently describes the location, within Rem. & Bal. Code, sec. 5214, which fixes upstream limit so a person would have no trouble in locating it; not necessary to describe downstream limit. (*Guinn v. Roelofs*, 71 Wash., 343.)]

#### DRAG SEINE LOCATIONS—HOW ACQUIRED.

SEC. 28. Locations for drag seines may be made by driving a substantial stake or erecting a permanent monument at each end of the location claimed, and posting thereon the number of the license under which the same is operated. No drag seine location, the title to which is in the State, shall occupy a greater length of the shore line than twice the length of the seine covered by the license therefor. (See Rem. & Bal., sec. 5214.)

[Posting license number upon locator's own piles, driven upon the site in prior years, constitutes a literal compliance with the requirement that locations for pound nets shall be indicated "by driving at least three substantial piles thereon," and posting the license number upon the terminal piles. Driving piles and posting notices thereon need not be concurrent. (*Legoe v. Chicago Fishing Co.*, 24 Wash., 175.) A licensee, who is diligent but requires six weeks to perfect location, has priority over a subsequent locator, who has actual notice of attempted location, but comes more nearly conforming to requirements of the law. (*Elwood v. Dickinson*, 26 Wash., 631.)]

#### SET NET LOCATIONS—HOW ACQUIRED.

SEC. 29. Locations for set nets may be made by erecting a permanent monument near, or securely anchoring a buoy on the location claimed, upon which shall be posted the number of the license under which such net is operated. There shall be a lateral passageway of at least 300 feet and an end passageway of 30 feet between all set nets. It shall be unlawful in the use and operation of a set net to create any artificial eddy or erect any structure or obstruction for such purpose. (See sec. 27; also Rem. & Bal., secs., 5193, 5214.)

See note to section 28 this act.

[Injunction will not issue to protect set net location in bed of stream as against riparian owner. (*Wilson v. Prickett*, 79 Wash., 89.)]

#### FAILURE TO RENEW LICENSE.

SEC. 30. The failure to renew the license or to have made lawful application therefor for any fish trap, pound net, fish wheel, or other fixed appliance in any

of the waters of this State on the 1st day of April of any year shall constitute abandonment of the location. (See Rem. & Bal., secs. 5212, 5214, 5215.)

[The abandonment of a fishing location does not preclude one from relocating thereon when no other rights have intervened. (*Legoe v. Chicago Fishing Co.*, 24 Wash., 175.) A private individual can not profit by the failure of a licensee until the State has declared a forfeiture of rights under his license. (*Hastings v. Anacortes Packing Co.*, 29 Wash., 224.) A fishing location is not abandoned 15 days before the expiration of the license, because of failure to construct a trap, when the fishing season covered by the license had not expired. (*Womer v. O'Brien*, 37 Wash., 9.) "Fishing season" applies only to waters where there are well-defined runs of salmon. (*Gorman & Co. v. Andrews*, 59 Wash., 394.) Where a license for a fish trap expires before any trap has been actually constructed the place becomes open water, subject to the first proper location. (*Muller v. Apex Fish Co.*, 57 Wash., 140.)]

#### FIXED APPLIANCES—COLUMBIA RIVER, WILLAPA HARBOR, AND GRAYS HARBOR—HOW CONSTRUCTED.

SEC. 31. No lead of any pound net, trap, fish wheel, or other fixed appliance used for catching salmon in the Columbia River and its tributaries, Willapa Harbor and its tributaries, and Grays Harbor and its tributaries shall exceed 800 feet in length, and there shall be an end passageway of at least 30 feet and lateral passageway of at least 900 feet between all such pound nets, traps, fish wheels, or other fixed appliances. The lead of any pound net or trap may be extended to high-water mark only on the tidelands owned by the State, providing such extension does not exceed the length provided in this act. Should the locator or owner neglect to construct his appliances for two consecutive fishing seasons covered by this license, said location shall be deemed abandoned. (See Rem. & Bal., sec. 5194.)

[Complaint held defective wherein it did not state that purpose of fish trap erected in Columbia River was for catching salmon. (*State v. Tabell*, 10 Wash., 498.) A private individual may properly maintain an action to enjoin the construction and maintenance of a fish trap in a river when such trap causes special damages to plaintiff and others in the same class. (*Morris v. Graham*, 16 Wash., 343.) Parties not permitted to obtain a location which excludes others from fishing in the same waters. (*Morris v. Graham*, supra; *Gile v. Basul*, 38 Wash., 212; *Johansen v. Mulligan*, 41 Wash., 379.) Where a fish trap encroaches upon the passageway of prior locations the latter are entitled to enjoin the maintenance of such trap. (*Johansen v. Mulligan*, 41 Wash., 379.)]

#### FIXED APPLIANCES IN PUGET SOUND—HOW CONSTRUCTED.

SEC. 32. No lead of any pound net or fish trap in Puget Sound shall exceed 2,500 feet in length, and there shall be an end passageway of at least 600 feet and a lateral passageway of at least 2,400 feet between all pound nets, traps, and other fixed appliances. The lead of any pound net or trap may be extended to high-water mark on the tidelands owned by the State, or on other tidelands with the consent of the owners thereof: *Provided*, Such extension shall not exceed the length of the lead provided in this act. Should the locator or owner of any pound-net or fish-trap location fail to construct a fishing appliance thereon for four consecutive years, his location shall be deemed abandoned, even though he shall have complied in other respects with the laws pertaining thereto. (See Rem. & Bal., secs. 5193, 5194, 5212.)

[Under Laws of 1897, page 218, traps and pound nets were the only fixed appliances recognized for which licenses might be issued in Puget Sound. (*Gerhard v. Worrell*, 20 Wash., 492.) Where plaintiff purchased at a receiver's sale one of two fish traps owned and operated by defendant, and with actual knowledge that the two locations were within the lateral limits allowed by statute, rule of caveat emptor applies. (*Fall & Sockeye Fish Co. v. Roberts Fishing, etc., Co.*, 24 Wash., 630.) Though combined length of two contiguous nets does not exceed 2,500 feet, there must be an end passageway of at least 600 feet between them. (*Fidalgo Island Canning Co. v. Womer*, 29 Wash., 503; see *Johansen v. Mulligan*, 41 Wash., 379.)]

#### PASSAGEWAYS—HOW DETERMINED.

SEC. 33. For the purpose of determining end passageways, base lines shall be drawn at right angles with the general course of locations first originally.

established and intersecting the ends thereof, and the end passageways shall be measured at right angles from such base lines: *Provided, however,* This section shall not affect any location lawfully existing under previous statutes, and any and all such fishing appliances may be maintained upon such existing locations as though this act had not been passed, or they may be changed to conform to the provisions hereof as to end passageways at the option of the location owner and holder thereof. (See Rem. & Bal., sec. 5194.)

[Point Roberts Fishing Co. v. George & Barker Co. (28 Wash., 200). Fidalgo Island Canning Co. v. Womer (29 Wash., 503).]

#### SET NETS, PUGET SOUND—HOW CONSTRUCTED.

Sec. 34. It shall be unlawful to fish for salmon in Puget Sound with any set net of greater length than 500 feet, or in the form of a pound net, or with pots or hearts connected therewith, or that is used or held in any other way than in a substantially straight line. (See Rem. & Bal., sec. 5193.)

[Johansen v. Mulligan (41 Wash., 379).]

#### LENGTH OF APPLIANCES IN RIVERS LIMITED.

Sec. 35. No fishing appliance or device of any kind whatsoever, either by lead or any part thereof, shall occupy more than one-third the width of the waters of any stream or river. (See Rem. & Bal., sec. 5214.)

See second and third notes to section 31 this act.

See notes to section 87 this act.

[The willful and wanton destruction of fish traps which did not impede navigation renders the wrongdoers liable in damages to the owner of the trap. (Fowler v. Harrison, 39 Wash., 617).]

#### NETS—SIZE MESH.

Sec. 36. It shall be unlawful to use any pound net, trap, fish wheel, or other fixed appliance for catching salmon or other food fish with meshes under 3 inches, stretch measure. It shall be unlawful to operate in any of the waters of Puget Sound any purse seine, drag seine, or other like seine or net of a greater length than 500 feet with meshes less than 2½ inches stretch measure, during the year 1915, and after January 1, 1916, with meshes less than 3 inches stretch measure. It shall also be unlawful to operate in any of the said waters any gill net of a greater length than 500 feet with meshes less than 5 inches stretch measure.

It shall be unlawful to use any gill net more than 1,200 feet in length or more than 36 meshes deep in Willapa Harbor or any of its tributaries. (See Rem. & Bal., secs. 5193-5194.)

[Government tide tables are competent evidence for purpose of determining depth of water. (Cherry Point Fish Co. v. Nelson, 25 Wash., 558).]

#### CLOSED SEASON FOR SMELT AND HERRING.

Sec. 37. It shall be unlawful to catch or fish for smelt or herring with any purse, drag, or like seine of less than 14-inch mesh, stretch measure, between 8 p. m. and 6 a. m. of any day.

It shall be unlawful to catch or fish for smelt or herring in the waters of Puget Sound with any appliance between 4 o'clock p. m. Friday and 4 o'clock a. m. Sunday of each week.

#### APPLIANCES USED UNLAWFULLY MAY BE CONFISCATED.

Sec. 40. Any fishing appliance or part thereof found in the waters of this State wherein the same are prohibited, the same being placed therein for the purpose of illegal fishing, is hereby declared a public nuisance and shall be subject to abatement as a public nuisance, and it shall be the duty of the commissioner to enforce the provisions of this section; and any and all appliances used in violation of any of the provisions of this act, viz, boats, traps, nets, fish wheels, or other appliances, shall be subject to execution for the payment of any fines imposed on the owner thereof. Such appliance may be seized by the commissioner and may be forfeited to the State, and the superior courts

of the State of Washington shall have exclusive jurisdiction of all such cases. (See Rem. & Bal., secs. 5184, 5185.)

[An "air-line" lead is not an unlawful appliance if it complies with the laws in regard to its length and the depth of water in which it is placed, and a separate license need not be obtained for same if used as a part of one of the enumerated appliances for which licenses are issued. (Ops. Atty. Gen., 1913-14, p. 456.) Prosecuting attorney to commence proceeding in superior court of county having jurisdiction for forfeiture under this section. (Ops. Atty. Gen., 1913-14, p. 397.)]

#### FISHING WITHOUT LICENSE PROHIBITED.

SEC. 41. It shall be unlawful to catch, take, or fish for food fish with any appliance or by any means whatsoever, except with hook and line, commonly called angling or trolling, unless license so to do has first been obtained from the commissioner.

The presence in any of the waters of this State of any craft of any nature whatever equipped with any of the appliances required to be licensed by the laws of this State for the taking of fish, or of any fishing appliances for which licenses are required, shall be prima facie evidence that the owners thereof are engaged in fishing.

Any person who shall engage in fishing with any appliance whatsoever without having first obtained a license or made lawful application therefor shall be deemed guilty of a misdemeanor, and the commissioner is hereby authorized to seize said appliance, and the same shall be confiscated to the State. (See Rem. & Bal., secs. 5191, 5215.)

[There is no private right or privilege to take fish in waters of the State except as granted by the State. (*State v. Tice*, 69 Wash., 403; *Cawsey v. Brickley*, 82 Wash., 653.) A person must obtain a license to use any appliances for which the laws provide a license, although such appliance is to be used only for fishing for home consumption. (Ops. Atty. Gen., 1913-14, p. 221.) A license to use an appliance is independent of the location; hence the same appliance may be transferred to a new location upon abandonment of the old. (Ops. Atty. Gen., 1913-14, p. 520.) See also secs. 27 and 30 this act.]

#### INDIANS FISHING ON RESERVATIONS.

SEC. 42. Nothing in this act shall prevent any Indian from taking fish at any time without a license for the consumption of himself or family with a drag seine not more than 300 feet in length or with a set net, in any of the salt waters bordering any Indian reservation and within one-half mile thereof, or with a set net extending not more than one-third across the waters of any river or stream flowing through or bordering on any such reservation and within 5 miles of the boundaries thereof: *Provided, however*, That this section shall not apply to the Nooksack River. (See Rem. & Bal., sec. 5191.)

[See note to sec. 58 this act.]

[*Held*, That provision that "any Indian residing in this State" may take salmon "at any time for the use of himself and family" applied only to Indians who have not assumed the duties and obligations of citizenship. (*State v. Lewis*, 45 Wash., 475.)]

#### LICENSES—TO WHOM NOT ISSUED.

SEC. 43. No license for taking or catching salmon or other food or shell fish required by this act shall be issued to any person who is not a citizen of the United States of the age of 18 years or over unless such person has declared his intention to become a citizen and is and has been an actual resident of the State for one year immediately preceding the application for such license; nor shall any license be issued to a corporation unless it is authorized to do business in this State. Nothing herein contained shall be construed to prevent the issuance of licenses to Indians, providing such applicants possess the qualifications of residence hereinbefore required, nor prevent the renewal of licenses for fixed appliances by persons now holding the same. (See Rem. & Bal., secs. 5191, 5204.)

[Provisions in old laws regarding citizenship reconciled in *Walker v. Stone* (17 Wash., 578). Legislature has power to grant fishing license. (*Walker v.*

Stone, supra.) The constitutional provision (art. 2, sec. 33) relating to corporations places no restriction upon the granting of fishing licenses to such corporations, since the license confers no title to real property. (*Hastings v. Anacortes Packing Co.*, 29 Wash., 224.) A fishing company which has its place of business outside of the State during certain seasons of the year is not a nonresident where it has otherwise fully complied with the requirements of our corporation laws, nor would such fact justify the seizure of its fishing site by a stranger. (*Hastings v. Anacortes Packing Co.*, supra.) A Federal permit is not a prerequisite to the issuance of a State license for a fish trap. (*Muller v. Apex Fish Co.*, 57 Wash., 140.) The old law making it unlawful for a alien "to fish for or take for sale or profit any salmon, sturgeon, or other food fish" did not apply to crabs or shellfish. (Ops. Atty. Gen., 1913-14, p. 387.)]

#### FACT OF CITIZENSHIP AND RESIDENCE—HOW DETERMINED.

SEC. 44. When required by the commissioner, any person desiring to fish for any food fish in any of the waters of this State may go before a county clerk of any county of this State or the commissioner and furnish satisfactory proof of his citizenship, or of the fact that he has declared his intention to become such, and file his own affidavit and the affidavit of two or more persons to the effect that he now is and for a year prior thereto has been an actual bona fide resident of this State, and thereupon such clerk or commissioner shall issue to him a certificate briefly reciting those facts, and thereafter in any prosecution against such person for a violation of the provisions of this act such certificate or a duly authenticated copy of the records in the office of the clerk or commissioner relative thereto shall be prima facie evidence of his citizenship and residence as in this act required. But in all prosecutions under this act the burden of proof shall be upon the defendant to establish the fact of his citizenship and residence. But nothing herein contained shall delay the issuance to any applicant of a license for a fish trap, fish wheel, or pound net which are required by the provisions of this act to be issued on the 1st day of April of each year. (See Rem. & Bal., sec. 5204.)

#### LICENSES—HOW TRANSFERRED.

SEC. 46. Any license may be assigned or transferred to any person or corporation entitled to hold a license under the provisions of this act, and notice shall be given of such transfer or assignment within 30 days from the date thereof to the commissioner, who shall indorse the date of such notice on the license. If such notice be not given, the license shall be void. And any assignee of a license for operating any such appliance who shall fail within 30 days to give notice to the commissioner of the assignment of such license is guilty of a misdemeanor. (See Rem. & Bal., sec. 5191.)

(Time extended for notification of commissioner from 20 to 30 days.)

[Where notice is not given of an attempted transfer of a fishing license and rights thereunder, the person attempting to transfer is guilty of a misdemeanor, under Laws, 1897, page 215, and such attempted transfer amounts to an abandonment. (*Gerhard v. Worrell*, 20 Wash., 492.)]

#### BLANK LICENSES—HOW PROVIDED.

SEC. 47. The commissioner shall prepare in blank and consecutively number all licenses required under the provisions of this act, all of which shall expire at the close of the 31st day of March following their issuance, and shall be renewed annually thereafter upon application and payment of license fees required by this act. (See Rem. & Bal., sec. 5191.)

(Duty of preparing blank licenses devolves upon fish commissioner, formerly duty of State auditor.)

#### FISHERIES FUND.

SEC. 48. All license fees and fines collected under the provisions of this act, unless otherwise provided herein, shall be paid into the State treasury and placed in a fund to be known as the fisheries fund, which shall not be used for any purpose other than for the propagation, protection, and perpetuation of food and shell fishes and the administration and enforcement of the laws relating thereto. All unexpended balance thereof shall continue in such fund

unless otherwise disposed of by the legislature. The commissioner is directed to expend such funds, as nearly as may be, in the localities from which they are collected. (See Rem. & Bal., secs. 5180, 5218, 5219.)

REMITTANCES TO STATE TREASURER.

SEC. 49. All moneys collected by the commissioner shall be deposited in a bank, to be designated by the state fish commission, which bank shall give a surety bond to the State of Washington in a sum designated by the fish commission, said bond to contain such conditions and provisions as may be required by it.

The commissioner shall make daily remittances to the State treasurer of all moneys collected by him from any source whatever, together with a statement showing from whence the moneys are derived. A duplicate of this statement shall be sent to the State auditor.

EXPENSES.

SEC. 50. All expenses incurred under the provisions of this chapter shall be audited by the State auditor, upon bills being presented, properly certified by the fish commissioner, and the said auditor shall from time to time, draw warrants upon the State treasurer for the amount. (See Rem. & Bal., sec. 5163.)

LICENSES—HOW ISSUED, FEES THEREFOR.

SEC. 51. Licenses herein required shall be issued to any qualified person or corporation by the commissioner upon application therefor and the payment of the license fees herein required:

For each pound-net or fish-trap license for taking salmon at both ends on Puget Sound, \$100.

For each pound-net or fish-trap license on Puget Sound for the taking of salmon, \$50.

For each first-class pound net or fish-trap license for the taking of salmon on the Columbia River, \$25.

For each second-class pound net or trap license on the Columbia River, \$15.

A first-class trap is hereby defined to be a trap on the Columbia River that during the preceding season caught fish of the value of \$1,000 or more, and a second-class trap a trap on the Columbia River that caught during the preceding season fish of the value less than \$1,000.

For each pound net or fish-trap license for taking salmon in Willapa Harbor and Grays Harbor, \$15.

For each brush-weir license for the taking of smelt and herring, \$25.

For each stationary fish wheel license for the taking of salmon, \$35.

For each scow fish wheel license for the taking of salmon, \$25.

For each purse seine license, \$25; no purse seine shall be of greater length than 1,800 lineal feet measured on cork line when wet.

For each gill net license for the taking of salmon on Puget Sound of a length not to exceed 600 feet, \$5; and for each additional lineal foot in length, 1 cent; no gill net shall be operated on Puget Sound of a greater length than 3,000 feet.

For each gill net license for the taking of salmon on the Columbia River, Grays Harbor, and Willapa Harbor, \$7.50.

For each reef net, \$5.

For each drag seine license, \$3 cents per lineal foot.

For each set net license for the taking of salmon, \$3.75.

Any person may use a jigger in the taking of smelt or herring for the use of himself and family without any license therefor.

For each bag net license for the taking of smelt or herring, \$1.

For each smelt drag-bag net on Puget Sound, \$1.

For each license for beam trawl, \$10.

For each license for set lines having more than 100 books, \$1.

The license issued by the commissioner for the appliances hereinbefore mentioned shall specify the district wherein the license is to be used and no license for one district shall be used in another.

For each license to take crabs, \$1.

For each license to take clams and mussels, \$1.

For each license to take oysters from the State reserves for seed purposes under regulations to be promulgated annually by the State fish commission, \$5.

For each person, firm, or corporation engaged in the business of buying and selling, packing, and preserving or otherwise dealing in trout or other food fish obtained from private hatcheries of this State, \$2.50.

For each private trout hatchery, \$25.

For each retail fish dealer, a license of \$1.

For each wholesale dealer in fish and for each person engaged in freezing, salting, smoking, kippering, preserving in ice, or otherwise, a license of \$10.

For each fish broker not operating as a packer or canner, a license of \$50.

For each person using scows, boats, or other water craft in buying, handling, or transporting food fish, except persons, firms, and corporations operating canneries, packing or curing establishments that pay an annual license fee to the State of Washington, where the fish are disposed of for canning, curing, preserving, or selling within the State of Washington, a license of \$1.

For each person, firm, or corporation using scows, boats, or other water craft in the buying of fish on the Columbia River for each scow, boat, or other water craft, a license fee of \$50; this requirement shall not apply to scow boats or other water craft used in buying fish for and transporting fish to canneries and packing plants that pay an annual license fee to the State of Washington or Oregon, of not less than \$100.

Every person, firm, or corporation engaged in canning salmon, shell or other food fish shall procure a license from the commissioner before commencing the season's packing, and shall on or before the 15th day of November of each year pay to the commissioner as an annual license fee for all salmon, shell or other food fish packed by him subsequent to the 31st day of March of each year and prior to November 15 of each year, and the 31st day of March of each year shall pay to the commissioner for all salmon, shell or other food fish packed by him subsequent to November 15 and prior to the 31st day of March of each year, 2 cents per case for each case of steel-head, blue-back, Quinault, or sockeye salmon, and 1 cent for each case of other varieties of salmon, except that he shall pay for each case of Chinook salmon packed on the Columbia River prior to the 26th day of August of each year, 4 cents per case, and for each case of Chinook salmon packed on the Columbia River after the 26th day of August of each year, 2 cents per case; for each case of clams, clam nectar, crabs, shad, shrimp, and other food and shell fish, 1 cent per case.

For the purpose of this act a case of fish is defined to consist of 48 1-pound cans, bottles, or their equivalent in weight. The owner or licensee of any cannery before beginning the operation of the same in any year and at the time of making application for his license shall execute a good and sufficient bond to the commissioner in such sum as he may require, conditioned that he will pay or cause to be paid to the commissioner the license fees or charges for salmon, shad, crab, clam, and other food and shell fish packed by him at the time and in accordance with the requirements of the foregoing section, such bond to contain such other provisions as may be required by the commissioner.

Each person, firm, or corporation buying, selling, or otherwise dealing in salmon and other food fish at wholesale caught in the State of Washington, shall pay to the commissioner on or before the 15th day of November of each year \$1 per gross ton for each ton or fraction thereof so bought, handled, preserved, or cured during the preceding calendar year: *Provided*, That no person, firm, or corporation engaged in the canning business shall be required to pay such tax upon any fish caught or bought and canned by them; and no person, firm, or corporation shall be required to pay such tax upon any fish caught and sold by him. Nor shall such tax or charge be paid upon any fish ultimately canned, nor shall more than one tonnage tax be collected upon any particular quantity of fish.

Every person engaged in buying fish except for canning purposes shall obtain a permit from the commissioner for each representative of such buyer. And each person, firm, or corporation so buying, selling, or otherwise dealing in salmon and other food and shell fish at wholesale, or freezing, salting, smoking, kippering, preserving in ice, curing, mild curing, or otherwise shall, before beginning operations in any year first obtain a license from the commissioner, and at the time of the application for such license shall execute a good and sufficient bond in such sum as may be required and subject to the approval of the commissioner, conditioned that on or before the 10th day of the following month they will pay, or cause to be paid, to the commissioner the said license fee or charge for all salmon and other food and shell fish handled during the preceding month.

For the purpose of ascertaining the amount of the license fee required in each instance the commissioner shall determine the class and character of each appliance.

All gill-net licenses issued by the State of Oregon shall be valid in the concurrent waters of the Columbia River in this State. The commissioner when issuing licenses for the Columbia River district shall furnish to the fisheries department of Oregon the names of all licensees and the number of their licenses.

Every person, firm, or corporation operating in the Puget Sound, Willapa Harbor, or Grays Harbor districts any of the fishing appliances hereinbefore mentioned (except gill nets, set nets, and drag seines), and every person, firm, or corporation operating in the Columbia River district any of such fishing appliances (except gill nets and set nets), which by the terms of this act are required to be licensed, shall, in addition to the license fees by this act provided, pay to the State for the food and shell fish taken from the waters thereof, as follows:

For each 1,000 or fraction thereof of Chinook salmon caught in the Columbia River prior to the 26th day of August of each year, at the rate of \$5 per thousand; and for Chinook salmon caught in the Columbia River after the 26th and for tye, king, black mouth, or spring salmon, at the rate of \$3 per thousand. For each 1,000 or fraction thereof of Chinook, tye, king, black mouth, or spring salmon in Willapa Harbor, Grays Harbor, and Puget Sound, at the rate of \$3 per thousand.

For each 1,000 or fraction thereof of steelhead salmon, at the rate of \$3 per thousand.

For each 1,000 or fraction thereof of sockeye or blue-back salmon, at the rate of \$1.50 per thousand.

For each 1,000 or fraction thereof of silverside or Cohoe salmon, chum or fall salmon, at the rate of \$1 per thousand. For each 1,000 or fraction thereof of humpback or pink salmon at the rate of 50 cents per thousand.

For each 100 pounds or fraction thereof of smelt, herring, or shad, 3 cents.

For each 100 pounds or fraction thereof of shrimp, 15 cents.

For each sturgeon, 7½ cents.

For each gross of crabs, 10 cents.

For each ton of clams, gross weight in shells, 75 cents. (See Rem. & Bal., secs. 5176, 5178, 5211, 5233, 5248.)

[Under Laws 1893, page 15, a license to fish authorized the licensee to fish in any of the waters of the Columbia River and Puget Sound over which the State had jurisdiction. (State ex rel. Curry v. Crawford, 14 Wash., 373; Morris v. Graham, 16 Wash., 343.) Restaurant is a consumer, rather than a dealer, and requires no license under section 5178, Rem. & Bal. Code. (Ops. Atty. Gen., 1913-14, p. 260.) Canneries required to procure dealer's license if they handle fish for other purposes than canning. (Ops. Atty. Gen., 1913-14, p. 246.) Fishermen who sell catch in same form as when taken from water do not require dealer's license. (See provision in this regard in section 51 this act.) (Ops. Atty. Gen., 1913-14, p. 308.) Cannery men catching their own fish come under ruling regarding fishermen. (Id.) (Dealer's license is an occupation tax, and all persons handling the same fresh fish are liable for the tax in their various capacities, subject to the rulings quoted above. (Id.) Japanese entitled to retail dealer's license. (Ops. Atty. Gen., 1911-12, p. 250.) Under the old law wherein fees for cannery men were based on previous season's catch, and a specific fee was required in advance for a new cannery, a cannery was considered a new cannery upon change of ownership. (Ops. Atty. Gen., 1913-14, p. 28.) License fees determined on the number of thousand fish caught are determined by fractions thereof also. (Ops. Atty. Gen., 1911-12, p. 175.)]

#### REPORTS TO COMMISSIONER.

Sec. 52. Every owner of any fishing appliance which by the terms of this act is required to be licensed shall report to the commissioner under oath on blanks to be furnished by the commissioner, upon request, on the first day of March, July, and November of each year for the four months preceding the date on which the report is made, stating the number of salmon, species stated separately, the number of crabs, sturgeon, pounds of smelt, herring, shrimps, clams, and shad and other food fish caught during the preceding four months' period, together with the name of the persons, firm, or corporation to whom such fish were sold, with the number or quantity delivered to each purchaser, and shall at the

same time remit the license charges and the additional fees as by this act provided; and every person, firm, or corporation engaged in preserving, salting, smoking, kippering, mild curing, curing, freezing, preserving in ice or otherwise, and in buying, selling, or otherwise dealing in food and shell fish caught within the waters of this State as wholesalers or retailers either as principal, agent, or employee shall on the same date and for the same period make reports to the commissioner stating the quantity in pounds of all fish preserved or cured and all purchases and sales made during the preceding period for which the report is made, the varieties stated separately, together with the name of the person, persons, firms, or corporations from whom purchased and the place from which the fish were taken and the appliance with which the same were taken, and at the same time shall remit to the commissioner the license charges and additional charges as provided by this act; and any person, firm, or corporation who shall fail to make the reports in this paragraph provided and at the same time make payments of the amounts of money due the State shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, and the amounts owing by any such persons for license charges and additional charges shall become and constitute a first lien on the fishing appliances of any such person and also a lien on the real and personal property of the person owing such sum or sums from and after a notice of such lien on behalf of the State shall have been filed in the office of the county auditor in which the person owing such amount or amounts shall reside; the notice of lien to be filed by the commissioner shall be sufficient if it shall state the amount for which the lien is claimed and the person owing the same. (See Rem. & Bal., sec. 5177.)

[An applicant for a fishing license under laws, 1893, page 15, is entitled to a license for one year, dating from the time of his application. (State ex rel. Curry v. Crawford, 14 Wash., 373.) Failure to make report under old law constituted misdemeanor. (Ops. Atty. Gen., 1913-14, p. 540.)]

#### LICENSE NUMBER AND LIGHTS TO BE DISPLAYED.

SEC. 53. Each fixed appliance for taking food fish shall have displayed thereon in a conspicuous place in black figures not less than 6 inches in length, painted on a white ground, the license number under which the same is operated.

Each gill net and set net used for the purpose of taking food fish shall have branded on the corks at each end of such net, in figures not less than one-half inch in length, the license number under which the same is operated.

Each boat or vessel used to operate any seine or net for food fish shall have displayed upon the bow thereof in black figures not less than 6 inches in length, painted on a white ground, the license number under which such seine or net is operated, preceded by a capital "W." Each pound net or trap on the Columbia River, Grays Harbor, and Willapa Harbor shall between sunset and sunrise conspicuously display a bright light. (See Rem. & Bal., sec. 5192.)

#### CLOSED SEASON—PUGET SOUND.

SEC. 54. It shall be unlawful to take or fish for salmon except with hook and line in Puget Sound and in any of the rivers and streams emptying into it between the hours of 4 o'clock p. m. on Friday and 4 o'clock a. m. Sunday of each week of the months of July and August of each year, except with gill and set nets as herein provided. It shall be unlawful to take or fish for salmon with gill or set nets in any of said waters between the hours of 6 o'clock a. m. Saturday and 6 o'clock p. m. Sunday of each week of July and August of each year. It shall be unlawful to take or fish for salmon, except with hook and line, in any of the waters of Puget Sound or any river or any stream flowing into the same north of a line extending from Brace Point, in King County, to Point Southworth, in Kitsap County, and north of a line extending from Foulweather Bluff, in Kitsap County, to Tala Point, in Jefferson County, from November 10 to December 10, both dates inclusive, in each year; and it shall be unlawful to take or fish for salmon in the tributary thereof known as Hood Canal and in any river or stream flowing into the same south of the lines above described between the 20th day of November in each year and the 1st day of January of the year following, both dates inclusive; and it shall be unlawful to take or fish for salmon, except with hook and line, in Carrs Inlet or any of the waters southerly and westerly thereof, or in any of the rivers or streams emptying

into such waters; and for the purposes of this act such waters are bounded as follows: Beginning at Gordon Point in Pierce County, and running thence northwesterly to Hyde Point, on McNeils Island; thence northeasterly to Gibson Point, on Fox Island; thence northwesterly along the south shore of Fox Island to Green Point, in Pierce County, between the 10th day of November of each year and the 15th day of April of the year following, both dates inclusive; and it shall be unlawful to take or fish for salmon in any of the waters between the waters bounded and described in the preceding clause and a line beginning at Brace Point, in King County, and running thence westerly to Point Southworth, in Kitsap County, or in any of the rivers or streams emptying into such waters, between the 1st day of January and the 1st day of February, both dates inclusive. And it shall be unlawful to take or fish for salmon, except with hook and line, in any of the said described waters, or in any of the waters of Puget Sound, or in any of the rivers or streams flowing into such waters, between the 1st day of March and the 15th day of April, both dates inclusive, of each year. The commissioner shall designate by the erection of monuments and signs all of the above-mentioned boundary points.

In the event that the Dominion of Canada or the Province of British Columbia shall enact and enforce laws prohibiting the taking of sock-eye salmon above the Westminster Bridge at all times and in Georgia Strait and all the waters of the Fraser River and its tributaries between the 25th day of August and the 15th day of September of each year, then it shall be unlawful to take or fish for sock-eye salmon in any of the waters of Puget Sound between the 25th day of August and the 15th day of September, both dates inclusive, of each year, and any sock-eye salmon taken between the last-named dates in the waters of Puget Sound shall be liberated, and nothing in this paragraph of this section shall be construed to prevent any person, firm, or corporation from operating its fishing appliances for the catching of other varieties of salmon between the last-named dates.

If the Province of British Columbia or the Dominion of Canada shall prohibit and prevent the taking of salmon in Georgia Strait and the Fraser River during a 48-hour weekly period in each even-numbered year, beginning at 6 o'clock p. m. Friday and ending not earlier than 6 o'clock p. m. Sunday, then and in that event it shall be unlawful to take or fish for sock-eye salmon by any means whatever, except with hook and line, in any of the waters of that portion of Puget Sound last described between the hours of 8 o'clock p. m. Thursday and 8 o'clock p. m. Saturday of each week in each even-numbered year. In the event that this proviso becomes effective and during the years while in effect it shall supersede and render inoperative the 36-hour closed period in this section first provided as to and in the waters above described.

If it shall be adjudicated that the foregoing proviso be unconstitutional and invalid for any reason such adjudication of invalidity of such proviso or any part of this act shall not affect the validity of the act as a whole or any part thereof. (See Rem. & Bal., secs. 5183, 5186.)

[Gulf of Georgia held to be part of Puget Sound. (State ex. rel. Alaska Packers' Ass'n v. Crawford, 13 Wash., 633.) Laws regulating the fishing for salmon and making a different closed season in different waters of the State are not unconstitutional as class legislation or arbitrary or unreasonable, as they affect equally and impartially all persons similarly situated. (State v. Tice, 69 Wash., 403.)]

#### CERTAIN NETS PROHIBITED—SKAGIT RIVER—PUGET SOUND.

Sec. 55. It shall be unlawful to use any gill net, seine, or other net the meshes of which are less than 8½ inches, stretched measure, in the Skagit River between July 1 and September 1, both dates inclusive, of each year.

It shall be unlawful to use any drag seine, purse seine, gill net, set net, or other like seine or net the meshes of which are less than 3 inches, stretched measure, in Puget Sound for any purpose whatsoever, during the months of May, June, and July. (See sec. 36, ch. 31, this act; Rem. & Bal., sec. 5183.)

#### CLOSED SEASON, COLUMBIA RIVER.

Sec. 56. It shall be unlawful to take or fish for salmon or sturgeon in the Columbia River, its tributaries, and in any of the waters or sloughs thereof west of the north and south line between sections 14 and 15, township 2 north, range 15 east of the Willamette meridian and within 3 miles outside the mouth

of the Columbia River by any means whatever between 12 o'clock noon on the 1st day of March and 12 o'clock noon on the 1st day of May and between 12 o'clock noon on the 25th day of August and 12 o'clock noon on the 10th day of September and between 6 o'clock p. m. on Saturday of each week and 6 o'clock p. m. of the Sunday following from the 1st day of May to the 25th day of August, both dates inclusive, of each year.

It shall be unlawful to take or fish for salmon or sturgeon in the Columbia River and any of its tributaries above the north and south line between sections 14 and 15, township 2 north, range 15 east of the Willamette meridian by any means whatever between 12 o'clock noon on the 15th day of March and 12 o'clock noon on the 1st day of June and between 12 o'clock noon on the 25th day of August and 12 o'clock noon on the 10th day of September.

It shall be unlawful to take or fish for salmon in the Snake River and any of its tributaries by any means whatever in any year between 12 o'clock noon on the 1st day of April and 12 o'clock noon on the 1st day of June and between 12 o'clock noon on the 1st day of August and 12 o'clock noon on the 5th day of September of each year. (See Rem. & Bal., sec. 5187.)

[See notes to sec. 54, this act.]

#### CLOSED SEASON FOR GRAYS HARBOR AND WILLAPA HARBOR.

SEC. 57. It shall be unlawful to take or fish for salmon in Grays Harbor or Willapa Harbor or in any of the rivers or streams flowing into the same between the 15th day of March and the 15th day of April and between the 1st day of December and the 1st day of January, all dates inclusive, in each year. (See Rem. & Bal., sec. 5187.)

[See note to sec. 54, this act.]

#### RIGHT TO TAKE FISH FOR SALE LIMITED TO CITIZENS.

SEC. 58. It shall be unlawful for any person to fish or take for sale or profit any salmon or other food or shellfish in any of the rivers or waters of this State or over which it has concurrent jurisdiction in civil and criminal cases unless such person be a citizen of the United States or has declared his intention to become such and is and has been for 12 months immediately prior to the time he engages in such business an actual resident of this State or an adjoining State, but this section shall not apply to Indians. (See Rem. & Bal., sec. 5203; also, see sec. 43, ch. 31, this act.)

[Under treaty of June 9, 1855, right reserved to Yakima Indians to enjoy all fishing privileges theretofore enjoyed. United States and Others v. Frank Taylor, 3 Wash. Ter., 88.]

#### CLOSED SEASON, STRAIT OF JUAN DE FUCA.

SEC. 59. It shall be unlawful to take or fish for salmon between the 1st day of June and the 1st day of July, both dates inclusive, by any means whatsoever in the waters of the Pacific Ocean within a distance of 3 miles of the west shore of Clallam County and west of a line drawn from Tatoosh Light in Clallam County to Carmanah Light on Vancouver Island, constituting the headlands marking the entrance to the Strait of Juan de Fuca, and it shall be unlawful for any person to bring into the State of Washington any salmon caught west of Clallam County and the line above prescribed between the dates mentioned in this section: *Provided, however,* That this section shall be inoperative unless the Dominion of Canada or the Province of British Columbia shall, by law, rule, order, or regulation, adopt provisions concerning the water herein described similar in intent and purpose to those contained in this section, in which event the provisions contained herein shall continue to be and remain in full force and effect. (See sec. 54, ch. 31, this act.)

[See note to sec. 54 this act.]

#### TRAPS, HOW CLOSED—PENALTY.

SEC. 63. Throughout the weekly closed season prescribed in this act each pound net or fish trap shall be closed by an apron placed across the outer entrance to the heart of the trap or pound net, which apron shall extend from above the surface of the water to the bottom of the water and shall be securely

connected to the piles on either side of the heart of such trap or pound net, fastened by rings not more than 2 feet apart on taut wires stretched from the top to the bottom of the piles. And such apron or the appliances by which it is raised and lowered shall be provided with such signals or flags visible at a distance of at least one-half mile from the trap, which shall disclose that the trap is closed, which signal or flag shall be of the form and character as may be prescribed by the commissioner under regulations to be issued by him.

For the purpose of enforcing this regulation the owner or operator of the fish trap or pound net shall constantly maintain, during the weekly closed season, a watchman, whose duty, among other things, it shall be to cause such pound net or trap to be closed as above provided. Any owner or operator of a pound net or fish trap, or any watchman violating any of the provisions of this section, either by failing to do any act or thing required or by doing any act or thing prohibited by this section, shall be deemed guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not less than \$250 or more than \$2,000. (See Rem. & Bal., sec. 5186.)

[Intent is not an essential element of unlawful fishing. *State v. Cherry Point Fish Co.*, 72 Wash., 420. Apron provided for in this section shall "substantially and practically" prevent fish from entering trap. (*Id.*)]

#### UNLAWFUL PURCHASE OF FISH.

SEC. 65. It shall be unlawful for any person, firm, or corporation to purchase any food fishes of any variety unlawfully taken from waters of this State during any of the closed seasons prescribed in this act, and any person who purchases any such fish during such periods shall be guilty of a misdemeanor.

#### TAKING OR SALE OF YOUNG SALMON OR SALMON TROUT PROHIBITED.

SEC. 66. Any person who by any means, except with hook and line, shall catch or take any salmon or salmon trout of any variety less than 15 inches in length and who shall not immediately return the same alive to the water, or who shall buy or sell or offer for sale or have in his possession any such fish, shall be guilty of a misdemeanor. (See Rem. & Bal., sec. 5197.)

#### POSSESSION UNLAWFUL.—FISH ILLEGALLY CAUGHT.

SEC. 67. It shall be unlawful to buy, sell, or have in possession any of the food fishes mentioned in this act caught or taken in any of the waters of this State wherein it is unlawful to catch or take the same.

#### SALMON CANNED WITHIN SIXTY HOURS.

SEC. 68. It shall be unlawful to can or preserve for food any salmon that has been removed from the water for a longer period than 60 hours, unless such fish have been kept artificially chilled.

#### TAKING FISH EXCEPT FOR FOOD OR BAIT PROHIBITED.

SEC. 69. It shall be unlawful to take or fish for or have in possession any food fish of any kind, character, or description, unless the same are to be used for food or bait.

#### UNLAWFUL TO DESTROY FOOD FISH.

SEC. 70. It shall be unlawful for any person, firm, or corporation wantonly to waste or destroy salmon or other food fishes taken or caught on any of the waters of the State of Washington, and no person engaged in the canning, preserving, or curing of food fish shall purchase or engage a greater quantity of fish than he is able to can, preserve, or cure within 60 hours after the same are taken from the water, unless such fish have been artificially chilled.

#### TAKING SALMON BELOW DAM OR FISH RACK PROHIBITED.

SEC. 71. It shall be unlawful to catch, kill, or in any manner destroy any salmon on or within 1 mile below any rack, dam, or other obstruction erected across any river or stream. (See Rem. & Bal., sec. 5208.)

## SPEARING, SHOOTING FISH PROHIBITED.

SEC. 72. It shall be unlawful to shoot, gaff, snag, or snare any food fish in any of the waters of the State.

## TAKING SALMON FOR PROPAGATION—BY WHOM.

SEC. 73. Nothing in this act shall be construed to prevent the commissioner or the proper officers of the United States or any person with the consent and under the direction of the commissioner from taking salmon for propagation in any manner at any time. (See Rem. & Bal., secs. 5202, 5221.)

## MAY REMOVE FISH BELOW HATCHERIES.

SEC. 74. The commissioner may take or remove or cause to be taken or removed in any manner at any time any fish of any kind, character, or description within 1 mile below any hatchery or rearing pond.

## DOLLY VARDEN TROUT MAY BE TAKEN.

SEC. 75. It shall be lawful to take, kill, capture, or destroy at any time, in any lawful manner, or to possess or market the *salvelinum malma*, commonly known as the Dolly Varden or bull trout.

## FISH NOT TO BE PLANTED WITHOUT THE CONSENT OF COMMISSIONER.

SEC. 76. It shall be unlawful to liberate, release, implant, or place any fish of any kind or description in any stream, river, pond, lake, or other waters of the State, either fresh or salt, without first obtaining the written consent of the commissioner.

## CANALS AND DITCHES TO BE SCREENED.

SEC. 77. Every ditch, channel, canal, or water pipe used for conducting water from any lake, river, or stream where any State fish hatchery is located, for irrigation, manufacturing, domestic, or other purpose, shall be provided at its entrance or intake with a fish guard so fixed as to prevent the passage of fish into such ditch, channel, or water pipe, and subject to the approval of the commissioner, which shall be constantly maintained at all times when water is taken or admitted into such ditch, channel, canal, or water pipe. Every owner, manager, agent, or person in charge of such ditch, channel, canal, or water pipe who shall fail to comply with the provisions of this section shall be guilty of a gross misdemeanor.

Each day the end of the ditch, channel, canal, or water pipe is not equipped with this covering, as provided, shall constitute a separate offense. If within 30 days after notice to equip any such ditch, channel, canal, or water pipe such person shall fail to do so, the commissioner is hereby authorized to take possession of same in the name of the State of Washington and to close same to the entrance of any water until such time as the ditch shall be properly equipped, and the expense incident thereto shall constitute a lien upon the ditch, channel, canal, or water pipe and upon the real or personal property of person or persons, firm or corporation owning same. Notice of such lien shall be filed and recorded in the office of the county recorder in the county in which such action is taken. (See Rem. & Bal., sec. 5169; compare penalty to Rem. & Bal., sec 5170.)

## DAMS TO BE PROVIDED WITH FISHWAYS.

SEC. 78. Every dam or other obstruction across or in any stream shall be provided with a durable and efficient fishway, which shall be maintained in a practical and effective condition in such place, form and capacity as the commissioner may approve, for which plans and specifications shall be furnished by the commissioner upon application to him, and which shall be kept open, unobstructed and supplied with a sufficient quantity of water to freely admit the passage of fish through the same. Every owner, manager, agent or person in charge of such dam or obstruction who shall fail to comply with the provisions of this section shall be guilty of a misdemeanor.

If any person, firm or corporation shall fail to construct and maintain such fish ladder or fishway or to remove such dam or obstruction in a manner satisfactory to the commissioner, then within 30 days after written notice thereof shall have been served upon the owner, his agent or the person in charge thereof, the commissioner may construct a suitable fish ladder or fishway, or remove such dam or obstruction, and the actual cost in case of construction of fishway thereof shall constitute a lien upon the dam and upon all the personal property of the person or persons, firm or corporation owning the same.

Notice of such lien shall be filed and recorded in the office of the county auditor of the county in which such dam or obstruction is situated. Such lien may be foreclosed in any action brought in the name of the State of Washington.

If any person or corporation shall fail to make any such fishway or remove such dam or obstruction in a manner satisfactory to the commissioner, then within 30 days after written notice thereof shall have been served on the owner, his agent or the person in charge, such dam or obstruction shall thereby become a public nuisance and the commissioner may take possession of same in his own name or in the name of the State of Washington and destroy same and no liability shall attach for such destruction. No dam or obstruction shall be erected in any stream in this State to a height that in the judgment of the commissioner shall make a fish ladder or fishway thereover impracticable. (See Rem. & Bal., sec. 5199.)

[If conditions are such in the neighborhood of a dam under construction by the United States Government that fish ladder can be successfully constructed without embarrassment to the Government or waste of water stored for other purposes, the Government is not excused from erecting such fishway in accordance with this law. (Ops. Atty. Gen., 1909-10, p. 143.)]

#### DAMS TO BE PROVIDED WITH HATCHERY.

SEC. 79. In the event that any person desires to construct a dam in any of the streams of this State to a height that will make a fish ladder or fishway thereover impracticable, in the opinion of the commissioner, then such person may make an application to the commissioner for a permit to construct such dam, and the commissioner is hereby authorized to grant such permit in his discretion, upon the condition that the person so applying for such permit shall convey to the State of Washington a site of the size and dimensions satisfactory to the commissioner, at such place as may be selected by the commissioner, and erect thereon a hatchery and hatchery residence, according to plans and specifications to be furnished by the commissioner, and enter into an agreement with the commissioner, secured by a good and sufficient bond, to furnish all water and lights without expense, to operate said proposed hatchery; and no permit for the construction of any such dam shall be given by the commissioner until the person applying for such permit shall have actually conveyed said land to the State and erected said hatchery and hatchery residence in accordance with the said plans and specifications. The provisions of this section shall not apply to cases where dams have been heretofore constructed in streams to a height where the construction of a fish ladder is impracticable, provided an agreement has been entered into and executed, with reference to the construction and maintenance of such dam between the commissioner and the owners thereof.

#### USE OF EXPLOSIVES PROHIBITED.

SEC. 80. It shall be unlawful to use or discharge, in any of the waters of this State, any explosive substances of any kind, character, or description for the purpose of catching, killing, or destroying fish. (See Rem. & Bal., sec. 5198.)

SEC. 81. It shall be unlawful to cast or pass or to suffer or permit to be cast or passed into any waters of this State, either fresh or salt, within such distance from any incorporated city or town, any dead fish, heads, or offal or other waste from any fish cannery, as the commissioner of public health may determine. (See Rem. and Bal., secs. 5411, 8308.)

[A public nuisance can be abated only by a public officer, except where the party who desires to abate it has some special interest in the abatement which is different from and greater than the interest of the community. (Griffith v. Holman, 23 Wash., 347.)]

## POLLUTING WATERS PROHIBITED.

Sec. 82. It shall be unlawful to cast or pass, or to suffer or permit to be cast or passed, into any waters of this State, either fresh or salt, any sawdust, planer shavings, wood pulp, or other waste, lime, gas, coculus indicus, chemical substances, or any refuse or waste material, substance, or matter at any time whatsoever deleterious to fish or shellfish. (See Rem. and Bal. secs. 5198-5200.)

[Old statute prohibited the owner of a sawmill or employee from casting sawdust, etc. Held that any mill that makes sawdust is contemplated by the statute, as the primary object is the protection of fish. (*State v. Kroenert*, 13 Wash., 644; *State v. Botchford*, 71 Wash., 114.)]

## ATTORNEY GENERAL TO PROSECUTE—WHEN.

Sec. 83. If any person violates any of the provisions of this act, and the prosecuting attorney of the county wherein such violation occurs shall, after information has been given him by the commissioner, refuses or neglects within five days thereafter to file an information against such alleged violator, it shall be the duty of the attorney general, and he is hereby given the authority when requested by the commissioner, to file an information direct in the superior court of said county and in the place and stead of said prosecuting attorney to prosecute the case. (See Rem. and Bal., secs. 112-116, 8988-sub. 7; art. 3, sec. 21, State constitution.)

## RIPARIAN PROPRIETOR MAY ESTABLISH PRIVATE HATCHERY.

Sec. 86. Any riparian proprietor may establish a private fish hatchery for the cultivation of food fishes, and for such purpose and use may, within the limits of his own premises inclose the waters of any river or stream or lake in this State, subject to the conditions and regulations hereinafter provided, and any person lawfully conducting any such private fish hatchery and engaged in the artificial propagation, culture, and maintenance of fishes may take them in his own inclosed waters wherein the same are so cultivated and maintained at any time and for any purpose. (See Rem. & Bal., sec. 5171.)

## PRIVATE HATCHERY—PASSAGEWAY FOR MIGRATORY FISH—PASSAGEWAY OF BOATS, ETC.—EXCEPTIONS.

Sec. 87. Any person, firm, or corporation establishing a private fish hatchery and inclosing the waters of a river or stream, as provided in the preceding section, shall provide and furnish a suitable passageway along said hatchery for migratory fishes naturally frequenting such waters, above and below such hatchery, and shall so place and construct said inclosure as to allow the passage of boats, saw logs, shingle bolts, cordwood, fencing posts or rails, without unreasonable delay, when such inclosure is upon a river or a stream navigable and generally used for the navigation of boats or for the floating down of logs, fencing posts or rails: *Provided*, That if the person, firm, or corporation inclosing the water of a river or stream, as herein provided, is the sole riparian proprietor thereof from such inclosure to and including the source of such river or stream, such person, firm, or corporation shall be excepted from the operation of this section and shall not be required to furnish any passageway for fish or boats, logs, fencing, or other material. (See Rem. & Bal., sec. 5172.)

[The riparian proprietor upon the banks of a nonnavigable, fresh water stream owns the exclusive right of fishery in the waters flowing opposite his land as far as the middle of the stream. (*Griffith v. Holman*, 23 Wash., 347.) One who owns both banks along a nonnavigable stream has title also to the land in the bed of the stream, and may lawfully place a fence across a stream thus flowing through and over his land. (*Griffith v. Holman*, supra.)]

## PRIVATE HATCHERY DEFINED.

Sec. 88. Any person, firm, or corporation engaged in the business of taking fish spawn and the artificial hatching thereof, or in the raising of fry and fish therefrom, in any of the waters or streams of this State, shall be deemed to be conducting a private fish hatchery under the terms of this act. (See Rem. & Bal., sec. 5173.)

SALE OF FISH FROM PRIVATE HATCHERY PROHIBITED UNLESS LOCATION, ETC., BE APPROVED AND SAME LICENSED.

SEC. 89. No fish spawn, fry, or fish from private fish hatchery shall be sold under the terms of this act, unless the location and plan of such hatchery, including the character and size of a fishway and passage be approved by the commissioner and the same duly licensed as a private fish hatchery. (See Rem. & Bal., sec. 5174.)

[See sec. 91, ch. 31, this act for license fee.]

WHEN FISH MAY BE SOLD.

SEC. 90. The product of such fish hatchery, fish spawn, fry, and fish may be sold at any time of the year by such hatchery or their vendees after having first complied with the terms of this act and the regulations of the commissioner thereto. (See Rem. & Bal., sec. 5175.)

LICENSE FEE \$25.

SEC. 91. Each private fish hatchery, before it shall be entitled to the benefits of this chapter, shall pay an annual license fee of \$25 to the commissioner. (See Rem. & Bal., sec. 5176.)

REPORT TO COMMISSIONER.

SEC. 92. It shall be the duty of the superintendent or person in charge of any private fish hatchery to make a quarterly report beginning April 1, to the commissioner of the amount of spawn, fry, and number of fish sold, and the name and address of the party receiving the same. It shall be the duty of each person, firm, or corporation affected by the provisions of the following section to render to the commissioner a quarterly report giving a detailed statement showing the amount of spawn, fry, and number of fish received from any private hatchery, and giving the name and post-office address of the superintendent or manager of the same. (See Rem. & Bal., sec. 5177.)

LICENSE FEE FOR BUSINESS OF BUYING, PACKING, SELLING, ETC.

SEC. 93. Every person, firm, or corporation, buying and selling, packing and preserving or otherwise dealing in trout or other food fish obtained from private hatcheries in this State, shall procure a license for such business from the commissioner of the State, and shall pay an annual license fee of \$2.50. (See Rem. & Bal., sec. 5178.)

UNLAWFUL TO TAKE FISH WITHOUT PERMISSION OF PROPRIETOR OF PRIVATE HATCHERY.

SEC. 94. No person shall take fish in any manner from the inclosed portion of any river, stream, pond, or other water in which a private fish hatchery is located, or in which fish are artificially propagated, cultivated, and maintained under the provisions of this chapter, without permission of the owner or proprietor of such hatchery. (See Rem. & Bal., sec. 5178.)

TAGS OR BRANDS ON FISH SOLD.

SEC. 95. The commissioner shall have authority to require tags, branding, or other device attached to all fish sold for private hatcheries, and shall designate such tags or devices.

[Compare Rem. & Bal., sec. 5182, "sold from private hatcheries" changed to "sold for private hatcheries."]

DESTRUCTION OF SEALS AND SEA LIONS.

SEC. 96. The commissioner shall have the power and it shall be his duty to cause his employees to kill and destroy seals and sea lions in the waters of the State of Washington, and he shall have the authority to expend such moneys as may from time to time be appropriated by the legislature for such purposes and he shall keep an accurate record of the number of seals and sea lions that are

so destroyed. Any person killing or causing to be killed within the waters of the Columbia River district any common seal or any sea lion, shall be entitled to receive a bounty of \$1 from the moneys appropriated for such purposes by the Legislature of Oregon or the Legislature of Washington, for each seal or sea lion so killed. All moneys appropriated for such purpose by the legislature of this State shall be paid out under the supervision of the State fish commission upon vouchers approved by the commissioner, and the State fish commission shall adopt rules and regulations providing for the proof of such killing and the surrender and destruction of the scalp of such seal or sea lion. The State fish commissioner may, in his discretion, enter into an agreement with the duly authorized authorities of the State of Oregon for the joint expenditure of appropriations made by the Legislatures of the States of Washington and Oregon under such regulations as may be prescribed in such agreement. (See Rem. & Bal., secs. 3597, 3598, 3599, 3600.)

#### CERTIFICATES FOR SCIENTIFIC PURPOSES.

SEC. 97. Certificates shall be granted by the commissioner and ex officio game warden to any properly accredited person of legal age permitting the holder thereof to collect birds, their nests, or eggs, or any of the game, food, or shellfish of this State for strictly scientific purposes only. In order to obtain such certificate the applicant must present to the commissioner and ex officio game warden a written statement from two well-known scientific men, certifying to the good character and fitness of such applicant and must pay to the commissioner and ex officio game warden \$1 for the issuance of the certificate and must file with him a properly executed bond in the sum of \$1,000. On proof that the holder of such certificate has killed or taken the nest or eggs of any bird, or has taken any food, shell, or game fish for other than scientific purposes, this bond shall be forfeited to the State, and the certificate shall become void and the holder shall be held subject for each offense to a fine not less than \$10 and not more than \$500. (See Rem. and Bal., secs. 5348, 5349, 5350).

[See vol. 3, Rem. and Bal. Code, sec. 5341-1; also Rem. and Bal., sec. 5341.]

#### UNITED STATES OFFICERS MAY TAKE FISH FOR PROPAGATION.

SEC. 98. Nothing in this act shall be construed so as to prevent the taking of salmon or other food fishes by the commissioner or other proper officers of the United States for propagation purposes. (See Rem. and Bal., sec. 5221.)

#### CLAMS AND MUSSELS—CLOSED SEASON, PACIFIC OCEAN BEACH.

SEC. 99. It shall be unlawful for any person or persons whomsoever to take or dig clams from the sands of the beach of the Pacific Ocean in this State, or from the beaches of Grays Harbor or Willapa Harbor, or to have in their possession, if the same have been taken for the purpose of canning or for sale, between the 1st day of June and the 31st day of August of each year: *Provided*, That nothing in this section shall prevent the taking of these clams for consumption of the taker or his family, or guests at all times without a license. (See Rem. and Bal., sec. 5234.)

#### CLOSED SEASON, PUGET SOUND.

SEC. 100. It shall be unlawful for any person to take or dig clams or mussels from any of the tideland abutting on Puget Sound or from the waters of Puget Sound below the line of low tide, or have them in their possession, if the same have been taken for the purpose of canning or selling, between the 1st day of April and the 1st day of September of each year: *Provided*, That nothing in this section shall prevent the taking of these clams for consumption of the taker or his family, or guests at all times without a license.

#### TAKING OR FISHING FOR CRABS.

SEC. 101. It shall be unlawful for any person, firm, or corporation to take or have in their possession for the purpose of selling or canning any female or any male crab measuring less than 6½ inches across its back or to take or fish from any of the waters of the State or have in its possession after the same has been

taken, for the purpose of selling or canning any crab, during the months of July, August, and September of each year: *Provided*, That any such person who has a crab in his possession caught during the month of June may retain the same in his possession lawfully until the 5th day of July thereafter: *Provided*, That nothing in this section shall prevent the taking of crabs for the consumption of the taker or his family or guests, at all times without a license, and it shall be unlawful for any person, firm, or corporation to take or catch any crabs with beam trawl or drag seine.

It shall be unlawful for any person, firm, or corporation to take, capture, or remove from any of the waters of the State of Washington any crab by the use of a spear or other sharp instrument whereby the shell of any said crab is broken or penetrated. (See Rem. and Bal., secs. 5236, 5237, 5239.)

## APPENDIX B.

Extract from the laws of Oregon for the protection of game and fish (chap. 287, Laws of 1915) which appear to be of interest in the contemplated revision of the Alaska fisheries law.

### PROTECTION OF FISH AND GAME.

#### LUMBER WASTE, DYES, CHEMICALS, DECAYING SUBSTANCES, ETC.

SEC. 42. (a) No person, or the proprietor, operator, agent, superintendent, or employee of any railroad company, sawmill, or other lumber or manufacturing concern, or any pulp mill, wood saw, tannery, woolen mill, dye works, chemical works, slaughterhouse, or any manufacturing concern, or any steamboat, or any other water craft shall cast or suffer or permit any sawdust, planer shavings, wood pulp, or other lumber waste or any element or chemical extracted therefrom, or any slashing of trees or brush, or any oil, coal tar, petroleum, or extract therefrom, or any dye or chemical to be thrown, cast, or discharged in any manner, or to deposit the same where high water will take or carry same, into the waters of the State of Oregon.

(b) Any person who shall put any dead animal carcass, or part thereof, manure, putrid, decaying, or deleterious substance in any of the waters of the State of Oregon, or who in any manner not herein named, pollutes or impairs the quality of any spring, brook, creek, branch, or pond of the State of Oregon inhabited by fish shall be guilty of a misdemeanor and punished as hereinafter provided. (Sec. 42, ch. 232, Laws 1913.)

[For penalty see section 62.]

#### FISHWAYS.

SEC. 43. (a) Where, in the judgment of the State Board of Fish and Game Commissioners, any fishway is inadequate, as constructed under the provisions of section 5288 of Lord's Oregon Laws, or otherwise, said board of commissioners shall have power to condemn any such fishway and order a new fishery, or fishways, installed in accordance with such plans and specifications as may be determined by the State Board of Fish and Game Commissioners.

(b) The State Board of Fish and Game Commissioners shall have power to determine or ascertain by inspection of any dam or artificial obstruction whether it would be advisable to construct or order the construction by the owners thereof of fishways over such dam or obstructions, and it shall be the duty of such State Board of Fish and Game Commissioners to construct or order the construction of such number of fishways in any stream inhabited by salmon or trout as shall be deemed adequate to provide a good and sufficient passageway for such fish. (Sec. 43, ch. 232, Laws 1913.)

#### DISPOSITION OF FINES.

SEC. 61. (a) All fines imposed as provided in this act and collected in money shall be paid to the treasurer of the county in which such action or proceeding shall have been commenced, and the district or prosecuting attorney or treasurer of said county, upon payment of any judgment, shall satisfy same of record as

attorney for the State, and all such moneys so collected shall be deposited in the general fund of the county in which such fine is imposed.

(b) When any judgment or conviction shall be rendered under this act, and defendant shall be adjudged to pay a fine, the judgment shall also direct the defendant to be imprisoned in the county jail until such fine be paid for the period of one day for each \$2 of such fine remaining unpaid. (Sec. 61, ch. 232, Laws 1913, as amended by ch. 77, Laws 1915.)

PENALTY.

SEC. 62. (a) Any person hunting, pursuing, taking, killing, injuring, destroying, trapping, or having in possession any mountain sheep, mountain goat, antelope, elk, moose, or caribou shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$200 or more than \$1,000 and costs of such suit or action, or shall be imprisoned in the county jail in the county wherein such unlawful act was committed for not less than 60 days or more than 6 months, or both such fine and imprisonment.

(b) Unless otherwise specifically provided, any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$25 or more than \$500 and costs of such suit or action, or by imprisonment in the county jail in the county wherein such unlawful act was committed for not less than 30 days or more than 6 months, or both such fine and imprisonment. (Sec. 62, ch. 232, Laws 1913.)

POWDER, GAS, LIME, COCCULUS INDICUS, POISON, ETC.

SEC. 63. (a) It shall be unlawful to explode or cause to be exploded any giant powder, dynamite, or other explosives in any lake, river, stream, pond, bay, or other waters within the boundaries of this State without first obtaining an order permitting it to be done from the board of county commissioners of the county in which it is desired to use the explosives, as hereinafter provided.

(b) It shall be unlawful to place, or cast, or pass, or allow to be cast, or flow, or passed any gas, lime, cocculus indicus or extract therefrom, or any other substance poisonous to fish, in any lake, river, stream, pond, bay, or other waters within the boundaries of this State without first obtaining an order permitting it to be done from the board of county commissioners of the county in which it is desired to use the poison, as hereinafter provided.

(c) It shall be unlawful to take, or kill, or injure any fish in any lake, river, stream, pond, bay, or other waters within the boundaries of this State by means of giant powder, dynamite, or other explosives, or by means of lime, cocculus indicus or extract therefrom, or other poison, without first obtaining an order of the county commissioners of the county permitting it to be done as hereinafter provided.

(d) Having in possession any trout, salmon, or other game fish under circumstances which make it reasonable to believe that they were taken and killed by means of lime or cocculus indicus or extract therefrom, or other poison, or by giant powder or dynamite or other explosive, shall justify the arrest of the person or persons so having the fish in their possession; and it shall then be incumbent upon such persons to prove and show that the fish were taken and killed by lawful means.

(e) Every person who aids or abets in exploding any giant powder, dynamite, or other explosive, or in putting any lime, cocculus indicus, or extract therefrom, or other poison, in any lake, river, stream, pond, bay, or other waters within the boundaries of this State contrary to the provisions of this section, or who aids or abets in taking or killing any fish in this State contrary to the provisions of this section, or who aids or abets in taking or securing any fish in this State which he knows or has reason to believe have been killed or injured contrary to the provisions of this section, shall be deemed guilty of violating this section, and upon conviction shall be punished as hereinafter provided.

(f) Whenever, in the course of removing any obstructions in any waters within this State, or in constructing any foundations for dams, bridges, or other structures, any person shall desire to explode any giant powder, dynamite, or other explosives in any waters within this State, before doing so he shall file a verified petition with the county commissioners of the county setting forth his plans and objects, and when he desires to use the explosive, and what necessity there is for using explosives. If the county commissioners approve of the necessity for using the explosives, they may make an order granting the peti-

tioner leave to use explosives, designating the place or places and period within which the explosives may be used, and prescribing such precautions as will save the fish from injury. If any such person disregards such order, he shall be deemed to have violated this section, and upon conviction shall be punished accordingly.

(g) Whenever the owner of any lake or pond in this State desires to get rid of and kill the fish known as German carp in said lake or pond, he shall file a verified petition with the county commissioners of the county stating in what section, township, and range the lake or pond is situated, and with what waters it connects, and his reasons for wishing to kill the fish. He shall truly and particularly state what other kinds of fish are in the lake or pond. If the county commissioners are satisfied that there are no fish other than German carp, catfish, suckers, and such like worthless fish in the lake or pond, and that the same has no outlet whereby the poison can escape into other waters, the commissioners shall make an order permitting the person to put lime or other substance in the lake or pond for said purpose. If any person use lime or other poison in any water within the boundaries of this State, without first obtaining such order, or contrary to such order, he shall be deemed to have violated this section, and upon conviction shall be punished as hereinafter provided.

(h) Every person who desires to obtain permission to use explosives or lime or poison, under provisions of this section, shall serve upon the fish commissioners, or State game or forestry warden of this State, a certified copy of his petition, not less than 10 days before the hearing of the petition. Such service may be made personally upon the fish commissioner or State game and forestry warden, or by registered mail, and the proof of service shall be filed with the commissioner. The fish commissioner or State game and forestry warden or any person interested may oppose the granting of the order, and the same may be reviewed.

(i) Any persons or persons violating any of the provisions of this section shall be tried in the circuit court of the county wherein such offense shall have been committed, and upon conviction shall be both fined and imprisoned. If it is his first conviction for violating the provisions of said section, he shall be fined not less than \$200, or by imprisonment in the county jail not less than 30 days nor more than 1 year, or by both such fine and imprisonment. If he is convicted of violating said section a second time, or oftener, he shall then be fined not less than \$1,000 nor more than \$3,000, and shall be imprisoned in the penitentiary not less than one year nor more than three years for each repeated offense. (Sec. 2337, L. O. L.; sec. 50, ch. 232, Laws 1909.)

#### SCREENING IRRIGATION DITCHES, ETC.

SEC. 64. Any person owning in whole, or in part, or leasing, operating, or having in charge any irrigating ditch, or canal, mill race, or other artificial watercourse, taking or receiving its waters from any river, creek, or lake in which fish have been placed or may exist, shall, upon order of the State board of fish and game commissioners, place or cause to be placed, and shall maintain, to the satisfaction of the State board of fish and game commissioners, over the inlet of such ditch, canal, mill race, or watercourse a reasonable grating screen or other device, either stationary or operated mechanically, of such construction, fineness, strength and quality, as shall reasonably prevent any fish from entering such ditch, canal, mill race, or watercourse, to the satisfaction of such board. But before any of said officers shall adopt any permanent plan for a screen or other device to be placed in irrigating ditches, it shall be their duty to conduct a competitive examination, and at such examination all persons desiring so to do may submit to said officers for their approval or rejection, working models of their respective screens or other devices for the protection of fish. Inadequate screening devices may be ordered removed and new screens ordered installed, when, upon investigation after full hearing upon which all interested parties have had the right to be heard, it is determined that any screen, grating, or other device, either by construction, operation, or otherwise, is found to be inadequate by the State board of fish and game commissioners. Any person found guilty of violating any of the provisions of this act shall be punished by fine of not less than \$25 nor more than \$100, or by imprisonment in the county jail for not to exceed 30 days or by both such fine and imprisonment. (Sec. 64, ch. 257, Laws 1913.)

## PROTECTION OF FOOD FISH.

## SALMON FISHING UNLAWFUL EXCEPT AS HEREIN PROVIDED.

SEC. 70. It shall be unlawful to take or fish for salmon in any rivers or their tributaries in the State of Oregon, or any waters over which the State of Oregon has concurrent jurisdiction, except as hereinafter provided. (Sec. 5236 of Lord's Oregon Laws.)

## ACTS PROHIBITED—PENALTY—GEAR FORFEITED—FISH CONFISCATED—HATCHERY FUND—EVIDENCE.

SEC. 88. Any person or persons, firm, or corporation found fishing or taking, catching, or transporting salmon fish or sturgeon in or upon any of the waters of this State, or in or upon any of the waters over which this State has concurrent jurisdiction, or found making use of any boat or boats, vessel or vessels, or any fish trap, weir, pound net, gill net, set net, fish wheel, seine, or any other device intended for or which is capable of being used to catch or transport salmon fish or sturgeon in or upon any of the waters of this State, or in or upon any of the waters over which this State has concurrent jurisdiction; or who shall have in or upon any of the waters over which this State has concurrent jurisdiction, or who shall leave or cause to be left in a condition to take or catch salmon fish or sturgeon, in or upon any of the waters of this State, or in or upon any of the waters over which this State has concurrent jurisdiction, any fish trap, weir, pound net, gill net, set net, fish wheel, seine, or any other device intended for or which is capable of being used to catch salmon fish or sturgeon, during any existing closed season or any closed season that may hereafter be enacted; or who may purchase salmon fish or sturgeon, or have in its or their possession salmon fish or sturgeon unlawfully caught during any existing closed season, or any closed season that may hereafter be enacted, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than \$50, nor more than \$500, and costs for each and every offense, and, in addition thereto, shall forfeit the boat or boats, vessel or vessels, fish trap or fish traps, weir or weirs, pound net or pound nets, gill net or gill nets, set net or set nets, fish wheel or fish wheels, seine or seines, or any other device or devices so unlawfully used, and the salmon fish or sturgeon found in his or their or its possession. All salmon fish or sturgeon so unlawfully caught or taken and all property forfeited under the provisions of this section shall be immediately taken possession of by the fish warden, deputy warden, or water bailiff, and shall be confiscated by said warden, deputy warden, or water bailiff and immediately thereafter turned over to the master fish warden, who may dispose thereof at his discretion. The money arising from the sale of salmon fish or sturgeon and all property forfeited under the provisions of this section shall be deposited with the State treasurer to be placed in the "hatchery fund" for the district in which such seizure and confiscation was made. In all prosecutions under this section the possession by any person of salmon fish or sturgeon during any closed season or any closed season that may hereafter be enacted for the protection of salmon fish or sturgeon shall be construed as prima facie evidence that the same were unlawfully caught during said closed season, and it shall be no defense that the fish were caught or taken outside or within the State. (Sec. 5268, L. O. L.)

## POSSESSION OF FISH CAUGHT DURING CLOSED SEASON UNLAWFUL—PRESUMPTION FROM POSSESSION.

SEC. 89. It shall be unlawful for any person or persons to receive, or have in his or their possession, or sell or offer for sale transportation, or transport, during the closed season named in this act, any chinook, steelhead, blueback, silverside, or other species of salmon, caught or taken during any of the closed seasons named in this act; and in all prosecutions under this section the possession by any person during the closed season named in this act of any chinook, steelhead, blueback, silverside, or other species of salmon, shall be construed as prima facie evidence that the same were unlawfully caught during the closed season. (Sec. 5287, L. O. L.)

## YOUNG SALMON IN TIDE WATERS PROTECTED.

SEC. 90. It shall be unlawful to take or fish for the young of salmon, under twelve inches in length, in any waters of the State of Oregon, or in the waters

of any of the rivers or bays over which the State of Oregon has concurrent jurisdiction, at any time or in any manner whatever; or to take, fish for, stone, club, shoot, with any description of firearm, spear, fowl hook, or molest, wound, kill, or injure, in any manner at any time whatever, or to expose for sale or have in possession, except for the purpose of propagation, any gravid or spawning salmon. (Sec. 5266, L. O. L.)

For penalty see section 133.

NOTE.—This section has been amended by paragraph (1) of section 95 as to the size of young salmon that may be taken.

SEC. 91. It shall be unlawful at any time whatever to take, fish for, or pursue salmon in any of the rivers and their tributaries in the State of Oregon, or in any waters over which the State of Oregon has concurrent jurisdiction, with spear, gaff, or fowl hook, or other device, whether used with rod and line or otherwise, for the purpose of foul hooking salmon: *Provided*, That nothing in this act shall be so construed to affect operations and rights of the North American Indians who have not severed their tribal relations: *Provided further*, That this act shall not apply to nor prevent the taking of salmon during the season when it is lawful to take salmon, by gig hook or rod and line in any of the waters of the State of Oregon or in any waters over which the State of Oregon has concurrent jurisdiction, east of a point 200 yards above the Celilo Falls on the Columbia River and the tributaries thereto emptying into said Columbia River above said point, but in no case shall any one person take to exceed two salmon in one day and for his sole domestic use only. (Sec. 5267, L. O. L., amended by ch. 224, Laws of 1915.)

For penalty see section 133.

#### TRAPS, NETS, FISH WHEELS, ETC.—UNLAWFUL TO FISH WITHOUT LICENSE.

SEC. 92. It shall be unlawful for any person or persons to operate or maintain, or leave in a condition to take fish, in any of the waters of this State at any time hereafter, any fish traps, weir, pound net, set net, gill net, fish wheel, seine, or any device or apparatus or gear used in catching salmon fish or sturgeon, without first having obtained from the fish warden a license therefor as hereinafter provided. (Sec. 5294, L. O. L.)

For penalty see section 133.

#### DEALING IN SALMON, ETC., WITHOUT LICENSE PROHIBITED.

SEC. 93. It shall be unlawful for any person or persons, firm or corporation, to engage in the business of buying, selling, canning, packing, preserving, peddling, or otherwise dealing in salmon fish or sturgeon, or other anadromous fish within the State of Oregon, without first having obtained a license therefor from the fish warden as hereinafter provided. In all prosecutions under this section it shall be no defense that the person or persons, or firm or corporation caught his or their or its own salmon fish or sturgeon or not. All licenses issued under the provisions of this section shall expire on the 31st day of March following the issuance thereof. (Sec. 5295, L. O. L.)

For penalty see section 107.

#### TAKING OR DEALING IN FISH WITHOUT LICENSE UNLAWFUL.

SEC. 94. (a) It shall be unlawful to take, catch, or fish for, buy, sell, can, pack, or otherwise deal in or handle any salmon fish or sturgeon or other food or shellfish in this State or in any waters of this State or in any waters over which this State has concurrent jurisdiction, without first obtaining a license therefor, as provided by law, and any person, upon conviction thereof, for each and every offense shall be punished by a fine not exceeding \$500, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. (Sec. 1, ch. 157, Laws of 1915.)

(b) Whenever it shall state in the laws of the State that it shall be unlawful to purchase food fish, illegally caught, said prohibition shall be construed to mean that it shall be unlawful to knowingly purchase. (Sec. 2, ch. 157, Laws of 1915.)

#### LICENSE SCHEDULES AND OTHER REGULATIONS.

SEC. 95. (a) The waters over which the States of Oregon and Washington shall be deemed to have concurrent jurisdiction shall comprise the waters of

the Columbia River and its tributaries, within the confines of the States of Oregon and Washington, where said waters are State boundaries. (Sec. 1, ch. 188, Laws of 1915.)

(b) The failure to renew the license, or make application therefor, for any fish trap, pound net, fish wheel, or location for other fixed appliance, in any of the waters of this State on the 1st day of April of any year, shall constitute abandonment of the location. (Sec. 2, ch. 188, Laws of 1915.)

(c) Should the holder of any license neglect to construct the appliance called for by said license during two consecutive seasons covered by his license, said location shall be deemed abandoned. (Sec. 3, ch. 188, Laws of 1915.)

(d) It shall be unlawful in the use and operation of a set net to create any artificial eddy or to erect or use any artificial structure or artificial obstruction for such purpose. (Sec. 4, ch. 188, Laws of 1915.)

(e) No license for taking or catching salmon or other food or shellfish, required by laws of this State, shall be issued to any person who is not a citizen of the United States, unless such person has declared his intention to become a citizen, and is and has been an actual resident of the State for one year immediately preceding the application of such license, nor shall any license be issued to a corporation unless it is authorized to do business in this State. Nothing herein contained shall be construed to prevent the issuance of licenses to women, minors of the age of 18 years or over, or to Indians, providing such applicants possess the qualifications of citizenship and residence hereinbefore required, nor to prevent the renewal of licenses for fixed appliances by persons now holding the same; *Provided*, That all gill net licenses issued by the States of Oregon and Washington shall be valid as to the waters of the Columbia River in the States of Oregon and Washington as though issued by the department of fisheries of either State, and the department of fisheries of each State, or the officials who have charge of issuing licenses, shall furnish to each other the names of the licensees and the numbers of the licenses without cost or expense to either State. (Sec. 5, ch. 188, Laws of 1915.)

(f) When required by the master fish warden, any person desiring to fish for salmon, sturgeon, or any food or shell fish in any of the waters of this State, or waters over which the State has concurrent jurisdiction, may go before a county clerk of any county of this State or the master fish warden and furnish satisfactory proof of his citizenship or of the fact that he has declared his intention to become such, and file his own affidavit and the affidavit of two or more persons to the effect that he now is and for a year prior thereto has been an actual bona fide resident of this State; thereupon such clerk shall issue to him a certificate briefly reciting those facts, and thereafter in any prosecution against such person for a violation of the provisions of this act such certificate or a duly authenticated copy of the records in the office of the clerk relative thereto shall be prima facie evidence of his citizenship and residence as in this act required; but in all prosecutions under this act the burden of proof shall be upon the defendant to establish the fact of his citizenship and residence; but nothing herein contained shall delay the issuance to any applicant of a license for a fish trap, fish wheel, set net, or pound net, which is required by the provisions of this act to be issued on the 1st day of April of each year. (Sec. 6, ch. 188, laws of 1915.)

(g) That it shall be unlawful for any person to fish or take for sale or profit any salmon, sturgeon, or other food fish in any of the rivers or waters over which the States of Oregon and Washington have concurrent rights and concurrent jurisdiction unless such person be a citizen of the United States, or has declared his intentions in good faith to become such, and has been for one year immediately prior to the time he makes application an actual resident of the State in which he seeks to obtain his license. (Sec. 7, ch. 188, laws of 1915.)

(h) 1. Licenses herein required shall be issued to any qualified person or corporation by the master fish warden upon application therefor and the payment of the license fees herein required. A separate license shall be required for each trap, pound net, set net, fish wheel, or other fixed appliance, and for each seine and gill net and dip net, and for each person trolling for salmon in the waters of the Columbia River, and for each person other than employees engaged in the canning, packing, or curing of food or shell fish, and for each person other than employees purchasing or selling food or shell fish, either as principal, agent, or broker.

2. For each first-class pound net or fish trap license for talking of salmon, \$25.

- For each second-class pound net or fish trap license for taking salmon, \$15.  
 For each stationary fish wheel license for taking of salmon, \$35.  
 For each scow, fish wheel license for the taking of salmon, \$25.  
 For each purse-seine license for the taking of salmon, \$25: *Provided*, That no purse seine shall be a greater length than 1,750 linear feet.  
 For each gill-net license for the taking of salmon, \$7.50.  
 For each set of net license for the taking of salmon, \$3.75.  
 For each drag-seine license for the taking of salmon, 3 cents per linear foot, minimum license, \$15.  
 For each bag-net license for the taking of smelt, herring, or salmon, \$1.  
 For each license to take crabs, \$1.  
 For each license to take clams and mussels, \$1.  
 For each license to take crawfish, \$1.  
 Retail fish dealers and peddlers, \$5 minimum and \$1 per gross ton in the round or whole, for all salmon, shad, or sturgeon handled in excess of 5 tons.  
 For each wholesale dealer in fish and for each person engaged in freezing, salting, smoking, kippering, preserving in ice or otherwise, \$10; and \$1 per ton on the gross weight of all salmon, shad, and sturgeon, said weight being figured in the whole or round.  
 For each fish broker not operating as a packer or canner, a license of \$50.  
 For each person using scows, boats, or other water craft in the buying, handling, or transporting food fish, \$1.  
 For each person, firm, or corporation using scows, boats, or other water craft in the buying of fish on the Columbia River, for each scow, boat, or other craft, a license of \$50. This requirement shall not apply to scows, boats, or other craft used in buying fish for and transporting fish to canneries and packing plants that pay an annual license fee to the States of Oregon or Washington, of not less than \$100.

Every person, firm, or corporation engaged in canning salmon, shell, or other food fish shall pay the following fees or license yearly:

For each case of Chinook salmon packed in district No. 1, prior to the 26th day of August of each year, 4 cents per case; for each case of Chinook salmon packed in district No. 1, after the 26th day of August of each year, 2 cents per case; for each case of steelhead salmon, blueback, or sockeye salmon, packed in district No. 1, 2 cents per case; for each case of any other variety of salmon, packed in district No. 1, 1 cent per case; for each case of clams, clam nectar, crab, shad, shrimp, and other food and shell fish, 1 cent per case; for each case of salmon packed on the Rogue River, prior to the 26th day of August of each year, 4 cents per case; for each case of salmon packed on the Rogue River, after the 26th day of August each year, 2½ cents per case; for each case of salmon packed in any other part of district No. 2, 2½ cents per case.

3. All applications for licenses under the provisions of this act shall be made on blanks furnished by the master fish warden and accompanied by a sworn affidavit, specifying in detail the location of any fixed fishing appliance or seine, and such information as will enable the master fish warden to determine the correctness of the application.

In case of applications for retail dealers and peddlers, wholesale dealers, persons engaged in freezing, salting, smoking, kippering, preserving, or otherwise dealing in food fish, persons engaged in canning salmon, shell or other food fish, said applicant shall set forth the amount of the various kinds of fish handled or canned by said applicant during the preceding license year, as shown by the books of the applicant, which shall be the basis for the charge for the current license year.

In case of application by retail dealers or peddlers, or wholesale dealers, or persons engaged in freezing, salting, smoking, kippering, preserving, or otherwise dealing in food fish, or persons engaged in canning salmon, shell or other food fish, who were not so engaged for the previous license year, then, in that event the master fish warden shall charge said applicants for retail fish dealers' or piddlers' licenses the minimum fee of \$5, and each applicant for wholesale dealer or for freezing, salting, smoking, kippering, preserving, or otherwise dealing in food fish, the statutory fee of \$10, and shall further exact from said applicant a good and sufficient bond guaranteeing the payment of further license fees based on the actual amount of food fish handled during the current license year; and for each person engaged in the canning of salmon, shell or other food fish, the master fish warden shall exact a good and sufficient bond, guaranteeing the payment of license fees on the basis of salmon, shell or other food fish canned during the current license year.

4. Licenses shall be valid only for the district in which they are issued.

5. Any license may be assigned or transferred to any person entitled to hold a license under the provisions of this act, and notice shall be given of such assignment or transfer within 30 days thereafter to the master fish warden, who shall indorse the date of such notice on the license. If such notice be not given the license shall be void.

6. For the purpose of this act a case of fish is defined to consist of 48 one-pound cans or bottles or equivalent in weight.

7. For the purpose of this act all traps taking fish of the value of \$1,000 or more shall be considered of the first class and all other of the second class. (Sec. 8, ch. 188, Laws of 1915.)

(i) Additional fees shall be collected by the master fish warden as follows:

Every person, firm, or corporation operating any of the appliances hereinbefore mentioned, except gill nets, set nets, dip nets, and trolling lines, in the water of the State of Oregon, or over which the State of Oregon has concurrent jurisdiction, for each 1,000 or fraction thereof of Chinook salmon caught in the Columbia River prior to the 26th day of August of each year, at the rate of \$5 per thousand; for each 1,000 or fraction thereof of Chinook salmon caught in said river after the 26th day of August, and for each tye, king, black, or spring salmon and black-mouth salmon, at the rate of \$3 per thousand; for each 1,000 or fraction thereof of steel-head salmon, at the rate of \$3 per thousand; for each 1,000 or fraction thereof of sockeye, blueback, or quinnault salmon, at the rate of \$1.50 per thousand; for each 1,000 or fraction thereof of silverside or cohoe salmon, chum, or dog salmon, at the rate of \$1 per thousand; for each sturgeon, 7½ cents; for each gross of crabs, 10 cents; for each ton of clams, gross weight in shells, 75 cents.

All money collected under the provisions of this act shall be deposited by the master fish warden with the State treasure, for the credit of the hatchery fund of the district from which the collection has been made.

(j) The owner of any fishing appliance, except gill nets and set nets, which is licensed as provided by law shall report to the master fish warden, under oath, on blanks to be furnished by the master fish warden, upon request, semi-annually, on May 10 and November 10 of each year, for the six months preceding the 1st day of the month on which the report is made, the number of salmon, species stated separately, also the number of crabs, sturgeon, pounds of smelt, herring, shrimp, clams, and shad caught during the preceding six months, and shall at the same time remit the license charges provided by law. Any person engaged in the taking of food fish from the waters of this State, or from the waters over which this State has concurrent jurisdiction, or engaged in buying, selling, or otherwise dealing in salmon, crabs, sturgeon, smelt, herring, shrimp, clams, and shad taken within or without the State, and any person engaged in preserving or curing food or shellfish, and any person engaged in the handling of fish for which a charge is exacted by law, who shall fail to report to the master fish warden at his office on the dates provided by law and at the same time to make payment of the amount of money due the State, shall be guilty of a violation of this act. (Sec. 9, ch. 188, Laws of 1915.)

(k) Throughout the closed seasons each pound net or fish trap, operated in any of the waters of this State, or in any waters over which this State has concurrent jurisdiction, shall be closed by an apron placed across the outer entrance to the heart of the trap or pound net, which apron shall extend from above the surface of the water to the bottom of stream, and shall be securely connected between the piles on each side of the heart of said trap or pound net, and shall be fastened by rings not more than 2 feet apart, on taut wires stretched from top to bottom of the piles, and said apron shall be provided with such signals as shall be satisfactory to the master fish warden, and as will show that the same is closed. The failure or neglect on the part of any person, firm, or corporation, owning or operating a fish trap or pound net, to close said fish trap or pound net, as above provided, shall constitute a misdemeanor, punishable, upon conviction, by a fine of not less than \$250. (Sec. 10, ch. 188, Laws of 1915.)

(l) It shall be unlawful for any person or persons to take by any means whatever, except with hook and line, commonly called angling, any salmon or steelhead less than 14 inches in length, and if said person or persons shall accidentally or otherwise take any salmon or steelhead covered by this section, and not return the same alive to the water, or who shall buy or sell or offer for sale, or have in his possession any such fish, the said person shall be guilty of a violation of this act. (Sec. 12, ch. 188, Laws of 1915.)

(m) It shall be unlawful to can or preserve for food any salmon that have been removed from the water for a longer period than 60 hours, unless such fish have been artificially chilled. (Sec. 13, ch. 188, Laws of 1915.)

(n) It shall be unlawful to take or fish for, or have in possession, any food fish of any kind, character, or description unless the same are to be used for food or bait. (Sec. 14, ch. 188, Laws of 1915.)

(o) It shall be unlawful for any person, firm, or corporation wantonly to waste or destroy salmon or other food fish taken or caught in any of the waters of the State of Oregon, or over which the State of Oregon has concurrent jurisdiction, and no person engaged in the canning, preserving or curing of food fish shall purchase or engage a greater quantity of fish than he is able to can, preserve, cure, or artificially chill within 60 hours after the same are taken from the water. (Sec. 15, ch. 188, Laws of 1915.)

(p) Any person or persons shall have the right to take clams, crabs, and mussels and crawfish in any of the waters of this State for the use of such person, individually, or for the use of his family or guests at all times, without license. (Sec. 16, ch. 188, Laws of 1915.)

(q) Nothing in the game code of this State shall be construed as affecting the operation of the appliances or the taking of any fish lawfully under the commercial fish laws. (Sec. 17, ch. 188, Laws of 1915.)

(r) It shall be unlawful for any person to purchase any food fish of any variety unlawfully taken from any of the waters of this State, or from any waters over which the State of Oregon has concurrent jurisdiction during any closed season prescribed by law; and any person who purchases such fish during any such period shall be guilty of a violation of the act. (Sec. 18, ch. 188, Laws of 1915.)

(s) It shall be lawful to take, kill, capture, or destroy at any time, in any lawful manner, in the waters of the Columbia River, over which the State of Oregon has concurrent jurisdiction, or to possess or market the *salvelinus malma*, commonly known as Dolly Varden or bull trout, upon same being tagged or punched under the rules provided under the game code. (Sec. 19, ch. 188, Laws of 1915.)

(t) Unless otherwise specifically provided, justice courts shall have concurrent jurisdiction in the first instance with the circuit court of all offenses under this act. (Sec. 23, ch. 188, Laws of 1915.)

(u) Any acts or parts of acts herein repealed, which are reenacted in form or in substance in this act, shall not be construed as new acts, but as continuations and amendments of such acts or parts of act. All rights of action under existing laws, which this act in any way supersedes or repeals, if the same at the time this act takes effect shall not have been commenced, shall proceed under the provisions of this act. (Sec. 24, ch. 188, Laws of 1915.)

(v) Any person violating any provisions of this act, either by neglecting to observe its requirements or by directly violating the same, whether or not such violation is specifically declared to be a misdemeanor, shall be guilty of a misdemeanor, and, upon conviction thereof, for each and every offense shall be subject to a fine not exceeding \$1,000, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment: *Provided, however,* That the provisions of this section as to penalties shall not apply to violations of those sections wherein a specific penalty is fixed. (Sec. 25, ch. 188, Laws of 1915.)

#### FISH WHEEL MUST NOT BE CONCEALED—HOW PLACED.

SEC. 96. It shall be unlawful for any person to place or cause to be placed in any of the rivers or waters of this State, or in any river or water over or upon which this State has concurrent jurisdiction, any fish wheel in a condition to take salmon, or in a position less than 3 feet above the surface of any such river or water, or covered or concealed in such manner that the position of the same can not be clearly discerned from the nearest river bank during any part of the closed season specified in this act. (Sec. 5289, L. O. L.)

#### PILING FOR POUND NET TO BE REMOVED.

SEC. 97. (a) It shall be the duty of the owner of each and every pound net constructed in the waters of the Columbia River, over which the State of Oregon has concurrent jurisdiction, to remove from the bed of the Columbia River all piling driven in the same, by pulling out said piling, within 5 days

from the close of each fall fishing season, and to keep said piling out of the river until within 10 days of the commencement of the fishing season in the following spring. (Sec. 5290, L. O. L.)

PENALTY.

(b) Any person who shall violate any of the provisions of this act, upon conviction thereof, shall be punished by a fine of not less than \$50, nor more than \$500, or by imprisonment in the county jail not less than 25 days nor more than 250 days, or by both such fine and imprisonment. (Sec. 5291, L. O. L.)

TRAPS, ETC., REGULATED.

SEC. 98. (a) It shall be unlawful for the master fish warden or the State board of fish and game commissioners to grant a license to any person, firm, partnership, or corporation to build or set up fish traps or any other fixed fishing appliance, or drive piles therefor, in any locality in or on the Columbia River and its tributaries in this State when, in their judgment, the same interferes with a prior right of fishing. (Laws of 1913, ch. 128, sec. 1.)

(b) Whenever any fish trap or any other fixed fishing appliance is built or set up in violation of this act, the master fish warden of the State of Oregon is hereby empowered, authorized, and directed to confiscate and sell said fish trap, and to remove all the piling driven for such purposes immediately, and he is authorized and directed to pay into the hatchery fund of that district of the State of Oregon the proceeds of said sale. (Laws of 1913, ch. 128, sec. 2.)

(c) No lead of any pound net, trap, fish wheel, or any fixed appliance, or any set net used or operated in the waters of the Columbia River or its tributaries in this State for catching salmon shall exceed 800 feet in length, and there shall be an end passageway of at least 30 feet and a lateral passageway of at least 900 feet between all such pound nets, traps, weirs, fish wheels, or other fixed appliances, or set nets hereafter constructed and placed within the waters of the Columbia River and its tributaries in this State, except the Willamette River. For the purpose of determining end passageways, base lines shall be drawn at right angles with the general course of locations first originally established and intersecting the ends thereof, and the end passageways shall be measured at right angles from such base lines: *Provided*, That this amendment shall not affect any locations lawfully existing under previous statutes when this act takes effect; and any or all such fishing appliances may be maintained upon such existing locations as though this act had not been passed, or they may be changed to conform to the provisions hereof as to end passages at the option of the location owners and holders thereof. (Laws of 1913, ch. 128, sec. 3.)

(d) Any violations of this act shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not less than 30 days or more than 90 days. (Laws of 1913, ch. 128, sec. 4.)

REGULATION LIGHTS AND MONUMENTS TO BE MAINTAINED AT FIXED GEAR—OTHER GEARS—PENALTY.

SEC. 99. Any person, after first having obtained license from the fish warden to operate a pound net, trap, or weir, shall indicate the location for such pound net, trap, or weir by erecting a permanent and conspicuous monument on the bank of the river or channel, and upon said monument shall cause to be placed and maintained the license numbered preceded by an "O," designated by the fish warden at the time of issuing said license; said number to consist of black figures not less than 6 inches in length painted on white ground; after any such pound net, trap, or weir has been located and constructed, the owner thereof shall file a map with the fish warden, giving the exact description and location thereof. During the fishing season, between sunset and sunrise, a bright and conspicuous white light shall be maintained on each pound net, trap, or weir. Any person having obtained a license from the fish warden to operate a fish wheel, shall cause to be placed and maintained in a conspicuous place on said wheel or on a permanent monument erected for that purpose the number, preceded by an "O," designated by the fish warden at the time of issuing said license; said number to consist of black figures not less than 6 inches in length painted on white ground. Any person having obtained a license from the fish warden to operate a set net shall cause to be placed and maintained on a sub-

stantial post or monument erected for that purpose on the bank of the river or channel, or upon a buoy securely anchored on the location claimed, the number, preceded by an "O," designated by the fish warden at the time of issuing said license, said number to consist of black figures not less than 6 inches in length painted on white ground; in addition thereto said person shall cause to be branded on the corks of each end of said set net, and upon the cork nearest the center thereof the number designated in said license, said number to consist of figures not less than 1 inch in length. Any person having obtained a license from the fish warden to operate a seine shall cause to be placed and maintained in a conspicuous place on the wharf, scow, or float maintained at the seining ground claimed, the number, preceded by an "O," designated by the fish warden at the time of issuing said license, said number to consist of black figures not less than 6 inches in length painted on white ground; in addition thereto, said person shall cause to be branded on the corks of each end of said seine, and upon the cork nearest the center thereof, the number designated in said license, said number to consist of figures not less than 1 inch in length. Any person having obtained a license from the fish warden to operate a gill net in any of the water of this State or the Columbia River, or from the fish commissioner of the State of Washington, said State having concurrent jurisdiction on the Columbia River with this State as to gill nets and as to gill net fishermen, shall cause to be placed upon the corks of each end of such net, and upon the cork nearest the center thereof, the number designated in said license, said number to consist of figures not less than one-half inch in length; and shall also cause to be placed upon each side of the bow of the boat used to operate such net, the number designated in said license, preceded by an "O," if issued by the fish warden of the State of Oregon, or the number designated in said license, preceded by a "W," if issued by the fish warden of the State of Washington, said number to consist of black figures not less than 6 inches in length painted on light ground, or white figures not less than 6 inches in length painted on dark ground. A separate license shall be required for each pound net, trap, weir, fish wheel, set net, or for any other fixed appliance, and for each seine, gill net, or other drift net. Any owner or operator of any fishing appliance or boat herein specified, who fails, neglects, or refuses to comply with any of the provisions of this section within five days from the date of license issued for such appliance, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10 nor more than \$50, and the costs of the action; a failure from day to day to comply with any of the provisions of this section shall constitute a separate offense and subject the owner or operator of said appliance or boat to additional punishment by such fine. (Sec. 5304, L. O. L.)

#### FISH APPLIANCES LIABLE TO EXECUTION FOR FINES.

SEC. 100. Any and all gear and appliances used in violation of the provisions of this act, including boats, traps, nets, weirs, fish wheels, or other appliances, shall be subject to execution for the payment of fines and costs herein provided for. (Sec. 5320, L. O. L.)

#### FISHING WITHOUT LICENSE OR OTHERWISE UNLAWFULLY, SUBJECTS APPLIANCES TO SEIZURE—PROCEDURE THEREON.

SEC. 101. All fish traps, pound nets, gill nets, set nets, fish wheels, fishing boats, and vessels used in fishing, and apparatus and any and all appliances or devices which shall be used or employed by any person or persons or corporations, including all such fishing appliances fished or operated by any person who has not obtained a license, or a license to operate such appliance, in fishing for or catching salmon fish at or during any time or in any of the waters in this act prohibited, and which by this act is made unlawful, whether being operated by any person or left in a condition to take fish, or abandoned but left in condition to take fish, shall be seized and be confiscated, condemned, and sold, and the proceeds of such sale shall be paid to the State treasurer, and by him deposited in the hatchery fund for the district in which such appliance is seized; and it is hereby made the duty of the fish warden to seize and take into his possession all such fishing appliances hereinbefore mentioned, which shall be operated wrongfully or unlawfully by any person, or left by any person in a condition to take fish, or abandoned by any person but left in a condition to take fish, shall be seized and be confiscated, condemned, and sold, and the proceeds of such sale shall be paid to the State

treasurer and by him deposited in the hatchery fund for the district in which such appliance is seized; and it is hereby made the duty of the fish warden to seize and take into his possession all such fishing appliances hereinbefore mentioned, which shall be operated wrongfully or unlawfully by any person, or left by any person in a condition to take fish, or abandoned by any person but left in a condition to take fish, at or during any time or in any of the waters in this act prohibited, and which is made unlawful by this act; and immediately upon such seizure the prosecuting attorney for the district in which such appliance is seized shall institute an action in the circuit court for that county, to have such appliance confiscated, condemned, and sold; such petition shall contain a true description of the appliance sought to be confiscated, condemned, and sold, as nearly as practicable, together with all marks, brands, or any special features thereof, calculated to designate same from other appliances of like nature, and if a fixed appliance, the number; and shall allege facts showing that the same was used in violation of the provisions of this act. The petition shall be duly verified by the oath of the fish warden, or one of his deputies, and in such action the State of Oregon shall be plaintiff, and the owner of such appliance, if known, shall be the defendant; and if unknown, then such unknown owner shall be designated as "John Doe," whose true name is unknown; and such like proceedings shall be had and such action shall be prosecuted to final determination as in actions at law, excepting that the summons shall be issued by the clerk of the court, and shall require the defendant, if known, to appear and answer within 15 days after the service of such summons upon him, and if he fails so to appear and answer, judgment of confiscation shall be entered as prayed for in the petition. Such summons shall contain a brief description of the appliance sought to be confiscated; and if such defendant shall be unknown or can not be found, the summons shall require such unknown owners to appear within four weeks after the first publication thereof, as hereinafter provided; such summons shall be served upon the defendant, if known personally, in any county in the State; and, if unknown and can not be found, the summons shall be published for four weeks in some newspaper published in the county where the action is instituted. All persons owning or claiming any interest in such fishing appliance will be permitted to answer, setting forth their various interests, but it will be no defense to a judgment of confiscation that the owner or mortgagee or lienor of such appliance did no consent to have the same unlawfully operated. Upon the trial of said cause the matter to be determined shall be whether or not the appliance seized was unlawfully employed, or suffered or permitted to be unlawfully employed, in violation of the provisions of this act, or used or operated without a license or by one not licensed; and if judgment shall be entered that the same was used or employed, or suffered or permitted to be used or employed, in violation of this act, a judgment shall be rendered confiscating each appliance and ordering the same to be sold at public auction to the highest bidder for cash, and execution shall issue upon such judgment as in an ordinary action at law, and like proceedings shall be had under such execution as now provided by law; and the money arising from the sale of such appliance shall be immediately deposited with the State treasurer, and by him deposited in the hatchery fund for the district in which such appliance was seized. No fee shall be charged or collected from the State board of fish and game commissioners at the institution or during the prosecution of such action, and no judgment will be awarded against them or the State of Oregon for costs and disbursements. Should the State board of fish and game commissioners deem themselves aggrieved by the ruling or decision of the court at any time after the institution of said action, the right of appeal is hereby given the State of Oregon, to be prosecuted in the same manner as appeals in ordinary civil actions, excepting that no fee shall be charged the State and

THE TERM "PERSON" OR "PERSONS," WHAT TO INCLUDE.

SEC. 102. The term "person" or "persons" used in this act shall be deemed to include partnerships and corporations. (Sec. 5322, L. O. L.)

FISH WARDEN TO KEEP RECORDS—AUTHORITY—APPEALS.

SEC. 103. The fish warden shall keep and preserve a record of all applications for license filed. The fish warden is not bound by statements therein made as to the amount of fish canned, packed, or handled, and for the purpose of ascer-

taining the true class in which any canner, packer, or dealer in salmon or other anadromous fish or sturgeon, as herein provided, should be listed, such fish warden or any of his deputies has full authority and is hereby authorized to inspect the cannery, cold-storage plant, packing establishment, and places of business of such parties, and the books of such showing the amount of their pack or the amount handled (but the information derived therefrom shall not be made public), and if in the opinion of the fish warden the facts set forth in the affidavit of the applicant for a license are untrue, and the canner, packer, or dealer, as herein provided, is not properly classed, he shall immediately class the same and list the same properly, and cancel the license already issued, and demand from such canner, packer, or dealer, as herein specified, a new license fee necessary to bring it within the class it should have been listed in the first instance; but any person, firm, or corporation feeling aggrieved by the decision of the fish warden may appeal from the decision of the fish warden to the circuit court of the State of Oregon for the county in which is or its business is situated. Such appeal is taken by a written notice of such appeal on the fish warden, or his deputy residing in the county, and filing same with proof of service indorsed thereon within 10 days from receiving notice of such relisting by such fish warden, together with a bond with one or more sufficient sureties, to be approved by the clerk of the circuit court, conditioned to pay whatever judgment may be rendered against him on the appeal, in the office of the clerk of the State of Oregon for the county in which said business is located; and the case shall be tried in the said circuit court as a suit in equity, and judgment entered by the court accordingly, and the decision shall be final, and the judgment of the court shall be enforced as other judgments are, and shall have like force and effect. No costs shall be taxed against the fish warden in any event. Nothing in this section shall be construed to prevent the State board of fish and game commissioners, the fish warden, or any of the deputies, from giving in evidence at the trial of such appeal any fact or information derived by them from inspection of the books or papers of any canner, packer, or dealer in fish, or from offering in evidence in any court the affidavit of any person required by this act. (Sec. 5304, L. O. L.)

#### CONTENTS OF LICENSE—EFFECT.

SEC. 104. (a) Each and every license issued under the provisions of this act shall be numbered and dated by the fish warden, and the number of cannery, dealer, pound net, gill net fish wheel, seine, trap, or other appliance, or business licensed, and the number of the district where the appliance or business is located, and shall also contain the name of the person or persons to whom such license is granted. All licenses for whatever appliance or business granted under the provisions of this act shall be valid only in the district for which the same is issued, and shall expire and become null and void on the 31st day of March following the issuance of such license. (Sec. 5303, L. O. L.)

(b) All money received on account of appropriations, fines collected for violation of the commercial fishing laws, commercial fishing licenses, licenses for fishing appliances, licenses for persons engaged in the business of canning fresh salmon, and licenses of persons other than cannery engaged in the business of buying, selling, packing, or otherwise dealing in salmon fish, sturgeon, or other food or shellfish and which have heretofore been paid into hatchery fund district No. 1 and hatchery fund district No. 2, or any other fund, shall be paid to the State treasurer and by him placed to the credit of the general fund: *Provided*, That all money so collected and paid to the State treasurer shall be considered an appropriation and placed to the credit of the hatchery fund No. 1 and hatchery fund No. 2, or other funds, and shall be used for the protection and propagation of fish in their respective districts as heretofore under the direction of the State board of fish and game commissioners. (Par. (1), sec. 11, ch. 287, Laws of 1915.)

#### DIVISION OF STATE INTO DISTRICTS—HATCHERY FUND.

SEC. 105. For the purpose of this act, the State of Oregon is hereby divided into fishing districts as follows: District No. 1 shall include that portion of the Columbia River and its tributaries over which the State of Oregon has jurisdiction; district No. 2 shall include all the coast streams and their tributaries in the State of Oregon south of the Columbia River. The fish warden shall collect and receive all license fees, fines or parts of fines, or proceeds arising from

the sale of confiscated fish or fishing appliances, under the provisions of this act, and shall pay the same to the State treasury within 30 days after collection or receipt thereof, to be placed in the hatchery fund, said fund to be used for hatchery purposes under the direction of the State board of fish and game commissioners. All sums of money collected in any district shall be by the State treasurer credited to the hatchery fund of such district, and in paying over moneys collected, the fish warden shall designate the district in which all moneys were collected; he shall take a receipt, in duplicate, from the State treasurer, one he shall file in his own office and the other in the office of the secretary of state. The money collected in any district shall not be expended, except in the district in which it was collected. All moneys now in the "hatching fund," after all outstanding accounts against said fund have been paid, shall be apportioned and transferred as follows: Two-third to the hatchery fund of district No. 1; one-third to the hatchery fund of district No. 2; and the secretary of state shall issue his warrants on the State treasurer, making such transfer from the "hatchery fund." Upon the payment of any judgment that may have been obtained against any person or persons for the violation of any of the provisions of this act, the same shall be satisfied by the district attorney, upon the presentation of the receipt of the master fish warden. (Sec. 5283, L. O. L.)

PERSONS TO INCLUDE CORPORATIONS.

SEC. 106. The term "person" or "persons" used in this act shall be deemed to include partnerships and corporations. (Sec. 5310, L. O. L.)

PENALTY.

SEC. 107. Any person or persons, firm, or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$1,000 and the costs of the action or by imprisonment in the county jail not less than 25 days nor more than 1 year, or by both such fine and imprisonment. All moneys received from fines and penalties under this act shall be disposed of in the same manner as is provided under the general laws pertaining to the fishing industry. (Sec. 5311, L. O. L.)

JUSTICES—CONCURRENT JURISDICTION.

SEC. 108. Justices of the peace shall have concurrent jurisdiction with the circuit courts of this State of all offenses mentioned in this act. (Sec. 5312, L. O. L.)

CONSTRUCTION AND OPERATION OF HATCHERIES IN ADJOINING STATES.

SEC. 119. The State board of fish commissioners is hereby authorized to construct, maintain, or operate salmon hatcheries in an adjoining State, and to expend a portion of the money in the "hatchery fund" for that purpose: *Provided*, That no hatchery shall be constructed or operated on any stream in an adjoining State that is not a tributary of the Columbia River or whose waters do not flow into said Columbia River. (Sec. 5285, L. O. L.)

RACKS OR OTHER OBSTRUCTIONS FOR HATCHERY PURPOSES.

SEC. 120. The fish commissioner and the Fish Commission of the United States Government, or any individual operating hatcheries in this State, are hereby authorized to erect racks, traps, or other obstructions across any of the streams in this State for the purpose of obtaining salmon for propagating purposes, and it shall be unlawful for any person or persons to injure or destroy any such racks, traps, or obstructions by any means whatever, or take, kill, destroy, or molest any salmon within 2 miles below any such rack, trap, or obstruction across any stream in this State. (Sec. 5286, L. O. L.)

FISH MAY BE TAKEN ANY TIME BY PROPER OFFICERS FOR PROPAGATION.

SEC. 121. Nothing in this act shall be construed so as to prevent the taking of salmon at any time of the year by the board of fish commissioners or accredited officers of the United States Government for propagation. (Sec. 5319, L. O. L.)

## PLACING FISH IN WATER WITHOUT AUTHORITY OF BOARD UNLAWFUL.

SEC. 122. It shall be unlawful for any person, without written authority from the board of fish commissioners, to place in any water of this State any species or variety of fish whatever. (Sec. 5317, L. O. L.)

## BOARD MAY CLOSE STREAMS.

SEC. 123. The board of fish commissioners is authorized by this act to propagate and stock the various waters and streams of this State with salmon, sturgeon, trout, or other food fishes not inimical to or destructive of salmon; and for the purpose of protecting the same they are hereby authorized to close any stream or any designated portion thereof in this State frequented by salmon, or any stream which they have stocked, and prevent any person taking or fishing for or catching any salmon or food fishes therein (except that portion of the Columbia River west of the mouth of the Deschutes River and that portion of the Willamette River north of the Willamette Falls at Oregon City). Should the board of fish commissioners desire to close any stream or designated portion thereof frequented by salmon, or any stream or designated portion thereof which they have stocked with food fish, they shall cause notice thereof to be filed in the office of the county clerk in each county in which such stream or designated portion thereof lies, and shall publish such notice in some public newspaper published at the county seat in such county or counties for four successive weeks. Such notice shall designate as nearly as practicable the streams or designated portion thereof to be closed, and shall state that on and after a date therein stated it will be unlawful to fish for or take or catch any salmon or other food fishes therein (which date shall not be less than 30 days from the date of the first publication), and shall cause like notices to be published for such time in three conspicuous places on the banks of such streams or designated portion thereof. Upon the completion of the publication of such notice, the same, with proof of the publication and posting thereof, shall be filed with the original notice in the office of the county clerk, and it shall be unlawful at any time after the expiration of the date specified in said notice for any person to fish for, catch, or take any salmon or any food fishes stocked therein until notice shall be filed and likewise published by the board of fish commissioners of the opening of such stream or designated portion thereof to the public for fishing. (Sec. 5316, L. O. L.; Laws 1913, ch. 139, sec. 1.)

## PLACING DELETERIOUS MATTER OR EXPLOSIVES IN WATERS OF STATE UNLAWFUL.

SEC. 124. It shall be unlawful for any person or persons to throw, or cast, or pass, or cause, or permit to be thrown, or cast, or passed, in any waters of the State in which salmon fish of any kind or other food fishes are wont to be, any lime, drug, powder, indicated bait, gas, or coulus indicus, or any other substance deleterious to fish, or to explode or cause to be exploded in any waters of this State any powder, hercules powder, giant powder, dynamite, nitroglycerine, or any other explosive substance whatever for the purpose of catching, killing, or destroying any salmon or any food fish. (Sec. 5269, L. O. L.)

## OBSTRUCTION IN FISH STREAM PROHIBITED—TAKING FISH WITHIN CERTAIN LIMITS OF FISHWAY UNLAWFUL.

SEC. 127. It shall be unlawful for any person to construct any milldam or artificial obstruction across any stream in this State frequented by salmon or trout, or to maintain any such milldam or obstruction heretofore erected without providing a passageway for such fish over such obstructions, such passageway for fish to be constructed as near the main channel as may be practicable. It shall be the duty of the fish warden to examine, from time to time, all milldams and artificial obstructions to all rivers and streams in the State frequented by salmon or other migratory fish, and if in his opinion there is not a free passage for fish over any milldam or artificial obstruction, to notify the owner or occupant thereof to provide the same within a reasonable time with a durable and efficient fishway, of such form and capacity and in such location as shall be determined by the fish warden. If such fishway is not completed to the satisfaction of said fish warden within the time specified, the owners or occupants of such milldam or artificial obstruction shall be

deemed guilty of a misdemeanor, and on conviction shall be punished as in this act hereinafter provided. It shall be incumbent upon the owners and operators of all milldams or artificial obstructions, where the fish warden requires such fishway to be provided, to keep the same in repair and open and free from obstruction to the passage of fish at all times, and any owner or operator of any dam or artificial obstruction who neglects or refuses to keep such fishway in repair and open and free from obstruction to the passage of fish shall be guilty of a misdemeanor, and upon conviction shall be punished as in this act hereinafter provided; and the continuance from day to day of the neglect or refusal after notification in writing by the fish warden, shall constitute a separate offense; and it shall be unlawful for any person to willfully or knowingly destroy, injure, or abstract from such fishway, or to take or catch any salmon or other migratory fish within 600 feet below any fishway: *Provided, however,* That fishing with hook and line only shall be permitted 200 feet below any fishway.

Fishing with hook and line, commonly called angling, in the Willamette River shall be lawful at any time: *Provided, however,* That it shall be unlawful for any person to catch more than three salmon in any one day with hook and line during that portion of the year closed to net fishermen.

The master fish warden and the State game and forestry warden, together with their respective deputies, shall have concurrent jurisdiction to enforce the provisions of this act. (Laws 1911, ch. 192; L. O. L., sec. 5288.)

For penalty see section 133.

#### HINDERING PASSAGE OF FISH PROHIBITED.

(b) It shall be unlawful for anyone to hinder, annoy, or disturb the fish entering, passing through, or leaving said fishway, or to obstruct the passage of fish through the same at any time or in any manner, or for anyone to place anything in said fishway or use any device for catching fish, or any wheel, or net, or hooks, or lines in said fishway, or anywhere within 50 feet thereof, or to catch fish at any time anywhere within 50 feet of said fishway, or anyone to do any injury to said fishway. (Sec. 5336, L. O. L.)

NOTE.—It is unlawful to angle within 200 feet below a fishway under section 127.

#### PENALTY—REWARD FOR INFORMER.

SEC. 133. Any person or persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$1,000 and the costs of the action, or by imprisonment in the county jail not less than 25 days nor more than 1 year, or by both such fine and imprisonment: *Provided,* That in case of fine only that he be imprisoned in the county jail until such fine and costs of action be paid, he shall be credited on such fine and costs the sum of \$2 for each day of imprisonment. In all actions for violations of the provisions of this act, one-third the moneys collected as fines shall be paid to the district attorney, or his deputies, who conducts the action; one-third shall be paid to the informer or prosecuting witness: *Provided,* That such informer or prosecuting witness is not a regularly appointed and salaried fish warden, or salaried deputy warden; the remaining one-third, or two-thirds, or all, as the case may be, shall be paid to the master fish warden and by him deposited with the State treasurer, to be placed in the "hatchery fund" for the district in which said fine was imposed. (Sec. 5323, L. O. L.)

#### APPENDIX C.

In this appendix there will be incorporated the following:

1. Extracts from the provincial fisheries act of 1911 for British Columbia.
2. Excerpts from the Dominion fisheries act of 1906.
3. Comments from the April, 1914, number of the Canadian Fisherman, a trade journal, regarding certain parts of a revised Dominion fisheries act.

#### 4. Extract from address of Prof. E. E. Prince regarding whale fishery.

(Appendix C, part 1.)

[Revised Statutes of British Columbia, 1911, Vol. II, p. 1055.]

#### CHAPTER 89.—AN ACT RESPECTING PROVINCIAL FISHERIES.

Mis Majesty, by and with the edvice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

##### SHORT TITLE.

1. This act may be cited as the "provincial fisheries act," 1901, chapter 25, section 1.

##### INTERPRETATION.

2. Where the following words and expressions occur in this act, and in any regulations hereby authorized, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

"Crown lands" means and shall include such ungranted Crown or public lands, or Crown domain, as are within and belong to the Province, and whether or not any waters flow over or cover the same.

"Water" or "waters," or "provincial water" or "provincial waters," means and shall include such of the waters of the sea, or of any bay or inlet of the sea, or any lake, river, stream, or watercourse wholly or partially within the Province over or in respect of which the legislature has authority to legislate for the purposes of this act, and whether flowing over or covering Crown lands or not, but shall not include any waters in which fish are propagated and preserved by the owner or tenant of the lands covered by such waters.

"Commissioner" means the member of the executive council designated from time to time by order in council as commissioner of fisheries.

"Case" means four dozen cans of fish each weighing 1 pound, or the equivalent in weight of such four dozen cans.

"Fish" means and shall include every kind, species, or variety of fish in respect to the catching or killing of which, within the Province, the legislature has authority to legislate.

"Fishery lease," or "lease," means and shall include a lease conferring for a term therein mentioned upon the lessee therein named the right to take and keep, for the purposes of fishing, under and subject to the provisions of this act and of all regulations made thereunder, the exclusive or other possession of any Crown lands therein described, with the exclusive or other right to fish in any waters floating over or covering the same, at such time and in such manner, and with such restrictions and subject to such regulations, as may be permitted, regulated, or prescribed by any lawful authority in that behalf.

"Fishing license," or "license," or "permit" means and shall include a license granting for the time therein mentioned, to the licensee therein named, upon payment of the license fee therein stipulated, a right to fish in any waters therein described or other lands in respect of which the legislature has authority to legislate for the purposes of this act, at such time or times, in such manner, and with such restrictions and subject to such regulations as may be permitted, regulated, or prescribed by any lawful authority in that behalf; but no fishing license or permit shall be deemed to be, or be construed to operate as, or in the nature of, a lease or demise.

"Close season" means the time in any year during which fishing for, catching or taking in any provincial water, or killing, carrying away, or buying or selling, or having in possession the kinds or species of fish hereinafter named, or any of them, is prohibited or regulated by the laws or fishing regulations of Canada.

"Fishery" means and shall include the particular locality, place, or station in or on which a seine, pound, or other net is used, placed, or located, and the particular stretch of waters in or from which fish may be taken by the said seine or net, and also the net or nets, and other fishing material or appliances used in connection therewith.

"Overseer" shall include district overseer, local overseer, and temporary guardian.

"Angling" in this act means the taking of fish with hook and line held in the hand, or with hook and line and rod, the latter held in the hand, and shall not include set lines. (1901, ch. 25, sec. 3; 1902, ch. 26, sec. 2.)

#### APPLICATION OF ACT.

3. This act, and the respective provisions thereof, and the regulations hereby authorized, shall apply to all fishing and rights of fishing, and all matters relating thereto, in respect of which the legislature has authority to legislate for the purposes of this act; but shall not authorize, nor shall any lease, license, or permit issued hereunder, or in pursuance of regulations made hereunder, authorize or be deemed to authorize any interference with the navigation of any navigable waters. (1901, ch. 25, sec. 2.)

#### OFFICERS. THEIR DUTIES AND POWERS.

4. The lieutenant governor in council may appoint a deputy commissioner, fishery overseers, and such other officers and clerks as may be necessary and expedient for the purpose of carrying out this act and the regulations made under it. Such deputy commissioner, overseer, officers, and clerks shall be paid out of the moneys received under the provisions of this act, or as may be appropriated by the legislature, such remuneration as shall be determined by the lieutenant governor in council. (1902, ch. 26, sec. 3.)

5. Every provincial constable shall be *ex officio* a fishery overseer, and every fishery overseer shall have jurisdiction in and over every part of the Province for the purpose of the enforcement of the fishery laws thereof. (1902, ch. 26, sec. 4.)

6. In the discharge of his duties, the commissioner, deputy commissioner, every fishery overseer, and every person by the commissioner, deputy commissioner, or a fishery overseer accompanied or authorized for that purpose, may enter upon and pass through or over private property without being liable for trespass. (1902, ch. 26, sec. 5.)

7. Such annual or other reports of the deputy commissioner and fishery overseers shall from time to time be furnished as the lieutenant governor in council may require. (1902, ch. 26, sec. 7.)

8. Fishery overseers shall determine and direct where nets may be set, and the distance to be maintained between each and every location of nets, and shall forthwith remove any fishery which the owner neglects or refuses to remove in compliance with any such determination and direction; and such owner so neglecting or refusing, after 48 hours notice, shall be moreover liable for a violation of this act, and for the cost and damages of removing said fishery; but nothing in this section shall empower the fishery overseers to authorize the setting of nets in waters other than those described in the license. (1901, ch. 25, sec. 32.)

#### LEASES AND LICENSES.

9. Whosoever shall fish without a permit, lease, or license in provincial waters wherein fishing is prohibited, except by permit, lease, or license, shall for each offense be liable to the penalty provided by section 42 of this act, and costs, and in default of payment of such fine and costs shall be imprisoned for a period not exceeding three months. (1902, ch. 26, sec. 10.)

10. No one shall, without lawful excuse (the proof whereof shall lie on him), buy, sell, or possess any fish, or portion of any fish, caught or killed in provincial waters at a time or in a manner prohibited by this act, or by regulations made under this act. (1901, ch. 25, sec. 13; 1902, ch. 26, sec. 11.)

11. Special licenses and leases for any term of years may be granted by the lieutenant governor in council to any person who wishes to plant or form oyster beds in any provincial waters, except public harbors; and the holder of any such lease or license shall have the exclusive right to the oysters produced or found on the beds within the limits of such lease or license. (1902, ch. 26, sec. 31.)

12. Fishery leases or licenses may be issued subject to such terms, conditions, or limitations as may be contained therein or made part thereof, or shall be prescribed, as limited by section 30 hereof, by order in council or by this act, and the same shall be binding to all intents and purposes upon the lessees or licensees or their assigns; and any such lessee or licensee or his assigns thereof who contravenes any of the terms, conditions, or restrictions thereof shall for-

feit his rights and privileges under such lease or license, and such lease or license may in such case be revoked by the commissioner, and the lessee or licensee shall in addition be deemed to have committed a contravention of this act. (1901, ch. 25, sec. 11; 1902, ch. 26, sec. 9.)

13. The commissioner may issue, or authorize to be issued, to British subjects only, fishery leases or fishery licenses for fisheries and fishing to be carried on in provincial waters, subject always to such regulations, conditions, and restrictions as may from time to time be made, ordered, established, or fixed in that behalf by the lieutenant governor in council, as limited by section 30 hereof, and published in the Gazette, or as may be contained in the lease or license; but leases or licenses for any term exceeding five years shall be issued only under authority of the lieutenant governor in council. (1902, ch. 26, sec. 12.)

14. The rental or license shall be fixed by the lieutenant governor in council, and when not paid in advance shall be paid at the time or times specified therefor in the lease or license; and the lessee or licensee who fails to pay the rental or fees when and as by his lease or license provided shall forfeit all rights thereunder, and thereupon the lease or license may be declared void by the commissioner, who may relet the said rights; and notwithstanding the forfeiture of the said lease or license and the said reletting, the said lessee or licensee shall be liable, at the suit of His Majesty, for the said rental or fees and the expenses incurred by such forfeiture and reletting. (1902, ch. 26, sec. 13, subsec. (1).)

15. No lessee or licensee shall have the right to sublet, transfer, or assign any right, interest, or privilege granted or conferred upon him under the provisions of this act without first having obtained the written consent of the commissioner. (1901, ch. 25, sec. 16; 1902, ch. 26, sec. 14.)

16. If, in consequence of any incorrectness of survey, or other error or cause whatsoever, a fishery lease comprises lands included in a fishery lease of a prior date, the fishery lease last granted shall be void in so far as it interferes or purports to interfere with that previously issued, and the holder or proprietor of the lease so rendered void shall have no claim for indemnity or compensation on account thereof. (1901, ch. 25, sec. 17.)

17. Every fishery lease shall be deemed to have been made and granted subject to the right of passage to and from any water in favor of the occupants (if any) under title from the Crown, of the lands in rear of those included in the fishery lease, whether so expressed in the lease or not. (1901, ch. 25, sec. 18.)

#### LESSEE'S RIGHTS.

18. A fishery lease shall entitle the lessee to institute in his own name any action or proceeding against any person unlawfully trespassing upon, damaging, or invading the rights, property, premises, or privileges granted or demised by the lease, and also to sue for and recover any damages sustained by him as such lessee. (1901, ch. 25, sec. 23.)

19. Every person not being lawfully authorized so to do who enters upon or passes over the land described in and the subject of a fishery lease without permission of the lessee or his representative shall be deemed a trespasser, and on conviction thereof shall incur and pay a fine of not exceeding \$10 and not less than \$1, with costs of prosecution, for each offense; and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county or district within which the offense was committed for a period not exceeding one month. (1901, ch. 25, sec. 24, subsec. (1).)

20. If any person, without permission of the lessee or his representative, fishes, or employs or induces another person to engage or assist in fishing, within the limits included in a fishery lease, or removes or carries away, or employs or induces or assists another person to remove or carry away, any fish caught or taken within such limits, he shall upon conviction thereof incur and pay a fine of not exceeding \$20 and not less than \$5, with costs; and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county or district within which the offense was committed or in which the conviction was made for a period not exceeding one month; and such person shall not acquire any right to the fish so caught or taken, but the same shall be forfeited and become the absolute property of the lessee; and the lessee, or any person by him authorized, and any fishery overseer, may on view forthwith seize and remove any net, article, apparatus, or appliance so used in fishing or to assist in fishing contrary to the provisions of this section, to be afterwards dealt with according to law: *Provided always,*

That the occupation of any fishing grounds or waters leased for the express purpose of net fishing shall not interfere with nor prevent angling for other purposes than those of sale or traffic. (1901, ch. 25, sec. 25.)

#### FISHERY GUARDIANS.

21. The lieutenant governor in council may appoint as many fishery guardians as may be deemed necessary for the effectual protection of the rights granted by such leases. Such guardians shall be sworn to the faithful discharge of their duties, and especially to prevent the taking or killing, or attempting to take or kill, fish in the waters covered by any such lease by any person not thereunder entitled to so take or kill, or taking or killing, or attempting to take or kill, fish in any such waters by any means not permitted by the terms of such lease. They shall be employed for such length of time as the lieutenant governor in council considers necessary, and their services shall be paid for by the lessee or lessees in such proportions and at such times and in such manner as may be determined by the lieutenant governor in council. (1902, ch. 26, sec. 15.)

22. If thereunto required by the commissioner, a lessee shall keep and maintain at his own expense within the limits granted to or conferred upon him by a fishery lease and for such time or times as the commissioner may in that behalf prescribe, one or more efficient guardians, whose duties shall in all respects be the same as those of the guardians in the last preceding section mentioned. (1901, ch. 25, sec. 20; 1902, ch. 26, sec. 16.)

#### LESSEE'S OBLIGATIONS AND DUTIES.

23. Any fishery lease or fishing license held by any person convicted of any contravention of this act or of any of the conditions of any lease or license issued thereunder may be annulled and canceled by the commissioner, and thereupon such person shall forfeit all his rights and privileges under such lease or license and shall not be entitled to or have any claim or right to any indemnity or compensation in respect thereof. (1901, ch. 25, sec. 21; 1902, ch. 26, sec. 17.)

24. Every lessee shall be answerable for damage done to the lands in the lease described and the timber growing thereon, or on adjoining lands, either by himself or his agents or any person under his control, either from waste or from want of sufficient precaution in lighting, watching over, or extinguishing fires, and it shall be incumbent on every lessee in case of damage caused by fire to prove that all such precautions have been taken. (1901, ch. 25, sec. 22.)

25. Section 19 shall not apply to any person entering upon or passing over lands in said section mentioned in discharge of any duty imposed by law, nor, when the lands are included in a timber license, to the holder thereof, who shall at all times have the right to cut and take away all trees, timber, and lumber within the limits of his license; nor to prevent the owners or occupiers of land bordering on any waters using a general right of passage to and from such waters, nor to prevent the public use of any waters or the banks thereof either for the conveyance of timber and lumber of any kind or for the free navigation thereof by vessels, boats, or other craft; nor to any user under license by the crown of such lands or waters for any purpose or occupation not inconsistent with the provisions of this act. (1901, ch. 25, sec. 24, subsec. 2.)

26. It shall be the duty of every lessee who takes fish for commercial purposes, at the end of the fishing season and not later than the 31st of January in the following year, to transmit by registered letter to the commissioner a statement showing the amount in weight of each of the different kinds of fish caught by such lessee during the said fishing season. (1901, ch. 25, sec. 31; 1902, ch. 25, sec. 21.)

#### INSPECTION.

27. Every person fishing in provincial waters under or by virtue of a fishery lease, fishing license, or permit shall, whenever requested by any fishery officer so to do, permit the inspection and examination of all fishing implements and apparatus used by him; and in case any such person shall refuse to allow such inspection and examination, the fishery officer shall have power, and is hereby authorized, with or without a search warrant, to examine such implements and apparatus, and for that purpose to enter upon any building, boat, car, or other place where such implements or apparatus are or are reputed to be, whether within the limits covered by such lease, license, or permit or not; and in case such person shall be found to have in his possession any fishing implements or

apparatus not permitted by the terms of such lease, license, or permit, the fishery officer shall have power to take, confiscate, and destroy such implements or apparatus: *Provided, however,* That this section shall only operate in respect of any Crown lands held under a provincial lease, license, or permit, the conditions of which may set forth the kind of implements or apparatus permitted to be used for fishing thereunder. (1902, ch. 26, sec. 20.)

28. Any person who shall obstruct, hinder, delay, or interfere with any fishery commissioner, overseer, or officer appointed under this act in the discharge of his duty under the provisions of this act, or while enforcing or attempting to enforce or while acting under any act or regulation of Canada relating to fish, fishing, or fisheries, by violence, hindrance, or by the means of threats, or by giving false information, or in any other manner whatsoever, shall, for each offense, be liable to the penalty provided by section 42 of this act, and costs; and in default of payment of such fines and costs shall be imprisoned for a period not exceeding six months. (1901, ch. 25, sec. 29.)

29. The finding of any nets, fishing devices, or other articles set or maintained in violation of this act shall be prima facie evidence of the guilt of the person or persons owning, possessing, or operating the same. (1901, ch. 25, sec. 30.)

#### RULES AND REGULATIONS.

30. The lieutenant governor in council may from time to time make regulations, and may from time to time vary, amend, alter, or repeal all and every such regulation as may be found expedient for the better management and regulation of Crown lands leased under this act, or the regulations made thereunder, and the fishing rights thereto pertaining, or for the regulation of any fishing lease, license, or permit which may be made or granted by virtue of this act, or of the said regulations, and to prevent the destruction of fish, and to forbid fishing in any waters within the Province, except under authority of a fishing lease, permit, or license, and for the purpose of carrying the provisions of this act into effect; and all regulations so made shall have the same force and effect as if herein contained and enacted, and every offense against any such regulation may be stated as having been made in contravention of this act. (1902, ch. 26, sec. 8.)

31. The publication of any regulation in the Gazette shall be sufficient notice to give legal effect to the same, and the production of a copy of the paper purporting to be the Gazette and containing any such regulation shall be admitted in all courts as sufficient evidence of such regulation. (1901, ch. 25, sec. 10.)

32. All nets shall have the name of the owner or owners legibly marked on two pieces of metal or wood attached to the same, and such mark shall be preserved on such nets during the fishing season in such manner as to be visible without taking up the net or nets; and any net used without such mark shall be liable to confiscation: *Provided, however,* That this section shall only apply to nets owned by any person fishing in provincial waters under or by virtue of a lease, license, or permit and used by such person under the conditions thereof, and that all fishery leases, fishing licenses, and permits granted or issued under this act shall be deemed to be subject to this section. (1901, ch. 25, sec. 33; 1902, ch. 26, sec. 22.)

33. No fish or fish spawn shall be taken in any manner from provincial waters for the purpose of stocking, artificial breeding, or for scientific purposes without a written permit to do so, signed by the commissioner, subject always to any regulations or restrictions made or prescribed by or under any lawful authority in that behalf. (1902, ch. 26, sec. 19.)

34. No common carrier or other person shall receive or have in his possession or shall ship or transport to any point or place any fish caught or killed within the Province at a time or in a manner prohibited by this act or by regulations made under this act. (1901, ch. 25, sec. 36; 1902, ch. 36, sec. 24.)

35. All fish companies and fish dealers purchasing fish direct from the lessees or licensees under this act shall keep a record, in form approved by the commissioner, of the different kinds and quantities of fish taken or caught in provincial waters and purchased by them, with the date, name, and address of the person from whom purchased, such book to be open for the inspection of the commissioner or his deputy at all reasonable times. (1901, ch. 25, sec. 37; 1902, ch. 26, sec. 25.)

36. The lieutenant governor in council may authorize to be set apart and to be leased any waters for the natural or artificial propagation of fish, and any person who willfully destroys or injures any place so set apart or used for the

propagation of fish therein, without written permission from said commissioner or his deputy, or from the lessee or licensee thereof, or uses therein a fishing light or other like implement for fishing, or fishes therein, during the period for which the waters are so set apart, shall, for every offense, incur and pay a fine not exceeding \$200, with costs, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county or district wherein the offense was committed, or in which the conviction was made, for a period not exceeding six months. (1901, ch. 25, sec. 26; 1902, ch. 26, sec. 18.)

37. The lieutenant governor in council may authorize to be expended annually any sum appropriated by the legislature for the formation of oyster beds in various waters and waters adapted for that purpose, and for transplanting oysters and restocking oyster and other exhausted fisheries by natural or artificial means, and for improving streams where natural obstructions exist, and may authorize the construction, erection, or placing of any artificial barrier or grating in any stream or river, or in any watercourse, and in the channels or beds thereof. (1901, ch. 25, sec. 54; 1902, ch. 26, sec. 32.)

38. Shellfish fisheries shall be subject to the provisions of this act and any regulation made under it. (1901, ch. 25, sec. 55.)

#### DISPUTES.

39. Disputes between persons operating fisheries in provincial waters under a lease, license, or permit relative to fishing limits or claims to fishery locations or stations, granted by any such lease, license, or permit, or relative to the position and use of nets as may be permitted by such lease, license, or permit, shall be settled by the local fishery overseer, subject to appeal to the commissioner. (1902, ch. 26, sec. 23.)

#### OFFENSES AND PENALTIES.

40. Contravention, on any day, of any of the provisions of this act, or of any regulations made under the authority thereof, as limited by section 30 hereof, by the lieutenant governor in council, shall constitute a separate offense, and may be punished accordingly. (1902, ch. 26, sec. 28.)

41. When not otherwise specified, every proprietor, owner, agent, tenant, occupant, partner, or person actually in charge, either as occupant or servant, shall be jointly and severally liable for any penalties or moneys recoverable under any of the provisions of this act or any regulations made thereunder. (1901, ch. 25, sec. 35.)

42. Where any of the provisions of this act, or any regulations made under section 30 of this act by the authority of the lieutenant governor in council, are contravened, and no other penalty is herein provided for such contravention, the person guilty of such contravention shall, on conviction thereof, incur and pay a fine of not exceeding \$50 and not less than \$10, and for a second or subsequent offense of not exceeding \$100 and not less than \$20, with costs of prosecution; and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county or district within which the offense was committed or in which the conviction was made for a period not exceeding six months. (1901, ch. 25, sec. 38; 1902, ch. 26, sec. 26.)

43. All prosecutions for the punishment of any offense under this act may take place before any fishery overseer, stipendiary or police magistrate, or two of His Majesty's justices of the peace having jurisdiction in the county or district in which the offense is committed. (1901, ch. 25, sec. 39.)

44. Where an offense under this act is committed in, upon, or near any waters forming the boundary between different counties or districts, such offenses may be prosecuted before any magistrate, justices, commissioner, or overseer for either of such contiguous counties or districts. (1901, ch. 25, sec. 40.)

45. Any fishery overseer or magistrate may, on view or otherwise, convict for any offense against the provisions of this act, or of any regulation made thereunder as limited by section 30 hereof, and shall instantly capture and detain or destroy all seines or nets or other materials and articles illegally set or in use which are shown to have been illegally in use. (1901, ch. 25, sec. 41; 1902, ch. 26, sec. 27.)

#### PROSECUTIONS AND PROCEDURE THEREON.

46. Any person may be the prosecutor or complainant in prosecutions under this act; and it shall be the duty of every fishery overseer, constable, and

peace officer, and every game and deputy game warden to aid in the observance of the provisions of this act and in bringing offenders to justice. (1901, ch. 25, sec. 43.)

47. The following provisions shall have effect with respect to summary proceedings for offenses, fines, and penalties under this act:

(1) The information or complaint shall be laid within three months after the commission of the offense.

(2) The description of an offense, in the words either of this act, or of any any regulation made by authority thereof, or in any similar words, shall be sufficient in law.

(3) Any exception, exemption, proviso, excuse, or qualification, whether or not it accompanies the description of the offense, in this act, or in any regulation made by authority thereof, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. (1901, ch. 25, sec. 44.)

48. Upon hearing of any information or complaint exhibited or made under this act, the person giving or making the information or complaint shall be a competent witness, notwithstanding that such person may be entitled to part of the pecuniary penalty on the conviction of the offender. (1901, ch. 25, sec. 45, subsec. (1).)

49. On the trial of any complaint, proceeding, matter, or question under this act, the person opposing or defending, or who is charged with any offense against or under any of the provisions of this act, shall be competent and compellable to give evidence in or with respect to such complaint, proceeding, matter, or question; and on any such trial no person, witness, or party shall be excused from answering any question upon the ground that the answer to such question may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or any other person: *Provided, however,* That no evidence so given shall be used or receivable in evidence against such person in any criminal proceeding thereafter instituted against him other than a prosecution for perjury in giving such evidence. (1901, ch. 25, sec. 45, subsec. (2).)

50. In default of the payment of any penalty imposed by this act, and costs, by any person convicted of any offense under this act, the offender may be committed to the common gaol of the district or county where the offense was committed, or in which the conviction was made, for a period not exceeding six months, unless the penalty and costs, and the costs and charges of the commitment and conveying the defendant to prison are sooner paid, and the amount of such costs and charges of commitment and conveying the offender to prison shall be ascertained and stated in the warrant of commitment. (1901, ch. 25, sec. 46.)

51. Save where otherwise provided by this act all the provisions and forms authorized under the summary convictions act shall apply, as far as they may be applicable, to all prosecutions and proceedings under this act, where not inconsistent with this act. (1901, ch. 25, sec. 47.)

52. A conviction or order made in any matter arising under this act, either originally or on appeal, shall not be quashed for want of form, and a conviction or order made by a court of summary jurisdiction, against which a person is authorized to appeal, shall not be removed by certiorari or otherwise, either at the instance of the Crown or of any private person into the supreme court, except for the purpose of the hearing and determination of a special case. (1901, ch. 25, sec. 48.)

53. One-half of every fine or penalty imposed by virtue of this act shall belong to His Majesty for the uses of the Province, and the remaining half shall be paid to the prosecutor, together with any costs taxed to him by the convicting magistrate or justice in respect thereof. (1901, ch. 25, sec. 49.)

54. All vessels, boats, canoes, rafts, vehicles of any description, fishing gear, rods, line, tackle, seines, nets, or other material, apparatus, or appliances used, and all fish had or taken, in contravention of this act, or any regulation made thereunder, and all other fish legally taken, caught, killed, conveyed, bought, sold, or had in possession, and of whatever size and description, which are intermixed therewith, shall be confiscated to His Majesty for the use of the Province, and may be seized and confiscated and sold or destroyed on view, or otherwise, by any fishery commissioner, overseer, or officer, and may be taken and removed, by any person, for delivery to any magistrate or fishery

commissioner, overseer, or officer; and the proceeds thereof shall belong to His Majesty for the use of the Province, and may be applied toward defraying expenses incurred under the provisions of this act. (1901, ch. 25, sec. 50.)

55. The moiety of every fine or penalty belonging to His Majesty for the uses of the Province, and all proceeds derived from the sale of articles confiscated to His Majesty under this act shall be paid over to the minister of finance and agriculture, and shall be applied toward the expenses incurred in carrying out the provisions of this act. 1901, ch. 25, sec. 51; 1902, ch. 26, sec. 29.)

56. Persons aggrieved by any conviction or confiscation under this act may appeal, by petition, to the lieutenant governor in council, who shall have power to remit fines and penalties and restore forfeitures under this act. (1901, ch. 25, sec. 52; 1902, ch. 26, sec. 30.)

#### POWER TO ACCEPT DOMINION RECORDS AND OTHER DOCUMENTS.

57. The lieutenant governor in council may make such provision as he deems necessary for obtaining, receiving, and taking over from the government of the Dominion or from the department of marine and fisheries all records, archives, documents, books, books of account, applications, correspondence, regulations, orders in council, or any other documents or writing, or copies of any and all of the above, in any way relating to the fisheries of this Province, and for all such purposes connected with the said fisheries may cause all such searches and examinations to be made as may be found necessary. (1901, ch. 25, sec. 56.)

#### (Appendix C, part 2.)

[Revised Statutes of Canada, 1906, vol. 1, p. 715.]

### CHAPTER 45—AN ACT RESPECTING FISHERIES AND FISHING.

#### SHORT TITLE.

1. This act may be cited as the fisheries act. (R. S., ch. 95, sec. 1.)

5. Nothing in this act contained shall preclude the granting by the minister of written permission to obtain fish and fish spawn for purposes of stocking or artificial breeding or for scientific purposes. (R. S., ch. 95, sec. 21.)

#### FISHERY LEASES AND LICENSES.

8. The minister may, wherever the exclusive right of fishing does not already exist by law, issue or authorize to be issued fishery leases and licenses for fisheries and fishing, wheresoever situated or carried on; but leases or licenses for any term exceeding nine years shall be issued only under authority of the governor in council. (R. S., ch. 95, sec. 4.)

#### WHALE FISHING.

9. No one shall at any time engage in the manufacture from whales of oil or other commercial product, and no vessel or boat shall be employed in the whale fishery, except under license from the minister.

2. The minister may issue licenses to manufacture oil or other commercial product from whales and to employ boats or vessels in whale fishery, but no such license shall issue until—

(a) The minister has approved of the site of the factory, which shall not be within 50 miles of any other whale factory, or in such proximity to any inhabited place or places as, in the opinion of the minister, may cause danger or detriment to the public health; (b) the applicant therefor has given assurances to the minister, of a satisfactory nature, that he is in a position to convert any whale captured into commercial products within 24 hours of the landing of such whale, and that he is also in a position to conduct his whale factory and business in such a manner that no noxious or deleterious matter will be introduced into any public waters, bays, creeks, rivers, or harbors; (c) the applicant has filed with the minister plans and specifications of the machinery to be contained in the proposed factory, and the particulars of the reduction process; (d) the applicant has satisfied the minister that the machinery proposed to be used is of a kind already proved efficient for such purposes and of the most approved type theretofore used in the whaling industry.

3. No license shall be for a period exceeding nine years, but the governor in council may renew a license in favor of the licensee from time to time for

periods of nine years upon receipt of an application in writing for a renewal six months previously to the termination of the current period.

4. The holder of any such license shall not operate more than one whaling steamer in connection with the whale factory under license.

5. The license shall become void and forfeited unless the factory named therein is erected, equipped, and working within two years from the date of the issue of the license.

6. The fee charged on each such license shall be \$800 for the first year, \$1,000 for the second year, and \$1,200 for the third and each ensuing year, and the fee on all subsequent licenses for the same factory shall be \$1,200; such fee shall be payable to the minister of marine and fisheries first on the issue of the license and on the 1st day of July in each year thereafter: *Provided*, That the governor in council, after the first two years, may exact in lieu of such fee a sum equal to 2 per cent of the gross earnings of each factory, which shall be payable as aforesaid.

7. Every license, upon cause shown, after one month's notice in writing to the licensee, shall be liable to forfeiture for any infraction of this section or any regulation under it, or for failure to fulfill and carry out the assurances required by this section to be given to the minister previously to the issuing of a license, and in the case of forfeiture the minister may, without any suit or other proceedings at law and without compensation, cancel the license.

8. The governor in council may from time to time make such regulations as to him seem necessary for carrying out and enforcing any of the provisions of this section and for controlling and regulating the manufactures carried on in the licensed factories and the disposal of all refuse therefrom.

9. Boats known as towboats shall not be used by anyone in the prosecution of the whaling industry, and no vessel other than the vessel from which the whales have been captured or killed shall, by any method or contrivance, bring or tow into port any whale for manufacture or other purpose, but nothing in this section shall prevent anyone other than the holder of a license or his employees from towing any dead whale to land and having it manufactured or otherwise disposing of it in accordance with the provisions of this section.

10. No one shall pursue, capture, shoot, or kill any whale within the distance of one-half nautical mile of any vessel or boat not at anchor or engaged in any kind of fishing or within 1 nautical mile of any vessel or boat at anchor or engaged in any kind of fishing.

11. No one shall have in his possession, or use in the catching or killing of whales any contrivance which does not include a harpoon, with a whaling line attached thereto, fixed or fastened to the boat or vessel from which the whale is captured or killed.

12. Notwithstanding anything in this section, the license fee payable for any vessel or boat engaged in the whale fishery or hunting whales within the waters of Hudson Bay, or the territorial waters of Canada north of the fifty-fifth parallel of north latitude, is not so engaged or hunting in connection with a factory established in Canada, shall be \$50 for each year: and, inasmuch as Hudson Bay is wholly territorial water of Canada, the requirements of this section as to licensing, and as to the fee payable therefor, shall apply to every vessel or boat engaged in the whale fishery or hunting whales in any part of the waters of Hudson Bay, whether such vessel or boat belongs to Canada, or is registered and outfitted in, or commences her voyage from, any other British or foreign country. (4 E. VII, ch. 13, sec. 1; 6 E. VII, ch. 13, sec. 1.)

#### SALMON FISHERY.

15. Meshes of nets used for capturing salmon shall be at least 5 inches in extent, and nothing shall be done to practically diminish their size. (R. S., ch. 95, sec. 8.)

16. The use of nets or other apparatus for the capture of salmon shall be confined to tidal water, and any fishery officer may determine the length and place of each net or other apparatus used in any of the waters of Canada.

(2) No one shall fish for or catch salmon with swing nets in any waters of Canada. (52 V., ch. 24, sec. 1.)

17. The minister, or any fishery officer duly authorized, shall have power to define the tidal boundary of the estuary fishing for the purposes of this act. (R. S., ch. 95, sec. 8.)

18. All nets or other lawful appliances for the capture of salmon shall be placed at distances of not less than 250 yards apart, without intermediate fishing

materials of any kind being set or used in and about any other part of the stream. (R. S., ch. 95, sec. 8.)

19. No one shall drift for salmon, except when under license in the Provinces of New Brunswick and British Columbia.

(2) In the Province of British Columbia drifting with salmon nets shall be confined to tidal waters.

(3) Drift nets for salmon shall be so set or used as not to obstruct more than one-third of the width of any river. (57-58 V., ch. 51, sec. 2.)

20. Any fishery officer may direct, either in writing or orally on sight, that a greater space than 2,050 yards shall be left between salmon nets or other fishing apparatus, and may prescribe their dimensions and extension; but gill or float nets shall not be used to lengthen, extend, or enlarge any other kind of fishery. (R. S., ch. 95, sec. 8.)

21. No salmon shall be captured within 200 yards of the mouth of any tributary, creek, or stream which salmon frequent to spawn. (R. S., ch. 95, sec. 8.)

22. Except in the manner known as fly surface fishing with a rod and line, salmon shall not be fished for, caught, or killed at any artificial pass or salmon leap, or in any pool where salmon spawn. (R. S., ch. 95, sec. 8.)

23. Except under the authority and for the special purpose provided for in this act, no one shall take, buy, sell, destroy, use, or possess any salmon roe, or injure any spawning bed. (R. S., ch. 95, sec. 8.)

#### TROUT AND WHITEFISH FISHERY.

29. In the Provinces of Manitoba, Saskatchewan, and Alberta and the North-west or Yukon Territories, Indians may, at any time, catch or kill speckled trout for their own use only, but not for the purposes of sale or traffic. (R. S., ch. 95, sec. 9.)

30. Nothing herein contained shall prevent—

(a) The taking or the use of small-sized trout for the purpose of baiting traps; or,

(b) The taking and using the same by fishermen as bait for cod fishing in tidal waters; or,

(c) Subject fishermen to penalty if by accident in fishing for herrings or whitefish, by means of nets, trout are inclosed or taken. (R. S., ch. 95, sec. 9.)

33. Gill nets for catching salmon, trout, or whitefish shall have meshes of at least 5 inches extension measure.

2. Gill nets shall not be set within 2 miles of any seining ground. (R. S. ch. 95, sec. 10.)

34. Seines for catching whitefish shall have meshes of not less than 4 inches extension measure. (R. S., ch. 95, sec. 10.)

#### POSSESSION OF FISH.

44. No one shall, without lawful excuse, the proof whereof shall lie on him, buy, sell, or possess any fish, or portion of any fish named in this act, caught or killed at a time or in a manner prohibited by law. (R. S., ch. 95, sec. 12.)

45. Every customs officer, excise officer, police officer, or constable, clerk of a market, or other person in charge of any market place in any village, town, or city, shall seize and, upon view, confiscate to his own proper use any fish mentioned in this act caught or killed during prohibited seasons or which appears to have been killed by unlawful means.

2. Every such seizure and appropriation, with the date, place, and circumstances thereof, shall, together with the name, residence, and calling of the person in whose possession such fish was found, be duly reported to the fishery officer who has jurisdiction over the district within which such seizure, confiscation, and appropriation took place. (R. S., ch. 95, sec. 12.)

#### CONSTRUCTION OF FISHWAYS.

46. Every dam, slide, or other obstruction across or in any stream where the minister determines it to be necessary for the public interest that a fish pass should exist, shall be provided by the owner or occupier with a durable and efficient fishway, which shall be maintained in practical and effective condition, in such place and of such form and capacity as will admit of the passage of fish through the same.

(2) The place, form, and capacity of the fishway may be prescribed by any fishery officer by notice in writing.

(3) Fishways shall be kept open and unobstructed and shall be supplied with a sufficient quantity of water to fulfill the purposes of this enactment during such times as are required by any fishery officer.

(4) The minister may authorize the payment of one-half of the expense incurred by such owner or occupier in constructing and maintaining any fishway.

(5) The minister, in order to procure the construction of any fishway, pending proceedings against any owner or occupier for the penalty imposed by this act, may give directions to make and complete the same forthwith, and may authorize any person to enter upon the premises with the necessary workmen, means, and materials, and may recover from the owner or occupier the whole expense so incurred by action before any competent tribunal.

(6) No person shall injure or obstruct any fishway or do anything to deter or hinder fish from entering and ascending or descending the same, or injure or obstruct any authorized barrier. (R. S., ch. 95, sec. 13.)

#### GENERAL PROHIBITIONS.

47. No one shall fish for, take, catch or kill fish in any water, or along any beach, or within any fishery limits, described in any lease or license, or place, use, draw, or set therein any fishing gear or apparatus, except by permission of the occupant under such lease or license for the time being, or shall disturb or injure any fishery: *Provided*, That the occupation of any fishing station or waters so leased or licensed for the express purpose of net fishing shall not interfere with the taking of bait used for cod fishing, or prevent angling for other purposes than those of trade and commerce.

(2) Seines, nets, or other fishing apparatus shall not be set in such a manner or in such places as to obstruct the navigation with boats and vessels, and no boats or vessels shall be permitted to destroy or wantonly injure in any way any seines, nets, or other fishing apparatus lawfully set.

(3) Every person using stakes or other timber placed for fishing purposes in any water shall remove the same within 48 hours after ceasing to use them, and in all cases at the expiry of the fishing season.

(4) The main channel or course of any stream shall not be obstructed by any nets or other fishing apparatus; and one-third of the course of any river or stream, and not less than two-thirds of the main channel at low tide, in every tidal stream, shall be always left open, and no kind of fishing apparatus or material shall be used or placed therein: *Provided*, That the use of weirs for catching eels exclusively, and the use of milldams for catching eels, shall be prevented only in cases where, and at times when, they injure other fisheries or, by completely barring any passage, they deprive other weirs of a share in the run of eels; and such place, time, and circumstances may be determined by any fishery officer.

(5) No net or other device shall be so used as entirely to obstruct the passage of fish to or from any of the waters of Canada, by any of the ordinary channels connecting such waters, or prevent their passage to and from accustomed resorts for spawning and the increasing of their species.

(6) No one shall catch, kill, or molest fish when passing or attempting to pass through any fishway or fish pass, or in surmounting any obstacle or leap, or shall use any invention to catch, kill, or molest fish in the milldams, fishways, mill heads, or watercourses appurtenant thereto.

(7) No one shall use a bag net, trap net, or fish pound, except under a special license, granted for capturing deep-sea fish other than salmon.

(8) No one shall fish for, catch, or kill salmon, trout, or lunge of any kind, maskinongé, winanische, bass, barfish, pickerel, whitefish, herring, or shad, by means of spear, grapnel hooks, negog, or nishagans: *Provided*, That the minister may appropriate and license or lease certain waters in which certain Indians shall be allowed to catch fish for their own use in the manner and at the time specified in the license or lease, and may permit spearing in certain localities.

(9) No one shall fish for, catch, kill, buy, sell, or possess the young of any of the fish mentioned in this act, or in any regulation under it.

(10) Seines for barfish shall have meshes of not less than 3 inches in extension measure.

(11) Fishery officers may determine or prescribe the distance between each and every fishery (pêcherie) and shall forthwith remove any fishery which the owner neglects or refuses to remove; and such owner shall be moreover liable

for a violation of this act and for the cost and damages of removing such fishery.

(12) Every fascine fishery with a box trap (coffre), instead of pound, shall have across the outside end of such box trap a wire covering or a network, the meshes of which shall be at least 1 inch square; but this shall not apply to eel weirs during autumn.

(13) Nets or other fishing apparatus shall not be so used as to impede or divert the course of fish in any small river.

(14) From the time of low water nearest 6 of the clock in the afternoon of every Saturday, to the time of low water nearest 6 of the clock in the forenoon of every Monday, in tidal waters, and from 6 of the clock in the afternoon of every Saturday to 6 of the clock in the forenoon of the following Monday, in nontidal waters, all sedentary fishing stations and weirs and all pound and trap nets, seines, gill nets, and other apparatus used for catching fish, whether under license or not, shall be so raised, closed, or adapted as to admit of the free passage of fish through, by, or out of such apparatus; and during such closed time no one shall catch fish in such apparatus whether under license or not.

(15) No one shall hunt or kill fish or marine animals of any kind, other than porpoises, whales, and walruses, by means of rockets, explosive materials, or explosive projectiles or shells. (R. S., ch. 95, sec. 14; 61 vol., ch. 39, sec. 1; 3 E. VII, ch. 23, sec. 1.)

48. No one shall use purse seines for the capture of fish in any of the waters of Canada: *Provided*, That the minister may issue special fishery licenses for the use of purse seines in certain waters in the Province of British Columbia specified in the said licenses. (3 E. VII, ch. 23, sec. 2.)

49. No one shall erect, use, or maintain in any of the waters of Canada, whether subject to any exclusive right of fishery or not, any net, weir, facine fishery, or other device which unduly obstructs the passage of fish; and the minister or any fishery officer may order the removal of or remove any net, weir, facine fishery, or other device which, in the opinion of such minister or fishery officer, unduly obstructs the passage of fish. (57-58 V, ch. 51, sec. 5.)

51. No one shall catch fish for the purpose of using it as manure. (57-58 V, ch. 51, sec. 5.)

52. Whenever the size of the meshes of nets or apparatus for the capture of fish is fixed by this act, or by any fishery regulation under it, it shall be unlawful to so arrange or adapt the nets or fishing apparatus as to practically diminish the size of such meshes. (61 V, ch. 39, sec. 2.)

#### INJURIES TO FISHING GROUNDS AND POLLUTION OF RIVERS.

53. No one shall throw overboard ballast, coal ashes, stones, or other prejudicial or deleterious substances in any river, harbor, or roadstead or any water where fishing is carried on, or throw overboard or let fall upon any fishing bank or ground, or leave or deposit or cause to be thrown, left, or deposited upon the shore, beach, or bank of any water, or upon the beach between high and low water mark, inside of any tidal estuary, or within 200 yards of the mouth of any salmon river, remains or offal of fish, or of marine animals, or leave decayed or decaying fish in any net or other fishing apparatus: *Provided*, That such remains or offal may be buried ashore, beyond high-water mark, and that at establishments situated inside of the mouths of rivers for carrying on deep-sea fisheries, the same may be dropped into perforated boxes or inclosures built upon the beach or under stage heads in such manner as to prevent the same from being floated or drifted into the streams, or may be disposed of in such other manner as any fishery officer prescribes.

2. No person shall cause or knowingly permit to pass into, or put or knowingly permit to be put, lime, chemical substances or drugs, poisonous matter, dead or decaying fish, or remnants thereof, mill rubbish or sawdust or any other deleterious substance, in any water frequented by any of the kinds of fish mentioned in this act. (R. S., ch. 95, sec. 15; 58-59 V, ch. 27, sec. 1.)

#### REGULATIONS.

54. The governor in council may, from time to time, make regulations—

(a) For the better management and regulation of the seacoast and inland fisheries.

(b) To prevent or remedy the obstruction and pollution of streams.

(c) To regulate and prevent fishing.

(d) To prohibit the destruction of fish; and

(e) To forbid fishing, except under authority of leases or licenses.

(2) Such regulations shall take effect from the date of the publication thereof in the Canada Gazette and shall have the same force and effect as if herein enacted, notwithstanding that such regulations extend, vary, or alter any of the provisions of this act respecting the places or modes of fishing or the times specified as prohibited or close seasons and may fix such others modes, times, and places as are deemed by the governor in council adapted to different localities, or otherwise expedient.

(3) Every offense against any regulation made under this act may be stated as in violation of this act. (R. S., ch. 95, sec. 16.)

#### POWERS OF FISHERY OFFICERS AND OTHER JUSTICES.

55. Any fishery officer or other justice of the peace may, on view, convict of any of the offenses punishable under the provisions of this act and may remove instantly and detain any materials unlawfully in use. (R. S., ch. 95, sec. 17.)

56. Any fishery officer or other justice of the peace may search, or grant a warrant to search, any vessel or place where there is reason to believe that any fish taken in violation of this act, or anything used in violation thereof, is concealed. (R. S., ch. 95, sec. 17.)

58. In the discharge of his duties any fishery officer or other person or persons accompanying him or authorized to such effect may enter upon and pass through or over private property without being liable to trespass. (R. S., ch. 95, sec. 17.)

59. Disputes between persons relative to fishing limits or claims to fishery stations, or relative to the position and use of nets and other fishing apparatus, shall be settled by the local fishery officer. (R. S., ch. 95, sec. 17.)

60. Gurry grounds may be designated or defined by any fishery officer. (R. S., ch. 95, sec. 17.)

61. Any fishery officer, stipendiary magistrate, or commissioned officer of His Majesty's Navy, on board of any vessel belonging to or chartered by the Government of Canada, employed in the service of protecting fisheries, and every commissioned officer of His Majesty's Navy serving on board of any vessel cruising and being in the waters, harbors, or ports of Canada, shall, for the purpose of affording protection to His Majesty's subjects engaged in the fisheries and of enforcing any laws relating to such fisheries, exercise the powers of a justice of the peace, without property qualifications and without taking any oath of office, in all the waters, harbors, or ports, and on all the coasts of Canada where, for the time being and for the purposes above described, they are so engaged. (R. S., ch. 95, sec. 17.)

#### GENERAL.

65. The minister may authorize to be set apart or to be leased any river or other water for the natural or artificial propagation of fish. (57-58 V., ch. 51, sec. 10.)

66. Lessees or licensees of fisheries shall have no claim to renewal of leases or licenses if in arrears of rent or percentage during four months after the same is due, and any lessee or licensees convicted of a violation of this act, or any regulation under it, shall be liable to forfeit his lease or license. (R. S., ch. 95, sec. 21.)

67. Special licenses and leases for any term of years may be granted to any person who wishes to plant or form oyster beds in any of the bays, inlets, harbors, creeks, or rivers, or between any of the islands on the coast of Canada; and the holder of any such lease or license shall have the exclusive right to the oysters produced or found on the beds within the limits of such lease or license. (R. S., ch. 95, sec. 21.)

68. The minister may authorize to be expended annually any such appropriated by Parliament, for—

(c) Improving streams where natural obstructions exist; and may authorize the construction, erection, or placing of any artificial barrier or grating in any stream or river, or in any watercourse, and in the channels or beds thereof. (R. S., ch. 95, sec. 21.)

69. Every subject of His Majesty may use vacant public property, such as by law is common and accessory to public rights of fishery and navigation, for the purposes of landing, salting, curing, and drying fish, and may cut wood thereon

for such purposes, and no other person shall occupy the same station unless it has been abandoned by the first occupant for 12 consecutive months; and at the expiration of that period any new occupier shall pay the value of flakes and stages and other property thereon, of which he takes possession, or the buildings and improvements may be removed by the original owner.

(2) All subjects of His Majesty may take bait or fish in any of the harbors or roadsteads, creeks or rivers, subject to the provisions of this act respecting the leasing or licensing of fisheries and fishing stations.

(3) No property leased or licensed shall be deemed vacant. (R. S., ch. 95, sec. 22.)

#### PROTECTION OF FISHERMEN.

70. No dory, flat, whaler, or other boat whatsoever shall set out from any vessel engaged in deep-sea or bank fishing, or be launched therefrom for the purpose of fishing with hooks and lines, trawls or other similar appliances, or with intent that the same shall be used in so fishing, or for the purpose of examining trawls, set lines, or other similar appliances for fishing, unless there is placed in such boat, to be retained therein during absence from such vessel, a mariner's compass, nor unless there is placed in such boat at least 2 quarts of drinking water and 2 pounds of solid food for each man of the crew of such boat.

(2) The owner of such vessel shall supply her at the commencement of her voyage with as many serviceable mariner's compasses as she carries boats, in addition to the vessel's compass, and also with the necessary utensils for holding water and with a serviceable fog horn or trumpet. (61 V., ch. 44, sec. 1.)

#### OFFENSES AND PENALTIES.

71. Everyone shall incur a penalty not exceeding \$500 and not less than \$300 who at any time, except under license from the minister—

(a) Engages in the manufacture from whales of oil or other commercial product; or

(b) Employs any vessel or boat in the whale fishery. (4 E. VII, ch. 13, sec. 1.)

72. Everyone who hunts or kills fish or marine animals of any kind, other than porpoises, whales, and walruses, by means of rockets, explosive materials, or explosive projectiles or shells, shall be liable to a penalty not exceeding \$300 and cost, and in default of payment to imprisonment for a term not exceeding six months. (3 E. VII, ch. 23, sec. 1.)

73. Everyone who violates any provision of this act relating to whale fishing or of the regulations made thereunder, for which violation no penalty is herein specially provided, shall be liable to a fine not exceeding \$200 and not less than \$50.

(2) All machinery and apparatus and all vessels and boats, and their tackle, apparel, and furniture, used in such violation shall be confiscated to His Majesty. (4 E. VII, ch. 13, secs. 12 and 13.)

74. Everyone who, with boat or vessel, during the time of fishing for seals, knowingly or willfully disturbs, impedes, or injures any sedentary seal fishery, or prevents, hinders, or frightens the shoals of seals coming into such fishery, shall, for each offense, be liable to a penalty not exceeding \$60, and, in default of payment, to imprisonment for a term not exceeding one month; and shall also be liable to pay such damages as are assessed by the fishery officer or justice of the peace before whom the person injured complains. (R. S., ch. 95, sec. 7.)

75. Everyone who, without the special fishery lease or license provided for by this act, fishes for salmon above the actual limit defined by the minister or fishery officer as the tidal boundary of estuary fishing, except with a rod and line, in the manner known as fly-surface-fishing, shall be liable to a penalty not exceeding \$100, and, in default of payment, to imprisonment for a term not exceeding two months. (R. S., ch. 95, sec. 8.)

83. Every owner or occupier of a dam, slide, or other obstruction across or in any stream where the minister determines it to be necessary for the public interest that a fish pass should exist, who, after three days' notice in writing, neglects or refuses to provide a durable and effective fishway, or to maintain the same in a practical and effective condition in such place and of such form and capacity as will admit of the passage of fish, shall be liable to a penalty of \$4 for each day during which any such dam, slide, or other obstruction to the stream remains unprovided with such fishway. (R. S., ch. 95, sec. 13.)

84. Except taking bait for cod fishing or angling for purposes other than those of trade and commerce, everyone who fishes for, takes, catches, or kills fish in any water or along any beach or within any fishery limits described in any lease or license, or places, uses, draws, or sets therein any fishing gear or apparatus, except by permission of the occupant under such lease or license for the time being, or disturbs or injures any fishery, shall be liable to a penalty not exceeding \$100 and costs, or to imprisonment for a term not exceeding two months, and the fishing apparatus so used and all fish taken or caught shall be forfeited, and any fishery officer or the holder of any such lease or license may, on view, forthwith seize and remove any net or apparatus so used, to be dealt with according to law. (R. S., ch. 95, sec. 14.)

85. Everyone using purse seines for the capture of fish in any of the waters of Canada, except as to certain waters in the Province of British Columbia under a special fishery license of the minister, shall be liable for each offense to a penalty of not less than \$50 and not exceeding \$500, together with the confiscation of the vessel, boat, and apparatus used in connection with such capture. (3 E. VII, ch. 23, sec. 2.)

87. Everyone who, contrary to the provisions of this act, throws overboard ballast, coal ashes, stones, or other prejudicial or deleterious substances in any river, harbor or roadstead, or any water where fishing is carried on, or throws overboard or lets fall upon any fishing bank or ground, or leaves or deposits or causes to be thrown, left, or deposited, upon the shore, beach, or bank of any water, or upon the beach between high and low water mark, inside of any tidal estuary, or within 200 yards of the mouth of any salmon river, remains or offal of fish, or of marine animals, or leaves decayed or decaying fish in any net or other fishing apparatus, shall be liable, for each offense, to a penalty not exceeding \$100, or to imprisonment for a term not exceeding two months; and everyone so offending, whether master or servant, and the master or owner of any vessel or boat from which such ballast or offal or other prejudicial substance is thrown, shall be liable to penalty and imprisonment as aforesaid for each such offense. (R. S., ch. 95, sec. 15.)

88. Every person who causes or knowingly permits to pass into, or puts or knowingly permits to be put, lime, chemical substances or drugs, poisonous matter, dead or decaying fish or remnants thereof, mill rubbish or sawdust, or any other deleterious substance in any water frequented by any of the kinds of fish mentioned in this act, shall be liable, for a first offense, to a penalty of \$20 and costs; for the second offense, to a penalty not exceeding \$40 and costs, and also in addition thereto a further penalty not exceeding \$10 for every day during which such offense is continued; and for the third or any subsequent offense, to a penalty not exceeding \$100 and costs, and also in addition thereto a further penalty not exceeding \$20 for every day during which such offense is continued. (58-59 V., ch. 27, sec. 1.)

89. Every person who willfully destroys or injures any place set apart or leased under the authority of the minister for the propagation of fish, or who fishes therein without written permission from a fishery officer, or from the holder thereof under lease or license, or uses therein any fishing light or other implement for fishing, during the period for which such waters are so set apart or leased, shall be liable to a penalty not exceeding \$200 and costs, and, in default of payment, to imprisonment for a term not exceeding four months. (57-58 V., ch. 51, sec. 10.)

90. Everyone who takes oysters from any oyster bed, set apart by the minister for any purpose under this act, or in any way injures or disturbs such oyster beds, except during the times and on the terms permitted by regulation under this act, shall be liable to a penalty not exceeding \$100 and not less than \$40, and in default of payment, to imprisonment for a term not exceeding two months and not less than one month; and the vessel and all apparatus used in the taking of such oysters, or the injury or disturbance of such oyster beds, shall be forfeited. (R. S., ch. 95, sec. 21.)

91. The owner of any vessel, who (a) permits any dory, flat, whaler, or other boat whatsoever to set out from any vessel engaged by him in deep-sea or bank fishing, or to be launched therefrom for the purpose of fishing with hooks and lines, trawls, or other similar appliances, or with intent that the same shall be used in so fishing, or for the purpose of examining trawls, set lines, or other similar appliances for fishing, without there being placed in such boat to be retained therein during absence from such vessel a mariner's compass and at least 2 quarts of drinking water and 2 pounds of solid food for each man of the

crew of such boat; or (b) fails to supply any vessel by him so engaged in deep-sea or bank fishing, at the commencement of her voyage, with as many serviceable mariner's compasses as she carries boats, in addition to the vessel's compass, and also with the necessary utensils for holding water and with a serviceable fog horn or trumpet shall be guilty of an offense against this act, and shall be liable for each offense to a penalty not exceeding \$100 or to imprisonment for a term not exceeding two months.

(2) The master of any such vessel from which a boat is launched or sets out in contravention of the provisions of this section shall also be guilty of an offense against this act, and liable therefor to a penalty not exceeding \$100 or to imprisonment for a term not exceeding two months. (61 V., ch. 44, sec. 2.)

92. All vessels, boats, canoes, rafts, vehicles of any description, nets, fishing gear, materials, implements, or appliances used in violation of this act or any regulation under it, and any fish or other marine animal taken, caught, killed, conveyed, bought, sold, or had in possession in violation of this act or any regulation under it, and all other fish, shellfish, or marine animals otherwise legally taken, caught, killed, conveyed, bought, sold, or had in possession, and of whatever size and description, which are intermixed therewith, shall be confiscated to His Majesty, and may be seized and confiscated on view by any fishery officer, or taken and removed by any person for delivery to any fishery officer or justice of the peace. (61 V., ch. 39, sec. 4.)

93. Should any net, seines, or other fishing apparatus be set or used in violation of this act or any regulation thereunder for more than one day, then each day during which such seines, nets, or other fishing apparatus shall remain so set or used shall constitute a separate offense, and may be punished accordingly; and should any other violation of this act, or of any regulation thereunder, continue for more than one day, then each day during which such violation continues shall constitute a separate offense, and may be punished as such. (57-58 V., ch. 51, sec. 9.)

94. Except as herein otherwise provided, everyone who violates any provision of this act or of the regulations under it shall be liable to a penalty not exceeding \$100 and costs, and in default of payment to imprisonment for a term not exceeding three months, and any fishery officer or justice of the peace may grant a warrant of distress for the amount of such penalty and costs. (61 V., ch. 39, sec. 3.)

95. When not otherwise specified, every proprietor, owner, agent, tenant, occupier, partner, or person actually in charge, either as occupant or servant, shall be deemed to be jointly and severally liable for any penalties or moneys recoverable under any of the provisions of this act, or of any regulation made under it. (R. S., ch. 95, sec. 19.)

#### FORMS OF PROCEDURE.

100. No proceeding or conviction under this act or under any regulation made under it shall be set aside or quashed for irregularity or defect in form, and no warrant of arrest or commitment shall be held void by reason of any defect therein if it is therein alleged that the defendant has been convicted and there is a good and valid conviction to sustain the same. (R. S., ch. 95, sec. 19.)

#### APPLICATION OF FINES AND FORFEITURES.

102. His Majesty's share of each penalty and all proceeds derived from the sale of confiscated articles under this act shall be paid to the minister of finance through the department of marine and fisheries and be applied toward the expenses incurred for the protection of the fisheries. (R. S., ch. 95, sec. 18.)

[Revised Statutes of Canada, 1906, Vol. I, p. 741.]

### CHAPTER 46.—AN ACT TO ENCOURAGE THE DEVELOPMENT OF THE SEA FISHERIES AND THE BUILDING OF FISHING VESSELS.

#### SHORT TITLE.

1. This act may be cited as the deep-sea fisheries act.

## SUBSIDY.

2. The governor in council may authorize the payment, out of the consolidated revenue fund of Canada, of an annual grant not exceeding \$160,000, to aid in the development of the sea fisheries of Canada, and the encouragement of the building and fitting out of improved fishing vessels, and the improvement of the condition of the fishermen. (54-55 V., ch. 42, sec. 1.)

## INVESTIGATIONS.

6. The minister of marine and fisheries, whenever he deems it expedient to cause inquiry to be made into and concerning any matter connected with the said grant or the payment thereof, may direct any fishery officer to inquire into and concerning such matter.

(Appendix C, part 3.)

[From the Canadian Fisherman, Apr., 1914, p. 104.]

## THE NEW FISHERIES ACT.

## THE CHANGES BROUGHT ABOUT BY THE NEW FISHERIES ACT BRIEFLY CONSIDERED.

[By L. H. Martell, B. A., B. C. L., Barrister-at-Law.]

The new act amends and consolidates chapter 45 of the Revised Statutes of Canada of 1906 and acts in amendment thereof. The consolidation makes the act more easily accessible, while the amendments bring into being many things absolutely necessary for the proper administration of the fisheries, one of Canada's greatest assets, and remove many absurdities and obsolete requirements of the old acts. In general, the new act is a great improvement upon its predecessors and brings to pass long-felt wants, both of the departmental administrators and the fishing industry generally.

## SHORT TITLE.

The act is still known as the fisheries act, and repeals Revised Statutes of Canada, 1906, chapter 45; chapter 20 of the Statutes of 1910; chapter 9 of the Statutes of 1911; and chapter 23 of the Statutes of 1912.

## INTERPRETATION AND APPLICATION.

The "interpretation clause" has been made more explicit in its application by enacting that "fish" includes shellfish, crustaceans, and marine animals—that is to say, everything that swims in the deep, which, but for the said clause, the act would not include, and as a consequence counsel for the defense of a violator of the act is stopped from setting up one of his favorite contentions that the fish or thing taken or caught from the deep is not covered by the provisions of the act, a thing which he was prone to do, and very often did with success, under section 3 of chapter 45 of the Revised Statutes of Canada of 1906. The interpretation clause there defines a "fishery" to mean and include "the area, locality, place, or station in or on which a pound, seine, net, weir, or other fishing appliance is used, set, placed, or located, and the area, tract, or stretch of water in or from which fish may be taken by the said pound, seine, net, weir, or other fishing appliance, and also the pound, seine, net, weir, or other fishing appliance used in connection therewith." There was no definition of the word "fishery" in the old acts. The result was that when any person violated any of the rights of a "fishery" it was necessary to adduce expert evidence as to what a "fishery" really was, and a "fishery" would vary according to the locality in which the action was brought. The definition eliminates the necessity for such evidence, and now if a person is cited before the courts for violating some person's "fishery" within the meaning of the definition, and expert evidence and local conditions do not have to be taken into consideration.

## THE WHALE FISHERY.

The sections of the new act relating to whale fishing cover very much the same ground as the provisions of the old act. However, the phraseology of the sections has been improved and made more intelligible, the distance that must exist between factories for the converting of whales into commercial products has been increased from 50 to 100 miles, the clause relating to the equipment of a factory has been changed, so as to relieve the factory owner of unnecessary restrictions and the other clauses in the premises generally amended so as to encourage rather than retard industry.

## POSSESSION OF FISH.

The law made and provided by the new act in the matter of the possession of fish is of far-reaching importance. Section 44 of chapter 45 of the Revised Statutes of 1906 read as follows: "No one shall, without lawful excuse, the proof whereof shall lie on him, buy, sell, or possess any fish, or portion of any fish named in this act, caught or killed at a time or in a manner prohibited by law." Under that section it was necessary for the prosecutor or complainant to establish as a preliminary fact that the fish had in possession were caught at a time or in a manner prohibited by law. Possession in itself was not an offense. In many cases there was no doubt in the mind of the prosecutor or complainant that the fish were caught during a close season or in a manner prohibited by law, but he often could not establish this preliminary fact, so as to shift to the defendant the burden of showing lawful excuse. For many years the department held that under section 44 of the old act "possession" was in itself an offense, but on a case coming to the attention of the writer while an official of the department, he contended that it was not, and on a reference to the Department of Justice his contention was upheld. Hence, the amendment or new section. Under the new section "possession" in itself establishes a "prima facie" case against the defendant and the burden at once shifts to him to show lawful excuse for the possession. The result of this new section or amendment will be to prevent much illegal fishing.

## CONSTRUCTION OF FISHWAYS.

The sections relating to fishways have been amended and improved by permitting the minister to authorize and require the construction of digging of canals around dams or obstructions where such would be more efficient than ordinary fishways through said dams or obstructions. The minister is also authorized and empowered to cause to be destroyed any dams or other obstructions to the passage of fish without being liable to an action for damages, and in cases where the owner is known to recover the expenses of such destruction or removal from him.

## REGULATIONS.

The effect of the new act as regards the power of the governor in council to make regulations relating to the time and manner of fishing, and the export of fish will not bring into existence anything detrimental to the industry. Regulations in this connection were made in the past by the governor in council; but as Parliament had not delegated such authority to the governor in council, the regulations so made were *ultra vires*. The new clauses permit of such regulations being legally made in the future.

## POWERS OF FISHERY OFFICERS.

The powers of fishery officers have been increased under the new act by giving them authority to search, break open, and search any house, vessel, or place where they have reason to believe any fish taken in violation of the law is concealed. A fishery officer, guardian, or a peace officer is given authority to arrest without a warrant a person whom he, on reasonable and probable grounds, believe to have committed an offense against the fisheries law, or whom he finds committing or preparing to commit an offense against said law. It is also made an offense for anyone to obstruct any fishery officer or guardian in the discharge of his duty.

## PENALTIES.

The new act provides a minimum penalty as well as a maximum penalty in most cases. This was rendered necessary owing to the fact that when the magistrate trying a case had no minimum fixed by law he often allowed the convicted defendant to escape with a fine not in any way commensurate with the offense committed.

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(Appendix C, Part 4.)

[Canadian Fisherman, Jan., 1914,\*p. 12.]

EXTRACT FROM ADDRESS OF PROF. E. E. PRINCE AT THE INTERNATIONAL FISHERIES CONGRESS, ROME, 1913.

Within the last 10 years whale hunting and the utilization of whale products has been pursued in Canada with most profitable results. On the Atlantic coast and in the Gulf of St. Lawrence whaling stations have been established and on the Pacific coast four large factories have been operated and received large numbers of whales, single stations receiving as many as 30 or 40 whales per week, or 400 to 500 in the course of the year. Very large finner whales (*Balænoptera*) and humpbacks (*Megaptera*) have been taken, as well as smaller whales, and a number of sperm whales (*Physeter*) have also been captured by the steam whaling vessels in connection with the factories. Eleven sperm whales were taken at one station (Kuyoquot) in 1911. From these whales oil, guano, or ground-up whale meat and bones and other products have been yielded, and have resulted in very large profits to the whaling companies, in some years the total value exceeding a half million dollars for the season. The Arctic whaling in the distant northern seas of Canada, though still carried on, is almost a depleted industry.

There is little doubt that the excessive destruction of whales in connection with these factories, especially of mother whales with calves, must result in a decline in this industry. A fishery commission has recommended that "sanctuaries," where the mother whales will be free from molestation, ought to be established by law, at intervals along the coast on the Atlantic and Pacific shores, but this has not yet been done.



## ALASKA FISHERIES.

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COMMITTEE ON THE MERCHANT MARINE AND FISHERIES,  
HOUSE OF REPRESENTATIVES,  
*Saturday, June 3, 1916.*

The committee met at 10.45 o'clock a. m., Hon. Joshua W. Alexander (chairman) presiding.

The CHAIRMAN. Mr. Bower, will you proceed?

### STATEMENT OF MR. WARD T. BOWER, AGENT IN CHARGE OF ALASKA FISHERIES, BUREAU OF FISHERIES—Continued.

Mr. BOWER. Mr. Chairman, day before yesterday I practically concluded my statement. Since that time there have been one or two little matters that possibly it might be well to bring to your attention. First, I have in mind a suggestion as to a modification of the wording of section 18 of the bill, which appears on page 19. I suggest striking out in line 15, after the word "or," the words "aquatic animals of every kind or species whatsoever," and in lieu thereof insert these words: "Any whale, walrus, sea lion, hair seal, or other marine animal, except fur seals and sea otters."

Mr. ROWE. Then you would have to change line 13.

Mr. BOWER. The word "all" should also be taken out of line 13, so that it will just read "aquatic animals included." The purpose of the change is to avoid any possible conflict with existing law or treaty in respect to fur seals and sea otters which are the subjects of special legislation and of an international treaty. Also it will obviate the possibility of any objection, as was suggested by Mr. Wickersham at a previous hearing, to including animals not of marine character. That is, otherwise it might possibly be construed to include beavers, muskrats, and some other animals within the Territory proper.

Mr. HARDY. Do you want to leave in those words "not specifically provided for in this act"?

Mr. BOWER. Yes, sir. I think they are proper with this insert. That part of the section will read in this way:

That the catching, killing, or utilization of any fish of any kind or any whale, walrus, sea lion, hair seal, or other marine animal, except fur seals and sea otters, specifically provided for in this act shall be subject to the provisions of this act, but the Secretary of Commerce shall have power to authorize the catching, killing, or utilization of any such fish or animal under such regulation as he may prescribe.

The phrase in line 19 "such fish or animal," therefore, so far as its applicability to animals goes, naturally refers only to the animals that we have specified. Perhaps in line 13 the word "marine" should be inserted after the word "all."

Mr. GREENE. Then, as I understand it, you put the whale fisheries under the guidance and direction of the Secretary of Commerce under such regulations as he may prescribe?

Mr. BOWER. Yes, sir; so far as the regulation of the shore whale fishery in Alaska is concerned. I think it would have nothing whatever to do with the regulation of whale fisheries on the high seas.

Mr. GREENE. What do you call the high seas? Three miles out?

Mr. BOWER. Yes, sir; outside of the 3-mile limit; outside of the territorial limits—3 miles from shore.

Mr. HARDY. You strike out in line 13 the word "aquatic"?

Mr. BOWER. No; I strike out the word "all."

Mr. HARDY. You would not use the word "marine" instead of "aquatic," would you? I believe it ought to read "marine."

Mr. BOWER. The word "marine" might very properly be inserted in line 13, before the word "aquatic."

Mr. ROWE. Why not leave out the word "aquatic" and let it read "marine animal"? Then you have got it clear.

Mr. BOWER. Yes, sir; probably that would be the best way.

Mr. HARDY. I do not believe I would strike out the caption at all.

Mr. BOWER. Each section has a caption. I would also like to suggest a further addition to the section something like this: "So much of the act approved May 11, 1908 (35 Stat. L., 102), for the protection of game in Alaska, and for other purposes, as relates to walrus and sea lions, is hereby repealed," for the purpose of repealing that part of the Alaska game laws.

Mr. WICKERSHAM. What will be the effect of that language?

Mr. BOWER. That will mean that the control of those animals will be transferred to the Secretary of Commerce. The Secretary of Agriculture now has jurisdiction over them, although the administrative features of the game law are handled by the governor of Alaska.

Mr. WICKERSHAM. Would that leave any penalty at all for wantonly killing them?

Mr. BOWER. The penalties in this act would apply.

The CHAIRMAN. It might be well to provide that they are excluded from that act and included within the jurisdiction of this act.

Mr. BOWER. That is the object we are endeavoring to accomplish.

The CHAIRMAN. I doubt if you are accomplishing it in that way. Unless you repeal that act, which relates to them, and then specifically include them in this act, the penalties would not apply.

Mr. HARDY. I think when you repeal the other act it leaves them subject to the jurisdiction and penalties in this act.

The CHAIRMAN. Well, we want to be sure. We do include them now, especially in this act.

Mr. HARDY. Walrus and sea lions are included especially in this act as it now stands.

Mr. BOWER. We have included them particularly to make sure of it. We thought it might be advisable to include a repealing clause, so far as they are concerned in the act approved May 11, 1908.

It has occurred to me also, Mr. Chairman, that a change might be made in section 13, on page 15. It is very brief. In lines 2 and 3, at the top of page 15, strike out the words "except for domestic consumption."

Mr. HADLEY. We indicated that for striking out the other day.

The CHAIRMAN. It has been so indicated.

Mr. BOWER. All right, sir.

Mr. CURRY. Why do you want that stricken out?

Mr. BOWER. It has been suggested that if it remains it will leave a great loophole in the way of killing salmon improperly under the guise of taking them for domestic use. It is very difficult to draw the line between commercial use and domestic use.

Mr. CURRY. But do not the people in the interior of Alaska get salmon by spearing them, and do not the Indians and the Eskimos spear them?

The CHAIRMAN. Mr. Curry, the testimony the other day disclosed this condition, that they fish for sport and mutilate so many fish. The tourists go there and spear them for sport. Now, the salmon come up here in great schools and a man will thrust one of these spears down among the fish and mutilate and kill them and, so far as catching them for domestic use is concerned, they can catch them with a seine; they can go in those streams and catch them with their hands. It is a wicked, wasteful way of catching fish which should be prohibited just as we prohibit the use of that method of catching fish in our States.

Mr. CURRY. Oh, there is a whole lot more reason for prohibiting it in our States than there would be in Alaska, which is a great Territory thinly inhabited. I do not think that they wound many fish with spears; I do not think those fish get away.

The CHAIRMAN. Well, the testimony indicates that.

Mr. CURRY. Oh, if it was for commercial purposes, it would be a whole lot different.

The CHAIRMAN. Well, they do, if you will look at the report of Dr. Jones and the illustrations of the way in which the fish are mutilated. They have been caught for commercial purposes.

Mr. CURRY. Well, of course, you can stop it for commercial purposes, but this is for domestic consumption.

The CHAIRMAN. Well, where are you going to draw the line? I would like to hear from Dr. Jones on that.

Mr. JONES. Mr. Chairman it strikes me that an arbitrary provision such as this amendment would be a very great injustice to some of the natives in Alaska. You take the Chilkoot and Chilkat Indians. It is a time-honored custom for them to carry on, as I indicated in my report, this practice of gaffing or spearing sockeye or other salmon on their way up the Chilkoot and Chilkat Rivers. That is practically the only way that they can take them. These poor people are practically forbidden to sell them to the canneries, and my observation is that they do not take any more than they actually need to provide themselves with food in the winter. I doubt very much if these people have the means to buy nets or other paraphernalia in order to supply themselves with the necessary food for the winter time.

The CHAIRMAN. Well, do they not sell them to the canneries?

Mr. JONES. No, sir; they do not. It is practically against the law. The canneries will not buy them.

Mr. BOWER. I am sorry to say I must differ with Mr. Jones. He may be of the impression that there is a law prohibiting the sale of

these fish to the canneries, but I know that they have been selling them right along; that they sold them to the canneries until the canneries, by a sort of gentleman's agreement, decided not to buy them. My objection to the practice of the Chilkoot Indians is because I understand there is a large number of fish that are mutilated and lost.

Mr. JONES. Where do you refer to, Mr. Bower?

Mr. BOWER. I refer to the canneries in that region—the Alaska Pacific Fisheries Co.—

Mr. JONES (interposing). Well, I only speak from personal observation and the report of the superintendents that they would not and could not buy speared salmon. Whether it be a moral law and not absolutely a legal question, the fact remains that these fish are not canned, and I think it would be a great injustice to prevent these Indians from taking the fish as has been their custom for centuries. There are just as many fish lost, in proportion to the few that might get away by using the spear or gaff as by using other methods. I am absolutely against curtailing the rights of the natives of Alaska to take salmon in the manner indicated.

Mr. BOWER. My sympathies constantly go out to the native of Alaska. We have made numerous exceptions in his favor in this bill.

Mr. HARDY. I understand you to say that tourists are given to spearing them for sport?

Mr. BOWER. Yes, sir; that is a common practice.

Mr. HARDY. Does that come under the head of domestic consumption if they utilize them and take them home?

Mr. BOWER. It has been the practice, I believe, for them to take home part of the fish secured in that way and make use of them.

Mr. CURRY. If there were 10,000 tourists who went to Alaska every year and each tourist killed 100 fish with a spear, what effect would that have on the salmon?

The CHAIRMAN. Well, why have that waste?

Mr. CURRY. I do not think it is a waste.

The CHAIRMAN. What? For tourists to kill thousands of salmon wantonly for sport?

Mr. CURRY. I do not see why they should not come up there and fish for sport any more than they should come out in my State and fish for sport. It takes considerable skill to know how to spear a salmon.

Mr. JONES. The point might be emphasized in this way: Everybody taking part in Alaska fishing, fish with the paraphernalia that is most adapted to surrounding conditions. On the Copper River, above the bridge at Childs Glacier, in that very rapid stream, they use a dip net, simply because there is no other method practicable for taking those fish at that point. The salmon leave the main channel because the water is very swift, and seek the shores, and they are dipped out by hand net and used largely for commercial purposes. That does not mutilate them, of course. But it emphasizes my point that these two tribes of Indians, and possibly other natives, who catch the fish the way they do because it is the only method they understand and the only means at hand for taking them. I certainly do not think that there are very serious inroads made on the supply of salmon by these two tribes of Indians or any other tribes. So far

as the tourists are concerned, I did not see or hear of any example of them using the spear or gaff. The salmon, as I show by the illustrations in my report, are far more mutilated by the fish pew.

Mr. HARDY. What is the fish pew?

Mr. JONES. It is a one-prong fork, sometimes with two prongs, that is used in unloading salmon from barges or boats. I do not think the fish pew does the slightest harm to the fish that are to be canned, but I do think it does a material harm to the fish that are going to be frozen and sent to the markets. I think the fish pew, as I have shown by an illustration of three salmon that I picked up out of a good many similarly scarred, and you will agree with me that they are more or less mutilated, does a great deal more harm than the insignificant amount of gaffing and spearing.

The CHAIRMAN. What is the difference between a fish pew and a spear?

Mr. JONES. A spear or gaff is more of a hook. They are used in the water similar to a hoe in the garden, and as these fish go up the stream they are rather hooked than speared or gaffed. The fish pew is a prong (with handle), about 4 inches long and very slightly curved near the point.

The CHAIRMAN. I thought they were driven down in that way.

Mr. JONES. No, sir; I did not see any such condition. There may have been some in the Yukon region. I am referring especially to the spearing or gaffing in the Chilkoot and Chilkat Rivers.

Mr. HARDY. How would it do to amend that section of the bill so that it would read "except by residents of Alaska for domestic consumption"?

Mr. BOWER. That seems good, though just now I do not see any very serious objection to the language as it stands at present in the bill.

Mr. HADLEY. You say there is no inhibition under existing law against selling speared or gaffed fish to the canneries?

Mr. BOWER. No, sir; there is no inhibition.

Mr. HADLEY. You have framed a bill here that will make it absolutely unlawful to sell such fish?

Mr. BOWER. Yes, sir.

Mr. HADLEY. Do you not think that if this bill were passed as it is framed, with that inhibition included in it, it would curtail practically all the waste and wanton destruction of fish in line with this provision?

Mr. BOWER. I think it will probably accomplish that purpose. It will perhaps discourage gaffing by the Chilkoot Indians and make them undertake other methods of fishing for commercial use.

Mr. HARDY. Well, really, I do not think the destruction is very great.

Mr. BOWER. It is supposed that a great many fish escape after they are hooked. That was the impression I got. This thought is not original with me. It came from the observation of others. Mr. Robert Forbes, the general manager of the Pacific American Fisheries Co., was the first man who suggested this matter to me. I think it was about four years ago.

Mr. HADLEY. It seems to me that this first provision will enable you to accomplish what is in view here.

Mr. BOWER. In view of the later discussion of this matter, I believe it will be accomplished. I do not believe now it will be necessary to strike out that provision.

Mr. CURRY. The white men up there go out and spear salmon for pleasure and for domestic use, but this provision applies entirely to Indians, who have always used this method of catching fish. I do not see why they should not be allowed to spear them and to sell them where the people want them. Farther north, where there are no canneries at all, the Indians catch fish in this manner and with nets and seines. They dry them and sell them and send them into the interior. They sell them or trade them to the other Indians and get deer meat and other things in exchange. Of course, if you want to starve the Indians, all right, but I think that we ought to protect the Indians. I think it is a pretty severe law as it is, because it prohibits them from selling the fish after they are speared.

Mr. HADLEY. But on the question of domestic consumption it would be all right.

The CHAIRMAN. Gentlemen, we are not passing on anything now. We are simply trying to get the views of the department.

Mr. BOWER. Mr. Chairman, if the omission of those words will operate as a severe hardship upon the Indians, I desire to withdraw absolutely my suggestion that those words be stricken out.

The CHAIRMAN. Pass on to something else.

Mr. BOWER. That is all I have to offer this morning, Mr. Chairman.

Mr. WICKERSHAM. I want to ask the gentleman just a question or two.

Mr. BOWER. I had a table prepared which I want to insert in the record. It was called for the other day by Mr. Wickersham and other members of the committee. It shows the pound-net locations in Alaska on file with the Bureau of Fisheries, June 1, 1916.

Mr. WICKERSHAM. I would like to have that in the record.

The CHAIRMAN. It will be incorporated in the record.

(The table referred to is as follows:)

*Plats of pound-net locations in Alaska on file with the Bureau of Fisheries June 1, 1916.*

Name of company.	Date filed.	Number.
	1914.	
Alaska-Portland Packers' Association.....	Jan. 14	3
Fidalgo Island Packing Co.....	Dec. 9	9
Libby, McNeill & Libby.....	Dec. 12	4
	1916.	
Columbia River Packers' Association.....	Jan. 24	3
Astoria & Puget Sound Canning Co.....	Jan. 21	4
F. C. Barnes Co.....	Jan. 22	4
P. E. Harris & Co.....	Jan. 29	8
Columbia River Packers' Association.....	Feb. 2	10
George Inlet Packing Co.....	Feb. 7	2
Bering Sea Packing Co.....	Feb. 17	16
Deep Sea Salmon Co.....	Feb. 11	7
Sunny Point Packing Co.....	Feb. 28	1
Fidalgo Island Packing Co.....	Mar. 1	12
Thlinket Packing Co.....	Mar. 2	17
Fidalgo Island Packing Co.....	Mar. 8	1
Do.....	Mar. 9	3
Do.....	May 22	2
Astoria & Puget Sound Canning Co.....	May 27	1
Total.....		107

The CHAIRMAN. In that connection I desire to offer a letter from the Secretary of Commerce under date of June 2, 1916, estimating the revenue that would accrue to the Territory of Alaska under the bill as it now reads as based upon the fishing operations of 1914.

(The letter referred to is as follows:)

DEPARTMENT OF COMMERCE,  
OFFICE OF THE SECRETARY,  
Washington, June 2, 1916.

MY DEAR JUDGE ALEXANDER: This department, through the Bureau of Fisheries, estimates the revenue that would accrue in Alaska by the operation of H. R. 9528 as follows, based upon the fishery operations of 1914. Later records are not complete:

License fees on shore plants.....	\$735
License fees on apparatus.....	30,573
Tax on raw products.....	44,936
Tax on canned products.....	145,768
Tax on other prepared products.....	13,532
Total.....	235,544

Of this amount the share which would normally accrue to the Territory of Alaska under the bill as it now reads would be \$117,772 per annum.

The amounts which the United States Treasury has received from fisheries taxes in Alaska paid into the so-called "Alaska fund" have been as follows for the five calendar years ending December 31, 1914:

1910.....	\$134,940
1911.....	88,390
1912.....	116,508
1913.....	127,709
1914.....	146,296
Total.....	613,843
Average.....	122,769

In order to make clear beyond question the attitude of the department in the matter we are very glad to suggest that a proviso be inserted in the measure to the effect that the amount which shall accrue to the Territory of Alaska under the bill shall not be less than \$166,000. This amount is stated because in the year 1915 the Treasury received for the "Alaska fund" a total of \$166,253. This amount, being larger than the actual tax upon the product, apparently included some back taxes. We should be glad, however, to have it made the minimum basis for the Territory of Alaska to receive under the proposed new legislation.

Yours, very truly,

WILLIAM C. REDFIELD,  
Secretary.

Hon. J. W. ALEXANDER,  
Chairman Committee on Merchant Marine and Fisheries,  
House of Representatives, Washington.

Mr. WICKERSHAM. Mr. Bower, in relation to the location of fish-trap sites, I have been unable to get quite a clear idea of how it is done and of the character of these maps which you say are filed in the department. I wish you would take a piece of paper and draw on it, if you will, so that we can all see it, an ideal trap site as it may be located under the sections of this bill.

Mr. BOWER. All right, sir. I can do it easily, if you so desire. Now, perhaps, I can make the matter clear to the committee by means of a rough sketch which will give an idea of what we are endeavoring to accomplish. We will suppose that this line [indicating] represents one pound net, and this line represents another pound net. Under this bill the lateral distance must be an interval of 2,400 feet. Under the existing law——

Mr. HADLEY (interposing). You mean not less than 2,400 feet.

Mr. BOWER. Yes, sir.

Mr. HADLEY. It may be more?

Mr. BOWER. Yes; it may be very much more.

Mr. HADLEY. Excuse me, but I just wanted to get that clear.

Mr. BOWER. Because of the rugged configuration of the country it is often difficult or impossible to construct pound nets at regular distance intervals along the shore. Under the present law the distance interval is only 1,800 feet. Now, these pound nets must be a specified distance away from the mouth of any stream, namely, 1,500 feet.

The CHAIRMAN. A half mile, is it not?

Mr. BOWER. It is 500 yards or 1,500 feet away from the mouth of any stream, irrespective of whether it is a red salmon stream or a pink salmon stream. Under the terms of the present law pound nets may be located right near the mouth of the stream if it is not a red salmon stream. The one word "red" in the existing law makes a great difference in the placing of fish traps or pound nets, as we call them now.

Mr. WICKERSHAM. Now, as I read section 7, it says that "no lead of any pound net in the Territory of Alaska shall exceed 3,000 feet in length." Now, explain to the committee what a lead is.

Mr. BOWER. The lead is the offshore extent of the pound net out to the heart.

Mr. WICKERSHAM. It is a row of piles extending out from the shore?

Mr. BOWER. Yes, sir; upon which netting is hung. The fish swim along and are stopped by the lead, which they follow into the heart of the pound net.

Mr. WICKERSHAM. I know what it is; but I want to get the area of one of these locations marked on a map, if I can. Now, the lead may be 3,000 feet from shore?

Mr. BOWER. Yes, sir; that is specified in the bill.

Mr. WICKERSHAM. "And there shall be an end passageway of at least 600 feet." What does that mean?

Mr. BOWER. That means that if a trap is run out from the opposite shore there must be at least that distance interval for the free passage of the fish; but, in any event, no pound-net lead or other fixed appliance may extend more than one-third of the distance across the stream. I can not think of a single instance in Alaska to-day where, in actual practice, the requirements of the endwise feature are applicable, for the reason that the waters are all so wide, but probably there are places where pound nets will be located where it will be necessary to apply this feature of the bill.

Mr. WICKERSHAM. Now, it says: "and a lateral passageway of at least 2,400 feet between all pound nets."

Mr. BOWER. I endeavored to explain the meaning of that by the diagram which I just made.

Mr. WICKERSHAM. Then, in brief, each trap location will consist, or may consist, of an area of 2,400 feet in length up and down the coast and 3,000 feet out into the sea?

Mr. BOWER. Well, the actual holdings of any owner of a pound net will not cover that area, but it will prevent the location of another pound net within the prescribed distance interval on either side.

Mr. WICKERSHAM. Conceding this to be the shore [indicating], he will build his net out here and his trap at the outer end of it. Nobody can get within 1,200 feet of him on either side.

Mr. BOWER. Nobody can get within 2,400 feet on either side. The purpose of it is to allow an area for the free passage of a sufficient number of salmon for spawning.

Mr. WICKERSHAM. Then it will be 2,400 feet if it takes the full area?

Mr. BOWER. Yes; where no other fish nets are operated.

Mr. HARDY. That is the very lowest he is allowed to take laterally.

Mr. BOWER. Yes, sir; that is the very lowest.

Mr. HARDY. Now, along that line, taking your diagram there, if a man was disposed to monopolize, he goes with a friend and puts one of those nets here [indicating] at point A, and then he goes over here to point B [indicating], and instead of 2,400 feet he goes 4,700 feet and nobody can get in between them, can they?

Mr. BOWER. There would be no opportunity for a pound net location between them.

Mr. HARDY. Then, if they desire it they can nearly double that space for a pound net under the law?

Mr. BOWER. It would be a very proper thing. We would not object to it.

Mr. WICKERSHAM. You would favor it?

Mr. BOWER. Yes, sir; it all tends to prevent intensive fishing.

Mr. HARDY. Then the bill might operate to prevent any other fishing operations closer than 2,400 feet apart?

Mr. BOWER. Yes, sir; it might.

Mr. HARDY. If 2,400 feet is enough?

Mr. BOWER. It simply forces the other man to go farther afield.

Mr. HARDY. In other words, it gives the man in possession 4,800 feet if you want to make it that long?

Mr. BOWER. I would say in this connection that in a previous bill, one which was introduced by Mr. Carlin (H. R. 753, 64th Cong.) and which was prepared very largely by Dr. Jones, the distance interval was considerably greater.

Mr. HARDY. I am just calling attention to what is the construction and probably practical operation of this law. Instead of 2,400 feet it may be double that.

Mr. BOWER. Even so, there is ample room for the extension of the industry. There will be plenty of space in which newcomers may locate fishing sites.

Mr. HARDY. And yet you are framing this law in order to prevent overfishing?

Mr. BOWER. Yes; overfishing in any one spot.

Mr. HARDY. But while you make it intentionally 2,400 feet, yet practically it is 4,800 feet.

Mr. BOWER. If we change it to read 4,800 feet in the bill, then, by the method which you describe, it would be double, or 9,600 feet. The purpose is to make it a minimum of 2,400 feet, as stated in the bill.

Mr. HARDY. Well, I think it is, but practically it is 4,800 feet.

The CHAIRMAN. What would be the effect of that provision upon the fish?

Mr. WICKERSHAM. A monopoly.

The CHAIRMAN. Would there be opportunity for the fish to get away?

Mr. BOWER. I think so.

Mr. HARDY. I understood that one reason was to prevent the fish from coming back and escaping to the spawning grounds.

Mr. CURRY. The nets ought to be kept far enough apart to allow the fish to get up the stream.

The CHAIRMAN. That is the theory; and, as I understand Judge Hardy, if we do not fix a limit not less than 2,400 feet or not more than 2,400 feet, why, two parties in collusion may plant their nets, say, 4,700 feet apart, which would prevent somebody else from putting a trap between them, and in that way they would control the ground and have a monopoly of the fish in that area. Now, if that is to be the only effect of it, it ought to be avoided.

Mr. BOWER. The real effect is to conserve the fish. That is what we are endeavoring to accomplish.

Mr. HADLEY. I was going to say that if the purpose of protection and preservation of the fish was not involved, there would be no necessity for a limitation on the location of traps at all.

Mr. BOWER. That is it exactly. The purpose of this legislation is to secure that protection.

Mr. HARDY. I was only calling your attention to what a practical construction of it would amount to, without any particular knowledge of it.

Mr. HADLEY. Is it the judgment of the department that the limitation that is placed in this bill is one that is desirable under existing conditions to effect such a preservation?

Mr. BOWER. That is the way we look at it. That is our best judgment.

Mr. HARDY. As I understand you, you would rather that it would be 4,800 feet apart, but you do not want to provide that in the bill?

Mr. BOWER. Yes, sir; so far as allowing an ample escape of fish. I have nothing further to add just now, Mr. Chairman, unless other questions are to be taken up.

#### STATEMENT OF HON. JOSEPH WALSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS.

Mr. WALSH. Mr. Chairman, my attention has been called to the provisions of section 18 of this bill by my colleague, Mr. Greene, a member of this committee, and as my district includes the city of New Bedford, which is the only city in New England, and I think one of the few cities on the Atlantic coast, which is at all interested in the whaling fisheries at this time, I have looked into the provisions of that section rather carefully, and I have noticed how this bill starts out with a provision for the protection of salmon fisheries and the food fish and shellfish. When it reaches section 18 it plunges in all over, so to speak, and takes in all sorts of fish and aquatic animals.

Now, while there may be very few ships from New Bedford now engaged in the Arctic whaling industry, there are vessels engaged in that business now in which people of my district are part owners—fisheries in which some of my people are interested. I submit that

the provision in section 18 is entirely uncalled for. It uses the language "catching, killing, or utilization of any fish of any kind." That is very broad language. Whales may be taken beyond the 3-mile limit and brought into some place in Alaska for treatment, for curing, or for trying out the oil, as is sometimes done at shore stations; you put that under the direction of the Secretary of Commerce, and if any particular process of whaling is carried on within this territory then the whaler is subject to regulation by the Department of Commerce. He has got to take out a license, I assume, although it is not specifically provided for in this bill, as I read it. I submit that the whale fisheries ought not to be included in a measure such as this. The whaling industry is an industry that is usually carried on on the high seas, although it may be carried on within the 3-mile limit. I submit that a regulation by the Department of Commerce to require them to take out a license, to require them to follow all sorts of regulations that may be prescribed, is decidedly unfair. It is a branch of the fisheries that is declining steadily, not so much, perhaps, on account of the scarcity of those animals as the constant dropping in profit for their products, owing to other methods having been devised for securing oil and other products which are derived from that fishery. I think that the whaling fisheries ought not to be disturbed or interfered with; not in this form at least. If the bill is adopted in its present form it will not be but a few years before the department will come in and cite this as a precedent, and ask that you prescribe rules and regulations for the whaling fisheries that are carried on on the Atlantic coast on this side of the continent. There is a considerable industry on the Atlantic coast, and the vessels sail from New Bedford. They will say, "We regulate the whale fisheries up in Alaska, and we ought to regulate them here on this side of the continent."

My viewpoint is that section 18 of this bill ought to be eliminated. It is not intended to conserve the salmon or shellfisheries of Alaska. As to sea lions and walrus, as I understand it, there has been no abuse shown and there is no particular reason for prescribing regulations for the taking of those aquatic animals. Now, there is a law with reference to seals and sea otters, and that law can be enforced, but to say that a person going out on a venture to take whales, on a voyage that may last several months or a year, that he has got to take out a license, and that if he should happen to land at an Alaskan port he has got to look up these regulations and see what he can do and what he can not do before he utilizes the product of his voyage, is utterly uncalled for. There is no need for it. This bill ought to be confined to the purposes laid down in its title; that is, the conservation of the fisheries of Alaska. This section 18 should conform to the preceding sections relating to salmon fisheries and shellfisheries. You should not broaden the scope of it and go into the realm of fisheries on the high seas simply because it is possible that they may at some time in their operations come within the waters of that Territory. So I feel that I am representing the wishes of people who are interested in the whaling business in objecting to the inclusion of section 18 in this bill. That is all I have to state.

Mr. GREENE. Have you examined section 2 of the bill?

Mr. WALSH. I have.

Mr. GREENE. That provides for a license.

Mr. WALSH. I see it does.

Mr. HARDY. Mr. Walsh, as a member of this committee not interested or connected with any shore line or fishing industry, I would like to ask you if there is any reason why the whale fishery should not be regulated just as well as any other fishery, if the final preservation of the industry is to be at all sought to be accomplished.

Mr. WALSH. Well, Mr. Hardy, with reference to that I would say that if the product of that fishery, namely the whales, were within the jurisdiction of the United States during the entire time that they were being taken; that is, if they were all within the 3-mile limit from the shore, that might be so.

Mr. HARDY. Now, right there. Is not that precisely the same argument that the persons interested in the absolute destruction of the fur-seal industry made when they were seeking to be permitted to catch and kill and destroy them because they were outside of the 3-mile limit? When they were earnestly anxious to get the present profit out of that pursuit regardless of the future result to the fur-seal industry, did they not fight every effort which was made to restrain their rights and privileges on the high seas just as you are doing as to the whales? Is it not a further fact that the whale industry, by reason of nothing having been done, is being practically swept out of existence and is it not becoming one of the lost arts or lost industries, and have you not got to do something to prevent this whale industry from being speedily wound up by men who are interested solely in the present profits of it?

Mr. WALSH. That is true as to the fur seals. That argument was made. But there is no parallel in the two cases. Now, it is not so much a question of the whales getting fewer in quantity, but the business is declining.

Mr. HARDY. Well, if it is not so much, is it not largely on that account?

Mr. WALSH. Well, it may be. Sometimes a man will go out in the beginning of the season and he will not catch any whales, and another time he will go out and inside of less than month he will come back with a full cargo. It is not because the whales are few, but when you come to regulate an industry that is carried on on the high seas, the broad ocean, you are undertaking a problem that you can not handle successfully. I have been an employee of the Bureau of Fisheries—

Mr. HARDY (interposing). Now, what is going to be the harm of this law?

Mr. WALSH. It is going to impose restrictions on people which will be a hardship.

Mr. HARDY. But is it not the only way in which you can protect the whale industry?

Mr. WALSH. No, sir; it is not. Now, as I say, I have been an employee of the Bureau of Fisheries for several years, and I have seen the disposition of the department to seek to regulate the sea and shore fisheries of this country.

Mr. HARDY. With what motive?

Mr. WALSH. They give the motive as the preservation of the fisheries.

Mr. HARDY. The preservation of the industry, too, is it not?

Mr. WALSH. Not so much the preservation of the industry as the preservation of the fisheries, because it has stifled industry and made the industry less.

Mr. HARDY. Do you believe that the department thinks that in the regulation of the fisheries they are injuring the production of the fish?

Mr. WALSH. Yes, sir; it does. They will put a closed season on fish and will not allow anybody to take them.

Mr. HARDY. Now, Mr. Walsh, could they, as public servants, have any other interest but the public good in doing that?

Mr. WALSH. Well, I say that is the interest that they say they seek to serve, but it has not worked out.

Mr. HARDY. You do not question their motives, do you? You think that they are mistaken in their policy?

Mr. WALSH. Oh, no; I do not mean to question their motives at all.

Mr. HARDY. But you say, "they say."

Mr. WALSH. Yes.

Mr. HARDY. Now, do you not think that they really have that motive?

Mr. WALSH. Well, I will admit that; but I will say this, that the gentlemen who advocate that motive have in many instances to my knowledge no practical knowledge of the industry which they seek to conserve. They look at it merely from the scientific standpoint.

Mr. HARDY. But, on the other hand, they have no selfish interests?

Mr. WALSH. Oh, no; they have no selfish interests.

Mr. HARDY. Now, then, your people, who seek to get a present profit out of it, have a very great selfish interest in opposing restrictions that will preserve the industry?

Mr. WALSH. No, sir; I do not say that.

Mr. HARDY. Do you not think that a man who would go out and catch a lot of fur seals—well, I will not say fur seals—I would say a man who goes out and engages in this industry without restrictions and sweeps the sea of the possible source of natural supply has a personal interest?

Mr. WALSH. Yes, sir.

Mr. HARDY. That he has an interest in not being restrained?

Mr. WALSH. That is true.

Mr. HARDY. Are not your people in that industry in the same situation?

Mr. GREENE. How about the people who are employed? They are getting pretty good salaries, better than they ever got anywhere else. They never got better salaries in their lives.

Mr. HARDY. I am not talking about that.

Mr. GREENE. Well, I am.

Mr. HARDY. But if your people want to run down the source of supply, they are interested.

Mr. WALSH. Well, of course they are interested. If they were not interested, they would not be here opposing it. If you could make a practical restriction, it would be satisfactory. They would not oppose any practical restriction.

The CHAIRMAN. What would you call a practical restriction?

Mr. WALSH. It would not be one that is confined simply to this country. If a whale man goes on the high seas, and if there is some agree-

ment that is going to apply to whale men from other countries as well as ours, that would be a practical restriction. But if you are going to simply say to the whale men who sail from the United States ports, "You are subject to these restrictions," whereas a man who might sail from the other side of the Alaskan Straits, or from Japan, or from some other country, can come up there and catch whales without restriction, it is unfair. I submit that under the provisions of this bill you are not conserving the fisheries of Alaska, because these whales are not caught in Alaskan waters. They may be caught anywhere on the broad ocean, and they may, on their way north, stop into an Alaskan port, and while in there they may do something in connection with the whaling business. Are you going to say, "You have got to do that in a certain way; you have got to pay so much to do it?" I submit that is utterly unfair.

Mr. CURRY. Mr. Walsh, the saving of the fur seals of Alaska from extinction occupied the attention of Congress for a good many years?

Mr. WALSH. Yes, sir.

Mr. CURRY. At last the only practical method of saving the fur seals that was thought out was an international agreement between Great Britain, Japan, the United States, and Russia.

Mr. WALSH. Yes, sir.

Mr. CURRY. Then, under that agreement the United States had to take the fur-seal business over itself as a monopoly of the United States. Now, I believe in saving the whales, but I do not believe we can do it without an international agreement. I think that we ought to, through this committee, start the machinery for an international agreement between Norway, Great Britain, Japan, the United States, and Russia, to take care of the whales in every way in which it can be done. That is the best way to get at this proposition—to enter into an international agreement between those countries in the same way as was done in the case of the fur seals. In the meantime I have not made up my mind on this section of the bill. We have a good many people out in California who are interested in the whale fisheries in Alaska. Last year there were not any whale ships that went out, but this year there have been a number of them. The whales were all taken on the high seas outside of the jurisdiction of the United States. Whether or not we should discourage our own people from engaging in that business while the people of Japan, Russia, Great Britain, and Norway can go up there and take the whales, all the whales they want, I do not know.

The CHAIRMAN. It would not apply to your people if they are not taken into a port of Alaska.

Mr. CURRY. Oh, they have to be taken into a port unless a whale is destroyed on the high seas.

Mr. WALSH. Well, they may not have to take the whale into port, but they have to go in there to take on coal and supplies. Some of the whalers are gone on voyages as long as two years.

The CHAIRMAN. Well, we will take up the bill when we get through the hearings and pass on the sections.

Mr. WICKERSHAM. I want to say that some time ago I introduced a bill in the House for the purpose of setting on foot a scheme to secure an international agreement between the United States and

Canada, Russia, and Japan, to cover the whales and these other marine animals and to preserve and protect them from extinction. I have listened to Judge Hardy and Mr. Walsh and I agree with both of them. They seem diametrically opposed to each other, but as a matter of fact there is a most woeful waste of these marine animals in Alaskan waters. People go out there on the ice inside of the 3-mile limit and shoot immense walrus just to see them sink. Thousands of them are slaughtered wantonly and recklessly by people in that manner, and all classes of these big animals are being wasted in a most shameful manner. But this bill would drive the trade over to the Russian side. You can not control the situation from this side alone, because it is only 45 miles across to Siberia, and they have whaling stations over there. The trade would simply be driven over to the other side. Now, not only that, but the natives up there depend on these animals for food, and when they are killed off you will have to make provision to feed the Eskimos. This is a very important subject and it ought to be handled in the right way, and not as provided in this bill. I think the Bureau of Fisheries will agree with that.

Mr. HADLEY. Where is your bill, Mr. Wickersham? Is it before this committee?

Mr. WICKERSHAM. I think it went before the Committee on Foreign Affairs.

Mr. HADLEY. It was introduced in this Congress?

Mr. WICKERSHAM. Yes, sir; it is in this Congress.

Mr. BOWER. Mr. Chairman, this part of the bill aims only to cover the shore industry in Alaska. It has nothing to do with the high-sea whale fishery. The industry in the North Pacific is divided into two distinct classes. I do not believe, if the bill were to pass as it now stands, that it would interfere in any degree with the furnishing of supplies to those few ships that engage in the offshore industry. Twenty-one whales were taken by the American North Pacific high-sea whale fishery in 1914, whereas 482 were taken by the shore industry. Now, there is a distinct difference in the two lines of industry in that the offshore whalers lose the entire carcass; they only use the blubber and the whalebone, whereas the shore whaling stations use every part of the animal for fertilizers, oils, and other products.

The CHAIRMAN. Where are those whales caught?

Mr. BOWER. They are caught in part outside of the 3-mile limit and in part inside of the 3-mile limit.

Mr. CURRY. There is not one in a hundred caught inside the 3-mile limit.

Mr. BOWER. I beg your pardon. There is a whaling station at Port Armstrong which has taken whales inside the 3-mile limit.

Mr. WALSH. I will confirm that, because I have seen them do it. They are big ones.

Mr. BOWER. I know it has been done.

The CHAIRMAN. What effect will that have on whales taken outside of the 3-mile limit?

Mr. BOWER. It would enable us to get a license tax upon the product which they cure or prepare in Alaska.

Mr. HARDY. They could not be prohibited from going outside of the 3-mile limit and killing as many whales as they wanted to and bringing them in?

Mr. BOWER. No, sir. As I suggested the other day, House concurrent resolution No. 18, introduced by Mr. Wickersham, contains the meat of a very important need in regard to the international phases of the whale situation.

I would like to put in the record a pamphlet by Dr. Frederic A. Lucas entitled "The Passing of the Whale." He is the curator in chief of the Museum of Arts and Sciences of the Brooklyn Institute. Dr. Lucas is one of the world's recognized authorities on the whaling industry, and in this pamphlet he points out the great decline in the offshore whale industry. He suggests that the only remedy is an international treaty.

[Supplement to the Zoological Society Bulletin No. 30. Published by the New York Zoological Society. July, 1908.]

#### THE PASSING OF THE WHALE.

[By FREDERIC A. LUCAS, curator in chief of the Museum of Arts and Sciences of the Brooklyn Institute.]

The attention of all persons interested in the conservation of the animal resources of the world is especially directed to the article by Mr. Lucas on "The passing of the whale," published as a supplement to the present number of the Bulletin of the New York Zoological Society. It is a truthful statement by one of the best-informed students of the subject. The valuable whale is unquestionably going fast—faster than the valuable fur seal—and soon may be classed with the sea otter, American bison, and other wealth-producing animals whose commercial value has been lost to man. As a source of wealth the whale is the most important of all.

Steps have been taken by the Zoological Society to place the information contained in this article before legislative bodies in many parts of the world.

The society, as a scientific association devoted to the preservation of wild animals, earnestly requests the careful consideration of it by every legislator into whose hands it may come.—C. H. T.

The New York Zoological Society at its annual meeting in January adopted a resolution relative to the protection of whales by international agreement.

The idea that the preservation of whales was necessary and desirable was new to many members of the society. This was perhaps natural, as whales and whaling industries do not come under the observation of the average citizen. Yet whales as economic animals have been and continue to be of immense value to man. They are of the greatest possible interest zoologically, since they are the largest of existing animals. One species—the sulphur-bottom whale—attains a length of 80 feet, being of greater size than the extinct dinosaurs, the largest of the wonderful animals of the past.

From a strictly American viewpoint the whale deserves serious consideration, as it was half a century ago the basis of an industry which brought great wealth to the New England States. In the days when the whale fishery was most important there were over 600 American ships and many thousands of men regularly engaged in that industry.

During a period of nearly 50 years prior to about 1872 the value of whale oil and whalebone landed by American vessels amounted to more than \$270,000,000.

Subsequently the whaling industry, as conducted from vessels, gradually declined. The present method of whaling from shore stations is of quite recent introduction.

It is a startling fact that nearly all species of whales are threatened with early extinction by reason of the destructiveness of modern methods of whaling, practiced chiefly from stations located on shore.

The protection of whales is therefore necessary if any whales are to be left for future supply. How rapidly whales of all kinds, save possibly the sperm whale, are disappearing before the attacks of man, may be inferred from a glance of the shore-whaling industry and particularly at that of Newfoundland.

whose statistics are most readily available and where the effects of modern methods are most apparent.

Before 1903 we have no data as to the number of whales taken along the coast of Newfoundland and can only say that the value of whale produce rose successively from \$1,581 in 1898 to \$36,428 in 1900 and \$125,287 in 1902. Making a rough estimate, based on the value of the products of the whale fishery, one may say that this represents not less than 350 whales, more probably about 500, since prior to 1902 the waste was very great. The first whaling station in which modern methods were adopted was established in 1897 and its success was so great that in 1903 four others had been erected and three more planned, although but three steamers were then employed. R. T. McGrath, in the report of the Newfoundland department of fisheries for 1903, gave it as his opinion that no more applications for factories should be granted for some years to come, saying: "Two factories are about to be erected, one at Trinity and one at Bonavista, during the coming year. This will make eight factories in all, viz. Balena, Aquaforte, Snooks Arm, Chaleur Bay, Cape Broyle, Bonavista, and Trinity. In my opinion no further applications should be granted for some years. If licenses are given without restriction, it will result in complete depletion of this industry within a short time; whilst if judiciously dealt with, it will be a profitable source of revenue and a great assistance to the laboring people of the colony for many years to come." This advice, however, was not heeded, the only restriction placed on whaling being that stations should not be nearer one another than 20 miles and that but one steamer should be employed. These restrictions were practically of no avail, as one steamer was all that could then be employed to advantage and a run of 20 miles is nothing to a 12-knot vessel. So whaling stations rapidly multiplied until by 1905 eighteen were in operation, occupying all the more favorable locations about Newfoundland, Labrador, and the Gulf of St. Lawrence, and fifteen steamers were employed. The effects of this overmultiplication were felt at once, and while in 1903 three steamers took 858 whale, or an average of 286 each, in 1905 fifteen steamers took but 892 whales or an average of only 59 a vessel.

	Whales.
In 1903, 3 vessels took-----	858
In 1904, 10 vessels took-----	1,275
In 1905, 15 vessels took-----	892
In 1906, 14 vessels took-----	429
In 1907, 14 vessels took-----	481
	3,935
Taken between 1898-1902, estimated-----	350
	4,285

Thus in 10 years more than 4,000 whales have been captured in the immediate vicinity of Newfoundland. The effect was disastrous and caused the ruin of the smaller companies, the chief sufferers being the smaller shareholders who had invested their entire capital.

One of the arguments in favor of indiscriminate whaling has been the theory that whales had the whole world to draw upon and that the depletion in any one locality would soon be supplied by overflow from another. To a slight extent this may be true, for there seems some reason to believe that whales do now and then pass from the Pacific to the Atlantic,<sup>1</sup> but on the whole whales are restricted in their range as other animals,<sup>2</sup> and extermination in one place means extermination in that locality for all time. Another fallacy was the belief that the supply of whales was practically limitless and that one might "slay and slay and slay" continuously. There is not a more mischievous term than "inexhaustible supply," and certainly none more untrue. So we see our inexhaustible forests on the verge of disappearing, our inexhaustible supplies of coal and oil daily growing less, and the end of the inexhaustible supply of whales in sight. Man is recklessly spending the capital nature has been centuries in accumulating and the time will come when his drafts will no longer be honored. It matters not

<sup>1</sup> Capt. Bull states that a sulphur-bottom whale shot on the coast of Norway contained a harpoon fired into it on the coast of Kamchatka and that a humpback killed off Aquaforte was found to have in the flesh an unexploded bomb lance fired from a San Francisco whaler in the Pacific.

<sup>2</sup> For example, the sulphur-bottom is not found or occurs as a straggler on the east coast of Newfoundland although once common on the south coast.

whether the vessel is a bucket or an ocean, one can only take out as much water as it contains and where all is outgo and no income, it is merely a question of time when one or the other will be emptied.

The history of the Newfoundland whale fishery merely repeats what has taken place everywhere the whale has been hunted, the only difference being that owing to the limited area covered and the use of modern appliances results have been reached more quickly than in the days of sailing vessels and hand harpoons.

It is a matter of record how the right whale was successively swept from the Atlantic coasts of Europe and North America, then from the North Pacific and finally from the Southern seas, and what has happened in the case of this species will happen in the case of others.<sup>1</sup> The great bowhead, owing to its restriction to a portion of the Arctic Seas, and the case with which it may be taken, is in a worse plight than his smaller relative and it is quite possible that the present generation will see its actual extermination.<sup>2</sup> And yet this monster once flourished in such numbers that for nearly three centuries its capture gave employment to hundreds of vessels and thousands of men. How abundant this species actually was we can only surmise from the former size of the whaling fleet and the statistics of its catch, though the old-time wood cuts showing the chase of the whale seem not to exaggerate its abundance. The American whaling fleet at the time of its greatest activity numbered from 500 to more than 600 sail, while in England, our most active competitor, from 25 to 60 vessels cleared from the port of Hull alone and several other towns contributed to swell the Arctic fleet which comprised from 150 to 250 vessels.

The imports of whalebone into the United States from 1805 to 1905 were 81,985,655 pounds. Averaging 2,000 pounds per whale, a rather high estimate, this would represent no less than 40,804 right and bowhead whales taken by American whalers.

Taking the port of Hull, England, we know partly by the actual returns and partly by estimates based on the yield of oil, that the ships of this port between 1722 and 1820 took in Davis Strait and on the east coast of Greenland no less than 10,207 whales and a fair estimate of the total English catch would be about 20,000 right and bowhead whales, so that in two centuries not less than 50,000 were killed by English and American whalers alone.

But this is only a portion of the catch taken in the north, for as early as 1660 the Dutch sent 500 ships to the Spitzbergen fishery alone, and by the end of the century the number had risen to 2,000. Even though many of these were so small that nowadays they would be looked upon as mere boats, the total catch prior to 1750 must have mounted into the thousands.<sup>3</sup>

The contrast of these figures and the returns for the past two years show to what a low ebb the whales of this part of the world have been reduced, for in 1906 the catch of the Dundee fleet was but seven, and in 1907 only three whales were taken, one of these even being a yearling.

The catch of the San Francisco fleet was 20 in 1906 and 82 in 1907, but the success of the past year is the direct outcome of failure the year before, and the number of bowheads taken this year will undoubtedly be small.

Nothing can possibly prevent the extermination of the bowhead but the discovery of some perfect substitute for whalebone, and there seems not the slightest probability that this will be done, so that this huge creature will be one of the many victims immolated on the altar of fashion. Meanwhile it is worth noting that there is not a specimen of this whale in the United States and very few in the world, and that some of the money being spent in futile endeavors to reach the North Pole might much better be devoted to chartering a whaler and securing one or two examples of the bowhead before it is too late.

The right whale was the first to be commercially exterminated; that is so reduced in numbers that its pursuit was no longer profitable, because it frequented the shores of temperate regions and there brought forth its young. It required but few years to wipe out the California gray whale, as it was

<sup>1</sup> The writer is quite aware that this species still survives and, owing to the cessation of whaling for some years, has even increased in some localities. This increase is now being taken, and in a year or two the species will again be at a low ebb.

<sup>2</sup> The possible extermination of the right and bowhead whales was foreseen as early as 1850, and comments made on the large number of whales lost by sinking and on the evil results of killing the right whale on its breeding grounds.

<sup>3</sup> According to Wieland the number of bowheads taken by the Dutch between 1669 and 1758 was 57,590.

confined to a comparatively small area and the decimation of the others is but a matter of time.

The great bowhead as we have just seen is on the verge of actual, not merely commercial, extermination, and is liable to be blotted out of existence at any time and other species will follow unless something is done to preserve them.

For many years certain species of whales, notably the sulphur bottom, enjoyed more or less immunity from pursuit, due to the difficulty of taking them by methods then in vogue and the small profit yielded when they were taken. But when the present appliances for taking whales were perfected the death knell of these whales was sounded and unless some measures are taken to protect them, they, too, will suffer the fate of the bowhead.

Whaling stations are being established the world over wherever the conditions are favorable; there are several on the Pacific coast, several on the coast of Patagonia, and while in deference to the fishermen, restrictions have been placed on the Norwegian whale fisheries, other stations have been opened in Iceland and the Faroes. There is some whaling from New Zealand and South Africa, and concessions have been granted for other parts of the world. This does not include whaling for sperm whales and humpback carried on from various Atlantic and South American ports. Moreover the rapid decline of the Newfoundland whale fishery has led some of the companies to send their steamers south in winter, accompanied by a large steamer fitted out for cutting in whales and trying out the oil, thus acting as a floating whaling station that may be moved from place to place as occasion requires or favorable conditions offer.

We speak of the decline of the whaling industry when it is really the passing of the whale, for there can be no industry in the proper sense of the word when there is no planting, only reaping, no attempt to provide for the harvest to be gathered.

Whales can be protected and protected very easily, but it can only be done by international agreement. When we are far enough advanced, many industries like whaling and sealing, now on the verge of extermination, may be pursued for all time. This may be very difficult to bring about, but may be accomplished in time. The pity of it is, from a purely practical standpoint, that animals which can so readily be preserved should be swept out of existence.

Mr. EDMONDS. Is not there at present some regulation in regard to the whaling industry in British Columbia?

Mr. BOWER. Yes, sir. I understand that a limitation is placed upon the distance as to the location of shore stations; they must be something like 75 miles apart, I believe. There is also a limitation, I think, as to the number of killing steamers that may be used by each station. In killing a whale in the shore fishery, a bomb is fired into the animal from a gun mounted at the bow of a small steamer.

The CHAIRMAN. I would like you to furnish for the record a copy of the British fishing regulations. (See Appendix "C," p. 148.)

Mr. BOWER. Yes, sir. In that connection, I suggest that it may be useful to put in the record a bill introduced in the British House of Commons to regulate the whale industry in Ireland. I think that it contains some valuable information along this line which possibly may be of interest to the committee.

#### A BILL To regulate whale fisheries in Ireland.

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

1. No person shall, in any part of Ireland, land any whale, or engage in any way in the manufacture from whales of oil or other primary products, without a license granted and issued subject to the conditions hereinafter provided, and any person acting in contravention of this section shall be guilty of an offense

under this act, and shall be liable on summary conviction to a penalty not exceeding five hundred pounds.

2. It shall be lawful for the fishery authority to issue licenses under this act, subject to the following conditions:

(1) A person applying to the fishery authority for a license shall, at least two months before making such application, publish notice thereof once in each of two consecutive weeks with an interval between each publication of not less than six days in one or more newspaper or newspapers circulating in the district in which the factory or station existing or to be erected is situate; such notice shall state the name and address of the applicant, and shall contain a description of the site or intended site of the factory or station where the process of manufacture as aforesaid is to be conducted.

(2) It shall be lawful for the council of any county, county district, or county borough in which the factory or station existing or to be erected is situate, or for any person interested, within fourteen days after the publication of such notice as aforesaid, to lodge with the fishery authority objections to the granting of any such license, and the fishery authority shall consider any such objections, and, after such inquiry, if any, as they may think necessary, shall grant or refuse such license.

(3) Each license shall contain a description of the site of the factory or station erected or proposed to be erected as aforesaid, and no such factory or station shall be removed from the site in the said license described to any other site unless and until such other site shall have been approved by the fishery authority and their approval shall have been indorsed on the license.

(4) The license shall specify the number of whaling steamers (not exceeding three) that may be used or employed by the holder, and no whaling steamer in excess of the number specified in the license shall be used or employed by the holder.

(5) No license shall be granted except to a British subject or to a company registered in Great Britain.

(6) The fishery authority may at any time, on the application of the holder of a license, cancel the license; but it shall not be lawful to transfer or assign any license without the consent of the fishery authority, and any transfer or assignment shall be indorsed upon the license.

(7) There shall be paid to the fishery authority in respect of every license issued under the provisions of this act a sum of two hundred pounds if the license authorizes the use or employment of three whaling steamers, the sum of one hundred and fifty pounds if the license authorizes the use or employment of two whaling steamers, and the sum of one hundred pounds if the license authorizes the use or employment of one whaling steamer, and such sum shall be paid to the fishery authority on the issue of the license and thereafter annually during its continuance.

(8) Every license shall be subject to all the conditions contained in this act, or any by-law made in pursuance of this act, and it shall be lawful for the fishery authority, in the event of the infringement of any such condition by the holder of a license, or of the conviction of such holder or any person employed by him, of an offense under this act, or under any by-law made in pursuance of this act, without compensation to cancel any license or to suspend any license for a specified period.

3. (1) No holder of a license or person employed by him shall in the prosecution of the whaling industry use any vessel other than the whaling steamer from or by which a whale shall have been captured or killed, for the purpose of bringing or towing such whale to or toward any factory or station for manufacture.

(2) Every whaling steamer employed by the holder of a license shall carry such distinctive mark as the fishery authority, with the consent of the board of trade, may from time to time prescribe, and such mark shall be specified in the license.

(3) No holder of a license or person employed by him shall use, in the pursuit or capture of whales, any method or contrivance which does not include a harpoon with a whaling line attached thereto, and fixed or fastened to the whaling steamer from which the whale is captured or killed.

(4) No person shall pursue, kill, or shoot at any whale within three miles of low-water mark of any part of the coast of Ireland, and no holder of a license or person employed by him shall pursue, kill, or shoot at any whale within the distance of one mile from any boat or vessel lying at anchor or engaged in fishing.

(5) No holder of a license or person employed by him shall pursue, kill, or shoot whales between the first day of November in any year and the thirty-first day of March in the year following, both days inclusive; or during such other period of the year (not exceeding five weeks) within such distance (not exceeding twenty miles) of any particular part of the coast of Ireland as may be prescribed by the fishery authority.

(6) In this section the expression "mile" means a nautical mile.

(7) Any person acting in contravention of this section shall be guilty of an offense under this act.

(8) Where a whale which has been lawfully shot at and struck shall carry with it a fixed line within an area prohibited in terms of this section, nothing in this section contained shall make it unlawful to continue the pursuit of such whale and to kill it in such area.

4. (1) Holders of licenses and all persons employed by them shall give all reasonable facilities for inspection by the fishery authority and the officers of that authority of all factories or stations and vessels employed by the holders of licenses, and shall make such returns on any matter connected with their whaling business as the fishery authority may from time to time prescribe, and if required by the fishery authority shall verify such returns by statutory declaration.

(2) The expenses incurred in any year by the fishery authority in the execution of this act shall, to the amount approved by the treasury, be paid out of moneys provided by Parliament.

5. (1) Nothing in this act contained shall make it unlawful for any person to drive ashore and appropriate, sell, or otherwise make use of the smaller whales known as bottle-nose and caa-ing whales, or to appropriate, sell, or otherwise make use of such whales as he may find dead, whether floating on the sea or stranded on the shore.

(2) Nothing in this act contained shall make it unlawful for any person to pursue any of the whaling industries commonly followed in Arctic or Antarctic waters, or to engage in the manufacture of oil or other products from whales captured in the exercise of any such industry.

6. Any person guilty of an offense under this act shall, save as otherwise provided, be liable on conviction to a penalty not exceeding £100.

7. (1) The fishery authority may make by-laws for all or any of the following purposes, that is to say—

(a) Prohibiting the use of any engine or implement in the pursuit, capture, or towing of whales, or any method of whaling which is in the opinion of that authority injurious to fisheries.

(b) Regulating the methods of manufacturing oil or other products from whales and the disposal of refuse:

and save as otherwise provided by this act the provisions with respect to by-laws contained in the fisheries (Ireland) act, 1842 (including penal provisions), shall apply with the necessary modifications to every such by-law.

(2) By any by-law made under this section the fishery authority may impose a fine for the breach of any such by-law not exceeding £10 for any one offense and may direct the forfeiture or destruction of any engine or implement used or attempted to be used in contravention of any such by-law, and every rope, line, tackle, warp, iron, and other thing attached to or used with such engine or implement.

(3) Any engine, implement, rope, line, tackle, warp, iron, or other thing which is under any such by-law liable to be forfeited or destroyed may be seized by any duly authorized officer of the fishery authority or any officer appointed by the fishery authority for the purposes of the fisheries (Ireland) act, 1842, and shall when seized be dealt with in the manner provided by section one hundred and three of the said act, and for the purpose of such seizure any such officer may go on board any vessel engaged in whaling.

8. (1) All offenses under this act may be prosecuted, and all penalties, costs, or expenses imposed or recoverable under this act may be recovered in a summary manner, and a summons in respect of any such offense may be served upon the person to whom it is directed in any part of the United Kingdom.

(2) Section eighty-nine (which relates to the powers of officers) and section ninety-six (which relates to the jurisdiction of magistrates of maritime counties) of the fisheries (Ireland) act, 1842, shall apply, with the necessary modifications, for the purposes of this act.

(3) All license fees, penalties, and moneys paid or recovered under this act shall, notwithstanding any provision in any other act, be paid to the fishery authority, and shall be applied by that authority for the purposes of sea fisheries as defined by the agriculture and technical instruction (Ireland) act, 1899, or any act amending that act.

9. In this act the expression "whaling steamer" includes any ship used for the purpose of capturing or killing whales, whether propelled by steam power or otherwise; and the expression "fishery authority" means the department of agriculture and technical instruction for Ireland; and the expressions "county district" and "county borough" have the same meanings respectively as in the local government (Ireland) act, 1898.

10. (1) This act shall apply to Ireland only and shall come into operation on the first day of January nineteen hundred and nine.

(2) This act may be cited as the whale fisheries (Ireland) act, 1908.

Mr. JONES. My understanding and interpretation of this particular feature of the bill is that it is so drawn in order to, in a measure, control the existing whaling stations in Alaska, and not for the protection of the whale outside of the 3-mile limit. Now, why should not some restrictions be placed on these two whaling stations just as much as on the canneries in Alaska? As Mr. Bower has said, they use the entire whale. The blubber is used for oil, and the meat, as Judge Wickersham says, is largely consumed by the natives. They take the meat home and dry it and use it in the wintertime. Certainly a whale logically comes under the Bureau of Fisheries just as much as a fish does, because it is an aquatic animal, but if there is not some mention made regarding these two existing whaling stations, or any others that might be installed there in future years, there will be absolutely no control over the manner in which they may conduct business in the Territory of Alaska.

The CHAIRMAN. From the standpoint of revenue, Alaska is a new country that is just being developed, and the whaling industry is just as much an industry of Alaska as the salmon fisheries. I do not see why they should not have the benefit of any proper regulations.

Mr. WALSH. I have no objection to the revenue part of it, but I do not see how it is going to protect the whale.

The CHAIRMAN. Well, of course, you can not protect the whale industry on the high seas. I think we all agree to that.

#### STATEMENT OF MR. ALEXANDER BRITTON, OF BRITTON & GRAY, WASHINGTON, D. C.

Mr. BRITTON. Representing the Alaska Packers' Association I would like in its behalf and for those associated with it to speak briefly on the general features of bill 9528.

No one is or can be more interested in the preservation and perpetuation of this industry than the people who have invested millions of dollars and through such investment developed the industry to its present standing. Ever since the first act of Congress dealing with the subject our clients have cooperated with the Government in the proper control of the fisheries, and with the express purpose of developing and perpetuating the same. They have at all times believed in and advocated one central capable governing body and have been willing to pay a fair proportion of their income in supporting such administration. Our position now is exactly the same.

We believe the control of the Alaskan fisheries is peculiarly a subject falling within the exclusive control and jurisdiction of the Federal Government, because of its control of navigable waters and its

necessary control of international and interstate relations. The fishing being done largely in navigable waters, Congress alone has control over them, both as affecting the relations with other nations and as between different States and the Territory of Alaska. These regulations directly affect the value of the operations of the private proprietors and are of the utmost importance to them. For example, the Secretary of Commerce has, by previous acts of Congress, plenary power over any dams, barricades, fences, and traps used in any of the waters of Alaska, within prescribed distances from the shore.

This jurisdiction also extends to manner of operating and setting any nets or fishing appliances across or above the tidewaters of any stream. It also extends to the power of setting aside specific streams or lakes as preserves for spawning grounds. It includes prohibition and regulation of the labeling and branding of canned salmon. It provides for maintaining hatcheries for propagation of fish and extends jurisdiction over hatcheries operated by private companies. These and other regulations within the sole power of Congress indicate that it has been the general legislative plan of Congress that the Federal Government should have complete and full control over the entire arrangement and method of operating the fisheries and canneries in Alaska.

The salmon business in Alaska is a particularly hazardous one. The rigors and perils of transportation in preparing for operations, in fishing and in shipping the fish and the climatic conditions make the business hazardous and speculative. Of all the companies that have operated in Alaska for the past 20 years, very few have declared substantial or any dividends and many have lost all they invested. While the business may seem profitable on paper and when viewed from a distance, much is required in the way of economical and careful management. Largely through such management the companies have been enabled to develop foreign markets. The exports in canned salmon during 1913 amounts to about 70,000,000 pounds, of a value of \$6,500,000. This export trade, of great value to our country, is constantly jeopardized by Asiatic competition, and additional burdens by way of taxes would hasten its extermination, and but for the foreign demand the Alaska salmon business could not be carried on to advantage.

The business, of extreme importance to the people of the United States in developing a wholesome and cheap food supply, giving employment to thousands of its people, should receive the encouragement of the Government. There are other large and extensive fishing interests in the United States, but so far as I know the Government has never attempted to impose a burden upon their business by direct taxation. The imposition of any tax is not only contrary to the general policy of the Government in not taxing the fishing interests, but is contrary to good governmental policy by imposing a charge upon food and to that extent limiting the sale of a wholesome article of food at a reasonable price. As any tax of this nature must ultimately be borne by the consumer, or the industry cease, the only result of increasing the tax is to further increase the cost of the article to the general public.

Governmental control of this industry was first predicated solely upon the theory of preserving and perpetuating the fish, and in that effort the canners always have been and still are ready to cooperate.

Starting in 1900, the Government required each canning establishment to construct and maintain a hatchery, the purpose being to perpetuate at first four times, and then ten times, the number of fish caught. When this was found impracticable, and after an examination and report by a commission headed by Dr. David Starr Jordan, the act of June 26, 1906, was enacted.

I suggest that this law, which is the existing law in Alaska, be inserted in the record.

The CHAIRMAN. The act of June 26, 1906, will be inserted in the record, if there is no objection.

Mr. WICKERSHAM. There are two acts; which one do you desire inserted in the record?

Mr. BRITTON. The act of June 26, 1906.  
(The act is as follows:)

AN ACT For the protection and regulation of the fisheries of Alaska.<sup>1</sup>

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every person, company, or corporation carrying on the business of canning, curing, or preserving fish or manufacturing fish products within the territory known as Alaska, ceded to the United States by Russia by the treaty of March thirtieth, eighteen hundred and sixty-seven, or in any of the waters of Alaska over which the United States has jurisdiction, shall, in lieu of all other license fees and taxes therefor and thereon, pay license taxes on their said business and output as follows: Canned salmon, four cents per case; pickled salmon, ten cents per barrel; salt salmon in bulk, five cents per one hundred pounds; fish oil, ten cents per barrel; fertilizer, twenty cents per ton. The payment and collection of such license taxes shall be under and in accordance with the provisions of the act of March third, eighteen hundred and ninety-nine, entitled "An act to define and punish crimes in the district of Alaska, and to provide a code of criminal procedure for the District," and amendments thereto.

Sec. 2. That the catch and pack of salmon made in Alaska by the owners of private salmon hatcheries operated in Alaska shall be exempt from all license fees and taxation of every nature at the rate of ten cases of canned salmon to every one thousand red or king salmon fry liberated, upon the following conditions:

That the Secretary of Commerce may from time to time, and on the application of the hatchery owner shall, within a reasonable time thereafter, cause such private hatcheries to be inspected for the purpose of determining the character of their operations, efficiency, and productiveness; and if he approve the same shall cause notice of such approval to be filed in the office of the clerk or deputy clerk of the United States district court of the division of the District of Alaska wherein any such hatchery is located, and shall also notify the owners of such hatchery of the action taken by him. The owner, agent, officer, or superintendent of any hatchery the effectiveness and productiveness of which has been approved as above provided shall, between the thirtieth day of June and the thirty-first day of December of each year, make proof of the number of salmon fry liberated during the twelve months immediately preceding the thirtieth day of June by a written statement under oath. Such proof shall be filed in the office of the clerk or deputy clerk of the United States district court of the division of the District of Alaska wherein such hatchery is located, and when so filed shall entitle the respective hatchery owners to the exemption as herein provided; and a false oath as to the number of salmon fry liberated shall be deemed perjury and subject the offender to all the pains and penalties thereof. Duplicates of such statements shall also be filed with the Secretary of Commerce. It shall be the duty of such clerk or deputy clerk in whose office the approval and proof heretofore provided for are filed to forthwith issue to the hatchery owner, causing such proofs to be filed, certificates which shall not be transferable and of such denominations as said owner may request (no certificate to cover fewer than one thousand fry), covering in the aggregate the number of fry so proved to have been liberated; and such certificates may be used at any time by the person, company, corporation, or association to whom issued for the payment pro tanto of any license fees or

taxes upon or against or on account of any catch or pack of salmon made by them in Alaska; and it shall be the duty of all public officials charged with the duty of collecting or receiving such license fees or taxes to accept such certificates in lieu of money in payment of all license fees or taxes upon or against the pack of canned salmon at the ratio of one thousand fry for each ten cases of salmon. No hatchery owner shall obtain the rebates from the output of any hatchery to which he might otherwise be entitled under this act unless the efficiency of said hatchery has first been approved by the Secretary of Commerce in the manner herein provided for.

SEC. 3. That it shall be unlawful to erect or maintain any dam, barricade, fence, trap, fish wheel, or other fixed or stationary obstruction, except for purposes of fish culture, in any of the waters of Alaska at any point where the distance from shore to shore is less than five hundred feet, or within five hundred yards of the mouth of any red-salmon stream where the same is less than five hundred feet in width, with the purpose or result of capturing salmon or preventing or impeding their ascent to their spawning grounds, and the Secretary of Commerce is hereby authorized and directed to have any and all such unlawful obstructions removed or destroyed.

SEC. 4. That it shall be unlawful to lay or set any drift net, seine, set net, pound net, trap, or any other fishing appliance for any purpose except for purposes of fish culture, across or above the tide waters of any creek, stream, river, estuary, or lagoon, for a distance greater than one-third the width of such creek, stream, river, estuary, or lagoon, or within one hundred yards outside of the mouth of any red-salmon stream where the same is less than five hundred feet in width. It shall be unlawful to lay or set any seine or net of any kind within one hundred yards of any other seine, net, or other fishing appliance which is being or which has been laid or set in any of the waters of Alaska, or to drive or construct any trap or any other fixed fishing appliance within six hundred yards laterally or within one hundred yards endwise of any other trap or fixed fishing appliance.

SEC. 5. That it shall be unlawful to fish for, take, or kill any salmon of any species in any manner or by any means except by rod, spear, or gaff, in any of the waters of Alaska over which the United States has jurisdiction, except Cook Inlet, the delta of Copper River, Bering Sea, and the waters tributary thereto, from six o'clock postmeridian of Saturday of each week until six o'clock antemeridian of the Monday following, or to fish for, or catch, or kill in any manner or by any appliances except by rod, spear, or gaff, any salmon in any stream of less than one hundred yards in width in Alaska between the hours of six o'clock in the evening and six o'clock in the morning of the following day of each and every day of the week. Throughout the weekly close season herein prescribed the gate, mouth, or tunnel of all stationary and floating traps shall be closed, and twenty-five feet of the webbing or net of the "heart" of such traps on each side next to the "pot" shall be lifted or lowered in such manner as to permit the free passage of salmon and other fishes.

SEC. 6. That the Secretary of Commerce may, in his discretion, set aside any streams or lakes as preserves for spawning grounds, in which fishing may be limited or entirely prohibited; and when, in his judgment, the results of fishing operations in any stream, or off the mouth thereof, indicate that the number of salmon taken is larger than the natural production of salmon in such stream, he is authorized to establish close seasons or to limit or prohibit fishing entirely for one year or more within such stream or within five hundred yards of the mouth thereof, so as to permit salmon to increase: *Provided, however*, That such power shall be exercised only after all persons interested shall be given a hearing, of which due notice must be given by publication; and where the interested parties are known to the department they shall be personally notified by a notice mailed not less than thirty days previous to such hearing. No order made under this section shall be effective before the next calendar year after same is made: *And provided further*, That such limitations and prohibitions shall not apply to those engaged in catching salmon who keep such streams fully stocked with salmon by artificial propagation.

SEC. 7. That it shall be unlawful to can or salt for sale for food any salmon more than forty-eight hours after it has been killed.

SEC. 8. That it shall be unlawful for any person, company, or corporation wantonly to waste or destroy salmon or other food fishes taken or caught in any of the waters of Alaska.

SEC. 9. That it shall be unlawful for any person, company, or corporation canning, salting, or curing fish of any species in Alaska to use any label, brand,

or trade-mark which shall tend to misrepresent the contents of any package of fish offered for sale: *Provided*, That the use of the terms "red," "medium red," "pink," "chum," and so forth, as applied to the various species of Pacific salmon under present trade usages shall not be deemed in conflict with the provisions of this act when used to designate salmon of those known species.

SEC. 10. That every person, company, and corporation engaged in catching, curing, or in any manner utilizing fishery products, or in operating fish hatcheries in Alaska, shall make detailed annual reports thereof to the Secretary of Commerce, on blanks furnished by him, covering all such facts as may be required with respect thereto for the information of the department. Such reports shall be sworn to by the superintendent, manager, or other person having knowledge of the facts, a separate blank form being used for each establishment in cases where more than one cannery, saltery, or other establishment is conducted by a person, company, or corporation, and the same shall be forwarded to the department at the close of the fishing season and not later than December fifteenth of each year.

SEC. 11. That the catching or killing, except with rod, spear, or gaff, of any fish of any kind or species whatsoever in any of the waters of Alaska over which the United States has jurisdiction, shall be subject to the provisions of this act, and the Secretary of Commerce is hereby authorized to make and establish such rules and regulations not inconsistent with law as may be necessary to carry into effect the provisions of this act.

SEC. 12. That to enforce the provisions of this act and such regulations as he may establish in pursuance thereof, the Secretary of Commerce is authorized and directed to depute, in addition to the agent and assistant agent of salmon fisheries now provided by law, from the officers and employees of the Department of Commerce, a force adequate to the performance of all work required for the proper investigation, inspection, and regulation of the Alaskan fisheries and hatcheries, and he shall annually submit to Congress estimates to cover the cost of the establishment and maintenance of fish hatcheries in Alaska, the salaries and actual traveling expenses of such officials, and for such other expenditures as may be necessary to carry out the provisions of this act.

SEC. 13. That any person, company, corporation, or association violating any provision of this act or any regulation established in pursuance thereof shall, upon conviction thereof, be punished by a fine not exceeding \$1,000 or imprisonment at hard labor for a term of not more than ninety days, or by both such fine and imprisonment, at the discretion of the court; and in case of the violation of any of the provisions of section four of this act and conviction thereof a further fine of not more than \$250 per diem may, at the discretion of the court, be imposed for each day such obstruction is maintained. And every vessel or other apparatus or equipment used or employed in violation of any provision of this act, or of any regulation made thereunder, may be seized by order of the Secretary of Commerce, and shall be held subject to the payment of such fine or fines as may be imposed.

SEC. 14. That the violation of any provision of this act may be prosecuted in any district court of Alaska or any district court of the United States in the States of California, Oregon, or Washington. And it shall be the duty of the Secretary of Commerce to enforce the provisions of this act and the rules and regulations made thereunder. And it shall be the duty of the district attorney to whom any violation is reported by any agent or representative of the Department of Commerce to institute proceedings necessary to carry out the provisions of this act.

SEC. 15. That all acts or parts of acts inconsistent with the provisions of this act are, so far as inconsistent, hereby repealed.

SEC. 16. That this act shall take effect and be in force from and after its passage.

Approved, June 26, 1906.

In imposing a tax of 4 cents per case, this law intended that the proceeds should go toward preserving the industry and to that end the owners of private hatcheries were allowed a rebate on the tax to the extent of the fry liberated by them.

Nothing is said in the act of 1906 about the proceeds of these taxes going into the Alaska fund, which fund was created by the act of 1905; but, in some way, the money found its way into such

fund and the Alaska fisheries have from year to year paid large sums for the general Territorial expenses, which funds should have been spent in regulating, controlling, and perpetuating the industry itself. In exacting this tax, intended for the protection of the industry itself, Congress made it clear that the business was not to be taxed otherwise.

In the act of 1906 express provision was made that these license fees and taxes should be in lieu of all other license fees and taxes upon the business and upon the output, and in the organic act of 1912 it was expressly provided that the Territory should not have the power to amend or repeal any act of Congress relating to the fish, postal, internal revenue, and other laws of the United States.

I should like to file with the committee, not as a part of the record to be printed but for its use, a copy of the hearings on Senate bill 5856, in the Sixty-second Congress, which record is full of very interesting data on all phases of this question. At that time very full hearings were given by the Senate committee extending over a long period of time and a great deal of the information which this committee desires and needs now is found in the record of the hearings before that committee.

Mr. GREENE. What was the number of that bill?

Mr. BRITTON. Senate bill 5856 of the Sixty-second Congress.

The CHAIRMAN. The clerk to the committee will secure copies of those hearings.

Mr. BRITTON. I have an extra copy of the hearings, which I will file; I think they are pretty scarce.

Since that hearing various efforts have been made to formulate a bill satisfactory to all parties and H. R. 9528 is the nearest approach to that end.

This bill was drawn upon the theory of continuing Federal control and as the Territory was receiving from the Alaska fund a considerable sum with no expense attached it was deemed wise to continue the past legislation and have the license fees and taxes payable under this act to be in lieu of all other license fees and taxes including the tax on real and personal property located in Alaska. We are satisfied to leave it that way, but should Mr. Wickersham's suggestion be concurred in by the committee, as it apparently was by Secretary Redfield, and the Territory of Alaska be given the right to impose and collect a property tax, the bill must be differently arranged.

I personally believe the correct method is to allow the Territory to collect such property tax which, according to the Delegate, would amount to about \$95,000 annually. Then let the license fees and taxes collected by the Federal Government on the gear, the raw product, and the canned or frozen fish be used for the preservation and protection of the industry paying the same. In other words, the Territory would then be in the position that a State occupies with a right to collect a property tax, and the license fees and taxes paid to the Federal Government would be used for the preservation and protection of the industry paying that particular license tax, which is the main purpose of a license tax.

Mr. CURRY. Are the canneries located on public land or on private land?

Mr. BRITTON. Most of them are located on private land.

Mr. CURRY. Privately owned property?

Mr. BRITTON. Yes, sir. I think all of them have practically secured title to the cannery sites under the law of Congress passed, I think, in 1884, for business and trade.

Mr. Warren has some views concurred in by me as to the proper distribution of taxes, so I will only suggest that if the bill is to be changed as suggested by Mr. Wickersham, then it should be further changed so as to practically follow the Washington law. I want to leave with the committee a copy of the laws of Washington.

Following that, the changes in the bill would be very few. Section 21 would be amended by striking out, on lines 19, 20, and 21, the words:

Nor upon any property, real or personal, used in said business in said territory.

And insert, on line 23, after the word "disapproved," the following:

But nothing in this act contained shall be construed as preventing the Territory of Alaska from imposing a property tax under the organic law of August 24, 1912, upon the real and personal property located in Alaska.

The section would then read:

That from and after the passage of this act the Territory of Alaska shall not pass any legislation that has the effect of repealing, altering, or amending this act, nor shall such Territory impose any license fees or taxes upon the business hereinbefore referred to nor upon the output thereof, and any such existing statutes heretofore enacted by the Territory of Alaska are hereby expressly disapproved; but nothing in this act contained shall be construed as preventing the Territory of Alaska from imposing a property tax under the organic law of August 24, 1912, upon the real and personal property located in Alaska.

To offset the \$96,000 thus given the Territory, the revenue derived by the Federal Government from the license fees and tax upon the output should be changed, and I would suggest that the best way of reaching that result is by changing the rate on canned salmon from 4 cents per case for red and other salmon to 2 cents, and from 3 cents on humpback or pink to 1 cent. The estimated revenue from the canned salmon under this bill was \$140,000. If the rate per case be changed from 4 and 2 to 2 and 1, it will reduce the amount by \$80,000. This changes the amount given the Territory on its right to tax shore property and would reduce the amount receivable by the Government from this class to \$60,000. Then, in order that no portion of this amount should go back to the Territory, it having been given the right to tax shore property, section 4 should be so amended, on page 5 of the bill, as to strike out from lines 2, 3, 4, and 5 the following words:

And fifty per centum thereof shall be transferred annually to the treasurer of the Territory of Alaska for such purposes as the Territorial Legislature of Alaska may direct. The remaining fifty per centum—

Those are the words that I would suggest be eliminated, so that the entire fund collected from the license fees and taxes by the United States should be placed in the fund known as the Alaska fishery fund and used, at the discretion of Congress, for the investigation, development, preservation, and conservation of the Alaska fisheries.

By this rearrangement the property in Alaska, real and personal, will be subject to local taxation like all other property so situated.

The license fees and taxes collected by the Federal Government, and estimated as \$450 on establishments, \$30,573 on gear, \$44,936 on raw product, \$60,000 on canned salmon, and \$13,532 on preserved fish, or a total of \$149,491, will then be used by the Federal Government exclusively for purposes relating to the investigation, development, preservation, and conservation of the Alaska fisheries. I should say that this sum of money ought to be sufficient to enable the Bureau of Fisheries to properly and adequately take care of the industry.

The \$146,000 thus collectible, with the \$96,000 paid the Territory for the property tax, would mean an increase of taxes on the industry over and above that now payable under existing law of something like \$60,000 to \$75,000 per annum. The fishing interests have not thought that it was fair to increase the rate to that amount; they have not believed that the industry could safely pay that amount, but after a great deal of discussion with the Bureau of Fisheries and other hearings that was the best that we could agree upon, and, carrying out that agreement in good faith, we are perfectly willing to stand before this committee and urge the passage of a bill carrying that rate into effect.

Mr. Chairman, there is one other matter that is somewhat personal to the Alaska packers.

The CHAIRMAN. Before you get to that matter I should like to inquire about the tax collected on the raw fish. It is my impression that that is a tax which it would be impracticable to collect.

Mr. HADLEY. We have no difficulty in collecting that tax in the State of Washington.

The CHAIRMAN. The conditions are different. I think it might be possible to levy that tax on the canneries which use the fish and that in some way they could charge it against those who catch the fish.

Mr. BRITTON. Of course, Mr. Chairman, I am not a practical fisherman nor familiar with matters up there, but for a great many years the only tax collected for the purpose of preserving and protecting this industry has been upon the canned product. Now, other lines of industry are being developed. Fish are being taken out of Alaska not in cans, but in ice, cured in other ways, and it seemed a much more equitable method of distributing the tax which was being collected for the purpose of preserving the industry itself by making the raw product pay something, whether it went into a can or whether it went in some other way as an article of food.

The CHAIRMAN. I think the tax is entirely equitable, but that there would be difficulty in collecting it.

Mr. BRITTON. Why should the one branch of this industry, the canneries, simply because the tax is easily collectible from them, be required to stand the entire expense of governmental supervision and control.

The CHAIRMAN. I do not want them to do it.

Mr. BRITTON. We have no way of getting this tax from the people that we buy the fish from, and unless the Government sees fit to collect the tax from the people who catch the fish themselves, we never could get it back.

The CHAIRMAN. Not unless you charged it back to them when you bought the fish?

Mr. BRITTON. A great many of the canners catch their own fish. To that extent the Government is perfectly safe in getting the records

and reports for the purpose of collecting the tax, but others do not catch their own fish; they buy their fish. Without some provision of this kind, they would not be taxed equitably with the others.

Mr. CURRY. Do you know of any place in the world where the fisherman is taxed for his catch?

Mr. BRITTON. I do not know of any place in the world where an industry of this kind is taxed at all.

Mr. WICKERSHAM. Why do you not answer the question.

Mr. BRITTON. Possibly you would like to ask the question again.

Mr. WICKERSHAM. In the State of Washington they do exactly that thing.

Mr. BRITTON. The present law suggested here is very largely, if not almost completely, drafted on the Washington law. That law put a tax on the raw product as well as the finished article.

Mr. CURRY. Is there a tax levied on all fish?

Mr. HADLEY. The independent fishermen and the sales of the canned product.

Mr. CURRY. On salmon and all fish?

Mr. HADLEY. All classes. The salmon of the merchantable catch, I think. There is a new code which I am not as familiar with as the old one. I think there is no doubt of that. Is not that right?

Mr. BOWER. Yes, sir.

Mr. CURRY. I should like to know whether the tax is on salmon or all fish?

Mr. BOWER. The raw-product tax in the State of Washington is on salmon, as I remember.

Mr. CURRY. Salmon only?

Mr. BOWER. Yes, sir.

Mr. WARREN. This is the law:

For each 100 pounds, or fraction thereof, of smelt, herring, or shad, 3 cents.

For each 100 pounds, or fraction thereof, of shrimp, 15 cents.

For each sturgeon, 7½ cents.

For each gross of crabs, 10 cents.

For each ton of clams, gross weight in shells, 75 cents.

Mr. CURRY. This proposed law is based on the Washington law?

Mr. WARREN. Very largely.

Mr. BOWER. And the Oregon code also.

Mr. BRITTON. Something was said the other day with reference to taking over the hatcheries. The Alaska Packers' Association was one of the earliest companies to follow the directions of the Treasury Department and construct and maintain hatcheries in Alaska. They still own two operating hatcheries there. These hatcheries were constructed and have been carried on under the direct instruction of the Government by the Treasury regulations that have heretofore been referred to. The fact that they have not paid is simply indicative of the fact that the Government has never allowed a sufficient rebate on the fry liberated to compensate the companies for the cost of liberating that number of fry. In other words, under the rule which the Government has by law fixed the companies have been required from year to year to pay a certain amount for the fry and then receive back from the Government a lesser sum, and we feel, if the Government is to take over the hatcheries, having compelled us to build them, in the first place, that the least they can do is to compensate us for the improvements upon a fair valuation.

Mr. CURRY. How are the small salmon released from the hatcheries, when they are fry with a sack hanging onto them or after they develop?

Mr. BRITTON. Mr. Bower can tell you as to the regulations of liberation.

Mr. BOWER. The greater proportion are liberated as fry, with the sack attached, though a considerable number are fed and released when they are about  $1\frac{1}{2}$  inches in length. Places for feeding are not equal to the demand. In other words, the hatcheries turn out a great many more fry than they would if adequate facilities existed for rearing them. This applies also to the Government stations.

Mr. CURRY. A very small percentage of the fry ever reach the ocean?

Mr. BOWER. We hope a large percentage.

Mr. CURRY. Every fish, including the salmon itself, will eat the fry?

Mr. BOWER. Yes, sir; undoubtedly.

Mr. CURRY. They can not get away from them?

Mr. BOWER. It is much better to rear them when possible; but any lack along this line has been a matter of dollars and cents very largely. That is one of the things which we will improve if this bill is enacted into law, because we will have more funds.

Mr. CURRY. Do you not think that these hatcheries should be under the control of the Government?

Mr. BOWER. Most certainly. That seems to be the only proper way of handling the situation.

Mr. WICKERSHAM. Do the Government hatcheries turn the little fish loose when fry and before they become fingerlings?

Mr. BOWER. Only part of them.

Mr. WICKERSHAM. What proportion?

Mr. BOWER. I am not prepared to say. We rear as many as possible, but if the number hatched is too large, we can not rear all of them with present facilities and so some of them, as the records will show, are planted as fry.

Mr. WICKERSHAM. What about the hatcheries owned by the Alaska packers, do they liberate them as fry or as fingerlings?

Mr. BOWER. Partly as fry and partly as fingerlings. The hatchery near Loring in southeastern Alaska probably feeds and plants more salmon in the fingerling stage than the number released as fry. In fact, I think the plan now is to pass practically all of the hatchery output to the rearing ponds. The ponds are larger than at any other hatchery in Alaska.

Mr. CURRY. If they are released as fry a very small proportion ever reach the ocean?

Mr. BOWER. There are many natural enemies which destroy them.

Mr. CURRY. Everything in the sea is a natural enemy.

Mr. BOWER. Young red salmon remain in fresh water a year.

Mr. WICKERSHAM. But when released as fry they have to go to sea?

Mr. BOWER. No; they stay in the fresh water.

Mr. WICKERSHAM. Where at Karluk would they stay?

Mr. BOWER. Some of them would possibly stay in the lagoon and some would work up to the lake.

Mr. WICKERSHAM. The hatchery there is right at the mouth of the stream?

Mr. BOWER. About  $2\frac{1}{2}$  miles up the stream.

Mr. WICKERSHAM. It is at a point where the fresh water strikes?

Mr. BOWER. Yes, sir. We are on record in no uncertain fashion as believing that the Karluk hatchery is not located in the best possible place, and we hope to have it removed very soon.

Mr. BRITON. It is located where the Government directed it to be located, is it not?

Mr. BOWER. It may have been when such matters were administered by the Treasury Department, but the Department of Commerce had nothing to do with its location.

Mr. WICKERSHAM. You think it is at a point where it ought not to be?

Mr. BOWER. I would put it in this way: That its location is not by any manner of means the most favorable. We believe the hatchery ought to be up the lake, 15 miles above.

Mr. CURRY. A hatchery ought to be close to the spawning grounds and not near the mouth of a river.

Mr. BOWER. Always.

Mr. HADLEY. You say the Karluk hatchery was located under the direction of the Treasury Department?

Mr. BOWER. Yes, sir; there was a requirement of the Treasury Department that hatcheries be located in Alaska.

Mr. WICKERSHAM. Was there any requirement that this particular hatchery should be located at this particular spot?

Mr. BOWER. Its location was no doubt approved by the Government at that time.

Mr. WICKERSHAM. In what way?

Mr. BOWER. Its location was approved.

Mr. WICKERSHAM. In what way?

Mr. BOWER. By inspection. That is my belief. In order to facilitate operations of the hatchery an order was issued May 7, 1898, by the Secretary of the Treasury closing the Karluk River to all salmon fishing except for the hatchery and by the natives for their domestic use. I will say further that after the Department of Commerce and Labor was given jurisdiction over the fisheries of Alaska in 1903 the records show the hatchery was inspected and was approved.

Mr. WICKERSHAM. As a member of the working force of the Bureau of Fisheries, and having given it scientific study and careful attention, are you prepared to say that any of the fry turned out of the Karluk Hatchery ever go to sea, grow, and come back to the streams?

Mr. BOWER. It is my belief that some of them do.

Mr. WICKERSHAM. I know it may be your belief, but have you any reasonable argument or any reasonable facts on which to base that belief? Could you prove it, in other words?

Mr. BOWER. It is impossible to actually prove that any of them come back, but we have reasons to believe that the salmon fisheries are increased, or aided and supported, by hatcheries located on various streams in Alaska, as well as in the States on the Pacific coast. The hatcheries in the States of Washington, Oregon, and California all show beneficial results.

Mr. GREENE. Do you not think you ought to make provision to hold the fry until they are able to defend themselves before you let them go off?

Mr. BOWER. We most certainly feel that way.

Mr. GREENE. Why do you not do it, then?

Mr. BOWER. We do it as far as we are able with our means.

Mr. GREENE. Are you short of money?

Mr. BOWER. Yes; this bill gives us more money, and then we will be able to do more.

Mr. GREENE. I thought money was overflowing in the Treasury, but somehow whenever we want to use some money we find that we are hard up.

The CHAIRMAN. It seems it has been that way from the beginning.

Mr. GREENE. I know; but we have had a great deal of talk about the abundance of money in the Treasury.

Mr. HARDY. They were that way under Teddy.

Mr. GREENE. I know; and you want to get him back again, but I shall not encourage you in that.

Mr. WICKERSHAM. I want to ask Mr. Britton some questions. Mr. Britton, you are a member of the firm of Britton & Gray, and in this large volume of hearings had before the Senate committee your partner appeared as attorney for the Alaska Packers' Association—is that correct?

Mr. BRITTON. I believe so.

Mr. WICKERSHAM. I was present, so I am quite sure of it. You now say you represent the Alaska Packers' Association?

Mr. BRITTON. Yes.

Mr. WICKERSHAM. How many canneries has that association in Alaska?

Mr. BRITTON. I really could not tell you. I am not here to testify to facts relating to the company's business, but I am here to represent them in the matter of assisting, if possible, in the passage of the bill that they have agreed upon as being a proper bill.

Mr. WICKERSHAM. With whom did they agree upon it?

Mr. BRITTON. They agreed with their associates, with the Bureau of Fisheries, and with the Department of Commerce.

Mr. WICKERSHAM. You object to the 4 cents a case tax or license fee placed by the Government on the canned output of your cannery and you ask to have it reduced to 2 cents and 1 cent?

Mr. BRITTON. Only in the event that the suit is sustained allowing the Territory to impose a property tax upon real and personal property.

Mr. WICKERSHAM. It has that power now, has it not?

Mr. BRITTON. I think that question is in the court.

Mr. WICKERSHAM. No; there is no question in the court of its right to levy a property tax upon your real estate in Alaska.

Mr. BRITTON. No.

Mr. WICKERSHAM. That is not involved at all. The excuse you gave for wanting a reduction in these rates, or one excuse, as you gave two—

Mr. HADLEY (interposing). For the information of the committee, and in connection with that last question, what is involved in the matter that is in the court?

Mr. WICKERSHAM. I will bring that out shortly. You object to the high rate, as you say, of 4 cents per case upon this canned salmon for two reasons: First, because you think it is a burden upon your company which it ought not to pay and, second, because it is charged back upon the product and is finally paid by the purchaser—is that correct?

Mr. BRITTON. I said that the trend of any business suffering from a tax is to transfer the tax to the consumer, if possible.

Mr. WICKERSHAM. And you fear that will be done.

Mr. BRITTON. I do not think that is necessarily limited to canned salmon, but I think it is true of any product.

Mr. WICKERSHAM. There has been no tax levied upon canned salmon since the act of 1900, or any change made in the law for 16 years, has there?

Mr. BRITTON. The act of 1906 was passed.

Mr. WICKERSHAM. That left it just the same, 4 cents and 2 cents, did it not?

Mr. BOWER. So far as the canned product is concerned it was 4 cents a case.

Mr. WICKERSHAM. Yes; that is what we are talking about.

Mr. BRITTON. Yes.

Mr. WICKERSHAM. Has there been any increase in the price of canned salmon in the meantime?

Mr. BRITTON. I think there has been a fluctuating price, an increase and decrease during those years.

Mr. WICKERSHAM. What is the price now as compared with what it was 16 years ago?

Mr. BRITTON. I really could not tell you; I do not know.

Mr. WICKERSHAM. Do you not know that the price is 50 per cent greater than it was 16 years ago when that law was passed?

Mr. BRITTON. I do not know.

Mr. WICKERSHAM. You do not know that there has been a steady increase in the price of canned salmon from year to year?

Mr. BRITTON. No; but I doubt very much whether that is so.

Mr. WICKERSHAM. You say your company built this hatchery at Karluk under rules and regulations laid down by the Treasury Department?

Mr. BRITTON. Yes, sir.

Mr. WICKERSHAM. In 1900?

Mr. BRITTON. No, sir; I did not say the year that they built it.

Mr. WICKERSHAM. I beg your pardon, but I understood you to say that was when it was built.

Mr. BRITTON. I really could not tell you.

Mr. WICKERSHAM. Mr. Bower, when was it established?

Mr. BOWER. It was established in 1896.

Mr. WICKERSHAM. It was built under rules and regulations laid down by the Treasury Department.

Mr. BRITTON. That is my understanding.

Mr. WICKERSHAM. It was not built under any law passed by Congress.

Mr. BRITTON. No; I know of no such law.

Mr. WICKERSHAM. There was no law, then, requiring a canner or other fisherman in Alaska to build a hatchery?

Mr. BRITTON. None that I know of.

Mr. CURRY. Is there any rule of the department?

Mr. BOWER. A law was passed in 1896 which referred to the stocking of streams by private hatcheries, and the regulation of the Treasury Department of May 2, 1900, was based upon that authority. The Karluck hatchery was completed after that act of Congress.

Mr. CURRY. And if there was not an act of Congress, but the department had been vested by law with authority to make rules and regulations, it was still done by law.

Mr. WICKERSHAM. That is the point I wanted to bring out. That is the law.

Mr. CURRY. You know all about these things, and you would save a lot of time if you would tell us these things instead of trying to get them out of a man who does not claim to know about them.

Mr. BRITTON. I think that Judge Wickersham understands very well that I am a lawyer in the District of Columbia, and not at all familiar with the details of the business there, and if he wants certain information with reference to the facts and figures he can get them from other people much better than he can get them from me.

Mr. WICKERSHAM. Then I will not take your time by asking all those questions, but will turn to a question of law. I will call your attention to sections 21 and 25 of this bill. Section 21 has a repealing clause in it, and it reads as follows:

That from and after the passage of this act the Territory of Alaska shall not pass any legislation that has the effect of repealing, altering, or amending this act, nor shall said Territory impose any license fees or taxes upon the business hereinbefore referred to, nor upon the output thereof, nor upon any property, real or personal, used in said business in said Territory, and any such existing statutes heretofore enacted by the Territory of Alaska are hereby expressly disapproved.

What statute does that have reference to, because I believe you said you assisted in preparing this bill?

Mr. BRITTON. My recollection is that that has particular reference to the acts of 1913 and 1915 of the Territorial legislature.

Mr. WICKERSHAM. Levying license fees upon the output of the salmon canneries?

Mr. BRITTON. Yes, sir. My understanding is that notwithstanding the provisions in the act of June 26, 1906, which says that the license fees and taxes imposed by that act should be in lieu of all other license fees and taxes, and notwithstanding the language in the enabling act of 1912, that the Territory should not pass any law repealing or amending the act of Congress relating to fisheries, that the Territorial legislature did pass a law imposing a tax or license fee upon this business, and that that question is now before the court for determination, namely, as to the right of the Territory to do that under the language in your enabling act which said that you might impose other and additional taxes.

Mr. WICKERSHAM. The enabling act passed by Congress did give the legislature authority to pass laws levying other and additional license fees and taxes upon the output of the canneries, did it not?

Mr. BRITTON. The act says:

That all the laws of the United States heretofore passed establishing the executive and judicial departments in Alaska shall continue in full force and effect until amended or repealed by act of Congress; that except as herein provided all laws now in force in Alaska shall continue in full force and effect until altered, amended, or repealed by Congress or by the legislature: *Provided,*

That the authority herein granted to the legislature to alter, amend, modify, and repeal laws in force in Alaska shall not extend to the customs, internal revenue, postal, or other general laws of the United States or to the game, fish, and fur-seal laws and laws relating to fur-bearing animals of the United States applicable to Alaska, or to the laws of the United States providing for taxes on business and trade, or to the act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes," approved January 27, 1905, and the several acts amendatory thereof: *Provided further*, That this provision shall not operate to prevent the legislature from imposing other and additional taxes or licenses.

Mr. HADLEY. Is that taken from the organic act?

Mr. BRITTON. Yes; the act of 1912.

Mr. WICKERSHAM. It was under that last proviso that the legislature did levy other and additional license fees upon the fisheries?

Mr. BRITTON. I understand it is claimed that the legislature, under that last language, may impose these other and additional taxes upon the fishery interests.

Mr. WICKERSHAM. And you understand they did so?

Mr. BRITTON. I understand they attempted to do so and that the question is now in the courts.

Mr. WICKERSHAM. It is in the circuit court of appeals of the United States in San Francisco, the question being as to whether the legislature had authority to do that?

Mr. BRITTON. Yes, sir.

Mr. WICKERSHAM. You know, do you, that the lower court held that the legislature had such power?

Mr. BRITTON. I believe the District Court of Alaska held that the Territory had that power.

Mr. WICKERSHAM. The purpose of my inquiry is to ask you, as a lawyer, whether the two provisions in sections 21 and 25 will not repeal those acts of the legislature and settle the lawsuits between your clients and the Territory, although they are now in the United States circuit court of appeals for decision.

Mr. BRITTON. Mr. Wickersham, I think that is a very close question. I think so far as any authority to collect a tax under either of those territorial acts is concerned that it would undoubtedly be defeated, but that this express repeal in 1916 would defeat the right of the Territory to collect the tax for 1914 and 1915, under a law which the court may hold was valid at the time, is a question which is open to doubt.

The CHAIRMAN. We could remedy that if we wanted to.

Mr. WICKERSHAM. By a saving clause.

The CHAIRMAN. Yes.

Mr. WICKERSHAM. There is no such clause in the bill and that is what I am calling to the attention of the committee.

Mr. BRITTON. If it be found that it was not the intention of Congress to have this tax imposed and this present Congress believed that policy was a correct one and that the Territory exceeded its authority in seeking to impose such tax, there would be no objection to Congress saying that now and repealing it absolutely.

Mr. WICKERSHAM. That is why I call it to the attention of the committee, because the amendment to section 21, which you have been handing around, still repeals the act passed by the legislature of Alaska and frees these canneries from the taxes which are now before the circuit court of appeals.

Mr. HARDY. What you want is an amendment saying the present status of the Territory's rights with regard to past taxes if this law should go into effect?

Mr. WICKERSHAM. Yes. The canneries of Alaska owe the Territory now, under a law which the courts have held to be valid, something like \$250,000—maybe considerably more than that—and if this bill should pass in its present form and should pass according to the amendment suggested by Mr. Britton it would be a repeal of that act, and under the decision of the Supreme Court of the United States the lawsuit would fail instantly and they would escape paying this \$250,000.

Mr. BRITTON. On the other hand, you would not want this committee or Congress to validate the act of the Territorial legislature imposing these taxes if the courts should finally hold that it did not have the power to pass such a law.

Mr. WICKERSHAM. Yes; I would.

Mr. HADLEY. Do you mean that you would want Congress to pass a retroactive act, because that would be the effect of it?

The CHAIRMAN. If the courts determine that the Territory had no right to levy such a tax, of course, it ought not to be imposed; but, on the other hand, if the courts hold that the Territory of Alaska had the right to levy the tax, we should not relieve the companies from paying the tax up to the time which any law that we may enact goes into effect.

Mr. WICKERSHAM. What I meant to say was that I think these people ought to pay a tax in the Territory of Alaska on their property. Of course, this act has now been somewhat modified by the statement made by the Secretary of Commerce, but prior to that statement this act took away from the Territory of Alaska all of its power to levy a tax upon the real and personal property of these canneries.

Mr. HARDY. I think that what the chairman stated would be the view of a good many of us. If there was no legal right to impose this tax, of course, we would not want to make valid that which was invalid; but if there was a legal right to impose it, and they have exercised that right, we do not want to take away the fruits.

Mr. HADLEY. I do not want to misunderstand the judge, but I gathered from one remark made by him, perhaps inadvertently, that he would urge upon the committee the passage of a retroactive act.

Mr. WICKERSHAM. No; what I meant to say was that I wanted the law so arranged that these people will pay the same identical pro rata tax in Alaska that the ordinary individual pays for the property which they have within the Territory of Alaska.

Mr. HADLEY. That is as to the future; but as to the past you would simply preserve the rights, whatever they may be?

Mr. WICKERSHAM. Oh, yes.

Mr. BRITTON. These suits that are now in court do not involve the right of the Territory of Alaska to impose a property tax upon these companies.

Mr. WICKERSHAM. I do not understand that they do.

Mr. BRITTON. They involve the right to impose a per case tax upon the output of the canneries.

Mr. WICKERSHAM. I think that is correct.

Mr. HADLEY. That is based on the language of the organic act which you just read?

Mr. BRITTON. Yes, sir.

Mr. WICKERSHAM. Mr. Britton, before the Committee on Territories, when I interrogated you as to whom you represented you said you represented the Alaska Packers' Association.

Mr. BRITTON. Yes, sir.

Mr. WICKERSHAM. I then asked you if you represented the Booth Fisheries Co., and you said no.

Mr. BRITTON. Yes, sir.

Mr. WICKERSHAM. Thereafter you met me and made some statement with respect to your employment by the Booth Fisheries Co., and I wish you would state that again to the committee.

Mr. BRITTON. I will if it interests the committee. The only fact that the committee, probably, is interested in is that I represent the Alaska Packers' Association and no one else. Mr. Wickersham asks me about the Booth Fisheries Co. every time I get up; he asks if I represent them, and I tell him no each time, although I jokingly said that I might represent them some time in the future, as I understood their other representative was not to be here, and that I knew their counsel in Chicago very well, and that possibly he might have the pleasure of getting an affirmative answer to that question some day. But the fact is that I do not represent them.

Mr. WICKERSHAM. Have you had any correspondence with them about the matter in any way?

Mr. BRITTON. No, sir.

Mr. WICKERSHAM. I only know what you told me about it yourself.

Mr. EDMONDS. The Alaska Packers' Association is a corporation, is it not?

Mr. BRITTON. Yes, sir; it is, I think, a California corporation.

Mr. EDMONDS. It includes about 25 per cent of the canneries of Alaska, does it not?

Mr. BRITTON. I really could not tell. There are 13 canneries in operation, I believe; 13 out of 85.

Mr. WICKERSHAM. What proportion of the output does it handle?

Mr. BOWER. I can not answer that offhand.

Mr. WICKERSHAM. Your reports will show, will they not?

Mr. BOWER. Yes; our reports will show very clearly.

Mr. WICKERSHAM. Before the committee takes a recess I want to say that I have noticed that the Department of Commerce has granted to the Pacific American Fisheries, of South Bellingham, Wash., a license to operate a cannery in the Aleutian Islands reserve, and that company has established a plant on Unalaska Island, near the town of Unalaska, and will begin operations as soon as the fish appear. This license was granted at the request of a number of Indians living in the reserve, in order to give them an opportunity to market their salmon and also to furnish them work nearer home than at the salmon canneries on the Alaskan Peninsula, several hundred miles away. I wish the committee would ask the Secretary of Commerce what the facts are in regard to that. It is a new method of managing the fisheries of Alaska: it is new to me and it undoubtedly will be to the committee. I wish the committee would ask for the facts officially, so that they may be here.

Mr. BOWER. We can readily furnish the facts.

Mr. WICKERSHAM. If you can find a copy of the order and a copy of the rules and regulations I wish you would put them in the record.

Mr. BOWER. I will be glad to do so.

(Following are the regulations regarding the Aleutian Islands Reservation, the executive order creating the reservation, and the permit granted Jan. 15, 1916, to the Pacific American Fisheries to engage in fisheries operations within the reservation:)

[Issued April 13, 1914.]

UNITED STATES DEPARTMENT OF AGRICULTURE,

BUREAU OF BIOLOGICAL SURVEY.

SERVICE AND REGULATORY ANNOUNCEMENTS.

*Regulations for the Aleutian Islands Reservation, Alaska.*

By virtue of the authority vested in the Secretary of Agriculture and the Secretary of Commerce by the Executive order of March 3, 1913, and section 84 of the act of March 4, 1909 (35 Stat., 1088), and the act of April 21, 1910 (36 Stat., 327), the following regulations for the administration of the Aleutian Islands Reservation, created by said Executive order, are hereby adopted and ordered to take effect the 15th day of March, 1914.

In testimony whereof, we have hereunto set our hands and caused the seals of our respective departments to be affixed this 28th day of February, 1914.

[SEAL.]

D. F. HOUSTON,  
*Secretary of Agriculture.*

[SEAL.]

WILLIAM C. REDFIELD,  
*Secretary of Commerce.*

*Regulations for the administration of the Aleutian Islands Reservation, Alaska.*

1. In compliance with existing laws and to carry out the objects of the Executive order establishing the reservation, all matters relating to wild birds and game, and the propagation of reindeer and fur-bearing animals will be under the immediate jurisdiction of the Department of Agriculture; all matters pertaining specifically to the fisheries and all aquatic life, and to the killing of fur-bearing animals will be under the immediate jurisdiction of the Department of Commerce; and all matters other than those specifically mentioned above will be under the joint jurisdiction of the Departments of Agriculture and Commerce.

2. Persons residing within the limits of the reservation on March 3, 1913, will be permitted to continue to so reside, and to carry on any lawful business not interfering with the purposes of the reservation.

3. Residents of the reservation desiring to engage in commercial fishing, or the hunting, trapping, or propagation of fur-bearing animals or game animals, must first secure a permit to do so.

4. Anyone desiring to enter the reservation for the purpose of fishing, hunting, trapping, or propagating fur-bearing animals or game animals, or engaging in commercial fishing, salmon canning, salmon salting, or otherwise curing or utilizing fish or other aquatic products, or for the purpose of engaging in any lawful business, must first obtain a permit to do so.

5. Whenever, in the propagation of fur-bearing animals, it shall be found to be necessary to kill such of these animals as interfere with the work of the Department of Agriculture in this behalf, they may be killed under the supervision of said department, and no permit will be required therefore.

6. *Fishery permits.*—Application for permission to engage in fishing or fishery operations should give full information on the following points: Name and permanent address of the person or company desiring the permit; character of business proposed, whether fishing, canning, salting, or otherwise curing fish or other aquatic products; character and extent of proposed plant and its

location; method and extent of the fishing proposed, place or places where fishing is to be carried on, and when active operations are to begin.

7. *Trapping and hunting permits.*—Applications for permission to engage in trapping, hunting, or propagating fur-bearing animals or game animals should give the name of the person desiring the permit and the island or islands on which it is proposed to operate. At present no permits will be issued for trapping or hunting fur-bearing animals except to natives of the reservation.

8. *Permits to ship live foxes from the reservation.*—For the present no permits will be issued for capture and shipment of live foxes from the reservation, except domestic stock from established fox farms.

9. Permits to enter the reservation for the purpose of engaging in any business will be granted only when the department concerned is convinced that by so doing the objects for which the reservation was established will not be endangered thereby.

10. *Collecting permits.*—Permits to enter the reservation for the purpose of collecting birds, mammals, or other natural-history specimens for scientific purposes will be granted only to properly accredited representatives of the United States Government or agents of public museums.

11. *Reindeer and caribou.*—The killing of reindeer and caribou on any of the islands of the reservation is hereby prohibited, except under special permit.

#### EXECUTIVE ORDER.

It is hereby ordered that all islands of the Aleutian chain, Alaska, including Unimak and Sannak Islands on the east, and extending to and including Attu Island on the west be, and the same are hereby, reserved and set apart as a preserve and breeding ground for native birds, for the propagation of reindeer and fur-bearing animals, and for the encouragement and development of the fisheries. Jurisdiction over the wild birds and game and the propagation of reindeer and fur-bearing animals is hereby placed with the Department of Agriculture, and jurisdiction over the fisheries, seals, sea otter, cetaceans, and other aquatic species is placed with the Department of Commerce and Labor.

It is unlawful for any person to kill any otter, mink, marten, sable, or fur seal, or other fur-bearing animal within the limits of Alaska Territory, except under such regulations as may be prescribed by the Secretary of Commerce and Labor; and it is unlawful for any person to kill any game animals or birds in Alaska or ship such animals or birds out of Alaska, except under the provisions of law and under such regulations as may be prescribed by the Secretary of Agriculture.

Within the limits of this reservation it is unlawful for any person to hunt, trap, capture, willfully disturb, or kill any bird of any kind whatever, or to take the eggs of any such bird, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

Warning is expressly given to all persons not to commit any of the acts herein enumerated and which are prohibited by law.

The establishment of this reservation shall not interfere with the use of the islands for lighthouse, military, or naval purposes, or with the extension of the work of the Bureau of Education on Unalaska and Atka Islands.

This reservation to be known as the Aleutian Islands Reservation.

WM. H. TAFT.

THE WHITE HOUSE, March 3, 1913.

Permit No. 6]

JANUARY 15, 1916.

#### PERMIT TO ENGAGE IN FISHERIES OPERATIONS WITHIN THE ALEUTIAN ISLANDS RESERVATION, ALASKA.

Under the provisions of Executive order of March 3, 1913, establishing the Aleutian Islands Reservation, and in accordance with the regulations for the Aleutian Islands Reservation, Alaska, effective March 15, 1914, the Pacific American Fisheries, whose post-office address is South Bellingham, Wash., is hereby authorized to construct and operate on Unalaska Island, Alaska, a plant for the canning or salting of salmon or other food fishes taken in the vicinity of Unalaska Island, and to sell the product thereof, subject to the following conditions:

1. That all work except that requiring skilled mechanics or operatives in connection with the taking of fish and their subsequent preparation for market shall be performed by Aleuts or Indians who are residents of the said reservation.
2. That a weekly close season shall be observed from 6 p. m. Saturday to 6 a. m. Monday of each week, during which time all fishing appliances shall be out of the water.
3. That there shall be no fishing within any salmon stream or within 100 yards outside the mouth of any such stream.
4. That no salmon or other food fish shall be taken with any pound net, trap, stake net, or other fixed fishing appliance.
5. That in addition to the restrictions herein imposed the permittee shall observe all existing laws and the regulations for the administration of the Aleutian Islands Reservation, copies of which are hereto attached, as well as those that may be hereafter enacted or promulgated for such purpose.
6. That failure to observe the stipulations of this permit will automatically result in its termination.
7. That this permit is not transferable and is revocable at any time at the pleasure of the Secretary of Commerce.

WILLIAM C. REDFIELD, *Secretary.*

(Thereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the committee resumed its session.

**STATEMENT OF MR. FRANK M. WARREN, PORTLAND, OREG.**

Mr. WARREN. I represent the Alaska-Portland Packers' Association, and am also a member of the Association of Pacific Fisheries.

The principal thing, outside of the discussion that has been carried on, that would interest us is the subject of taxation. When we went over this measure—that is, when I say “we” I mean when the company which I represent went over it, we considered that as long as the feature providing that the taxation schedule of this bill should be in lieu of all other license fees and taxes, real and personal, we were satisfied that the rate was equitable, but if the suggestion of the Secretary of Commerce is adopted that the Territory be still permitted to levy on real and personal property, then we consider that the tax schedule provided is too high.

I consider that there are two features of taxation that are applicable to an industry of this kind. One of them is the question of raising revenue for administrative purposes in a Territory or in a State or under the Government, and taxation for that purpose should properly go on the fixed and personal property of the concern and should be based on an assessment and levy the same as all other property. That would be the maintenance tax for the purposes of the Government. The license tax, I consider, is an entirely different proposition, and has its foundation under the provision for the preservation and protection of the industry, and is supposed to cover the additional revenue that is necessary to care for that particular industry over and above the Government maintenance tax which general property should pay.

I feel that we are in a very unfortunate position in discussing this taxation matter, for the reason that the original act which levied upon the output of salmon in Alaska was a license tax, and we assume when the Government levied that tax it took into consideration

not only the license and protective feature but also the property and administrative feature. Of course, the Territory of Alaska as it existed at that time was without any taxation or revenue schedule, and I assume that they took those two items into consideration. The fact that they did not divide the tax and assign part of it to the Bureau of Fisheries for protection and part to the Territory of Alaska for Government maintenance, I think, had no particular significance, inasmuch as the Federal Government at that time was bearing the entire expense, and it made little or no difference which pocket they took it out of, whether they divided the revenue or whether they appropriated from other funds.

A number of people who have been interested in Alaska have expressed themselves as wanting for the fisheries of Alaska no more than the States of Oregon and Washington and other Commonwealths receive from their fisheries. That is, they want a sufficient levy upon the output to take care of the industry, taxing the property for the maintenance of government. Under this bill, as it is provided, the taxation schedule will raise over and above the license features that are provided for in the States of Oregon and Washington, according to the rough figures which I have made, something between \$80,000 and \$90,000, which is approximately the amount of the real property tax which could be levied against the property of these concerns in Alaska on the basis of the organic act.

The CHAIRMAN. What is the rate?

Mr. WARREN. One per cent of the assessed valuation, as I understand.

Mr. BRITTON. Outside of the incorporated towns.

Mr. WICKERSHAM. And 2 per cent inside.

Mr. HADLEY. That is the limit?

Mr. WARREN. Yes, sir. Assuming that the valuation of the plants is something like \$9,000,000, it would amount to about \$90,000.

Mr. EDMONDS. The real estate tax?

Mr. WARREN. Yes, sir. The property tax properly goes for Government maintenance and the license tax goes for the industry. This license rate would raise approximately \$80,000 or \$90,000 over and above what the rate in Oregon and Washington would raise.

Mr. WICKERSHAM. What is the output in Oregon of the salmon fisheries on which you base that statement?

Mr. WARREN. It is divided into several districts. The output of the Columbia River district for both Oregon and Washington—I can only give it, as a matter of fact, roughly—last year the output, reduced to the case basis, was about 670,000 cases for the Columbia River. That does not mean that it all went into cans, but that is assuming that the fish caught on the river be reduced to a case basis it would amount approximately to that number. Of that number a little less than half is in the State of Washington and a little more than half in the State of Oregon.

Mr. WICKERSHAM. On that basis the tax levy for Oregon—

Mr. WARREN (interposing). I did not say upon that basis. I said, taking the Oregon and Washington rate per case, and applying that rate per case to Alaska, would mean that the taxation schedule provided in this bill would raise something like \$90,000 more than if the Washington and Oregon rate were applied to it.

Mr. WICKERSHAM. You say that the per case output of Oregon was about 670,000 cases?

Mr. WARREN. The case output of the Columbia River was equivalent to about 670,000 cases.

Mr. WICKERSHAM. What was the coastal Oregon output?

Mr. WARREN. I think last year somewhere in the neighborhood of 4,000,000 pounds; perhaps a little more. I can not tell what it was in cases.

Mr. WICKERSHAM. The case output was, say, 1,000,000 cases?

Mr. WARREN. No, sir; nothing like that.

Mr. WICKERSHAM. And yet the taxation feature would raise within \$90,000?

Mr. WARREN. If, instead of applying the rate per case provided in this bill, you apply the rate per case that is levied in Oregon and Washington to the output of Alaska, it would raise approximately \$90,000 less than the schedule provided in this bill.

Mr. WICKERSHAM. Can you state clearly what the per case output of Oregon is?

Mr. WARREN. That has nothing to do with it.

Mr. WICKERSHAM. The total output of all canned salmon on the Pacific coast gives Oregon about 16 per cent and Alaska about 45 per cent?

Mr. WARREN. I can not say.

Mr. WICKERSHAM. It is all, as a matter of fact, in the report of the Bureau of Fisheries?

Mr. WARREN. I do not know how the bureau segregates it.

Mr. WICKERSHAM. I only want to call attention to the fact that it is 16 per cent in Oregon.

Mr. WARREN. I did not say that.

Mr. WICKERSHAM. I am saying it.

Mr. WARREN. The revenue from district No. 1 on the Columbia River was about \$33,000.

Mr. CURRY. The rate in Oregon is 2 cents?

Mr. WARREN. Yes, sir; for the equivalent of red grade of salmon.

Mr. CURRY. And in Alaska 4 cents?

Mr. WARREN. Yes, sir; at present. At that time, I assume, the 4 cents was supposed to cover both the license rate, which is the protective rate, and also an equivalent of the property rate. In other words, it was at that time levied with a view to placing the people operating in Alaska on approximately the same basis as people operating in other sections of the country.

Mr. CURRY. Still, in Alaska you pay twice as much as they pay in Oregon?

Mr. WARREN. I would not say that. We pay a property tax in Oregon in addition to the per case basis.

Mr. WICKERSHAM. You do not pay the property tax in Alaska?

Mr. WARREN. We have not heretofore.

Mr. CURRY. The property tax and output tax in Oregon amount to just about the same as the case tax does in Alaska?

Mr. WARREN. Very close.

Mr. CURRY. And that amounts in dollars and cents to about 4 cents a case?

MR. WARREN. In amount per case approximately on similar grades.

MR. HADLEY. The case tax amounts to about the same thing as all the taxes in Alaska under the present system?

MR. CURRY. Yes, sir.

MR. HADLEY. Because the case tax embodies it all.

MR. BRITTON. The failure of the Alaska people to pay a property tax was not through any disinclination on their part to pay it?

MR. WARREN. No, sir.

MR. BRITTON. And they are perfectly willing to pay it if it is assessed?

MR. WARREN. They are perfectly willing. As I understand, the Bureau of Fisheries, when they were formulating this bill, took into consideration the fact that the people of Alaska were complaining—at least, that is my understanding—that the property tax was rather difficult to take care of in that section on account of the widely scattered condition of the plants. The department recognized that feature, and were willing to include it in their levy in order to assist the Territorial government of Alaska; but if this is going to give rise to misunderstanding and trouble as to the question of an equitable assessment, it seems to me that we should go back and put it down on a fair and square basis, as to what should be for Territorial maintenance, and how paid, and what should be for the protection of the industry, and how paid. On that basis I think it would be well to amend section 21 as suggested here and provide that the maintenance tax or the Government maintenance revenue which the fisheries of Alaska should pay should be based on their property and assessed by the Territory of Alaska, and that should be the sole and only revenue which the Territory should receive from the fisheries for maintenance purposes. As long as the Federal Government is going to maintain and look after the hatcheries, the policing and care of the industry, then the Federal Government should levy the license fee for protection in such amount as may be necessary.

I have been in touch with the legislation of Washington and Oregon for almost 20 years directly, and indirectly for a longer period than that. The rates they have finally established in those States have been the result of considerable study and a great deal of experience in the matter of patrol work and all of the incidental expenses that are necessary to keep up and take care of and look after an industry of this kind. I consider that the rates which have been applied in those States are fair and equitable rates to establish or to place on the industry for its protection and preservation, and I would suggest that the bill be amended so as to write into the license section section 51 of the Washington law, which provides the levy on canned salmon of the red grade shall be 2 cents a case and all other grades 1 cent a case, exactly as it is there. That will raise approximately \$60,000, as against about \$140,000, taking as a basis an average of the three years 1912, 1913, and 1914.

MR. EDMONDS. You do not pay 4 cents on the sockeye or blueback salmon?

MR. WARREN. No, sir; but there is a property tax levied. The red rate covers the sockeye and the king.

MR. EDMONDS. Is not the king salmon pink?

MR. WARREN. No, sir; the king salmon is the same as the tyeel salmon.

I have the Washington law. Section 51 of the Washington law provides for a tax of 2 cents per case for each case of steelhead, blueback, quinnat, or sockeye salmon—those terms, except steelhead, are practically synonymous with the red salmon, names for different localities—and all other grades of salmon they place on the same basis at the rate of 1 cent a case.

I would also include in the same provision the year per thousand tax that the State of Washington has. That would raise approximately the same amount that Mr. Bower reported this bill would raise; practically no change in that. As I estimate it, the total revenue from those amendments would be approximately \$132,000, or somewhere in that neighborhood.

Mr. HADLEY. Based on the average of the last three years?

Mr. WARREN. No, sir; my figures are for the years 1912, 1913, and 1914.

Mr. EDMONDS. That would be the license revenue?

Mr. WARREN. Yes, sir; \$132,000. I believe that that ought to go entirely to the Bureau of Fisheries for their work. That that amount is sufficient I think is shown by the experiences of Oregon and Washington in their work and also by the fact that the Bureau of Fisheries, when they undertook to subdivide the revenue under this bill, only estimated something between \$110,000 and \$115,000, and this would give them about \$15,000 more than that. This division would absolutely settle the question as to double taxation and double jurisdiction and would say that the Federal Government will take care of the license and protection, and that the Territory of Alaska will look after its revenue in the same way that every other State and Territory looks after its revenue.

Mr. WICKERSHAM. Let me call your attention to the fact that this bill would levy a tax on the independent fisherman who lives in Alaska. Would not he be subject to tax upon his property, his nets, boats, etc., on shore?

Mr. WARREN. So would the others.

Mr. WICKERSHAM. Yes, sir.

Mr. WARREN. Is not a net on shore personal property?

Mr. WICKERSHAM. Yes, sir.

Mr. WARREN. Then it would be taxed?

Mr. WICKERSHAM. That is what I am trying to get at.

Mr. WARREN. It would be taxed whether a resident or not a resident, because he does not pack them back and forth. He takes them into Alaska and they are taxable there.

Mr. WICKERSHAM. That is what I want to get clearly before the committee.

Mr. WARREN. I think it would be taxable under the real-and-personal-property tax.

Mr. EDMONDS. Is not the business in Alaska much more profitable than along the Columbia River?

Mr. WARREN. No, sir. I think the hearings of 1912, that is my impression, showed that. I know that in the case of our concern up to 1912 we only made about 4 per cent on our enterprise—that is, from 1901 to 1912.

Mr. EDMONDS. What have you made since 1912?

Mr. WARREN. We have done better than that. We have had war prices the last two years.

Mr. EDMONDS. Since 1910?

Mr. WARREN. No, sir. We did not do especially well in 1910; it was not a very good year. You see, it depends very largely in Alaska on the amount of business that you get in any particular locality. You can go up there any year with the highest kind of prices and not secure the output and you would make a financial failure out of it.

Mr. WICKERSHAM. The Alaska Packers' Association, for whom Mr. Britton appears, issues an annual statement which is very interesting, and I should like to have him, if he will, file a copy with the committee.

Mr. BRITTON. I shall be very glad to do so.

Mr. WICKERSHAM. It is not long and it shows the exact situation.

The CHAIRMAN. He can file the statement and, if it is not too long, we will put it in the record.

TWENTY-THIRD ANNUAL REPORT, ALASKA PACKERS' ASSOCIATION, 1915.

SAN FRANCISCO, *January 18, 1916.*

*To the stockholders of the Alaska Packers' Association:*

On behalf of the board of directors of this corporation I submit the following report of the business of the association for the year 1915:

*Capitalization.*—The capitalization of the company remains the same, viz, \$7,500,000 authorized capital, divided into 75,000 shares of the par value of \$100 each. The present issue is 57,508 shares, leaving 17,492 shares in the treasury of the company.

*Auditing.*—In accordance with the usual custom, all of the books, accounts, and vouchers of the association were examined, checked, and audited by the auditor, Mr. W. W. Armstrong, who has reported as follows:

SAN FRANCISCO, *January 5, 1916.*

*To the president and board of directors of the Alaska Packers' Association.*

GENTLEMEN: Since my last annual report my duties as general auditor of the association have been as follows:

1. Counting the cash daily, proving the revolving fund on hand.
2. Checking daily financial statement.
3. Checking bank accounts monthly.
4. Checking vouchers for all cash disbursed during the year.
5. Auditing cashier's and voucher clerk's bills for all purchases and payments, being a check upon cashier, purchasing and shipping departments for goods ordered, delivered, priced, calculated, and approved.
6. Checking postings of controlling and subsidiary ledgers with their auxiliary books, journals, voucher journal, and cash book.
7. Checking salmon journal with salmon invoices.
8. Checking shipping department's books, viz, salmon stock book with warehouse orders; salmon sales book with invoices.
9. Checking final reports of salmon discharged with inward manifests.
10. Recording all stock transferred during the year as per stock-transfer journal and ledger, outstanding shares being 57,508.

All of the foregoing work I have the honor to report as being correct.

Respectfully,

W. W. ARMSTRONG, *Auditor.*

The accounts have also been audited by Price, Waterhouse & Co., certified public accountants, and their certificate is attached.

*Insurance accounts.*—The association carries its own insurance on buildings, wharves, machinery, equipments, furniture, and on product in the course of manufacture and finished in its own plants; also on all floating property and on cargoes of box shooks, lumber, and coal. All up and down general cargoes are insured at full values, and salmon and merchandise stored in warehouses in San Francisco at about one-half their values.

*Insurance funds.*—At the close of 1914 the fund showed a credit of \$2,004,031.47, and earned \$501,497.85 for 1915. The amounts charged for losses and ex-

penses aggregate \$119,190.74. The insurance fund now amounts to \$2,387,229.58; of this \$2,180,425 are invested in bonds.

*Pack.*—The association's pack of salmon for the season was as follows:

	Cases.
Soockeye.....	9,461
Red.....	677,074
King.....	25,931
Coho.....	20,939
Pink.....	240,427
Chum.....	50,208
<b>Total</b> .....	<b>1,024,040</b>
Salt salmon (barrels).....	327

*Markets.*—During 1915 the general markets for canned salmon have been very irregular. The stupendous war has disarranged the trade, the transportation and the finances of the world. Lack of transportation facilities, almost prohibitive freight and exchange rates, together with the closing of the Panama Canal, have seriously interfered with the prompt and economic distribution of the pack. Contrary to general impression, none of the Governments of the warring nations have purchased canned salmon in large quantities. Only to Australasia have the salmon shipments been made normally and in usual quantities.

Almost before the results of the season's operations were known, prices of the lower grades of salmon became badly demoralized. Goods of these qualities were sold regardless of cost, a number of salmon concerns have been forced into liquidation and many others have lost heavily. Our company has not reduced its opening prices, and as a result of having made early and large sea transportation arrangements has been able to distribute considerable of its output at satisfactory prices.

The failure of the salmon runs at several of our more important stations has reduced the 1915 pack in comparison with those of the previous four years, and this, together with the above-mentioned disturbing elements, have curtailed the profit on the year's business.

*Plants.*—The following canneries were operated:

Alaska.....	14
Nushagak.....	2
Kvichak.....	2
Naknek.....	3
Egegak.....	1
Chignik.....	1
Alitak.....	1
Karluk.....	1
Cook Inlet.....	1
Fort Wrangell.....	1
Loring.....	1
Puget Sound.....	2
Semiahmoo.....	1
Anacortes.....	1
<b>Total</b> .....	<b>16</b>

Current repairs, replacements, and betterments to plants have been made at a cost of \$219,306.77. There has been written off from plants on account of depreciation \$102,475. The present appraised value of plants is \$4,119,126.74.

*Fleet.*—The launches *Sparrow* and *Swift* have been built at a cost of \$16,381.02. The steamer *Sayak* and launch *Herbert* have been dismantled.

There has been expended for improvements and repairs to the fleet the amount of \$149,557.30. There has been written off from fleet values for depreciation the sum of \$101,881.02, leaving the present appraised value of the fleet, \$1,255,750.

The association now owns 9 ships, 12 barks, 1 barkentine, 3 schooners, and 62 steamers and launches, a total of 87 vessels.

*Medical stations.*—The association maintains six medical stations in Alaska. All employees and all natives are given free medical treatment and medicines.

*Expenditures in Alaska.*—The policy of the association to assist in the development of Alaska has been continued, and expenditures exceeding \$250,000 for the year were made in the territory.

*Salmon hatcheries.*—The two salmon hatcheries of the association have continued operations. During 1915 from the 30,240,000 red salmon eggs taken in 1914 at the Karluk salmon hatchery, 27,704,000 fry were liberated and 41,135,000 red salmon eggs were taken. From the 22,500,000 red salmon eggs taken at the Fortmann salmon hatchery in 1914, 20,820,000 fry were liberated and 26,520,000 red salmon eggs were taken in 1915.

In Alaska the Government continued operating large salmon hatcheries on McDonald Lake and at Litnik, Afognak Island.

*Physical condition of plants and fleet.*—The canneries, hatcheries, ship yard, and fleet of the association have all been kept in a very high-class condition, and more than fully equipped to meet all demands on them. Each cannery has machine and general repair shops; every cannery district is provided with shipways to haul out vessels; large stocks of material, reserve machinery and other equipments are kept on hand to provide for all probable contingencies.

The ship yard at Alameda is equipped with a general wood-working plant, machine shop, and other appliances sufficient to make all but the larger improvements and repairs to vessels and to build and repair cannery machinery.

*Bonded indebtedness.*—During the year 1915, \$216,000 of the bonds of the association were redeemed and canceled, reducing the bonded indebtedness to \$558,000.

*Profits for the year.*—The insurance fund has increased \$382,298.11. The profits for 1915 were \$559,299.04.

*Dividends.*—Quarterly dividends of \$1.50 per share have been paid during 1915.

For the board of directors:

HENRY F. FORTMANN, *President.*

PRICE, WATERHOUSE & Co.,  
San Francisco, January 12, 1916.

*To the stockholders of the Alaska Packers' Association, San Francisco, Cal.:*

We hereby certify that we have examined the books of the Alaska Packers' Association for the year ending December 31, 1915, and that the balance sheet is correctly prepared therefrom, and shows the true financial conditions of the company at that date.

We have satisfied ourselves that the additions to plant and fleet accounts during the year are in order, and that reasonable provision has been made for depreciation, all current repairs and replacements having been charged to operating cost.

We have also satisfied ourselves that the inventories have been taken at San Francisco cost prices, and that full provision has been made for doubtful accounts receivable, and for all ascertainable liabilities.

The securities for the insurance-fund investments were exhibited to us on December 30, 1915.

PRICE, WATERHOUSE & Co.

*Annual statement Alaska Packers' Association, Year 1915.*

ASSETS.

Canneries, fleet, etc.....	\$5, 374, 876. 74	
Inventories.....	2, 965, 324. 90	
Insurance-fund investments.....	2, 180, 425. 00	
Accounts receivable.....	43, 545. 99	
Cash on hand.....	136, 484. 81	
		\$10, 700, 657. 44

LIABILITIES.

Capital stock.....	\$5, 750, 800. 00	
Bonds.....	558, 000. 00	
Current indebtedness.....	704, 518. 94	
Insurance fund.....	2, 387, 229. 58	
Surplus.....	1, 300, 108. 92	
		\$10, 700, 657. 44

A. K. TICHENOR, *Secretary.*

SAN FRANCISCO, December 31, 1915.

Mr. HADLEY. Does that segregate the Alaska and Puget Sound business?

Mr. WICKERSHAM. They have only one cannery on Puget Sound. I am not so sure that it does segregate them.

Mr. EDMONDS. Do not the canneries in Alaska get the fish cheaper than in Puget Sound?

Mr. WARREN. Not relatively. I speak from our standpoint. We are located on Bristol Bay. While you may not pay as much per fish right there to the fisherman on the piece basis you must take into consideration that you take those men up there, you have them under employ for five months while they are engaged in fishing only two months, and furnish them with board and with all the gear they use and transportation back and forth. When you figure all that into the cost, which properly belongs in the cost, the price is about as high. In fact, I have seen times when you could buy fish cheaper on the Sound than in Alaska.

Mr. EDMONDS. Do most of the canneries do their own fishing?

Mr. WARREN. In our case we practically do our own fishing. We take our own fishermen. We have few traps. We use gill nets almost entirely.

Mr. EDMONDS. The English down below do mostly contract fishing?

Mr. WARREN. I know comparatively little about the contract work in southeastern Alaska.

Mr. CURRY. Does your company do any fishing with launches?

Mr. WARREN. Purse-seine fishing?

Mr. CURRY. Yes, sir.

Mr. WARREN. No, sir; we do not.

Mr. HADLEY. In your estimate on the case basis you show a surplus of \$15,000 above what?

Mr. WARREN. Above what the bureau would get out of this bill.

Mr. WICKERSHAM. Have you prepared any statement of figures to show that?

Mr. WARREN. I can give you rough figures. The average pack for those years was 135,181 cases of cohoes, 522,886 cases of chums, 1,234,701 cases of pinks, 44,975 cases of kings, and 2,023,403 cases of reds. Applying the Sound rates, if my figures are correct, it would mean \$59,845.52. Then, taking the number of fish which went to make up that pack, the revenue was \$50,002.32, applying the rates in this bill. In addition to those figures should be added part of the figures that Mr. Bower spoke of, which, I think, amounted to something like \$45,000.

Mr. BOWER. Approximately \$30,000, and \$13,000 for miscellaneous.

Mr. WARREN. About \$30,000 more, excluding miscellaneous. That would make up the amount, roughly speaking, that I figured on.

Mr. HADLEY. Does the estimate of expenditures of the department include such expense as necessary by reason of taking over the hatcheries?

Mr. WARREN. It provides that the exemption would continue to exist until these hatcheries were automatically paid for so it would only affect the revenue that comes from the owners of the hatcheries themselves. This amount would be reduced by that much yearly.

Mr. CURRY. Were the hatchery locations made by the Government or the companies?

Mr. WARREN. I can not say.

Mr. BOWER. They were selected by the companies and then approved by the Government. That was before my time, but I think the records will bear me out in that.

Mr. CURRY. Most of them are unfortunately located.

Mr. FARREN. Outside of the taxation features of the bill, I think the provisions are as good as you could work into any bill of the kind.

Mr. HADLEY. You are familiar with those provisions of the bill and the Washington and Oregon laws?

Mr. WARREN. Yes, sir.

Mr. HADLEY. Is your statement based upon observation?

Mr. WARREN. On the way the laws have worked out. I would not agree with everything in there, but I do not believe that you could do any better.

Mr. WICKERSHAM. Where do you live, Mr. Warren?

Mr. WARREN. In Portland, Oreg.

Mr. WICKERSHAM. You have lived there a great many years?

Mr. WARREN. Yes, sir.

Mr. WICKERSHAM. You have been connected with the fishery business for a great many years?

Mr. WARREN. Yes, sir.

Mr. WICKERSHAM. With what company?

Mr. WARREN. The Alaska-Portland Packers' Association.

Mr. WICKERSHAM. What was your pack last year in Alaska?

Mr. WARREN. I would have to refer to that.

Mr. WICKERSHAM. Approximately?

Mr. WARREN. Between 85,000 and 90,000.

Mr. WICKERSHAM. It was your brother who was down here at the other hearing?

Mr. WARREN. Yes, sir.

Mr. WICKERSHAM. You spoke about the Pacific Fishermen's Association. What is that?

Mr. WARREN. That is an association of people who are interested in the fishing business of all kinds. They take a general interest in the business.

Mr. WICKERSHAM. How long have you been down here this winter?

Mr. WARREN. I was here in December for some little time. I have been here a couple of months this time.

Mr. WICKERSHAM. Who pays your expenses?

Mr. WARREN. I pay my own expenses.

Mr. WICKERSHAM. Does your company pay your expenses?

Mr. WARREN. That is my company.

Mr. WICKERSHAM. Does the Pacific Fishermen's Association have anything to do with your expenses?

Mr. WARREN. The Pacific Fishermen's Association has nothing to do with my expenses at all.

Mr. EDMONDS. I think he said that he did not represent that association.

Mr. WARREN. Only in an indirect way, as I am a member interested in the work it is doing.

Mr. BRITTON. I do not like to object, but I do not see how these questions are going to enlighten the committee in their work.

Mr. WICKERSHAM. Do you resent them?

The CHAIRMAN. It only shows the interest of the witness.

Mr. CURRY. The Constitution gives the full right to citizens to appear before Congress and to petition Congress, and because he comes here to represent his own interests, I do not think we are going to try to abridge or nullify the Constitution to prevent it. I think he has the constitutional right to appear before this committee.

Mr. WICKERSHAM. How many trap-site locations have you?

Mr. WARREN. Three.

Mr. WICKERSHAM. Where are they located?

Mr. WARREN. They are on the bank of the Nushagak River, just above what is known as Coffee Point.

Mr. WICKERSHAM. The point where your company has been fishing heretofore?

Mr. WARREN. Well, we have had traps in there for—I do not know for just how many years, but quite a number of years.

Mr. WICKERSHAM. And they cover those exact traps that you have heretofore operated?

Mr. WARREN. Yes.

Mr. WICKERSHAM. And you do not conflict with any other people in any way?

Mr. WARREN. No, sir.

The CHAIRMAN. Is there anything further, gentlemen?

Mr. BRITTON. Mr. Chairman, we are just here now to aid the committee in giving any information that we can furnish.

Mr. CURRY. Mr. Reynolds, do you wish to say something about whale fishing?

#### STATEMENT OF CAPT. J. J. REYNOLDS, OF SEATTLE, WASH.

Capt. REYNOLDS. I have not come prepared with any facts relative to the whaling industry, but I might state that I followed that industry for several years, and it has occurred to me that if the department is going to make any regulations relative to the whaling industry that they ought to confine them to the different species of the whale. The bowhead whale has furnished bone for many years, but that whale is caught almost exclusively outside of the Federal jurisdiction; the sperm whale and the right whale likewise. It seems to me it would be an easy matter for the department to define the whales that they intend to cover by regulation. I believe they are principally finbacks, sulphur-bottoms, and humpbacks which they are now catching and manufacturing into fertilizer.

I merely state this for the benefit of Mr. Curry, who has asked me to state what I know about the whaling industry. I would be very glad to prepare further facts for this committee if it should desire them.

The CHAIRMAN. Of course we would like to make the hearings on this subject as full and complete as we possibly can.

Mr. EDMONDS. These whales that are outside the limits are brought in and tried out?

Capt. REYNOLDS. Yes; that is my understanding, when the whaling is carried on from a shore station; otherwise they are tried out aboard ship and taken to ports in the United States.

The CHAIRMAN. They are not brought into port there?

Capt. REYNOLDS. They are brought into port after the oil is tried out, the whalebone secured, and ready for market.

Mr. JONES. Not all of those whales are manufactured on ship-board?

Capt. REYNOLDS. I think all of the bowheads are, and occasionally they do get a sperm whale in the north Pacific, but they are very scarce.

Mr. JONES. Fifteen or eighteen sperm whales were brought into Port Armstrong, I understand, and I saw three of them. They were brought there and manufactured into oil and fertilizer.

Mr. BOWER. The bureau's record shows that 43 sperm whales were utilized in the shore fisheries in 1914 in Alaska.

Capt. REYNOLDS. As against possibly 600 of the other species.

Mr. BOWER. The total number was 482.

Capt. REYNOLDS. In both stations.

Mr. BOWER. Yes; the total utilization of whales at the Alaskan stations in 1914 was 482, and of those 43 were sperms.

Capt. REYNOLDS. The sperm whale is usually caught for its valuable oil.

Mr. BOWER. It is the most valuable of the species used at the shore stations.

Mr. CURRY. Do you know what percentage of the whales are caught by American whalers?

Capt. REYNOLDS. Mr. Bower has those records.

Mr. BOWER. I think they were all caught by American registered vessels.

Mr. CURRY. Have you any record of those caught on the Siberian shores by the Japanese?

Mr. BOWER. I do not know that any records are available, but it might be possible to procure them in a short time. All of those brought ashore at shore stations in Alaska are caught by American vessels.

Mr. CURRY. I know that, but I am not talking about Alaska alone; I am talking about the northern Pacific. I would like to know the percentage caught by American whalers and the percentage caught by other whalers, like the British, the Norwegian, and the Japanese whalers.

Mr. WICKERSHAM. You mean along the Canadian coast?

Mr. CURRY. Yes; and on all coasts, and on the north Pacific and in the Arctic.

Mr. BOWER. I say, there are no records immediately available.

Mr. EDMONDS. What is the condition of the whale business up there? Is it gradually dying out?

Capt. REYNOLDS. To what species do you refer?

Mr. EDMONDS. Any kind.

Capt. REYNOLDS. The bowhead whale, I understand, has been depleted to a considerable extent, and also the right whale. This is a whale that contains bone in a like quantity with the bowhead. It is hunted both in Alaska and in southern waters.

The CHAIRMAN. Are they gradually disappearing?

Capt. REYNOLDS. They have disappeared very materially, necessitating that vessels go up into the Arctic and locate at the mouth of the Mackenzie and at Herschel Island for a period of two or three

years in order to get what they formerly caught in one year. Those vessels are reduced to about three or four, whereas during the days that I was in the business there were 60 or 65 vessels engaged in the whaling industry.

The CHAIRMAN. The only way to protect the industry and prevent depletion would be by international agreement?

Capt. REYNOLDS. Positively. Most of our whales were caught in the Gulf of Anadir, on the Siberian coast, along Indian Point and East Cape, and that is all on the other side of the international boundary line; then no more whales were procured until we got into the Arctic Circle. We hunt the sperm whale as far south as Cape Horn, around the Galapagos Group, the Marshall Group, and Society Islands. So that the whaling industry covers almost the entire globe.

Mr. GREENE. Mr. Reynolds spoke of having some information relating to the whaling industry, and I think it would be well to have him file that.

Capt. REYNOLDS. I have no further information relative to the whaling industry, but I am advised that a great many whales are taken south of the Aleutian Group. The method of taking those whales is to shoot them and flag them. Then they go after others.

The CHAIRMAN. Do they sink?

Capt. REYNOLDS. They might sink or if the weather conditions are such that on their return it is impossible to locate them. It is pretty hard to locate a dead whale in rough water, especially from a small vessel. On a regular whale ship they have what is called the crow's nest, and that gives an elevation from which you can find them at a great distance. But the small whalers are not fitted out in that way.

Mr. CURRY. Could that system of whaling be stopped except through an international agreement?

Capt. REYNOLDS. I think not; it will positively have to be through an international agreement, for the reason that a good many of those whales, I think the majority of them, are caught on the high seas.

Mr. CURRY. Outside of the jurisdiction of the United States entirely?

Capt. REYNOLDS. Yes, sir. I might safely say that I have never taken a whale within the 3-mile limit.

The CHAIRMAN. What about the habits of the whales? Where do they breed?

Capt. REYNOLDS. The bowhead whale breeds in the Arctic, and we find there many of the cows running with calves. The humpback and other species of noncommercial varieties breed in the waters adjacent to the Aleutian Group, where many of them are found.

Mr. CURRY. If you kill the cow, of course, the calf dies?

Capt. REYNOLDS. I am inclined to believe that the calf would die; yes. The calf is a pretty large whale when it is termed a calf.

Mr. EDMONDS. Is there anything you can suggest by which we can aid the industry, outside of an international agreement?

Capt. REYNOLDS. No; I do not believe so. I have given the situation at this time much study. I really thought very little about it until I heard Mr. Walsh make his statement covering the matter and protesting against whales being included in this bill. I agree with Mr. Walsh that it would be a very hard matter to regulate the whaling industry, except that part carried on by shore stations.

The CHAIRMAN. Is there any objection to a requirement that those who bring whales into Alaskan ports and there convert the carcasses into fertilizer, blubber, and oil, shall pay a reasonable tax for the oil output?

Capt. REYNOLDS. I think this bill covers that.

The CHAIRMAN. Is there any objection to that?

Capt. REYNOLDS. No; there is no objection, and no objection is made by the people engaged in that industry. I brought the matter to their attention and they seemed very well satisfied with the tax, as stipulated in the bill.

Mr. CURRY. Do you know who owns those few whalers?

Capt. REYNOLDS. The Pacific Sea Products Co. operates a plant on Akutan Island.

Mr. BOWER. And the United States Whaling Co. operates one.

Capt. REYNOLDS. They operate a plant at Port Armstrong.

Mr. BOWER. One is in southeast Alaska and the other is in far western Alaska, 1,500 miles away. The Port Armstrong plant is in southeastern Alaska.

Mr. WICKERSHAM. Have you been interested at any time in the salmon fisheries or other fisheries?

Capt. REYNOLDS. I have been interested in the salmon fisheries.

Mr. WICKERSHAM. For how long?

Capt. REYNOLDS. I have been interested on my own account for a couple of years, having operated a cannery on the coast of Oregon. I have followed the salmon fisheries since 1900.

Mr. WICKERSHAM. Do you represent any Alaska cannery except on your own account?

Capt. REYNOLDS. I do not, sir.

Mr. WICKERSHAM. None whatever?

Capt. REYNOLDS. None whatever.

Mr. WICKERSHAM. You have been here all winter?

Capt. REYNOLDS. I have not.

Mr. WICKERSHAM. How long have you been here?

Capt. REYNOLDS. I have been here a little less than three months.

Mr. WICKERSHAM. You have been taking a great deal of interest in this legislation?

Capt. REYNOLDS. I have taken a great interest in it; yes.

Mr. WICKERSHAM. Why?

Capt. REYNOLDS. For the reason that I believe this valuable industry should have legislation which will protect and perpetuate it. For that reason I am deeply interested in it.

#### STATEMENT OF MR. H. C. STRONG, OF KETCHIKAN, ALASKA.

Mr. STRONG. I have views on the question of the taxation of canneries—

The CHAIRMAN (interposing). Where is your home?

Mr. STRONG. Ketchikan, Alaska. As I say, I have views as to the assessment and collection of taxes which differ so much from all the expressions I have heard here that I almost hesitate to say anything. But I can not see the necessity or the good of taking three bites at the fishing industry when it can all be done in one. What I mean is this: I believe that there should be a tax laid on the pack to cover the raw fish, the canned product, and the property tax. It can all

be covered in one assessment. It will simplify things and save much trouble in Alaska. In the first place, to assess the raw product means assessing the fisherman. I can see where it will lead to lots of trouble in southeastern Alaska where, I think, at least two-thirds of the fishing business is done, and 50 per cent of the seine fishing is done by the natives. To make an assessment against such fishing, and even that which is done by the white men, would cause a great deal of trouble, because an assessment would have to be made against each fishing crew, and the personnel of those crews is changing pretty nearly every week. They fall out, and during a season there may be many changes made. To settle this taxation proposition among them would cause trouble. Then, again, at the end of the year to have every fisherman or every crew make a report of the fish they have caught and settle the assessment that is to be made against them would cause no end of trouble. It might work all right, but I can see a chance for lots of trouble. It does seem to me that the assessment made against the canners should cover the whole proposition, and as to the fish shipped out fresh, the tax on them can very easily be collected through the collector of customs at the post where the cargo is cleared. It would be a simple thing. Then, going to the property assessment; with the canneries scattered all over the country, as they are, I have thought: How would we get at it to assess that property and do it intelligently? There is the problem, and it might as well be settled right here at one time.

The CHAIRMAN. And apportion the tax?

Mr. STRONG. That is my idea. I may be wrong, but I am stating my views.

The CHAIRMAN. You are interested in the canning business, are you not?

Mr. STRONG. In a small way, yes; I am interested in two canneries, but I am interested in other lines of more importance to me. My idea is not to put any hardships on the canning business in anyway.

Mr. HADLEY. Under that method would it not result in the canners paying the entire tax for the benefit of all those who derive a living from the fishing business? In other words, the man who goes out and catches the fish to sell would be relieved of the tax and the canner would have to pay all of it?

Mr. STRONG. The canner would only pay a tax on the fish that he canned.

Mr. HADLEY. But the tax would have to be sufficient to maintain the industry, and it would not make any difference whether it was segregated or not. So much money would have to be produced, and you propose that the canner shall pay it all. In our State the theory is that everybody must pay a just share of the taxes.

Mr. STRONG. But you have a different class of people to deal with than we have in Alaska.

Mr. HADLEY. I imagine you have good people in Alaska?

Mr. STRONG. Yes.

Mr. HADLEY. I am endeavoring to ascertain whether that is your theory or not, because that seems to be the effect of your statement. That is true, is it not?

Mr. STRONG. Yes.

Mr. HADLEY. Would the entire tax be paid by the canner, no matter who is engaged in the industry?

Mr. STRONG. Yes; but the tax would not be any more, the tax would be no greater on the canner.

The CHAIRMAN. Is it your idea that if A brings in 1,000 fish you pay him the value of those fish less the tax?

Mr. STRONG. Well, it may be figured that way, but if the fisherman is paying the tax he is going to get just that much more from the canner, that is true; the product has got to pay the tax, and why not collect it from one man instead of getting it in three different ways? I think that in Alaska, with the country scattered as it is, we ought to simplify everything as much as we can. This is not working any hardship on the canner in any way; it is only paying a tax on the fish he packs. Possibly the same fishing crew which sells fish to the canner would sell a portion of their catch for shipment as fresh fish, and the tax on that would be collected through the collector of customs from either the shipper or carrier.

Mr. HADLEY. But the gross tax must be sufficient to maintain the entire industry, irrespective of what the rate may be. Now, do you propose that one class of people shall pay all of that and that no other class shall share any part of it?

Mr. STRONG. The canner would be responsible for the tax on the fish he packed or shipped out of Alaska.

Mr. HADLEY. You say responsible for it. Have you something else in mind that you have not expressed about somebody else who is to assume a share of it?

Mr. STRONG. Well, it comes out of the product, and I think it would—

Mr. HADLEY (interposing). Well, I think it is perfectly clear that you propose that one class shall pay the entire tax and that others who receive benefits from the industry shall pay nothing. I wanted to be sure I understood you, and if that is your view that is all I care to ask.

Mr. GREENE. Would there not be some difficulty in collecting this tax? Would there not be considerable expense involved in collecting it?

Mr. STRONG. There would be, as provided for in this bill, though my suggestion would eliminate nearly all of the expense and the annoyance of collecting from natives and roaming fishermen.

Mr. GREENE. You would not get enough net income out of it to warrant the large expense of collecting it. You would have men traveling all over attempting to collect the tax, and the cost would be so much that it would not be worth collecting.

Mr. WICKERSHAM. It would cost \$10 for \$1.

Mr. STRONG. I think my idea would simplify it very much and save expense.

Mr. GREENE. You are trying to get an income and yet you are going to provide for traveling all over that section of the country to collect that income which will result in paying out nearly all the money collected in traveling expenses and the salaries of those making the collections.

The CHAIRMAN. That is the difficulty about it exactly.

Mr. WICKERSHAM. You would have to organize a regular taxation bureau, which would cost much more than they could possibly collect.

Mr. GREENE. You would have to raise your tax higher in order to get something back into the Treasury.

Mr. HADLEY. Suppose it developed that the product could not pay that amount of tax, having regard to the cost of production, and so on; in such event where would the rest of the tax be raised—what would be the source of it?

Mr. STRONG. Well, the tax that has been assessed against the cannery business is ample to cover everything, and if any more revenue is needed there are many ways to get it in Alaska without bearing any harder on the fisheries. I think the fisheries have already been taxed out of proportion with other interests.

Mr. HADLEY. It is proposed to increase the tax.

Mr. STRONG. I think the industry should oppose any additional taxes.

Mr. BRITTON. What is your idea about the difficulty of collecting this raw-product tax? Why should there be any difficulty in collecting it?

Mr. STRONG. I believe it will be very difficult to collect the tax from the different crews because I know how they are; I have done business with them and I know how they split up two or three times during a season, and when it became necessary to pay the tax in the fall or at the end of the year you would have one sweet time in settling with them.

Mr. BRITTON. For whom do these crews fish?

Mr. STRONG. For the various canneries, but some of them fish for the fresh-fish market.

Mr. BRITTON. The cannery would be responsible for their catch, would they not?

Mr. WICKERSHAM. This bill does not make them so.

Mr. REYNOLDS. Is it not a fact that most of these Indians are supplied with nets, gasoline, and a great deal of their equipment by the canneries, and that they trust them for that amount of money until the end of the season?

Mr. STRONG. Yes.

Mr. REYNOLDS. And sometimes it runs for three or four seasons?

Mr. STRONG. Yes; some of them do that. They get assistance from one cannery and then go and sell elsewhere. That is the way some do, and the canner is the goat in more ways than one in Alaska.

The CHAIRMAN. As I understand it, his idea is that there should be a tax on the catch, but that it is not practicable to collect it; that when the time comes to collect it the party liable is not there; and that it would cost much money to run him down to collect the tax. I suppose that most of them are insolvent; and while there is a 1 per cent penalty if the tax is not paid when it is due, and they may proceed in court to collect the tax, yet you would have great difficulty in getting it out of most of them.

Mr. BRITTON. The fact is that the majority of these natives of whom he speaks are actually employed by the canneries, who furnish them with their outfits, and the raw product would be paid for by the people who employ them?

The CHAIRMAN. Then ought not the bill to provide that the canneries shall be liable for this tax on the fish they purchase?

Mr. BRITTON. They will be liable; they would naturally pay that anyhow, but we want to get the fish that are escaping. We do not want refrigerating plants and others to pay no tax at all, as under existing law.

The CHAIRMAN. We ought to have a provision in this bill that that output shall be assessed and the tax collected through the collector of customs or in some other way.

Mr. WICKERSHAM. Mr. Edmonds asked me a few minutes ago how we paid the taxes in Alaska levied by the Territory, and I did not answer it. I think it will clear up this situation generally if I say they are all paid through the clerk of the court.

Mr. WARREN. I think, to meet Mr. Strong's objection, that there is a modification of it, which was discussed last year by the Legislatures of the States of Washington and Oregon, with reference to what they term the irresponsible class on the Columbia River. They considered the gill-net class, or the roving population, were the people who were very hard to get at, and that there is another class—the haul-seine or drag-seine men—who in some places, particularly on Puget Sound, are also hard to get at. In order to meet the objection in that respect they estimated as near as they could the total amount of fish caught by the gill nets and divided it by the amount of gear on the river, and fixed their license at \$7.50, which would roughly represent the original tax plus the per thousand tax. They did that also with the other people, but as to the pound-net and purse-seine people, both of whom own their own equipment and who are responsible, they put them on the per thousand basis.

Mr. WICKERSHAM. The idea being that you would make a man pay a license which would equal the original tax on the responsible class?

Mr. WARREN. Yes, sir; in that way they caught the roving class.

Mr. CURRY. Would an Indian be in a position to pay that license at the beginning of the season?

Mr. WARREN. I think that the Indian, or whoever he was fishing for, would advance that license. On the river, if we have a good man who can not pay the license, we will pay it and charge it to him and take it out of his catch.

Mr. CURRY. How long does it take you to get it back?

Mr. WARREN. Well, if the license is only \$7.50, it would not take long to get that back.

Mr. CURRY. Can the government of Alaska collect this tax economically?

Mr. BOWER. The personal-property tax?

Mr. CURRY. Yes.

Mr. BOWER. Well, it has not applied it yet, although it had the authority after the passage of the act of August 24, 1912. I believe I am correct in saying that it has never levied any real-property tax.

Mr. WICKERSHAM. It never has—real or personal.

Mr. BOWER. No; it never has done that.

Mr. CURRY. Could it do that economically?

Mr. WICKERSHAM. Yes; I think it could.

Mr. CURRY. It would be a duplication of organization and effort if the United States Government collects a tax also.

Mr. WICKERSHAM. Not necessarily. One tax assessor goes around once a year and assesses the property and if there is no change in

the property, probably it would not be necessary to assess it more than once in one or two years.

Mr. CURRY. Well, it may not be a legal assessment if it is not assessed more than once in two or three years.

The CHAIRMAN. Why would not a better plan be an equitable distribution of the tax? I am not sure that the 50 per cent basis is an equitable distribution. The Territory of Alaska ought to get as much revenue as it gets now and proportionately more as the industry develops.

Mr. WICKERSHAM. Mr. Chairman, I think that the question of the tax is one of the smallest matters in the whole controversy.

The CHAIRMAN. I think it is a very vital question.

Mr. WICKERSHAM. Oh, yes; I know it is a vital question with the people of Alaska. We are very anxious that these people shall pay no more than anybody else in the Territory.

The CHAIRMAN. That is not the question I am asking. If it is all collected by the same agency from the same source and is distributed on a percentage basis, Alaska getting a full equitable share, is not that better than for the Government to collect the license tax and then for the Territory to levy a real estate and personal tax to be assessed and collected separately by different agencies?

Mr. WICKERSHAM. Yes; but on the basis fixed in this bill it would not be an equal tax.

The CHAIRMAN. Well, that could be adjusted.

Mr. WICKERSHAM. Possibly.

The CHAIRMAN. That is my opinion.

Mr. CURRY. The real meat in this bill is the question as to whether or not the United States Government shall control the fisheries of Alaska or whether they should be turned over to the Territory of Alaska for regulation.

Mr. WICKERSHAM. There is nothing in this bill to justify that statement at all.

Mr. CURRY. Well, if you give the Government the right to tax, you give it the right to regulate.

The CHAIRMAN. If there is nothing further, we will adjourn until Monday next at 10 o'clock. We will hear Judge Wickersham on Wednesday morning at 10 o'clock.

(Thereupon the committee adjourned.)



## ALASKA FISHERIES.

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COMMITTEE ON MERCHANT MARINE AND FISHERIES,  
HOUSE OF REPRESENTATIVES,  
*Wednesday, June 7, 1916.*

The committee met at 10.30 o'clock a. m., Hon. Joshua W. Alexander (chairman) presiding.

### STATEMENT OF HON. JAMES WICKERSHAM, A DELEGATE IN CONGRESS FROM THE TERRITORY OF ALASKA.

Mr. WICKERSHAM. Mr. Chairman, it seems to me that it is a very proper thing first to state what I think the issue in the case before the court is before proceeding to either argument or the offering of testimony. I am going to assume that the committee has this bill before them in its entirety. Of course, the Secretary has said to the committee that he did not longer approve section 21, and that feature of the bill which takes away from the Territory of Alaska its power over the shore property of the canneries and the other real estate belonging to the fishing interests in the Territory.

The CHAIRMAN. I should think, Judge, you ought to consider the bill as it is presented to the committee and not in the light of the Secretary's concession here the other day. In other words, we would like to have the whole question presented.

Mr. WICKERSHAM. That is what I was going to say to the committee. I want to consider it in that way notwithstanding what the Secretary said, because the committee has the jurisdiction, and the committee might eventually conclude that the Secretary was mistaken, and that the bill ought to be passed in a much broader way than he suggested to the committee.

Now that being true, the situation presents itself to me in this way: Here is a bill which takes away from the Territory of Alaska the right to tax the shore property of these fishing interests. I will show you that that amounts to something like \$10,000,000, as stated in the official reports of the Bureau of Fisheries. It would take away from the Territory of Alaska the right to tax not only the shore property but all of the paraphernalia used by the fishing interests in taking fish in the waters of Alaska, and that amount is stated by the report of the Bureau of Fisheries to be something over \$35,000,000. Now that is apparent upon the official reports before the committee, but it has another purpose—I will not say purpose, but it will have another result, and that result will be to transfer the title of the fisheries of Alaska from the people of the United States and from the people of Alaska to the representatives of the Fish Trust; in other

words, if this bill should be passed as it is now approved by the Secretary of Commerce and by the Bureau of Fisheries, the practical effect of it will be to give the Fish Trust title to all these trap sites in the Territory of Alaska. They have those trap sites now already surveyed. They have not told you about that. They have done everything that is necessary for them to do under this bill, if it shall become a law, to enable them instantly and immediately to take charge of all the trap sites and all of the locations in the Territory of Alaska where salmon are caught, and immediately to become the owners of those trap sites.

Mr. GREENE. Please tell us what this Fish Trust is: who is it, whom it represents, and where it originated?

Mr. WICKERSHAM. I will do that with great pleasure. I have the indictments against them here and all the data in relation to it, and I am not going to miss doing that if I can get the opportunity to present the matter fully to the committee.

Mr. CURRY. Have they been indicted?

Mr. WICKERSHAM. The Booth Fisheries Co. has been indicted for violation of the Sherman antitrust law in Alaska.

The CHAIRMAN. I would suggest that the judge be permitted to go ahead and make his statement, and then we can take up these matters and inquire about them later.

Mr. GREENE. It was not my intention to embarrass him at all.

The CHAIRMAN. I understand that. I was about to ask the same question myself.

Mr. WICKERSHAM. I have the testimony here, and I will introduce it.

The CHAIRMAN. Of course, it is a matter which each member of the committee will use its own judgment about, and I simply made that as a suggestion to you.

Mr. WICKERSHAM. I am in the same position as an attorney presenting a case to a court. I have the testimony here. If the testimony, the law, and the argument convince you, gentlemen, I hope to get a verdict. If it does not, I hope I will not get a verdict. I want to present it fairly, and I am sure the committee will treat the matter fairly because it is a matter of the very gravest importance to the people of this country. I want to call the attention of the committee to the amount involved in this case. That is always a matter of some consideration in the trial of a lawsuit. The fishery products of Alaska for the half century from 1867 to 1916, inclusive, has amounted to \$247,363,828, according to the official statements.

Mr. GOODWIN. Is that the net amount?

Mr. WICKERSHAM. No: that is the gross amount. I get that by adding to the general statement which is issued by duplicating the amount for 1915 for 1916. That is the only addition I have made to the statement. I have allowed \$21,800,000 for 1915, which is stated to be correct, and I have duplicated that for 1916, and in doing that I get the amount of \$247,363,828. Now, that is the character of the litigation before this court. That is what it amounts to, and that is what we are here to show to this committee.

Mr. HARDY. I would suggest that does not fairly show it, because, as I suggested the other day, the big end of that is the end which is

likely to grow, and the product is likely to be for the next 10 years possibly more than it was for the last half century.

Mr. WICKERSHAM. You are correct about that, Judge Hardy. There is no question about that. So that the amount involved before this committee is very much larger than I have put it, for that reason, and for that reason again the committee ought to give that much more attention to this matter.

Now, I have here a statement of the production of canned salmon on the Pacific coast from 1864 to 1916. I think if the committee will permit me, I will put the table in the hearing, but I will call your attention to so much of it now as I want to present just at this moment. I have this statement divided off into different columns by the different years. For instance, here is the output for California, the output for coastal Oregon, the output for the Columbia River, the output for the State of Washington, the output for British Columbia, and the output for Alaska, and then a total column. Now, the total number of cases, each case containing forty-eight 1-pound cans, from Alaska up to date is 57,242,873. The total from California is 1,563,639. I will not give you any more of the figures, but I will give you now the percentages of the total output of canned salmon on the Pacific coast. California up to this date has produced 1.27 per cent of the total; coastal Oregon has produced 1.94 per cent of the total; Columbia River has produced 15.96 per cent of the total; Washington has produced 16.08 per cent of the total; British Columbia has produced 18.19 per cent of the total; and Alaska has produced 46.54 per cent of the total. Leaving out British Columbia and British Columbia waters, Alaska has produced considerably more than one-half of all the canned salmon that has been produced on the Pacific coast since the settlement of the country.

I call your attention, gentlemen, to these figures to show you the enormous value of the judgment which you are to render, and the way I look at it: your judgment is to determine whether this great food supply on the Pacific coast shall remain the food supply of the people of this country or whether it shall go to the Fish Trust.

(The statement referred to follows:)

*Production of canned salmon on the Pacific coast, 1864-1916.*

[Cases: Each case contains forty-eight 1-pound cans.]

Years.	California.	Coastal Oregon.	Columbia River.	Washington.	British Columbia.	Alaska.	Total.
1864	2,000						2,000
1865	2,000						2,000
1866			4,000				4,000
1867			18,000				18,000
1868			28,000				28,000
1869			100,000				100,000
1870			150,000				150,000
1871			200,000				200,000
1872			250,000				250,000
1873			250,000				250,000
1874	2,500		350,000				352,500
1875	3,000		375,000				378,000
1876	10,000		450,000		7,247		467,247
1877	30,000	7,804	380,000	5,500	58,387		481,691
1878	48,974	16,634	460,000	5,658	89,946	8,159	629,191
1879	13,855	8,571	480,000	1,300	61,093	12,530	577,340
1880	75,750	7,772	530,000	5,100	61,849	6,539	687,010
1881	181,200	12,320	550,000	8,500	169,576	8,977	930,573
1882	200,000	19,186	541,300	7,900	240,461	21,745	1,030,592

## Production of canned salmon on the Pacific coast, 1864-1916—Continued.

Years.	California.	Coastal Oregon.	Columbia River.	Washington.	British Columbia.	Alaska.	Total.
1883	123,000	16,156	629,400	1,500	163,438	48,337	981,831
1884	81,450	12,376	620,000	5,500	123,706	64,886	907,918
1885	90,000	9,310	553,800	12,000	108,517	83,415	857,042
1886	39,300	49,147	448,500	17,000	152,964	142,065	848,976
1887	36,500	73,996	356,000	22,000	204,083	206,677	899,256
1888	74,822	92,863	372,477	81,475	184,040	412,115	1,217,792
1889	57,300	98,800	309,885	11,674	417,211	719,196	1,614,066
1890	25,065	47,009	435,774	8,000	411,257	682,591	1,609,696
1891	10,353	24,500	398,953	29,029	314,511	801,400	1,578,746
1892	2,281	83,600	487,338	57,426	248,721	474,717	1,354,083
1893	26,436	52,778	415,876	127,969	610,202	643,654	1,876,915
1894	31,663	54,815	490,100	131,900	492,232	686,440	1,887,150
1895	29,035	77,878	634,696	214,017	587,692	626,530	2,161,848
1896	13,387	87,360	481,697	241,879	617,782	966,707	2,408,812
1897	38,543	60,158	552,721	536,926	1,027,183	909,078	3,124,609
1898	29,731	75,679	487,944	433,729	492,551	965,097	2,484,722
1899	34,180	82,041	332,774	965,165	765,519	1,078,146	3,257,825
1900	39,304	12,237	358,772	526,550	606,540	1,548,139	3,091,542
1901	17,500	58,618	390,183	1,456,090	1,247,212	2,016,804	5,186,407
1902	16,543	44,236	317,143	632,651	627,161	2,536,824	4,194,558
1903	8,200	54,861	339,577	484,378	473,847	2,246,210	3,607,073
1904	17,807	98,874	395,104	345,447	465,894	1,953,756	3,276,882
1905	2,780	89,055	397,273	1,055,641	1,167,822	1,894,516	4,607,087
1906		107,332	494,898	467,042	629,460	2,219,044	3,817,776
1907		79,712	324,171	725,462	547,459	2,169,873	3,846,677
1908		52,478	253,341	483,222	566,303	2,606,973	3,962,317
1909	5,633	58,169	274,087	1,664,760	993,060	2,395,477	5,391,186
1910	14,016	103,617	391,415	633,521	760,830	2,413,054	4,316,453
1911	11,746	153,828	543,331	1,644,550	948,965	2,820,066	6,122,486
1912	33,200	77,765	285,666	495,619	996,576	4,060,129	5,948,955
1913	7,326	42,441	266,479	2,646,807	1,353,901	3,746,493	8,063,447
1914	31,315	116,335	455,500	862,761	1,111,039	4,067,832	6,644,782
1915	23,062	80,499	558,534	1,354,775	1,133,381	4,489,341	7,639,592
1916	123,062	180,499	1,558,534	1,354,775	1,133,381	4,489,341	7,639,592
Total	1,563,639	2,381,259	19,628,243	19,785,189	22,372,999	57,242,873	122,974,252
Per cent	1.27	1.94	15.96	16.08	18.19	46.54	99.98

<sup>1</sup> Estimated, same as pack for 1915.

Now, the Territory of Alaska has never had any control over the fisheries. I rather got an impression from what some of these gentlemen said that they were trying to convey the impression to this committee that the Territory of Alaska had in some way had some control over the fisheries of Alaska. We have only had a legislature in Alaska for four years. By the act of August 24, 1912, Congress created a Territorial legislature in Alaska for the first time, and never before that had Alaska had any way of controlling the fisheries, and she never did.

Mr. CURRY. I did not understand them to say that Alaska had any control of the fisheries, Judge.

Mr. WICKERSHAM. Well, I did not say they did. I say I rather got the impression they were trying to convey some sort of idea of that kind to the committee. The committee heard what was said, and if I am wrong in my conclusion the committee will not be prejudiced in any way by it.

Mr. GODWIN. The impression I gained was to the effect that the policy of the Territory of Alaska was to exercise control over the fisheries there instead of the United States, in order that the revenues might go to the exchequer of Alaska.

Mr. WICKERSHAM. Yes; but the Territory of Alaska was limited by its organic act. I prepared the organic act of 1912 myself. It gave the Territory of Alaska control over her fisheries. I thought then she ought to have that control. I think now she ought to have

it. I think the fisheries of Alaska would be very much better controlled and conserved, very much better preserved and protected if the Territorial Legislature of Alaska had the duty of looking after them. But Congress took a different view of that matter and an amendment was made in the organic law on the floor of either the House or the Senate barring the Territory from any control over its fisheries, and that is the law now.

Mr. GOODWIN. Should Alaska control the fisheries, would all the revenues then go into the treasury of Alaska or not?

Mr. WICKERSHAM. They always have in every other State or Territory.

Now, I call the committee's attention to the organic act creating the Territorial Legislature of Alaska. You will find it in the compiled laws of Alaska for 1913, of which the chairman has a copy.

The CHAIRMAN. What page?

Mr. WICKERSHAM. Two hundred and sixty-eight. In section 3 of that act, being section 410 of the compiled laws, is the only authority which the Legislature of Alaska has in any respect in relation to its fisheries. All the other laws in Alaska, and there are many others, have been passed by Congress and have been passed for the control of the fisheries by the Bureau of Fisheries in the Department of Commerce. In section 410 it is provided:

That the Constitution of the United States and all the laws thereof which are not locally inapplicable shall have the same force and effect within the said Territory as elsewhere in the United States; that all the laws of the United States heretofore passed establishing the executive and judicial departments in Alaska shall continue in full force and effect until amended or repealed by act of Congress.

Now, I call the committee's attention to the difference in the next phrase in this bill, and then I will explain why that difference exists:

That, except as herein provided, all laws now in force in Alaska shall continue in full force and effect until altered, amended, or repealed by Congress or by the legislature.

Now, if you will permit me to stop right there, I would say that that gives the Territory of Alaska the right to alter, amend, and repeal certain laws in force in the Territory of Alaska. That arose in this way: Congress did for Alaska at one time what we never did for any other Territory. In 1899 Congress passed a criminal code drawn from the code of Oregon applicable to Alaska. In 1900 Congress passed a civil code and established courts, and all that kind of thing, in the Territory of Alaska, and passed a large number of other laws in that civil code relative to the control of the civil government in the Territory of Alaska. Therefore when this bill came up some method had to be provided for enabling the Territorial legislature to change, alter, or amend those laws which had been passed by Congress, and that clause was put in there for that purpose.

Section 3 of the act of August 24, 1912, goes on with this proviso:

*Provided*, That the authority herein granted to the legislature to alter, amend, modify, and repeal laws in force in Alaska shall not extend to the customs, internal-revenue, postal, or other general laws of the United States, or to the game, fish, and fur-seal laws and laws relating to fur-bearing animals of the United States applicable to Alaska, or to the laws of the United States providing for taxes on business and trade, or to the act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance

of schools, and the care and support of insane persons in the District of Alaska, and for other purposes," approved January twenty-seventh, nineteen hundred and five, and the several acts amendatory thereof: *Provided further*—

I call the committee's attention especially to this clause because it is the only authority the Territory of Alaska has over the fisheries:

*Provided further*, That this provision shall not operate to prevent the legislature from imposing other and additional taxes or licenses. And the legislature shall pass no law depriving the judges and officers of the District Court of Alaska of any authority, jurisdiction, or function exercised by like judges or officers of district courts of the United States.

So that, Mr. Chairman, to-day the Territory of Alaska does not have and never has had any authority, power, or jurisdiction over the fisheries of Alaska except as you will find it in that one clause, "that this provision shall not operate to prevent the legislature from imposing other and additional taxes or licenses."

Now, the legislature did pass a law imposing other and additional taxes and licenses under that authority.

The CHAIRMAN. On the fisheries?

Mr. WICKERSHAM. On the fisheries. The act passed by the legislature of Alaska, approved April 29, 1915, found in the session laws of Alaska for 1915, being the session laws of the second session, page 185, is an act to establish a system of taxation, create revenue, and provide for collection thereof for the Territory of Alaska and for other purposes, etc., as follows:

*Be it enacted by the Legislature of the Territory of Alaska:* That any person, firm, or corporation prosecuting or attempting to prosecute any of the following lines of business in the Territory of Alaska shall apply for and obtain a license any pay for said license for the respective lines of business as follows:

First. Attorneys at law, doctors, and dentists, \$10 per annum.

Second. Automobiles, \$5 per annum; bakeries, electric light and power plants; employment agencies.

And then we come to fisheries in alphabetical order:

Sixth. Fisheries: Salmon canneries, four cents per case on king and reds or sockeye; two cents per case on medium reds; one cent per case on all others.

Seventh. Salteries: Two and one-half cents per one hundred pounds on all fish salted or mild cured, except herring.

Eighth. Fish traps: Fixed or floating, \$100 per annum. So-called dummy traps included.

Ninth. Gill nets: \$1 per hundred fathoms or fraction thereof.

Tenth. Cold storage fish plants: Doing a business of \$100,000 per annum or more, \$500 per annum; doing a business of \$75,000 per annum and less than \$100,000, \$375 per annum; doing a business of \$50,000 and less than \$75,000 per annum, \$250 per annum; doing a business of \$25,000 and less than \$50,000 per annum, \$125 per annum; doing a business of \$10,000 and less than \$25,000 per annum, \$50 per annum; doing a business of \$4,000 and less than \$10,000 per annum, \$25 per annum; doing a business under \$4,000 per annum, \$10 per annum. The "annual business" under this section shall be considered the amount paid per annum for the product.

The eleventh section refers to laundries and the twelfth to meat markets, and on meat markets they levy the same identical ratio of tax that they do upon cold storage plants, and the Government has in the laws which I will call your attention to shortly levied the same identical rate upon all other business men in the Territory of Alaska, and that is the rate which has been levied by Congress itself upon all those who conduct similar businesses in the Territory of Alaska. Now, of course, some of those are not included in here, for instance, cold storage plants are not included in the act of Congress. You have

never levied a tax upon cold storage plants in the Territory; of this nature, at least.

Thirteenth. Mining: One per cent of the net income in excess of \$5,000, etc.

Fourteenth. Public scavengers: Fifty dollars per annum.

Then they levy a tax of this nature upon ships and shipping.

Sixteenth. Telephone companies.

Seventeenth. Water works.

Eighteenth. Public messengers, etc.

Now, I have gone over this bill very fully to show you that it is a general bill levying a tax upon all classes and kinds of people in Alaska which are not included in the tax which you yourself in other acts of Congress heretofore have levied upon the people of Alaska for similar purposes.

The CHAIRMAN. Let me understand you at that point. Congress does not levy any tax upon those various occupations or businesses now?

Mr. WICKERSHAM. Oh, yes, Judge.

The CHAIRMAN. Aside from the fisheries?

Mr. WICKERSHAM. Oh, yes, indeed. That is where we get the Alaska fund that these gentlemen are talking about all the time. They are adding up our Alaska fund that we pay ourselves and talking about that.

As I have told you, in 1899 Congress passed a criminal code for the Territory of Alaska and at that time concluded that some fund was necessary for floating the extra branches of civil government in the Territory of Alaska, and in that act of 1899 Congress made this proviso—

Mr. CURRY (interposing). I want to understand about that Alaska fund. Are we to understand that the \$166,000 paid into that fund last year included all these other licenses as well as the license on fish?

Mr. WICKERSHAM. All of the taxes paid in Alaska go into the Alaska fund. I am not prepared to say how much of it came from the fisheries.

Mr. CURRY. Did that \$166,000 come from the fisheries or from them all?

Mr. WICKERSHAM. I do not know.

Mr. CURRY. It has been stated here that it came from the fisheries.

Mr. WICKERSHAM. I know it has. I heard that. I will find out a little bit later. The Alaska fund was created by the act of 1905, and it provided:

That all moneys derived from and collected for liquor licenses, occupation or trade licenses outside of the incorporated towns in the District of Alaska shall be deposited in the Treasury Department of the United States, there to remain as a separate and distinct fund, to be known as the Alaska fund, and to be wholly devoted to the purposes hereinafter stated in the District of Alaska. One-fourth of said fund, or so much thereof as may be necessary, shall be devoted to the establishment and maintenance of public schools in said District; five per centum of said fund shall be devoted to the care and maintenance of insane persons in said District, or so much of said five per centum as may be needed; and all the residue of said fund shall be devoted to the construction and maintenance of wagon roads, bridges, and trails in said District.

Now, since that bill was passed Congress has passed an amendatory act, and now 25 per cent of that fund is used for the establishment of schools under the control of the governor of Alaska through

the Interior Department: 10 per cent of it is used as an indigent fund through the Department of Justice, and apportioned by the judges of the district court in Alaska, and the remainder of it, 65 per cent, is expended through the War Department by a board of Army officers for the building of Government military roads in the Territory of Alaska.

I now want to go back and show you the license law in Alaska. In 1899 Congress passed the Criminal Code of Alaska, and one section of that criminal code, which you will find in the compiled laws before you, provides as follows, at page 782, section 2569:

That any person or persons, corporation, or company prosecuting or attempting to prosecute any of the following lines of business within the District of Alaska shall first apply for and obtain license to do so from a district court or a subdivision thereof in said district and pay for said license for the respective lines of business and trade as follows, to wit—

Now, Mr. Chairman, right there, I am putting special emphasis upon the word "license," because of the statement of somebody here that there was no such law in Alaska and that the Government did not require a license system of this kind to be maintained in Alaska. That is very incorrect, and in this act of 1915 the Legislature of Alaska quoted these words from the act of Congress. It was not necessary for them to do it, but they did.

The act of the legislature says:

That any person, firm, or corporation prosecuting or attempting to prosecute any of the following lines of business in the Territory of Alaska shall apply for and obtain a license and pay for said license for the respective lines of business as follows.

Those are substantially, if not identically, the same words as those contained in the act passed by Congress in 1899.

Mr. HARDY. Do I understand that the Territorial legislature in passing its act only required licenses for the kinds of business not included in the congressional act?

Mr. WICKERSHAM. Yes, with one exception; they levied an additional license tax upon canneries.

Mr. HARDY. And the rest of the licenses provided for by the Territorial legislature covered fields not covered by the congressional act?

Mr. WICKERSHAM. Yes; and if, under this bill, you disapprove that act, or repeal it without any saving clause, the people of Alaska would not only lose the little portion of the revenues they get from the fisheries, but all the rest of the taxes they have levied upon the people of Alaska—

Mr. GOODWIN (interposing). Does this bill in its terms or in effect repeal that legislative enactment?

Mr. HARDY. This bill in terms says that the Legislature of the Territory of Alaska would be allowed to impose no other or further taxes, and that these shall be in lieu of all other taxes.

Mr. WICKERSHAM. This bill provides, in section 21:

That from and after the passage of this act the Territory of Alaska shall not pass any legislation that has the effect of repealing, altering, or amending this act, nor shall said Territory impose any license fees or taxes upon the business hereinbefore referred to, nor upon the output thereof, nor upon any property, real or personal, used in said business in said Territory, and any such existing statutes heretofore enacted by the Territory of Alaska are hereby expressly disapproved.

## Section 25 provides:

That after this act takes effect the act of Congress entitled, "An act for the protection and regulation of the fisheries of Alaska," approved June twenty-sixth, nineteen hundred and six, and all acts or parts of acts of Congress or the Territorial Legislature of Alaska inconsistent with the provisions of this act, may be, and the same are hereby, repealed.

In addition to that, a bill has been prepared by the department and given to Judge Alexander, and introduced by him and referred to the Committee on the Territories, where it is now pending, which specifically repeals this section—

Mr. THURMAN (interposing). Is it not limited to the fisheries section?

Mr. WICKERSHAM. I am not sure about that, but my judgment is that it is not.

Mr. CURRY. This act before us limits it to the fisheries.

Mr. WICKERSHAM. I think it does.

Mr. THURMAN. And the other one was intended to be.

Mr. WICKERSHAM. I do not know anything about it, except from what I see on the face of these acts.

Mr. THURMAN. It was so stated at the hearings, was it not?

Mr. WICKERSHAM. I do not remember that it was. It might have been, but I do not remember that it was.

Mr. Chairman, I just called attention to this section 2569 of the Territorial laws, and have read the first portion of it. This act provides:

That any person or persons, corporation, or company prosecuting or attempting to prosecute any of the following lines of business within the District of Alaska shall first apply for and obtain license so to do from a district court or a subdivision thereof in said district and pay for said license for the respective lines of business and trade as follows, to wit:

Abstract offices, \$50 per annum.

I will not read all of this list, but will just run over the heads. It includes banks, boarding houses, brokers, billiard rooms, bowling alleys, breweries, bottling works, cigar manufacturers, cigar stores or stands, drug stores, etc. Then, under "Fisheries," I read:

Salmon canneries, four cents per case; salmon salteries, ten cents per barrel; fish oil works, ten cents per barrel; fertilizer works, twenty cents per ton.

That was levied by Congress under this act of 1899, and it was reenacted in the act of 1900. Following fisheries come freight and passenger transportation lines, gas plants, hotels, public halls, insurance agents and brokers, jewelers, mines, and mercantile establishments.

Now, the Territorial legislature has not pretended to levy any taxes upon mercantile establishments, because the same tax is levied in this act of Congress upon mercantile establishments which the legislature of Alaska has levied in its act upon cold-storage plants, and because cold-storage plants were not included in the act of Congress. The act proceeds—I will just run over these heads: meat markets, manufactories not enumerated herein, physicians, planing mills, pawnbrokers, peddlers, patent-medicine venders, railroads, restaurants, real estate dealers and brokers, ships and shipping, saw-mills, steam ferries, toll road or trail, tobaccoists, tramways, transfer companies, taxidermists, theaters, and waterworks.

Now, Congress itself levied that tax and created a license system in Alaska. In 1899—

Mr. GOODWIN (interposing). Those taxes are still levied by act of Congress?

Mr. WICKERSHAM. Yes; and they make up the Alaska fund.

Mr. GOODWIN. And no part of those things are now taxed by the legislature of Alaska, except fisheries?

Mr. WICKERSHAM. Nothing except fisheries. The legislature did that because it was their judgment that the fish canning establishments were not paying their fair proportion of the taxes. They were paying less than one-half of 1 per cent, and the additional tax put upon them by the Territorial legislature did not exceed one-half of 1 per cent, which is the general basis of all these taxing laws in Alaska.

Mr. GOODWIN. How adequate are the revenues arising from the Territorial taxes for carrying on the government?

Mr. WICKERSHAM. They would be adequate if these people would pay their taxes, but they do not pay them.

Mr. GOODWIN. Is there any way by which they can be compelled to pay them?

Mr. WICKERSHAM. They have not paid any of those taxes imposed upon the fisheries by the act of the Territorial legislature, or very little of them. They are all in litigation. Suits were brought against them in the courts of Alaska, and the cases were tried there before Judge Jennings, the United States district judge in Alaska. He is a good lawyer and was appointed by President Wilson. He decided in favor of the Territory upon all the different phases of the matters presented to him in that litigation, and the cases are now on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, in San Francisco. We are waiting from day to day for a decision of the court in that matter.

Mr. GOODWIN. Did all the other people pay the taxes assessed against them, except the fisheries?

Mr. WICKERSHAM. Yes, they did—no, some of the big quartz companies have not paid.

Mr. GOODWIN. And the fisheries refused because the United States Government imposed a tax upon them?

Mr. WICKERSHAM. Yes.

The CHAIRMAN. They refused upon the ground that the Territorial legislature had no jurisdiction of the matter under this proviso:

*Provided*, That the authority herein granted to the legislature to alter, amend, modify, and repeal laws in force in Alaska shall not extend to the customs, internal revenue, postal, or other general laws of the United States, or to the game, fish, and fur-sea laws and laws relating to fur-bearing animals of the United States applicable to Alaska.

I understand that that is the proviso under which it is claimed that the Territorial legislature has no jurisdiction to levy this additional tax.

Mr. WICKERSHAM. That does not take into consideration that other proviso:

*Provided, however*, That this provision shall not operate to prevent the legislature from imposing other and additional taxes or licenses.

Mr. GOODWIN. That does not give the legislature authority to levy taxes upon fisheries or canneries. I do not remember the language, but this provision does not—

The CHAIRMAN (interposing). I simply call your attention to that, but I do not want to express any opinion about it.

Mr. HARDY. Is that the act of 1899 and 1900?

Mr. WICKERSHAM. Yes.

Mr. HARDY. Containing that proviso preventing the legislature from imposing other taxes—

Mr. WICKERSHAM (interposing). You are referring to the act of August 24, 1912. That is a different law altogether.

Mr. BYRNES. Judge Wickersham, I was not here at the last meeting, and that may be responsible for my not understanding the situation. Is it your contention that section 21 of this bill would prevent the Territorial legislature from levying a tax upon the fisheries? Is that your contention?

Mr. WICKERSHAM. Section 21?

Mr. BYRNES. The section you read a few moments ago.

Mr. WICKERSHAM. Yes.

Mr. BYRNES. Now, as to all of the license fees to which you have referred, what relevancy do they have to this provision?

Mr. WICKERSHAM. Because these license fees are fixed by the legislature in this act which I have read to you, and this act now embraces a large amount of other licenses levied upon other property in the Territory of Alaska.

Mr. BYRNES. Do you mean the act of 1915?

Mr. WICKERSHAM. The act of the legislature of 1915.

Mr. BYRNES. And your contention is that this would repeal the act of 1915?

Mr. WICKERSHAM. My contention is that if there is not the authority which they claim for the passage of this act, so far as the fisheries are concerned, then there is no authority for the passage of it at all, and therefore there should be no authority in the legislature to pass acts of this kind.

Mr. BYRNES. But there is no intent or desire expressed here upon the part of anyone to repeal that act or to prevent the Territory of Alaska from levying taxes upon anything other than the fisheries. No one is trying to stop the legislature from levying other taxes. If this does not have that effect, then where is the relevancy of your objection?

Mr. WICKERSHAM. So far as that matter is concerned, what I tried to say once before was that if we have no authority to levy that tax, then we have no authority to levy these other taxes. It is relevant, so far as that is concerned.

Mr. BYRNES. Granting, then, that you have the authority, regardless of the litigation now pending, your contention, as I understand it, is that the passage of this bill would remove that authority?

Mr. WICKERSHAM. So far as the fisheries are concerned; yes.

Mr. BYRNES. All that this bill seeks to do is to take from you that authority only so far as the fisheries are concerned. Now, if that is true, why do you make that argument as to the other businesses?

Mr. WICKERSHAM. Simply because, as I have tried to say two or three times, if we have no authority to levy a tax upon fisheries we

would have no authority to impose other and additional taxes or licenses that do not say anything about fisheries.

Mr. HARDY. I do not think you have made that clear. You are not contending that this bill would affect the legality of the act as to other taxes upon other matters?

Mr. WICKERSHAM. Except fisheries—no; I am not.

Mr. HARDY. You are arguing that your Territorial act is valid?

Mr. WICKERSHAM. Yes. Probably it is not necessary to do that, because that matter is pending in the court.

Mr. CURRY. If the United States Government exercises entire authority over the taxation of fisheries, I do not see how that would invalidate the act of your legislature, so far as other licenses are concerned.

Mr. WICKERSHAM. I did not say that at all.

Mr. BYRNES. My idea is this, that we might even concede that that act levying the tax heretofore upon fisheries was perfectly proper and valid under the laws of the United States and under your Territorial law; but all that this bill seeks now to do is to take away from you the right to levy it hereafter.

Mr. WICKERSHAM. It would do so, undoubtedly.

Mr. BYRNES. Then, the question before this committee is whether it is a wise and proper thing to do. What has been done heretofore and what legislation has been enacted heretofore certainly would have no effect. This would not have any retroactive effect.

Mr. WICKERSHAM. No.

Mr. BYRNES. It would not invalidate your act of 1915?

Mr. WICKERSHAM. Yes; it would, if you repealed the law without a saving clause.

Mr. BYRNES. It would simply apply hereafter.

Mr. WICKERSHAM. I have gone over it very carefully, and the Supreme Court of the United States has decided that question too many times to have any mistake about it. If this bill is passed, as it is now presented to the committee, it would repeal the act of the Territorial legislature so far as these taxes on fisheries are concerned. They would fall—

Mr. BYRNES (interposing). That is the purpose, but I do not see where your argument is relevant, so far as the taxes on these other businesses are concerned, whether you take from Alaska the right to tax fisheries or not.

Mr. WICKERSHAM. I read that section for the purpose of showing that we have a general system of this kind in the Territory of Alaska, and I do not understand why the fisheries of Alaska should not be taxed equally with the other interests in Alaska and by the same law. By the same law, passed by Congress itself, you compel the meat markets, merchants, and everybody else who does business in the Territory of Alaska, to pay a tax of substantially one-half of 1 per cent. Now, this act proposes to remove them—

Mr. BYRNES (interposing). Your contention is that we should not except fisheries and distinguish them from other businesses, and cause all the others to contribute to the expenses of the Territory, while the fisheries would only contribute to the United States fund?

Mr. WICKERSHAM. Yes. Now, Mr. Chairman, the people of Alaska know all about this situation, and I want to call your attention to another phase of it.

Mr. HARDY. Before you leave that part of the discussion, I want to ask you whether this provision in the act of 1906 would have any effect upon your argument. A provision of the act approved June 14, 1906, declares that every person, company, or corporation, carrying on the business of canning, curing, or preserving fish, or manufacturing fish products, within the Territory of Alaska, "shall, in lieu of all other license fees and taxes hereafter pay license fees on their said business output as follows." Then it goes on to prescribe the license fees. That is the act of 1906.

Mr. WICKERSHAM. That is just a repetition, substantially, of the taxes levied by the act of 1899. It is the same tax in practically the same words, but the phrase you read there was, of course, a new one.

Mr. HARDY. "In lieu of all other license fees and taxes theretofore and thereafter." That is in the act of 1906.

Mr. WICKERSHAM. Yes. That, of course, was prior to this act of 1912 creating the legislature, and which they claim gave them authority to do this—

Mr. HARDY (interposing). This act, of course, would not affect the act of 1912, because it is a prior act.

Mr. WICKERSHAM. Yes; that has nothing to do with it.

Now, this matter of taking away from the Territory of Alaska its jurisdiction over the fisheries of Alaska is not a new one to the people of Alaska. I have the honor to represent them, and very briefly I want to call the attention of the committee to some statements made by officials of the Territory of Alaska in respect of this matter. I will be very brief, and the statement I make will go to the point. I want to call attention to the fact that the first bill containing this clause which we object to was H. R. 22264, introduced in the Sixty-second Congress, on March 22, 1912, by Mr. Flood, of Virginia. That was followed by an investigation in the Senate, and I have here a confidential committee print of a Senate bill, which was given to me by one of the Senators. It is marked:

Tentative draft of bill suggested by United States Bureau of Fisheries and the representatives of the various Alaskan fisheries which has been agreed upon and prepared by them jointly after numerous conferences.

Now that was before the Committee on Fisheries in the Senate in the Sixty-third Congress, third session. The Flood bill was reintroduced in the Sixty-third Congress, first session, on April 7, 1913, and is H. R. 153. The Carlin bill, H. R. 21607, was introduced on the last day of the session of the Sixty-third Congress—that is, on the last day of the third session—on legislative day, March 2, and calendar day, March 3. It is substantially the same as the Flood bill, and it is substantially the same as what we know in Alaska as the tentative bill. The Flood bill was reintroduced in the Sixty-fourth Congress, first session, and is now pending before the Committee on Territories. That bill is H. R. 222. That is the same as this bill, with minor changes, and the general objections which go to this bill go to all those prior bills.

Mr. GOODWIN. Does the Flood bill seek to divest the Territorial Legislature of Alaska of authority to tax fisheries?

Mr. WICKERSHAM. Substantially as the bill before this committee now does; yes.

Now, the people of Alaska in convention have denounced this bill, and I have here the most recent denunciation of it by a convention in Alaska, which I would like to put into the record. It reads as follows:

The Democratic Party is opposed to the taxes on business and trade imposed by the National Government within the Territory. This is a function properly belonging to the local legislature, and this restriction should be immediately removed from our organic act. Under present limitations the legislature is compelled to raise the necessary revenues for the administration of the Territory by imposing a double tax on trade and industry. The Alaska Legislature, under the organic act, has no power to enact legislation regarding the game or fish of the Territory. The representatives of the people of Alaska are best qualified to enact laws to protect and preserve our game and fish, and this power should be extended to the legislature. This is a matter of vital importance to every resident of Alaska, and the Democratic Party insists that the people of Alaska should have control over one of its greatest resources and industries and the National Government should restrict its activities to scientific investigation.

Now, a little further down is this statement:

The foregoing are but some of the undemocratic limitations contained in the Wickersham organic act. An enumeration of all the limitations contained in and the shortcomings of this act, designed to deceive the people, would fill a library.

I want to call that to the attention of the committee because it is the most recent platform adopted by the Democratic Party in Alaska, and, as you will discover, they lambasted me because of the limitations in our organic act. Now, I am standing here to-day doing the best I can to convince you gentlemen that they ought not to be there.

Mr. GOODWIN. I thought there was no double taxation, except of fisheries and canneries—

Mr. WICKERSHAM. They have the right under this organic act to make an additional levy of licenses upon all of this property in Alaska.

Mr. GOODWIN. But that has not been done.

Mr. WICKERSHAM. That has not been done except in the instance of canned salmon.

Mr. GOODWIN. Then, why should they complain, if it does not exist?

Mr. WICKERSHAM. That is for you gentlemen to answer. You have heard why they complain about it. They complain of it because they say it is undemocratic. They say I am foisting undemocratic principles upon them out there.

Mr. CURRY. How are the expenses of the Territorial Government met?

Mr. WICKERSHAM. They are met very largely by levying these taxes that I have been talking to you about.

Mr. CURRY. Do these taxes pay the salaries of the governor, the judges, and members of the legislature?

Mr. WICKERSHAM. No, sir; and that has not been done in any Territory. The Federal Government has always paid the salaries of the Territorial officials in every Territory since the first one was organized.

Mr. CURRY. What expenses do you pay from the Territorial taxation?

Mr. WICKERSHAM. We maintain, for instance, at Sitka a charitable home for old people. All of those expenses are paid out of the revenues of the government, and anything that we desire to do in the way of an extension of legislation within the limits of the organic act is to be paid for, of course, by the Territorial legislature.

Mr. GOODWIN. What taxes constitute the school and road taxes?

Mr. WICKERSHAM. As to the road tax, as I told you, 65 per cent of the Alaska fund goes to that, and in addition to that our people are taxed \$8 each. I think it is, for the maintenance of the roads. Every man in Alaska pays the road poll tax, and it amounts to a great deal more than what comes for that purpose through the Alaska fund. Of course our people pay the money that goes into the Alaska fund.

Mr. GOODWIN. From what source does the school tax arise?

Mr. WICKERSHAM. That comes out of the Alaska fund. Of course we have all sorts of government in Alaska: we have more governments in Alaska than you would find in any other region in the world. We have governments by governments or governments controlling governments. We have two or three different school systems in operation in Alaska. The bureau of education has charge of one branch of it, the governor of Alaska has charge of another branch, and still a third branch is in charge of the people of the incorporated towns.

Mr. CURRY. In the incorporated towns the people pay for the public schools?

Mr. WICKERSHAM. Yes.

Mr. CURRY. The United States pays for the schools, does it not?

Mr. WICKERSHAM. No, sir; we pay for them ourselves. That expense is paid out of the Alaska fund, and the people of Alaska pay the money into the Alaska fund. The Government does not pay 5 cents into it. The Government spends it through this commission. We do not get 25 per cent of the value of the road money we pay into the fund, because it is expended by a Government commission that sits around Washington for six months every winter—

Mr. CURRY (interposing). The people of Alaska do not pay the fishery taxes?

Mr. WICKERSHAM. No; but the cannery men of Oregon, Washington, and California pay them.

Mr. HARDY. Have you a sort of general estimate of the total amount of taxes paid by the people of Alaska to this Territorial government? I mean taxes that do not go into the Alaska fund.

Mr. WICKERSHAM. Yes; I have the report of the Territorial treasurer here. I have his statement here and will come to it in a little while.

The CHAIRMAN. We would like to have the statement of the treasurer of Alaska go into the record.

Mr. WICKERSHAM. I have it here and will hand it to you.

(For the report referred to see p. 335.)

Now, you asked me something about the control of the schools and the control of the different governmental functions in the Territory of Alaska. I repeat again that we do not have a systematic arrangement of those things in Alaska. We have one branch of our

educational system under the control of the Bureau of Education, another branch is under the governor, while a third branch is under the control of the incorporated towns. That is true of all the governmental activities in the Territory of Alaska, and very briefly I want to refer to the statement of Secretary Lane about it in his discussion of the subject of "Red tape in the government of Alaska," which is printed in the hearings before the Committee on Territories under the date of June 3-5, 1914, in part 1. He said:

Alaska's problems are largely peculiar to Alaska. Our present system of government there is heterologous. Instead of one government in Alaska, we have a number, interlocked, overlapped, combersome, and confusing.

In their zealously for the particular parts of the public welfare they represent, the long-distance representatives of bureaus located in Washington are apt to lose sight of the fact that they all represent the same interest and purpose.

There is the government of the forests, a government of the fisheries, one of the reindeer and natives, another of the cables and telegraphs. There is a government for certain public lands and forests, another for other lands and forests.

Each of these governments is intent upon its own particular business, zealous of its own success and prerogatives, and all are more or less unrelated and independent in their operation.

Success of the new policy depends very largely upon the administration of the laws in the Territory.

Experience has demonstrated that efficient administration is best secured by centralizing responsibility and authority in the hands of a small number of men, who can be held to strict accountability for the results of their actions.

The proposed development board for Alaska follows this modern and well-tested plan for securing efficient administration.

Mr. GOODWIN. Whose function is that?

Mr. WICKERSHAM. Yours. The Territory can not do it and Congress must do it. Mr. Lane has been calling attention to this defect, and the governor of Alaska and everybody else has been calling attention to it, but we can not get anything done, very largely because of the Bureau of Fisheries. In my judgment, the Bureau of Fisheries is the greatest stumbling block to-day in the development of Alaska.

Dr. SMITH. I would like to challenge that statement. We are simply carrying out the wishes of Congress. You are seeking to make a goat of us because we are carrying out the laws of Congress.

The CHAIRMAN. I think it is manifest that the Committee on Territories has jurisdiction of most of those subjects, and they might get busy and solve some of the problems themselves. This fisheries proposition is quite aside from most of the questions to which our attention has been called, and to my mind it is the easiest of solution. But whether this is the way to do it or not I do not know.

Mr. WICKERSHAM. Mr. Chairman, Gov. Strong, of Alaska, was before the Committee on Territories on May 2, 1916, and this whole matter of the fisheries in Alaska was put up to him at that time. He was interrogated somewhat with respect to it, and especially with respect to the burden which they are groaning about here of having to pay too much taxes. The legislature first considered that and concluded that they did not pay half as much as the people of Alaska paid, and increased their taxes in proportion. Gov. Strong says, on page 84 of part 5 of those hearings—

Mr. HARDY (interposing). What is the date?

Mr. WICKERSHAM. Under date of May 2, 1916. The chairman said to him:

The CHAIRMAN. What do you think of the rate levied upon the mining interests as compared with the rate levied upon the fisheries? Would the same rate be right and proper for each?

Mr. STRONG. As a matter of fact, Mr. Chairman, it is my opinion that the rates levied upon the fisheries are equitable. The fish are there. They are in the ocean. They are there for the taking. The man who develops a mine takes a great many more chances, in my opinion, in securing dividends upon the money he invests than does the man who invests his money in canneries. He has got to develop the mine. He may expend hundreds of thousands of dollars and then the mine may be a failure. I do believe if any discrimination should be made it should be in favor of the mining industries, rather than the fisheries.

Mr. JOHNSON. When the mine has a certain output, however, that can be reached, why should they be taxed one-half of 1 per cent and the canneries 1 per cent? Take the Treadwell mine: that is not an uncertain proposition.

Mr. STRONG. You have got to bear in mind that the revenue laws of Alaska are simply in a process of evolution, and any injustice and inequalities will be remedied. Our revenue laws have never been worked out. They are in the courts. We have never had an opportunity to readjust them, and, if there be inequalities, to eliminate them.

As I said before, and as I want to repeat, I do not believe that the taxes levied by the Territory upon the fisheries industry in Alaska are inequitable. I believe they are quite proportionate, when the privileges enjoyed by the men who take salmon out of the waters of Alaska are fully considered. I do not believe the taxes are oppressive.

Further on the governor said—

The CHAIRMAN (interposing). He was not referring to the act passed by the Territorial Legislature of Alaska which doubles the taxes?

Mr. WICKERSHAM. Oh, yes; he was; he had the whole matter before him, because he approved the act as governor of Alaska.

The CHAIRMAN. Was he referring to that act?

Mr. WICKERSHAM. Yes.

The CHAIRMAN. When was his testimony given?

Mr. WICKERSHAM. Last month, May 2, long after he approved the act of the local legislature. Now, the governor says on the next page:

Mr. STRONG. It is my opinion that as soon as the machinery necessary for the control of the fisheries and their operation could be brought into action that they would be better controlled by the Territory than by the Federal Government, and for this reason: The people of Alaska have a vital interest in the fisheries of the Territory. They are deeply concerned in the conservation of the fisheries, and they are on the ground. They are thoroughly familiar with all the conditions, not only in southeastern Alaska, but in western Alaska, and in the Yukon country. They could give constant attention and constant supervision to the interests of the people of Alaska. I speak advisedly when I say that I believe the wisest legislation that could be enacted for the control and even the government of the fisheries business is this sort of legislation, and I believe it could be equitably demonstrated to be more profitable than under the present system.

I do not want to be understood as criticizing the Bureau of Fisheries. I believe they have done whatever they could under the circumstances. I do not want to be understood as criticizing the control by the Bureau of Fisheries, which they have heretofore exercised. They have done what they could, considering their knowledge of the conditions in that country, and their lack of personnel, due to inadequate appropriations. But those things have combined to make the process not as satisfactory as could be desired.

Then I asked him this question :

Mr. WICKERSHAM. Governor, it is suggested that if the Territorial legislature had control of the fisheries of Alaska these nonresident cannery men coming up from Seattle and other places in Washington, coming from Oregon and California, would not be treated fairly. What do you think about that?

Mr. STRONG. I believe they would be treated just as fairly as any other class of men, in or outside of the Territory of Alaska.

Mr. WICKERSHAM. Do you know, from your experience as governor of Alaska, of any efforts being made by the Legislature of Alaska or by any number of people of the Territory to treat those men unjustly or unfairly?

Mr. STRONG. There has not been a single instance of that kind, so far as I know.

I call that to your attention to show the feeling of those who are responsible for government in Alaska—Secretary Lane, Gov. Strong, and men of that type—who are familiar with the situation up there and who know what ought to be done if anybody does.

Right along that line I have telegrams and letters of all kinds in opposition to this bill. They are from Nome, Fairbanks, and everywhere in the Territory of Alaska, from all classes and kinds of people. Every organization of people up there, every Democratic convention, and every Democrat in the Territory is against this bill and against the principle of it. They are against turning these great interests over to the Fish Trust. I am not going to take the time to read all of those matters, because they can go in the record and need not be read now.

(Said letters and telegrams follow.)

CHAMBER OF COMMERCE.

*Seward, Alaska, January 27, 1916.*

HON. JAMES WICKERSHAM,

*Delegate in Congress, Washington, D. C.*

DEAR SIR: Inclosed herewith please find a copy of a resolution which bespeaks the sentiment of the great majority of the citizens of Alaska.

Anticipating your support,

Yours, respectfully,

SEWARD CHAMBER OF COMMERCE,  
By W. H. JAMES, *Secretary.*

RESOLUTION PASSED BY THE SEWARD CHAMBER OF COMMERCE, JANUARY 26, 1916.

Whereas Secretary of Commerce Redfield has seen fit to recommend that Congress repeal that part of section 3 of the organic act of Alaska allowing the Territorial legislature to lay license taxes on the fishing industry of Alaska; and

Whereas the fishing business is Alaska's largest industry at the present time, and to exempt it from a license tax would compel the legislature to resort to a general property tax for revenue which, under present conditions, would be consumed in the cost of collection; and

Whereas our organic act now contains more restrictions than were ever imposed in the act of any other American Territory: Therefore be it

*Resolved*, That we, the Seward Chamber of Commerce, a representative body of business men of the town of Seward, Alaska, protest against the recommendation of Secretary of Commerce Redfield to Congress to repeal that portion of section 3 of the organic act, as above mentioned; that we hereby insist that instead of any further restrictions being imposed upon the Territorial legislature, the legislature be given additional power; that we feel that we, the citizens of Alaska, are better qualified to take care of Alaska's affairs than any bureau, department, board, or commission which may be at present in charge of Alaskan affairs, or which may be appointed by the Federal Government in the future; that copies of this resolution be forwarded to Secretary of Commerce

Redfield; Hon. James Wickersham, Delegate in Congress; the chairmen of the Committee on Territories of the United States Senate and House of Representatives; the Seattle Chamber of Commerce; and other interested organizations and individuals.

SEWARD CHAMBER OF COMMERCE,  
By LEON C. BOOKER, *President*.

Attest:

W. H. JAMES, *Secretary*.

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NOME, ALASKA, *February 23, 1916.*

HON. JAS. WICKERSHAM,  
*Delegate from Alaska, Washington, D. C.:*

Nome city council protest passage of bills that deprive Territorial legislature of power or revenue. Taking away right to tax fisheries will hamper other undeveloped industries and benefits a trust that does not contribute toward the maintenance of local government any manner, but actually decreasing our resources.

DIAMOND, *Mayor*.

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RESOLUTION PASSED BY THE PETERSBURG COMMERCIAL CLUB FEBRUARY 22, 1916.

Whereas Secretary of Commerce Redfield has seen fit to recommend that Congress repeal that part of section 3 of the organic act of Alaska allowing the Territorial legislature to lay license taxes on the fishing industry of Alaska; and

Whereas the fishing industry is Alaska's largest industry at the present time, and to exempt it from a license tax would compel the legislature to resort to a general property tax for revenue, which, under present conditions, would be consumed in the cost of collection; and

Whereas our organic act now contains more restrictions than were ever imposed in the act of any other American Territory: Therefore be it

*Resolved*, That we, the Petersburg Commercial Club, a representative body of business men of the town of Petersburg, Alaska, protest against the recommendation of Secretary of Commerce Redfield that Congress repeal that portion of section 3 of the organic act as mentioned above; that we hereby insist that instead of any further restrictions being imposed upon the Territorial legislature the legislature be given additional power; that we feel that we, the citizens of Alaska, are better qualified to take care of Alaska's affairs than any bureau, department, board, or commission which may be at present in charge of Alaskan affairs or which may be appointed by the Federal Government in the future; that copies of this resolution be forwarded to Secretary of Commerce Redfield; Hon. James Wickersham, Delegate in Congress; the chairmen of the Committees on Territories of the United States Senate and House of Representatives; the Seattle Chamber of Commerce; and other interested organizations and individuals.

PETERSBURG COMMERCIAL CLUB,  
By LYNN W. MILLER, *President*.

Attest:

T. S. ELSEMORE, *Secretary*.

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NOME, ALASKA, *February 24, 1916.*

HON. JAMES WICKERSHAM,  
*Delegate from Alaska, Washington, D. C.:*

Concerned action on the matter of curtailment of Territorial power to tax fisheries resulted in unanimous protest against said action from citizens of the peninsular city council and the pioneers of Alaska. Have wired and mailed protest to chamber on territories and yourself. Advise if additional action desired.

NOME-SEWARD PENINSULAR CHAMBER OF COMMERCE.

NOME, ALASKA, *February 19, 1916.*

HON. JAMES WICKERSHAM,

*Delegate from Alaska, Washington, D. C.:*

Pioneers of Alaska at Nome unanimously oppose the exclusion of the Alaska fish industry from Territorial taxation. Maintenance of Territorial government difficult if National Government appropriates our sources of revenue. Heartily indorse your opposition to Alexander bill. Advise us if we can be of any service to you.

PIONEERS OF ALASKA, COMMITTEE ON RESOLUTIONS.

FAIRBANKS, ALASKA, *February 5, 1916.*

HON. JAMES WICKERSHAM,

*Delegate from Alaska, Washington, D. C.:*

The Fairbanks Commercial Club by resolution protest against passing of the proposed amendment of section 3 of enabling act wherein it is attempted to take the power from the Alaska Legislature to levy taxes on fisheries in Alaska. Copy of foregoing sent chairman of Committee on Territories. Fisheries also refiled.

FAIRBANKS COMMERCIAL CLUB.

Mr. WICKERSHAM. I have here a letter, however, Mr. Chairman, from the attorney general of Alaska, who is an appointee of Gov. Strong and who is conducting all of this litigation in behalf of the Territory of Alaska against these cannery men who won't pay their taxes. He wrote a letter on December 30, 1915, to Judge Houston, chairman of the Committee on Territories, and I want it to go in the record. I think I will read it to you; it is not long and it takes up this matter of taxation. I am going to deal with that first and then the matter of monopoly:

DECEMBER 30, 1915.

HON. W. C. HOUSTON,

*Washington, D. C.*

DEAR SIR: Secretary Redfield in his report to the Congress strongly recommends the repeal of that portion of section 3 of the organic act of the Territory of Alaska (act of Aug. 24, 1912) permitting the Territorial legislature to lay a license tax upon the fishing industry in Alaska. This is a matter of very great importance to the people of this Territory, and such must be my excuse for troubling you with this letter.

I shall not take up in details the arguments advanced by the honorable Secretary in favor of the proposed repeal. The gist of it is that he fears such hostile legislation from the Territorial legislature as will render unprofitable or destroy the fishing business. To this, it is hardly necessary to point out, there are two complete and sufficient answers.

First. That the people of Alaska are vitally interested in the preservation of the fisheries as their greatest industry and one of the most permanent sources of future wealth and development. They, above all others, are most interested in its preservation. And, with all due respect to the honorable Secretary and the Bureau of Fisheries, the people of Alaska, at least on the coast, understand the problems involved far better than does the department or the bureau.

Second. Any bill passed by the legislature injurious to the fishing industry could be either vetoed by the governor or disapproved by the Congress.

Now, let me state as briefly as I can the Territory's side of the question. As I said before, the fishing business is our largest industry, the products from which approximate \$20,000,000 in value annually. To deny the right of the Territory to tax it will result in largely increasing the amount of taxes that must be paid by the rest of the people. In short, the just proportion of maintaining a Territorial government properly chargeable to the fishermen will be borne by others. If such a situation is to be brought about, I believe the people of Alaska would prefer that the Congress at once repeal the organic act and put us back where we were for so long—governed by bureaus and carpetbag appointees, aided by such little attention as the Congress, with its multiplicities of duties and necessary want of first-hand information, could give us. As it

stands, the organic act contains more restrictions upon the powers of the legislature than were ever inserted in the organic act of any other Territory. And to have those restrictions still further increased at the recommendation of a bureau 5,000 miles away on the ground, principally, that we would deliberately or ignorantly destroy our greatest asset and that we need the protecting care of that bureau would add only insult to injury.

The people of Alaska need no such protecting care. They are composed of the people of your State and of every State represented in the Congress—Americans all—with the American love of self-government, and the American desire to work out their own problems and their own destiny; and I might add, the American dislike of bureaucracy. If given the chance by Congress we will do that; if we make mistakes, as no doubt we will, we ourselves will be the first to feel and see them, and ourselves will correct them in the good old American way, and as the States from Maine to California and from Washington to Florida have done, and grown the stronger and better for it.

Now, a few words as to the method of taxation employed.

One of the most serious problems confronting the Alaska Legislature was to devise a system of revenue. The organic act empowered both the laying of license taxes and a general property tax, the latter not to exceed one per cent upon the valuation. Owing to the vast area of Alaska, its scattered population, and the difficulty and expense of travel, it was decided by the legislature that a general property tax was for the present impracticable, it being estimated that the collection of such a tax would cost 60 per cent of the whole tax levied. We were familiar, however, with the system of license taxes in force under the acts of Congress for the past 17 years. The collection of such a tax, it was estimated, would not exceed 5 per cent of the taxes levied.

It was further found that under such a system the taxes would fall principally upon those industries best able to bear the burden. A bill was accordingly introduced, modeled largely upon the aforesaid acts of Congress. In fixing the schedules, the matter of the tax on the fisheries was referred to Mr. J. R. Heckman, a member of the house of representatives, and for many years connected with the Alaska Packers' Association, the largest concern of the kind in Alaska, if not in the world. The rate finally agreed upon and to which Mr. Heckman assented as fair and just, was 4 cents per case on the red and king, the highest priced grade of fish; 2 cents per case on pinks, the second grade; and 1 cent per case on all the other and cheaper grades; \$100 per annum on fish traps, and \$1 per 100 fathoms of gill net. This tax will produce approximately \$100,000 per annum from an output of approximately \$19,000,000 worth of fish, or a shade over one-half of 1 per cent. And it is this tax which the honorable Secretary fears will destroy or render unprofitable the fishing industry of Alaska.

If the Congress should pass the amendment recommended, it would inevitably compel the next legislature to resort to a general property tax at the maximum rate, and unless Congress forbade the taxing of the property of the cannerymen also, they would still pay as much, if not more money in taxes than they do now, and at least half of it would be consumed in expenses and do no good to either the Territory or the fishing industry. Yet surely the Secretary would not insist that millions of dollars worth of property in the Territory be entirely exempted from Territorial taxation.

I fully concur in what the honorable Secretary has to say of the objections to double taxation for local purposes; but the remedy is not to deprive the people of Alaska of the power of raising revenue for their local needs, but for Congress to repeal the license-tax law of 1898, thereby remitting to the Territory the entire subject of local taxes, where it legitimately belongs under our system of government.

I hope you will pardon me the liberty I have taken in addressing you at some length; but the question seemed to me to be so important, so fraught with potential evil for the people of this rapidly growing Territory, that I deemed it a duty to protect and to do whatever I could to prevent the legislation recommended by the honorable Secretary.

I am, sir, very truly, yours,

J. H. COBB,

*Chief Counsel for the Territory of Alaska.*

MR. CURRY. Did I understand you some time ago to say that the poll tax in Alaska was \$6?

MR. WICKERSHAM. Yes, sir; I think so, although it may be \$4.

Mr. ALDRICH. The poll tax has been repealed.

Mr. WICKERSHAM. The Territorial tax is repealed; but the congressional tax, has that been repealed?

Mr. ALDRICH. The first legislature of 1913 repealed it.

Mr. WICKERSHAM. It was repealed in 1913. It was in force, then, from 1899 to 1913.

Mr. ALDRICH. Yes.

Mr. WICKERSHAM. It was in force for 14 years.

The CHAIRMAN. You do not pay any poll tax at all in Alaska?

Mr. WICKERSHAM. Apparently not. It was \$8 when it was repealed.

Mr. CURRY. It is a good thing you repealed it.

Mr. WICKERSHAM. Well, immense sums were gathered from it and put into roads.

Mr. CURRY. But you should tax property and not men.

Mr. WICKERSHAM. I agree with you, but that is the way it was done; it was a tax put on by Congress and the Legislature of Alaska repealed it.

Mr. CURRY. Was that poll tax, which you say the United States Government levied, carried in the organic act?

Mr. WICKERSHAM. Yes. It was levied by an act of Congress passed in 1904. Congress levied a poll tax of \$8 on every person in Alaska.

Mr. ALDRICH. Outside of incorporated towns?

Mr. WICKERSHAM. Yes; outside of incorporated towns. We have here before us at least one gentleman—

Mr. GOODWIN (interposing). Before you conclude your statement I would like to know, and I suspect the committee would like to know, something about the so-called trust up there, or monopoly.

Mr. WICKERSHAM. Yes; I will get to it in a very short time.

Mr. GOODWIN. And what evidence and proof there is of that.

Mr. WICKERSHAM. I will get to it in a very brief space of time. There is at least one gentleman here from Seattle doing all he can to get this bill passed through this committee and through Congress, but the business interests of Seattle are opposed to this bill. I want to call your attention to just two letters from two organizations representing the greatest business interests of the Pacific coast in opposition to this bill. The first one is from the Seattle Commercial Club, the largest commercial organization of that kind, I suppose, in that northwest country. The letter is dated December 18, 1915, and reads as follows:

DECEMBER 18, 1915.

HON. JAMES WICKERSHAM,

*United States Congress, Washington, D. C.*

MY DEAR MR. WICKERSHAM: We take much pleasure in informing you that the Seattle Commercial Club, in regular session Tuesday evening, December 14, unanimously indorsed your stand in matters now pending before Congress. I am taking the liberty of inclosing you marked copies of our weekly bulletin relative to the same. Now, should there be any particular piece of legislation you would like to have our organization "get behind" other than the things we have referred to, you would have but to call our attention to the same.

Expressing the hope that you may enjoy all the blessings of the season, we remain,

Very truly, yours,

SEATTLE COMMERCIAL CLUB,  
OTTO A. CASE,

*Executive Secretary.*

And the record referred to is this:

PROTECTING ALASKA'S FISHERIES.

Indorsing Delegate Wickersham's action in opposing the Jones bill, now known in Congress as H. R. 21607, the club Tuesday night went on record as opposing any legislation which seeks to grant perpetual fishing rights along the coast of Alaska. The ground for such opposition is that such rights would be detrimental to the interests of permanent settlers in the Territory and would be to the benefit of a few instead of the many.

The fact that the people of Alaska returned Mr. Wickersham as Alaska's Delegate by a very heavy vote is sufficient proof of their indorsement of his policy in the matter, as it is well known that he has fought the perpetual right men at every stage of the game. Over a year ago Mr. Wickersham delivered a speech before the club in which he outlined his position on the subject. The club has upheld him in his Alaska policy ever since that time and will continue to do all within its power to aid him in his fight to prevent the tying up, for private benefit, of the natural resources of the northland.

It is to that particular part of it I want to call your attention. The Seattle Chamber of Commerce, which is the other big organization in the State of Washington, adopted this resolution:

ALASKA ENTITLED TO FULL MEASURE OF TERRITORIAL GOVERNMENT.

Whereas the national resources of Alaska are now administered by numerous bureaus of the Government, under the direction of officials unfamiliar with conditions in Alaska, which has resulted in inefficiency, confusion, and curtailment of the development of Alaska: It is hereby

*Resolved by the Alaska bureau of the Seattle Chamber of Commerce,* That the administration of all national resources in Alaska, other than those of scientific research, should be placed in a board resident in Alaska: it is further

*Resolved,* That Congress be urged to grant to the people of Alaska as full a Territorial form of government and measure of home rule as was granted to our other Territories.

Adopted by the Alaska bureau, Seattle Chamber of Commerce, March 13, 1916.

J. L. McPHERSON, *Manager.*

Adopted by trustees of Seattle Chamber of Commerce, March 28, 1916.

C. B. YANDELL, *Executive Secretary.*

I call your attention to those because the people of the whole coast are in opposition to this effort to monopolize and control these fisheries.

You want to know something about the monopoly up there. I will tell you about it right now. But before I do that, Mr. Chairman, let me just call your attention to this one other matter. It was said before the Committee on Territories that canned salmon is one of the great food supplies of this country which has never increased in price; that the price to the people has always been maintained at about the same figure and never changed. That was substantially the statement made. I have here Bulletin 181, issued by the United States Department of Labor, Bureau of Labor Statistics, Royal Meeker, commissioner, which gives the wholesale prices of various commodities. It is a bulletin issued in the wholesale-price series and covers the period from 1890 to 1914. On page 137 is fish, canned salmon. It starts in with the year 1890, and the average price per dozen cans is given at \$1.64 and a fraction. Upon the basis of 100 the relative price is 111.4. It runs year by year from 1890 at \$1.64 to \$2.22 in 1914. I want to put that in the record without reading it

any further to the committee. It proves that the price of canned salmon is going up steadily, year by year, although these people do not pay one cent more tax than they paid in 1899, except the tax levied by the Territorial legislature, which has not been paid.

Mr. HARDY. Did the price of canned salmon go up during the year 1907 and along in that period of depression?

Mr. WICKERSHAM. In 1906 the price was \$1.68, in 1907 it was \$1.66, in 1908 it was \$1.92, in 1909 it was \$1.70, in 1910, 1.74, in 1911 it jumped to \$2.10, and in 1914 it was \$2.22.

Mr. GOODWIN. Is that per case?

Mr. WICKERSHAM. No; that is by the dozen cans.

Mr. GOODWIN. \$2.22?

Mr. WICKERSHAM. Yes; per dozen cans.

Mr. GOODWIN. How many cans are contained in a case?

Mr. WICKERSHAM. There are 48 cans in a case.

Mr. GOODWIN. Of 1 pound each?

Mr. WICKERSHAM. Yes.

Mr. WARREN. That means the jobber's price, does it not? It does not mean the price at which the canners sold, because the highest price at which salmon has sold at any time is \$2.10 a dozen for a special brand, so that those figures could not be correct from the canner's standpoint.

Mr. WICKERSHAM. I have this letter from the Bureau of Labor Statistics of the Department of Labor, under date of March 25, 1916:

MARCH 25, 1916.

HON. JAMES WICKERSHAM,

*Delegate from Alaska, Washington, D. C.*

MY DEAR MR. WICKERSHAM: In response to your request by telephone and your letter of March 24, asking for information regarding the prices of canned salmon carried in the Wholesale Price Bulletin, issued by the Bureau of Labor Statistics, I am inclosing a table showing month by month price fluctuations for the years 1914 and 1915 of Columbia River Chinook fancy and Alaska red salmon.

We have carried Chinook fancy ever since 1890, but this year the dealers informed us that Chinook fancy is no longer the predominant brand and advised that we carry instead Alaska red. We have accordingly substituted Alaska red for Chinook fancy and have obtained prices running back through 1914.

The list price of Alaska red salmon is considerably lower than the list price of the Chinook fancy. Assuming that the relative price of Alaska red in 1914 was the same as the relative price of Chinook fancy, namely, 151, you will see that the relative price in 1915 has gone up to 155.1, while the relative price for December, 1915, is 168.1. The figures certainly show that the Alaska red is a much more active commodity than Chinook fancy, as the price fluctuates considerably and has a strong tendency upward. Chinook fancy is evidently a high-priced article that is not consumed widely and, therefore, has remained constant in price since the beginning of 1913. All the evidence goes to show that Alaska red reflects accurately the conditions of the market for canned salmon, whereas Chinook fancy reflects nothing at all.

Unfortunately, all of the material that I had gathered together bearing upon the salmon industry of Alaska was turned over to Mr. Squires when he was sent to Alaska on the wage dispute on the Government railroad being constructed there.

I think it would repay you to make inquiries at the Department of Agriculture. If my memory serves me right, a very useful bulletin dealing with the salmon industry has been issued by one of the bureau of that department.

Hoping that the information I submit may be of use to you, I am,

Yours, sincerely,

ROYAL MEEKER,  
*Commissioner of Labor Statistics.*

With that is inclosed a table in relation to canned salmon, compiled from quotations published on the first of each month by the Journal of Commerce and the Commercial Bulletin, New York City, and this table shows that as to the Alaska reds the price fluctuates considerably, as he says, but beginning in January, 1913, it was \$1.3375 and in December, 1915, \$1.625.

(Said table follows.)

*Canned salmon.*

[Compiled from quotations published on the first of each month in the Journal of Commerce and Commercial Bulletin, New York City.]

Year and month.	Columbia River, Chinook fancy, talls, ls.		Alaska, red.		Year and month.	Columbia River, Chinook fancy, talls, ls.		Alaska, red.	
	Average price per dozen cans.	Relative price.	Average price per dozen cans.	Relative price.		Average price per dozen cans.	Relative price.	Average price per dozen cans.	Relative price.
1914.....	\$2.2250	151.0	\$1.4604	151.0	1915.....	2.2250	151.0	1.5000	155.1
January.....	2.2250	151.0	1.3375	138.3	January.....	2.2250	151.0	1.4750	152.5
February.....	2.2250	151.0	1.3500	139.5	February.....	2.2250	151.0	1.4750	152.5
March.....	2.22.0	151.0	1.3500	139.5	March.....	2.2250	151.0	1.4750	152.5
April.....	2.2250	151.0	1.3375	138.3	April.....	2.2250	151.0	1.4750	152.5
May.....	2.2250	151.0	1.4500	149.9	May.....	2.2250	151.0	1.4250	147.4
June.....	2.2250	151.0	1.4750	152.5	June.....	2.2250	151.0	1.4500	149.9
July.....	2.2250	151.0	1.4750	152.5	July.....	2.2250	151.0	1.4500	149.9
August.....	2.2250	151.0	1.4375	148.6	August.....	2.2250	151.0	1.4750	152.5
September.....	2.2250	151.0	1.6125	166.7	September.....	2.2250	151.0	1.5375	159.0
October.....	2.2250	151.0	1.6125	166.7	October.....	2.2250	151.0	1.5750	162.8
November.....	2.2250	151.0	1.6125	166.7	November.....	(1)	(1)	1.5625	161.6
December.....	2.2250	151.0	1.4750	152.5	December.....	(1)	(1)	1.6250	168.1

<sup>1</sup> No quotation for month.

Mr. GOODWIN. To what do you ascribe that increase in price—to the arbitrary will of the so-called monopoly?

Mr. WICKERSHAM. Absolutely. I conducted the hearings before the Fisheries Committee in the Senate. You have a copy of them here, Mr. Chairman. Those hearings were held something like three years ago.

The CHAIRMAN. 1912, I think.

Mr. WICKERSHAM. Four years ago. They put the New York manager for J. K. Armsby on the witness stand for the Alaska Packers' Association, which is one of the big trusts in Alaska fish. Mr. Aplin testified that he ran a big business as the seller of canned salmon and as the representative of the Alaska Packers' Association in New York. Mr. Warren told you a little while ago about the opening price, and I asked Mr. Aplin who fixed the opening price, and he said he did. It is all in his testimony in that hearing.

I asked him how he fixed it. He said he took into consideration the output of salmon, and went on to tell that he consulted with the Alaska Packers' Association and its people, and determined what he thought ought to be a fair price, and that he then fixed that price for them. I asked him if he fixed it the year before or the second year before that—I am not quite sure, but I will call your attention before I am through to the exact evidence—and he said "Yes." I asked him how much canned salmon the Alaska Packers' Association

had that year, and he told me that they had a large quantity of reds but they had only a few of the cheaper varieties or very little. Then, I asked him to tell the price he fixed on reds. He said he fixed the price very high on reds and fixed the price very low on all the other canned salmon, and every one of the little canned-salmon men in Alaska went busted that year because of the price fixed by J. K. Armsby for the Alaska Packers' Association. That is the first story of the trust in Alaska, and that is the way they do things.

Mr. GOODWIN. During this period of increase in price was there any increased demand for fish or any decreased supply of fish?

Mr. WICKERSHAM. Oh, they sell all they can put out.

Mr. GOODWIN. Was the demand greater than it had been and the supply less than it had been?

Mr. WICKERSHAM. I do not know, but they sell all of it, because the price is constantly increasing.

Mr. GOODWIN. At the outset of your statement you said you objected to this bill not only because it would deprive the legislature of the right and power to tax the fisheries of Alaska, but for the additional reason that the bill seeks to turn over the fisheries of that country to the Fish Trust.

Mr. WICKERSHAM. Yes.

Mr. GOODWIN. So far as I am concerned I should like to hear you upon that proposition—how this bill seeks to do that?

Mr. HARDY. I know you are going into that subject anyhow, and while you are on this point of supply and demand I want to ask you this question: Is it not a fact that the production of fish in Alaska is increasing every year and that in the last statistical year they had an output of some twenty millions?

Mr. WICKERSHAM. Yes, sir.

Mr. HARDY. Does not that indicate that the supply is rather tending to increase?

Mr. WICKERSHAM. Yes; I think it does.

Mr. HARDY. Do you know whether the supply has been increased or decreased in the last few years?

Mr. WICKERSHAM. They have been increasing the output.

Mr. HARDY. That is, the supply to the market?

Mr. WICKERSHAM. Yes.

Mr. GOODWIN. Has the demand been increased?

Mr. WICKERSHAM. I judge so, because the price has increased.

Mr. GOODWIN. Of course, the higher the price the less the consumption.

Mr. WICKERSHAM. I do not think there is any difficulty in selling all of it.

The CHAIRMAN. We have antitrust laws galore. Do you think the Legislature of Alaska would be any more potential in destroying the fish trust than would the Government itself?

Mr. WICKERSHAM. Yes; I do, because the Government has left there for 25 years a situation which has induced monopoly.

The CHAIRMAN. You have the Territorial courts and you have the laws; why do you not get busy and oppose the trust?

Mr. WICKERSHAM. Well, because Congress has the absolute control and has the responsibility, and everything, upon its shoulders.

The CHAIRMAN. Oh, no.

Mr. WICKERSHAM. Yes; you have. You appoint every one of the officials; they are your officials, they are not ours; you appoint the governor; you appoint the United States district attorney; you appoint everybody up there; you pass the laws; and you especially restrain us from passing any. Now, you want to know something about the trust. I have here an indictment against the Booth Fisheries Co., and I am only going to read the caption:

United States of America, plaintiff, *v.* Booth Fisheries Co., a corporation organized under the laws of the State of Delaware; Booth Fisheries Co., organized under the laws of the State of Washington; the Chlopeck Fish Co. (Inc.), a corporation organized under the laws of the State of Washington; International Fisheries Co., a corporation organized under the laws of the State of Washington; San Juan Fishing & Packing Co., a corporation organized under the laws of the State of Washington; Occidental Fish Co., a corporation organized under the laws of the State of Washington; A. B. Carpenter, W. T. Chutter, William Calvert, jr., H. O. Roberts, and W. J. Maddock, the Christian names of each of said persons being to the grand jurors unknown, defendants.

This indictment was found in the May term, 1914, No. 2791, in the United States District Court for the Western District of Washington, Northern Division. It is signed by Hon. Clay Allen, who is the Democratic United States district attorney, appointed by Mr. Wilson. He is a good lawyer, a good official, and he wants to do his duty all the time, but he can not do it.

The CHAIRMAN. What is the obstacle in his way?

Mr. WICKERSHAM. I will read what is the obstacle in the way from Mr. Allen's letter. In a letter addressed to me on December 31, 1915, which I will exhibit to the committee—

The CHAIRMAN (interposing). Is that the district attorney's letter?

Mr. WICKERSHAM. Yes; I do not want to put it all in the record, but I will exhibit it to the committee. In the letter he says:

If I could convince myself that the hazard of a criminal trial in this community, with its possible or even probable results, would have the effect of doing a great good, which you profess to see in that result, I would probably reach the conclusion which you have, that the criminal case should be tried, without further consideration of the plan which I have outlined to you. As suggested in my former letter, I know this community in the same close and intimate way you are acquainted with Alaska. I have already been through one of the navy yard cases lasting 20 days; the Munday case, which lasted 28 days; and the Tape case, which dragged its weary length over 20 days; and I know just the extremes to which powerful interests in this community can and will go to prevent a fair and impartial trial of a case of the importance which the Booth case would be to them.

The CHAIRMAN. What community does he speak of?

Mr. WICKERSHAM. Seattle, Wash. That is where this Fish Trust has its headquarters; that is exactly where the Booth Fisheries has its big headquarters, although it has tentacles all over the United States and in Canada. It is a great Fish Trust.

Mr. GOODWIN. Could not this Fish Trust be indicted in the Territory of Alaska, where jurisdiction would obtain?

Mr. WICKERSHAM. I do not know that the courts in Alaska have jurisdiction, because its headquarters are in Seattle.

Mr. GOODWIN. He claims that owing to powerful interests he can not get fair and impartial trials.

Mr. WICKERSHAM. Yes. All of these companies reside at Seattle and their business is all conducted from there; the trust is there.

They manage the fisheries of Alaska from Seattle and not from Alaska.

Mr. GOODWIN. If the indictment had been drawn in Alaska and jurisdiction obtained there instead of Seattle, could there have been a conviction in Alaska rather than at Seattle?

Mr. WICKERSHAM. I do not know; but we would arrange our laws in Alaska so that there would not be that situation.

The CHAIRMAN. Let us look at it from a practical standpoint. If you were to prosecute in Alaska, they would still have their offices in Seattle, as they do now. If they have their canneries in Alaska and their agents in Alaska, why can they not be indicted in the courts of Alaska and tried before Alaskan juries? Why can not that be done?

Mr. WICKERSHAM. Because the combination is at Seattle. The Chlopeck Co., for instance, does not do business in Alaska; these various other concerns do business at Seattle, but they do the Alaska fishing business. This refers only to the halibut fisheries.

The CHAIRMAN. It is your opinion, then, that the courts of Alaska would not have jurisdiction to prosecute this trust?

Mr. WICKERSHAM. It is, because the members do not reside there and the jurisdiction is not perfected in Alaska; it is in Washington.

The CHAIRMAN. Although their business is in Alaska?

Mr. WICKERSHAM. Yes, sir.

Mr. GOODWIN. Suppose Congress should divest itself of this power and turn it over to Alaska, in what way could Alaska reach the trust?

Mr. WICKERSHAM. You can not divest yourself of all the responsibility, because under the Constitution you have control of the Territories.

Mr. GOODWIN. I mean so far as levying taxes on the fisheries, in what way could you reach the trust?

Mr. WICKERSHAM. We could indict them the same as in the city of Seattle.

Mr. GOODWIN. You say that they have their habitat in Seattle and that jurisdiction would not attach to Alaska?

Mr. WICKERSHAM. That is true in this case, I think.

The CHAIRMAN. Suppose Congress should just turn over the entire jurisdiction to the courts of Alaska, how would you get jurisdiction of the trust if it had its habitat in Seattle?

Mr. WICKERSHAM. You would not.

The CHAIRMAN. You would not be in any better situation?

Mr. WICKERSHAM. No; but the United States District Court of Alaska can indict the trust the same as the district court in Seattle. They do not have their habitat there; they live in Seattle or Portland.

Mr. HARDY. What does the habitat mean—if they have a habitat or no habitat they can be brought to trial?

Mr. WICKERSHAM. The indictment connected with this Fish Trust shows that it is just as close as the threads of a ball are woven. They were indicted up there, but—

Mr. GOODWIN (interposing). Does all this mean that the Government of the United States and of the Territory of Alaska are futile in the hands of the trust and that there is no remedy?

Mr. WICKERSHAM. It does not mean that there is no remedy.

Mr. GOODWIN. It is a deplorable state of affairs?

Mr. WICKERSHAM. Yes, sir. If this committee will study the situation in Alaska as Secretary Lane and the governor of the Terri-

tory and everybody who knows the situation in Alaska, they would appreciate that it is the worst possible government in the world.

Mr. GOODWIN. If the courts are powerless, what remedy would you suggest?

Mr. WICKERSHAM. The courts are not powerless. We are getting far afield of what I was going to say.

The CHAIRMAN. As I understand, the courts and juries are under the influence of the trust, and hence the Government is impotent to enforce the law?

Mr. WICKERSHAM. I did not say anything of that kind.

The CHAIRMAN. That is what the attorney seems to suggest with reference to the courts in Seattle.

Mr. WICKERSHAM. I read you exactly what he said.

The CHAIRMAN. That is what I inferred.

Mr. CURRY. Do you think that in the city of Seattle, with 200,000 or 300,000 pretty good American citizens, that it is impossible for the United States Government to secure a fair prosecution of the Fish Trust or anything else? The district attorney is appointed by the President of the United States, the judge is appointed by the President of the United States, and the officials who go and bring in the jurors are United States officials, and with between 200,000 and 300,000 pretty good American citizens do you believe that they can not get a jury that will do justice?

Mr. WICKERSHAM. I have lots of confidence in the people, but the trust representatives are both cunning and powerful.

Mr. CURRY. And how about the district attorney?

Mr. WICKERSHAM. I can tell you all about that when I learn what this committee does with this bill.

Mr. CURRY. The district attorney, the judge, and the men who go out and draw the jury are corrupt men?

Mr. WICKERSHAM. I did not say anything of that kind; you are saying all of that.

Mr. CURRY. You did say that they could not secure a conviction?

Mr. WICKERSHAM. I did not say that; I read from the letter of the United States district attorney who has the matter in charge.

Mr. GOODWIN. Has there been any case showing the supremacy of the trust and the impotency of the courts upon which the district attorney predicates that letter?

Mr. WICKERSHAM. He mentions that in what I read to you.

Mr. BYRNES. With the increase in the price of gasoline, following the dissolution of the Standard Oil Trust, do you think that if they should dissolve the Fish Trust the price of salmon would go up?

Mr. WICKERSHAM. You gentlemen are arguing. You know all about trusts, and how vigorously they grow, as well as I do.

Mr. HARDY. While the body of the people may be good, and probably the officers are earnest in their efforts to enforce the law, secret influences catch a man, and you do not know when they make up a jury whether it contains a representative of the trust or not.

Mr. WICKERSHAM. And you do not know when you have them right around this table whispering into your ear.

Mr. GREENE. Who is the district attorney?

Mr. WICKERSHAM. Mr. Clay Allen.

Mr. GREENE. How long has he been in the office?

Mr. WICKERSHAM. He was appointed by Mr. Wilson.

Mr. GREENE. He should be the man to prosecute that trust, because the Democratic Party claims that it is the great enemy of the trusts.

Mr. WICKERSHAM. It was the same under the Republican Party as it is under the Democratic Party—it has never changed.

In the midst of the indictment is this statement:

That the purposes to be effected by said unlawful conspiracy were—

(a) To control and limit the supply and to control and depress the price of halibut shipped in boxes from Alaska to the markets of Seattle and Tacoma, Wash.

(b) To control and limit the supply and depress and otherwise control the price of halibut produced by the defendants and independent fishermen and offered in the halibut markets of Seattle and Tacoma, Wash.

(c) To control the price paid by independent halibut brokers by making exorbitant and unreasonable bids against the independent brokers from time to time.

(d) To control the price paid for halibut by the refusal to bid against the other defendants herein and by the offer of collusive and fraudulent bids among themselves.

(e) To control the distribution of halibut in the markets of the cities of the several States by concealment of stock ownership and control among themselves and by the maintenance of pretended competition.

(f) To control the prices paid by offering for sale from time to time, in the several States, halibut purchased and obtained by collusive bids and offered in competition with halibut purchased under normal conditions of trade.

(g) To control the prices paid and refraining from good faith competition in the markets severally allotted by agreement among themselves.

(h) To control the halibut markets in the cities of the several States by intimidation and coercion of independent brokers to maintain and support prices fixed by themselves.

And on the very last page the indictment winds up:

And the grand jurors aforesaid upon their oaths do further present that each and all of the several acts of the several defendants herein set forth was with the common purpose, design, intent, and effect of unlawfully and unreasonably restraining the commerce of the United States and between the several States, the Dominion of Canada, and the Territory of Alaska within the meaning of the act of Congress of the United States of July 2, 1890, the same being chapter 647, Twenty-sixth Statutes at Large, page 209, and being entitled "An act to protect commerce against unlawful restraints and monopolies," first herein more particularly mentioned, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

CLAY ALLEN,

*United States District Attorney.*

Mr. GREENE. What is the date of that indictment?

Mr. WICKERSHAM. It was filed in the May term, 1914, and it is indictment No. 2791.

Mr. GOODWIN. That case has not yet come to trial?

Mr. WICKERSHAM. No.

The CHAIRMAN. That is in the United States district court at Seattle?

Mr. WICKERSHAM. Yes.

Mr. HARDY. If I understand the purport of the letter you read from Mr. Allen, you had been suggesting to him to bring that case to trial, and he wrote that letter as his reason for not wanting an immediate trial?

Mr. WICKERSHAM. Yes. The reasons seem to me to be very good. The members of the committee can examine that letter if they wish to do so.

Mr. CURRY. For my information, and also for the information of the other members of the committee, has that trial been postponed at the request of the defendants or of the Government?

Mr. WICKERSHAM. That I do not know.

Mr. CURRY. The indictment refers to salmon fisheries?

Mr. WICKERSHAM. No; halibut alone. These same people put up more than 600,000 cases of salmon per annum.

Mr. CURRY. They were not indicted on account of the salmon?

Mr. WICKERSHAM. No, sir. They have escaped on that so far, but they are just as guilty on that as on the other; there is absolutely no question about that.

Mr. HARDY. I do not want you to omit or overlook the proposition under which you maintain that the result of this law would be to help formulate the trust?

Mr. WICKERSHAM. That will come right along in a minute, just as soon as I can get more evidence in relation to the trust before you.

The Northwestern Fisheries Co., which belong to the Booth Co. now, in 1913 put up 311,727 cases of salmon—kings, reds, chums, pinks, and bluebacks—in Alaska. In addition, they now own the Gorman and other Alaska canneries.

Mr. Chairman, in Poor's Manual of Industrials, 1915, is a statement made by the Booth Fisheries Co. which I want to put into the record, because it goes to the point of showing the combination and the purchases of these salmon canneries in Alaska which is going on all the time. The Booth Fisheries Co. is the greatest Fish Trust in the world. It is buying the salmon canneries in Alaska now. It has its maps made and filed either in the Department of Commerce or in the recorder's office in Alaska, or it is in possession of so many of these fishing sites in Alaska that if this bill shall pass it will assume at once a substantial control and ownership of the trap sites in Alaska, which means the fisheries of Alaska. That is the purpose for which I am calling attention to this matter.

On page 172 of Poor's Manual, under the head "Booth Fisheries Co.," it says:

Incorporated May 10, 1909, in Delaware; became purchasers at receiver's sale of all assets of A. Booth & Co., Chicago, Ill., formally taking possession thereof on May 24, 1909. The company is engaged in buying and selling, at wholesale and retail, fish, oysters, and all sea foods, and has a large fleet of fishing boats on the Great Lakes and Pacific Ocean. The company operates in over 70 cities of the United States, including New York, Philadelphia, Baltimore, Boston, Pittsburgh, Cincinnati, Chicago, Detroit, Cleveland, St. Louis, St. Paul, Minneapolis, Denver, and Duluth. Owns four public cold-storage plants and also cold-storage plants for the freezing and curing of its own fish at nearly all of its branches. Owns real estate and buildings in several cities upon which its branches and cold-storage plants are located, 117 steamships, tugs, etc., and 571 sailing boats, barges, etc.

I am calling this to your attention in order to show that the Booth Fisheries Co. is not one of the small concerns which does not seem to be in favor.

On April 1, 1911, purchased the entire capital stock and assets of the Northwestern Fisheries Co., a Washington corporation, owning a fleet of boats and 12 fishing plants on the Alaskan coast. To finance this purchase, provide additional cash working capital, and redeem \$1,425,000 of its debenture bonds then outstanding, the stockholders authorized a \$5,000,000 sinking fund 6 per cent debenture bond issue, due April 1, 1926, and sold \$4,000,000 thereof.

In 1912 the entire capital stock of the International Fisheries Co. (Tacoma, Wash.) was acquired.

*Indictments.*—The Federal grand jury at Seattle, Wash., on July 15, 1914, returned indictments under the Sherman antitrust law against the company and others, forming the so-called Halibut Trust, which is stated to control most of the halibut caught in the northern Pacific and northern Atlantic Oceans and the Bering Sea, and sold in the United States. Conspiracy is alleged to control and limit the catch and output of fish. Those mentioned in the indictments include the Booth Fisheries Co., of Maryland, and the Booth Fisheries Co.

*Income account, year ended January 2, 1915.*—Gross sales, 18,145,845. Net profit from operations, \$1,210,724; administration expenses, \$289,235. Net income, \$921,489.

Here, then, follows the whole statement of their financial situation.

MR. GOODWIN. Do you know what was the result of that trial, if the indictment was followed to a trial?

MR. WICKERSHAM. This is the same indictment. They put that in their statement in Poor's Manual, which I am reading from.

MR. HARDY. It seems that they sold \$18,000,000 of fish products. What proportion of the fish products of Alaska was that?

MR. WICKERSHAM. That includes the halibut of Alaska. They control the halibut in Alaska. They are exterminating it.

MR. GOODWIN. Is halibut being exterminated?

MR. WICKERSHAM. Yes, sir. Every time the Bureau of Fisheries steamer *Albatross* finds a new bank these people go out on it and skin it.

MR. GOODWIN. Is any other fish being exterminated?

MR. WICKERSHAM. Yes, sir.

MR. GOODWIN. What kinds?

MR. WICKERSHAM. The salmon. Of course, the output of canned salmon is increasing all the time, because they are going into new streams and new fields, but there is a limit to it. Dr. Evermann, of the Bureau of Fisheries, said three or four years ago that, in his judgment, the limit was within reach then, but they have gone away beyond that. Either the doctor was wrong or they are going into new fields.

MR. GOODWIN. They clean up as they go, very largely?

MR. WICKERSHAM. Yes, sir.

MR. CURRY. You do not mean that the salmon streams in Alaska are depleted?

MR. WICKERSHAM. When the white man first saw Karluk it was the greatest salmon stream in the world, according to Dr. Evermann and everybody else who knows anything about it. It is now depleted and abandoned. They have moved their canneries. I was up there and saw them make a haul of 80,000 salmon, 400,000 pounds. The net was fastened to one end of the shore and they drew it in with a large steam winch.

MR. GOODWIN. Four hundred thousand pounds?

MR. WICKERSHAM. Yes, sir: 80,000 salmon. I have the picture here; it is interesting.

MR. GREENE. Why should they want to deplete the fish?

MR. WICKERSHAM. That is a very fair question, and I have a fair answer. They do not want to do it, but there is absolutely no control. A foreman representing one of these salmon canneries up there came down last year with me, and he told me, "My people sent me up to

Alaska to put up 40,000 cases, with the understanding that if I did not do it they would find a new man for my job. I put up the 40,000 cases."

Mr. GOODWIN. Can anything be done by the Government to stop that depletion?

Mr. WICKERSHAM. Yes, sir.

Mr. GOODWIN. What is being done?

Mr. WICKERSHAM. Nothing.

Dr. SMITH. Why do you say that before this committee when the Government is operating two salmon hatcheries in Alaska?

Mr. WICKERSHAM. Is that what you base it on?

Dr. SMITH. You are well aware of it?

Mr. WICKERSHAM. Yes, sir. In my judgment, you might—

Mr. CURRY (interposing). Did they move their canneries from Karluk on account of the depletion or on account of the rough harbor and the fact that they lost several boats?

Mr. WICKERSHAM. I do not know. The stream is depleted and is substantially without value. I do not know why they moved away.

Mr. CURRY. Are you sure that the salmon is not running?

Mr. WICKERSHAM. I suppose there were some last year. There [exhibiting] is a picture of the 80,000 salmon haul at Karluk. On page 2845 of Poor's Manual is this addendum statement:

Booth Fisheries Co. (see also p. 172), stock increase, etc.: On August 4, 1915, company applied to the New York Stock Exchange to list an additional \$706,000 first preferred stock, which has been issued and is outstanding, making the total amount applied for \$2,906,000; the \$706,000 additional stock was issued for the purpose of acquiring the cannery properties and operative properties of Gorman & Co.; these properties have been transferred to the Anacortes Fisheries Co., which company was incorporated April 15, 1915, in Washington, for 50 years; capital, \$1,000,000, all owned by the Booth Fisheries Co.

I have gone into this for the purpose of showing the combination of the Alaska fishery companies in the Booth Fisheries Co., and it is going on all the time.

(Thereupon the committee took a recess until 2 o'clock p. m.)

#### AFTER RECESS.

Mr. WICKERSHAM. Mr. Chairman, this morning I said that Mr. J. K. Armsby had made certain statements. I made a mistake. It was Mr. Frank A. Aplin, vice president and in charge of the eastern end of J. K. Armsby & Co., who made them. I want to make that correction now, so the gentlemen present will know I was mistaken as to the name.

(The committee thereupon adjourned until Thursday, June 8, 1916, at 10 o'clock a. m.)



## ALASKA FISHERIES.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON MERCHANT MARINE AND FISHERIES,

*Thursday, June 8, 1916.*

The committee met at 10 o'clock a. m., Hon. Joshua W. Alexander (chairman) presiding.

### STATEMENT OF HON. JAMES WICKERSHAM—Resumed.

Mr. WICKERSHAM. Mr. Chairman, the committee rather broke into the arrangement of my presentation of this matter yesterday, by insisting that I present to the committee at once that element in this bill, H. R. 9528, which I think justifies me in saying that it will result in a monopoly of the fisheries in Alaska to the Fish Trust, and I am inclined to do that; but when I do it I want still to go back and connect up other matters with the Fish Trust and show, if I can, how they, and they alone, are going to benefit by this bill.

I wish the committee would look at sections 6 and 7 of the bill, beginning on page 6 and running through to page 9, because it is on account of these sections that I feel justified in saying to the committee that the only people who will gain anything by the passage of this bill are those connected with the Fish Trust. I will ask the committee to look at section 6 while I read it, because I want you to get it clear in your mind. I want you to notice, for instance, there is no limitation on the number of these trap sites which one person or corporation may locate, and the title proposed to be given here is of such a nature as to become substantially a title in perpetuity, subject only to the failure of the locator who gets the title to do certain small things which they will do much cheaper and much better than if they had the ordinary tax to pay from year to year, upon failure of which, also, they would lose their property. We hold all of our property subject to the payment of certain taxes, and if we do not pay our taxes upon the property, under the law the property is sold and somebody else may obtain title to it. I call your attention to that particular phase of losing any of our property for nonpayment of our public dues because it is analagous to the condition which is presented by these sections.

Section 6 provides:

SEC. 6. Fixed net locations.—That any person occupying, or desiring to occupy, any location where it may be lawful to construct a pound net in the waters of Alaska—

Now, Mr. Chairman, let me stop right there and say that a pound net is what we know in Alaska as a fish trap. It is a long row of

piles running out from the shore or through or across the fish waterway with a big fish trap at the outer end. The fish coming along a roadway like Pennsylvania Avenue—and they travel regular trails in the water just as we do on our roads—coming along that roadway the fish strike the net on this long row of piles and are diverted outward and into the trap where they are caught. That is what is meant by a pound net.

SEC. 6. Fixed net locations.—That any person occupying, or desiring to occupy, any location where it may be lawful to construct a pound net in the waters of Alaska, shall cause such location to be accurately surveyed by a competent engineer, unless a survey thereof has already been made, in which event such existing survey may be used, and shall cause three maps to be made of such location from the actual survey thereof, which shall contain a plat and description of said fishing location sufficient for its ascertainment and identification on the premises. Said maps shall also contain a certificate by the claimant, or by his agent or attorney, stating that he claims the fishing location shown thereon, specifying the date and number of the license under which the same is held, or the fact that application has been made therefor. Such maps, with the certificates thereon, shall be filed in the office of the commissioner of records in the district wherein the location is situated, which commissioner shall indorse thereon the hour and date of filing, and shall forward one of these maps to the Secretary of Commerce and another to the Pacific coast office of the Bureau of Fisheries. From and after the date of filing in the office of the commissioner of records, such map shall constitute full and complete notice that the locator has complied with all the provisions of this act and that such location is owned, held, occupied, and claimed by the person designated thereon as the claimant. From and after the filing of such map the claimant of the fishing location shown thereon, his heirs, administrators, executors, successors, and assigns shall have the exclusive right to hold, occupy, and fish in such location, to renew the license therefor, and to mortgage, sell, and transfer the same during the time that he or they in other respects shall comply with the law pertaining thereto: *Provided*, That it shall not be necessary to file any map or plat of any fishing location before January first of the calendar year next after this act takes effect.

It shall not be necessary to file any map or plat of any fishing location in any case where any map or plat has heretofore been filed with the Secretary of Commerce and a commissioner of records in the district in which the location is situated. All pound net or other fishing locations lawfully occupied during the calendar year next preceding the passage of this act shall continue valid: *Provided*, That if any owner or locator shall fail to construct and operate his appliance in a bona fide manner for the three consecutive years covered by his license, the location shall be deemed abandoned.

Each commissioner of records and the Secretary of Commerce shall keep an index of all such maps, showing the hour and date of filing, the names of claimants and serial number of the maps or plats, in the order filed, all of which shall be indorsed on them when filed.

Locations for set nets may be made by erecting a permanent monument near, or securely anchoring a buoy on the location claimed, upon which shall be posted the number of the license under which such net is operated.

Locations for stake nets may be made by erecting a permanent monument near or driving a pile on the location claimed, upon which shall be posted the number of the license under which each stake net is operated.

This act shall not affect the use or operation of any fixed fishing appliance in a location regarded as lawfully occupied during the calendar year next preceding the passage of this act, and any and all fishing appliances may be maintained upon such location as though this act had not been passed, or they may be changed to conform to the provisions hereof as to passageways, at the option of the claimant, owner, or holder thereof.

Next is—

SEC. 7. Nets, how constructed.—That no lead of any pound net in the Territory of Alaska shall exceed three thousand feet in length, and there shall be an end passageway of at least six hundred feet and a lateral passageway of at least twenty-four hundred feet between all pound nets. The lead of any pound net may be extended to high-water mark on the tidelands owned by the United States or on other tidelands with the consent of the owners thereof.

No supplementary wing or jigger shall be of greater length than three hundred feet measured over all, nor shall the outer end thereof approach within one hundred feet of the lead of any pound net.

The rest of that section may go in if the committee desires, but it does not relate particularly to fish traps, or rather, while it does in some respects, it does not have anything to do with the argument I want to make.

Now, I call the committee's attention to these facts: That there is no limitation, first, upon the number of the fish-trap sites that may be taken under that section. A man may locate one, or he may, as some of these gentlemen testified they had, locate three, or they may, as the Booth Fisheries Co. have already, locate 40, or they may, as I assume the Alaska Packers' Association in proportion to the amount of its output over the Booth Fisheries Co., locate 120.

The CHAIRMAN. You say they have done that?

Mr. WICKERSHAM. No; I say in proportion to the output of the Booth Fisheries Co. The Booth Fisheries Co. have located 40, and the Alaska Packers' Association's pack is three times as much as that of the Booth Fisheries Co., and I say by comparison they may locate 120, if they have not done so. The point I am making is that there is no limitation. Any man may by setting stakes, making his survey, filing the plat in the office of the local recorder, and filing a copy of it with the Department of Commerce, secure as many of these trap sites as he wishes to secure.

Now, as to the size of the trap site. The ideal trap site made by this bill is 4,800 feet in width and 3,600 feet in length. He may locate it larger than that. I do not know of anything in this bill to limit him even to 4,800 feet one way by 3,600 feet the other way, but those are the figures mentioned in the bill, and I am assuming those figures as the size of the ideal trap site. Every man now may locate as many of those trap sites as he pleases, and each one of them—

Mr. GOODWIN (interposing). Under this bill?

Mr. WICKERSHAM. Under this bill, and each one of them contains something like 300 acres of land.

Mr. BYRNES. Is there any restriction or limitation now placed upon them?

Mr. WICKERSHAM. None whatever.

Mr. CURRY. Why should there be?

Mr. BYRNES. Yes; tell us why there should be.

Mr. WICKERSHAM. Under the law as it now stands the locator of a trap site secures only a possessory right that any citizen has in the fisheries on tide or public lands.

Mr. HARDY. There is no exclusion under the law now?

Mr. WICKERSHAM. Absolutely no exclusion under the law now. A man goes out and locates his trap site now without any boundaries, without any exclusive privileges, and it is open to the objection I am making to this bill, that he may still locate as many as he pleases.

Mr. GRAY. What is the objection to locating as many as he pleases?

Mr. WICKERSHAM. The objection is that the Fish Trust now has almost all of them located, and if this bill passes they will get title to them; the further objection is that they get an exclusive right and an exclusive privilege to fish there, and the rest of the world is barred. It makes a complete monopoly of these fisheries under this bill, if it passes, and this bill has in it the same defect that has been

in all the departmental bills that have been before the committees for the last six years have.

The CHAIRMAN. Who is in possession of these sites now?

Mr. WICKERSHAM. The Fish Trust.

The CHAIRMAN. How are you going to oust them?

Mr. WICKERSHAM. I think it is very easily done and I have a remedy for that. They are only there as the will of Congress—they have no legal title.

The CHAIRMAN. They have a possessory right?

Mr. WICKERSHAM. They have a possessory right as long as they are there, but their traps come out every year.

The CHAIRMAN. This bill provides that if these licenses are not renewed every third year they forfeit their right.

Mr. WICKERSHAM. They will never forfeit them.

The CHAIRMAN. Will they forfeit them under existing law?

Mr. WICKERSHAM. They have no right under existing law. They are mere squatters on the public land. This committee has a right now to take charge of these lands and do something for the preservation of the fisheries and for the prevention of the monopoly which is given to them under these two sections of the bill.

The CHAIRMAN. I am talking about existing law. They are now in possession. How are you going to oust them?

Mr. WICKERSHAM. There is no difficulty about that. They are mere trespassers. How would you oust a man if he went on the public lands as a squatter?

The CHAIRMAN. Who would have the right to oust them—some other fisherman?

Mr. WICKERSHAM. No; you.

The CHAIRMAN. Who do you mean by "you"?

Mr. WICKERSHAM. This committee—Congress. They have no legal right now.

The CHAIRMAN. Could some other citizen go into court and eject them?

Mr. WICKERSHAM. Not unless he had a better right than they have by a prior peaceable possession, and even then he could not interfere with the Government's right of exclusive possession if it chose to exert it.

The CHAIRMAN. He would not have any better right than they have, because they have a possessory right.

Mr. WICKERSHAM. But that is all they have.

The CHAIRMAN. They have now all that they would get under this bill so far as the right of possession is concerned.

Mr. WICKERSHAM. No; if this bill passes they have a legal right—a legal congressional title.

The CHAIRMAN. But they are in possession now, and they continue in possession indefinitely.

Mr. GOODWIN. Have they any legal right under existing law?

Mr. WICKERSHAM. None whatever, except as trespassers on Government property.

Mr. CURRY. This law compels them to use that site within three years or lose title, and under existing law they do not have to use it.

Mr. HARDY. As I understand it, the difference is that under this law you make permanent a right they hold now as mere trespassers on the public domain which has no standing in law.

Mr. WICKERSHAM. Absolutely—that is correct.

The CHAIRMAN. Who is going to oust them under existing law?

Mr. HARDY. He says, nobody.

The CHAIRMAN. They are not trespassers.

Mr. HARDY. It is just the same as if a man were a squatter on public land. Who can oust him? Another man can not do it, but the Government can.

Mr. WICKERSHAM. Yes; the Government can.

The CHAIRMAN. I assume we can.

Mr. HARDY. That is what Mr. Wickersham says. He says they occupy the same position.

The CHAIRMAN. He has not suggested any remedy.

Mr. WICKERSHAM. But I will do so. I can not suggest everything in one breath.

Mr. GOODWIN. Has not Congress the right to make such limitations, restrictions, and regulations by law as would oust them?

Mr. WICKERSHAM. Undoubtedly it has.

Mr. HARDY. If I understand it, they occupy the same position as squatters on the public land.

Mr. WICKERSHAM. Yes; and nothing else. That is all the right they have.

Mr. BOWER. Congress has recognized the fish trap in Alaskan waters, for the reason that specific limitations in respect to it are contained in the act of June 26, 1906—

The CHAIRMAN (interposing). Oh, yes; and the Government is collecting and receiving taxes from them year after year. They are not trespassers.

Mr. WICKERSHAM. The Government would not recognize my right in a piece of public land because of my improvements upon it. Until I obtain a legal entry, my mere presence on and use of the land does not give me a title.

The CHAIRMAN. You have undertaken to tax these people, and I do not see how you can say they are trespassers.

Mr. WICKERSHAM. No; the Territory has taxed the fish traps \$100 apiece, and not the trap site or land, and they have paid that tax. That is the only part of the tax they have paid, and they only pay it because they think if they pay that tax it will put them in a better position when they make their claim to the property. The whole question is whether these people shall have the title to this property or not, and that is why these philanthropic gentlemen from the West who are engaged in the fish business are sitting around here all winter working for this bill. They want the title to this property, and I warn this committee that that is what they are after. I warn you, gentlemen, that if you pass this bill with that provision in it you will give those people the title to fisheries in Alaska that are worth \$400,000,000.

Mr. CURRY. I would like to know how this bill gives them title.

Mr. WICKERSHAM. Then just let me read you something. If you gentlemen will pay attention to this same clause that I read to you before, I will read it again with a change. It is the same section, but I will change it a little and will put in the words "coal mines" instead of fisheries. I know that there is not a man on this committee and not a man in Congress who would be in favor of this if it

were transposed by inserting the words "coal mines" in there instead of fisheries.

Mr. CURRY. What are you reading from?

Mr. WICKERSHAM. I am reading section 6 of this bill. Now, if you were to substitute copper-mine locations, coal-mine locations, or any other locations on the public lands as valuable as these fisheries—

The CHAIRMAN (interposing). Why not suggest your remedy? I think we are familiar with the text of the bill.

Mr. GOODWIN. I would like to have Judge Wickersham call attention to this particular part or section of the bill.

The CHAIRMAN. He read it a moment ago.

Mr. WICKERSHAM. If you will follow it now, you will discover the strength of their proposed title.

Mr. GREEN. I think we ought to give Judge Wickersham a chance to make his statement.

Mr. WICKERSHAM. I will read section 6, on page 6, substituting the words "coal mines" for "fisheries:"

That any person occupying or desiring to occupy any location where it may be lawful to open a *coal mine* in the Territory of Alaska shall cause such location to be accurately surveyed by a competent engineer, unless a survey thereof has already been made, in which event such existing survey may be used, and shall cause three maps to be made of such location from the actual survey thereof, which shall contain a plat and description of said *coal-mine* location sufficient for its ascertainment and identification on the premises. Said maps shall also contain a certificate by the claimant, or by his agent or attorney, stating that he claims the *coal-mine* location shown thereon, specifying the date and the number of the license under which the same is held, or the fact that application has been made therefor. Such maps, with the certificates thereon, shall be filed in the office of the commissioner of records in the district wherein the location is situated, which commissioner shall indorse thereon the hour and date of filing, and shall forward one of these maps to the Secretary of the Interior.

From and after the date of filing in the office of the commissioner of records, such map shall constitute full and complete notice that the locator has complied with all the provisions of this act and that such location is owned, held, occupied, and claimed by the person designated thereon as the claimant. From and after the filing of such map the claimant of the *coal-mine* location shown thereon, his heirs, administrators, executors, successors, and assigns, shall have the exclusive right to hold, occupy, and mine in such location, to renew the license therefor, and to mortgage, sell, and transfer the same during the time that he or they in other respects shall comply with the law pertaining thereto: *Provided*, That it shall not be necessary to file any map or plat of any mining location before January first of the calendar year next after this act takes effect.

It shall not be necessary to file any map or plat of any *coal-mining* location in any case where any map or plat has heretofore been filed with the Secretary of the Interior and the commissioner of records in the district in which the location is situated. All *coal-mining* locations lawfully occupied during the calendar year next preceding the passage of this act shall continue valid: *Provided*, That if any owner or locator shall fail to construct and operate his *coal-mine* in a bona fide manner for the three consecutive years covered by his license, the location shall be deemed abandoned.

The rest of it is just as I read it to you awhile ago, except that the words "coal mines" should be read instead of fisheries. Now, if that were done, or if that sort of bill were passed with reference to the coal mines, copper mines, or any of the other resources of Alaska, you know what would happen. That is just what is happening with respect to the fisheries to-day.

MR. GOODWIN. Now, I call attention to the language in lines 19 and 20—"and that such location is owned, held, occupied, and claimed by the person designated thereon as the claimant."

MR. WICKERSHAM. Yes.

MR. GOODWIN. There is a property clause later on, but does that put an indefeasible title in the hands of the claimants or the men who make these locations?

MR. WICKERSHAM. I can not say how far the courts will hold this language will vest title, but there is the right to mortgage it.

MR. GOODWIN. The language seems to me to be complete.

MR. WICKERSHAM. He is there with the right to mortgage it, and when he does mortgage it, what will you do about it? Suppose the Booth Fisheries Co. got the 40 claims they have now located and marked out, and suppose they should issue 20-year bonds secured by these claims and the rest of their property, as they will do—they will do it for the purpose of making their title better—

MR. GOODWIN (interposing). What would be your remedy? In other words, what substitute would you suggest for this?

MR. HARDY. Judge Wickersham says that he is coming to that. He has arranged his line of presentation.

MR. WICKERSHAM. One of the remedies, Mr. Chairman, is the one which Franklin K. Lane has suggested time after time. It is a good old Democratic remedy, and it is one that has been approved time after time. It will save the fisheries of Alaska from the Fish Trust, if it is adopted.

Now, I want to call attention to a number of these trap sites. I have here a telegram received yesterday from the chief counsel of Gov. Strong, the attorney general of the Territory of Alaska. I telegraphed to know how many of these trap sites had been paid on this year in Alaska, and the attorney general sends me this telegram:

JUNEAU, ALASKA, June 5, 1916.

HON. JAMES WICKERSHAM,

*Delegate from Alaska, Washington:*

License paid on 246 traps this year: payment on about 100 more dependent on affirmance test cases.

J. H. COBB, *Chief Counsel.*

Now, on that same date, January 5, Mr. Cobb wrote me a letter, which I have not read to the committee. Attached to that letter is a list of the fishing concerns that have signed agreements to abide by the judgments of the court of last resort in the test cases brought to determine the validity of the Territorial revenue laws, together with the amount of taxes due for each of the years 1913, 1914, and 1915, exclusive of interest. Then, attached to that is a list of canning concerns that have failed to pay or sign agreements to be bound by the test cases. Attached to that is a list of judgments and amounts thereof in test suits brought by the Territory. Then follows a list of parties owing for fish-trap licenses and amount of the same, who have signed the agreements to abide the decision of the court of last resort on the test cases. That list is as follows:

Alaska Portland Packers' Association .....	\$300	Barnes, F. C., & Co.....	\$400
Alaska Sanitary Packing Co....	100	Columbia River Packers' Association .....	1,300
Astoria & Puget Sound Canning Co.....	500	Deep Sea Salmon Co.....	700
Anacortes Fisheries Co.....	700	George Inlet Packing Co.....	200
		Fidalgo Island Packing Co.....	700

Harris, P. E., & Co.....	\$1,100	Point Warde Packing Co.....	\$300
Karheen Packing Co.....	200	Petersburg Packing Co.....	300
Libby, McNeil & Libby.....	800	Pure Food Fish Co.....	100
Geo. T. Myers & Co.....	600	Sanborn Cutting Co.....	300
Nakat Inlet Canning Co.....	\$100	Starr Collinson Packing Co.....	300
Northwestern Fisheries Co.....	1,900	Sunny Point Packing Co.....	100
Northwestern Fisheries Co. (Chignik Cannery).....	1,400	Taku Canning & Cold Storage Co.....	900
Pacific American Fisheries Co.....	2,800	Tee Harbor Packing Co.....	600
Pillar Bay Packing Co.....	300		

Now, I read that for the purpose of showing you how many they have on record. For instance, the Booth Fisheries Co. is represented in the Anacortes Fisheries Co. and is represented by the Northwestern Fisheries Co. twice. In one place they have 7 traps, in another 19, and in another they have 14. In other words, they have 40 trap sites that I know of, and how many more they have I do not know.

Mr. HARDY. That is the company about which you read from Poor's Manual of Industrials for 1915?

Mr. WICKERSHAM. Yes, sir; and that is the one against which the indictment was found for being the halibut trust in Alaska. They own 40 trap sites there now, on the face of the record, but how many more I do not know.

Mr. HARDY. Do each one of them cover 300 acres?

Mr. WICKERSHAM. I do not know, but they will if this bill passes.

Mr. CURRY. Is the Booth Co. engaged in salmon fishing?

Mr. WICKERSHAM. Yes, sir; very largely.

Mr. CURRY. In the salmon fisheries?

Mr. WICKERSHAM. Yes; that is all salmon.

Mr. CURRY. How many companies are engaged in those fisheries up there?

Mr. WICKERSHAM. There are three big companies and a lot of small ones. The Alaska Packers' Association is, of course, a large concern, and the Booth Fisheries Co. is a large concern. The Booth Fisheries Co. is increasing and growing day by day, and it will soon be very much larger than the Alaska Packers' Association. I am told they are attempting, and have been attempting, to secure the control of the Alaska Packers' Association in their concern or to form a combination.

Mr. CURRY. You do not know how many of them are engaged in the fisheries?

Mr. WICKERSHAM. There are probably 100. There is quite a lot of them.

Mr. BOWER. A number of them, I believe, are owned exclusively in Alaska.

Mr. WICKERSHAM. How many?

Mr. BOWER. I should say probably five or six.

Mr. WICKERSHAM. Five or six of the very small concerns, and the rest of them are owned by the Fish Trust?

Mr. BOWER. No; many of them are owned by independent companies.

Mr. WICKERSHAM. You do not know who owns them?

Mr. BOWER. We have a reasonably good idea.

Mr. WICKERSHAM. If you have any information along that line you are not doing your duty when you do not give it to this committee.

Mr. BOWER. We are ready to do it, as far as we can, at any time the committee wants us to.

Mr. GOODWIN. What permanent right will these companies have if their contention is sustained by the courts? What limitations or restrictions will be imposed upon those companies as to their future holdings?

Mr. WICKERSHAM. The litigation does not have anything to do with their title. They recognize they have no title now any more than a man who simply squats on a piece of public land out in the West.

The CHAIRMAN. The Legislature of Alaska passed an act providing they should pay a license fee of \$100 a year on each fish trap, and now the Territory of Alaska, through the courts, is trying to collect that tax.

Mr. WICKERSHAM. Yes; and other taxes.

The CHAIRMAN. I think the judge is wrong in saying they are the same as trespassers on the public domain when they recognize their existence and are requiring them to pay a tax and when the General Government is trying to make them pay a tax to the Government, they can not be regarded in the light of trespassers. I think their right is one held at the will of the Government.

Mr. WICKERSHAM. All right; we will put it in that way.

Mr. GREENE. Does the provision of the Legislature of Alaska provide for creating a title?

Mr. WICKERSHAM. No; none whatever.

Mr. GREENE. Then it is quite different.

Mr. WICKERSHAM. The Legislature of Alaska can not do that.

Mr. GREENE. This bill proposes to create a title.

Mr. WICKERSHAM. Nobody can do that but you gentlemen at this table—but Congress.

Mr. CURRY. I have read this bill carefully, time after time, and I do not see where this bill vests any title.

Mr. GREENE. Authority to mortgage is quite a serious title.

Mr. CURRY. The limitation of three years' possession is simply a possessory title.

Mr. WICKERSHAM. They may stay there 30 years if they comply with the law by paying the small license fee fixed in this bill.

The CHAIRMAN. A man does not have to have a fee simple title in order to mortgage.

Mr. WICKERSHAM. The title fixed by this bill is similar to the title we have in mines in Alaska.

The CHAIRMAN. Are they not mortgaged?

Mr. WICKERSHAM. Yes; they mortgage their right; certainly they do, and it is a substantial title, as this will be.

Mr. CURRY. And they have to use their mines or else they lose their title?

Mr. WICKERSHAM. Certainly; it is a similar situation.

Mr. CURRY. If I discover a mine and locate it and work it, I ought to have it.

Mr. WICKERSHAM. Certainly; but I do not think you ought to have title in the case of the fisheries of Alaska.

Mr. CURRY. But we are talking about mines.

Mr. WICKERSHAM. Yes; in the case of mines it is different.

Mr. CURRY. If I locate a mine, put up the works on it, and work it, I ought to have it as long as I work it?

Mr. WICKERSHAM. Yes; and the Government provides for giving you the title to it by patent.

Mr. CURRY. I have to work it for a certain number of years before I get the title. If I abandon the mine all of my work goes for nothing, and you can come along and take it up yourself and work it.

Mr. WICKERSHAM. I am calling your attention to the effect, if this bill passes as it now is. The people can take up these lands and get a legal title to them and thereby secure a monopoly of the Alaska fisheries.

Mr. CURRY. That is what I want to find out.

Mr. WICKERSHAM. You only have to read the bill to find that out.

Mr. CURRY. I have read the bill and that has not been made clear to me. You are a lawyer, and you are the Delegate from Alaska, and I would like to know how the bill does give them a legal title to these sites?

Mr. WICKERSHAM. It gives them the legal title because it gives them an exclusive title; it gives them an exclusive right to the possession of the property; it gives them the right to mortgage it; it gives them the right to base a bond issue on it; it gives them the right to draw all of these titles into one concern and get a complete title in one concern in Alaska, to wit, a monopoly.

Mr. CURRY. If they do not use it in three years, then what?

Mr. WICKERSHAM. They will use it; do not worry about that.

Mr. HARDY. As I understand it, the only difference between this and what we call a fee-simple title to land is that when you have a fee-simple title it is indefeasible by any failure or condition; but this title is made so that it may be perpetuated by simply keeping up certain minor, small, unimportant acts.

Mr. WICKERSHAM. Yes, sir; as in mines everywhere in the great West, before patent issues.

Mr. HARDY. But it may be defeated or lapse by failure to do those little things?

Mr. WICKERSHAM. They may abandon it, if they want to; but they will not. They are like valuable paying mines—and may be fully monopolized.

Mr. HARDY. As long as they keep their maps filed and do some other little things under this law, the title is exclusive.

Mr. WICKERSHAM. The title is theirs just as much as if they had a patent.

The CHAIRMAN. Here is what the bill says:

*Provided*, That if any owner or locator shall fail to construct and operate his appliance in a bona fide manner for the three consecutive years covered by his license, the location shall be deemed abandoned.

Just like a man can not locate a mine and hold it indefinitely; he must operate it.

Mr. WICKERSHAM. Yes.

The CHAIRMAN. And he must operate this trap. He can not hold it indefinitely. He has got to operate it in good faith every year during the three years or else he forfeits his right; that is very far from a fee-simple title.

Mr. WICKERSHAM. It is not a fee-simple title. I do not think the chairman ought to say I have said it was a fee-simple title. I say it is

a title substantially by contract with the Government of the United States, which permits these people to go there and take the fishing grounds if they want to.

The CHAIRMAN. Would you have them transfer it to somebody else every year and open them to competitive bids for relocation? Would that be better? I am not committed myself to this plan at all. I just want to find out some better plan, if possible.

Mr. WICKERSHAM. There are several better plans than this. What would you do with coal mines in Alaska? What did you do with them?

Mr. CURRY. You did what I would not do with them.

Mr. WICKERSHAM. They did what I would not do with them, but it is much better to do that than to do this.

The leasing of our coal mines does protect the people to some extent, at least, because no man can get more than 5,280 acres of coal lands, with which he can not create a monopoly, while he can get 500,000 acres of our fisheries, and by assignment to the Fish Trust he can create a single monopoly in this great food supply.

Mr. CURRY. But nothing would be done with them?

Mr. WICKERSHAM. But something would be done with these fisheries if this bill should be passed.

Mr. CURRY. If they do, the people will have the fish to eat.

Mr. WICKERSHAM. They are paying 68 per cent more for them now than they were paying a short time ago, without any apparent cause for it, except the trust is getting hold of the fisheries.

Mr. CURRY. There are other causes than that.

Mr. WICKERSHAM. The gentleman may find other causes, but there is but one, just the same. Now, if you will allow me—

The CHAIRMAN (interposing). Speaking about trusts, how many fishery companies are operating in Alaska?

Mr. WICKERSHAM. I have not given any figure. I said there were probably 100.

The CHAIRMAN. Are they all in a trust?

Mr. WICKERSHAM. No, sir.

The CHAIRMAN. How many of them are in the trust?

Mr. WICKERSHAM. The greater proportion of them; and the trust is growing every day.

The CHAIRMAN. What percentage of them are in the trust?

Mr. WICKERSHAM. You tell me what percentage of the oil is controlled by the Standard Oil Trust—you can not do it.

The CHAIRMAN. You say that the fisheries of Alaska are controlled by a trust, but I am not going to take as evidence your ipse dixit. I would like to have some facts to satisfy me and the members of this committee that your statement is correct. I simply want some evidence of the existence of the trust.

Mr. WICKERSHAM. You want some proof of it?

The CHAIRMAN. Yes. Of course, what you read from Poor's Manual is in the record.

Mr. WICKERSHAM. Yes, sir; and there is more of it here. I want to call your attention to the Northwestern Fisheries Co. for a moment. The Northwestern Fisheries Co. was the Morgan-Guggenheim Fisheries Co. in Alaska, and I refer you to the statement concerning that company on page 1764 of Poor's Manual of Industries

for 1910. The statement is very brief, and I will read only just a very brief portion of it. You will find it at the page mentioned, as follows:

Northwestern Commercial Co., incorporated November 29, 1899, under the laws of Washington, to conduct railway and steamship transportation. Owns all the capital stock of the Northwestern Fisheries Co. and the North Coast Lighterage Co. and a majority of the stock of the Northeastern Siberian Co. and of the Alaska Steamship Co.

I do not need to go any further with that, except to call attention to the trustees of the Northwestern Commercial Co., which in 1910 owned all of the capital stock of the Northwestern Fisheries Co. W. R. Rust, of Tacoma, Wash., was one of the trustees, and he was also the president and general manager of the Tacoma Smelter Co. S. W. Eccles, who is the general manager of the Alaska Syndicate, is one of the trustees. The others are W. P. Hamilton, E. S. Pegram, and Stephen Birch, Stephen Birch being the present president and general manager of their interests in Alaska. I now call your attention to the list of trustees and officers of the Northwestern Commercial Co., on page 1765 of Poor's Manual—

The CHAIRMAN (interposing). How many traps has the Northwestern Fisheries Co. in Alaska?

Mr. WICKERSHAM. I will show you in a moment. The Northwestern Fisheries Co. had 33 traps. They owned 33 traps, but they do not own them now, because they have sold them to the Booth Fisheries Co.

The CHAIRMAN. Where is the evidence of that?

Mr. WICKERSHAM. I will give you the evidence of that.

Mr. HARDY. I think he read that statement yesterday.

Mr. WICKERSHAM. I would prefer to refer to it again, because I want the committee to have it clear in their minds.

I read to you now from page 172 of Poor's Manual of Industrials for 1915, under the head of Booth Fisheries Co. I will only read that portion which relates to the Northwestern Fisheries Co.:

On April 1, 1911, purchased the entire capital stock and assets of the Northwestern Fisheries Co., a Washington corporation owning a fleet of boats and 12 fishing plants on the Alaskan coast, etc.

Now, they have the Northwestern Fisheries Co. and the other companies I called your attention to yesterday—the International, Gorman & Co., and the other companies.

Mr. BYRNES. Do you know how many traps the Booth people control in all?

Mr. WICKERSHAM. I only have information about 40.

Mr. BYRNES. They got 33 from the Northwestern alone.

Mr. WICKERSHAM. They got 33 from the Northwestern, and then they own 7 more, making 40. How many more they have I do not know, because under this bill you do not have to file your map. I call your attention to that, too. Under section 6, if you were in possession last year, if this bill passes, your title this year becomes good.

Mr. CURRY. But last year's map is filed, is it not?

Mr. WICKERSHAM. I do not know whether it is or not. They do not have to file a map.

Mr. CURRY. This bill requires it.

Mr. BYRNES. I think this bill requires that it shall be filed.

Mr. WICKERSHAM. The bill states:

*Provided*, That it shall not be necessary to file any map or plat of any fishing location before January 1 of the calendar year next after this act takes effect.

Mr. CURRY. But the sites which are occupied now are only valid if the maps are filed.

Mr. WICKERSHAM. Not at all. There is no law requiring it now.

Mr. CURRY. But if this bill passes it will be required.

Mr. WICKERSHAM. If this bill passes it would be required, but it is not required now.

Mr. HARDY. If the bill passes now it will require that they be filed by next January.

Mr. WICKERSHAM. Yes.

Mr. CURRY. The bill also provides that sites obtained last year will not be resurveyed and the maps refiled. If they have been surveyed they do not have to be resurveyed.

Mr. HARDY. If they have been surveyed and the maps filed they do not have to be resurveyed, but if the maps have not been filed, then they must be filed.

Mr. WICKERSHAM. It is a curative act of the broadest kind. It makes good all claims of trap sites these people have in Alaska and gives them a congressional grant so far as it goes. It is a title you will have great difficulty in getting rid of hereafter if you once pass it.

Mr. GOODWIN. On yesterday you spoke about the rapid fish depletion. What manner of catching fish is bringing that about—the traps or the seines?

The CHAIRMAN. Suppose we let the judge go on now in a consecutive way.

Mr. GOODWIN. I just want to get at what is bringing about this fish depletion—the traps or the seines or what.

Mr. WICKERSHAM. All of them.

Mr. GOODWIN. Should the traps be abandoned or restricted?

Mr. WICKERSHAM. Yes; unless there is a general restriction the fish are all going to be lost just as they are in the Sacramento River.

Mr. CURRY. There are lots of fish in the Sacramento River, and it was not fishing that depleted them there.

Mr. WICKERSHAM. Something destroyed them, because they are gone now just as they are in the Stikine and Skeena River, and just as they are going in the halibut banks.

Mr. CURRY. There are lots of fish in the Sacramento River.

Mr. WICKERSHAM. They are not canned.

Mr. CURRY. We do not can them, because we can make more money by salting them and sending them east salted.

Mr. WICKERSHAM. Well, possibly. I am not prepared to give you any information on that, because you know more about it than I do.

Mr. CURRY. I know about that matter, because it is in my district.

Mr. WICKERSHAM. Yes. So is the Alaska Packers' Association resident in your State, and they have made more millions of dollars out of Alaska and have done more to deplete it and destroy the resources of Alaska than any other one concern in the world.

Mr. CURRY. Well, I doubt that.

Mr. WICKERSHAM. I do not.

Mr. CURRY. They have done some pretty good work up there.

Mr. WICKERSHAM. I think they have, too, for themselves.

Mr. CURRY. They have developed the fisheries and have given the people of the country a good fish supply, and if they had not been up there the people would not have had the fish to eat. These salmon, if they are not caught, go up the river, spawn, and die, and what are caught are just so much saved for human consumption.

Mr. WICKERSHAM. I called your attention to the indictment in this case against the Booth Fisheries Co., and I want to call your attention to one or two other matters with respect to that before I go on.

I want to call your attention now to the Alaska Packers' Association. The Alaska Packers' Association has heretofore, of course, been the great Fish Trust in Alaska. In 1867, when Gen. Rousseau went to Alaska, he started from New York and went around by the Isthmus to San Francisco; a gentleman from Baltimore went with him, a Mr. Hutchinson, a merchant, a shrewd, bright man. When Mr. Hutchinson got to San Francisco, in 1867, he went up to Sacramento and there he met a Jew merchant, a fine man—both of them were fine men and I do not intend to reflect upon them in the slightest by what I say—Mr. Louis Sloss.

Mr. Hutchinson and Mr. Sloss organized their plans by getting one or two other men in with them. They beat the commissioner to Sitka, the then Russian capital, and they bought the vessels, the fishing outfits, and mercantile supplies of the Russian American Co., and then and there established the group of financiers who now conduct the Alaska Packers' Association. In 1869 those people took over the first fur-seal lease from the United States, and Sloss and Leibes, and that group of men, had the fur-seal fisheries of Alaska for 20 years. In 1890, when their lease expired, they had discovered a better thing, and they formed the Alaska Packers' Association, to put up salmon in Alaska, and became the first great Alaska Salmon Trust. They have been engaged in that business ever since and they have made enormous fortunes out of it.

I want to call your attention to the data with respect to that concern in Poor's Manual of Industrials of 1915, pages 21 and 2841. I am going to be very brief: I am not going to take up much of your time. On page 21 it says:

The Alaska Packers' Association. History: The association was incorporated in February, 1893, under the laws of California, to can salmon on the Pacific coast. The association operated, in 1914, 14 canneries in Alaska and 1 on Puget Sound; also owns 2 salmon hatcheries and 9 ships, 12 barks, 1 barkentine, 3 schooners, and 62 steamers and launches; a total of 87 vessels.

And then follows a statement of their operation, a financial statement, and a statement of their earnings and the enormous fortunes they have made out of this great business in Alaska. They say here that the total dividends since organization, including a stock dividend of \$1,680,000 in 1895, amount to \$8,960,883. Now, I have examined their accounts and they charge up everything, depreciation and the building of new ships and everything of that kind, and take it all out of profit and loss, and their insurance account is one of the biggest accounts, yet their profits are substantially \$1,000,000 per annum. Their gross profit last year was more than \$1,000,000.

The CHAIRMAN. What is their capital stock?

Mr. WICKERSHAM. Their capital stock in 1901 was \$4,800,000 and in 1905 it was increased to \$5,750,000, and it has remained at that ever since.

The CHAIRMAN. What were their gross receipts per year?

Mr. WICKERSHAM. They do not give their gross receipts, Mr. Chairman, but they give their gross profits for 1914 as \$1,091,401.

The CHAIRMAN. Do they give their net profits?

Mr. WICKERSHAM. They give their net profits for the same time after they have written off the dividends paid and all that sort of thing as \$44,640, but the dividends were \$345,048.

Mr. HARDY. Was that increase of stock from putting in outside funds or just a declared stock dividend?

Mr. WICKERSHAM. I do not know, but I assume it was a declared stock dividend, because below here it says "including a stock dividend of \$1,680,000 in 1905."

Mr. HARDY. Was that when they increased the capital stock to \$5,000,000?

Mr. WICKERSHAM. Yes; that was in 1905.

Mr. CURRY. I do not think you will find any watered stock in that concern.

Mr. WICKERSHAM. I do not know anything about it. I am just telling you what is shown on the face of their own statement.

Mr. CURRY. They are good, straight people; and if they have made money they have made it honestly.

The CHAIRMAN. What are their net earnings?

Mr. WICKERSHAM. I can not tell you.

The CHAIRMAN. Of course, we can figure that our ourselves.

Mr. WICKERSHAM. Yes. I want to call your attention to page 2841 of the addenda to Poor's Manual, as follows:

Alaska Packers' Association (see also p. 21): Gross profits for 1914 amounted to \$1,255,085; surplus for the year, \$608,324.

Therefore they are not suffering any on account of this business, but here they are complaining about the payment of 2 cents a case on their output when they have increased the price to the people of this country 68 per cent, and are making millions of dollars out of it, yet they want a pitiful little 2 cents knocked off on each case of 48 cans which they sell for about \$14. That is not really what they are here for. They do not care anything about this tax. What they want is title to this property, a title by congressional grant and unlimited power to create a monopoly. They will look after the profits if they can get this bill enacted into law.

Mr. HARDY. If you will allow me to suggest it, I think that the important question for this committee is the question of whether or not this bill in sections 6 and 7 would have a tendency to permit a gradual gathering up of all of the fishery resources of Alaska into monopolistic hands and the final accomplishment of a monopoly of these fisheries.

Mr. WICKERSHAM. There is nothing in it to prevent the Booth Fisheries Co. from taking over every one of those trap sites, is there?

Mr. HARDY. What is the remedy for it, or what is the prevention?

Mr. WICKERSHAM. Now, Mr. Chairman, there is another one of those concerns up there that needs some attention, and I call attention to it because they have their men sitting around here year after year, and I have had to fight them year after year to save the fisheries for the people of this country. I refer to Libby, McNeill & Libby, of Chicago. They are in the Meat Trust, and they are be-

ginning to get into the fisheries business very vigorously in opposition to the Booth Fisheries Co. Libby, McNeill & Libby is a subsidiary corporation, and belongs to Swift & Co., the greatest Meat Trust in the world. Now, these people will get these fisheries if you pass this bill, or anything like it.

The CHAIRMAN. What will happen if we do not do anything?

Mr. WICKERSHAM. They will never get title, although they will continue to monopolize and control the fish supply.

The CHAIRMAN. The Booth Fisheries people are sweeping right along now. I do not want any monopoly, but they are doing that now.

Mr. WICKERSHAM. And this bill legalizes it. It is illegal up to date.

The CHAIRMAN. They would not invest their money unless they think they have something to invest in.

Mr. HARDY. It occurs to me that if they could get assurance that this bill would pass or that nothing was going to be done, in either case they would be likely to go ahead and try to monopolize the fisheries.

Mr. WICKERSHAM. There is no doubt about that—they gain either if you pass this bill or do nothing.

Mr. HARDY. If we did not pass this bill nor any other bill, and if they could be assured that no bill would be passed, I do not think they would want anything better than that; but at the present time they can not be assured that no bill will be passed, and that is the reason I asked you what the remedy there might be.

Mr. LAZARO. Have you suggested any remedy?

Mr. WICKERSHAM. Yes, sir; I have some remedies to suggest, if the committee will permit me. I do not know that my remedy would be a complete remedy, and I do not know that it would be a sufficient remedy. I do not know what is a sufficient remedy for the encroachments of these great trusts. If I could suggest a complete remedy for curbing the trusts, I could go to Chicago and beat our friend Col. Roosevelt for the Republican nomination and be elected President, but I can not do it. Though in this case I can suggest a remedy which will prevent legalizing a fish trust in Alaska.

Mr. HARDY. We have remedies, but the difficulty is in enforcing them.

Mr. WICKERSHAM. Yes; there is no doubt about their influence, as I have found to my sorrow here in Washington. At page 1307 of Poor's Manual for 1915 appears the matter with reference to Libby, McNeill & Libby, to which I want to call your attention. It is not much, because the Swift people are careful, and they do not expose any more of their business affairs than is necessary. I read this statement, appearing on page 1307 of Poor's Manual:

Libby, McNeill & Libby, incorporated August 6, 1903, in Maine, and conducts packing business; plants located at Chicago, Ill. Capital stock authorized and outstanding, \$5,000,000. Shares \$100. Dividends paid at the rate of 8 per cent per annum. Directors, L. F. Swift, E. F. Swift, L. A. Carton, W. F. Burrows, H. Veeder, Harold H. Swift, G. F. Swift, jr., C. H. Swift, Edward G. McDougall.

The officers of the company are the same people.

I now want to call attention to the statement regarding the Swift Refrigerating & Transportation Co., on page 2025 of Poor's Manual.

The Swift Refrigerating & Transportation Co. takes over the fish and looks after the refrigerating end of the business. This statement appears at page 2025 of Poor's Manual:

Swift Refrigerating & Transportation Co., incorporated September 16, 1889, in Maine. Owns over 5,000 cars which are used for the transportation of the products of Swift & Co. Capital stock authorized and paid in, December 31, 1914, \$5,000,000. Shares \$100. Dividends 7 per cent per annum, payable quarterly.

Among their officers are E. F. Swift, president, and L. A. Carton, vice president, the same men being officers in Libby, McNeill & Libby.

I now call attention to the statement concerning Swift & Co., at page 1606 of Poor's Manual, as follows:

Swift & Co., packers, incorporated April 1, 1885, in Illinois, and succeeded to the packing business of G. F. Swift & Co. Has packing plants at the Union Stock Yards, Chicago, and at South Omaha, Kansas City, East St. Louis, South St. Joseph, South St. Paul, and Fort Worth, and has branch houses for the distribution of its goods in nearly every large city in the United States. Products are distributed in foreign countries also.

The officers of that company are Louis L. Swift, president, Edward F. Swift, and Lawrence A. Carton, and Charles F. Swift, the same men who own the concern of Libby, McNeill & Libby.

The CHAIRMAN. Well, they are a big concern and they buy poultry and eggs—

Mr. WICKERSHAM (interposing). And fish.

The CHAIRMAN (continuing). In our country. They are a great big concern.

Mr. WICKERSHAM. After I had finished giving my testimony before the committee and while engaged in correcting proof of the same, I received in my office a copy of the Daily Alaska Dispatch, published in Juneau, Alaska, June 1, 1916, in which I find the following statement:

OPTION TAKEN ON CANNERIES IN NORTHLAND BY LIBBY, M'NEIL & LIBBY, THE WELL-KNOWN PACKERS OF CHICAGO—PAID A BIG PRICE FOR RIGHT OF OPTION—THE NEW COMPANY HAS UNTIL OCTOBER TO CLOSE THE DEAL FOR FOUR CANNERIES ON BRISTOL BAY AND ALL PERSONAL PROPERTY.

[By Associated Press.]

SAN FRANCISCO, June 1, 1916.

Libby, McNeil & Libby, the Chicago packers, have purchased an option on four salmon canneries on Bristol Bay, seven cannery ships, and other personal property of the Alaska Salmon Co., of San Francisco, a \$600,000 corporation.

The purchase price is not announced.

The Chicago packing firm paid \$200,000 for its option, and has until October next to complete the deal.

A personal representative will visit the property.

The advent of the big packers into the Alaska field is considered a sign that other capital will be anxious to seek investment in that country.

I add the foregoing clipping to my testimony because I am sure it correctly states the fact. I call the committee's attention to this statement because it corroborates all the evidence and other facts pointing to a complete monopoly of the Alaskan fisheries. The option mentioned in this statement gives the Chicago Meat Trust four more canneries in Alaska, though how many additional trap sites it gives them I have not been able to ascertain. Your attention is called to the fact that the Territory of Alaska obtained judgment

against the Alaskan Salmon Co. mentioned in this statement on December 22, 1915, for \$5,933.63 for license taxes for the years 1913, 1914, and 1915, which has not been paid.

They own a large number of these fish-trap locations on the fishing grounds in Alaska. And the Chicago Meat Trust, the Booth Fisheries Co., and the Alaska Packers' Association will own all of the fish locations in Alaska in a very brief space of time if this bill goes through.

The CHAIRMAN. What worries me is that they may do it anyway, whether this bill goes through or not.

Mr. WICKERSHAM. Then why do they have their lobbyists here all the time?

Mr. CURRY. I have not seen any of them.

Mr. WICKERSHAM. You have not?

Mr. CURRY. Not one has talked to me.

Mr. WICKERSHAM. Have you talked to Mr. Warren?

Mr. WARREN. I am here representing my own company.

Mr. WICKERSHAM. You are, and the interests you are representing here are the interests of the Fish Trust. You have been around here all winter logrolling, and the total result is to their benefit.

Mr. CURRY. I will say that this gentleman has not talked to me about the fisheries proposition or any of the rest of them.

Mr. WICKERSHAM. It was not necessary.

Mr. CURRY. All I know is what I have heard them say before this committee.

Mr. WICKERSHAM. They have talked to a great many Members of Congress.

Mr. CURRY. Maybe they have; and if they have they had a right to do so.

The CHAIRMAN. I am not committed to any line of action. I want all the light I can get, and would regret very much to play into the hands of any monopoly, but I want to treat this question in a rational way.

Mr. WICKERSHAM. I think that ought to be done.

The CHAIRMAN. I think there should be some legislation passed to regulate the fisheries in Alaska, and I am interested to know what the remedies are.

Mr. WICKERSHAM. It will be said that this bill is substantially the bill adopted by the States of Oregon and Washington, and in some respects it is identical. But one answer to that is that these same lobbyists live in Oregon and Washington, and they have had just as much powerful influence there as they hope to have here, with the result that they have gotten into the laws of those two States a bill that ought not to be there. Not only that, but the fisheries of Oregon and Washington, or either one of them, are very small in comparison with the fisheries of Alaska. I called your attention to the pro rata share of Alaska yesterday for the purpose of showing to you that the Oregon and Washington output is very much less than that of Alaska. Not only is that true, but this is true. The people of Oregon and Washington, as soon as they discovered the frauds that were being perpetuated upon them and the attempt which was being made to monopolize even their small fisheries, went to work, and I want to call your attention now to what they are doing in Washington and substantially the same in Oregon. I hold here a copy of the Pacific

Fisherman for February, 1916. The Pacific Fisherman is published by Miller Freeman, who is, from time to time, one of the fish lobbyists here in the city of Washington. He is the representative of the Fish Trust which supports this paper.

The CHAIRMAN. What is his name?

Mr. WICKERSHAM. Miller Freeman. And with Miller Freeman is John N. Cobb, who was, for many years, a member of the Bureau of Fisheries but who finally graduated into the employment of the trust, as did Capt. Moser, and as some others do from time to time because they can get better salaries. On page 27 of the Pacific Fisherman—

The CHAIRMAN (interposing). Which of these men here to-day belong to that trust? I want to spot them.

Mr. WICKERSHAM. Which of them belong to what trust?

The CHAIRMAN. The Fish Trust.

Mr. WICKERSHAM. Which men do you have reference to?

The CHAIRMAN. These present to-day.

Mr. WICKERSHAM. These two gentlemen over here [indicating] represent the interests which will be benefited to the greatest extent by the passage of this bill.

The CHAIRMAN. To whom do you refer?

Mr. WICKERSHAM. To Capt. J. J. Reynolds and to Mr. Warren.

Mr. WARREN. I represent the Alaska-Portland Packers' Association, an entirely independent concern.

Mr. WICKERSHAM. And your company owes the Territory of Alaska \$10,000 and will not pay it, and everything you are doing here is in the interest of the Fish Trust. I do not claim that the Fish Trust is paying these gentlemen, because they have said they are philanthropists, that they are down here for the good of the country. They are riding around here in automobiles, having fine dinners, and all that sort of thing.

Mr. BYRNES. Who said they were here as philanthropists?

Mr. WICKERSHAM. Well, they have disclaimed any interest.

Mr. BYRNES. I do not know one of them, and I have not met Capt. Reynolds, but I take it for granted that those gentlemen are here representing some fisheries company in which they are interested.

Mr. WICKERSHAM. Yes.

Mr. BYRNES. I did not suppose they were here claiming to be philanthropists, but I think they have the right to come here to present their side of the matter. If I had a business and some legislation was pending affecting my business I would come before the committee, would I not?

Mr. WICKERSHAM. I heard the President of the United States not long ago denounce insidious lobbies.

Mr. BYRNES. What is an insidious lobby?

Mr. WICKERSHAM. You will have to go to the President to get that definition.

Mr. BYRNES. We have heard all sorts of individuals and organizations called insidious lobbies. The Anti-Saloon League has been very much interested in certain legislation, and yet if you call them an insidious lobby they are ready to fight. You might call all of them lobbyists, but I think men interested in a business affected by some pending legislation have some rights.

Mr. WICKERSHAM. I may resent too much the vast influences which have been here for years and which I have had to fight as the representative of the people of Alaska, who sent me here for the purpose of defending these fisheries. I may resent it too much, and if there is any gentleman who thinks I do I am willing to apologize for resenting it.

Mr. BYRNES. I do not think it is quite right—without knowing anything about the facts—to charge these gentlemen with belonging to an insidious lobby until you tell us something you know that has caused you to reach that conclusion.

Mr. WICKERSHAM. An insidious lobbyist does not come here and register himself as such.

Mr. BYRNES. No; but if you know them you ought to tell us.

Mr. WICKERSHAM. I am telling you what I do know.

Mr. BYRNES. All you say you know is that these gentlemen represent themselves as philanthropists. If a man comes here and represents a packing house and says he is a philanthropist I begin to doubt the truth of his statement, but if a man comes here and says, "I am interested in this legislation because it affects my business." I say he has a perfect right to do so.

Mr. WICKERSHAM. Well, Capt. Reynolds, for instance, does not claim to have any interests in Alaska; he said that to the committee. He said that his only interest was in one little cannery down on the coast of Oregon.

Capt. REYNOLDS. I told the committee, at least I meant to infer, that my interest here was to tell the committee any facts that they might desire to know.

Mr. WICKERSHAM. Did the committee send for you?

Capt. REYNOLDS. No.

Mr. WICKERSHAM. The committee did not send for you and I did not send for you. I have had this thing to contend with for years.

The CHAIRMAN. This has been the attitude of this committee since I have been a member of it. We have never excluded a man or refused to grant him a hearing if he had an interest in the subject matter being considered by the committee. Now, we consider his interest in giving weight to his suggestions, just like we would any other man's suggestions. My understanding of an insidious lobby is a lobby made up of men who seek by dark methods—

Mr. BYRNES (interposing). Circuitous routes?

The CHAIRMAN (continuing). Or by corrupt methods to defeat or promote legislation. If there is any such lobby as that here I do not believe it has come in contact with the members of this committee, and I am very sure that if it did it would not have any standing with the committee.

Mr. WICKERSHAM. I am sure of that, Mr. Chairman.

The CHAIRMAN. I think this committee is as free from any influence of that kind as any body of men could possibly be.

Mr. CURRY. I think that is true as to every member of the committee with the possible exception of myself, but, of course, as the judge says, they do not have to see me.

Mr. GOODWIN. I will say that I know none of these gentlemen; I have never seen any of them except in this committee room outside of Capt. Reynolds, who is stopping at the hotel where I stop. I

presume I met him, but I did not remember his name until last night, when somebody called him Capt. Reynolds. I did not know his business and he has never spoken to me directly or indirectly, nor has anybody else, about the measures pending here.

Mr. WICKERSHAM. Of course, they have been before the other committees very fully and made their statements just as they are making them here. They have been appearing before committees during all of these years, and I have a book of evidence taken before the other committees filled with their statements. Some of these gentlemen always appear, always fight, and always do everything they can to prevent what I think is good legislation for Alaska; and I may resent it too much, but I hope not.

Mr. HARDY. The sum and substance of all this is that these men interested in legislation have the right, and exercise it, to become before committees of Congress and present their interests, and, as Judge Alexander says, we are always ready to hear them. At the same time we weigh the relations of everybody who comes before the committee.

The CHAIRMAN. I would like to know all about the people who come before the committee and what their relations are. There can not be too much light given to me.

Mr. WICKERSHAM. I want to call your attention to the fact that the tentative bill, as it is called, was prepared by the Bureau of Fisheries and these representatives together and not by the Delegate of Alaska, who was never consulted.

Mr. GREENE. That is what I was just going to ask.

Mr. WICKERSHAM. I was never consulted about these matters.

Mr. GREENE. Who prepared the bill?

Mr. WICKERSHAM. The Bureau of Fisheries and these gentlemen. I do not mean to say these particular gentlemen, but Mr. Warren's brother and other gentlemen when they were here at other sessions of Congress. They prepared the original bill, but this is the worst of all.

Mr. WARREN. Was it not called the Jones tentative bill?

Mr. WICKERSHAM. Yes.

Mr. WARREN. Did not the Senate committee prepare it?

Mr. WICKERSHAM. No; it did not.

Mr. BYRNES. Before what committee was that bill considered?

Mr. WICKERSHAM. It was before the Committee on Fisheries in the Senate.

Mr. BYRNES. Was it ever reported?

Mr. WICKERSHAM. It never was.

Mr. BYRNES. Who is the Jones referred to?

Mr. WICKERSHAM. Senator Jones, of the State of Washington. Mr. Chairman, let me call your attention to Senate joint memorial No. 26, of the Alaska Legislature, passed by the senate on April 26, 1913, and by the house April 30, 1913, all of which I would like to have go in the record. It appears on pages 413, 414, and 415 of the session laws of 1913 of Alaska. I will read only two sections of it now:

We object generally to the whole bill prepared by and entitled "Tentative draft of bill suggested by the United States Bureau of Fisheries and the representatives of the various Alaskan fisheries, which has been agreed upon and

prepared by them jointly after numerous conferences," and especially to section 1 thereof, reading: "All of the license fees and taxes derived from Alaska fisheries shall be covered into the Treasury of the United States and there kept in special fund," on the ground that the Territory of Alaska is entitled to a reasonable proportion of the revenue derived from the fishing industry of the Territory.

On the next page:

And we further recommend that no law be enacted by Congress whereby any right or title to the tidelands or waters now occupied by fishing appliances in Alaska can be acquired for fish-trap sites, nor any areas of tideland or water be in any way reserved for the operation of any certain kind of fishing contrivances to the exclusion of other fishing gear.

I forgot to put that in the record yesterday.  
(Said joint memorial, in full, follows:)

*To the Senate and House of Representatives of the United States of America in Congress assembled,* Your memorialists, the Legislative Assembly of the Territory of Alaska, do most respectfully and earnestly represent that—

Whereas the fishing industry of Alaska, now in the early stages of development, bids fair to be the greatest industry of its kind in the world; and  
Whereas we believe the waters of Alaska and the fish therein to be the property of the people and heritage of future generations; and  
Whereas we believe it to be our duty to use every effort toward the protection and conservation of this great natural food supply of the Nation; and  
Whereas the history of the fisheries of this Nation shows us that the depletion and destruction of migratory fish has been caused by the lack of restriction and regulation of the methods of fishing; and  
Whereas the salmon fishery of this Territory is being prosecuted for the purpose of obtaining dividends for the present and without due regard for the conservation of the fish supply for future generations; and  
Whereas we believe that upon the restriction and regulation of the gear and methods of fishing now depends the future of this great industry: Therefore  
Your memorialists earnestly and respectfully petition your honorable body that laws be enacted for the regulation of our salmon fisheries in accordance with the following recommendations:

1. The abolishment of the contrivance known as a jigger in connection with all fishing traps, pound nets, or weirs.
2. The limiting of all leads on all fish traps to a length of 600 feet in entirety.
3. That no fish traps, pound nets, or weirs be allowed within a distance of 1 mile of any salmon stream nor in any bay, estuary, inlet, or channel which is less than a mile in width, and that traps now established within such limits be removed.

4. That the Fisheries Bureau be instructed and authorized to establish posts or monuments at the mouths of all salmon streams which shall limit the distance from such streams at which any kind of fishing gear may be used, and that such marked limits be established by practical fishermen who are familiar with all the conditions that obtain in localities in which such marked limits are to be established. The term "mouth" of a stream shall be defined to mean the place where the line of mean low tide meets and crosses the trend of the stream.

5. We object generally to the whole bill prepared by and entitled "Tentative draft of bill suggested by the United States Bureau of Fisheries and the representatives of the various Alaskan fisheries, which has been agreed upon and prepared by them jointly after numerous conferences," and especially to section 1 thereof, reading: "All of the license fees and taxes derived from Alaska fisheries shall be covered into the Treasury of the United States and there kept in special fund," on the ground that the Territory of Alaska is entitled to a reasonable proportion of the revenue derived from the fishing industry of the Territory.

6. We further recommend that it shall be made unlawful to take any salmon from any fresh-water stream by means of a spear or gaff except for personal, domestic, or family consumption, and it shall be unlawful to purchase any salmon taken by means of a spear or gaff from a fresh-water stream for use in canning, salting, or otherwise preserving for sale.

7. That a closed season be established for southeastern Alaska from September 1 to December 31 of each year as to fishing for any kind of fish above the mouths of any and all streams and outside the mouths of any and all streams during said closed season for sockeye and humpback salmon.

Further, that the Government operate all fish hatcheries of Alaska; and

Further, that at the hearings held before the fishing and game joint committees of the Territorial legislature it was fully demonstrated that illegal fishing was carried on in nearly all of the localities and the inspection system as now inaugurated by the Fisheries Bureau is greatly inadequate to carry on proper inspection.

And we further recommend that no law be enacted by Congress whereby any right or title to the tide lands or waters now occupied by fishing appliances in Alaska can be acquired for fish-trap sites, nor any areas of tide land or water be in any way reserved for the operation of any certain kind of fishing contrivances to the exclusion of other fishing gear.

And your memorialists will ever pray.

Mr. BOWER. May I say a word in connection with the Senate bill to which Judge Wickersham has referred? I was before that committee in 1912 in the interest of the Bureau of Fisheries, as was also Dr. Evermann. The tentative draft which Judge Wickersham has spoken of was prepared after extended hearings had been held before the committee. The Bureau of Fisheries was very largely instrumental in drawing up that draft; representatives of the several companies were heard and various Members of the Senate appeared before that committee—Senator Chamberlain, Senator Bourne, of Oregon, and others. The tentative draft was merely drawn up for the information of the Senate Fisheries Committee, and Senator Jones had a great deal to do with the preparation of that draft, as I remember it. I think Judge Wickersham omitted some features of the discussions that took place at that time, so I merely invite your attention to the matter.

Mr. WICKERSHAM. That tentative bill was drawn after the Flood bill was introduced.

Mr. BOWER. I believe it was introduced at about the same time.

Mr. WICKERSHAM. No; the tentative bill was never introduced. We had long hearings, and all the evidence is here, before the Committee on Fisheries in the Senate, and they refused to report it favorably.

Now, Mr. Chairman, I started to call your attention to the protest that the people of Washington are making against this bill, which they are offering to you as representative of the wishes of the people of a great State. At page 27 of this *Pacific Fisherman*, of February, 1916, under the head "New initiative bill affecting Washington fisheries" is this editorial statement:

The direct legislative league, composed of fake farmers, walking delegates, and petition pushers working on percentage, has filed a new initiative bill designed to graft on the people engaged in the commercial fisheries of the State of Washington. This bill is to be voted on next fall if sufficient signatures are secured. Following is the text of this measure.

Then follows the text of the measure, which has been filed with the secretary of state of Washington and which is to be voted on by the people of Washington next fall, if in the meantime they file a sufficient petition. I call your attention, in my own defense rather than because it is necessary, to the fact that the men who are making an effort in the State of Washington to do away with this scheme they are trying to impose on Alaska are called fake farmers, walking

delegates, and petition pushers working on percentage. I have been called all of those and many other less complimentary names by these same people, so if sometimes I get a little out of humor it may not be surprising. I want this whole bill to go into the record, if the committee will permit, because it is the opposite of what the law is now in the State of Washington and it is the opposite of what this bill is in almost every material particular. For instance, in section 3 of this initiative bill it is provided:

SEC. 3. Section 34 of the Fisheries Code of Washington is amended to read as follows:

"SEC. 34. Pound nets or fish traps prohibited and set nets regulated in Puget Sound.

"It shall be unlawful to fish for salmon with any pound net or fish trap in Puget Sound, nor shall any set net of any greater length than 500 feet or in the form of a pound net or with pots or hearts connected therewith or that is used or held in any other way than in a substantially straight line be allowed in Puget Sound."

That is all I want to read to the committee at this time.  
(The bill referred to follows:)

This act shall be known as the Fisheries Code of Washington. The prosperity and happiness of all of its people are hereby declared to be the highest aim of the State and the protection and utilization of its great natural resources, to the end that all the functions of government may be economically carried on without burdensome and confiscatory taxation being placed upon the home builders and real producers of the State, is paramount. Protection and conservation of the great sources of food supply are necessary that they shall not be monopolized by the few to the detriment and discomfort of the many and inasmuch as it has been legally determined that the fish in the waters of the State of Washington are the property of said State, it is hereby declared that the purposes of this act are to foster the propagation, protection, and development of this source of food supply and to create a revenue therefrom by retaining a portion of the value of its own property from those who are hereby allowed to appropriate the same, under the regulations hereinafter set forth, the proceeds of which shall be turned into the State treasury for the general support of the State government to the end that the burden of taxation on its people may thereby be reduced.

SEC. 2. Section 10 of the Fisheries Code of Washington is amended to read as follows:

"SEC. 10. Commission may prohibit fishing.

"The commission may prohibit fishing for both food and game fish in any waters of the State, or any part thereof, should they consider it necessary for the protection of the food and game fishes mentioned in this act. When the commission shall desire to close any waters of the State to fishing they shall publish, in a weekly newspaper in such county or counties in which such waters are located for not less than two successive issues, a notice stating that from a certain date, which shall not be less than 15 days from the date of first publication of said notice, to a date also to be fixed in said notice, said waters of the State or the portion thereof therein described shall be closed to fishing. It shall be unlawful to take any of the food or game fishes mentioned in this act, by any means whatever, during the closed period defined in such notice."

SEC. 3. Section 34 of the Fisheries Code of Washington is amended to read as follows:

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"It shall be unlawful to fish for salmon with any pound net or fish trap in Puget Sound, nor shall any set net of any greater length than five hundred feet or in the form of a pound net, or with pots or hearts connected therewith or that is used or held in any other way than in a substantially straight line, be allowed in Puget Sound."

SEC. 4. Section 48 of the Fisheries Code of Washington is amended to read as follows:

"SEC. 48. License fees and fines to general fund.

"All license fees and fines collected under the provisions of this act, unless otherwise provided herein, shall be paid into the State treasury and placed in the general fund to be used for the propagation, protection, and perpetuation of food and shell fishes and the administration and enforcement of the laws relative thereto and for the general support of the State government."

SEC. 5. Section 51 of the Fisheries Code of Washington is amended to read as follows:

"SEC. 51. Licenses and fees.

"Every person, firm, or corporation operating in the waters of the State of Washington any of the fishing appliances which, by the terms of this act, are required to be licensed shall in addition to the license fees by this act provided, pay to the State for the food and shellfish taken from the waters thereof as follows:

"For each chinook, tye, king, black mouth, or spring salmon caught, 15 cents.

"For each steel-head salmon caught, 6 cents.

"For each sock eye or blue back salmon caught, 3 cents.

"For each silverside or coho salmon caught, 2 cents.

"For each chum or dog salmon caught, 1 cent.

"For each humpback or pink salmon caught, one-fourth cent.

"For each 100 pounds or fraction thereof of smelt or herring caught, 5 cents.

"For each 100 pounds or fraction thereof, shad or cod caught, 25 cents.

"For each 100 pounds or fraction thereof of shrimp caught, 25 cents.

"For each sturgeon caught, 30 cents.

"For each gross of crabs caught, 15 cents.

"For each ton of clams, gross weight in shells, 75 cents.

"Licenses herein required shall be issued to any qualified person or corporation by the commissioner upon application therefor and the payment of license fees herein required.

"For each pound net or fish trap, purse seine, gill net, stationary fish wheel, scow fish wheel, dragnet, set net, reef net, drag seine, bag net, beam trawl, or set line used in taking fish, a license fee of \$1.

"For each license to take crabs, \$1.

"For each license to take clams or mussels, \$1.

"For each license to take oysters for seed purposes from the State reserves, \$1.

"For each private hatchery of any food fish, a license of \$1.

"For every person, firm, or corporation engaged in canning food or shellfish, a license of \$1 for each cannery operated.

"For every person, firm, or corporation engaged in the wholesale or retail buying and selling, packing and preserving, freezing, salting, smoking, kippering, preserving in ice or otherwise, a license fee of \$1.

"For each person, firm, or corporation using scows, boats, or other water craft in the buying of fish on the Columbia River, for each scow, boat, or other water craft, a license fee of \$50.

"For all other persons, firms, or corporations using scows, boats, or other water craft in buying, handling, or transferring food or shellfish in the State of Washington, for each scow, boat, or other water craft, a license fee of \$1.

"For all the purposes of this act the commissioner shall determine the class and character of each fishing appliance.

"Every person engaged in buying fish shall obtain a permit from the commissioner for each representative of such buyer.

"The license issued by the commissioner for the appliances hereinbefore mentioned shall specify the district wherein the license is to be used, and no license for one district shall be used in another."

SEC. 6. Section 52 of the Fisheries Code of Washington is amended to read as follows:

"SEC. 52. Reports to commissioner.

"Every owner of any fishing appliance which by the terms of this act is required to be licensed shall report to the commissioner under oath on blanks to be furnished by the commissioner, upon request, not later than the tenth day of each month of each year, for the month preceding the date on which the report is made, stating the number of salmon (species stated separately), the number of crabs, sturgeons, pounds of smelt, herring, shrimps, clams in shell, shad, cod, and other food fish caught during the preceding month, together with the names of the person, persons, firm, or corporation to whom such fish were

sold, with the number or quantity delivered to each purchaser, and shall at the same time remit the fees thereon as by this act provided; and every person, firm, or corporation engaged in canning, preserving, salting, smoking, kippering, mild curing, curing, freezing, preserving in ice or otherwise, and in buying, selling, or otherwise dealing in food and shellfish caught within the waters of this State, as wholesalers or retailers, either as principal, agent, or employee, shall on the same dates and for the same period make reports to the commissioner, stating the number of salmon (species stated separately), the number of crabs, sturgeon, pounds of smelt, herring, shrimps, clams, shad, cod, and other food fish canned, preserved, or cured, and all purchases or sales made during the preceding period for which the report is made, together with the name of the person, persons, firms, or corporations from whom procured, and the place from which the fish were taken and appliances with which the same were taken. Any person, firm, or corporation who shall fail to make the reports herein provided or at the same time fail to make payments of the amount of money due the State shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$5,000, or by imprisonment in the county jail for not more than one year, or both such fine and imprisonment, and the amounts owing by any such person for license and additional fees shall become and constitute a first lien on the fishing appliances of any such person, and also upon the fish, upon which said fees have not been paid, as well as a lien on the real and personal property of the person owning or liable for such sum or sums, from and after a notice of such lien on behalf of the State shall have been filed in the office of the county auditor of the county in which the person owing or liable for such amount or amounts shall reside. A notice of lien to be filed by the commissioner shall be sufficient if it shall state the amount for which the lien is claimed and the person owing or liable for the same: *Provided*, That upon conviction of the second offense a penalty of imprisonment of not less than ten days or more than one year shall be inflicted upon the person so convicted, and in the case of a firm or corporation being convicted of the second offense the imprisonment shall be inflicted upon the managing head thereof residing in this State.

"The lien provided for herein on the fish shall exist and continue even in case such fish shall have been sold by the person catching the same and shall continue in full force and effect even in case said fish are canned or otherwise preserved, and for the purpose of protecting himself or itself from such lien any person engaged in buying such fish from the persons catching the same may deduct from the purchase price the amount of the fees herein provided for and remit the same to the commissioner at the time of making the report provided for herein.

"Each person who catches fish in the waters of the State of Washington, which fish such person does not sell as a fresh product, but either cans, freezes, salts, smokes, kippers, preserves in ice, cures, mild cures, or preserves in any other manner prior to selling the same, shall pay to the State of Washington the same amounts for each kind of fish caught as hereinbefore specified."

Sec. 7. Section 58 of the Fisheries Code of Washington is amended to read as follows:

"Sec. 58. Right to take fish limited to citizens.

"It shall be unlawful for any person to fish or take for sale or profit or any other purpose whatsoever any salmon or other food fish or shellfish in any of the rivers or waters of this State or over which it has concurrent jurisdiction in civil and criminal cases, unless such person be a citizen of the United States or has declared his intention to become such and is and has been for twelve months immediately prior to the time he engages in such business an actual resident of this State, but this section shall not apply to Indians."

Sec. 8. All acts and parts of acts in conflict with this act are hereby repealed.

In Washington the people are trying to repeal the law which the Fish Trust is now trying to have this committee favorably report. I do not know whether the people of Washington will repeal it or not, but they have offered it under the initiative and referendum clause of their law, and I presume they will do their best to repeal it.

The CHAIRMAN. That proposes to amend it.

Mr. WICKERSHAM. It proposes to abolish fish traps wholly, as well as pound nets, in the waters of Washington, because they know they are the most destructive ways in which to catch fish and because they

are so easily monopolized. By doing that they will protect and preserve their fisheries.

I received this telegram from the secretary of state of Washington:

Initiative bill filed abolishes all pound net and trap fishing; necessary petition to contain 30,000 not yet filed; must be filed by July 6 or measure defaults.

I. M. HOWELL,  
*Secretary of State.*

They have a month yet in which to file that petition, and I assume they will do so.

Now, Mr. Chairman, I want to talk to you about these excessive taxes for just a moment. Gov. Strong's statement to you was that the tax upon Alaska canneries was not inequitable. Gov. Strong himself approved the act of the legislature which they are criticizing, the act which put an additional tax upon canned salmon in Alaska. Gov. Strong knew the situation; he and the legislature in Alaska knew it; they knew what was going on there; they knew how much these people were charging for fish; they knew the whole situation; and they knew they were not paying, in proportion, as much as the rest of the people of the Territory of Alaska, and therefore acting within the law, as they thought, and as no doubt the court will hold, imposed an additional tax upon them.

I want to talk to you about the man who drew that bill. The Legislature of Alaska at its last session came to the fifty-eighth day without action. They can only hold a session of 60 days, and on the night of the fifty-eighth day they did not have any revenue law passed or even agreed upon. They did not have any revenue law passed because they were surrounded by men who knew what they wanted and who were greatly interested in preventing the passage of the law. But the governor advised them on the night of the fifty-eighth day that if they did not pass a revenue law for the support of the Territory of Alaska he would call them in special session immediately after they adjourned, and, rather than have a condition of that kind obtain in the Territory, and rather than have a rebuke of that kind from the governor, who is responsible for the government, on the night of the fifty-eighth day they set to work to pass this revenue law. Mr. Heckman started the matter. He offered a motion or resolution requiring the appointment of a special committee to take up the revenue law. I mention his name because he is the representative there of the Alaska Packers' Association and has been for 20 years their general manager in the waters of Alaska. He has more to do with their business than all the other men in southeastern Alaska. He is a very good citizen except for the fact that he always represents the special interests rather than the interests of the people of the Territory. I have here—and I am not going to read it all—the journal of the house of the Legislature of Alaska for 1915. This journal shows that Mr. Heckman moved that:

The speaker appoint a special committee of five, one from each division, the fifth to be the speaker, to draft a license-tax bill and present the same to the house at 11 a. m., April 28. Motion duly seconded and carried. In accordance therewith the speaker appointed the following: Mr. Heckman, from the first; Mr. Getchell, from the second; Mr. Noon, from the third; Mr. Snow, from the fourth; Mr. Speaker.

Those men met and within the next 48 hours they reported a bill. It was passed, and it is the law that is now before you and which is being criticized by these representatives of cannery interests. Mr. Heckman told the governor—and he testified to it in his statement before the Committee on Territories—that if they would pass that bill with the low rates in it, and all that, that he and the Alaska Packers' Association and the big canners would stand by it and pay their taxes. Upon that statement to the governor and to the people he got that bill through; but they have not paid their taxes; they are fighting it and doing everything within their power to avoid the payment of the taxes levied under it. Mr. Britton appeared before this committee as attorney for the Alaska Packers' Association, and he is endeavoring to secure the repeal of the law which was passed at that time, and which they agreed to support. There are some other things about it which I will not mention.

Now, Mr. Chairman, if you were in Seattle along about the 1st of May you would be very greatly interested if you would go down to the wharves. In Seattle, Astoria, or the city of San Francisco, you would see all sorts of vessels lined up around those wharves. You would see the boats and ships being loaded with men, with fishing gear, and all kinds of mercantile goods. You would see Chinese and Japanese, Mexicans, Filipinos, and hundreds of strange men put into these vessels, and much merchandise, which they do not purchase in Alaska. They do not buy one cent's worth in Alaska. They sail away from those wharves, sail through the Aleutian Pass into Bristol Bay and into these Alaskan harbors. Within two months they catch and can \$20,000,000 worth of fish. They work day and night, and the fish keep going into cans every minute, because the run is short. Within two months after getting into Alaska they load their catch into the ships, load their men, and sail away to Seattle, Portland, and San Francisco, where they pay the men off, and Alaska is just out another big crop of fish. Those who have been in the business have raised the price, as I have shown, from \$1, \$1.68, and \$1.72 up to \$2.25. They make millions out of it, and now they have grown so arrogant they want the title to the fisheries.

I have gone over this matter for the purpose of calling your attention to the fact that the people who do this business in Alaska are not Alaskans; they are not even all American citizens. One of them, one of the big canners for many years, was a Chinaman. They run Chinese crews up there, and the way they treat them is un-American. Everything has been done by the district attorney at Seattle to prosecute them and convict them for peonage, but he has not succeeded. Their influences are too great around Seattle to secure any results of that kind.

Mr. CURRY. A great many white men go up from San Francisco; I do not know about Seattle.

Mr. WICKERSHAM. There is one section in the bill of the State of Washington which these gentlemen have forgotten to include in this bill. They say this State of Washington bill is a good bill, but they do not include all of it. I refer to section 58 of the Fisheries Code of Washington, and it reads as follows:

It shall be unlawful for any person to fish or take for sale or profit any salmon or other food or shell fish in any of the rivers or waters of this State, or over which it has concurrent jurisdiction in civil and criminal cases, unless such

person be a citizen of the United States, or has declared his intention to become such, and is and has been for 12 months immediately prior to the time he engages in such business an actual resident of this State or an adjoining State; but this section shall not apply to Indians.

I call your attention to the fact that those people do not allow Alaskans to come down there and fish in their waters, and the words "adjoining State" have recently gone into that section. I have called this to your attention for the reason that I have been trying to get some laws passed here for seven years in order that we might have a fishing population in the Territory of Alaska; that we might have fishing hamlets and towns; that we might get something out of these fisheries with which to build homes, churches, schools, and establish civilization there. But, on the contrary, the whole policy of these big fish trusts is to take everything out of the Territory and not permit anything to come into it. They do not want to pay any taxes to the Territory; they have never built a schoolhouse in the Territory; they have never built a church or a home. They are robbing the Territory. I am speaking from the Territorial side now. They have robbed the Territory for 30 years of all of its fisheries, and we have not gotten anything substantial out of them except the slight pittance which the Government has expended up there.

Now, Mr. Chairman, I want to go over this bill and scan it, because there is not a section in it which, in my judgment, ought to be passed. There are some sections in it which may appeal to you gentlemen, but they are already in the law of Alaska. Everything that is good in his bill is already the law of the Territory of Alaska.

Mr. BYRNES. What is the difference between the present laws of Alaska and this bill?

Mr. WICKERSHAM. If the committee will bear with me, I will point that out. Section 1 of this bill provides:

That it shall be unlawful to engage in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale in food fish or shellfish, or other aquatic animals or the products thereof, in the Territory of Alaska or in any of the waters of Alaska over which the United States has jurisdiction, without first obtaining license therefor, as herein provided. Every person, except employees, engaged in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale in food fish or shellfish, or other aquatic animals, or the products thereof, or manufacturing fisheries products, in the Territory of Alaska or in any of the waters of Alaska over which the United States has jurisdiction, shall before commencing operations apply for a license to the Secretary of Commerce, who shall issue the same, and every such person shall, in lieu of all other Federal or Territorial license fees and taxes therefor and thereon, pay annual license fees and taxes on said business and output as in this act provided.

I want to call your attention to section 269 of the Compiled Laws of Alaska, because I consider it a very important question in connection with the criticisms that I shall now undertake to make in reference to this bill. Section 269 provides:

That the catching or killing, except with rod, spear, or gaff, of any fish of any kind or species whatsoever in any of the waters of Alaska over which the United States has jurisdiction shall be subject to the provisions of this act, and the Secretary of Commerce and Labor is hereby authorized to make and establish such rules and regulations not inconsistent with law as may be necessary to carry into effect the provisions of this act.

There is authority given to the Secretary of Commerce, substantially without limitation, within the provisions of this act to make

rules and regulations governing the fisheries of Alaska. That is the power which, under the Constitution, Congress has over the Territories. It is the power to make laws. I am not here to point out any specific law that the Secretary of Commerce has ever made and criticize it. I am calling attention to the fact that he has substantially unlimited power to make laws in Alaska for the enforcement of the acts relating to the fisheries.

Let us take section 1 again. Section 1, reduced to its simplest terms, provides that nobody shall fish without first obtaining a license therefor as herein provided. That is the law of Alaska. Section 2569 provides:

That any person or persons, corporation, or company prosecuting, or attempting to prosecute, any of the following lines of business within the District of Alaska shall first apply for and obtain a license so to do from a district court or a subdivision thereof in said District, and pay for said license for the respective lines of business and trade as follows, to wit:

Fisheries: Salmon canneries, four cents per case; salmon salteries, ten cents per barrel; fish-oil works, ten cents per barrel; fertilizer works, twenty cents per ton.

The CHAIRMAN. Is that the compiled laws of 1913?

Mr. WICKERSHAM. That is in the laws of 1913, at page 782. It has been the law in Alaska since 1889, and the license has been just as much demanded under the United States statute as it is now demanded in this section.

The second part of the section, without reading it again, provides that the license shall now be obtained from the Secretary of Commerce. Well, the law heretofore in the Territory of Alaska has provided that this license shall be obtained from the clerk of the court. The clerk of the court has not only issued the license, but has always collected the money. That is the law in Alaska, and has been since 1899. The only change in section 1 in respect to those matters is that it requires the license to be issued by the Secretary of Commerce instead of by the clerk of the court, as heretofore done under the United States statute. There is practically nothing new in the section.

Mr. GREENE. Does the clerk of the court receive any fee?

Mr. WICKERSHAM. None whatever.

Mr. GREENE. There is no expense attached to that?

Mr. WICKERSHAM. There is no expense attached to that. The clerk of the court has a regular force which collects these fees, but without any added expense on the United States or the Territory. There is no expense to the Government, but if this bill makes that change, then we will have a new bureau for the collection of license fees in Alaska which will cost you a great deal more than you will get from the license fees, not necessarily for canned salmon, because they have a complete check on that. Everything which is sent out of the Territory of Alaska is checked through the customs department. The Bureau of Fisheries does not pay any attention to the amount of canned salmon, they do not make any inspection, they do not know anything about it. They take the statement of the collector of customs. Is not that correct, Mr. Bower?

Mr. BOWER. We examine carefully the sworn statements submitted by the companies.

Mr. WICKERSHAM. Sure. They merely take a statement handed to them and the collection follows, now, without expense.

Mr. GREENE. To collect the taxes they would have to travel all over the Territory of Alaska?

Mr. WICKERSHAM. I have no idea what they would do, but if they collected the small taxes mentioned in this bill they certainly would, because the canneries are spread over 1,000 miles of frontage.

Mr. BOWER. My judgment is that Judge Wickersham is anticipating unusual difficulties along this line.

Mr. WICKERSHAM. If I am, it is based on my knowledge of the situation.

The CHAIRMAN. If they are collected now, without any difficulty, through the customhouse, I do not see any added difficulty about the collection?

Mr. WICKERSHAM. You are transferring a lot of these taxes from the Fish Trust to the people of Alaska. You are going to collect from individuals instead of the people who ship through the customhouse. You are going to undertake to tax every man in Alaska who owns a little net or a boat or anything of that kind. The burden is being transferred from the Fish Trust to the people of Alaska.

The CHAIRMAN. Those engaged in the fisheries as a wholesale business are to pay the tax.

Mr. WICKERSHAM. The chairman has not understood the bill as I have.

The CHAIRMAN. Let us read the first section and see if you understand the bill.

Mr. WICKERSHAM. Maybe not.

The CHAIRMAN (reading):

That it shall be unlawful to engage in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale in food fish or shellfish, or other aquatic animals or the products thereof, in the Territory of Alaska, or in any of the waters of Alaska over which the United States has jurisdiction, without first obtaining license therefor as herein provided. Every person, except employees engaging in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale—

Mr. WICKERSHAM (interposing). No, sir.

The CHAIRMAN (continuing):

in food fish or shellfish, or other aquatic animals or the products thereof, or manufacturing fisheries products, in the Territory of Alaska, or in any of the waters of Alaska over which the United States has jurisdiction, shall before commencing operations apply for a license to the Secretary of Commerce, who shall issue the same, and every such person shall, in lieu of all other Federal or Territorial license fees and taxes therefor and thereon, pay annual license fees and taxes on said business and output as in this act provided.

It is those engaged in the wholesale business and not the retailers or the people who catch them for their own use. It is only those engaged in the business at wholesale.

Mr. WICKERSHAM. That section is very plain, but the second section provides:

That a license fee of \$5 shall be imposed and paid for each canning, mild-curing, salting, smoking, fish-freezing, whaling, or other wholesale fish-dealing establishment; for each fish-fertilizer and fish-oil works, and for each other fishery establishment, except retail markets not herein specified.

For each pound net, \$50; for each fish wheel, \$25.

And it includes purse seines, trawl nets, and things of that kind. They will collect all of the small license fees provided in section 2.

The CHAIRMAN. You are begging the question. I am talking about section 1. You said that I was not correct. Am I correct?

Mr. WICKERSHAM. Yes, sir.

The CHAIRMAN. Then, take up section 2.

Mr. WICKERSHAM. If you limit yourself to section 1, you are correct.

The CHAIRMAN. That is all I am talking about.

Mr. WICKERSHAM. That is not what I was talking about.

The CHAIRMAN. We were talking about section 1.

Mr. WICKERSHAM. I was talking about the whole bill.

The CHAIRMAN. You said that we would take up the bill section by section, and you were discussing section 1.

Mr. WICKERSHAM. Yes; I want to go back and say that if this bill passes giving this bureau the right to collect these license fees in Alaska it will collect the license fees mentioned in sections 1 and 2 and do away with the collections which now go through the United States district court clerk, and the bureau will have to institute another branch for the collection of fees in Alaska.

Mr. BYRNES. Which will create places?

Mr. WICKERSHAM. Which will create many good jobs at \$2,500 a year each.

Mr. BOWER. I am quite confident that the bureau's agents now on duty in Alaska can attend to this work with the possible addition of a clerk or two.

Mr. WICKERSHAM. I had control of this matter for eight years in Alaska as United States district judge, and so I know something about it. I appointed the clerk of the court who collected this money. If the clerk of the court had to go out and collect the new fees fixed in this bill, he would have to have a group of new clerks and collectors to do it, and it would cost many thousand dollars.

Mr. BOWER. The clerk of the court has called on us at times to assist in collecting the taxes.

Mr. WICKERSHAM. He has the right to do that under the law.

Mr. BOWER. And I myself have given him some assistance.

Mr. WICKERSHAM. It did not cost anything extra.

Mr. BOWER. It is right in line with our work.

Mr. WICKERSHAM. He has the right to call on the district attorney?

Mr. BOWER. And the marshal.

Mr. WICKERSHAM. Yes, sir; the clerk of the court, for that reason, has a wider range of servants to assist him than you would have.

Mr. BOWER. The clerk of the court has no field force for such duty.

Mr. WICKERSHAM. The phrase "field force" is a happy one. They will want a "field force" to collect these taxes. That, however, is not, Mr. Chairman, a fundamental objection to this bill. To my mind there are two fundamental objections—first, the monopoly, and, second, the release of the trusts from taxation.

Mr. GREENE. That is quite vital if it is going to cost more to collect the money than it will be worth after you make the collection?

Mr. WICKERSHAM. My judgment is that it will, except as to the cannery money. That will not cost them anything.

The CHAIRMAN. How do they collect the taxes on the traps?

Mr. WICKERSHAM. They do not collect any.

The CHAIRMAN. Is that under the Territorial legislature?

Mr. WICKERSHAM. Through the clerk of the court.

The CHAIRMAN. There is just one man?

Mr. WICKERSHAM. The attorney general of the Territory of Alaska looks after it, and it is collected through the clerk of the court.

The CHAIRMAN. How much would it cost to collect it?

Mr. WICKERSHAM. Let me apologize for saying that they pay it; they do not.

The CHAIRMAN. They have ascertained what is a possible liability, and it is only a question of the authority of the Territorial legislature to pass the law?

Mr. WICKERSHAM. But the Territorial legislature has not undertaken to collect a thousand and one little items of this kind. There may be some way of working that out.

Mr. BYRNES. That is an administrative feature?

Mr. WICKERSHAM. Yes, sir. I am not making very much of a point about it. Section 1 of the bill provides for the taxes mentioned there, and—

Every person, except employees, engaging in the business of taking, catching, fishing for, canning, curing, preserving, packing, or otherwise dealing at wholesale in food fish or shellfish, or other aquatic animals or the products thereof, or manufacturing fisheries products in the Territory of Alaska or in any of the waters of Alaska over which the United States has jurisdiction, shall before commencing operations apply for a license to the Secretary of Commerce, who shall issue the same, and every such person shall, in lieu of all other Federal or Territorial license fees and taxes therefor and thereon, pay annual license fees and taxes on said business and output as in this act provided.

The words "in lieu of all other Federal or Territorial license fees and taxes therefor and thereon" should come out of the bill, even if it passes. There ought to be no obvious loopholes left. It may be in lieu of the income tax, because that is a Federal tax. I very greatly doubt if you pass the bill whether you can make a man engaged in the fisheries even pay the income tax. He would not have to pay anything else. I am only suggesting that. I am not sure about it, but I suggest it to the committee. It may be in lieu of their corporation tax. It may cover a great variety of things.

Section 2 provides:

That a license fee of \$5 shall be imposed for each canning, mild-curing, salting, smoking, fish-freezing, whaling, or other wholesale fish-dealing establishment; for each fish-fertilizer and fish-oil works, and for each other fishery establishment, except retail markets, not herein specified.

Mr. Chairman, under all the provisions of this bill—I want to make a point of that hereafter, so that there will not be any mistake—the sum of \$5 is all the owner would have to pay on a cannery. The cannery might be worth \$1,000,000. They have \$10,000,000 worth of shore property in Alaska canneries, and they are singly very valuable real estate. They would only have to pay \$5 each on those canneries under this bill.

The CHAIRMAN. How much do they pay under the Territorial law which is now in controversy?

Mr. WICKERSHAM. They do not pay anything.

The CHAIRMAN. Then, they would be just that much better off?

Mr. WICKERSHAM. No; they would be just that much worse off, because the other provisions of the bill prohibit the Territory levying a property tax on the canneries.

The CHAIRMAN. As I understood you the other day, the reason the Territory did not levy a property tax on the canneries was that they were scattered, and the cost of collecting the tax would amount to about 60 per cent of the tax.

Mr. WICKERSHAM. That statement was made, I think, by somebody; probably I made it; but I think I read it from Mr. Cobb's statement.

The CHAIRMAN. Then you agree that they are so scattered and the coast line is so vast that it will be very expensive to collect a tax of that sort?

Mr. WICKERSHAM. No; I do not think so. They would have to be visited, of course, by an assessor.

Mr. BYRNES. That is the property tax?

Mr. WICKERSHAM. Yes, sir.

Mr. BYRNES. They would have to pay it?

Mr. WICKERSHAM. Everybody else has to pay it but them.

I want to call your attention to the fact that they would not have to pay anything on the \$10,000,000 of shore property under that provision, except \$5. The total amount which the canneries would have to pay under this \$5 clause was, I think, Mr. Bower, you stated was about \$750?

Mr. BOWER. On the basis of 1913, \$735.

Mr. WICKERSHAM. Of which the Territory of Alaska would get one-half.

Mr. BYRNES. Under what provision?

Mr. WICKERSHAM. Under the provisions of the bill.

Mr. BYRNES. Who would pay that?

Mr. WICKERSHAM. The canneries on their shore property worth \$10,000,000, and the Territory would get \$350 or \$375. The Territory of Alaska does not want the \$375.

The CHAIRMAN. They would pay that tax on the property and then pay a tax on the output?

Mr. WICKERSHAM. Yes; but the Territory would only get one-half of that. You are decreasing the tax upon their output very largely, and Mr. Britton, who appeared here the other day in behalf of the Alaska Packers' Association, which needs it so badly, begged that it be still further reduced.

I am not going to read section 2. It provides for the payment of all sorts of small taxes on a great many varieties of property. I only want to make this criticism of that portion which provides for these taxes on the people of Alaska. They are burdensome. They will be hard to collect. It is a mere transfer of the burden of taxation from these big interests, who have looted and exploited our fisheries for 40 years, to the people who are trying to work along those shores and build up fishing communities. They should be given some assistance rather than be punished for going there and building their homes.

I want to call your attention to the third clause in section 2:

Every licensee employing any fishing appliance or method hereinbefore mentioned shall, by December thirty-first of each year, in addition to the license fees by this act provided, pay for the raw aquatic products taken by him, as follows:

Mr. GREENE. What are you reading from?

Mr. WICKERSHAM. Section 2, on page 3, lines 3 to 13.

For king chinook or spring salmon, and for steel-head trout or salmon at the rate of \$2 per thousand fish; for red, sockeye, or blueback salmon at the rate of \$1 per thousand fish; for coho or silver salmon and for chum or keta salmon, at the rate of 75 cents per thousand fish; and for humpback or pink salmon, at the rate of 50 cents per thousand fish.

That puts the burden upon the small fishermen of Alaska. For instance, the small fisherman who owns his home in Alaska, his own nets, boats, etc., who catches fish, will take them to the cannery where they will take the tax out of his output. Of course, it works the other way, for the cannery people will have to pay, too. It is general, and they will have to pay. But if you are going to consider that matter, then you ought to consider the value of the fish.

In this initiative bill they have a clause of that kind that I want to call your attention to. Section 51 of the initiative bill, found in the *Pacific Fisherman*, provides that—

Every person, firm, or corporation operating in the waters of the State of Washington any of the fishing appliances which by the terms of this act are required to be licensed shall, in addition to the license fees by this act provided, pay to the State for the food and shellfish taken from the waters thereof as follows:

For each chinook, tyeed, king, black mouth, or spring salmon caught, 15 cents.

Not per thousand, but for each of them.

Mr. BYRNES. That is in the Washington law?

Mr. WICKERSHAM. No; in this initiative law.

Mr. BYRNES. That will never pass.

Mr. WICKERSHAM. Maybe not.

For each steelhead caught, 6 cents; for each sockeye or blueback salmon caught, 3 cents.

Mr. BYRNES. What is one worth?

Mr. WICKERSHAM. Here [exhibiting] is a copy of the *Daily Alaska Dispatch* of Sunday, May 21, 1916. It says:

Dollar paid for salmon present time. Plenty of buyers at prices charged. Fishermen are making good money, and the run of salmon promises well.

I am quoting from a newspaper, so I am not going to swear to it.

One dollar for each salmon caught. This is the price now being paid for "reds," according to word from Kake.

The price is 25 cents for "whites" and 11, 8, and 6 cents per pound for mild-cured salmon, according to grade.

What is better still, the salmon are running freely in the vicinity of Kake, with buyers offering for all that can be caught.

About every boat that can be pressed into service is now busy. The price of \$1 for each salmon is like getting money from home. Of course, it requires a great deal of equipment and expense in properly outfitting for catching the salmon, but even trollers can get a pinch of change at the price now paid.

I call your attention to the *Pacific Fisherman* again. In the issue for January, 1916, under the head of "Quiniault salmon to be high," on page 16, it says:

The latest advices from the Quiniault River are to the effect that the following scale of prices for Quiniault salmon will prevail the coming season: In January and February, 40 cents; in March, 30 cents; and during April, May, and June, 25 cents.

That is what they are worth. How much do you pay, Mr. Warren?

Mr. WARREN. On the Columbia River, for bluebacks, where the man furnishes his own gear, 4 cents a pound. The Alaska rate on similar grade is approximately the same when you take into consideration the cost of outfitting.

The CHAIRMAN. What is the average weight?

Mr. WARREN. They run 12 to 14 to the case.

Mr. WICKERSHAM. How much will a king weigh?

Mr. WARREN. Probably 20 pounds.

Mr. BOWER. I think the average round weight is 20 to 22 pounds.

The CHAIRMAN. The dressed weight?

Mr. BOWER. The average round weight. They dress away about 35 per cent.

Mr. WICKERSHAM. If you pass this bill, it would not hurt the people or the Territory more than it will your own constituents, because the people who consume the fish will have to pay, not the people of Alaska.

The CHAIRMAN. Anyone who eats the fish would have it to pay?

Mr. WICKERSHAM. They are going to soak you anyway; there is no help for you if you legalize their monopoly.

The CHAIRMAN. It is just a question of who shall rob us, the people of Alaska or the Fish Trust.

Mr. WICKERSHAM. The Fish Trust will rob you, not the people of Alaska. We have no control.

The CHAIRMAN. I want protection against both of them.

Mr. HARDY. The initiative bill has its own knife put into its heart in the taxing feature.

Mr. WICKERSHAM. Suppose, if this bill passes that the fisheries pass into the control absolutely of the trust—

The CHAIRMAN (interposing). They should not punish the people.

Mr. BYRNES. And if they control the fisheries they will then put the tax upon the consumer?

Mr. WICKERSHAM. They do it now. I have put in the evidence to show you that they have increased the price 100 per cent.

Mr. BYRNES. Then they would increase it 150 per cent?

Mr. WICKERSHAM. Yes, sir; they can do it anyway. If this bill passes and they get control, ownership, and monopoly of the fisheries they can put it up another 100 per cent and your constituents must pay the price. But you can prevent it now.

The CHAIRMAN. I do not agree to that. I do not see the connection between the premises and the conclusion.

Mr. WICKERSHAM. Mr. Royal Meeker, Commissioner of the Bureau of Labor Statistics, is a very skillful statistician; he is in charge of the bureau which made the figures that I gave you, and I assume they are correct.

Mr. BYRNES. The figures are all right; it is just the conclusion.

The CHAIRMAN. The premises and the conclusion do not tie up.

Mr. WICKERSHAM. Of course, that is my conclusion. You gentlemen can draw any conclusion you please.

I want to call your attention to another thing. We have in the Territory of Alaska, under the law of Congress, a rebate allowed on fish turned loose by those cannery who maintain hatcheries. Dr. Smith seemed insulted when I said that the Bureau of Fisheries was not doing anything, because he said the Government maintained some hatcheries there. Neither Dr. Smith nor any member of his force can fairly testify, and no one has ever done it, that any of the hatchery fry come back after being turned loose. Yet they get enormous rebates on their taxes on account of supposed benefits from their hatcheries.

The CHAIRMAN. I do not know how to prove that the fry come back.

Mr. BOWER. Circumstances show that beneficial results accrue from hatchery work.

The CHAIRMAN. We have reported from this committee a number of bills for the construction of fish hatcheries and fish-cultural stations; is that a waste of public money?

Mr. WICKERSHAM. If badly located it is a waste of public money, and nobody knows it better than the canners and the Bureau of Fisheries.

The CHAIRMAN. Nobody can turn the fry loose and prove that they ever come back.

Mr. WICKERSHAM. But when the hatchery is situated on the stream at the line of brackish water and the fry when turned loose in the salt water die and pile up on the bank, it does not take much of a scientist to see that it is a failure.

The CHAIRMAN. That can be remedied.

Mr. WICKERSHAM. It can, but it is not. These canners get a rebate on that Karluk hatchery fraud, and it is legalized in this bill.

Mr. BYRNES. On what?

Mr. WICKERSHAM. On the fry turned loose.

The CHAIRMAN. I understand that the Bureau of Fisheries wants that stopped as soon as they can?

Mr. WICKERSHAM. They have had the power for years, and they have not stopped it. They have the power now. They have had the power for 10 years and they have had the fraud called to their attention for six years. The United States pays 40 cents a thousand for the fry thus turned loose, and both the Alaska Packers' Association and the bureau knows it is a fraud, and yet the association gets 40 cents a thousand for them and then asks this committee to approve this bill, which charges them only 50 cents a thousand for grown fish.

The CHAIRMAN. That is the existing law?

Mr. WICKERSHAM. I know it is as far as the rebate law is concerned, but it ought to be repealed.

The CHAIRMAN. Where were you when they put that over?

Mr. WICKERSHAM. I was in Alaska. They have never put any "jobs" over since I have been here, not one. If they succeed in this case it will be the very first one.

Mr. CURRY. The private hatcheries in Alaska are located at the wrong places?

Mr. WICKERSHAM. They are, most of them.

Mr. CURRY. And the fry ought not to be turned loose?

Mr. WICKERSHAM. I do not think they are all in the wrong places. The Government hatcheries may be in proper places, though no one can testify that any benefits comes even from them.

Mr. CURRY. I was talking about the private hatcheries.

Mr. WICKERSHAM. There have been large sums of public money wasted on the hatchery at Karluk by reason of this fraudulent rebate, and everybody knows that it is a fraud.

Mr. CURRY. When that hatchery was located, perhaps salmon hatcheries were a new thing, an experiment, and it was located in the wrong place. It should have been located up the river so that the fry could be turned loose in fresh water about where the spawning

beds are so as to give them a chance to develop and go down to the ocean. At the time when located that was not known; it is known now, and it should be stopped.

Mr. WICKERSHAM. Section 3 of this bill provides:

That all license fees and taxes shall be payable to and collected by the Secretary of Commerce or his authorized agents, and all taxes if not paid when due shall become delinquent, and shall draw interest at the rate of 1 per cent per month until paid. And it shall be the duty of all United States district attorneys to enforce the payment of all delinquent taxes in their respective districts, and all property belonging to the delinquents shall be subject to execution and attachment therefor.

That is the law of Alaska now, except that it is paid through the clerk of the court and not through the Department of Commerce. You do not gain anything by that section of this bill. There is no protection to the salmon of Alaska in it. The conservation does not gain anything in that section.

This bill is a bill for the conservation of salmon in Alaska, and its result, if it is passed, will be to create a monopoly and make excessive charges against the Government, though it will not be any aid to conservation.

The fourth section provides for the disposition of license fees and taxes, and there is some little change in the present law; it provides:

That all the license fees and taxes derived from the fisheries of Alaska shall be covered into the Treasury of the United States—

That is done now by the clerks of the court.

And 50 per cent thereof shall be transferred annually to the treasurer of the Territory of Alaska for such purposes as the Territorial Legislature of Alaska may direct. The remaining 50 per cent shall be placed in a fund to be known as the Alaska fisheries fund, which fund is hereby created, and the moneys in said fund shall be held subject to appropriation from time to time by Congress for the construction, purchase, maintenance, and operation of fish hatcheries in Alaska, and for other purposes relating to the investigation, development, preservation, and conservation of the Alaska fisheries.

Mr. GREENE. Was it not suggested that that part should be stricken out?

Mr. HARDY. No; not that one, Mr. Greene.

Mr. WICKERSHAM. There is nothing in that section for the protection and conservation of fisheries, though it does aid in crippling Alaska.

Mr. GREENE. Fifty per cent of the money is to be transferred annually to the treasurer of the Territory of Alaska.

Mr. WICKERSHAM. At present all that money and all the money we pay in under the laws passed by Congress levying taxes on business interests in Alaska go into the Alaska fund, which is paid into the United States Treasury, and 65 per cent of it is expended by the Government of the United States in building military roads in Alaska, 25 per cent of it is expended by the Government through the Department of the Interior in maintaining public schools outside of incorporated towns in Alaska, and 10 per cent of it is expended through the judges of the court in the Department of Justice in charity in Alaska. None of it is expended by Alaska or her legislature.

Mr. CURRY. Would this pay as much into the Alaska fund as is received now?

Mr. WICKERSHAM. I think not. The gentlemen on the other side say it will, but I think not, because I think they are miscalculating entirely the expense for the collection of this fund. Another thing, if this bill passes and all fisheries go into the hands of the trust, as I am satisfied they will, then these small fees will not be paid, because there will not be any independent Alaska fishermen there to pay them; the fishing will all be done by traps, which will have the exclusive privilege and right of fishing.

Mr. HARDY. Let me understand you right there. If one of these big companies hires a lot of employees to go out with its own fish nets and things of that kind, they do not pay a license for each one?

Mr. WICKERSHAM. No.

Mr. HARDY. But if an individual or a citizen engages in catching fish with a trap, he does pay?

Mr. WICKERSHAM. Yes; if the individual engages in catching fish with a trap or a corporation does, they both pay the same percentage on the fish caught.

Mr. HARDY. So whether it is an individual or a corporation, the tax is the same?

Mr. WICKERSHAM. Yes; so far as the trap is concerned. But the point I am making is that the individual will not longer fish with nets, because he would be driven out of business.

Mr. HARDY. They will simply become employees of the large companies?

Mr. WICKERSHAM. Yes; and it will be of very great harm, I think, to the development of the Territory of Alaska.

Mr. CURRY. Is there anything to limit the number of traps that may be used now?

Mr. WICKERSHAM. No; there is no law on the subject at all. The trap men are squatters, I tell you, on the public lands.

Mr. CURRY. These small men, the individuals, have not been driven out?

Mr. WICKERSHAM. The small canneries are being bought up pretty fast.

Mr. HARDY. As I understand you, the difference is simply this: Now, they have a right to go there but have nothing to fix and make permanent their right?

Mr. WICKERSHAM. Yes; that is correct.

Mr. HARDY. Whereas this bill will give them a permanent status which can not be interfered with later by anybody else. Now, it is pull Dick, pull Devil, and anybody can go in there and wrestle for possession.

Mr. WICKERSHAM. Yes; as a matter of fact, those who get into possession usually go there with their pile drivers and take possession of the public fishery for the summer fishing.

Mr. HARDY. Then there is another distinction. Now, the Government can take hold at any time and change the status or pass such laws as it sees proper; but you think if this bill is passed, the Government will then fix the property rights of the parties, and then in good faith can not change them.

Mr. WICKERSHAM. I think that is the law and I think the courts will so hold if this bill is passed.

Mr. HARDY. In other words, they will have a vested right.

Mr. WICKERSHAM. Yes; they will have a vested right.

Mr. WARREN. Then what do you think the effect would be if they have the same law that they have in Washington? Could they be dispossessed of their right?

Mr. WICKERSHAM. I am not sure but what as to those people who have gone in under that right the State will have to purchase their property if it desires to get back its fisheries. The State can not take their property without due compensation, certainly, if they have a legal vested property right such as this bill gives the trap owners in Alaska.

Mr. HARDY. In other words, you think if these corporations do combine and practically preempt the best fishing situations, it will be a case of letting them do as they please or else condemning the lands under the law and paying them.

Mr. WICKERSHAM. Under the law of eminent domain; yes.

Mr. BYRNES. To what extent would they have to operate those fishing nets? Having preempted the right to them, would it be necessary to operate them?

Mr. WICKERSHAM. They must operate at least once in three years.

Mr. BYRNES. To what extent would that operation be required?

Mr. WICKERSHAM. Of course, that is very indefinite in the bill. Most any attempt at slight operation might be held to be sufficient to hold their titles.

Mr. BYRNES. If they preempt the right to all of them and use only a part, and the supply was diminished, what would be the result?

Mr. WICKERSHAM. They could do that, Mr. Byrnes; they could use No. 1 trap site this year, No. 2 trap site the next year, and No. 3 trap site the third year, going back to No. 1 trap site the fourth year. They could go the rounds and hold four traps in that way, only working each trap each fourth year. And, Mr. Chairman, those traps are built each year. They are not permanent buildings. They are a row of piles set out into the bay with webbing spread on them and are taken out each fall.

Mr. HARDY. The piles are permanent but the webbing is not.

Mr. WICKERSHAM. No; the piles are put in new each year, also.

Mr. CURRY. How much does it cost to establish one of those trap sites?

Mr. WICKERSHAM. It costs the amount necessary to take a pile driver to the trap site and drive the piles, upon which the net is stretched.

Mr. CURRY. And the cost of the piles.

Mr. WICKERSHAM. Yes.

Mr. CURRY. Do you know about how much that is?

Mr. WICKERSHAM. No; I do not.

Mr. JONES. Ten or fifteen thousand dollars?

Mr. WICKERSHAM. I should think that was a very liberal estimate.

Mr. BOWER. Mr. Chairman, there is one thought in connection with this question which I think is being overlooked. Judge Wickersham is leaving the impression that all the fish are caught in pound nets or traps. Now, that is not the situation at all. In Alaska in 1914, of the entire catch 27 per cent were taken by seines, 31 per cent by traps, and 41 per cent in gill nets. Therefore you may see that of the total number of salmon caught less than one-third were taken by pound nets; I think that is a vital point for your consideration.

Mr. WICKERSHAM. I think that is very interesting, but when these people get hold of these trap sites there will be no fishing on those trap sites by seines or otherwise than by traps, because they will have the exclusive right to the fishing there, and they will invariably use the traps on trapping grounds.

The CHAIRMAN. Do other people fish now where the fish traps are located?

Mr. WICKERSHAM. They fish near them.

The CHAIRMAN. With what kind of appliance?

Mr. WICKERSHAM. These gentlemen say with gill nets and seines.

Mr. BOWER. Most of the fish caught by seines are taken near the mouth of the streams at the present time, and in the case of the gill nets the fishing is far removed from any pound-net location. I think it is clearly established that fish do not follow along well-defined lanes, as has been laid down here before this committee. They are caught way offshore in many instances, and you must remember the channels in Alaska are wide. It is not as though they were fishing in a narrow region like the Potomac River, because in Alaska most of the channels are 4 or 5 or many more miles in width, and the fish have ample opportunity to pass by; but when they get to the mouth of the stream, where they congregate and school and play around before ascending for spawning purposes, it is then that the seiners gather them up. These are fish that have passed the pound-net sites.

Mr. WICKERSHAM. Yes; take the Icy Strait, for instance; there is no stream there, and they go right along the shore, and the piling looks like a forest of stumps standing in the water.

Mr. BOWER. In the course of 50 miles in that section there are probably 50 traps, which would be an average of 1 trap a mile. I estimate it at that, so far as the Icy Strait section is concerned, and that is one of the principal pound-net regions in Alaska.

I also want to call your attention to the fact that we regard salmon caught in pound nets as far superior in quality to those taken in purse seines. Evidence can be submitted which proves conclusively the fact that when salmon are caught by the purse seiner they are very often in a stale condition when they arrive at the cannery, simply for the reason that the seiner goes out with a net and is away from the cannery several days, and fishes a little each day and puts the fish in the bottom of his boat, and by the time he gets back to the cannery some of the fish are stale. If they are caught in pound nets they are taken from the water only a few hours before the cannery is ready to use them. Therefore it seems to me obvious that fish caught in pound nets are in better condition than those taken in seines. The department has been advocating this for years.

The CHAIRMAN. I think Dr. Jones has something to say about that in his report, if I recall.

Mr. BOWER. Yes; he covers that matter very comprehensively in his report.

Mr. BYRNES. That sounds very reasonable.

Mr. WARREN. In further explanation of this proposition, I would like to state that the development of any particular form of fishing like a trap or seine or gill net is determined very largely by the nature of the country in which you are operating, and the very fact

that a trap can be used generally by the provisions of this bill does not mean it can be used in all localities. I will cite, for instance, the western Alaska district, Bristol Bay, which is not a trapping district, and which can not be trapped successfully, and never has been. At the present time, or in 1914, according to the report of the Government, there were only 13 traps in western Alaska; nearly all of the fish are caught in gill nets.

Mr. WICKERSHAM. Mr. Chairman, I know the committee is getting impatient about this matter, and I regret that it is so, for I think the committee ought to listen to this matter until it understands it.

The CHAIRMAN. We are listening very patiently.

Mr. WICKERSHAM. Yet I feel as though I am taking up a good deal of your time, though I have hurried and not mentioned very much of the evidence which ought to be presented.

The CHAIRMAN. I hope you will not quit until you get to the remedy and finish with your statement.

Mr. GREENE. You have not given us a remedy yet.

The CHAIRMAN. It is now 12.30, and we will take a recess until 2 o'clock, and then you can take up the remedy feature of your argument when we get back.

#### AFTER RECESS.

Mr. CURRY. Mr. Chairman, I believe there is an evil connected with the halibut fisheries in Alaska that ought to be corrected if it can be corrected, and maybe the judge can give us some information along that line. I understand most of the halibut fisheries are located outside of the 3-mile limit, and that at least two-thirds of the halibut taken off the coast of Alaska are taken in Canadian waters and cured in Canada and shipped through Canada, and that even a great many of the American fishermen take their halibut down to Canada. Do you know whether that is true or not, Judge?

Mr. WICKERSHAM. The halibut trade is very rapidly going to Prince Rupert, British Columbia, though, of course, it all comes through the Canadian territory to the United States. I think it goes there very largely for the reason that that is the short route from those Alaskan waters to the market in the United States; but the effect of it is to put the halibut trade very largely through a foreign territory, and very much of it is put in cold storage at Prince Rupert by the Canadians.

Mr. CURRY. A lot of it is cured there.

Mr. WICKERSHAM. But, of course, this Fish Trust is going there as fast as it can. They are building their storage plants there and taking charge of the fish trade over on that side as well as on our side.

Mr. CURRY. The fish are caught in Alaskan waters, off the coast of Alaska, outside of the 3-mile limit?

Mr. WICKERSHAM. Yes; the halibut are, very largely, though some are caught off Canadian territory.

Mr. CURRY. Is there any way of stopping that?

Mr. WICKERSHAM. Yes. I have introduced a bill for some sort of joint agreement between the United States and Canada, Russia and Japan, for the conservation of all these marine animals in the North

Pacific and Bering Sea and Arctic waters. I do not know of any other way you can do it. They have the right to go off the 3-mile limit and catch fish though it may be opposite Alaskan shores. The *Albatross* goes up there and locates the fishery banks and the Canadians go immediately and catch the fish. There is one thing which might be done, and that is, the *Albatross* might be left at home until we get the matter settled, because just as fast as it locates the halibut banks the Canadians take the fish.

Mr. CURRY. They claim the same right to the fish up there as we claim to the fish off of Newfoundland?

Mr. WICKERSHAM. Yes; and have the same right, probably.

Mr. HARDY. In fact, outside of the 3-mile limit anybody has that right?

Mr. WICKERSHAM. Yes; there is no doubt about that, and there is no limitation or control, and the result is that this greed for catching everything at once and getting all the dividends in one year is destroying them.

Mr. HARDY. In other words, it is "human nature" which is universal?

Mr. WICKERSHAM. Yes. Mr. Chairman, you asked me for a copy of the Territorial treasurer's report, which I have here, and which I now hand to you.

The CHAIRMAN. Mr. Strong came to me shortly after the beginning of the session and we took the matter up with the Department of Commerce to know what could be done to retain that business at Ketchikan, isn't it?

Mr. WICKERSHAM. Yes.

The CHAIRMAN (continuing). Instead of having this business go to Prince Rupert. We took it up with the Department of Commerce, and I think perhaps also the Treasury Department, and as a result a bill was prepared which was introduced by Mr. McGillicuddy, of Maine, to regulate the importation into the United States of halibut or salmon taken in the North Pacific Ocean or its tributary waters, which was intended to conserve that industry and keep it in Alaska.

Mr. CURRY. I believe the Booth Fisheries people are taking most of their fish into the Canadian waters now. They catch them off the coast.

Mr. WICKERSHAM. The New England Fisheries Co. is doing the same thing.

The CHAIRMAN. That bill is now pending before the Committee on Ways and Means.

Mr. HARDY. Do you know what the remedy they propose is?

The CHAIRMAN. The bill is very short, and I will read it:

A BILL To regulate the importation into the United States of halibut or salmon taken in the north Pacific Ocean or its tributary waters.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after ninety days after the passage of this act no fresh or frozen halibut or salmon from the north Pacific Ocean or its tributary waters shall be admitted into the United States through any foreign country except when the same shall be in bond from an American port.*

Mr. HARDY. I confess I do not care much on which shore they catch the fish. I would like to see the supply perpetuated, but I am

not much interested in whether it is Canadian canneries or American canneries; I do not want to see the destruction of that supply of food.

Mr. WICKERSHAM. Mr. Chairman, the committee wanted to know what the remedy is to prevent either the loss of the fisheries of Alaska or their monopolization by the fish trust. I admit my incompetency in that matter. Nobody has yet been able to discover a satisfactory method for curbing the trust nor for curbing what Judge Hardy has just called "human greed." The best we can do is to so control the situation that the fisheries will not be entirely destroyed, as they have been in all the rest of the American waters, almost. Up to this time we have failed, as a nation, to save our fisheries. They ought to be saved, because there is nothing that will take their place. There is now a great effort being made to save wild animals of certain kinds. I do not care whether the buffalo is saved or not. I have never grieved over the buffalo being slaughtered and killed off, because a great big Hereford steer is a much better animal than a buffalo, and you can not raise them both in the same region, and I think it better for the country to tame it and reduce it to subjection and plant in the place of the wild animals the domesticated kind. But with regard to the fisheries, the situation is different. I have never yet known hatcheries or any other scheme to do for the fisheries what nature has done. I hope I may be mistaken about that. I hope the hatcheries will do more good than they have demonstrated up to this time, and, in the hope they will do it, I am in favor of giving them every opportunity to try it; but the hatcheries do not interfere with the control, for instance, of the fisheries by the people of the State or the Territory. Hatcheries are now being introduced throughout the various States by Congress, notwithstanding the control of the fisheries by the State. I think the control by the Territory would not prevent the establishment of hatcheries in Alaska if the fisheries there can be kept up in that way, though the Territory had control of the fisheries.

Now, you want to know what my remedy is. I have introduced several bills proposing a remedy, and I have tried to have them heard. There has been a great deal of antagonism between the Delegate from Alaska and the Bureau of Fisheries on the matter. It has never been of a serious, personal nature, but it has been very vigorous at times in its language; and the gentlemen who represent the Bureau of Fisheries, if they ever resent my opposition and say something in criticism, seem to forget it very quickly, and I try to do the same thing, because I give them credit for trying to do what I think I am entitled to credit for, trying to preserve the fisheries of Alaska from destruction. We do not agree about how it shall be done, and they have presented a bill here which is their remedy and I have presented others. I am going to present one now to the committee, H. R. 6887, introduced by me in the Sixty-fourth Congress, first session, on January 4, 1916. This is only one of several bills along the same line. This bill, however, is a bill to establish the full Territorial form of government in Alaska, and for other purposes.

Mr. GREENE. That bill was referred to the Committee on Territories?

Mr. WICKERSHAM. Yes. Section 1 provides:

That there be, and is hereby, created and established the full Territorial form of government in Alaska, and the legislature of said Territory is hereby authorized and empowered to have and exercise the full powers of Territorial legislation heretofore given to and exercised by the Territorial legislatures of other Territories of the United States.

That being, of course, a general clause, is followed by certain specific sections giving to the Territory of Alaska certain specific powers which it does not now have. The bill repeals a great many of the limitations which are imposed upon the Territorial Legislature of Alaska and attempts to replace those limitations with power to act, and among the sections is section 9, which relates to the matter now before this committee, and I will read it:

SEC. 9. That in addition to the powers now authorized to be exercised by the Legislature of Alaska, its legislative power shall extend to and over all the fish and fisheries of Alaska and all wild animals and birds therein, and the legislature shall pass laws for the conservation, protection, and regulation thereof, and may levy and collect for Territorial use a license tax on trades and business, including the fish and fisheries, and may control the domestication of all wild animals and birds and provide for the erection of fish hatcheries and stocking barren streams and lakes with fish.

Now, my judgment is, and in it the governor agrees, that the Territory of Alaska through its legislative body is much better fitted by reason of its intimate acquaintancé and its great interest in the fisheries, much better calculated to preserve and protect those fisheries from destruction than Congress. I have stood before Congress after Congress for nearly eight years trying to get some legislation for that purpose. The Bureau of Fisheries has been in opposition for eight years and we are here now struggling over the same thing we have been struggling over for eight years—and Congress has done nothing. Therefore I say again that the Legislature of Alaska is much better fitted to do the work of caring for Alaska fisheries than Congress and will do it much better; and my judgment is that the remedy, the real remedy, is to turn the fisheries of Alaska over to the Territorial Legislature of Alaska and let them care for them. Now, that can be done, if Congress should take that view of it, by reserving to the Bureau of Fisheries the right of inspection, the right of maintaining its hatcheries, the right of scientific research, and all that kind of thing, and imposing all other duties on Alaska, and the two would work in harmony without the slightest difficulty, just as they can do in the States. They do not have any trouble in the States. The State legislature has control over its fisheries. They do in California and in the other States, and the Bureau of Fisheries works with them, on scientific research, and there is no difficulty between them, and it has always been my judgment and is now, and I offer it as the first of several suggestions of remedies as the first and best remedy.

Mr. CURRY. I believe in local home rule and would be glad to turn this matter over to the Territory of Alaska if I were sure that the Territory of Alaska could take care of it, but that Territory is one-fifth the size of the United States and only has a population of about 60,000 people including Indians and Eskimos. If it can be shown that the Territory can take care of the situation and relieve the United States Government of the responsibility and expenditure of

an immense sum of money, I would be in favor of turning the matter over to them.

Mr. WICKERSHAM. The Territory of Alaska has to-day a white population of 60,000, and that population is increasing rapidly. Twenty-five thousand white people are coming to Alaska this year. The white population is increasing very rapidly and, so far as I have been able to ascertain, the acts passed by the Territorial legislature compare favorably with the acts of other Territorial legislatures. The governor is a good executive, and has only the best interest of the public at heart; the Federal officers are appointed by the President of the United States and confirmed by the Senate. They are just as good men as any of the Territories have and as competent and honest as those in the Bureau of Fisheries. They are equal to those they had in the Territory of Washington where I lived for many years when it was a Territory. They could look after the fisheries of Alaska with a reasonable certainty that the public interests would be well cared for.

Mr. CURRY. But they did not enact any such laws in the Territory of Washington as these would be.

Mr. WICKERSHAM. That is true. They did not have laws of this kind, because no such effort was made to monopolize the fisheries as is now being made in Alaska, but I think the 24 men who comprise the Territorial Legislature of Alaska would pass more satisfactory laws for the conservation of the Alaska fisheries than Congress has.

Mr. CURRY. The Anglo-Saxon people can, of course, enact good laws, but that is not the question. The question is, Are the people there in a position to administer them?

Mr. WICKERSHAM. There is no doubt but what they are. There is no doubt but the Territorial legislature would provide for reasonable and proper inspection, and for the conservation of these fisheries and for their protection from monopoly. They are on the ground; they would not have to view the work 5,000 miles away, such as does the bureau in Washington which has control of them. I am very much opposed to this bureaucratic control in Washington, because I think it will have the same effect upon the salmon fisheries that it had upon the fur-seal fisheries, which resulted in their destruction.

Mr. CURRY. It costs a good deal of money to put the fisheries into practical operation and to run them, and the fishermen must be taken up there every season. Those men can not live in Alaska, and they are operating the fisheries only during a short period of time each year. These men would be employed in the fisheries for possibly not more than three months in the year, and there is nothing for them to do outside of that.

Mr. WICKERSHAM. There are other fisheries that would employ them during the balance of the year. There is a great variety of fisheries up there. Besides, they do mining and other kinds of work, and help to build up the country. Southeastern Alaska is well peopled, and furnishes a great many men for the fisheries, as all these gentlemen tell us.

Mr. CURRY. As a rule, farmers and miners in any country that I have been acquainted with do not engage in fishing for a living, and fishermen do not engage in farming and mining.

Mr. WICKERSHAM. When I introduced this bill, it was forwarded by the chairman of the Committee on Territories to the Secretary of

Commerce for a report. The Secretary did not respond, but Dr. H. M. Smith, the Commissioner of Fisheries, did respond in objection to it. I do not care to read his letter, but I would like to have it go into the record. It is dated January 12, 1916, and is addressed to Mr. Thurman, the Solicitor of the Department of Commerce, who placed it in the record before the Committee on Territories. I think it ought to go before this committee also.

Mr. HARDY. Briefly, what is that objection?

Mr. WICKERSHAM. Briefly, the objection is what has been stated here—that is, that there are not enough people up there to care for the fisheries, and that scientists and office men in Washington can handle them better than the people of Alaska. I disagree with them about that, but I offer to put that letter in the record because it is in opposition to what I have suggested.

(The letter referred to is as follows:)

DEPARTMENT OF COMMERCE,  
BUREAU OF FISHERIES,  
Washington, January 12, 1916.

Mr. A. L. THURMAN,  
*Solicitor Department of Commerce.*

DEAR MR. THURMAN: In compliance with the request made in your communication of the 7th instant, transmitting a copy of H. R. 6887, providing for a Territorial form of government for Alaska, embraced in the following, will be found the views of the bureau as to why it will be unwise to allow the control of the fisheries to pass from the Federal Government to the Territorial government of Alaska. Certain comments will also be made in respect to the advisability of the Federal Government retaining control over the fur-bearing animals, although under present plans such control will pass from the Department of Commerce to the Department of Agriculture. The bill referred to exempts specifically from Territorial action the fur-seal laws at present applicable, therefore no necessity arises for setting forth reasons in respect to this phase of the department's activities and interests in Alaska.

The international aspects of the situation afford, it is firmly believed, excellent grounds upon which to base the retention of control in the Federal Government over the fisheries of Alaska as against the investment of such control in a Territorial legislative body. In the southeast section Alaska borders British Columbia, with its salmon canneries and other fisheries of great extent, while in the far north and west the shores of Alaska approach within a comparatively short distance of Siberia, and to the south the Aleutian Islands reach into the Eastern Hemisphere to an extent that makes them comparatively easy of approach from Japan. The development of the fisheries in these more remote regions is perhaps not at present of serious moment, but in southeast Alaska problems are arising with respect to our relations with the Canadian Government which seem to admit of handling or adjustment only through the agency of the Federal Government as exercised by its executive departments. The salmon fisheries of southeast Alaska immediately border upon those of British Columbia, while the halibut fishery is being pursued actively in the waters of Alaska and British Columbia and likewise upon the high seas off British Columbia and Alaska. A serious problem has but recently arisen through the opening of the Grand Trunk Pacific Railway to Prince Rupert, British Columbia. This has caused friction and has given rise to complications which could not possibly be handled with propriety by a local or Territorial jurisdiction or administration. The international character of this situation has necessitated its being handled by the Treasury Department and the Department of Commerce in an effort to bring about a proper adjustment.

It would seem that the framers of the bill proposing Territorial authority over the fisheries of Alaska have recognized the international questions involved in the administration of the fur-seal industry, as an explicit exemption with respect to this matter has been made in the bill. There are very similar points along this same line involved in the treatment of the offshore fisheries of Alaska, including the salmon, halibut, cod, and herring fisheries. Whaling operations also are to be considered in this connection.

If the proposed bill should become a law all fish hatcheries and fish-cultural operations would be handled by the Territory. This is not regarded as proper any more than in the various States where the Federal Government conducts and operates fish hatcheries. It is true that in the latter case the States themselves in some instances operate hatcheries also. The Bureau of Fisheries has the experience, the machinery, the equipment, and the men to conduct fish-cultural operations in a manner calculated to produce the best results. Any undertaking along this line by the Territorial government would be more or less experimental for some time to come and would undoubtedly mean a serious setback in this important field which has so much to do with the conservation and preservation of the fisheries industry. It is fully believed that the private hatcheries now in Alaska should be taken over by the Government. Provision to this end has been made in the draft of the fisheries bill which it is expected will be submitted to Congress very soon.

The taking over of the control of the fisheries of Alaska by the Territory would undoubtedly mean the appointment of local men to enforce the law and administer all of the duties pertaining to the industry. It has been thought by some that the appointment of men who are more or less identified and linked with local interests is not as conducive to an impartial handling of the situation as is the case when men are brought in from the outside.

The time will undoubtedly come when Alaska may be able to administer properly at least certain phases of her fisheries problems, but from present indications that day is quite far distant. Alaska has an extent of approximately 540,000 square miles and a population of about 35,000 whites. This is about 1 person to every 15 square miles. The Territory still partakes of many of the characteristics of the frontier, for although there are citizens of great ability and high integrity, it may be said that they are so in the minority that a responsible citizenry scarcely exists and that they have no effective voice in the management of civic affairs. The people come and go in their search for fortune in Alaska, and this itinerant characteristic, which will probably continue for a long time, is not calculated to develop rapidly or increase except slowly the comparatively small number of citizens which make the backbone of the Commonwealth. Such a situation as this affords great opportunity for professional agitators and other disturbing elements to create strife and friction between the various diverse local interests. The latter feature is unusually important in Alaska for the reason of the vast extent of the coast line. The interests of the fishermen and the needs of the fishery in southeast Alaska are quite different from those of central Alaska, 700 or 800 miles away; and both in turn are radically different from the necessities of western Alaska, a thousand miles or more to the westward. The people of Alaska themselves recognize the diversity of these interests because there has been considerable talk within the last two or three years that Alaska ought to be divided into two or three States or districts entirely separate and apart so far as the administration of the local government is concerned. Members of the first Territorial legislature expressed themselves, orally at least, that Alaska should be divided into a southeast Alaska, comprising the "Panhandle" section, so called; western Alaska, embracing the coastal region of central and western Alaska; and interior Alaska, the latter to include all the great interior plain and northern portions of the Territory. When such men, who are the best and most representative of Alaska's citizenry, openly declare themselves along this line, it seems apparent to the impartial observer that Alaska herself recognizes the futility of harmonious action under the present state of affairs. Until such conditions improve, it is scarcely to be thought that the fisheries of the Territory will receive better attention or will be improved in any way by transferring their control from the Federal Government to the Territorial government.

In an article in the June, 1915, number of the North American Review, Secretary Lane, of the Department of the Interior, in advocating a development board for Alaska, said that there were good reasons why the control of the seal industry, the salmon hatcheries, and the sea fisheries should be left in the hands of the Department of Commerce. Although he did not expressly say so, it was implied by Secretary Lane that beginning at the shore line the control of the fisheries should be in the development board. This is susceptible of criticism on the ground that any such plan would mean a division of authority. It is obviously improper to think of having the fisheries outside the shore line administered by the Federal Government, and any fisheries inside the shore line, presumably meaning in the streams, handled by a development board or

another department. In this connection it may be mentioned that the cod and halibut fisheries are conducted both close to the shores of Alaska and many miles offshore in some instances. Whaling operations so far as the actual killing and capture of the whales is concerned is carried on usually several miles offshore, while the plants to which the whales are taken for conversion into oil and other products are necessarily located on shore except in the occasional instances of floating plants, and even in the event of floating plants they are anchored as a rule in protected harbors and bays. It would be utterly impossible to think of dividing any jurisdiction or control over such industries.

Steps are now under way to transfer jurisdiction over the terrestrial fur-bearing animals of Alaska from the Department of Commerce to the Department of Agriculture. It seems not inappropriate, however, for the bureau to herein state that any move tending to place the control over fur-bearing animals in the legislative body of Alaska will be productive of anything but beneficial results. Such a move would be unwise and unprogressive. The protection and conservation of the land fur-bearing animals of Alaska involves work of a highly technical character if done properly. And it can be accomplished successfully only by those who have had long experience in that line of work. The Bureau of Biological Survey of the Department of Agriculture is peculiarly well fitted and adapted in view of its long experience to pursue this work successfully. Any effort along this line upon the part of the Territory of Alaska would be experimental and crude for a long time to come by comparison with the intelligent and progressive efforts of the Biological Survey with its trained and experienced personnel. The Biological Survey is conducting similar work in various parts of the country, and any progress or advance that may come about in their methods elsewhere would, if appropriate, be applied promptly to Alaska. The benefits of such progress would scarcely reach Alaska if the Territory were administering its own laws pertaining to fur-bearing animals, at least such benefits in all likelihood would not become operative without long delay. The problem is national and international rather than local or territorial. This is demonstrated clearly and emphatically in the fact that no State has ever been able to handle the conservation of its fur-bearing animals in a satisfactory manner because it has been almost impossible to approach the problem except from a purely local standpoint and under a policy more or less vacillating and influenced by local political exigencies.

Very truly, yours.

H. M. SMITH, *Commissioner*.

Mr. HARDY. Section 9 of your bill, you said, embodies your ideas on this particular question?

Mr. WICKERSHAM. Yes, sir. I read section 9 to you. Section 9 substantially gives the Territorial legislature jurisdiction to pass laws for the protection and conservation of the fisheries of Alaska. They are now debarred from doing so by a special act of Congress—that is to say, when the act of August 24, 1912, was passed by Congress to my amazement I found that the word "fish" had been inserted in that act, and that barred the legislature from any control over the fisheries.

Now, I heard Mr. John Sidney Webb, the Washington representative of the Booth Fisheries Co., say before the Committee on the Territories that he procured that to be done, and I have no reason to doubt his word.

Mr. GOODWIN. Is it your idea to give the Territory of Alaska, through its legislature, jurisdiction over the fisheries to the exclusion of any governmental regulation or control by the United States?

Mr. WICKERSHAM. It could not be done to the exclusion of Congress.

Mr. GOODWIN. It would be contrary to the organic act.

Mr. WICKERSHAM. No, sir; the power that Congress would give the Territorial legislature would be an amendment to the organic act. Congress, of course, reserves the right to disapprove at any time any act of the Territorial legislature, and Congress could, of course, at any time disapprove any act of the legislature or even abolish the

Territorial Legislature of Alaska. That legislature is a creature of Congress, and, of course, can be abolished by Congress, and its laws are always subject to repeal or change by Congress.

Mr. CURRY. If your bill was enacted into law, it certainly would prohibit the United States Government from exercising any more control over the fisheries of Alaska than it has over the fisheries of California or Oregon.

Mr. WICKERSHAM. No; that is not the law and never was in any Territory.

Mr. CURRY. This bill would terminate the authority of the National Government over the fisheries of Alaska unless the bill was repealed or amended. It would absolutely place the control of the fisheries in the hands of the Territorial Legislature of Alaska to the exclusion of the National Government.

Mr. WICKERSHAM. No; not to the exclusion of the National Government.

Mr. CURRY. Of course they could have hatcheries and could examine the fisheries for scientific purposes, but they would have no right to promulgate rules and regulations governing fishing.

Mr. WICKERSHAM. But it would not bar Congress from repealing that act at any time or enacting laws to cover the subject, thereby replacing the acts of the Territorial legislature.

Mr. CURRY. But this bill would certainly place that power in the Territorial legislature to the exclusion of the United States.

Mr. WICKERSHAM. My purpose in offering it was to induce Congress to give the Territorial Legislature of Alaska complete jurisdiction to legislate for the fisheries in Alaska. That is the purpose of it, but subject at all times to the plenary power of Congress to repeal or change the Territorial laws.

Mr. HARDY. It would be to the exclusion of Congress, except in so far as Congress might, by the disapproval of any of the acts of the Territorial legislature, assert its own authority.

Mr. WICKERSHAM. Or by passing subsequent laws.

Mr. HARDY. I have been trying to understand what is to be done there, but your bill does not give me any answer to that question. It is all up in the air still. You say turn it over to the Territorial legislature, but is there any concrete remedy that you can suggest for the threatened monopolization of that food supply? Do you have in mind such a remedy that you could present to this committee for the betterment of those conditions out there?

Mr. WICKERSHAM. Yes; there are remedies of that kind, and I am prepared to submit them to this committee.

Mr. HARDY. What is the remedy?

Mr. WICKERSHAM. I can not tell everything at once, and I am coming to that as fast as I can. Now, there is another remedy that I want to talk about, and that remedy is statehood for Alaska. We have more than 60,000 white people in the Territory of Alaska to-day, and we do an annual export and import business with the United States of nearly \$100,000,000. The Territory of Alaska has to-day a more permanent and larger white population than the State of Nevada had when it was admitted. It has a greater white population than several of the States had when they were created States. I have introduced in this Congress a bill (H. R. 13978) for the purpose of enabling the people of Alaska to form a State constitution

and become one of the States in the American Union. That is another remedy.

Mr. CURRY. Do you think the time has come to admit Alaska to statehood before it has population enough to entitle it to a Representative in Congress?

Mr. WICKERSHAM. I have introduced that bill, and I am trying to present the Territory as worthy of statehood because of its great resources and because of the necessity of preserving and protecting those resources. I believe that if it is made a State it will very rapidly do what it ought to do in the way of conserving its resources from destruction.

The CHAIRMAN. Do you think that a Territory with 60,000 white population should be admitted to statehood and have a Member of Congress and two United States Senators?

Mr. WICKERSHAM. Montana was.

The CHAIRMAN. Yes; and I think that was a great outrage on the other States of the Union.

Mr. WICKERSHAM. I am only answering your question by citing an example where it was done in recent years.

The CHAIRMAN. Which was an example of bad legislation.

Mr. WICKERSHAM. That may be, and it might be bad legislation to do something of that kind for Alaska, but I am suggesting that as one of the remedies.

Mr. CURRY. Nevada, at the time she was admitted, had a population sufficiently large to entitle her to a Member of Congress, but since that time, of course, the mines have closed up and the people have left.

Mr. WICKERSHAM. We will have 200,000 people in Alaska before five years.

Mr. CURRY. That may be.

The CHAIRMAN. I think you will have a permanent population of several hundred thousand after a while.

Mr. WICKERSHAM. There are two lines that may be pursued in protecting and conserving these fisheries: One is through the Territorial government and the other is through Congress. Now, assuming that you are not favorable to either Territorial control or the erection of a State and State control, let us look to the other proposition of control through Congress. Now, nobody, it seems to me, has offered any suggestion along the line of bureaucratic control than the one offered by Secretary Lane. Mr. Lane's bill was first introduced by Senator Chamberlain: it was S. 4318, Sixty-third Congress, second session. I have approved that bill by introducing one which is substantially like it, although somewhat amplified. While I would much prefer Territorial control, the Lane bill provides for the creation of a board in Alaska to be known as the Alaskan Development Board. The Chamberlain-Lane bill is short, and I would like to have it put into the record. It expresses Mr. Lane's idea for the control of all these governmental administrative functions in the Territory of Alaska.

The CHAIRMAN. That is not Secretary Lane, is it?

Mr. WICKERSHAM. Yes, sir; Secretary of the Interior, Franklin K. Lane. This bill was prepared by him and introduced by Senator Chamberlain in the Sixty-third Congress, and it has been approved by Secretary Lane time after time.

## (The bill referred to is as follows:)

[S. 4318, Sixty-third Congress, second session.]

A BILL To provide for the administration of national property and interests in the Territory of Alaska, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a board is hereby created and established, to be known as the Alaskan Development Board, which shall be composed of three persons to be appointed by the President, by and with the advice and consent of the Senate, to serve for terms of seven years. The members of the board shall reside and maintain their principal and such branch offices as may be necessary within the Territory of Alaska. Not more than two of the board shall be appointed from the same political party and they shall not engage in any other business, vocation, or employment. No vacancy in the board shall impair the right of the remaining members to exercise all the powers of the board. The chairman shall receive an annual salary of \$8,500 and the other members an annual salary of \$8,000 each.

SEC. 2. That the board hereby created shall, subject to the provisions of this act and under such laws as Congress has enacted or may hereafter enact, have jurisdiction and control over the care, use, and disposition of all reserved and unreserved public lands, including forests and waters and resources therein, over fish and fisheries, seals, reindeer, mines, minerals, and mining, Indians, Eskimos, and other Alaskan natives, toll roads, and over all other matters or things now subject or which may be made subject to national ownership, care, disposition, control, or regulation within the Territorial limits of Alaska, except with respect to rates, regulations, and control of railroads, steamship lines, and other common carriers, which shall remain subject to the jurisdiction of the Interstate Commerce Commission under the act of Congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, as amended by the act of Congress approved June twenty-ninth, nineteen hundred and six, and acts amendatory thereof and supplemental thereto, and to this end there is hereby conferred upon the board hereby created all authority, jurisdiction, rights, and powers now possessed and exercised in or concerning the matters herein described by any of the existing executive departments, commissions, bureaus, or offices.

SEC. 3. That the board is authorized to provide itself with furnished offices at some accessible point in Alaska, and with such branch offices as may be required for the transaction of business, with such books, records, stationery, and appliances, and such office and field assistants, clerks, stenographers, typewriters, and other employees as may be necessary for the proper discharge of the duties imposed by this act upon such board, fixing the compensation of such employees within appropriations made for that purpose.

SEC. 4. That the heads of departments or of independent commissions, bureaus, and offices now having jurisdiction and control over the matters and things subject to the provisions of this act are hereby authorized and directed to transfer to the Alaskan development board such jurisdiction, supervision, and control, and the appropriations made therefor may be expended by the board in manner as if same were so directed in the appropriation acts, and such jurisdiction and control shall hereafter be within the province of the Alaskan development board, and shall cease and determine under the other aforesaid departments, commissions, bureaus, and offices; and such experts, employees, property, and equipment as are now employed or used by said departments, commissions, bureaus, and offices in connection with the subjects herewith transferred to the Alaskan development board are directed to be transferred to said board.

SEC. 5. That the board shall be under the general supervision of the Secretary of the Interior, who is hereby authorized to provide general rules and regulations, not inconsistent with law, for such supervision, including the examination, review, and investigation of the books, records, accounts, and acts of the board. Appeals will lie directly to the Secretary of the Interior from all final decisions or actions of the board.

SEC. 6. That it shall be the duty of the board to submit an annual report to Congress, through the Secretary of the Interior, and to from time to time advise Congress as to existing conditions with respect to matters under its supervision or control, recommending such new laws or changes in existing laws as may be deemed advisable or necessary.

SEC. 7. That all moneys received by the board from sales, leases, fees, or any other matter or source under its control shall be deposited in the Treasury of the United States and reserved and set aside as a special fund, to be known as "the Alaskan fund," to be used for the payment of the salaries of the board, its subordinate officers and employees, and the expenses incident to the execution and administration of the business and duties of the board, the balance to remain subject to such future appropriation thereof as Congress may make for the development, improvement, and betterment of the Territory of Alaska.

SEC. 8. That nothing in this act shall be construed as in any way granting to the board, its officers or employees, any authority, control, or jurisdiction over the political or other internal affairs of the organized Territory of Alaska.

SEC. 9. That this act shall take effect and be in force on and after the first day of July, nineteen hundred and fourteen, on which date all acts and parts of acts inconsistent herewith shall stand repealed.

The CHAIRMAN. What does that bill do with the governor and the Territorial legislature? Does it wipe them out?

Mr. WICKERSHAM. No; you misunderstand the scope of the bill. The board created by the bill has none but administrative duties to perform, and it would take the place of all the bureaus in Washington which now attend to merely administrative matters and things in Alaska. It would have no legislative power nor judicial power, but only administrative powers. It would have only those administrative duties which are imposed upon the different bureaus by acts of Congress.

The CHAIRMAN. Has that bill been considered by the Committee on the Territories?

Mr. WICKERSHAM. Yes; to some extent.

The CHAIRMAN. What have they done with it?

Mr. WICKERSHAM. Nothing.

Mr. CURRY. What Cabinet officer would that board be under?

Mr. WICKERSHAM. The Secretary of the Interior.

At the last session of Congress Senator Pittman introduced Senate bill 5601, which is a bill to establish a commission form of government in the administration of national affairs in Alaska, etc. It is somewhat different in its phraseology from the one introduced by Senator Chamberlain, but it is substantially the same thing. It provides for this board to have administrative jurisdiction over the fisheries of Alaska and over the other administrative functions there.

Mr. CURRY. Would not that be better than to transfer the control of the fisheries to the Territorial legislature?

Mr. WICKERSHAM. No, sir; I would much prefer the transfer of control to the Territory, but you gentlemen have been asking for various methods for the control of the fisheries in Alaska, and I am suggesting those that have been proposed.

Mr. CURRY. That is not what I want. I want your idea on the subject. I know all about those bills that have been introduced, but if you have any suggestions to make as to what ought to be done, I would like to hear them. You are the Delegate from Alaska—

Mr. WICKERSHAM. Yes; I realize that.

Mr. CURRY. And you ought to know as much about it as Senator Pittman, who was up there but a few months.

Mr. WICKERSHAM. I also introduced H. R. 15763, in the Sixty-third Congress, that being "A bill to establish a commission form of government in the administration of national affairs in Alaska, and for other purposes." Now, perhaps these bills do not reach the remedy that Judge Hardy has so persistently asked for. The pur-

pose of these bills is simply to centralize the work of all the bureaus in Alaska and put them under one commission, so there will be one group of three or five men located in the Territory of Alaska who will have control over all the administrative activities in the Territory, instead of 20 groups or bureaus situated in Washington City. My bill, H. R. 15763, was forwarded to Secretary Lane for examination and report and under date of May 19, 1914, he approved it in this letter:

THE SECRETARY OF THE INTERIOR,  
Washington, May 19, 1914.

DEAR MR. HOUSTON: I have your letter of May 16, requesting a report on my views with respect to H. R. 15763, a bill to provide for the establishment of a commission that will have charge of the administration of the resources of Alaska. This bill is drafted along the lines suggested in my last annual report, and in further proof of the necessity for such a measure, I beg to present to you an outline of the situation in Alaska as showing the interlocking and overlapping of administrative functions in that territory.

Cordially, yours,

FRANKLIN K. LANE.

Hon. WILLIAM C. HOUSTON,  
*Chairman Committee on the Territories,  
House of Representatives.*

With that letter came this copy of Secretary Lane's published statement on the subject of "Red tape in the government of Alaska and need for centralized responsibility and accountability." in which he says:

Alaska's problems are largely peculiar to Alaska. Our present system of government there is heterologous. Instead of one government in Alaska, we have a number, interlocked, overlapped, cumbersome, and confusing.

In their zealotness for the particular parts of the public welfare they represent, the long distance representatives of bureaus located in Washington are apt to lose sight of the fact that they all represent the same interest and purpose.

There is a government of the forests, a government of the fisheries, one of the reindeer and natives, another of the cables and telegraphs. There is a government for certain public lands and forests, another for other lands and forests.

Each of these governments is intent upon its own particular business, jealous of its own success and prerogatives, and all are more or less unrelated and independent in their operations.

Success of the new policy depends very largely upon the administration of the laws in the Territory.

Experience has demonstrated that efficient administration is best secured by centralizing responsibility and authority in the hands of a small number of men, who can be held to strict accountability for the results of their actions.

The proposed development board for Alaska follows this modern and well-tested plan for securing efficient administration.

I want to call your attention to one or two more short statements in this "red-tape" statement. On another page, after discussing different Government bureaus that have control of administration in Alaska, and criticizing them severely—not the personnel of the bureaus, but the law—because of overlapping and interlocking conditions, one bureau operating against another, and in an excessively expensive manner, he says:

While this patchwork system of administrative machinery has answered well enough while the Government's policy has been merely to keep the door shut and discourage development, it will not answer under the new policy.

If the work needed in the future were to be purely and solely administrative, it must still be efficient and under responsible and readily responsive super-

vision. Alaska's remoteness alone makes anything like supervision by bureaus located in Washington more or less perfunctory and superficial. What we now have in Alaska is little more than a number of independent and unrelated agents, acting largely upon their own initiative, each attending only to some special branch of police work, and no branch adequately organized to cope with its own problems, without even attempting to coordinate its work with that of the other branches.

On another page he says:

From time to time new laws and new policies must be adopted by Congress to enable the fullest fruition of the promises of Alaska. Under present conditions we have recommendations from numerous sources for changes in the laws and policies. These recommendations have to do usually with only a single phase of the big problem of how the country may best and quickest be developed. Each bureau or department charged with only certain duties and responsibilities recommends changes in the laws affecting the particular function it performs. There is no place where these various changing needs of the country are brought together, correlated, and framed into a consistent, workable, general program or policy which considers in all its aspects the needs of the whole country. Such a duty the proposed board would perform.

Now, it is my judgment that if Mr. Lane's idea was carried out we would have good government in Alaska. But, as Mr. Bower says, the Department of Commerce has been strongly against it, because of the Bureau of Fisheries, and we have to-day this interlocking and overlapping of the numerous governments in Alaska, one fighting the other and operating in opposition to each other, merely because the Department of Commerce will not consent to Mr. Lane's proposition.

MR. BOWER. Why do you think that the Bureau of Fisheries has come in conflict with other bureaus or departments in Alaska?

MR. WICKERSHAM. Mr. Lane sets that out very fully in his discussion of red tape in Alaska.

MR. BOWER. I do not think he mentions anything about the Bureau of Fisheries.

MR. WICKERSHAM. Yes; he does; he mentions the fisheries. Mr. Lane, of course, is willing to concede something to the Bureau of Fisheries notwithstanding what he said in "red tape," so as to get the rest of it. I think the Bureau of Fisheries is not adapted to run civil government in Alaska, or to run a taxation bureau, and to control the great interests which these fisheries represent. They ought not to be permitted to do it. Certainly if I had a plant worth four or five hundred million dollars, the output of which was \$20,000,000 per annum, I would not employ the gentlemen in the Bureau of Fisheries, as much as I think of them, to run that plant. I would get a hard-headed old business man who knows the fisheries business—a man the Fish Trust could not deceive as they have these officials. I say that because I think these gentlemen are honest and do not think they are misled, but they are just the same.

THE CHAIRMAN. How can they help it, if they have gone in there and located those trap sites? If they have already got them located they would have to have power to oust them, and they would have to have legislation. It is not a matter of men alone, but it must be a matter of laws as well as of men.

MR. WICKERSHAM. Yes; and if they get this bill through they will have a law legalizing the monopoly.

Now, there is another remedy in matters of this kind, and it is a remedy very much favored by a great many good people, and that

is the leasing method. You have passed such laws; all of you have voted for them—

Mr. CURRY (interposing). I have not.

Mr. WICKERSHAM. Then, I beg your pardon. Congress passed a bill for leasing coal lands in Alaska, and Congress placed around the leasing of those lands the most stringent regulations. That method is strongly favored by some of the very best men in the Union to-day—there is no question about that. I do not agree with it, probably because of local conditions up there, but if you do not want to allow the canners to have title to the fisheries in Alaska, then one remedy is to do with those fisheries what you have done with the coal lands. That was the purpose I had in paraphrasing section 6 of this bill by inserting the words "coal mines" in place of fisheries.

Mr. CURRY. Have any of them been opened?

Mr. WICKERSHAM. No, sir; and, in my judgment, they will not be under the present leasing system, except in this way: The Government is building a great railroad into the Matanuska coal fields, and that road will be constructed this year or next. The Government will then be able to make one lease, probably, if some big concern can secure a complete monopoly of both the coal and the railroad. In my judgment, the leasing system is open to the objection, just as this bill is, that it will lay the foundation for a private monopoly backed by the power of the United States Government. I do not want to discuss that, because you gentlemen know more about it than I do, or, at least, you know more about the principle of it; but that is one method by which you may conserve and protect the fisheries in Alaska.

Mr. CURRY. If the leasing system were adopted they would certainly be conserved, because nobody would lease them.

Mr. WICKERSHAM. Yes; they would. You could lease every one of them. The Fish Trust would be leasing them very promptly, and if they could get them as cheaply as the coal lands in Alaska are being offered for lease, they would secure them for less than the taxes they are now paying.

Mr. CURRY. The taxes are less than any lease they would have to pay.

Mr. WICKERSHAM. There is another method which is being adopted in Alaska by the Federal Government—

Mr. HARDY (interposing). Do you prefer the leasing system to this provision?

Mr. WICKERSHAM. I would much prefer it, because under the leasing system you could reserve the right to control and protect the fisheries, and you could reserve the right, if you wanted to, to prevent monopoly. I oppose the leasing system, but I do approve—

Mr. HARDY (interposing). There is another difference, because a leasing bill would have a period of termination.

Mr. WICKERSHAM. And this has not.

Mr. CURRY. It has a period of three years.

Mr. HARDY. No, sir.

Mr. WICKERSHAM. No; the three-year period in this bill is merely the date of abandonment for failure to build traps and fish the site. If the trap-site owner pays his small annual license and traps the ground once in three years there is no limitation of time; it is perpetual.

Mr. HARDY. The Government would not have the right to prescribe new terms at the end of any period under this bill?

Mr. WICKERSHAM. No; the trap-site claimant holds the whip and will do the driving.

Mr. HARDY. Go ahead.

Mr. WICKERSHAM. Another system being worked out in Alaska to-day has, I think, some advantages over this bill. Not long ago the President reserved the Aleutian Islands and an area of water around them; he put it in a state of Federal reserve—land, water, and all. The United States is leasing privileges there under the authority supposed to be given, I think, to the Secretary of Commerce. They have reserved land and waters and lease the right to fish therein. Not long ago, at Metlakatla, in southeastern Alaska, a lease was made to a man by the name of P. E. Harris. The fishing rights on the island have been leased to him, the reserve extending out 3,000 feet from the island and he has the benefit of the exclusive fishing of Annette Island. I understand that Mr. Harris pays 15 cents a case for each case of salmon canned by him. How about that, Mr. Jones?

Mr. JONES. I do not know anything about it.

Mr. WICKERSHAM. I am told so.

Mr. BOWER. It is a matter which is being handled by the Department of the Interior.

Mr. WICKERSHAM. Yes; that is another point I wanted to bring out.

Mr. BOWER. The island reserve to which you refer was created by act of Congress in 1891.

Mr. WICKERSHAM. Yes; the island was reserved by the act of March 3, 1891, as an Indian reservation.

Mr. BOWER. Therefore its waters—

Mr. WICKERSHAM (interposing). Are handled by the Department of the Interior. The island being under the Interior Department, its affairs are handled by the Secretary of the Interior, while the Aleutian Islands, in another department, are being handled by an entirely different department and group of men. Both departments under different laws are controlling the fisheries in Alaska, and both of them lease special privileges.

Mr. BOWER. The Annette Island reserve is by reason of the Presidential proclamation recently promulgated administered by the Secretary of Commerce in respect to the fishing laws.

Mr. WICKERSHAM. That is probably true. As bad as such a scheme is it has some advantages even over this bill, because there you do reserve the title and you can limit the lessee to a fixed term of years. I believe the lease to Harris is for only five years, and he pays 15 cents a case for his fish. I mention the 15 cents per case again because these cannery representatives here want you to reduce it from 4 cents to 2 cents per case for them. But Harris is voluntarily paying, under a contract with the Government of the United States, 15 cents per case.

Mr. HARDY. That is on what island?

Mr. WICKERSHAM. It is at Metlakatla, on Annette Island, in southeastern Alaska.

Mr. HARDY. Is that in southeastern Alaska?

Mr. WICKERSHAM. It is away down on the lower border, next to Seattle. There are several remedies which may be suggested to protect these fisheries, but if I were doing it I would turn them over to the Territory of Alaska and put the burden upon it of caring for the industry. I would give to the Bureau of Fisheries power to do the scientific work necessary. I would give them appropriations with which to do scientific and hatchery work and insist upon them doing it right. They are scientists. Dr. Smith has been connected with the Bureau of Fisheries ever since he was 21 years of age. He studies the scientific side of it and I suppose Mr. Bower does the same thing.

Mr. HARDY. If this were turned over to the Territory of Alaska and the Territory were given the revenues, would you have any objection, if the Government of the United States should deem it necessary to expend some money for scientific and preservation purposes, to having the necessary funds for those purposes paid over to the Government of the United States by the Territory?

Mr. WICKERSHAM. No; I would not object. I would favor taking out of the funds received from their license fees the proper proportion necessary to do that work.

Mr. HARDY. In other words, you think that if the United States in its capacity of overlord were doing this business, it should be recouped for the expenditures made?

Mr. WICKERSHAM. Yes. I would be in favor of that, because it would not cost the Territory of Alaska any more to have the Bureau of Fisheries do that work than to have their own group of men do it, and it would be an assurance to Congress that there was inspection on guard for them.

Mr. HARDY. But you want the whole administrative function performed by the Territory of Alaska?

Mr. WICKERSHAM. Yes; it will never be well done until those on the ground and who are deeply interested in the work do it.

Mr. HARDY. With a contribution from the revenue received to the Federal Government to do its part of the inspection work and scientific work?

Mr. WICKERSHAM. Yes. And I would not object to putting in that bill a clause which would prevent the Territorial Legislature of Alaska from imposing any greater pro rata tax upon the fisheries than they imposed upon the people of Alaska in exact proportion to the value of the property. If that were done, I am satisfied the fisheries of Alaska would be well cared for.

Mr. HARDY. Would it not be necessary to restrict them and prevent them from granting any perpetuity?

Mr. WICKERSHAM. Yes; that ought to be done.

Mr. HARDY. Also prevent the passage of any law that would lead to monopoly?

Mr. WICKERSHAM. Yes.

Mr. HARDY. And you would not undertake to avoid any monopoly that simply asserts itself by superiority of combination and without any special grant to rely upon?

Mr. WICKERSHAM. I would try to so arrange the location to the claims upon the grounds as to give as many people as possible an opportunity to get to the fisheries of Alaska, consistent with their

preservation. In that way you would reduce monopoly to its lowest terms.

Mr. HARDY. It seems to me, as Judge Alexander has said several times, that even under conditions as they are and without any law being passed to foster them, the big concerns are fast gobbling up the little concerns.

Mr. WICKERSHAM. Yes; that is going on now rapidly.

Mr. HARDY. They will do that even if you let them both alone?

Mr. WICKERSHAM. Yes. The principal purpose of the leasing bill, as put forth by its friends, was to do that very thing, namely, that it would prevent—

Mr. HARDY (interposing). Did not those leasing propositions hang fire for year after year because nobody seemed to be able to find a solution for the prevention of monopoly?

Mr. WICKERSHAM. Yes; that is true.

Mr. HARDY. They were held up in the fear that if we opened the doors somebody would eventually go in and occupy the whole field, and that if we kept the doors shut we would exclude all the others.

Mr. WICKERSHAM. Yes. I was in favor of granting title to coal lands in Alaska, giving patents, but reserving in the patents the right to control and prevent monopoly and excessive prices. A reservation of that kind in the patent would have permitted Congress, without limit of time to prevent the abuses which come with monopoly and unrestrained right to rob the consumer by high prices.

Mr. HARDY. It all comes back to the fact that the Government must maintain perpetual hold on these big resources?

Mr. WICKERSHAM. Yes; as it must do on the fisheries, because they can not be granted by patent.

Mr. HARDY. Or else turn them over to a monopoly?

Mr. WICKERSHAM. Yes. That is what I wanted to put in the coal-land patents of Alaska.

Mr. HARDY. But those coal lands are leased for a certain period?

Mr. WICKERSHAM. Yes; they are leased for 50 years, and they are leased at a mere nominal rent and under such terms that the lessee is permitted to charge the consumer all the traffic will bear. He is part of a Government monopoly, but with unrestrained power to take the last penny obtainable from the people who, theoretically, own the property. This bill is afflicted with that same curse.

Mr. HARDY. I remember that we were up against it on that proposition, and the 50-year period was put in because we felt that if a shorter time were fixed nobody would go in there.

Mr. WICKERSHAM. Yes; I remember that.

Mr. CURRY. Has not the Interior Department granted a fishing monopoly on this island down here [indicating on map]?

Mr. WICKERSHAM. I understand so; Annette Island, I understand, has been completely monopolized by one man, under a lease from the Interior Department for five years, for which he agrees to pay 15 cents per case on the output of salmon.

Mr. CURRY. But he has a monopoly?

Mr. WICKERSHAM. Of those waters but not of the trade. What I am objecting to here is that—

Mr. BYRNES (interposing). What do you mean by "not of the trade"?

Mr. WICKERSHAM. What I am objecting to in this bill is that if you pass it the title to all of these waters will go into one hand or under one control and that, therefore, will amount to a monopoly of the trade. However, he is now in competition with other canners.

Mr. HARDY. He has a monopoly of a small part of the whole supply?

Mr. WICKERSHAM. Yes. Of course, if there is authority of law for doing that in his case, I suppose it can be done on a large scale and all the fisheries of Alaska may be thus reserved and leased.

Mr. HARDY. Is that lease perpetual?

Mr. WICKERSHAM. No; it is for five years.

Mr. HARDY. With the right to continue it?

Mr. WICKERSHAM. I have not seen it but I think not; I am not sure about that. Out on the Aleutian Islands there is another large reservation and there is every chance—

Mr. HARDY (interposing). Monopoly is a bad thing, but I do not know of anything that could be worse when you couple perpetuity with it.

Mr. WICKERSHAM. Yes; a legalized monopoly without date is bad. Now, Mr. Chairman, I have attempted to suggest to you my remedy and I have attempted to make it perfectly plain to you. I would turn the control of the fisheries over to the Territory of Alaska with every possible provision against monopoly, and with such a division of the funds that the fisheries will be looked after, inspected, and cared for properly, and I would also provide for hatcheries, if there is any virtue in hatcheries, which I very greatly doubt.

Mr. CURRY. We have found them to be a very good thing in California. A hatchery is a good thing if it is located in the proper place.

Mr. WICKERSHAM. I hope so. I do not know whether a hatchery is a good thing or not. I have become very much prejudiced against them on account of this Karluk hatchery. My prejudice may be entirely wrong, because I am not an expert on hatcheries. I have only the view that any other man gets who merely looks at things in which he is not personally or officially interested.

Now, Mr. Chairman, I want to call the attention of the committee to just one other thing in this bill and then I would like to run down the bill again for a moment. If this bill should pass as it now stands it will repeal those acts of the legislature which have heretofore levied license fees in Alaska.

The CHAIRMAN. We will certainly take care of that.

Mr. WICKERSHAM. If that is done, and if there is a saving clause put in the bill, of course, the matter would be placed in a different light.

The CHAIRMAN. I do not think it is necessary to dwell very long on that.

Mr. WICKERSHAM. I shall not, except to call the attention of the committee to the fact that I have here a statement from the chief counsel of the Territory showing that the Booth Fisheries Co. now owes the Territory \$25,471.82. The Alaska Packers Association now owes the Territory of Alaska \$75,018.31; Libby, McNeill & Libby now owe \$13,299.56, and the Alaska-Portland Packers Association, represented by Mr. Warren, owes \$6,468.86. These amounts will be

increased very largely by what they will owe this year. The total amount that they owe is something like \$250,000.

Mr. HARDY. Cutting out this year?

Mr. WICKERSHAM. Yes; not including 1916. I have a statement here from the attorney for the Territory giving those figures. There are a great many other defects in this bill, and I do not like to let them pass. They are approved by the Bureau of Fisheries and the representatives of the canners. The point I want to make against these locations of trap sites in Alaska is that neither the Bureau of Fisheries nor the Government reserves any control of any kind. The locator may go out and locate his trap wherever he pleases. There are no conditions whatever except that it must run out from the shore at right angles. That is the only limit put upon him. He may locate wherever he pleases by filing his map, and the mere filing of his map gives him title.

Mr. BOWER. There are distance intervals and other restrictions that are suggested by the bill.

Mr. WICKERSHAM. Yes; I have read those very fully, but the Government does not reserve any right to be even consulted about where the location shall be, and I think it ought to do so if it is going to give title to the locator. I think it ought to reserve some right of control, but it does not.

Mr. CURRY. The Government can not divest itself of title to the tidelands.

Mr. WICKERSHAM. Well, the Oregon case of *Shively v. Bowlby* (152 U. S., 1) goes a long way toward holding that it can.

Mr. CURRY. An act of Congress can not divest the Government of its title to tidelands.

Mr. WICKERSHAM. I think it can; at least it is too serious a question to hazard.

Mr. CURRY. It has been held by the Supreme Court that it can not.

Mr. WICKERSHAM. Well, the *Shively v. Bowlby* case, from Oregon, is the leading case on that question, and I think the court there holds just the other way. I do not know how far you are going under the terms of this bill, conceding that it is passed in its present shape, but I do not think the committee can determine the status of title you are giving. However, I am not going over all of the bill now. There are a great many things in this bill which, in my judgment, ought not to be in it. Another point I want to make against it in addition to the monopoly clause and the clause taking all power of taxation away from the Territory is that there is not much left in it which is not now the law of the Territory. I can go all over it and point it out to you if you wish me to do so.

The CHAIRMAN. We are going to study those statutes ourselves.

Mr. WICKERSHAM. The sections of the law that are now in force I have marked here, and I will be glad to leave this marked copy with you, if you desire it. The laws of Congress applicable to these fisheries in Alaska cover substantially everything in this bill which relates to the control, conservation, and protection of the fisheries, except that there are some very slight changes; but they do not amount to anything. With the power which the Secretary of Commerce now has to make rules and regulations, I think he can supplement the laws himself by enacting rules and regulations, and

they would cover very much the same subjects that they have written into this bill. I certainly should not hesitate to do that if I were the Secretary of Commerce, and I do not think the Secretary will. I do not know of any rule or regulation that the Secretary has ever made that is against the interest of the public up to date, and I do not think he needs to make any to add to the present law all that they have put in this bill. The question of weekly closed periods, the question of closed waters, the unlawful destruction of fish, and the pollution of streams—

Mr. HARDY (interposing). He could put in there the distances at which these traps should be set?

Mr. WICKERSHAM. Yes; everything of that kind could be covered by his own enactments of law under his present power to make rules and regulations.

Mr. HARDY. And just how far they should extend?

Mr. WICKERSHAM. Yes.

Mr. HARDY. The number of jiggers and all that sort of thing?

Mr. WICKERSHAM. Yes; I have no doubt about it.

Mr. HARDY. So your position is that everything necessary could be put into the present law, if not already there, simply by an administrative order?

Mr. WICKERSHAM. Yes; and for that reason I do not make much of a point against these administrative amendments. Generally speaking, there is no very great evil in them. They are unnecessary, and they are not needed in this law, and add nothing to the power of the department to conserve or protect the fisheries of Alaska. They are merely verbal changes, and the other changes are without any reason.

Mr. HARDY. One of the points made by the department was their lack of funds to carry out the law, and your proposition is to give them sufficient funds from the revenues to administer all the parts of the law that they are charged with if the matter is turned over to the Territory?

Mr. WICKERSHAM. Yes; that can be done by reserving from the funds raised by license fees a sufficient amount to equal the sum now appropriated by Congress for that purpose, and it will not impose any hardships, for if the Territory had to do the work of inspection, etc., it would have to pay therefor an equal sum.

Mr. CURRY. If the fisheries are turned over to the legislature why should the department have any funds with which to supervise the fisheries? They would have nothing to supervise; all they would have to do would be to do as they do in other States and Territories—put in some hatcheries and turn the fish loose.

Mr. WICKERSHAM. I hope they have done more work in the United States in proportion than they have done in Alaska in the last 10 years.

Mr. CURRY. They have no authority to do more than they have done in the States, and they would not have any authority in Alaska to do more than they do in the States, even if the fisheries were turned over to Alaska.

Mr. WICKERSHAM. That depends upon the character of the legislation turning them over to Alaska.

Mr. CURRY. If Alaska wants the fisheries she wants them, and if she does not want them she does not.

Mr. GOODWIN. Could the law be so drawn, if your views should be carried out, as to turn over to Alaska so much money, which would be the amount needed less the amount required for regulation?

Mr. WICKERSHAM. Undoubtedly; if you want to put that restricting clause in. I would want to put in a bill of that kind—I would if I drew it—a clause against monopoly. I do not believe the legislature ought to have unlimited control of the fishery resources of Alaska at this time by any means. I know that all sorts of prohibitions are made against legislatures doing things of that kind, and I do not see any objection to it here. On the other hand, this bill goes to the other extreme and takes away from the Territory of Alaska any possible power or control over the fisheries. We have got but one power now, and that is a very limited one, namely, the levying of additional license fees, although it seems to be doubtful whether we have that power. However, we think we have, and the courts have held that we have, but we do not have anything else. We do not have any other control; we have never been responsible for the fisheries in Alaska in any way.

I do not think, Mr. Chairman, that I have any more to say, although there is a lot I could say.

The CHAIRMAN. Are there any further questions to ask of Mr. Wickersham?

Mr. BYRNES. I want to ask you one question. Did I understand you to say that in the preparation of this bill you had not been consulted at all by anybody?

Mr. WICKERSHAM. I was not consulted at all by anyone.

Mr. BYRNES. Did you know of its being framed, and did you ask to be consulted?

Mr. WICKERSHAM. I did not know it was being framed and I was not asked, of course, anything about it.

The CHAIRMAN. Let me ask you a question or two about the policy you have in mind. I assume, representing the people of Alaska, that you are interested, as they should be, in conserving its resources, the fisheries in particular?

Mr. WICKERSHAM. I certainly am.

The CHAIRMAN. If the present methods of fishing are depleting the fish supply, they ought to be stopped; is not that true?

Mr. WICKERSHAM. Yes; that is true.

The CHAIRMAN. If they are seining at the mouths of these streams and not allowing the fish to go up and spawn, that would certainly be destructive of the fish supply?

Mr. WICKERSHAM. There is no doubt about that.

The CHAIRMAN. And looking at it from the standpoint of revenue, the people of Alaska are interested in having this industry pay its proportionate share of the cost of maintaining the Government in Alaska—the building of public roads, the maintenance of schools, and all other governmental purposes?

Mr. WICKERSHAM. Yes; there ought to be no favorites.

The CHAIRMAN. They are some of the policies that all of the people should be interested in?

Mr. WICKERSHAM. They are.

The CHAIRMAN. If they conserve the industry and if the industry contributes its just share toward the support of the Government in the shape of taxes, the interests of the Territory would be taken care of and that would cover substantially the whole policy as it affected Alaska, would it not?

Mr. WICKERSHAM. Yes.

The CHAIRMAN. The people in the States who eat the salmon must pay for it, of course, while in Alaska they get the salmon for food free. In the States, those who purchase the output of Alaska want to do so at a reasonable price, hence they would not want an unreasonable tax assessed against the industry, because it would be charged to the consumer and it would simply be unnecessarily burdening ourselves. So far as a monopoly is concerned, of course, that is a very serious question and it is a difficult matter to determine just how to control it, in a practical way, whether by limiting the number of traps that any one man may have, or in some other way.

I would not undertake offhand to suggest just how that might be done, and I would regret very much to have all of the fisheries in Alaska come under the control of one concern, because if that happened, then, of course, that one concern could control the price to the consumer of the country. But that is a matter of greater interest to us than it is to the people in Alaska, because so long as the industry is conserved and they get a reasonable revenue from it they are taken care of and their interest ceases there. The question of a monopoly and, as a consequence, the increase in price, is a matter of greater concern to us than it is to them. As long as the laws are so framed as to provide for the conservation of the supply the people of Alaska are not hurt, but if a monopoly exists and that monopoly can control the price, they, of course, make an additional charge to the consumer here.

Mr. CURRY. Could not that condition be met by limiting the number of pound nets that any one company could have?

The CHAIRMAN. I think that is something that we must meet, and I think it is a question that interests us more than it does the people of Alaska. Now, just one other question about policy and I want to refer to divided control. If this committee should report a bill providing for a license tax on this industry and then reserve to the Territory of Alaska the right to levy a local tax, divided control would necessarily result. It has been suggested that that might be a wise thing to do, but looking at it from the standpoint of revenue and the cost of assessing and collecting the tax, would it not be better to turn over the whole thing to the Territory of Alaska or else allow the Bureau of Fisheries, or some other department of the Government, to have entire control of the industry, taxing the industry and then seeing that the Territory of Alaska gets its fair share of the revenues? As far as that is concerned, speaking offhand and without any reflection, I think you ought to have all of it except the absolute cost of administering the law and conserving this resource. I do not think the States ought to have any part of it except that part necessary to enforce the law and conserve the fish, in addition to the amount necessary to collect the tax. Those are questions of policy that have impressed me as we have gone along.

Mr. WICKERSHAM. So far as enforcing the law is concerned, we have all necessary officials there, as you have in the States, for the

enforcement of the laws. We have courts which are maintained by the Government and—

The CHAIRMAN (interposing). I think the history of the administration of laws in Territories is that such administration has always been lax. So far as monopoly is concerned, I think that these same influences that you fear would be just as powerful, if not more powerful, there than here.

Mr. WICKERSHAM. I would not guarantee against them, Mr. Chairman.

The CHAIRMAN. They will assert themselves, wherever they are.

Mr. WICKERSHAM. They do, undoubtedly.

The CHAIRMAN. Take the railroads as an example. There was a time when the railroads absolutely controlled legislation in our States, and we are just recently getting out from under that control.

Mr. WICKERSHAM. Yes. On the other hand, a great many people of your State have gone into Alaska and they carry those ideas with them, and they are adopting better systems of control by reason of the fact that they get so many men who have been educated in those matters in the States.

The CHAIRMAN. You have one man in Alaska who was born 4 miles from the town in which I have lived for 40 years. He went to Montana when it was a Territory, and went from there to Alaska. He ought to be pretty well schooled by this time. I know he went out there and sunk about \$150,000 in the coal mines of Alaska.

Mr. HARDY. In your bill providing for the turning over of these affairs to the Territorial legislature have you incorporated such prohibitive features as we have been talking about, namely, as to the prohibition of monopoly, and another feature which you mentioned but which I can not now think of?

Mr. WICKERSHAM. I have not, though our legislature can not convey title and do other acts of that kind as Congress can. I have not attempted limitations because I knew the matter would have to come up for discussion.

Mr. HARDY. Would you be willing to turn over to the Territorial legislature, ad libitum and without restriction, the absolute power to do these things, in view of the fact that the Territorial legislature might pass just the kind of a bill you are objecting to now and put into positions of power men who could convert those positions into monopoly?

Mr. WICKERSHAM. No; I would not.

Mr. HARDY. So in your own bill you would be afraid to trust them? You would be afraid to trust your own bill?

Mr. WICKERSHAM. No. Our own legislature does not have the power that Congress has. Our own legislature, for instance, in the matter of taxation is limited by the act of Congress not to exceed 1 per cent. so as to that matter they could not impose any burdens upon the people.

Mr. HARDY. They could give them everything?

Mr. WICKERSHAM. No; on the other hand, our legislature has no authority to give.

Mr. HARDY. As I understand, your bill would be substantially an organic act, so far as this property is concerned?

Mr. WICKERSHAM. Only so far as the control is concerned, and not so far as making grants of public fishery is concerned, because that is

specifically limited and reserved by the act. The legislature could not do that. Congress can grant fisheries or the mining land or the coal land, but the legislature of Alaska can not.

Mr. HARDY. But under your act, if Congress should now give them authority to administer the fisheries, could not they then pass a bill giving this same right to locate nets and keep them alive, renewing them once in three years, just the same as this bill does?

Mr. WICKERSHAM. Possibly. They could not possibly convey any title.

Mr. HARDY. They could convey the same kind of title that this bill does?

Mr. WICKERSHAM. I am not sure it could—probably not. Certainly not without the special authority of Congress.

Mr. HARDY. One that might be made perpetual in the case of a corporation, for instance, that does not die?

Mr. WICKERSHAM. I am not sure; I would not like to say they could.

Mr. HARDY. You would want to look over this bill carefully?

Mr. WICKERSHAM. Yes, sir. In view of what has been said in these long hearings. I should want to put a limitation on to save the question; I think it should be done in any bill.

Mr. HARDY. That is your first choice, and your second choice is a bureau that would have charge of all of these activities, coordinated and centralized?

Mr. WICKERSHAM. Yes, sir; and to give that bureau the control which all of these bureaus now have. It should be a development board within the Territory of Alaska, residing there, and would be there all the time and have nothing else to do. That is Mr. Lane's idea. Of course, I think that the Territorial legislature should have control, but if the committee does not agree there are many other ways of doing it.

Mr. CURRY. Would not the power be centralized?

Mr. WICKERSHAM. Not at all. The development board would have no judicial power, no legislative power; they would only have administrative power; only the power which a Federal administrative officer has to enforce the laws passed by Congress. It is not proposed to give them any other power.

The CHAIRMAN. Is there anyone else who desires to be heard?

Mr. WICKERSHAM. Hon. Frank Aldrich, of Nome, Alaska, is present and desires to be heard.

#### STATEMENT OF HON. FRANK ALDRICH.

The CHAIRMAN. Mr. Aldrich, what is your business?

Mr. ALDRICH. I have lived in Alaska for 26 years. I follow mining, but I was a member of the first Alaska Legislature, of 1913, and I am now a member of the Territorial senate.

Mr. CURRY. Do you mine for yourself?

Mr. ALDRICH. Yes, sir; I have followed mining for 36 years.

Mr. CURRY. Where are your mines located?

Mr. ALDRICH. At Auk Bay, 14 miles from Juneau. I have interests in the interior of Alaska. I have interests at Nome, where I have resided for the last 17 years.

Mr. CURRY. Are you working all your mines?

Mr. ALDRICH. Yes, sir; I am working them all.

Mr. CURRY. Are they gold mines?

Mr. ALDRICH. Yes, sir; gold mines. I have not gone off of the track since they demonetized silver. I was a silver miner in Montana. I have lived in the Territories ever since I was 18 years of age. I have had experience as a member of the legislature along the lines that you are considering here—the fishing interests of Alaska.

I do not believe that I could improve upon any of the remarks that Delegate Wickersham has advanced to you. He has told you absolutely the truth and the actual conditions that exist in Alaska. The only part that I do not agree with him about is that there is not any other method but to turn the fish over to the Territorial legislature. You can not have any reason to doubt the honesty or sincerity of our legislature. If you take the fish from the control of the legislature you might just as well repeal the organic act. You will deprive Alaska of every part of her taxable revenue. I had the honor of being chairman of the ways and means, revenue, and taxation committee in the Territorial legislature, and I know the conditions that exist in our Territory.

As I stated, I do not know that I can improve upon anything which Judge Wickersham has stated to you; but I want you to understand that he has told you the absolute truth as to the conditions that exist there. I have sat behind the judge for two days. I stopped here in Washington on my way to St. Louis, where I am going to attend the Democratic convention; and if there is any way in which I can assist the judge I should be glad to do so. I should be pleased to answer any questions which you gentlemen might care to ask.

Mr. BYRNES. Tell us about the passage of your revenue law.

Mr. ALDRICH. In 1913 we were under the impression that under the organic act we had a right to legislate on fish and game. We had a committee on fish and game in the Territorial Legislature, of which Mr. Sutherland, a mining partner of mine, was the chairman. At that time I was a member of the legislature, the first Alaska Legislature, representing the second judicial division of Nome. When that bill came up for consideration I had the privilege of listening to all the arguments that were made by the trap men, the purse seiners, and the gill netters; and Mr. Bower who is present here, came from Washington to attend the committee hearings, and he will agree, I am sure, with what I tell you to-day. From the evidence, it seemed like the Bureau of Fisheries people were afraid that they would lose control of the fish of the Territory. We put it up to the Attorney General to ascertain whether or not we had a right to legislate under the organic act, and not getting any answer from that, we did not pass any bill along those lines, but we did pass a taxation bill. We were, most of us, miners; we were not trained jurists or lawyers. While we had a number of lawyers in the senate, we passed bills which were declared unconstitutional, which were in conflict with the interstate-commerce clause. Our revenue bill that we passed was null and void for two years, until we met at the second legislature. In the bill that we now have we added the additional tax on the canneries of 4 cents a case on reds. I do not remember what it was, but you have it here. That amended the bill passed in 1913. That

was agreed upon, as Judge Wickersham has told you, by Mr. Heckman, who is one of the largest canners in Alaska, as being satisfactory.

The CHAIRMAN. Did you hear him state that it was agreeable to him?

Mr. ALDRICH. I was a member of the committee with him. He was a member from the house, and I was a member from the senate, and he agreed that his company should pay those taxes.

Mr. BYRNES. He only agreed as to his company?

Mr. ALDRICH. Yes, sir.

Mr. BYRNES. He did not speak for the other companies?

Mr. ALDRICH. I suppose he had no right to do that.

The CHAIRMAN. Did his company pay them?

Mr. ALDRICH. They have paid them under protest; that is, the money was paid under protest. They took it into the court at Juneau, and the court decided in favor of the Territory. It is now before the court of appeals at San Francisco. They have not yet reached a decision.

The CHAIRMAN. When do you anticipate that a decision will be reached?

Mr. ALDRICH. We anticipate a decision any time. Before I left Alaska I understood that it would come up soon.

I heard some remarks here yesterday by Judge Wickersham in regard to double taxation on the fishermen alone in the Territory of Alaska. I wish to state that all the business in the Territory, from a scavenger up, pays double taxes. In all our municipalities there is a 2 per cent tax. The tax is greater on the business man and the resident of Alaska than it is upon the fisherman of Alaska. The only ones who do not pay double taxes in the Territory are the lawyers and automobiles, and they are both luxuries. The organic act did not contain any tax on them. They are the only ones that I know of in the Territory who do not have to pay double taxes.

Mr. CURRY. You pay double taxes?

Mr. ALDRICH. In the Compiled Laws of Alaska you have a Federal tax on business and trade which you deny the Alaska Legislature from having any control over. Then, the municipalities have another tax.

Mr. CURRY. That is for the municipal government?

Mr. ALDRICH. Yes, sir; and the schools.

Mr. CURRY. That is not double taxation?

Mr. ALDRICH. Well, it is not equal taxation, and it does not overlap the taxes put on the fishermen.

Mr. CURRY. You are adding your municipal tax to the Territorial tax?

Mr. ALDRICH. Yes, sir.

Mr. CURRY. That is not double taxation?

Mr. ALDRICH. That is what we consider it—double taxation. They are paying the taxes.

Mr. BYRNES. You have to pay two taxes?

Mr. ALDRICH. Yes, sir; we are paying more than the fishermen, and they reside outside of the country.

The CHAIRMAN. You have been out of the States so long that you do not know much about taxation. We have a city tax, a school tax, a township tax, a county tax, a State tax, and a road tax.

Mr. HARDY. And in my State we have the same property taxed twice under two different guises.

Mr. CURRY. You state that if the Territory did not have the tax on the business that it would lose half of its revenue?

Mr. ALDRICH. Yes, sir.

Mr. CURRY. We have been informed that the fisheries have about \$10,000,000 invested in shore property.

Mr. ALDRICH. That is about what it is.

Mr. CURRY. Is that one-half of the taxable value of all the property in Alaska?

Mr. ALDRICH. There is no shore property taxed in Alaska.

Mr. CURRY. You do not seem to get my question. How much is the taxable value of the property in Alaska?

Mr. ALDRICH. All we have to go by is the output of the mines and the fisheries.

Mr. CURRY. Is that the value of the property in Alaska—\$10,000,000?

Mr. ALDRICH. The shore fisheries?

Mr. CURRY. I am talking about the property in Alaska.

Mr. ALDRICH. We have no report.

Mr. WICKERSHAM. It is all Government land.

Mr. CURRY. You have mines?

Mr. ALDRICH. Yes, sir.

Mr. CURRY. And you own some mines?

Mr. ALDRICH. Yes, sir.

Mr. CURRY. And you have railroads and telephones?

Mr. WICKERSHAM. Congress exempted the railroads from taxation for five years in our organic act of 1912.

Mr. CURRY. What is the value of the taxable property?

Mr. WICKERSHAM. The only property in Alaska that is taxed is inside of the municipalities, there are no titles outside, and that will not exceed \$20,000,000; I do not think so.

Mr. CURRY. That includes the Guggenheim mines and everything?

Mr. WICKERSHAM. The Guggenheim mines pay their taxes.

Mr. CURRY. That includes the Treadwell mine?

Mr. WICKERSHAM. Yes; they pay also.

Mr. ALDRICH. They were the first to pay the taxes.

Mr. WARREN. How much do the fisheries amount to?

Mr. ALDRICH. I understand that Mr. Heckman figured it up and it amounts to the same thing as the taxes.

Mr. WICKERSHAM. Just as Gov. Strong said, our government in Alaska, especially our taxing organization, is in such an inchoate and new state that there are inequalities undoubtedly, but it is because of the situation there. We have not yet had time in that great territory with the title to all the property in the Government substantially, as it is, to get an organization in shape to make it equal. There is no question about that. It would cost, as pointed out by the governor, probably 60 per cent to collect the taxes in the distant parts of the Territory.

Mr. CURRY. You exported last year about \$40,000,000 of stuff from Alaska?

Mr. WICKERSHAM. Yes, sir.

Mr. CURRY. That seems to be a pretty good return?

Mr. WICKERSHAM. \$21,000,000 of fish.

Mr. CURRY. A pretty good return on the investment in Alaska?

Mr. WICKERSHAM. Yes, sir.

Mr. CURRY. If it is only assessed at \$20,000,000?

Mr. WICKERSHAM. I doubt if there is that much property assessed in Alaska in the towns.

Mr. CURRY. The Guggenheim mines, the Treadwell mine, and those mines are not in any municipality?

Mr. WICKERSHAM. No; but they are taxed under the law passed by Congress. They are not taxed by the people of Alaska. They are taxed by Congress, so much a stamp, etc.

Mr. WARREN. Do you not tax them also?

Mr. WICKERSHAM. Yes. We have a tax of one-half of 1 per cent on the output.

Mr. WARREN. Why do you not put the same tax on the canneries?

Mr. ALDRICH. Mr. Heckman said we had.

Mr. WARREN. You would have received about \$130,000. What per cent would that be on the canneries?

Mr. ALDRICH. That is a matter of adjustment for the people here. I can not tell you offhand, but at the time when this matter was being discussed in conference, and there was free conference, I was on the committee from the senate, and Mr. Heckman was the chairman, and when we raised the rate from 3 to 4 cents he figured out that that would be just about equal to one-half of 1 per cent.

Mr. WARREN. That would make the yearly income from the canneries \$26,000,000, whereas the gross value of the output is only about \$20,000,000 yearly.

Mr. ALDRICH. I can not go into that here. All I can do is to indorse every word which Delegate Wickersham has said. He has represented the Territory for eight years, and he has not told you anything but the bare truth about the conditions in Alaska. As you can see, it is a large Territory.

Mr. HARDY. Senator, are you pretty well acquainted with the sentiment of the public officials of the Alaskan government?

Mr. ALDRICH. Yes, sir.

Mr. HARDY. Are they in unison and harmony with the views expressed by the Delegate and yourself here, as far as you know, or do you know?

Mr. ALDRICH. As to all of the Federal officials appointed in Alaska, I can say yes, they are; but we have a bunch of officials foisted upon us that we call "carpetbaggers," who have landed on us from time to time. They do not know Alaska or the Alaskans. They are not in sympathy or accord at any time. They are not actual Alaskans. This is my first trip here. They do not appear before the committees unless they represent some private interest in the Territory; but the Federal officials in the Territory of Alaska who are local appointees indorse every word which Judge Wickersham has stated here to-day and yesterday. That is, the bona fide Alaskans.

Mr. CURRY. Have you had any experience yourself in the fisheries?

Mr. ALDRICH. No, sir.

Mr. CURRY. Have you ever visited the canneries?

Mr. ALDRICH. I have been through the canneries, I have visited them, but not for an inspection. I have visited the canneries from

Bristol Bay to Cooks Inlet, the principal canneries of southeastern and southwestern Alaska, in my travels through the Territory.

Mr. CURRY. What do you think of the present system of fishing; should it be changed?

Mr. ALDRICH. I know this, that some of the principal streams are being rapidly depleted, but I can not offer any remedy. I am sure that if you leave it with the Alaskan people that they will offer remedies that will settle it satisfactorily.

Mr. CURRY. Do you know of any Alaskan, who knows anything about the fishing industry, who would be able to take hold of this situation?

Mr. ALDRICH. Absolutely, many of them; men who are responsible fishermen and who have been there for 20 years. I can name men who are known to Mr. Bower. Bob Bell is one. I can name Tom Keegan. They are fishermen who have been there over 20 years. It is the local fisherman that we want to protect more than anyone else. I hope you will give those fishermen more than you do the fishermen that come from below.

Mr. BYRNES. The people who have been up there for some time want as much power and local government as they can possibly get?

Mr. ALDRICH. We certainly do. I think they are just as capable as the people in any State or Territory of the United States.

Mr. WARREN. What do you suppose is the value of the Bonanza mine?

Mr. ALDRICH. I would not want to put a price on anybody's property.

Mr. WARREN. Just a rough estimate?

Mr. ALDRICH. It might be worth \$1,000,000 and it might be worth \$10,000,000; I can not say.

Mr. WARREN. What is it producing?

Mr. ALDRICH. When I came down it was producing about \$100,000 per month of copper ore; that is, the raw ore.

Mr. WARREN. Is it not generally conceded that they have put in over \$40,000,000?

Mr. ALDRICH. From \$35,000,000 to \$40,000,000.

Mr. WARREN. That would make the value of the mine considerably more than that?

Mr. ALDRICH. That is owing to where it is.

Mr. WARREN. How much do you think they have put in, including their railroad?

Mr. ALDRICH. I have no idea.

Mr. WARREN. The value of the mine would probably run up to \$100,000,000?

Mr. ALDRICH. I do not know. I would not want to set a price on anybody's property.

Mr. WARREN. Do you know the value of the Treadwell mine?

Mr. ALDRICH. No, sir; I understand that they have paid in 38 years between \$50,000,000 and \$60,000,000.

Mr. WARREN. It is a very valuable mine?

Mr. ALDRICH. Yes, sir; they are now sinking a shaft to the 4,000-foot level.

Mr. WARREN. Do you not suppose that the value of all the mining property in Alaska would run up to \$500,000,000?

Mr. ALDRICH. Yes; I think it would.

Mr. WARREN. The value of the fisheries is \$26,000,000—

Mr. WICKERSHAM (interposing). The value of the fisheries is \$400,000,000.

Mr. WARREN. It is not half what the taxable property of the mines is worth?

Mr. ALDRICH. I can not answer as to what the mines are worth. Take the report of the collector for 1914, and the fisheries exceeded the mineral products by \$1,000,000.

Mr. WARREN. For the year?

Mr. ALDRICH. Yes, sir; for 1914.

Mr. WARREN. Do you think that the money put in exceeds the value of the mines?

Mr. ALDRICH. That is the product, the raw product; that came from the fish.

Mr. WARREN. That is, the raw fish?

Mr. ALDRICH. All kinds of fish.

Mr. WARREN. You mean the value of the fisheries, including the boxes, tins, and everything?

Mr. ALDRICH. Yes, sir.

Mr. BYRNES. What is the value of the fish alone, compared to the mines?

Mr. ALDRICH. I do not know.

Mr. CURRY. The value of the raw fish caught in Alaska last year was about \$1,250,000; that is, before salted or canned.

Mr. WICKERSHAM. Neither the United States nor the Territory of Alaska got pay for them, and never have been paid for the fish on that or any other basis.

Mr. CURRY. I think the United States collected the tax on the pack.

Mr. WICKERSHAM. It would not be anything.

A question was asked about the taxation of the railroads in Alaska. In the organic act it is provided:

That Congress reserves the exclusive power for five years from the date of the approval of this act to fix and impose any tax or taxes upon railways or railway property in Alaska.

Then they limit the other taxes to 1 per cent so that we do not have any power—you keep the power away from us—to tax the railroads and many of these elements of wealth, and we want that power.

The CHAIRMAN. How much revenue do you derive from the copper, coal, and gold mines in Alaska?

Mr. WICKERSHAM. There is not a coal mine in Alaska which is producing a ton of coal. We do not get anything.

The CHAIRMAN. How much do you derive from the copper mines?

Mr. WICKERSHAM. One-half of 1 per cent.

The CHAIRMAN. How many dollars?

Mr. WICKERSHAM. I filed the treasurer's report which showed \$90,000 or \$100,000 at one time. I do not know how much now.

The CHAIRMAN. How much revenue do you derive from the gold mines?

Mr. WICKERSHAM. One-half of 1 per cent above \$5,000.

The CHAIRMAN. About how much in dollars?

Mr. WICKERSHAM. I can not tell you. They all pay their proportion. That is all I know. That was the intention of the governor and the legislature, to have these people pay the same proportion.

Mr. HARDY. What was the Territorial revenue last year?

Mr. WICKERSHAM. I do not know. I have filed the treasurer's report.

The CHAIRMAN. Here is the treasurer's report:

[Territory of Alaska, treasurer's office, Juneau.]

*Receipts from inception of treasurer's office, July 28, 1913, to Dec. 31, 1914.*

General fund, as per separate schedule.....	\$54,641.03
Fisheries fund, as per separate schedule.....	1,371.92
Forest-reserve fund, as per separate schedule.....	59,114.50
Deposit interest fund, as per separate schedule.....	271.14
Total receipts.....	115,398.59

*Disbursements from inception of treasurer's office, July 28, 1913, to Dec. 31, 1914.*

General fund, as per separate schedule.....	\$42,041.68
Fisheries fund, as per separate schedule.....	.....
Forest-reserve fund, as per separate schedule.....	.....
Deposit interest fund, as per separate schedule.....	271.14
Total disbursements.....	42,312.82

*Balance sheet, Dec. 31, 1914.*

General fund.....	\$12,599.35
Fisheries fund.....	1,371.92
Forest-reserve fund.....	59,114.50
Deposit interest fund.....	.....
Total in all funds.....	73,085.77

*Treasurer's cash balance, Dec. 31, 1914.*

On deposit with B. M. Behrends Bank, Juneau.....	\$25,206.51
On deposit with First National Bank, Juneau.....	17,779.08
On deposit with First National Bank, Douglas.....	10,075.18
On deposit with First Bank of Cordova.....	10,000.00
On deposit with First Bank of Valdez.....	10,000.00
Cash in treasurer's safe.....	25.00
Total cash balance.....	73,085.77

Mr. WICKERSHAM. That is not a fair statement even for the fisheries, and it is not a fair statement for any of these interests which pay taxes in Alaska, because both the fisheries and the big mines are contesting the law. They have not paid. When they do pay, if they are obliged to pay, there will be a very much larger sum paid than paid by the fisheries and the mines, etc., than his statement shows. The payment by the fisheries will amount to about \$200,000, and, I suppose, the payment by the mines will amount to about the same sum.

Mr. HARDY. They are both contesting the law?

Mr. WICKERSHAM. They are both contesting the law. I understand that they have made an agreement with the Attorney General to pay if they are defeated in the courts, which is quite liberal on their part as you can see.

**ADDITIONAL STATEMENT OF MR. E. LESTER JONES, SUPERINTENDENT COAST AND GEODETIC SURVEY.**

The CHAIRMAN. Dr. Jones, have you anything further to say?

Mr. JONES. Mr. Chairman, for the benefit of those gentlemen who were not here, I hope they know my status in this matter. I have no connection now with the Bureau of Fisheries. I was asked to come here by the chairman of this committee in view of the fact that I went to Alaska in 1914, my trip being approved by the Committee of Territories, with a view to ascertaining and seeing first-handed all I could during a season, and to note just how true the reports were that the supply of salmon was being depleted and the law violated.

Mr. BYRNES. Whom did you say you went for?

Mr. JONES. For the Federal Government. I was then deputy commissioner of fisheries.

Mr. WICKERSHAM. He went in his official capacity.

Mr. JONES. Yes, sir. Now, as to details concerning the condition of the fisheries in Alaska to-day, while I do not think they have materially changed, I do not know much about last year's pack, etc., because my time is fully occupied with other matters of importance.

The CHAIRMAN. You are now the superintendent of the Coast and Geodetic Survey?

Mr. JONES. Yes, sir.

I feel certain that Judge Wickersham must know that my heart and thoughts are much in the development of Alaska. He knows how hard I am working to help them, not only along the lines of protecting human life and commerce, but along lines in general.

Mr. WICKERSHAM. So long as the Doctor appeals to me I want to bear witness that he is a first-class man at the head of the Coast and Geodetic Survey.

Mr. JONES. Thank you. It was not an appeal I made, simply stated a fact. I do not want to convey the impression that I learned everything about Alaska in the six months I spent there. My trip, however, was a hard one and I worked night and day in an effort to grasp all the knowledge I could. My report, as well as what I have and will say here is based on what I actually observed. I heard a great many comments for and against the fishing interests, both canneries and fishermen. I would hear some man interested in a cannery make a startling statement which I did not lay much stress on and I would hear a representative of the fishermen in some part of Alaska make an equally startling statement; but that did not deter me from remembering the object of my trip, to see first-handed the actual conditions. I did not go up there to destroy business. I did not go up there to make arrests. I did not go there to injure Alaska nor Alaskans. I went up there to get information whereby I would be of help to all in connection with any future legislation. My one aim was, and is, to help Alaska and all concerned.

Now, before I take up two or three important points with reference to my trip, placing clearly but briefly before you certain conditions, I would like to refer to this bill. First to section 18. Without reading it, I will say that it is headed "Marine animals included." I think you are all familiar with the section without my reading it. It gives certain authority to the Bureau of Fisheries for the protection of whales, walrus, sea lion, hair seal, and other marine animals,

except fur seals and sea otters which are already protected by international agreement. I would say eliminate this whole section. The whales I will speak of first. There are only two whaling stations in Alaska. It is an impossibility for the Bureau of Fisheries or any other bureau or one Government to have jurisdiction over the whales on account of so many of them being taken on the high seas, and I believe we will do more for their future protection by taking the matter up with the State Department, for example, preparatory to framing an international agreement for their protection, than we will by giving to the Bureau of Fisheries any such authority which they can not hope to enforce. In place of this I would suggest that the whaling stations on land be added to another section which will amply insure the collection of the license fees and taxes from those two stations and any other shore whaling stations that might be established later.

As far as the walrus is concerned, all the gentlemen who have either read or studied the matter know that the walrus is killed mostly on the high seas, and I do not see how the walrus can be protected by the United States unless the other countries cooperate.

We now come to the hair seal. I think any protection of the hair seal would be a serious mistake for two reasons: First, it is highly sought for by the natives of Alaska. They use the skin, which is of very little value commercially, for their shoes in winter, moccasins, and muckluks, and I do not think we should place the slightest restriction on anything that is going to preclude these natives from using something that is almost useless commercially. Furthermore, to show the hair seal's uselessness, it destroys thousands of salmon. I have two illustrations in my report which are the best examples of a number of cases that came to my attention. In the salmon trap were these two hair seals and there were also some four or five hundred salmon, and I examined every one of them, and all were mutilated, some more seriously than others, but their commercial value was destroyed by this menace, and I consider it such and therefore I do not believe there should be any protection on the hair seal in Alaska.

MR. WICKERSHAM. There ought to be a bounty offered for killing them.

MR. JONES. I think there ought to be a bounty on other things as well. I agree with you, and I think if the natives are forbidden to kill these hair seals it would be not only a great hardship on them, but it would injure and jeopardize in a measure the supply of salmon—and I do not want to lay too much stress on this one thing, but it is one of the causes of the destruction of salmon, although I do not say it is destroying a very large quantity of them.

Now, I have another picture here showing four king salmon weighing approximately 30 pounds apiece which hair seals had practically destroyed. Another case against them is that of gill-netted salmon. The gill nets are operated usually by one man, and he sets his gill net and may leave it there for several hours, and in the meantime when these salmon are gilled hair seals follow them up and destroy them by mutilating them. I just bring these cases to your attention in order to show you the real evil that would be done by placing any closed season on this variety of seal.

Mr. GOODWIN. Doctor, you say these hair seals are wholly valueless commercially?

Mr. JONES. Yes, sir; practically.

Mr. GOODWIN. But they are of great use in the way of providing moccasins for the natives?

Mr. JONES. Yes, sir; they have a peculiar way of preparing them. I could often buy hair seal skins for 10, 15, or 20 cents apiece; in fact, I got a number of them free. I saw at Taku Glacier, where I went to observe the fishing at the mouth of the Taku River, probably 2,500 of these hair seals, just lying there on the icebergs, broken off from the glacier. A number of fishermen with their gill nets showed me the damage that this herd of hair seals were doing to their salmon. It only emphasized the fact more strongly to me that there should be absolutely no protection on them; and my greatest objection to such a law is the way it will hurt the natives, whom, I think, by the way, are not getting in many ways all they deserve in this progressive movement, although matters are getting better in this enlightened day, and when I refer to the natives, I mean the Indians, the Aleuts, and the Eskimos.

Mr. HARDY. What is the name of Father Somebody up there?

Mr. JONES. Father Duncan?

Mr. HARDY. Yes.

Mr. JONES. He is at Metlakatla.

Mr. HARDY. He has been down here looking after the interests of those natives.

Mr. JONES. Yes, sir; the natives on that island were brought down from the interior, from British Columbia.

Mr. WICKERSHAM. They came from British Columbia.

Mr. JONES. Mr. Chairman, the other part of the section I want to speak on it at the top of page 15, in those five lines where it says:

It shall be unlawful to take any salmon or other food fish or shellfish by means of a spear or gaff, except for domestic consumption, and it shall be unlawful to purchase any salmon or other food fish or shellfish taken by means of a spear or gaff for commercial use.

I have already spoken against changing the conditions that affect the existence of these natives, having specifically referred to the Chilkoot and Chilkat Indians. They should not be prevented from fishing in their way, but I think there is a greater evil which has occurred to me since some of these details have come back to me. Inasmuch as I have been occupied with other duties, they slipped my mind for the time being, but as I go into this matter further they come back to me. I feel that the Esquimo or Aleut or Indian who has been in the habit of drying fish, whether taken with spear or with any other crude apparatus, such as the little wheels that they use on the Yukon River, should be exempt from these taxes. I am not stating just how it should be done, but I do feel that the Federal Government, as long as it has control of these matters, should protect all those natives. I saw a condition up there that exemplified very clearly that there was legislation which had been enacted that was very grossly unjust to those unfortunate people.

Mr. CURRY. If the Government prohibits them from hunting and fishing, in the way they have done from time immemorial, they will starve to death.

Mr. JONES. Yes, sir; and I think that any legislation that would change their present mode of living—that is, the mode that they use in order that they may exist (and lots of them have a very poor existence)—should not be enacted. That mode should not be changed. And, on the other hand, I think they ought to be helped, and we are not helping them by introducing into this bill anything that will place the slightest hardship upon them. I want to call your attention to a section in the Executive order affecting the Aleutian Islands Reservation, signed by President Taft, March 3, 1913, and section 3, on page 1, reads as follows:

Residents of the reservation desiring to engage in commercial fishing or the hunting, trapping, or propagation of fur-bearing animals or game animals must first secure a permit to do so.

Now, that sounds like a very harmless and easy thing to do, but to one who has been there it is a very serious clause to the Aleuts, who are the principal residents of this long group of islands, about 900 miles long. It affects them most seriously. Let me cite the condition that I found when I landed at Unalaska, which is perhaps 200 or 250 miles from the eastern point of the Aleutian group, where the steamers en route to Bristol Bay stop coming from Seward. Possibly six Aleuts met me there with a half-breed who could speak English. They were very much disturbed because they had been taking a few red salmon, partly for their own food and partly to sell or trade for clothing or groceries.

Sometimes a fishing vessel or some trader may send a boat ashore on one of the western group of these islands, 800 miles from the nearest post office, and say, "We have some clothing, and we will trade this for 250 red salmon." They have dried these salmon. This practice is absolutely harmless and can not possibly deplete the fisheries, but nevertheless they could not legally continue the custom. I consider it very vicious law or regulation which makes it a crime for those natives to continue making a living necessary to their existence.

The CHAIRMAN. Unless they get a license?

Mr. JONES. Yes, sir. Just picture the situation in your mind. Those natives must get in their kyaks (canoes), travel 800 miles, more or less, along the coast (and it is a dangerous coast, too). Many times this trip would be impossible, yet to get a permit they must mail their letter to Washington and must wait for an answer. They would have to wait in Unalaska for two or three months or go back home and make another trip, traveling 3,400 miles in all, in order that they may trade perhaps the equivalent of one barrel of red salmon for some clothing or groceries so that they may exist. That is true, gentlemen, and that is one of the things that ought to be changed. I recommended a change on my return, but it has not been made.

Mr. CURRY. I think we ought to do that in this bill.

Mr. JONES. That is one condition. Now, there is another. It is a little different from fishing, but it does emphasize the point I am bringing out regarding the effect of unjust laws on the natives of Alaska. For example, a man living on one of the Aleutian Islands who wants to catch foxes for propagation purposes. What does he have to do? He has to write down to Washington and get a per-

mit. I wired from Unalaska, in order to help him get his permit promptly, and instead of wiring back consent, inasmuch as it was in the fall of the year, they wrote a letter, and when we got the letter the permit had expired before the foxes could possibly be secured.

Mr. HARDY. You could have shut your eyes.

Mr. JONES. I will tell you gentlemen what I did. You talk about shutting my eyes, I told a native in the presence of the Captain Commandant of the Revenue-Cutter Service, who believed, as I did, that it was a crime to enforce such legislation on them, to go ahead and catch the fish, and if they wanted to put me in jail, I would have to go.

Mr. WICKERSHAM. The same situation exists all over Alaska, except that the white men are not quite as helpless as the natives are.

Mr. JONES. No, sir; I think these are extreme cases. I want to be fair, and I do not want to convey the idea by what I say here that the situation in this man's case exists everywhere, but I do want to protect the native against any more such legislation. Some of the people who took part in formulating this Executive order had never been in Alaska, and I do think that those who appear before legislative bodies for the purpose of giving information relative to new laws and regulations should have seen conditions themselves and not act on hearsay.

Mr. WICKERSHAM. I agree with you there.

Mr. JONES. He can not possibly grasp a situation like this. These natives came to me, and I saw the force of their argument in a moment.

Mr. BOWER. I hope you will make it clear that the officials of another department, rather than ourselves, were responsible for that.

Mr. JONES. I am glad you said that for the order was largely drawn outside of fisheries.

Mr. GREENE. It ought to be called to their attention, whoever is to blame for it.

Mr. JONES. I am not here to condemn or criticize any officials; I am here to show that the natives of Alaska should be protected, first of all and above everything else, and there is a way being paved in this bill for placing more hardship on them that is all wrong. I cite the Aleutian Islands condition, because it is something I recommended changing nearly two years ago, and still nothing has yet been done and those natives in the meantime are technically violating the law, and yet some of them I do not believe are, because they are afraid to. The Aleutian Islands are not made up of white people. These little islands have Aleut settlements of 40, 30, or 20 souls who are dying off rapidly. We have taken away from them the opportunity to kill fur seals, sea lions, and walrus, and many of them do not know any other way of making a living. Now we are trying to take away something that I do not think we have any right to do, and I would rather see a few sea lions or walrus killed by those people who were there before we had anything to do with the territory, and by virtue of that right, if for no other, they certainly should be considered before the white man or anything else. The condition of the natives of Alaska appeals to me very strongly. I do not want to warm up too much on the matter, but I think they are getting a very bad deal from the Government—both Federal and Territorial—and not in connection with fisheries alone, not by any means.

Mr. WICKERSHAM. Amen.

Mr. JONES. That is what I think about it. Go right to the Pribilof Islands, where those great fur-seal rookeries are worth millions of dollars to this Government, and those people are living in houses to-day just like the tenement houses in the very worst sections of our largest cities, and yet Congress does not believe a man who has been there and who has no ulterior motive, when he comes down here and tells a committee that about 85 per cent of the people on the Pribilof Islands are suffering with tubercular troubles, some families living seven in a room. This industry is worth millions and millions of dollars, and increasing every year—the biggest asset the Government has to-day for an assured income—and yet they will not provide adequate sanitary quarters for the people who are living on those islands, Government charges, who are trying to protect these valuable aquatic animals.

Mr. GOODWIN. Speaking of the fur seals on the Pribilof Islands, you only want the natives provided with homes and given proper protection. You would not advocate a return to the slaughter of fur seals which was the cause of the extermination of that herd?

Mr. JONES. Absolutely not, sir.

Mr. GOODWIN. When it was reduced from 5,000,000 down to 150,000.

Mr. JONES. Mr. Goodwin, I was not touching on the fur-seal question, but I do favor their proper protection.

Mr. GOODWIN. I did not want you to leave that impression. You want the Government to protect the natives but not to resume the wholesale killing of fur seals.

Mr. JONES. I want our Government to perpetuate the fur seals, but I do not want them to lose sight of the fact that their public charges on those islands are not getting a square deal. That is what I want to make clear.

Mr. HARDY. My recollection is that a percentage of the Alaska fund is turned over to the Territory to take care of those consumptives and the indigent natives.

Mr. JONES. No, Judge Hardy, these natives are on a reservation, and the Federal Government is solely responsible. It is not the fault of the Bureau of Fisheries, because I have been before the committee and I have pleaded for funds, and others have pleaded for them, and they have not been forthcoming.

The CHAIRMAN. What committee?

Mr. JONES. The Committee on Appropriations.

Mr. CURRY. The United States Government has taken over the fur seals which these people used to live on and are not now providing for them.

Mr. JONES. Mr. Chairman, in closing this part of what I have to say, unless there are some questions—

Mr. HARDY (interposing). I want to ask you a question. If we had one bureau looking after all these laws up there, would not that body look after this matter as well as other matters? Is not one trouble the fact that we have a multitude of conflicting jurisdictions up there?

Mr. JONES. Judge Hardy, the Fisheries, as far as I know, have not conflicted with any other bureau or department in the Government; as far as the fisheries are concerned this bureau is distinctly

separated from all other arms of the Government, and can well remain in this enviable position.

The CHAIRMAN. The great difficulty has been, has it not, that the Government has not provided facilities to care for them?

Mr. JONES. Yes, sir. Judge Alexander, the Government is entirely responsible in not providing ships and the money to operate those ships, and that answers the whole question. There is nothing else to be answered as far as not giving sufficient protection to the fisheries and also to the natives, as referred to in my recent remarks.

Mr. WICKERSHAM. You have a vessel up there called the *Osprey*, have you not?

Mr. JONES. Yes, sir. I had the pleasure of asking you to come aboard. What did you think of her?

Mr. WICKERSHAM. I would not go across the bay on her, if there was any wind on.

Mr. JONES. I slept on her for 63 days.

Mr. WICKERSHAM. You must have had big insurance.

Mr. JONES. One vessel, Judge Wickersham, for southeastern Alaska is about as foolish as trying to have one submarine protect all of our coast line. It is just about as sensible. I made an appeal last year before the Committee on Appropriations, emphasizing the fact that the laws of Alaska pertaining to the fisheries, if they were not observed, was not the fault of the bureau, but because they had not the ships, and still not a dollar was appropriated. This year in the sundry civil bill, which has just reported, they have given two \$5,000 launches, instead of giving two or three vessels of sufficient size to accommodate the officers and crew and making it possible to go into all waters, whether rough or smooth, without endangering anyone's life. They have not provided a vessel for central Alaska or western Alaska, and that is the way it is going to go on and on unless Congress takes hold of this matter and meets the issue squarely.

Mr. HARDY. I believe if you would make this same talk before the Appropriations Committee—

Mr. JONES (interposing). You do not have a chance, or at least I have never had a chance to speak as freely as you gentlemen have permitted me to do here.

Mr. HARDY. You might get them stirred up a little bit. I think you have us here with you.

Mr. JONES. Judge Hardy, I would be delighted to have an opportunity. It would be one of the joys of my life to talk 30 minutes before the Appropriations Committee without being interrupted.

Mr. BYRNES. Did you get a hearing at all?

Mr. JONES. A very indifferent one.

Mr. BYRNES. You mean they interrupted you?

Mr. JONES. They interrupted me with cross-questions and illogical questions, and I could not concentrate myself long enough to think along one tangible line instead of several lines. The Bureau of Fisheries is not to blame; the natives of Alaska are not to blame; the Territory is not to blame; but the Federal Government is to blame.

Mr. HARDY. I think all parties have made it very apparent to this committee that they have not the instrumentalities up there to administer any law, hardly. Is not that your idea, Judge Wickersham?

Mr. WICKERSHAM. Undoubtedly, that is true; and I do not think you ever will have. I think Government control of those utilities up there is a complete failure. If you had the bureau which Mr. Lane suggests, then I think you would get some administration which would be worth something.

Mr. JONES. Secretary Lane does not know what they have to contend with in the Bureau of Fisheries nor of their distinctive work like I do and like some others. I am not coming here to defend the Bureau of Fisheries or the salmon people or any body else; I am here to tell the absolute truth, and I know the Territory has many things in its favor, but I know the Bureau of Fisheries has been held responsible for the things they have been fighting against ever since I have been connected with the Government, and you all who know Alaska know that I speak the truth.

Mr. WICKERSHAM. I think it always will be so and that is the very defect in the whole situation.

Mr. JONES. But you said the Federal Government, and I do not want the impression to go on the record that it is the Bureau of Fisheries which is solely to blame, but it is the lack of support which Congress has given them, and they have shown clearly why they are handicapped in carrying out the intent of the law.

I would like to refer to my report on page 6. I took special interest in the methods of fishing in Alaska, partly because I have always been interested in fishing. I am familiar with Chesapeake Bay, and had observed what happened to the shad fisheries of Chesapeake Bay due to excessive fishing. So when I went to Alaska, and having heard of this argument against traps, as well as other methods of fishing, I was very anxious to see, and I did see, a great many traps in operation, as well as purse seines and gill nets. This was my conclusion, if you will permit me to read it into the record:

There is probably no part of this great industry that has created more controversy than the methods employed in catching the 60,000,000 salmon which are taken each year from the waters of Alaska. It is an easy matter for those who favor certain forms of fishing apparatus to blame those using other forms for the alleged diminution in the supply of salmon, but it is not easy for a disinterested person to ascertain the relative effect and place the responsibility for any injury that may result from any abuses of these methods.

The four principal methods are trap fishing, purse seining, haul or beach seining, and gill netting. Trolling for king salmon is placed under another head, as it is so distinctly a separate business and so closely affiliated with mild curing that an independent discussion will prove more helpful than to take it up with the principal methods used in catching Alaska's enormous production of sockeye, humpback, silver, and chum salmon. I have studied these four methods of fishing from an entirely unprejudiced standpoint, and I have noticed the various conditions and have viewed them from every angle. In some parts of Alaska certain conditions obtain, in others they are entirely different. Therefore, I will endeavor in this part of my report, as well as under other heads, to cover all phases of the question looked at from all sides.

One of the things that impressed me most forcibly was the fact that everyone that used any particular kind of fishing gear did so because it suited his conditions best and because it was the best business method and produced the best result. This feature alone is what every business man tries to bring out most clearly in conducting any enterprise.

When I was in Alaska there were 275 traps, and of those traps approximately 65 per cent of them were in southeastern Alaska. The condition of the water, the effect of the tides, and the swiftness of the current, the character of the bottom, and depth of water are

all contributing reasons why the traps are used in various places. Fewer men are required to operate a trap than are needed to operate a haul or a purse seine. It is absolutely understood in business that if anyone can devise a simpler and more economical method of doing the business any up-to-date business house will encourage it and discard the old business method. Now, that is the exact situation in regard to the fish trap. It saves labor and time, and I quite agree that the success of an industry means the turning out of a good article with the least possible expense and in the shortest possible time. The principal advantages of the fish trap, which I have noted in this report, are these: First, the fish remain alive in the pot or spiller, thus permitting their delivery at the cannery in better shape than when taken by any other method of capture in vogue to-day; and, second, the trap is stationary, and the Government official or inspector always knows where to locate it, thus permitting of regulation and control quite difficult or almost impossible with purse seines and other mobile forms of apparatus.

Now, as to the objections: First and foremost is the fact that traps catch not only salmon but other kinds of fish, which under present conditions are not utilized. Second, during the weekly close period the owners of traps say that bad weather is the cause for not complying with the law. They say, perfectly properly, that bad weather does not permit of the closing of these traps, which I can readily understand. I have already spoken of that in my earlier testimony. To show that I tried to place on the traps their full responsibility, I have suggested a curtailment in their activities, on account of the ever-increasing fishing and the decrease in some sections of the supply of salmon. For that reason I suggested that the leads be made shorter. I also suggested that the space or the area between the traps should be increased, and I suggested that the weekly close season be extended. All of those things are embodied in this bill. Before I go on with the purse seines, I would like to say that in order to be as absolutely fair as I could when bringing this to the attention of Congress and others interested, I show a true reproduction in my report, page 14, of how congested certain areas were with fish traps. But it must be understood that that is only in certain sections and that it is not general either through southeastern Alaska or any other part of Alaska, because you can not use traps everywhere.

Now, I will take up the matter of purse seines. Purse seines are more numerous in Alaska than traps, and their aggregate catch of salmon exceeds that of traps. Purse seines are used chiefly in southeast Alaska, and there are two neighboring districts where this method of fishing is particularly prevalent, namely, Karta Bay, and Cholmondeley Sound, off the eastern shore of Prince of Wales Island. By way of example of the heavy and congested nature of purse seine operations, it may be said that this past fall in the very limited area of these two waters there were about 150 purse seines fishing at one time. I show accurate illustrations on pages 18 and 20 of these purse seines operating close to the mouth of a stream where the salmon were congregating en route to their spawning grounds. I know from observation that salmon taken in the purse seines were placed on barges, and some of them that were carried 60 miles to the cannery reached their destination in

rather bad condition. I do not say that they should not be canned, but I am following out one of the arguments that they are not in as good condition and will not keep as long when they reach the cannery as fish taken out of the traps.

The CHAIRMAN. Don't they catch other kinds of fish, too, in the purse seines?

Mr. JONES. Not as many. These salmon taken by purse seines were in large schools, where they congregated preparatory to ascending streams to spawn. The other fish which are moving about strike the leads in connection with the traps and will follow it up, going on into the traps. I further say in my report:

As in the case of traps, the operation of purse seines should be curtailed to some extent.

And I offer arguments how that should be done. I speak of the haul or beach seining:

With the haul seine the same conditions exist to-day as with the purse seine, and the same remedies are suggested. In addition, with reference to purse and haul seining, I was impressed with the fact that fishermen in some instances do not take the short seines upstream, possibly not having any at hand, but they go up the stream to where the fish are ascending or spawning and drive them back into the deeper water.

Now, I do not want to convey the impression that there were wholesale violations in Alaska, neither do I want to say there were no violations, because I saw them. I do not believe anyone could go to Alaska under more favorable conditions than I did. I saw much and saw it well. I was not dependent on a private vessel for any of my trips. I did not accept a favor from anybody; the United States Government furnished me with all. Therefore you can see that any thought in anyone's mind that I had to use certain private-owned boats, etc., to accomplish any part of my trip could not be used as an argument against what I accomplished. I was most particular, because certain people had said, "Yes, Jones will go up there, and he will dine with the canners, and he will use their vessels, and he will not dare come back here and tell the truth." I think in a measure it was foolishness to refuse every offer of courtesy, because I think the rank and file of the cannery men are just as substantial business men as we have in the United States; just as sincere and just as honest, and their motives are not anything but good ones; but in view of certain prejudicial feeling that existed, and I knew it existed, because I heard it expressed freely, I thought I should be unusually careful and not give a chance for the slightest criticism.

Mr. HARDY. And if you were going to repeat your trip you would do the same thing in the same way?

Mr. JONES. Yes, sir; I think I would. It is better because people at long distances put two and two together and they can not differentiate between enjoying—

Mr. HARDY. You do not want to be in a position where anybody can question your motives?

Mr. JONES. Yes, sir; that is just why I was careful. It was very hard at times, for sometimes I went without my meals and was put to unnecessary inconvenience, but I deemed it the proper thing to do and I carried it out during my entire trip.

I would now like to refer to the labor question in Alaska. On general principles I am in sympathy with the working man and I

am in special sympathy, as I think you have learned, with the natives of Alaska; and as I went further on my trip I realized that there were many things in connection with the natives that might be corrected, not by any means always in connection with fisheries. I want to read two or three short paragraphs which show briefly my impressions on this question:

Alaska is such a vast Territory and its various enterprises are growing so rapidly that the labor question is becoming an important one. As yet the country is sparsely settled and must depend largely on imported labor during the busy season. This has created a business complication which has not as yet been satisfactorily solved.

I refer also to the resident fishermen.

In southeastern Alaska this element composes a considerable portion of those engaged in taking salmon for the various canneries.

That is in the large section, where 65 per cent of the traps and most of the other paraphernalia are operated. A large portion of the men who do the actual fishing are natives, and when I use the word "natives" in this case I not only mean the Thlinkit Indians, but I mean the white men who have gone there to live, perhaps 20 years ago, or 10 years ago, or any time.

The past season there were many idle men in southeastern Alaska, and upon inquiry I learned that most of them were fishermen. Their idleness was attributable to two causes: First, they were refused employment by certain canneries which preferred imported and alien labor; and, second, because of the fact that they had listened to agitators and trouble makers, who did not have their interest at heart, but who simply desired to create trouble for the canneries.

Now, that is both sides of the question, and it is fair. I found, I will say, two or three canneries that would not hire that labor. On the other hand, I found where these men making eight or nine or ten dollars a day had deliberately left their paraphernalia on the shore, abandoned their boat, abandoned their nets, although they were under contract by certain canneries to catch fish, and had gone off into a town and there were being filled up with all sorts of false doctrines. Now, that is not hearsay, gentlemen. I found that condition actually existed. I do not want to convey the impression that that was general, but it is just as fair for me to cite that case as to recite a case where a cannery refused native labor.

Mr. HARDY. You are aware, Doctor, that you can not make a Utopia for a great many people, because they will not have it.

Mr. JONES. Very true, sir. I wasn't looking for a paradise. I found one case which I cite here in my report, and most of you have read it—an incident near a town during the first large run of sockeye. All the white fishermen in that locality were warned that their fish would not be taken after they were caught. This was an unfortunate situation for those men, some of them with families who lived in Alaska, and they were compelled to sit idle and watch imported labor fish. On the other hand, I will cite another case, which happened at a time when I was at the cannery. There were 7,000 fish lying on the floor, and about 30 of the natives took it into their heads that they wanted to go off on a picnic for a week or so, and they actually had to be bribed to stay there in order to save the fish. Therefore you see that where it works one way there is just as strong argument on the other side.

The CHAIRMAN. There is no labor question in this bill, is there?

Mr. JONES. No, sir; but one of the arguments set forth by Judge Wickersham against this bill was that the local fishermen received no protection in this bill, and that was one of his arguments against it. What he said may be all right so far as he went, but he did not tell the other side; and there is another side, because I saw it.

Now, as I traveled westward I saw the absolute impossibility of hiring native labor, because it was not there. If these canneries investing their money depended on native labor at many of the canneries they would not pack hardly a salmon, because the labor is not there to be hired, and I think they show extremely good business judgment to take men up there from the States who can be depended on to make the pack without confusion, and at the same time be assured that they are going to have this help when it is needed.

Referring now to the hatcheries, I am just as certain that proper artificial propagation of salmon is a sure contribution to the perpetuation of the industry as I am of the sun rising to-morrow morning. I am not in favor of hatcheries being located on reservations, because these fish come back into the stream where they were reared, and if the conditions or regulations prevent people from fishing in such streams, what good does artificial propagation do? I am absolutely against the ownership of hatcheries by private parties and this rebating law that is in existence to-day. I think the Federal Government is amply able to conduct its own hatcheries and to do it better than anyone else. I hear a great deal of argument against turning fry out, and I, too, am absolutely opposed to this method. The Bureau of Fisheries, from my own observation, is, as rapidly as funds will permit, stopping this practice; and again I refer to that point, that they have not had the money to retain these fry, which makes it necessary to build these large retaining ponds to hold the fish until the time comes when they are distributed, or when they are able to take care of themselves. I cite as an example the Clackamas station, in Oregon, which proved this essential point in the artificial propagation of fish so forcibly, and that was the 2,000,000 Chinook salmon, which I saw from 2 to 4 inches long, ready to be turned into the river and their safety absolutely assured. I call that real fish propagation. At the Yes Bay hatchery, in southeastern Alaska, they are trying to do that. There were 750,000 salmon retained in the pond when I was there. They were holding them until they were near the right age to properly take care of themselves.

I need not go into the matter of the private hatcheries, because I have already stated that I think the Government should take them over without delay. I do not say what they should pay, or that they should pay anything, but this practice of rebating I think is all wrong. Finally, I wish to say that I have had the pleasure of meeting a great many of the men who are interested in the fishery interests on the west coast, and I have found them generally a substantial type of business man, who thinks just as much of his investments as a banker, railroad man, or real-estate man would think of his investment in a bank or a railroad or in property, and who is not going to deliberately injure his investment any more than these men are going to throw away the future of the salmon industry. These gentlemen here to-day, Capt. Reynolds and Mr. Warren, are conversant

with the business, the habits of the salmon, etc., and I might truthfully say that there are no better authorities in the country on these matters. They are really helpful to the Government, both Federal and Territorial, in working out these problems, and their council should be encouraged, not discouraged. I do not believe that their motives are anything but broad ones, looking to the future preservation of the salmon. This big question is theirs to settle as much as ours, and their presence here, in my opinion, is perfectly proper and their suggestions pertinent to the preservation of Alaska's great salmon fisheries.

Now, in closing, Mr. Chairman, I just want to speak of one other thing, and that is the destruction that has come to certain fisheries in the States. The Potomac River—I can look back a few years when the shad industry on that river was one of the greatest industries on the eastern coast, but for the past few years the majority of the pound-net fishermen have not made a living. That is due to nothing more nor less than the greed of the local resident fishermen in not taking care of their own resources right at their front door. If the United States Government could have had control of the fisheries on Chesapeake Bay and the Potomac River they would not be in the condition that they are in to-day. Take the lobster industry in New England. I can look back to a time when one could buy lobster for 7 or 8 cents a pound, but to-day it is worth 35 cents per pound. Now, that condition is due to nothing more nor less than the shortsightedness of the men who are taking lobsters in their own home. I am not condemning those fishermen, and I do not say that there are not exceptions to that rule, but local control is very often disastrous, and if the Bureau of Fisheries could have proper support the fisheries of Alaska would be administered in a way satisfactory to Judge Wickersham, the people of Alaska, and everyone else.

#### ADDITIONAL STATEMENT OF MR. WARD T. BOWER.

Mr. BOWER. Mr. Chairman, I want to call attention to one of the sections of which Dr. Jones has spoken. At the hearing a few days ago, I made the suggestion that section 18 be amended to read as follows:

*Marine animals included.*—That the catching, killing, or utilization of any fish of any kind or any whale, walrus, sea lion, hair seal, or other marine animal, except fur seals and sea otters, not specifically provided for in this act, shall be subject to the provisions of this act, but the Secretary of Commerce shall have power to authorize the catching, killing, or utilization of any such fish or marine animal under such regulations as he may prescribe. So much of the act approved May 11, 1908 (35 Stat. L., 102), for the protection of game in Alaska, and for other purposes, as relates to walruses and sea lions is hereby repealed.

Now, after further consideration of that section, and after talking it over with the Commissioner of Fisheries, and taking into account the objections which were made here the other day by Mr. Walsh, and in view of the discussion and remarks of Dr. Jones, we have come to the conclusion that it is not the most advantageous form for consideration by the committee.

I would like to put in the record the further suggestion that the section be amended in a much simpler fashion. The title of it would be changed to read, "All fish and shellfish included" instead of

“Marine animals included.” The section to read, “That the catching, killing, or utilization of any fish or shellfish of any kind,” the words “or shellfish” being inserted in line 14, and striking out of line 15 the words “or aquatic animal of any kind or species,” and striking out of line 19 the word “animal” and inserting in lieu thereof the word “shellfish,” the section then reading:

Sec. 18. *All fish and shellfish included.*—That the catching, killing, or utilization of any fish or shellfish of any kind whatsoever not specifically provided for in this act shall be subject to the provisions of this act, but the Secretary of Commerce shall have power to authorize the catching, killing, or utilization of any such fish or shellfish under such regulations as he may prescribe.

By this we remove all possibility of criticism heretofore voiced of trying to cope with the whaling situation by means of a bill which by its title is designed for the protection, regulation, and conservation of the fisheries of Alaska. Moreover, it probably does away with a valid criticism of the suggestion I made a few days ago of attempting to control the walrus and sea lions of Alaska. They are almost exclusively outside the 3-mile limit, and, as Judge Wickersham has stated and as Dr. Jones has stated, they can only be controlled by international agreement. So I would like to correct the record to the extent of offering this revised section 18 for the consideration of the committee. That is all I have to offer at present.

Mr. WICKERSHAM. I hope the committee will not feel limited, if it undertakes to consider this matter, by what is in this bill. I hope it will consider the whole situation in Alaska, and if any of these other bills ought to be passed I hope they will be substituted for this one, or that it may be amended in such a way as to get the benefit of the bills which are pending before the other committees. As long as we are at it, let us do it right.

The CHAIRMAN. I wish you would collect all of those bills and send them to us, so we will know what they are.

Mr. WICKERSHAM. I will do that.

#### ADDITIONAL STATEMENT OF MR. FRANK M. WARREN.

Mr. WARREN. There are a few things to which I would like to call attention in order that they may go into the record for your consideration. When Judge Wickersham made his statement regarding this bill he seemed to have in mind three principal matters. He wanted equitable taxation, adequate protection, and said he feared monopoly. I think that this bill has all of those purposes in view in connection with the amendments which have been offered. It is our belief that the provisions of this bill will give us equitable taxation and adequate protection. The tax which we are opposing at the present time and which the judge has attempted to show is a paltry matter is in reality, as far as we see it, a matter of considerable importance in that we consider it as not equitable taxation on the basis that the other people in Alaska are being taxed. Mr. Wickersham, when he made his statement, said that he believed the ratio or the money which the revenue law of Alaska would raise was approximately one-half of 1 per cent of the net income of the canneries. If they had put that in the law—that the canneries were to be taxed one-half of 1 per cent of the net income—it would have been perfectly satisfactory to the canners. I want to show you what

the amount of tax they have levied is in proportion to the gross business that the canneries are doing. The license law of Alaska, applied to the output, would raise approximately \$130,000 from the canneries on the basis of the output of the year 1914. If that is to be considered as one-half of 1 per cent of the revenue, assuming they are to be taxed on the same basis as mines, it would mean that the net revenue of the canneries would be \$26,000,000. I think I am correct in that. I want to call your attention to the statement of—

The CHAIRMAN (interposing). What are you reading from?

Mr. WARREN. I was not reading; I simply made that statement on the basis of some figures that I have made, showing that the application of the revenue law of Alaska to the salmon output of Alaska would have raised approximately \$130,000 in 1914. I said if that were supposed to be considered as one-half of 1 per cent of the net income of the canneries, assuming that they are to be taxed on the same basis as mines, it would mean that the net income of the canneries in 1914 was \$26,000,000. I would like to read from the report of the Bureau of Fisheries for 1914, page 36, which shows that the gross value of the products of the canneries of Alaska in 1914 was \$18,000,000, and they are taxing us now on the basis of a net income of \$26,000,000, and they say we are being taxed on the same basis as mines. For that reason, and to avoid such taxation, we would prefer such a schedule as set forth in this bill, and we would request that such a schedule be adopted. Judge Wickersham has been quoting, I think, from the statistics of the Bureau of Fisheries, and I would like to call your attention to some items that would probably give rise to a misunderstanding as to the actual valuation of property there.

On page 35 of this report—the report of the Bureau of Fisheries for 1914, Document No. 819—they set forth that the investment in the salmon-canning industry in 1914 was \$30,830,435. That is incorrect to this extent: They show the values of the canneries; they add in the working capital, which should not be considered as taxable property; they add in the wages paid during the year, which should not be added in; and they also add in sailing vessels and other tonnage, which is taxable at home ports and does not properly belong in Alaska. Taking those three items from this investment in the salmon-canning industry in Alaska would reduce the taxable property by over one-half, which would be somewhere near correct. The value of the output in any one year is somewhere in the neighborhood of from \$18,000,000 to \$20,000,000, and the value of the fish that is taken out of Alaska is approximately from \$1,250,000 to \$1,500,000. The rest of the \$18,000,000 to \$20,000,000 is made up of the wages, the supplies, and all the other incidental expenses connected with the business, the supply part being purchased outside and brought in.

In connection with the monopoly question, I would like to call your attention to the fact that there were in operation in 1915, according to the statistics of the Pacific Fisherman, from which the judge quoted, 86 canneries, of which the Alaska Packers' Association operated 14; the Northwestern Fisheries Co., 11; the Pacific-American Fisheries, 3; the Alaska-Pacific Fisheries Co., 3; North Alaska Salmon Co., 4; Columbia River Packers' Association, 2; Libby, McNeil & Libby, 3; and Deep Sea Salmon Co., 2. All the balance

of them are operated by independent concerns. In other words, less than half of the canneries existing in Alaska are operated by concerns owning more than one cannery, and of those owning more than one, the ones which the judge classified as monopolies, the Alaska Packers' Association owns 14; the Northwestern Fisheries Co., 11; and Libby, McNeil & Libby, 3, a total of 28 out of 86 owned by what he terms a monopoly.

Mr. WICKERSHAM. The Northwestern belongs to the Booth Fisheries Co., and they bought a lot of others.

Mr. WARREN. They bought the Gorman & Co. canneries, and that would add two to their holdings, which make five. I think that is correct.

Mr. WICKERSHAM. How many has the Northwestern?

Mr. WARREN. I said 11; the Northwestern has 11.

The CHAIRMAN. What is that you are reading from?

Mr. WARREN. The Pacific Fisherman. That would make the Northwestern own 13 and the Alaska Packers' Association 14.

Mr. WICKERSHAM. How many does Gorman own?

Mr. WARREN. Two; but they are included in the 13.

Mr. WICKERSHAM. Then there are some others.

Mr. WARREN. What others did they take over?

Mr. WICKERSHAM. I read it in their statement, but I have forgotten.

Mr. WARREN. I think Gorman & Co.'s canneries were the only ones.

Mr. WICKERSHAM. The Anacortes and Gorman.

Mr. WARREN. I understand they are the same.

Capt. REYNOLDS. The Gorman holdings consist of two canneries in Alaska and three on Puget Sound.

Mr. WARREN. Now, as to the traps that exist in Alaska. I want to call your attention to the report of the Bureau of Fisheries contained in this same document from which I have been reading. Pages 30 and 31 show the holdings of all of these companies as far as the traps are concerned. From the best information that I have at hand of their present holdings the Alaska Packers' Association has 33; the Northwestern Fisheries Co., 26; the Pacific American Fisheries Co., in the neighborhood of 20; the Alaska Pacific Fisheries Co., in the neighborhood of 22; the North Alaska Salmon Co., 4 canneries and no traps; the Columbia River Packers' Association has approximately 15; Libby, McNeil & Libby, approximately 12; and the Deep Sea Salmon Co., approximately 10. Now, I do not offer these as absolutely accurate figures, you understand, but they are simply according to the information that I have had. They may have been changed this year slightly, but these figures represent what they have had before. That covers considerably less than half of the traps in Alaska, which goes to show that by far the greater majority of trap locations in Alaska are owned by independent people.

Mr. WICKERSHAM. I took the figures I quoted from Mr. Cobb's statement.

Mr. WARREN. That showed that they were owned by independent people—a majority of them?

Mr. WICKERSHAM. No; not at all.

Mr. WARREN. Did not Mr. Cobb's statement show that the majority were owned by independents?

Mr. WICKERSHAM. I judge so.

Mr. WARREN. That is what I wanted to bring out.

Mr. WICKERSHAM. No; not by the independents, but by the people going into this combination.

Mr. WARREN. The majority of them are owned now by independent people: even when you consider the Booth Fisheries Co., the Alaska Packers' Association, and the others that you talk about, the majority are still owned by independent people.

Mr. WICKERSHAM. I would have to go over them to determine that question.

Mr. WARREN. I simply wanted to call that to the attention of the committee, so that they could take it into consideration when looking over these figures.

Mr. WICKERSHAM. The figures show they are rapidly gathering them all, and that is the point I was making.

The CHAIRMAN. Let me see if I understand. The Booth Fisheries Co. is the one that has gathered in other companies. Is there any other company that has increased its holdings?

Mr. WARREN. Libby, McNeil & Libby has increased somewhat; the Alaska Packers' Association has not increased any. Libby, McNeil & Libby have gone in there during the last two years; the Booth Fisheries Co. has increased by taking over the Gorman holdings. I have not heard of anyone else who has increased. I might say, in connection with the way in which monopolies generally work out, and the way in which a monopoly has worked out in Alaska, that at the time the Alaska Packers' Association was formed we had an interest in a cannery at Chignik Bay: at that time the canning business was pretty generally considered unprofitable, but as of that date the Alaska Packers' Association practically covered the fishing business of Alaska. To-day the Alaska Packers' Association packs less than 25 per cent. when, at that time, they packed almost all of it, showing the tendency of outside people to come in.

The CHAIRMAN. What about this question of surveys and maps of these trap locations? What part of the coast, where salmon fishing would be profitable, has not been located and maps filed by the parties already on the ground?

Mr. WARREN. That, Judge, would be a very hard thing to determine. I have seen in the past, when locations or when districts in Alaska were supposed to have been trapped or to have been fished by other means to the best possible advantage, and some one would go in there on a guess or otherwise and secure a location and find it to be profitable, while others would go in there and find it to be very unprofitable. A fishing location can not be determined off-hand. You can simply locate it by experiment. There are men who oftentimes will put in traps possibly in one location one year and in another location the next year and in another one the year following. They may try it a half dozen times before they strike a location that is worth something or that amounts to anything.

The CHAIRMAN. How often do they have to be renewed?

Mr. WARREN. They take them out every year in most instances. I think there would be nothing left of the piling in three years on account of the teredo.

The CHAIRMAN. What is the teredo?

Mr. WARREN. The teredo is a marine worm that riddles the piles; and they will not last very long.

Mr. WICKERSHAM. In some cases they will only last a year.

Mr. WARREN. In some cases a year and in some cases two years. So far as the location itself is concerned, as I understand it, at the present time, the courts have construed in Alaska that a man, so long as he continues his location, has a prior possessory right under the existing law, which can continue indefinitely; but in order to hold that right he must fish his location every year.

Mr. WICKERSHAM. That only goes to this extent, Mr. Warren: The courts hold that he has that right as against any other individual.

Mr. WARREN. Against anyone else.

Mr. WICKERSHAM. But not against the Government?

Mr. WARREN. No; not against the Government. He would not under this bill have any right against the Government.

Mr. HARDY. But do you not think he would have a right as against the Government?

Mr. WARREN. No; I do not think so, Judge. I think the attitude which the Government takes regarding fish is subject to regulation at any and all times.

Mr. HARDY. You think that if the Government authorizes me to go out there and locate a piece of land and I build on that land that I could not under that law get any contract rights?

Mr. WARREN. Land, I think, is different. This law provides that the first concern that a man must have in holding a trap location is his license; that is, after he has secured a trap location and secured a license he must renew that license as provided by law. It also states that after he has located he can hold his location as long as he complies with the law. Now, the law means the closed season, the distances apart, the licenses, and any other regulations which the Government sees fit to impose; and if the Government sees fit to change any regulation, that location must conform to that new law. That principle is generally considered to be true in the States.

The CHAIRMAN. But it would be made absolutely plain by a provision in the act itself.

Mr. WARREN. It can easily be made so if it is not so stated. It has been worked out in the States. They have changed the law in the State of Washington since this situation prevailed. Now, in the State of Washington it has not had the effect of sending the traps into monopolistic control. The number of Puget Sound canneries operating at the present time is 36, and of those 36 the Alaska Packers' Association owns 2. That is the same monopoly that has already been referred to. The Anacortes Fisheries Co. owns 2, from the Gorman interests. I do not think there is any other interest over there that owns more than a single cannery. They have been operating under this trap-location law for years. So that does not show that there is any tendency toward monopolistic control or any tendency for monopoly.

Now, as to holding and controlling those locations and keeping other people out, in a sense can you argue that that prevents intensive fishing? It is true that if a man holds three locations, and is only able to operate one, or is only obliged to operate one, that

it is therefore to the benefit of the fish not to have the other two locations fished. But as a matter of fact, it does not pay anyone to hold a location unless it is really worth fishing, because it costs a good deal of money to put in a trap there, and if you are obliged to put in a new trap every one or two years, and you are not catching any fish there, it will not amount to anything and you can not keep it up.

Now I want to refer briefly to another matter which the judge referred to, touching the prices of fish. I think the document which I have here shows the prevailing prices since 1905. The judge stated in his remarks that the cannerys were getting as high as \$14 for 48 cans. That is \$3.50 a dozen. The highest prices that have been received by the Alaska cannerys for any grade of salmon was in the year 1911, when the red salmon brought \$1.60 a dozen, or \$6.40 for 48 cans, and not \$14.

Mr. WICKERSHAM. The statement that I filed with the committee was an official statement.

Mr. WARREN. You stated that the cannerys were getting as high as \$14 for 48 cans.

Mr. WICKERSHAM. The statement may not have been accurate, but it is an official statement, and I am bound by it.

Mr. WARREN. I will leave one of these books here if you desire. I can not turn to the figures just now. I will show you that the prices set forth are solely regulated by the law of supply and demand and not by anything else.

The CHAIRMAN. Now, where is that price? At San Francisco, Portland, or Seattle?

Mr. WARREN. It is f. o. b. coast. That is, f. o. b. common shipping point on the coast.

Capt. REYNOLDS. There was a difference of opening prices between Seattle and San Francisco in 1915.

Mr. WARREN. Well, that may have been, but it is generally f. o. b. common shipping point.

Mr. HARDY. What do you mean by that expression?

Mr. WARREN. It means where you operate to San Francisco and ship to other points, you could not ask any more for salmon than the people operating in the other localities could ask for theirs. If the terminal rate did not apply to the city of Portland or to the city of Seattle in comparison with the rate that applied to San Francisco, you would have to make that good. In other words, you agree to make it f. o. b. a common point from any other point.

Capt. REYNOLDS. San Francisco enjoys a 40-cent rate.

Mr. WARREN. Yes; via the Sunset and Gulf to a New York point which the northern points were not able to compete with until the Panama Canal was opened, but now most of the shipping is being withdrawn from that trade, so that they are again at a slight disadvantage. The price is absolutely governed by the law of supply and demand.

Mr. HARDY. You mean that is the price at San Francisco?

Mr. WARREN. San Francisco is a fair illustration, and the same prices prevail at Seattle and Portland.

Mr. HARDY. Well, if you are shipping to the East you would have to put it a little higher?

Mr. WARREN. The price itself is set by the Alaska Packers' Association, according to the testimony of Mr. Aplin, as cited by the judge.

Mr. WICKERSHAM. Yes.

Mr. WARREN. As a matter of fact, it is fixed by the law of supply and demand; that is, it is fixed according to what they think the trade will pay for the quantity of fish in sight. So far as that is concerned, we have not always followed the practice of the Alaska Packers' Association in making our prices.

Mr. HARDY. As a matter of fact, as I understand you, anybody who fixes prices arbitrarily always fixes them by the law of supply and demand?

Mr. WARREN. Absolutely; and not from any monopolistic feature.

Mr. HARDY. But does not a monopoly do the same thing?

Mr. WARREN. I suppose so.

Mr. HARDY. Take the Standard Oil Co. or the Waters-Pierce Oil Co. in my State. They fix prices according to the demand.

Mr. WARREN. Exactly.

Mr. HARDY. They fix the prices with an ample allowance for themselves.

Mr. WARREN. Well, the only way in which it could affect the salmon industry would be to set a high price and reserve their supply for future consumption.

Mr. HARDY. Well, the law of supply and demand, to a man who fixes the price of his own commodity, means fixing a price that will bring him the most money.

Mr. WARREN. Exactly. Now, the canners put up the product before the market opens, before they know what they are going to get for it. They go up there in the early part of the season, and generally the prices are put out along in August or September, or whenever they think they know what the market is going to be and what the market will take.

Mr. HARDY. Just like the coffee people.

The CHAIRMAN. How long will a canned salmon remain good?

Mr. WARREN. Judge, I ate one that had been packed 17 years and it was pretty good.

The CHAIRMAN. You are alive yet, I think?

Mr. WARREN. Yes, sir; I am. I do not believe there is any limit to the time a salmon will keep, except the possibility of the container rusting through and admitting air. As long as the container is properly taken care of it will be kept free from rust.

Mr. WICKERSHAM. Before the Committee on Fisheries of the Senate, on January 17, 1913, at a hearing at which the committee had under consideration these Alaska fisheries bills, this matter of fixing prices was testified to quite fully by Mr. Aplin. I have his testimony here. I drew the conclusion from it, and I think the committee will draw the same conclusion, that he fixed the prices arbitrarily—he and the Alaska Packers' Association together. I asked him these questions:

Mr. WICKERSHAM. How generally were these prices which the Alaska Packers' Association fixed accepted by the trade; I mean, by the sellers?

Mr. APLIN. With our trade; that is the only way I can answer that.

Mr. WICKERSHAM. Yes.

Mr. APLIN. I think we had in my office 50,000 cases of pink sold subject to approval of price. I think our confirmations were just under or just over a few hundred cases, 5,000.

Mr. WICKERSHAM. That is not quite what I mean, Mr. Aplin. What I meant was this, and I will ask you the question again: How largely did the other canneries accept those prices and offer their products at the same prices?

Mr. APLIN. I think this year, generally.

Mr. WICKERSHAM. And who fixed the price first; your company?

Mr. APLIN. I should say yes.

Mr. WICKERSHAM. So that the price fixed by your company, being the largest salmon-canning company on the coast, fixed the price for all the other canneries, did it not?

Mr. APLIN. Not necessarily.

Mr. WICKERSHAM. But it was accepted?

Mr. APLIN. In some instances, but not always.

The CHAIRMAN. But the price it fixed was generally accepted?

Mr. APLIN. Generally.

Now, he did fix the price. He testified to it. Then we had him testify as to the amount of the different varieties of salmon, and he had the salmon which he fixed the high price on, and he did not have the salmon upon which he fixed the low price. That was the year he busted all the independent canneries on the Pacific coast by fixing a low price on their products. Now, that is my conclusion from his testimony.

Mr. WARREN. Well, I would not agree with you on that. When the Alaska packers put out that price they generally know how many cases of red, how many cases of pink, and how many cases of all other grades will probably be available, and they take into consideration how much the market will absorb. With that knowledge, they try to fix a price that will equalize or neutralize the law of supply and demand. Now, we put out some salmon last year and sold them at a price lower than the price fixed by the Alaska Packers' Association, because in our estimation their price was too high.

Capt. REYNOLDS. Is it not a fact that half of the packers, or many of the packers, refused to sell at the opening price named by the Alaska Packers' Association?

Mr. WARREN. I will explain that. The opening price on pinks was placed at 75 cents. Then there was a little flurry in the market and salmon broke to 65 cents. Many of the canneries confirmed at 65 cents. The Alaska Packers' Association did not do this. It was done by some concerns on the sound. A considerable number of the canners refused to accept 65, and they held out for 75 cents. Some afterwards sold for 70 cents and 72½ cents. Some are still holding for 75 cents; independent concerns. What the Alaska Packers' Association did I do not know. I think they held for 75 cents.

The CHAIRMAN. Of course, we will not close the hearings this evening. Our next meeting will be on Thursday of next week, unless a special meeting is called. If somebody else wishes to appear and be heard on this question, they can do so at that time.

(Thereupon the committee adjourned.)

# ALASKA FISHERIES.

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON MERCHANT MARINE AND FISHERIES,  
*Thursday, June 15, 1916.*

The committee met at 11 o'clock a. m., Hon. Joshua W. Alexander (chairman) presiding.

## STATEMENT OF MR. H. C. STRONG, OF KETCHIKAN, ALASKA.

Mr. HARDY. Mr. Strong, if there are any suggestions with reference to this bill that you feel it right to make, we will be glad to hear from you.

Mr. STRONG. Mr. Chairman, I have lived in Alaska for 18 years, and I am very much interested in the development of the country, and that includes the fishing industry. I am at present in the East on other business and did not know of the bill under discussion until invited to attend your hearings.

Mr. HARDY. Have you already stated in the record what your interests in Alaska are?

Mr. STRONG. Not that I know of.

Mr. HARDY. Just state that, then, for the benefit of the committee.

Mr. STRONG. I went to Alaska as a merchant, taking a stock of hardware there 18 years ago. I have continued in merchandising in one way or another since then, but I have also branched out into the mining and fishing business. I became interested in the canning of salmon five years ago, or 1911.

Mr. HARDY. Have you a fishery business of your own?

Mr. STRONG. I am interested as a minority stockholder in two canneries.

Mr. HARDY. What is the extent of those canneries? How much material do they put up annually, or how much fish product do they put up?

Mr. STRONG. The two plants have a capacity of about 90,000 cases.

Mr. HARDY. Where are they located?

Mr. STRONG. One is at Sunny Point, and one at Ketchikan. Previous to this year I was interested in the Alaska Fish Co., and they operated a plant on the west coast of Prince of Wales Island.

Mr. HARDY. Is that in southeast Alaska?

Mr. STRONG. Yes, sir; not far from Ketchikan. My interest in the Alaska Fish Co. was disposed of this spring, and I have reinvested in the plant at Ketchikan. However, my interest in fishing is secondary to my other interests in the country.

Mr. HARDY. Do you mean secondary to your mining interests and mercantile interests?

Mr. STRONG. Yes, sir; my mining interests are heavier than my fishing interests.

Mr. HARDY. Where is your actual residence?

Mr. STRONG. At Ketchikan.

Mr. HARDY. What is the value of your fishery plants—the two that you are interested in? What are those plants worth?

Mr. STRONG. The plants alone—that is, the buildings and machinery, I do not suppose are worth over \$20,000, surely not to exceed \$30,000.

Mr. GREENE. How is that taxed? Are the buildings and machinery taxed by the Territory?

Mr. STRONG. There has been no tax on them except inside the corporate limits of the town. At Ketchikan the town or city government assesses all of the property.

Mr. GREENE. There is no Territorial tax? Is there no tax levied by the Territory?

Mr. STRONG. There is a tax on the pack, but not on the plant.

Mr. GREENE. Not on the value of the buildings and land?

Mr. STRONG. No, sir.

Mr. HARDY. Is there any Federal tax on the plant?

Mr. STRONG. Only on the pack.

Mr. CURRY. You are taxed the same as the other fisheries?

Mr. STRONG. Yes, sir.

Mr. CURRY. Are you connected with the so-called Fish Trust up there, or are you running an independent fishery or cannery?

Mr. STRONG. I do not see how we could be more independent.

Mr. CURRY. That is what we want to know here, whether you are coming here and speaking for yourself individually, or whether you are coming here for the Booth people and others. Are you connected with the Booth Fisheries Co.?

Mr. STRONG. No, sir; in no way whatever.

Mr. CURRY. You are an independent?

Mr. STRONG. Entirely independent.

Mr. CURRY. What is your judgment as to the best method of taxing these Alaska fisheries, and what is the best method for their control? Do you think the control of the fisheries should be in the hands of the United States Government or in the hands of the Alaska Territorial government?

Mr. STRONG. I believed the tax assessment on the fisheries should be made against the pack, that assessment covering all liability for taxes.

Mr. CURRY. Should that be done by the Government of Alaska or by the Government of the United States?

Mr. STRONG. I think it should be done by the Federal Government.

Mr. GREENE. As to the receipts from these taxes, what disposition would you have made of the money going into the Federal Treasury?

Mr. STRONG. I believe that the fish industry should be held responsible for the continuance of the business—that is, for the maintenance of the supply of fish, and the expenses the Federal Government goes to in maintaining that supply of fish.

Mr. HADLEY. Do you mean by that that these fisheries should pay a sufficient tax to constitute a fund for the protection and maintenance of the fish?

Mr. STRONG. That is it exactly, and in addition to that they should pay a just proportion of the expense of the maintenance of the District of Alaska. They should pay in proportion with the other interests in

the District and no more. At the present time, I would say, offhand, that the fish industry has been taxed to the extent of close to 50 per cent of all the taxes collected in the district.

Mr. CURRY. Do you mean to say that 50 per cent of the taxes paid for the government in Alaska is derived from the fishery interests?

Mr. STRONG. I believe so. I would not want to state that positively, but that is my impression.

Mr. CURRY. \$166,000 went into the Alaskan fund last year from the fisheries. Now, is that one-half of all the taxes collected and spent in the Territory of Alaska?

Mr. STRONG. I believe that is close to 50 per cent of the total taxes collected from the industries in the district of Alaska.

Mr. CURRY. You do not think the fisheries are taxed too much now, do you?

Mr. STRONG. I think they are taxed out of proportion with the other resources of the country.

Mr. CURRY. Do you think that 4 cents per case is too much for the fisheries to pay as a tax?

Mr. STRONG. Yes, sir; on certain grades.

Mr. CURRY. Don't you think that any tax is too much?

Mr. STRONG. No, sir; indeed.

Mr. CURRY. It seems that 4 cents per case is a very reasonable tax.

Mr. STRONG. I never shirk taxes on any of my own property in Ketchikan, although a considerable portion of it is tide land and had been exempt from taxation until a year ago. I have paid my taxes every year, although I could have been exempted on the property located on the tide lands. I consider it my duty to pay my proportion of the taxes.

Mr. GREENE. As I understand it, the collection of these taxes, as provided for in this bill, would be an expensive proposition. Is not that business considerably scattered, so as to require a considerable amount of travel in collecting the taxes?

Mr. STRONG. It would, and it would be very unsatisfactory. In fact, I do not believe that you could get a just assessment and collect it in a way that would be businesslike at all.

Mr. GREENE. That is, under this bill?

Mr. STRONG. Yes, sir; under this bill. I do feel that one tax should be levied against the pack, which would cover the tax you now propose on the raw fish, the canned products, and the shore plant.

Mr. GREENE. What I want to get at is this: While this plan might turn in a certain amount of money, yet, is not the bill so cumbersome in its provisions as to also cause a great deal of expense, so that, on the basis of this bill, the real result would not be commensurate with the expense?

Mr. STRONG. I believe you are right.

Mr. BOWER. On what do you base that belief?

Mr. STRONG. On my experience in Alaska, in dealing with conditions there. Some of the properties are, perhaps, hundreds of miles away from any settled community.

Mr. HADLEY. What you are really speaking of is the collection of the tax on the gear of the fisheries?

Mr. STRONG. On the whole thing, including the gear, fish, and shore property. I believe it should all be covered in one tax.

Mr. GREENE. What is your idea with reference to taxing the natives or Eskimo and Indians and that class of people?

Mr. STRONG. I do not believe that any direct tax should be levied against them, but I do think it is right that the fish caught by them should pay the same tax paid by fish caught by white men.

Mr. GREENE. But the native personally should not be subject to any tax?

Mr. STRONG. No, sir.

Mr. GREENE. If, under the provisions of this bill, these people are to be taxed, they would have to travel quite a ways to get licenses and to make provision for paying the taxes?

Mr. STRONG. Yes, sir.

Mr. GREENE. And it would subject them to a large expense, would it not, on account of their modes of travel?

Mr. STRONG. There are two sides to that question, but I think it would be unnecessary expense.

Mr. GREENE. I would like to get both sides of the question.

Mr. STRONG. I think there would be a lot of satisfaction having a record of some sort with each fishing crew, which could be secured through obliging them to take out an annual license, but I doubt if it would be practicable.

Mr. HARDY. As I understand it, you rather oppose the idea of a license tax upon fish gear?

Mr. STRONG. Yes, sir. I think, though, that it would be practical to place a license on traps, because they are fixed, but not just unless other modes of fishing are taxed.

Mr. HARDY. They are big enough to bear the expense of procuring the license?

Mr. STRONG. Yes, sir; and if they are not, they should not be in existence.

Mr. HARDY. But you think that a license upon the minor gear should not be levied? In fact, your opinion is that the whole tax should be on the pack, or the output of the canneries, is it not?

Mr. STRONG. That is the idea.

Mr. HARDY. And tax nothing else connected with the fisheries?

Mr. STRONG. Tax nothing else.

Mr. LAZARO. You spoke of taxes on the fishing industry, mines, and other interests, and then you went on to say that the tax on the fishing interest was too high.

Mr. STRONG. I did.

Mr. LAZARO. Don't you think that the tax on the others is a little low?

Mr. STRONG. I believe that the resources of Alaska can well afford to pay the expenses of our local government. We have a wonderfully rich country, and there would be no trouble at all in getting the revenue necessary to meet the expenses of the government, but I can not see the need of putting the burden on one industry.

Mr. LAZARO. Coming back to the mining interest, how about the mining industry?

Mr. STRONG. Well, I might say that I have invested more in mining and have drawn more out of mining than I have out of fisheries, but the taxes have been insignificant.

Mr. LAZARO. On the mining industry?

Mr. STRONG. Yes, sir. On the little plant at Sunny Point I believe we paid in excess of \$2,000 last year in the way of taxes.

Mr. HARDY. Is that a fishery plant or mining plant?

Mr. STRONG. That is a fishery plant, and the total value of the raw fish which came from there could not have exceeded \$20,000 to \$25,000.

Mr. HARDY. That was the total value of the product?

Mr. STRONG. Not of the manufactured product.

Mr. HARDY. Well, what was the total value of the manufactured product?

Mr. STRONG. The cost of the manufactured product in the way of cans, boxes, freight charges, labor, and various expenses incidental to the business, exclusive of raw fish, would aggregate \$2 per case, and a large proportion of the 1915 pink salmon, which is 90 per cent of our total pack, sold at \$2.60 per case, delivered in Seattle.

Mr. HARDY. What does that \$2 cover? You say that you paid \$2 per case for freight and other expenses; do you mean by that the expense of taking the raw product and getting it into a marketable condition?

Mr. STRONG. That is the expense we are put to exclusive of fishing.

Mr. HADLEY. You mean that \$2 per case is the cost of production—is that what you mean?

Mr. STRONG. Yes, sir. At that price of \$2.60 per case there is practically no profit left. Some of the plants figure their cost at 60 cents per dozen cans of pink salmon, and that is really the only kind we are interested in in our part of the country, because we have a very small percentage of red fish.

Mr. HADLEY. It is larger, of course, in the case of red fish?

Mr. STRONG. Yes, sir.

Mr. HARDY. What I was trying to do was to get you to give us the elements making up the cost of \$2 per case. You mentioned \$2 per case as the cost of preparing this product for market; now, what are the elements of that cost?

Mr. STRONG. In the first place, our cans and cases cost approximately \$1 per case. Our freight, wharfage, and warehouse charges on pack and material to and from Alaska will exceed 35 cents per case. The transportation of men, their wages for the season, including board, fuel, and other necessary supplies, taxes, insurance, and commissions on sale of pack will equal 65 cents per case.

Mr. CURRY. Does it include the lumber used in the boxes?

Mr. STRONG. That is included in the cost of the cans at \$1 per case.

Mr. HADLEY. Do you include in that the cans that are lost?

Mr. STRONG. No, sir; and there is a considerable loss in that way.

Mr. HARDY. Does that \$2 cover all of the cost you are out, except the cost or price you pay for the raw product brought to the canneries?

Mr. STRONG. Two dollars is a very conservative statement of the cost—that is, it is under the real cost.

Mr. HARDY. Now then, what do you pay for the raw product, when you buy it from anybody except your own employees or your own laborers? If a fish catch comes to your factory, what do you pay for the fish?

Mr. STRONG. At our plant we have paid 1 $\frac{3}{4}$  cents for pink salmon.

Mr. HARDY. One and three-quarter cents for what?

Mr. STRONG. For pink salmon, and 2½ for keta.

Mr. HARDY. Is that per pound or per can?

Mr. STRONG. That is per fish. We pay 15 cents for sockeye salmon.

Mr. HARDY. What is the average weight of the fish?

Mr. STRONG. In the case of pink salmon, it takes on an average of 17 or 18 fish for a case, and a case weighs 48 pounds, so that we will be getting approximately 3 pounds out of each fish.

Mr. HARDY. So that, when you buy fish now, it costs you 1½ cents for 3 pounds and—what is the highest price?

Mr. STRONG. Fifteen cents.

Mr. HARDY. That is for a big fish, is it not?

Mr. STRONG. No, sir; not a big fish, but a higher grade fish.

Mr. HADLEY. How many reds do you have to the case?

Mr. STRONG. About 12.

Mr. HADLEY. And about 17 or 18 pinks?

Mr. STRONG. Yes, sir.

Mr. HARDY. What I am trying to get at is the cost of this case you sell for \$2.60. What do the fish cost you when you buy them from fishermen?

Mr. STRONG. Approximately, about 30 cents per case for pink salmon.

Mr. HARDY. So it costs you about three-quarters of a cent per pound, and there are 48 pounds to the case?

Mr. STRONG. There are 48 pounds to the case.

Mr. HARDY. And it costs you about 30 cents?

Mr. STRONG. Approximately.

Mr. HARDY. Or a little less than three-quarters of a cent per pound?

Mr. STRONG. Yes, sir.

Mr. HARDY. That is what the fishermen get out of the fish?

Mr. STRONG. Yes, sir; that is what the fishermen get out of the fish, but that is not the entire cost to the cannery.

Mr. HARDY. And the rest of your cost is made up by the labor that goes into putting it up, the freight or transportation charge on the cans there and the product back again to market, and the fare of your employees that you bring from the States, and, I suppose, the maintenance of them while you have them there, and their wages?

Mr. HADLEY. And the cost of the material?

Mr. STRONG. Yes, sir; there are other items—

Mr. HARDY (interposing). Is it very desirable that that section of the country that is the home of these fisheries should have a permanent population from which, to a large extent, at least, your labor supply for the catching of these fish could be drawn?

Mr. STRONG. Yes, sir; it would lessen the cost of production.

Mr. HARDY. As it is now, you very largely have to transport from Seattle and other places the labor that goes into the catching of the fish, as well as into the packing and canning of them?

Mr. STRONG. We do, and have to pay the cannery crew for a long season. If there were a larger population in the country we would only pay for the labor while it was occupied.

Mr. HARDY. The industry, then, is greatly interested in building up the population of Alaska?

Mr. STRONG. Yes, sir.

Mr. HARDY. Not only for the benefit of that industry, but for every other industry?

Mr. STRONG. Yes, sir. That is true so far as southeastern Alaska is concerned. I can not speak of conditions in western Alaska and around Bristol Bay.

Mr. HARDY. Do you know anything about the conditions in the Aleutian Islands?

Mr. STRONG. No, sir.

Mr. CURRY. Can you tell me what those fishermen would do in order to make a living, outside of the six weeks or two months when the salmon are running?

Mr. STRONG. In southeastern Alaska there are various things that one could do. It is a brand new country, and there are chances in logging. Mining is on the increase, and there is a good demand at the present time for miners.

Mr. CURRY. What would you do with the miner and logger in that business? Would you take the axe out of the hands of the logger and the pick out of the hands of the miner and put oars in their hands and send them out on a rough sea? Do you think that a miner or logger could be drafted to go out on that sea, which is the roughest water on earth? Or do you think you could get a sailor or fisherman to let go their oar on the boat or place on the gasoline launch and go into a mining camp with a pick? Would you employ fishermen in your mine if you could get miners? That is a very nice theory to talk about, but what could the fishermen do? You must find something for the fishermen to do while they are not engaged in fishing.

Mr. STRONG. You speak of their following other occupation, but there is a chance for them to follow fishing the year through. There is no place in the American possessions where they can follow fishing the year through, in all classes of weather, 12 months in the year to better advantage than in Alaska.

Mr. CURRY. You have nice pleasant weather there in the winter-time to go fishing.

Mr. STRONG. Now, you understand that I am speaking of southeastern Alaska. I have stated before that these conditions did not apply to Bristol Bay and western Alaska.

Mr. HADLEY. It is only during a limited time that they can go into western Alaska at all.

Mr. STRONG. Surely. It is only for a limited period of time that they can get in there at all, and the only practical way of handling the business there, I think, is to carry the men with you and bring them back at the close of the fishing season.

Mr. CURRY. You are only talking about the lower part of the Panhandle, in the lower part of Alaska?

Mr. STRONG. Yes, sir; where approximately two-thirds of the fisheries are located, and the catching of halibut, herring, and other fish is followed throughout the entire year.

Mr. WICKERSHAM. Is it not true that the fishermen live all the year around in the vicinity of the cod banks of Shumagin Island?

Mr. STRONG. I do not believe there are very many of them. Of course there are a good many natives in that part of the country who are engaged in fishing.

Mr. WICKERSHAM. And they do a fishing trade out there for a very much longer period than is covered by the salmon trade?

Mr. STRONG. Yes, sir; but it is so small as compared with the salmon industry—

Mr. WICKERSHAM (interposing). But there are enormous quantities of fish there that can be used—cod and other fish?

Mr. STRONG. Yes, sir; fish of all grades which they have not yet attempted to get at.

Mr. WICKERSHAM. And as far out as Kodiak Island and Shumagin there is a permanent population and always has been as far out as Unalaska?

Mr. STRONG. I know there are settlements of natives in there, but I do not know anything about the conditions. I have never been there. My time has been spent in southeastern Alaska.

Mr. HADLEY. Do you feel confident of your statement that two-thirds of the pack is produced in southeastern Alaska, or even approximately that?

Mr. STRONG. I think so, approximately. The Panhandle of Alaska, I believe, produces approximately two-thirds of the pack.

Mr. HADLEY. Nearly all of the red fish are produced in western Alaska?

Mr. STRONG. Yes, sir.

Mr. HADLEY. And there is very little of it down there?

Mr. STRONG. Yes, sir.

Mr. HADLEY. The bulk or the great value of the output in Alaska is produced outside of the district you speak of, and the great value is in red fish, is it not?

Mr. STRONG. Yes, sir.

Mr. HADLEY. I say that the big valuation that comes out of Alaska is produced in that outlying territory where they can only operate within a limited period of time during the year.

Mr. STRONG. That is true.

Mr. BOWER. I think that Mr. Strong is somewhat mistaken in his statement that two-thirds of the fish product comes from southeastern Alaska. The statistics show nearer one-third.

Mr. HADLEY. That is the reason I asked that question, because I wanted to direct Mr. Strong's attention to it.

Mr. STRONG. You know that sometimes we think everything centers around ourselves. I had an idea that the greater proportion of salmon from Alaska were packed in southeastern Alaska.

Mr. HARDY. Let me understand whether Mr. Bower means all the fishing industries or the salmon fisheries. His particular reference was to salmon.

Mr. BOWER. I had in mind the salmon fisheries.

Mr. HARDY. And you think about one-third of it is in southeastern Alaska.

Mr. BOWER. Approximately, in round figures, the value of the pack.

Mr. STRONG. Oh, of course, that is different. I was figuring on the cases and he was figuring in dollars, and it takes two cases of pink salmon to equal one case of red in value.

Mr. CURRY. I read in the Pacific Fisherman some time ago that the cost of the raw fish, the price paid for the raw fish in Alaska, was one million and a quarter dollars for one year's output. That included all fish taken, salmon, halibut, and everything else. It was stated that that fish was sold wholesale for about \$20,000,000, and that the

profits of the output were about \$3,000,000. I do not know whether that is true or not.

Mr. WICKERSHAM. Let me suggest to Mr. Curry that a tax is not levied upon a part of the value of the property; it is levied upon all of it. Take, for instance, the stock in trade of our merchants up there which they buy in the States and take up there. It is taxed at true value, although they have to pay a large sum of money to bring it up there.

Mr. CURRY. I was not talking about taxes. I was talking about the value of the fish. I understood that the value of the raw fish is a million and a quarter dollars; that after being treated and packed in cans, salted and sent away, including all expenses, etc., that it was sold for \$20,000,000, and all of the profit, deducting, I presume, taxation and everything else, was \$3,000,000. Whether that is true or not, I do not know.

Mr. HARDY. I call your attention to what Mr. Strong said about the price paid for the raw product. He figured it at 30 cents on a 48-pound case, which would be three-quarters of a cent a pound, and then the sale of the case would bring \$2.60, so that what cost 30 cents would sell for \$2.60, or nearly ten times as much.

Mr. CURRY. Oh, no; not at all. To the cost of the fish you have got to add the cost of labor, the cans, and everything of that kind.

Mr. HARDY. Oh, yes; excuse me. You were speaking about the price of the raw material?

Mr. CURRY. Yes.

Mr. HARDY. So that what cost 30 cents in raw fish sells for \$2.60, but that does not cover the entire cost?

Mr. CURRY. Oh, no, sir. What I was trying to get at was whether it did cost, including fish, labor, and freight, \$17,000,000 for what was sold for \$20,000,000 wholesale.

Mr. HARDY. That is what I was trying to figure on. According to Mr. Strong's statement, what cost 30 cents in raw fish was sold to the consumer at \$2.60. Of course, that could not be correct, according to your estimate.

Mr. HADLEY. I understand that Mr. Strong's statement is based on pink fish and Mr. Curry's statement is based on the Alaska output, and the elements which enter into Mr. Curry's statement are quite different from those which enter into Mr. Strong's statement. I make that remark in order to clear up the record, because the record is rather ambiguous.

Mr. HARDY. Mr. Curry was only stating what he saw in the newspaper, and I was trying to align it to Mr. Strong's statement.

Mr. HADLEY. That is right, is it not, Mr. Strong, that your statement as to the \$2.60 and the figures of what would enter into the cost of production were based on the pink fish?

Mr. STRONG. Yes, sir.

Mr. WICKERSHAM. Is that the cheapest fish in Alaska?

Mr. STRONG. No; the keta is the cheapest grade of fish in Alaska. The pink salmon is known locally as the humpback salmon.

Mr. HADLEY. I asked you a while ago about the red fish, as to whether or not the red fish were the fish of largest value in Alaska, and you stated that they were.

Mr. STRONG. Yes, sir.

Mr. CURRY. What is Alaska's largest output aside from the fish business?

Mr. STRONG. Alaska supplies practically nothing but the raw fish. The cost of the raw fish is distributed among as much of the help as can be obtained in Alaska.

Mr. CURRY. How long do these tins and other things remain in Alaska in which the fish are packed?

Mr. STRONG. If we are fortunate and have a successful season, it remains there but a short time. In fact, we have canneries at Ketchikan with very little warehouse space. In some instances we receive the cans to-day and to-morrow they are filled with fish and shipped on the first steamer back to the States. Of course there are but few canneries in Alaska so favorably situated. We have good transportation facilities there, and it makes it possible for one boat to bring in the cans and the next boat to take out the product.

Mr. CURRY. Do the cans and boxes come in already made or do you fix them up after you get them?

Mr. STRONG. At these particular canneries they come in already made.

Mr. CURRY. All you do is to put the fish in cans and see that they are nailed up in boxes, and put them on the steamer and see that they are taken out?

Mr. STRONG. Yes, sir. The raw product at those canneries costs about 30 cents per case. Now, there is an additional cost to the canners above that. That is what is paid to the fishermen. The cannery men are obliged to furnish gear. In some cases they furnish boats to the fishermen. That is an added cost.

Mr. HADLEY. If the fisherman does not do it, the cannery man furnishes it himself?

Mr. STRONG. Yes; or he can put in his own trap and catch the fish himself.

Mr. HADLEY. In that case he furnishes his own crew?

Mr. STRONG. In that case he furnishes his own crew, and handles the whole proposition. My experience with traps has been that if I could buy fish of equal quality delivered at the cannery at a stated price or at the estimate that I have given here, I would not take the risk of putting in traps, because they are frequently taken out by storms.

Mr. CURRY. The reason for that is that it would cost ten or twenty thousand dollars to put in a trap, and a big storm is liable to come along and sweep it away?

Mr. STRONG. There are traps that cost as high as that, but I have not invested in places requiring so heavy construction. However, the traps located in exposed positions seem to be the more successful in taking the fish so long as the trap is in operation.

Mr. HARDY. I would like to ask you if there are any headquarters for the fixing of your prices in putting your product on the market. In what way do you go about determining what you will ask and how the price of your product is determined in Seattle or at the terminal points you speak of?

Mr. STRONG. That depends entirely on supply and demand and business ability in selling. We have had experience ourselves, and sometimes we are pleased and sometimes displeased with bargains we have closed at earlier dates.

Mr. HARDY. Do you find any effort to control that price by any organization or combination?

Mr. STRONG. I have never found anything of that kind. In fact, we are selling our salmon independent. Last year we sold in the spring a portion of the pack that we had expected to put up.

Mr. HARDY. You contracted it in advance?

Mr. STRONG. Yes, sir; and sold it to reliable dealers in the East at a price that was mutually satisfactory.

Mr. HARDY. You sold through dealers in the East? Were those dealers representatives of any other institutions except purchasers?

Mr. STRONG. In no way whatsoever.

Mr. EDMONDS. Were they commission houses?

Mr. STRONG. Sometimes they were commission houses, and in some instances they were wholesale grocery houses.

Mr. HARDY. Now, what I wanted to get at is this: If this bill should provide means by which an aggregation of capital could secure an unlimited number of fish sites and fish traps just as far as their means and their energy enabled them to do so, do you think it is possible for them to monopolize the industry and to govern the price at which the product should be sold at their will?

Mr. STRONG. If they attempted it, it would be a colossal failure, for the reason that the small companies or small operators, which are in many instances locally owned—

Mr. HARDY (interposing). What do you mean by locally owned?

Mr. STRONG. Owned in Alaska, as many canneries are, in the vicinity of our home, Ketchikan, Alaska—I believe we could pack salmon for 10 cents a dozen less than the larger corporations.

Mr. HARDY. Now, right there. If you can pack salmon for 10 cents less per dozen than the larger corporations what facilities have you to cheapen the cost of your output over and above them?

Mr. STRONG. Personal attention to business is the great item.

Mr. HARDY. Have you not also this condition in your favor, that you have the labor there that you get on the ground, instead of sending off for it?

Mr. STRONG. We always employ local labor as far as possible, although we have to bring in considerable help.

Mr. HARDY. Now, as far as you are able to employ local labor that is an advantage that you have, is it not?

Mr. STRONG. It is. That saves transportation charges.

Mr. HARDY. And the local concerns there utilize nearly all the local labor, as conditions now are?

Mr. STRONG. Yes, sir.

Mr. HARDY. So that these larger concerns would have to bring their labor with them?

Mr. STRONG. Yes, sir; they would be forced to do so.

Mr. HARDY. In that way you have a considerable advantage?

Mr. WICKERSHAM. You have an advantage from the standpoint of transportation?

Mr. STRONG. Yes, sir.

Mr. EDMONDS. Where do they get this labor from that they bring in?

Mr. STRONG. From their headquarters, Seattle, Portland, and Astoria.

Mr. EDMONDS. What kind of labor do they bring in?

Mr. STRONG. Chinese is preferable, but it is impossible to get sufficient Chinese help.

Mr. EDMUNDS. What do they bring in besides Chinese?

Mr. STRONG. Whatever is obtainable.

Mr. HADLEY. The Chinese are used in the canneries?

Mr. STRONG. Yes, sir.

Mr. HADLEY. They do not do any of the fishing, do they?

Mr. STRONG. In no way at all. They just do the inside work.

Mr. HADLEY. I just want to get that clear on the record.

Mr. CURRY. There is an Alaska fishermen's union, composed entirely of white men, and they go up there every year.

Mr. HARDY. Are those Chinamen citizens or inhabitants of the United States and therefore permitted to do that work under the law, or are they imported Chinese labor?

Mr. STRONG. Oh, no; not imported. They are all residents of Seattle, Portland, or San Francisco. When I say Chinese, I mention them first for the reason that they are more expert in cannery work. It is impossible to get a sufficient supply to do the cannery work.

Mr. HARDY. When you speak of using local labor for yourselves, do you use that local labor in cannery work alone, or do you depend on other labor for cannery work?

Mr. STRONG. We have had a few Chinese.

Mr. HARDY. If there is any way of increasing the local population, will not that industry be more and more for the benefit of American citizenship?

Mr. STRONG. It is; and it is growing more so.

Mr. HARDY. Well, you interested me awhile ago—said that an attempt to monopolize this industry would be a colossal failure, or a colossal thing. If the big capitalists could secure control of transportation facilities; if they had their own facilities and you had none; if you were waiting on them to be served by your competitors in the business, do you not think you would have rather a hard row to weed?

Mr. STRONG. I think that is impossible. There are now so many transportation companies in the field, and in addition to that, a cannery could arrange to get a vessel, a barge, or a ship to handle their own supplies.

Mr. EDMONDS. You not only have American merchant steamers but you have Canadian steamers at Ketchikan?

Mr. STRONG. Yes, sir. At Ketchikan we average at least one steamer a day during the canning season.

Mr. BRITTON. Do you know how many competitive companies there are operating in the salmon industry in Alaska?

Mr. STRONG. A great many.

Mr. BRITTON. Approximately how many?

Mr. STRONG. Why, 50, I should say.

Mr. BRITTON. They are all independent of each other?

Mr. STRONG. Yes, sir.

Mr. EDMONDS. Is there any canning company in Alaska that you know of that does not supply nets to the natives when they are fishing, or to the fishermen? Is it not the custom up there for all companies to supply nets to the fishermen?

Mr. STRONG. Practically so.

Mr. EDMONDS. And they also repair the nets?

Mr. STRONG. Yes, sir. A cannery is responsible for the net in every way. Of course, a fisherman is supposed to use reasonable care, although I have frequently seen brand new gear, a seine for instance, go out which would cost \$700, and come back at the close of the season ruined, practically worthless. As a rule, it is the crew catching the fewer fish which bring the gear back in worse condition; hence their fish are very expensive.

Mr. CURRY. Do they charge these crews for the gear lent them, or do they supply them and then pay them for their catch?

Mr. STRONG. No, sir. Some canneries charge them one-quarter of a cent per fish. For instance, they will pay them  $1\frac{1}{2}$  cents for fish caught with the cannery gear or  $1\frac{3}{4}$  cents for fish caught with private gear.

Mr. CURRY. Those Chinamen that are used up there are used almost exclusively in the canneries, are they not?

Mr. STRONG. They are not used outside of the canneries in any way.

Mr. CURRY. A great many of the people that are employed in the canneries are white people and Indians, are they not?

Mr. STRONG. They are so far as they can be had.

Mr. CURRY. According to the pictures in this book prepared by Dr. Jones a great many of the canneries used Indians and some whites.

Mr. STRONG. All of the natives to be had are employed in some way in connection with the fisheries, either in the canneries or in fishing outside.

Mr. BOWER. About 4,000 were Indians, out of the total of 16,000 employed in the salmon fisheries in 1914.

The CHAIRMAN. How many Chinese and Japanese were employed?

Mr. BOWER. In that year the exact number of Chinese employed was 2,136, and the number of Japanese employed was 2,128. Then there was a miscellaneous listing of approximately 2,300, which included Filipinos, Porto Ricans, negroes, Mexicans, and others. The total number of white people employed in the salmon canneries in that year was 6,832. The figures I have given relate specifically to the salmon-canning industry.

Mr. EDMONDS. Five or six years ago when I was up there I did not see many white people employed in them.

Mr. HARDY. Mr. Bower, were those people employed inside the canneries?

Mr. BOWER. That is the total number of persons employed inside and outside, but, as has been stated here, all of the Chinese are engaged in inside work. They are never used in fishing.

Mr. HARDY. Were those 4,000 natives employed in canning fish, or in all branches of the work?

Mr. BOWER. They were engaged in all branches of the work. In southeastern Alaska the men are employed, as a rule, in fishing, while the Indian women and children are employed inside the canneries.

Mr. HARDY. The statement was made that when you got inside the canneries, you saw very few white people there?

Mr. BOWER. So far as some of the independent canneries in southeastern Alaska are concerned, I am certain that comparatively few white people are employed inside the canneries. The canneries are

able to give this employment to the natives and it affords them a definite source of income. It is of great benefit to them.

Mr. EDMONDS. The natives up there get on to this source of income, and some of them come one or two hundred miles to the canneries. I saw very few white people in the canneries.

Mr. BOWER. What I have said applies to southeastern Alaska. In western Alaska, in the Bristol Bay district, where approximately one-third of the salmon pack is produced, there are practically no natives, and it is absolutely necessary for the companies engaged in the business to bring their employees from the States. Alaska can not produce the labor required there. There are no whites resident in that country beyond a few scattering ones, and so long as the industry continues in its present condition, it is necessary to import the labor that is needed in the western district; but in southeastern Alaska, let me reiterate, a considerable proportion of the labor is local, both inside and outside the canneries.

Mr. STRONG. I wish to state that at Ketchikan the conditions have changed very materially in the last five or six years. The supply of native help is not increasing; in fact, I believe it is on the decrease. They are not there to be had. Then, the canning business is growing, and as it grows, an additional amount of white help is employed. But there are features of the canning business that do not appeal to whites. It would be impossible to get them to do certain classes of the work, and we are now paying Chinamen fancy wages to do certain work. There are Chinamen to whom we are paying \$500 for a short season's work, and we are paying their expenses from Portland, Oreg., or San Francisco, to Alaska, their board, and the expense of returning them home at the close of the canning season, in addition to the wages mentioned.

Mr. HARDY. Over and above those expenses?

Mr. STRONG. Over and above those expenses. We would not do that if there was other competent help to be had.

Mr. HARDY. What proportion of the work is done by the local Indians and whites?

Mr. STRONG. At Ketchikan there is one plant which had six or eight Chinamen, and the balance of the crew, which was, roughly speaking about 40, were whites, and of those 50 per cent were university boys from the universities of Oregon and Washington. They came up there to work during the summer.

The CHAIRMAN. To make money to go to school on?

Mr. STRONG. Yes, sir; and at our little cannery in Ketchikan we expect to do the same thing this year.

Mr. EDMONDS. Is there any agreement in any particular locality or center where there is a number of canneries covering the price to be paid for fish purchased from the natives, or does each one of the canneries set its own price?

Mr. STRONG. I have not known of any agreement. In our locality we are getting an increased proportion of the fish from the traps. We have had so much trouble in delivering at our cannery desirable fish from the seines that we have relied upon our traps as far as possible.

Mr. EDMONDS. You say you supply the men with gear. Now, when you give the fisherman a seine, he is naturally supposed to bring the fish to your cannery?

Mr. STRONG. He is supposed to do so.

Mr. EDMONDS. And the presumption is that in most cases he does do so. Now, does that give you any hold on him so far as the price you pay for the fish is concerned? Can you set the price, making it lower or higher, as you may desire, or do you have one price for all the canneries?

Mr. STRONG. No, sir; in our part of the country it depends on the location of the cannery, how near the plant is to favorable fishing grounds, etc. There is no agreement in that way.

Mr. EDMONDS. You have an agreement with him when you furnish the gear that you will give him so much for the fish?

Mr. STRONG. Yes, sir; and sometimes we tell him where he must fish—that is, that he can not go beyond a certain distance from the cannery. There are many conditions that have to be considered.

Mr. EDMONDS. You have competing canneries at Ketchikan?

Mr. STRONG. Yes, sir; all around.

Mr. EDMONDS. You do not compete with each other in the purchase of fish from fishermen, do you? You all pay the same price, do you not?

Mr. STRONG. I have known of canneries going to the crews that were sent out by competing plants and offering a bonus to get their fish. There is all sorts of competition and some ruinous competition.

Mr. EDMONDS. But you really supply the net because you think the man will bring all of the fish to you?

Mr. STRONG. Yes, sir.

Mr. EDMONDS. And, of course, if he gets a nice "bog sockeye" that he can hide among the barrels on the boat and sell to some other cannery at a better price, I suppose he does it generally?

Mr. STRONG. Not as a usual thing, but conditions are helping to make the trap more favorable.

Mr. EDMONDS. Do not the English canneries pay better prices in British Columbia than you pay for fish?

Mr. STRONG. I think not, but I do not know positively.

Mr. EDMONDS. How about Essington, and down that way? Don't they pay more?

Mr. STRONG. Two or three years ago I was talking with a canner from there, and they were not paying as much at that time. I do not know as to the present conditions.

Mr. HADLEY. Do you have a plant that supplies box shooks?

Mr. STRONG. There is one at Ketchikan.

Mr. HADLEY. Do you know what proportion of the box shooks are produced in Alaska? Most of the material for the boxes is knocked down when it comes, and it is set up there again ready for use?

Mr. STRONG. Yes, sir; most of the shooks are manufactured in southeastern Alaska—that is, those used by the canneries in the Panhandle of Alaska.

Mr. HADLEY. Does the southeastern Alaska business absorb the box-factory output of southeast Alaska, or does the product of that factory go into western Alaska?

Mr. STRONG. No, sir; I think that the business in southeastern Alaska comes near absorbing all of it.

Mr. HADLEY. So that the boxes used in shipping the pack from western Alaska are shipped from Puget Sound?

Mr. STRONG. Yes, sir. In fact, they can be shipped more cheaply from Puget Sound.

Mr. HADLEY. I only ask that question because that is an element of the cost, and I want to see how it is distributed.

The CHAIRMAN. Some of the larger canneries make their own cans, do they not?

Mr. STRONG. Some of them do; yes, sir.

Mr. HARDY. Coming back to the question: What proportion of the annual output in southeastern Alaska is produced by small canneries like your own?

Mr. STRONG. Do you mean the small independent plants?

Mr. HARDY. Yes.

Mr. STRONG. I hardly know where you draw the line.

Mr. HARDY. I call your attention to this statement in the Daily Alaska Dispatch of June 1, 1916:

Libby, McNeil & Libby, the Chicago packers, purchased an option on four salmon canneries on Bristol Bay, seven cannery ships and other personal property of the Alaska Salmon Co., of San Francisco, a \$600,000 corporation.

I believe that is in a section you are not familiar with?

Mr. STRONG. I am not familiar with western Alaska.

Mr. HARDY. The statement goes on to say—

The purchase price is not announced.

Do you know anything about that, or do you know whether Libby, McNeil & Libby, or any other big concerns, are buying up the small canneries in that section?

Mr. STRONG. I do not know of the transaction mentioned, but I heard that Libby, McNeil & Libby had an option a year or two ago on one plant in our part of the country, but it was never taken up.

Mr. HARDY. This statement says—

The Chicago packing firm paid \$200,000 for its option, and has until October next to complete the deal.

They would hardly pay that for an option unless they expected to carry it through, would they?

Mr. STRONG. If they paid that amount, I believe it will be found to be an advance payment on the pack for the coming season, and the transaction may have carried an option of purchase. Two years ago Libby, McNeill & Libby advanced to one canning firm sufficient money to make it possible for them to get up their pack. They had an understanding that they would sell the pack or a portion of it for that season on a commission basis, and at the same time, they included in that agreement an option of purchase. The money that they advanced was against the pack of the season.

The CHAIRMAN. And along with that, they had an option to purchase the plant at a certain price?

Mr. STRONG. Yes, sir.

Mr. BRITTON. Was the option exercised?

Mr. STRONG. No, sir.

Mr. HARDY. It was not a payment of so much for an option, but it was the furnishing of money on the side—

Mr. STRONG (interposing). Libby, McNeill & Libby had an option on that plant. I was pleased at the time with the report, for the reason that we considered Libby, McNeill & Libby great distributors of meats, canned vegetables, and fruit, and I thought that their

interest in the salmon market would stimulate the demand and open new markets.

The CHAIRMAN. Is there anything else you wish to ask of Mr. Strong?

Mr. BRITTON. I was about to ask him something. Mr. Strong, you were about to mention the fact that the Alaska Packers Association had—how many canneries in southeastern Alaska?

Mr. STRONG. Two.

Mr. BRITTON. How many as compared with the total number of canneries there?

Mr. STRONG. There are from 50 to 75 canneries.

Mr. BOWER. There were 44 in 1914.

Mr. STRONG. There are over 50 at the present time. They have two out of 50 canneries.

Mr. BRITTON. Is there any particular reason why a company with capital should buy up any of these smaller canneries rather than build plants of their own?

Mr. STRONG. None whatever.

Mr. BRITTON. There is no particular reason in the way of economy for purchasing an existing poorly run and poorly fed cannery, rather than establishing one of your own of new construction?

Mr. STRONG. None whatever. In fact, of the canneries which have been bought up in the last two or three years, there are only two that I have in mind have to my own knowledge during their existence either been sold at creditors' sale or under the hammer—

Mr. HARDY (interposing). So far as the reason is concerned, I can give you a sort of parallel case in my own State. About 10 or 12 years ago the Kirby Lumber Co. was formed in southeast Texas. They bought up a lot of little sawmills down in that section that were poorly run, or otherwise. It was very easy for me to see the purpose they had in buying them up. The purpose was to obtain control of the total output of lumber in that section. Now, is there any such reason why men with large capital engaged in the fisheries business should not want to buy up the little outputters?

Mr. STRONG. Yes, sir; I think there are many.

Mr. HARDY. I would like to hear them.

Mr. STRONG. In the first place, as I have said, it would be a colossal failure. We have approximately 26,000 miles of coast line in Alaska, which is a great area to cover. The small independent plants, locally owned, receiving personal attention from the owners, can handle their business at least 10 cents per dozen cans cheaper than a large corporation with heavy overhead expenses. They must rely on managers, superintendents, or foremen, who have no interest in the industry other than their salaries, and you are not going to get as good results under those conditions as you will get from personally conducted plants.

Mr. HARDY. Now, right along on that same line, these little sawmills in southeast Texas, prior to the time that they were bought up, or some of them, were successfully managed, and they put out their lumber much more cheaply than the combination did afterwards. Those small mills sold lumber at \$8 per thousand feet, and they did it at a profit; but when those mills were bought up by the big company, I suppose for the lack of personal attention or the lack of some other elements of economy, the lumber was sold at from \$20

to \$25 per thousand feet. Now, they made more money than the small concerns from whom they bought the mills. When you come to the matter of a monopoly, the cost of production does not count for much, but it is rather a question of how much the consumers can pay for the product. Now, I want to know the reason why the lumber industry and the fish industry do not follow the same line in that respect, when you come to the question of monopolizing the industry.

Mr. STRONG. It is an entirely different proposition. This is a food supply, and there is a demand all over the land for it. I can not see any possible chance for any one concern or for any half a dozen concerns going in and controlling either the fish supply or market.

Mr. WARREN. The proposition is entirely different. When they bought up the small sawmills you refer to, they also practically controlled the raw material or timber. The timber, of course, went along with them, and it would not do for anyone to put in a new sawmill, because there would be no timber to saw. But if you should go up to Alaska and buy up all the canneries to-day, I could still go in and get the raw product, or fresh fish, and, therefore, there would be no limit placed on the output.

Mr. WICKERSHAM. Why would it not have the effect of a monopoly if they should have the right to preempt all of the trap sites?

Mr. WARREN. Because the trap is only effective in certain places, and it does not control the general situation as to the fish supply.

Mr. WICKERSHAM. But it would be possible under this bill to control the trap sites through a monopoly?

Mr. WARREN. They could only control the situation within a certain distance. I could go to work and put in a purse seine right alongside a trap and catch fish.

Mr. WICKERSHAM. The man who owned the trap sites would have a monopoly—

Mr. WARREN (interposing). Not of the waters between the traps. A monopoly of the fish supply would not be possible under those circumstances. A monopoly would not be possible so long as anybody could secure the raw material.

Mr. HARDY. If you had a trap site preempted, giving you the exclusive privilege of fishing there, could a purse seine man go in and fish out that fish-trap site?

Mr. WARREN. He could go in there and fish alongside the fish trap.

Mr. HARDY. He could go into the territory preempted as a trap site?

Mr. WARREN. Yes, sir.

Mr. HADLEY. The advantage of fishing with gear that is not fixed is that the fishermen can fish wherever they like, whereas the trap is fixed.

Mr. WARREN. They say that at one time on Puget Sound 85 per cent of the fish supply was caught by means of traps; but no such condition would be possible in Alaska since the perfecting of the purse-seine method of fishing. I think not over 50 per cent of the fish supply is now caught by traps.

Mr. HADLEY. My statement was predicated upon my knowledge of conditions on Puget Sound, and I wanted to ascertain whether an analogous condition existed in Alaska.

Mr. WARREN. Yes, sir.

The CHAIRMAN. Is there anything else?

Mr. WICKERSHAM. Mr. Chairman, I want to ask this last witness a question or two. Mr. Strong, you know nothing about this statement concerning the purchase of the four salmon canneries on Bristol Bay by Libby, McNeil & Libby?

Mr. STRONG. Nothing, except that it seems to be on similar lines with the one handled in southeastern Alaska two years ago.

Mr. WICKERSHAM. Where they had an option on the pack?

Mr. STRONG. It worked out that way, although the statement was common that Libby, McNeil & Libby had an option on a certain plant and were to take it.

Mr. WICKERSHAM. But you know nothing about the facts connected with this matter?

Mr. STRONG. Nothing whatever.

Mr. WICKERSHAM. That is all.

Mr. BRITTON. Mr. Strong, I think, would like to correct a statement he made, or, rather, the impression left by his statement, that he packed 90,000 cases of salmon in a plant that was worth only \$20,000.

Mr. STRONG. I did not mean that. I said that I was interested last year in two plants that packed approximately 90,000 cases of salmon. I sold out one of those plants in the spring, and we have now constructed a second small plant in Ketchikan, which really consists of two warehouses, which during the balance of the year we use for other purposes, on our wharf. It simply means the investment in a line of cannery machinery. I do not think the total investment in this plant would exceed \$7,000 or \$8,000.

Mr. BOWER. May I suggest to the committee, in order to get it clearly established, that pound nets are used extensively only in one part of Alaska, and that they are not used to any appreciable extent in western Alaska, where one-third the value of the salmon is produced. In 1914 there were in operation only 13 traps, or pound nets, as we call them, in western Alaska. Nearly all of the fish—or, to be exact, 94 per cent of the fish—were caught in gill nets. In other words, one-third of the salmon in all Alaska was taken by gill nets, of which 94 per cent was taken by gill nets in the western district. The impression has been left here, I think, that throughout Alaska the fish are taken almost wholly in pound nets, which is not the case, as I have just endeavored to show.

Mr. HADLEY. What percentage is taken in traps?

Mr. BOWER. In 1914 31 per cent was taken by traps or pound nets; 41 per cent of the total was taken by gill nets, and 27 per cent was taken by seines.

The CHAIRMAN. You say there are 26,000 miles of coast line?

Mr. BOWER. Yes, sir.

The CHAIRMAN. What proportion of that is fishing ground?

Mr. BOWER. The developed fishing grounds I should say cover 7,000 or 8,000 miles of the 26,000 miles. There is still much room for expansion of the industry.

Mr. WICKERSHAM. And in any area of that 7,000 or 8,000 miles, you think they could put traps and make a success of them?

Mr. BOWER. No, sir; that is not correct.

Mr. WICKERSHAM. I know it is not correct, but I think you are leaving that impression.

Mr. BOWER. I did not intend to do so.

Mr. WICKERSHAM. I know what you said, but I thought it was probable that you were leaving a wrong impression.

Mr. EDMONDS. I think it would be a good thing for the people up there in Alaska if you should do away with traps altogether.

Mr. BOWER. I think the pound net or trap is a legitimate piece of fishing apparatus, and we think that the fish caught in pound nets are superior in quality to those taken by purse seines for the reason that the fish are always fresh because they come from the water just before going to the cannery, whereas the purse seine catches very often lie in the bottom of a boat for two or three days before arriving at the cannery. The department considers the pound net a legitimate piece of fishing apparatus.

Mr. EDMONDS. It is generally located so as to prevent the run of the fish up the river.

Mr. BOWER. They must be located properly, and we endeavor to cover that by the provisions of the bill which you are now considering.

The CHAIRMAN. Another feature is to prevent those who operate pound nets from monopolizing the fishing ground.

Mr. WICKERSHAM. Well, they will monopolize them more easily under the pound-net license contained in this bill, will they not?

Mr. BOWER. I do not think that is a fair statement of the situation.

Mr. WICKERSHAM. But is it not true, according to the exact terms of the bill?

Mr. BOWER. There is nothing to prevent the operation of all other apparatus such as gill nets and purse seines.

Mr. WICKERSHAM. But not in pound-net sites.

Mr. BOWER. I know enough about the fishing business to go into any place in Alaska where a man may have a pound net and take gill nets or purse seines and absolutely prevent that pound net from catching fish in a profitable manner. In other words, I can "cork" it, in the phraseology of the commercial fishermen.

Mr. HARDY. Do I understand you to say, Mr. Bower, that when one of these pound nets is located and given an exclusive privilege over its site which is surveyed, mapped out, and filed to cover 360 acres of ground, that a man with a purse net is privileged or allowed to go into that area and seine for fish there, notwithstanding the rights of the man who has put the pound net there?

Mr. BOWER. No. That is not exactly the impression that I intended to leave in your mind. I mean that a man with a purse net or gill net can anticipate the coming of the fish to the pound net; that is to say, before the fish get to the pound net they can be caught by these movable forms of apparatus, which will be far enough away from the pound-net site so that they will not be infringing upon the law.

Mr. HADLEY. In other words, as I understand you, the school of fish in their sweep toward the pound net are caught by the gill net and the purse seine, and they are either broken up or deflected from the pound net. Is that correct?

Mr. BOWER. Yes, sir.

Mr. HADLEY. Well, that is the way it operates on Puget Sound, and I presume it is the same way in Alaska.

Mr. BOWER. Yes, sir.

Mr. WICKERSHAM. They can not set out gill nets at night or in stormy weather.

Mr. BOWER. Well, of course they can not do it very well in western Alaska.

Mr. WICKERSHAM. I am talking about where the red fish are.

Mr. BOWER. Well, there are not many pound nets in Alaska where the red fish are.

Mr. WICKERSHAM. Well, I understood you to say there were some.

Mr. BOWER. Well, there are 13, but that is a comparatively insignificant number.

Mr. WICKERSHAM. As a matter of fact, you say that when you do the fishing up there it is at the season of the year when there is no night?

Mr. WARREN. The gill-net fishing is best carried on when the water is muddy. If the water is muddy it can be done in the daytime. If the water is not muddy it requires a dim light.

The CHAIRMAN. How long is the season up there?

Mr. BOWER. In Bristol Bay the active fishing season is about 25 days.

The CHAIRMAN. From the standpoint of economy, to put in a trap there at that time would not be as profitable as to use the other methods of fishing.

Mr. BOWER. It would not be as profitable.

Mr. WARREN. The nature of the country up there is not such that it can become a trap ground.

Mr. BOWER. It will never become a good trap ground, I venture to say, in the history of the fishing industry of Alaska. The fish will always be caught in western Alaska with mobile apparatus. That is the part of Alaska with which Judge Wickersham is less familiar, I believe.

Mr. WICKERSHAM. Well, I have been out in Bristol Bay, and I have seen conditions there.

Mr. BRITTON. Mr. Chairman, I would like a few minutes in which to refute a few statements made by Mr. Wickersham with reference to trusts, and particularly with reference to the Alaska Packers' Association, as being the leader of the Fish Trust. My idea of a trust is a combination of men or companies having for its purpose the monopolization of a given line of industry or business. Now, the record shows that the proportion of nets owned and operated by the Alaska Packers' Association in proportion to the total number used in Alaska is 30 out of 240.

The record further shows that the Alaska Packers' Association owns and operates 13 canneries out of a total of 85. The testimony of Mr. Strong has very strongly shown that there is no concerted action on the part of these various companies and independent operators in Alaska. The Alaska Packers' Association works entirely independent of any of them, and when Mr. Wickersham referred to the testimony of Mr. J. K. Armsby in fixing prices of salmon—Armsby & Co. are only the sellers of the local goods of the Alaska Packers' Association. They merely fix the price of that one association; they have nothing to do with the price charged by any other independent packer or any other association or company.

Mr. WICKERSHAM. May I interrupt you? My statement was that Mr. Aplin said that your prices were accepted by the other packers.

Mr. BRITTON. That may be so, but our price is not binding upon anybody else. He simply fixes the price upon the output of the Alaska Packers' Association, being the selling agent of that company. The record also shows, on page 302 of the proceedings before the Senate Committee on Fisheries, with reference to Mr. Wickersham's statement that this Alaska Packers' Association has made so many millions of dollars profit out of the business, that, including the Puget Sound business of the association, operating in 19 years, from 1893 to 1911, the total profit was \$9,813,885, with dividends of \$6,159,477, and a stock dividend of \$1,680,000. It shows that the average capital employed was \$4,068,178, and that the bare expenditures per annum for doing business were a little over \$3,000,000. It showed that the average annual net profit per case was 4 cents; so that in running over a period of 19 years at that time, and now 25 years, upon an average annual capital of about \$5,000,000, with an average annual expenditure of \$3,000,000, this association has been able to make an average net profit of about 4 cents per case.

The CHAIRMAN. What per cent would that be on your investment?

Mr. BRITTON. That would be less than 5 per cent.

Mr. WICKERSHAM. May I ask Mr. Britton some questions, Mr. Chairman?

The CHAIRMAN. Have you completed your statement, Mr. Britton?

Mr. BRITTON. Yes, sir.

Mr. WICKERSHAM. I want to know if before that statement of profit was made, the insurance fund was not made good?

Mr. BRITTON. That is all shown in the statement.

Mr. WICKERSHAM. That is all shown? The depreciation, too?

Mr. BRITTON. Yes, sir.

Mr. WICKERSHAM. And every item of repairs and building new ships and everything of that nature?

Mr. BRITTON. No; not building new ships.

Mr. WICKERSHAM. I think it is. I think that is where they cover up their profit in other places. It is all covered up in a statement of that kind.

Mr. BRITTON. Judge, this company is rather a responsible company, and its stock is held by people who are very deeply interested in their investment. Their accounts are examined annually by public accountants who certify to the correctness of their report.

Mr. WICKERSHAM. I have no doubt that it is correct.

Mr. BRITTON. This is the second time that you have made that statement, and I want to say that if you have any positive facts or any statements to submit in support of it, I would like them to go in the record, but if you have no proof to support that statement, I do not think you ought to continue to make such statements.

Mr. WICKERSHAM. I think that anybody who has the slightest information about bookkeeping can look at the statement and discover in a moment how it is prepared.

Mr. BRITTON. But you do not care to go into that now?

Mr. WICKERSHAM. Oh, I have gone in to it before and I will do so again if anybody cares to hear it.

Mr. BRITTON. I do not think this committee cares to hear it particularly.

The CHAIRMAN. Is there anything further, Judge?

Mr. WICKERSHAM. I want to ask Mr. Bower a question. Mr. Bower what proportion of all the canned salmon in Alaska does the Alaska Packers' Association put up?

Mr. BOWER. I have not the information before me, but I can obtain it. It is furnished to the department in sworn statements that are filed every year.

Mr. WICKERSHAM. Well, it is about one-fourth.

Mr. BOWER. I should say, offhand, that it is about one-fourth.

Mr. WICKERSHAM. It is about one-fourth of the total pack.

Mr. EDMONDS. I have the figures here. It is about one-fifth.

Mr. WICKERSHAM. It is more than that.

Mr. EDMONDS. It is about 1,000,000 cases out of 5,000,000 cases.

The CHAIRMAN. I have the figures here.

Mr. WICKERSHAM. What was the total pack for last year?

Mr. BOWER. I think it was 4,500,000 cases.

Mr. WICKERSHAM. I simply want to call your attention to the fact that they put up about one-fourth of all the canned salmon in Alaska.

Mr. BOWER. On further reflection, my remembrance is that they put up something like 900,000 cases.

Mr. HARDY. About 978,000 out of a total of 4,000,000.

Mr. BOWER. Out of a total of 4,500,000.

The CHAIRMAN. The Alaska Packers' Association in 1915 in western Alaska canned 538,804 full cases, according to these figures.

Mr. WICKERSHAM. Well, I know they put up the largest part of the western Alaska pack.

Mr. BRITTON. I submitted to the committee a detailed statement of the Alaska Packers' Association pack the other day.

The CHAIRMAN. In southeastern Alaska the Alaska Packers' Association in 1915 canned 233,473 cases. In central Alaska the canned salmon pack in 1915 was 203,043 cases, by the Alaska Packers' Association. Those are the figures for the western, central, and southeast packs. Those are the only three figures, are they not?

Mr. BOWER. Yes, sir.

The CHAIRMAN. Now, the recapitulation of the Alaska salmon pack shows a total of 4,489,341.

Mr. HARDY. The difference is as 976 is to 4,489.

Mr. BOWER. That is, as 976,000 is to 4,489,000.

Mr. EDMONDS. Mr. Britton, your company did not pay dividends for two or three years—1907, 1908, 1909, and 1910?

Mr. BRITTON. There were three years that they operated at a considerable loss.

Mr. EDMONDS. What has happened since that time that makes the business so profitable? Last year you had an exceedingly profitable year.

Mr. BRITTON. They only cleared last year some \$545,000.

Mr. EDMONDS. The year before that you cleared about \$1,000,000?

Mr. BRITTON. Yes, sir.

Mr. EDMONDS. That is about 20 per cent on your capital?

Mr. BRITTON. The capital is \$7,000,000.

Mr. EDMONDS. What has happened that you have been able to lose money for three years and yet make such a profitable showing in such a short time?

Mr. BRITTON. I could not tell you the details about that but I presume it is the difference in the seasons. Of course, the Puget Sound pack is the more profitable of the two. They make more money out of the Puget Sound pack than they do out of the other.

Mr. HADLEY. We have what we call a big run and a little run at Puget Sound. One year is profitable and another year is unprofitable.

Mr. EDMONDS. I was wondering whether the difference in price was owing to some agreement between the canners up there as to price.

Mr. BRITTON. No; there is no such agreement. The packers have been greatly disappointed because there have been no increased sales owing to the war. They had an idea that with such a cheap food as salmon, the foreign markets would increase, but outside of Australia, the foreign markets are bad.

Mr. WICKERSHAM. Mr. Chairman, I put in the record figures showing the increase in the price of canned salmon, and I think it amounts to 5 per cent per annum in the last 10 years. The figures will show exactly what it is.

Mr. BRITTON. I think your testimony shows that it had increased 68 per cent.

Mr. STRONG. Mr. Chairman, I think statements like that do a great injustice to so many of the people interested in the canning business. I have been in the canning business for five years, and I know that there has been a decrease. Five years ago we had the best market for pink salmon. Now, inasmuch as 50 per cent of the supply is pink salmon, why have all this argument on the red salmon? We are interested in the pink fish. Pink salmon is one of the best popular-priced food articles there is on the market. It is a thing that we should all be interested in developing and getting on the market. It is a fine food article. Yet it is sold at a decreased price from what it was five years ago. It has decreased during the last five years. Five years ago pink salmon sold at a dollar a dozen, which was a fair valuation as compared with beef or anything else put up in cans. It is quite equal to beef at that price. Last year 50 per cent of the pink salmon sold for 65 cents a dozen. In 1911 the bulk of the pink salmon sold for a dollar a dozen. The next year it sold somewhere around 90 cents a dozen; it has been on the toboggan slide ever since. This year, however, things are looking better, and we have already sold some of our pack in advance at an advanced figure. Perhaps we have been wise in doing it and perhaps we have not.

Mr. BRITTON. You mean at an advanced figure over last year's price?

Mr. STRONG. Yes, sir.

Mr. BRITTON. But still well below the price of 1911?

Mr. STRONG. Oh, yes. Now, inasmuch as over 50 per cent of the pack of Alaska salmon is in this class, I think these facts should be brought out.

Mr. WICKERSHAM. I want to say very distinctly that I do not know anything about this price matter personally. I am not engaged in the canning of salmon or in the salmon business. I have no intimate knowledge of the increase or decrease in the price of salmon. I have put into the record an official statement made by the Bureau of Statistics in the Department of Labor, and the official letter of Mr.

Royal Meeker, the commissioner. That is all that I know about it, and I want to make that perfectly clear.

The CHAIRMAN. I do not recall now just exactly what the statement was. I would have to examine the record. The question is now, are we making any headway?

Mr. HARDY. It seems to me we are a long ways from the merits of this bill.

The CHAIRMAN. I do not know that we have accomplished much in this discussion.

Mr. HARDY. While it is a very interesting and instructive discussion I do not see where it is going to get us.

The CHAIRMAN. If there is a monopoly or a threatened monopoly, we can not handle it in this way by any of the suggestions made here this morning. We will have to do it in some other way.

Mr. HARDY. Before Judge Wickersham goes, I want to refresh his memory in one particular. There was some statement made here the other day as to the rise in price of some class of salmon while the other classes of salmon were decreasing. There was a statement that the fish which had risen in price were the fish dealt in by some of the supposed trust.

Mr. WICKERSHAM. The statement that I filed shows that.

Mr. STRONG. We have had a very small proportion of red fish and we have always been interested in getting as much as we could out of it. To the best of my knowledge, the prices have averaged for the last five years approximately \$1.50 per dozen.

Mr. HARDY. I think you were here the other day, Mr. Strong, when the statement I speak of was made—that one kind of salmon was mainly sold by the New York agency of some great firm.

Mr. WICKERSHAM. The Alaska Packers' Association.

Mr. HARDY. That that salmon had advanced in price while other salmon, more desirable, had fallen in price.

Mr. STRONG. I did not hear that statement, but I do know that pink salmon has declined in the past few years, to the best of my knowledge. Alaska red salmon have sold approximately at \$1.50 per dozen.

Mr. HARDY. Well, your statement is just in conformity with the statement I am speaking of. I can not recall who made the statement just now.

Mr. WICKERSHAM. It is in the record.

Mr. STRONG. I have seen a statement that was made up on a valuation placed in the royal Chinook salmon canned on the Columbia River, and that statement has been made to appear to cover the value of the salmon pack all over the Pacific coast, which is, of course, erroneous.

Mr. HARDY. Well, evidently you can take different statements and different figures and make any deduction you want to.

Mr. STRONG. Well, that may be. When I first went on the Pacific coast there were but one or two canneries on Puget Sound. In fact, I think the first cannery was put in after I got there. Nearly all of the fish came from the Columbia River. Apparently at that time there was an abundant supply, but the demand increased faster than the supply, and those fish had a standing and a reputation all over the country. They maintained a higher price than was given to any other fish.

Mr. HARDY. I do not know that you catch the point of the reminiscence that I am giving you—that a certain kind of fish controlled by the larger packers was sold at a price fixed by the combination and the price of that fish had been advanced while other and better fish were taking the toboggan slide.

Mr. STRONG. I think I understand your point.

Mr. HARDY. Does that suggest any lesson to you?

Mr. STRONG. Columbia River fish have advanced. They are a high class of fish, and the supply has not equaled the demand, and consequently they have been able to get a higher price.

Mr. HARDY. That was the statement that was given here, that the fish that that company sold—

Mr. STRONG (interposing). They have advanced also Puget Sound Reds; but during the past five years the average price of Alaska fish has not advanced. Statements have been made before this committee with the intent of getting at large canning interests, which statements in effect are injuring and doing an injustice to Alaska and many small locally owned canneries.

Mr. WICKERSHAM. The statement made by Mr. Meeker was that he did not fix the price upon the basis of the Columbia River fish, but on the fancy reds. That is in the record.

Mr. HARDY. I have given my recollection of what it was.

Mr. WICKERSHAM. Now, Mr. Chairman, you wanted me to make a statement of what ought to be done in the matter. Unfortunately, the bills that I have introduced in respect to this matter are not before this committee. I have gone over the matter very carefully and gone over all the bills and have prepared a substitute for all of them which I would like to leave with the chairman without necessarily putting it in the record, merely to call your attention to what I think ought to be done.

Mr. BRITTON. You do not want that in the record?

Mr. WICKERSHAM. Well, I do not object to it going in the record.

Mr. HARDY. I think it ought to be in the record.

The CHAIRMAN. All right. Let the record show that the bill suggested by Mr. Wickersham, the Delegate from Alaska, as a substitute for the bill now before the committee, is introduced in the record.

Mr. WICKERSHAM. In that connection I would like to have this statement in the record also: That I do not quite agree with section 4 of the bill. There is a period of one year fixed there which I think ought to be five years. Otherwise I agree with it.

Mr. HARDY. That is in your proposed substitute?

Mr. WICKERSHAM. Yes, sir.

(The substitute bill submitted by Mr. Wickersham follows:)

A BILL For the preservation, conservation, and control of the fisheries of Alaska, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:* That all those waters, streams, rivers, and lakes in Alaska which empty into Bering Sea and Bristol Bay, and into the Pacific Ocean, and all of the bays, channels, straits, or waters from the outer Aleutian Islands easterly and southerly to fifty-four degrees forty minutes, the south line of Alaska, which are frequented by salmon or other food fish for spawning, or in which fish or other marine animals (except fur seals) appear in such numbers as to be valuable for fishery, be, and the same are hereby, forever reserved from sale or other disposition, except as provided in this act, to any person, association, or corporation; and the title to all said waters, and all waters along said coast out to the limit of the Territorial jurisdiction of the United States, and in all tide and shore lands on said waters, streams,

rivers, lakes, bays, channels, and straits up to the line of ordinary high-water mark, be and they are hereby reserved by the United States for fishery purposes; and the President of the United States is hereby authorized and empowered to reserve for such fishery purposes so much of the uplands upon and adjacent to the shores of said waters as may be necessary for the conservation, preservation, and propagation of fish or other marine animals which may resort thereto, or which may be propagated or transplanted therein: *Provided*, That nothing in this act shall be held to prevent the use of the tide lands or navigable waters in Alaska by wharves or other approaches from the land to the navigable waters, nor to prevent ingress or egress between the shore lands and the navigable waters as that right has long existed: *Provided*, That nothing in this act shall interfere with the free navigation of any navigable waters, nor be construed as impairing in any degree the title of the Territory of Alaska or of any State or States which may hereafter be erected out of said Territory to the tide lands and beds of any of its streams or its fisheries, nor the right of the United States to control commerce and navigation therein, it being hereby declared that the rights of fishery and to the tide lands herein mentioned shall continue to be held by the United States in trust for the people of the Territory of Alaska, and of any State or States which may hereafter be erected out of said Territory. The term "navigable waters" as used herein shall be held to include all tidal waters up to the line of ordinary high tide, and all nontidal waters navigable in fact up to the line of ordinary high-water mark.

SEC. 2. That in addition to the powers now authorized to be exercised by the Legislature of Alaska, its legislative power shall extend to and over all the fish and fisheries of Alaska, and all wild animals and birds therein (not including herein the fur seals), and the legislature shall pass laws for the conservation, protection, and regulation thereof, and may levy and collect for Territorial use a license tax on trade and business, including the fish and fisheries, and may control the domestication of all wild animals and birds, and provide for the erection of fish hatcheries and stocking of barren streams and lakes with fish: *Provided*, That all laws now in force in Alaska for the conservation and protection of the fisheries thereof shall continue in force until altered, amended, or added to by the legislature by general law.

SEC. 3. That the Legislature of Alaska may, subject to the provisions of this act, and by general law, provide for leasing fishery areas, within four thousand feet of the shore of Alaska and its islands (not including therein the Pribilof Islands), for a period not to exceed five years, at the end of which period the said tract or tracts mentioned or described in any lease shall be forfeited to the public use, and be again free from all claims whatsoever, and subject to lease to any applicant therefor.

SEC. 4. That nothing in this act or in any act of the Legislature of Alaska, or in any lease or contract so made or authorized by either, of any such fisheries or fishery site in Alaska, shall be held to prevent the United States by act of Congress from resuming control with full power of disposition of all or any part of said fisheries or fishery sites or grounds, whether leased or not on the first day of January of any year subsequent to the date of the approval of this act, and in such event every such lease or contract shall be thereby terminated and at an end, without any compensation of any kind being paid therefor by either the Territory of Alaska or the United States.

SEC. 5. That no fishery area in Alaska in excess of one hundred and sixty acres shall be included in any lease to any person, association, or corporation, and no such person, association, or corporation shall be permitted to take, own or control, or have under his or their management more than three such areas or fishery sites under this act, or at all, and if any area or areas of such fishery grounds and waters in excess thereof shall be held, claimed, leased, trusted, possessed, or controlled in any manner or by any devise, permanently or temporarily, directly or indirectly, tacitly or otherwise, or in any area less than the maximum so as to form part of or in any way affect any combination in violation of law or this act, or is in any area in any wise controlled by any combination in the form of an unlawful trust, or shall form the subject of any contract or conspiracy in restraint of trade in the manufacture, canning, catching, dealing, or trading in fish or fishery products, or of any holding of any such lease or leases, by any individual, partnership, association, corporation, mortgage, stock ownership or control, the title to each and every part of such fishery or leased area or areas, shall be forfeited to the Territory of Alaska, from that date when any court of competent jurisdiction shall by its final judgment find the said violation of law to have been begun or set on foot by the parties or their successors; and it shall be the duty of the Attorney General of the United States, of any United States district attorney in Alaska, or any attorney duly authorized to act for the Territory of Alaska to institute such proceedings in any court of competent jurisdiction for the purpose of enforcing the provisions of this section whenever there is reasonable ground to believe that any such violation has occurred or is attempted.

SEC. 6. That it shall be the duty of the Legislature of Alaska, subject to the provisions of this act, to pass general laws for the preservation, protection, and conservation of the fisheries of Alaska, to prevent encroachments upon the spawning grounds, to prevent fishing in streams or lakes resorted to by spawning fish, to provide penalties against violations of the fishery laws, and generally to provide against the waste or destruction of food fish in the waters of Alaska.

SEC. 7. That nothing in this act shall be held to limit the power or duty of the Bureau of Fisheries, or its officers or employees, in inspection, hatchery work, or scientific study, as fully as is now or may hereafter be provided by Congress.

SEC. 8. In addition to its power to levy a real and personal property tax on the real and personal property of persons, associations, partnerships, and corporations engaged in the manufacture, catching, canning, or otherwise dealing in fish and fisheries products in Alaska as provided by law, the legislature is hereby further empowered to levy and collect other and additional license fees upon the nets, traps, boats, ships, and other personal property used therein, upon the catch of fresh fish, upon the manufacture of canned products, and upon other elements of value not included in the real estate value; such license fees shall be reasonable in rate, and when collected by the Territory one-half of the gross amount collected shall be paid by the Territory into a fund in the Territorial treasury, to be expended by the Secretary of Commerce, or upon his order, in the work of inspection and propagation of salmon and other food fish in Alaskan waters: *Provided*, That nothing herein shall be held to prevent the collection of said fees and taxes through the office of the clerk of the district court and the collector of customs, in the manner now provided by law: *Provided further*, That the Secretary of Commerce shall be, and he is hereby, authorized to report to Congress, at any time, upon the fishery conditions in Alaskan waters with recommendations.

SEC. 9. That any person who shall violate any of the provisions of this act shall, upon conviction in a court of competent jurisdiction, be punished as for the commission of a misdemeanor.

The CHAIRMAN. I desire to incorporate in the record the following telegram of date June 6 received from the Alaska Fish Salting & By-Products Co.:

PORTLAND, OREG., June 6, 1916.

Hon. JOSHUA W. ALEXANDER,

*Chairman Merchant Marine and Fisheries Committee,  
House of Representatives, Washington, D. C.:*

In December, 1915, this company bought herring fisheries plant of Alaska Oil & Guano Co. of Killisnoo, Alaska, without knowledge of pending legislation limiting time for taking fish in Alaskan waters for other than food purposes as provided by section 13 of bill before your committee, of which, if enacted, stockholders in new company will suffer irreparable loss. We state to you that no more than 1 per cent of fish taken in our nets are other than herring, which 1 per cent is used for food purposes; that herring in these waters are not fit for food before August 20, and that all herring taken and fit for such are made food products, which is 20 per cent of annual catch. Other uses are oil, halibut bait, and fish meal, but not fertilizer. We beg operation of plant until such time as Alaska herring industry reaches commercial importance.

ALASKA FISH SALTING & BY-PRODUCTS Co.

The CHAIRMAN. I desire to insert in the record the following letter from the Hon. C. N. McArthur, Member of Congress from the State of Oregon:

JUNE 15, 1916.

Hon. JOSHUA W. ALEXANDER,

*Chairman Committee on Merchant Marine and Fisheries,  
House of Representatives, Washington, D. C.*

DEAR SIR: According to the provisions of section 13 of H. R. 9528, entitled "A bill for the protection, regulation, and conservation of the fisheries of Alaska," now before the Committee on Merchant Marine and Fisheries, it is proposed to make it unlawful to destroy food fish in the waters of Alaska after three years from the passage of the measure in question.

While I am interested in the proper protection and conservation of fish, I fear that the proposed three-year limit will work a great injustice upon a business concern in my home city that had made large investments in Alaska in the nature of a plant for the manufacture of oil and guano from herring. This concern is known as the Alaska Oil & Guano Co. During the hearings on S. 5856 of the Sixty-second Congress, second session, Mr. Zera Snow, of Portland, Oreg., attorney for the Alaska Oil & Guano Co.,

appeared before a subcommittee of the Senate Committee on Fisheries, gave testimony and filed a statement on behalf of the company. Mr. Snow's testimony and the company's statement are fully set forth on pages 5 to 28 of the printed hearings on S. 5856 which are now on file with the House Committee on Merchant Marine and Fisheries. I invite your careful attention to both Mr. Snow's testimony and the company's statement. Mr. Snow, Mr. Spuhler, president of the company, and their associates are all men of the highest standing and probity and their statements are entitled to full consideration and credit.

It is not my purpose to discuss in this letter the question of whether herring may properly be classified as a food fish, as you and the other members of the committee on Merchant Marine and Fisheries are far better qualified than I am to determine this question, but I do ask that the statements above referred to be given due consideration; and if legislation such as proposed by section 13 is agreed to, I am hopeful that a longer period of time than three years will be allowed for the catching and utilization of herring under the present arrangements. In view of the large investments made by the Alaska Oil & Guano Co., which is apparently the only concern affected by the proposed section, I am hopeful that 10 years will be allowed, during which time the company will have an opportunity to realize something on its investment and wind up its business without the serious loss that would certainly follow the enactment of section 13 as it stands.

I take the liberty of inclosing a pamphlet published by the Alaska Oil & Guano Co.—a copy of the company's statement as printed in the report of the hearings before the subcommittee of the Senate Committee on Fisheries.

Very respectfully, yours,

C. N. McARTHUR.

The CHAIRMAN. If there is nothing further, the hearings will now be closed.

(Thereupon the committee adjourned.)



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