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FUR-SEAL INDUSTRY OF ALASKA.

APRIL 4, 1914.—Referred to the House Calendar and ordered to be printed.

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

REPORT.

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

Specific charges having been filed with the committee August 31, 1913, alleging that the agents of the Government had conspired with the lessees of the seal islands to take seals in violation of law and the provisions of their contract, and also that the said lessee company had secured the lease from the Government by fraud and perjury, the committee determined to investigate these questions and report its findings of fact to the House. Extended hearings were had, beginning October 13, 1913, and ended March 14, 1914.

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

I. That when the United States took possession of the fur-seal herd, in 1867-68, by virtue of the treaty of cession from Russia, and leased it to the Alaska Commercial Co., a corporation, for 20 years from May 1, 1870, the herd consisted of about 4,700,000 seals. (See pp. 56-58, hearing No. 1.) During the period of this lease, 1870-1890, the lessees took 1,856,224 seals, deriving therefrom a net profit of \$18,753,911.20, while the net profit of the Government therefrom was but \$5,264,230.08. (See hearing No. 1, pp. 176-178.)

II. That on March 12, 1890, a second lease was entered into with another corporation, known as the North American Commercial Co., of San Francisco, for a period of 20 years. That when this lease was executed a survey of the herd made in July of that year disclosed the fact that there were about 1,000,000 seals on the islands. That this reduction of the herd was due to the combined effect of killing 100,000 seals annually on land, since 1870, and the energetic prosecution of pelagic sealing, first begun in a noteworthy degree in 1883-84, and then actively prosecuted since 1888. (See pp. 183-184, hearing No. 1.)



That the herd had been depleted to such an extent in 1884 that the Alaska Commercial Co. had difficulty in securing their average annual quota. In spite of this fact, however, the said company continued to take an annual average of about 100,000 seals, until their lease expired in 1890. On the expiration of this lease, the herd had been depleted to such an extent that the new lessee, the North American Commercial Co., had great difficulty in 1890, and failed in obtaining their quota, and then commenced to kill female seals and yearlings, which is now, and was in 1896, prohibited by law and the regulations of the department. This unlawful killing of seals was reported July 31–September 7, 1890, to Hon. William Windom, the Secretary of the Treasury—he died January 29, 1891—and his successor, Hon. Charles Foster, took no steps officially to prevent a recurrence of such loss to the Government; but, on the contrary, immediately removed the agent on April 5, 1891, who reported it, and assigned him to another position in the service. (See pp. 304–314, hearing No. 1.)

That the conduct of the lessees, the North American Commercial Co., through its officers and agents, coupled with the work of and the interest they had in pelagic hunting, so reduced the seal herd of about a million seals that in August, 1910, the number of seals on the islands did not, as officially reported, exceed 133,000. That the lessees had killed in 20 years 343,356 seals, from which they derived a net profit of approximately \$5,000,000, and by reason of which the Government, after paying the expenses incident to the management of the fur-seal herd during said period, derived no profit; but, on the contrary, suffered a cash loss of more than \$1,350,000. That the record of 40 years of leasing of the seal islands of Alaska (1870–1910) discloses the fact that the Government has suffered a property loss of not less than \$80,000,000, caused by the almost complete commercial ruin of the said seal herd, while the net revenue received by the Government, under both leases, amounted to but \$3,914,000 approximately. (See pp. 176–178, hearing No. 1.)

III. Your committee finds that the second lease which the Government entered into, namely, with the North American Commercial Co., was obtained by fraud; in part, having consisted in the filing of a false affidavit on the part of Isaac Liebes, president of said company. Testimony discloses the fact that the said Liebes, as president of said company, did, on March 12, 1890, declare under oath in the form of a written affidavit, which was placed on file in the Treasury Department, with the papers in the case, to the effect that neither he nor any of his associate lessees, was engaged in the business of pelagic sealing, or in any violation of law. When in truth and in fact, he, the said Isaac Liebes, was, at the very time of the filing of said affidavit, in full knowledge of the fact that his associate lessee, Herman Liebes, was the owner of the schooner *James Hamilton Lewis*, and that she had been outfitted by him, illegally cleared January 10, 1890, for hunting fur seals at sea, and for the very purpose of committing depredations on the high seas and in American waters, and on the seal islands of Alaska, during the summer of 1890. That on September 17, 1890, he, the said Isaac Liebes, president, as aforesaid, became part owner of said vessel *James Hamilton Lewis*. That the said Herman and Isaac Liebes, officers and stockholders of the said North American Commercial Co., and as owners of the said *James Hamilton Lewis* corresponded, combined, confederated with one

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Alexander McLean, known as a notorious British pirate, for the purpose of committing, and in fact did commit, depredations on the high seas, in American waters, and on the Pribilof Islands, by way of unlawfully killing fur seals belonging to the Government of the United States. (See pp. 224, 225, 285, 290, 294, 295, hearing No. 1.)

Your committee is of the opinion that the conduct of the officers of the North American Commercial Co. during 1890-91 and subsequent thereto was such that the officials of the Government should have promptly revoked the lease and prevented this great loss of property.

In this connection it may be stated that the following is a clause which appears in the lease:

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

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

IV. Your committee further finds that, in spite of the ruinous record made during the last 20 years by the North American Commercial Co., under the supervision of the Government agents of the seal islands of Alaska, H. H. Taylor, the president of said company, C. H. Townsend, of the advisory board fur-seal service, Department of Commerce, and George M. Bowers, Commissioner of the Bureau of Fisheries, did recommend to the Secretary of Commerce and Labor, the Hon. Charles Nagel, that he enter into another lease of the said islands for 20 years. The testimony discloses the fact that the Secretary of Commerce and Labor had intended to enter into another contract to release the islands to the highest and best bidder. Strenuous objections to any leasing of the islands, however, were made by public-spirited citizens, and this prevented the renewal of the lease. (See statement of Charles Nagel, dated Mar. 19, 1914, and review of same, appendix to hearing No. 3.)

V. That since the lessees were prevented from further killing by the expiration of their lease and by the passage of the act of Congress approved April 21, 1910, which act prohibited the re-leasing of the islands for the purpose of killing seals, the Secretary of Commerce and Labor was placed in full control of affairs on the said islands.

Your committee, after due and careful deliberation, finds that the lessee company took 128,000 yearling seals in violation of law during the term of their lease. That this was done in collusion with the agents of the Government on the islands. That on May 4, 1896, the Hon. John G. Carlisle, Secretary of the Treasury, issued regulations which prohibited the killing of yearling seals and seals whose skins weighed less than 6 pounds. That, in spite of this regulation,

the lessee company, in collusion with the Government agents on the islands, took about 8,000 seals in violation thereof, during the first season of its prohibition, i. e., June and July, 1896. (See pp. 207-208, hearing No. 1.)

That there were no other regulations issued until May 1, 1904. Then the Carlisle regulations were, in effect, reissued, as the "Hitchcock rules," whereby the killing of any male seals under 2 years of age was prohibited, on the well-established fact that the sex between the male and the female yearling seals can not be told apart, as they haul out upon the islands, without physical examination.

That no further regulations were issued until May 9, 1906. No changes were made then as to the ages or the prohibition of killing yearling seals, but a change in the minimum weight of skin to be taken from "six pounds" in the Carlisle and from "five and one-half" pounds in the Hitchcock regulations to "five pounds" was made. It is quite apparent to the committee that the object of both the Carlisle and Hitchcock regulations as to weight of skins was to prevent the killing of young or yearling seals. These rules were made with the assumption that those skin weights would be properly made when the pelts were taken from the bodies of the seals.

VI. The committee further finds that in 1896 and thereafter the leasing company, in conjunction and connivance with the Government agents on the islands, killed yearling seals and added sufficient blubber in skinning the animals so as to bring the skin weights within the regulations. By lowering the weight of the skins it made the fraud and deception easier, because it took less blubber on the small skin to bring them within the regulations. In this connection it may be well to note that Mr. Frank H. Hitchcock, who, as chief clerk of the Department of Commerce and Labor, appeared before the Ways and Means Committee on March 9, 1904, and said that he had been sent to represent the Secretary of Commerce and Labor, and to make the following proposal to the committee (Fifty-eighth Congress, second session, on House joint resolution 124, appears the following hearing, Ways and Means, p. 35):

Mr. HITCHCOCK. First of all we propose to limit still further the ages at which seals can be taken. We will prohibit altogether the killing of seals under 2 years of age. Killing will thus be restricted to seals between 2 and 4 years old.

Mr. WILLIAMS of Mississippi. You propose to forbid the killing of seals under 2 years old?

Mr. HITCHCOCK. Yes.

Mr. WILLIAMS of Mississippi. At 2 years of age that is the very time you can tell the difference between the bull and the cow. In other words, if you kill nothing under 2 years old there should be no reasonable excuse for a mistake in that respect.

Mr. HITCHCOCK. You are quite right; that's the point. The great objection to the killing of these small seals, and, I take it, the only objection, is the difficulty of distinguishing the males from the females.

On July 28, 1910, Secretary Charles Nagel received from the Bureau of Fisheries a marked copy of the above hearing, and sends that notice of this reception to the House Committee on Expenditures in the Department of Commerce and Labor, June 24, 1911. (See p. 987, Appendix A, H. Doc. 93, 62d Cong., 1st sess.)

Secretary Charles Nagel had full knowledge of the fact that on March 9-10, 1904, the Department of Commerce and Labor pledged itself to the Ways and Means Committee not to allow any seals killed on the Pribilof Islands "under 2 years of age," and this pledge

was also given to the Senate subcommittee in charge of Alaskan affairs, of which Senator Dillingham was chairman, on March 8, 1904. (See p. 235, hearing No. 1, Jan. 17, 1914, House Committee on Expenditures in the Department of Commerce.)

It is conceded on all sides that the sex in young seals can not be told apart when they appear on the islands and that they are born equal in number. (See p. 182, hearing No. 1.)

In the judgment of the committee this raises a strong presumption that half of the yearlings so taken were females, which is made a crime under the statute.

This method of taking seals continued until the end of the killing season of 1909, the termination of the lease. After that the business was conducted by the Government under the direction of Hon. Charles Nagel, then Secretary of Commerce and Labor.

VII. The committee finds that the taking of seals on the Pribilof Islands, under the direction of former Secretary Charles Nagel, from 1910 to 1912, inclusive, was conducted in the same manner, and by the same officials, as in the latter years of the leasing company. Before the said Charles Nagel had full authority under law to take seals on the islands, and during the last year of the lease, he was repeatedly notified of the unlawful killing and depredations committed by the sealing company, and the Government agents on the Pribilof Islands, with records of such work, during the years of 1906, 1907, and 1908; he was warned April 26, 1909, that they would be guilty again, under his direction, of the same conduct. This warning was disregarded; the same leasing parties were on the islands in 1909, and took, in violation of law and regulation, 7,230 small pups and extra small pups, which were yearlings, and exclusively the property of the Government.

The committee further finds that the said Charles Nagel, on May 7, 1909, appointed George A. Clark, as a special expert assistant to visit the islands, examine conditions, and make a report to the department, which he did September 30, 1909. In said report the special assistant aforesaid states that yearlings are taken, and "no seal is too small to be killed," to wit:

It is on the killing field, however, that the great need of a guiding and controlling hand is shown. In 1896-97 the Government agents ordered the drives. This season they have been entirely in the hands of the lessees. The young males set aside for breeding purposes having been marked, the lessees have been free to take what they could get, and this resulted in their taking practically all of the bachelors appearing on the hauling grounds.

* * * With a fixed legal quota, and a limited time in which to secure it from a failing herd, there naturally results close, severe driving. In the eagerness to see that no possible bachelor escapes, the edges of the rookies are encroached upon and cows included in the drives. Fifty of them appeared in drives toward the close of this season. A drive that can not be made without including cows should be omitted. A drive which appears on the killing field with 15 to 20 cows in it should be released rather than incur the danger of clubbing any such cow by mistake. There should be some one in charge of the herd with power and discretion to do this. With a limited killing season, however, this would be unfair to the lessees. There should also be power and discretion to waive the limit and extend the time of killing if necessary.

There has been on the killing grounds since 1900 a constant struggle on the part of the leasing company in the closing years of its concession to get every possible skin from the declining herd. Its work has been aided by a high arbitrary legal quota and by a lowered minimum weight of skin, enabling it to gradually anticipate the quotas of succeeding years by killing younger animals. As a result there has occurred in these years probably the closest killing to which the herd has ever been subjected. Aside from the diminished supply of male life on the breeding grounds in 1904, this

is shown in the fact that though the herd has declined two-thirds in size, the quota has never fallen more than one-third in size as compared with that of 1897.

* * * * *

During the present season and for some seasons past a minimum of 5 pounds has been in force, the skins taken ranging in weight all the way from 4 to 14½ pounds, bringing all classes of animals from yearlings to 4-year-olds into the quota.

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A killing was made at Halfway Point as usual on the return trip. It yielded 32 skins. Fifteen animals—young bulls—too large for killing and 9 shaved heads were exempted, but no small seals whatever. As the end of the killing season approaches it is plain that no seal is really too small to be killed. Skins of less than 5 pounds weight are taken and also skins of 8 and 9 pounds. These latter are plainly animals which escaped the killing of last year because their heads were shaved. Otherwise it does not seem clear how they did escape. (See pp. 184, 185, 187, 188, hearing No. 1, 1914.)

The committee further finds that the said Charles Nagel, disregarding the Clark report, and substituting by printing, November, 1909, another report, which denied Mr. Clark's findings of fact, and all former notices in writing of the illegal killing of seals on the islands by the lessees, received on May 9, 1910, from Henry W. Elliott the following letter:

LAKEWOOD, OHIO, *May 9, 1910.*

HON. CHARLES NAGEL,
Secretary Commerce and Labor.

DEAR SIR: The reason why a new and competent audit of the seal-island books must be made in your department, and why it is demanded imperatively for the public good, is as follows, briefly stated:

I. The law has been openly violate on the killing grounds of the islands, and the terms of the lease ignored by the lessees thereof at frequent intervals, and repeatedly, from July 17, 1890, up to the close of the season of 1909. This violation of the law and the contract has been chiefly by the act of killing female and yearling male seals; said killings have not been in negligible numbers, but have run up into the tens of thousands of female and yearling male seals.

II. This illegal and improper killing has been ordered by the lessees, and falsely certified into your department as the taking of male seals according to law and the rules of your department.

III. The full and complete proof of this illegal killing as specified above exists on the islands and in the records of the sales of those skins. Any competent and honest auditor of those records will lay them open and so disclose the truth of those charges as made in items I and II.

Very truly, yours,

HENRY W. ELLIOTT.

The said Charles Nagel ignored this letter which is part of the record of the department, and was again notified to the same effect on May 24, 1910, by another letter from the said Henry W. Elliott, which is also part of the record of the department.

After receiving these warnings of the guilty conduct of the lessees in conjunction with the Government agents on the islands during the year 1909, the said Charles Nagel, in 1910, under authority of the Government, sent to the islands the same Government officials, who again killed young or yearling seals in violation of law in the same manner as was done in conjunction with the sealing company prior thereto in 1909. In that year, June and July, 1910, they killed 7,733 yearlings. (See pp. 642-645, hearing No. 2, and pp. 702-709, hearing No. 3.)

In the judgment of the committee half of that number were females.

In 1911, after said Charles Nagel was fully aware that the Committee on Expenditures in the Department of Commerce was investigating the conduct of the lessees and Government agents and the killing of seals on the Pribilof Islands, he again sent the same Government

agents to the islands. They killed 6,241 yearlings in violation of law and regulation in 1911. This occurred during the months of June and July, 1911.

In 1912 the said Charles Nagel sent the same guilty Government agents again to the islands, and 1,178 yearlings were killed out of the small total taken of 3,773 seals, in violation of law and regulation.

VIII. Your committee finds that a regulation as to the weight of skins is futile, for the reason that the skin of a yearling can be taken and sufficient blubber may be added by skinning to make it weigh as much as, and more than, that of a 2-year-old pelt which is properly skinned. The committee further finds that the records made by the agents of the Government in the Bureau of Fisheries during the lease of the sealing company and subsequent thereto were made by skin weight and not by skin measurement, as should have been done.

IX. Your committee find that Isaac Liebes and the late Herman Liebes were engaged in pelagic sealing at the time that the lease was obtained from the Government; that the late Darius O. Mills, of New York, was a member of the leasing company, as was the late Stephen B. Elkins, Senator from West Virginia; that Lloyd Tevis and Herman and Isaac Liebes were also incorporators and shareholders of the leasing company known as the North American Commercial Co., of San Francisco and New York. (See pp. 224, 225, 285, 290, hearing No. 1.)

The evidence is full and complete that said licensees had full knowledge of this guilty killing of yearling and female seals aforesaid; and did annually divide up and participate in the profits of said illegal killing of seals since 1891 to the end of their lease, May 1, 1910. (See pp. 305-307, 313-316, hearing No. 1, and p. 707, hearing No. 3.)

X. Your committee find in further evidence the proof that the Russian sealing records of 1800-1834 have been deliberately falsified by the report of Dr. David Starr Jordan on Fur Seal Investigations, Parts 1-4, 1898, being a report made to the Secretary of the Treasury, February 24, 1898.

The significance and design of this falsification of the Russian records of land killing from 1800 to 1834, whereby the herd on the Pribilof Islands was nearly reduced to complete extinction, and to its utter commercial ruin to the latter date, is apparent and self-confessed to the committee by Dr. Jordan's associate and secretary, George A. Clark, who, on February 23, 1913, testified as follows:

Mr. CLARK. The whole fur-seal difficulty at the present time turns on that. If the Russians killed only males, then you have a right to stop land killing, and to say that land killing had something to do with the present state of our herd. If the Russians killed females, then the crisis through which the herd passed in 1835 was due to killing of females just as the crisis through which the herd has passed in 1911 has been due to killing of the females by pelagic sealers on the high seas.

Mr. McGUIRE. This is one of the most material points that has been up. (See p. 551, hearing No. 2, 1914; House Committee on Expenditures in the Department of Commerce.)

The testimony and documents produced to the committee show beyond dispute or a shadow of doubt that Dr. Jordan used a false translation of the Russian record of the killing, which enabled him to untruthfully assert that "the Russians killed males and females alike" on the rookeries of the Pribilof Islands from 1800 to 1834, thus destroying the herd and compelling that 10 years' close time which was ordered for the herd by the R. A. Co., from 1834 to 1844,

before commercial killing was again resumed. (See pp. 183-186, hearing No. 1; pp. 671-678, hearing No. 3.)

That Dr. David Starr Jordan should have made an elaborate report to the Secretary of the Treasury in 1898, wholly based upon a deliberate and studied falsification of the Russian sealing records of 1800-1834, is proven by the official records of the Proceedings of the Tribunal of Arbitration, Volumes VII, pages 13-14, 152-153, and VIII, pages 305-323, and which proof is fully carried in the testimony given on pages 671-678, hearing No. 3.

That Dr. Jordan and his associates, who prepared this false-based report aforesaid, did so to shield and conceal the truth as to the ruinous work of the land killing by the lessees on the Pribilof Islands is beyond question, since the truth in the premises had it been told by Jordan in 1896 and 1898 would have compelled the immediate removal of the lessees from the islands and would have led to a betterment of the conditions involved at once.

Your committee, taking due note of all the testimony given and carefully reviewing the same, together with that relating to the certified records given it by the United States Bureau of Fisheries, of the London sales of fur-seal skins, which were secured as small pups and extra-small pups illegally on the Pribilof Islands by the lessees thereof in violation of the law and regulations of the Government, find that said lessees have taken since 1896 at least 128,000 such yearling fur-seal skins as were distinctly prohibited and denied to them by law and regulations, said illegal and ruinous killing being annually done by them from 1896 to the end of their lease, May 1, 1910. (See hearing No. 1, pp. 213-280, 1914.) The committee therefore recommends:

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

(2) That the Attorney General be requested to institute civil proceedings against Isaac Liebes and his associate lessees and legal representatives to recover such damages as he and his confederates did to the seal herd of Alaska from 1890 to 1910 and to proceed against such other persons who are and may be also implicated.

(3) That, with a view to carrying these recommendations into effect, the Clerk of the House be directed to forward to the Attorney General a certified copy of this report, together with a complete set of the official hearings held before and by this committee on this subject, with the request that the Attorney General proceed in the case as the law and evidence direct for the good of the public interests concerned.

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