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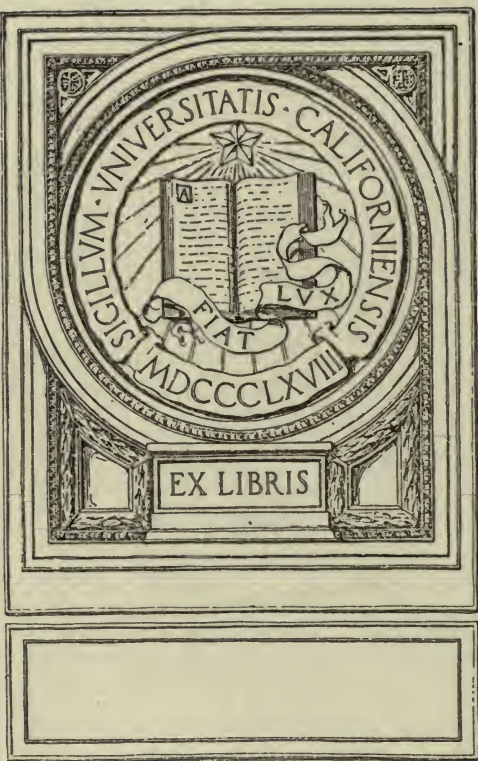
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A STATEMENT

SUBMITTED IN RE

THE FUR-SEAL HERD OF ALASKA

TO THE

HOUSE COMMITTEE ON EXPENDITURES IN
THE DEPARTMENT OF COMMERCE

BY

HENRY W. ELLIOTT

DECEMBER 15, 1913

TO SUPPLEMENT AND COMPLETE THE REPORT AND
EXHIBITS OF THE SPECIAL AGENTS OF THE HOUSE
COMMITTEE ON EXPENDITURES IN THE DEPART-
MENT OF COMMERCE UPON THE CONDITION OF THE
FUR-SEAL HERD OF ALASKA AND THE CONDUCT OF
THE PUBLIC BUSINESS ON THE PRIBILOF ISLANDS,
AS ORDERED BY THE COMMITTEE JUNE 20, 1913



WASHINGTON

1913

EXHIBIT 1

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THE BUREAU OF ALABAMA

DEPARTMENT OF AGRICULTURE
BUREAU OF PLANT INDUSTRY

PLANT INDUSTRY



THE BUREAU OF PLANT INDUSTRY
DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C.

NO. 1000
ALABAMA



LETTER OF TRANSMITTAL.

WASHINGTON, D. C., December 15, 1913.

HON. JOHN H. ROTHERMEL,
*Chairman Committee on Expenditures
In the Department of Commerce,
House of Representatives, Washington, D. C.*

DEAR SIR: I wish to submit for the information and the use of your committee a carefully prepared statement of the facts which bear upon the commercial ruin and near extinction of our fur-seal herd of Alaska.

I believe that a statement which shall authoritatively cover the causes of that destruction of this fine public property and the true relation which the lessees of the seal islands and certain sworn public officials and others have to that ruin of the same will be of value to your committee.

I therefore inclose this statement herewith, duly addressed to the committee and yourself.

Very respectfully, yours,

HENRY W. ELLIOTT.

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STATEMENT SUBMITTED IN RE THE FUR-SEAL HERD OF ALASKA.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: I desire to submit for your consideration a concise statement of facts, showing the history and condition of the fur-seal herd of Alaska, and the connection of the officers and stockholders of the North American Commercial Co., as lessees, and the officials of the United States Government and others therewith since 1890 to date.

It is first in order to show how and why the fur-seal herd of Alaska has been commercially destroyed and ruined as an asset of value to the Government ever since 1890; I will lead by giving you a brief but carefully studied statement of the reasons why this herd has been reduced so as to be at the verge of complete extinction when the act of August 24, 1912, prevented that end.

By order of this committee, a careful survey of the herd was made by Mr. Gallagher and myself last July. We have given you in our report of August 31 last an account in detail of its condition.

The condition of this herd as we found it last July on its breeding rookeries of St. Paul and St. George Islands, Bering Sea, Alaska, is one of complete commercial ruin and of near extinction of virile breeding male life.

Happily the act of August 24, 1912, prevents any repetition of the deadly killing of young male seals for the next five years on the islands, and makes it unnecessary to call upon Congress for any further legislation in the premises until the lapse of this close time thus provided for.

It now becomes in order to clearly show how and why this herd of 4,700,000 seals in 1874 has been so managed by our own agents as to bring it to the pitiful limit of less than 1,500 breeding bulls in 1913, as contrasted with 90,000 in 1874—with less than 30,000 non-breeding seals—yearlings and males, 2, 3, 4, 5, and up to 6 years old, against 1,250,000 of them in 1874, and less than 80,000 breeding cows as against 1,633,000 of them in 1874.

It is an easy exhibition of cause which I am to give you, as follows:

I. The fur seal by its law of life breeds but once a year, and then during one short period of that year only, viz, between July 4 and 25.

II. This makes its order of life entirely different from cattle, sheep, horses, and swine, with which it has been erroneously contrasted by ignorant or scheming "naturalists," who have at great length declared it to be similar, when in fact it is utterly and irreconcilably different.

III. That two weeks of the year (between July 4-25) in which all of the cows land, give birth to their young (a single pup), and are impregnated for another 12 months of gestation, is now admitted to be the "height of the season" by every observer who has had several seasons of personal study of the question on the rookeries. A few

seals are born as early as June 16-24—a few are born as late as August 1-5, annually—but these are the natural exceptions to the rule of their lives. The fact remains that the breeding of these seals is all begun and finished practically between July 4-20 annually—i. e., nine-tenths of it.

IV. This fact determined, then it becomes clear to the investigator that the breeding males which serve these breeding cows in that short period, annually, and only then, should be the very finest of the species, and—

(a) That they should not be overtaxed by having too many cows in their harems at that period aforesaid, and—

(b) That this natural selection ordered by their law of life, which enables only the finest of their kind to get into the rookeries as sires, should never be interfered with by man—

(c) Who himself can not make that selection, as he can of the best bulls, rams, stallions, and boars for his herds and flocks in domestication.

V. To make this natural selection of the very finest sires for the herd, these seals are born equal in number, males and females. The male becomes mature and begins to breed when 6 years old—never any earlier, and—

(a) The female becomes mature and receives her first impregnation as a “nubile” on the rookery when she is 2 years old. This—

(b) Brings the female in as a breeder and requiring service four years ahead of the male; and that—

(c) Seems to make the natural life of the male from 15 to 18 years and that of the female less, or from 10 to 12 years (reasoning by analogy).

VI. The breeding males arrive on the rookery grounds from three to six weeks in advance of the females; their habit is to locate thereon, at intervals of 7 to 10 feet apart; these locations being made by those bulls which can successfully fight for and hold their location when obtained, and—

(a) This fighting between the bulls, which is done by them three to six weeks before the cows come, eliminates all of the weaker or nerveless bulls before the breeding begins, and—

(b) So secures for the cows only the very finest sires for the race, without any injury to the females or the pups during the breeding season, since—

(c) This fighting for those harem stations aforesaid entirely subsides when the cows begin to haul out; and—

(d) This location of the breeding bulls in a normal and natural state brings to each bull about 15 or 20 cows to serve, on an average, throughout the whole rookery (a few bulls will have harems of 40 or 50 and a few will only have 4 or 5, perhaps, but the natural normal average in 1874 was about 20 cows to a bull on the big rookeries).

VII. Any disturbance or interference with this natural order and adjustment of these laws of breeding as set forth above will throw the same out of balance and effect, and thus cause the birth rate on the rookeries to become less and less annually, as long as this interference is continued, up to the point of complete extinction of the species, if it is not discontinued.

With the above statements of fact clearly in mind, when we turn to view the conditions of the Pribilof fur seal herd as it was plain to

see last July, we found that this herd consisted of 80,000 breeding cows; with only about 750 to 800 breeding bulls in real service on the rookeries; the reason for that loss of perfect balance was at once looked up. That one bull should have four times the strain devolved upon him as a sire, which the natural law of his life orders him to endure, is the cause of just concern for the future of this species if it is to continue; for that continuation means more and more strain added annually until the harems will show 200, 250, yes, 500 to 1,000 cows to the bull, as they have been shown to the greedy Russian agents in 1896; and, soon thereafter, their herd collapsed.

What was and is the cause of this practical extinction of the virile male life on the breeding grounds of the Pribilof Islands?

It is due wholly to the killing of all the young male seals that the lessees could annually find on the islands, first begun in 1896, in violation of regulations or the Carlisle rules of May 14, 1896, and then continued up to 1904, when the Hitchcock rules of May 1 were published, but which the lessees nullified completely by 1906, and continued to do so to the end of their lease, May 1, 1910.

A plain statement of the facts which were given to Mr. F. H. Hitchcock, chief clerk of the Department of Commerce and Labor, and upon which he ordered the "Hitchcock rules" of 1904, is of interest at this point, to wit: On January 8, 1904, I gave him the following analysis of the reason why he must step in at once and check that close killing of all the young male seals which his agents then were permitting the lessees to take or face the complete extinction of the breeding male life on the islands by 1907 or 1908:

On the seal island rookeries of St. Paul and St. George there were (I wrote thus)—

In 1872-1874 there were some 90,000 breeding bulls and 1,250,000 cows (primipares, multipares, and nubles), showing a birth rate of 1,125,000 pups.

In 1890 this herd was reduced to some 14,000 breeding bulls and about 420,000 cows (primipares, multipares, and nubles), showing a birth rate of 380,000 pups.

In 1896 this herd was still further reduced to some 5,000 bulls and about 144,000 cows (primipares, multipares, and nubles), showing a birth rate of 130,000 pups.

In 1903 this herd is reduced to some 2,200 bulls and about 75,000 cows (primipares, multipares, and nubles), showing a birth rate of 68,000 pups.

These 2,200 breeding bulls of 1903 are the survivors of those young males which were spared in 1890 and by the *modus vivendi* of 1891-1893, and thus allowed to grow up to the age of 6 years, and then take their places in 1894, 1895, and 1896 on the rookeries as 6 and 7 year old "seecatchie."

In 1894 and in 1895 a few hundred 4-year-olds may have escaped the club on the killing grounds and thus came in as 6-year-olds in 1896 and 1897.

But in 1896 no 3-year-old seal was passed over the killing grounds which was not killed in 1897 as a 4-year-old.

And in 1897 and 1898 no 3-year-old seal escaped the killer's club, except to die on the killing grounds as a 4-year-old in 1898 and 1899.

And in 1899 no 2-year-old seal was permitted to escape on these grounds unless to die as a 3-year-old in 1900.

And in 1900 no well-grown yearling seal was spared on these slaughter fields except to perish as a 2-year-old in 1901.

And in 1901 every yearling that came ashore was taken, and if a few escaped they met the club in 1902 sure, as 2-year-olds.

And in 1902 every young male seal that landed was taken, so that out of 22,199, 16,875 were "long" and average yearlings, or "5-pound" or "eyeplaster" skins.

In this clear light of the close killing of the young male life as given above, it will be observed that no young or fresh male blood has been permitted to mature and reach the breeding grounds since 1896.

The average life of a breeding bull is from 15 to 18 years; he does not keep his place longer for good and obvious reasons. The youngest bulls to-day upon that

breeding ground are not less than 12 years old—most of them older. They are now rapidly dying of old age—witness the following:

An official report in 1902 declares that these breeding bulls had decreased in number from 1901 to the end of 1902 at least 25 per cent.

An official report in 1903 again declares a decrease from 1902 to the end of this season (1903) of 17 per cent; 42 per cent since 1901.

The close of the season of 1904 will show at least 20 per cent reduction again; and in 1905 again 20 per cent at least, to entirely cease by 1907 unless steps are taken at once to stop the run on this life by land (and sea killing) clubbing in 1904 of the choice young male seals, yearlings and upward, to the end of the season of 1906—stop it entirely.

These facts of biological truth and improper violation of license to kill on the islands, as above, were bitterly disputed by Dr. David Starr Jordan and his "scientists," who, as his associates of the Jordan-Thompson Commission in 1896-1898, all united in denying them. But Mr. Hitchcock was impressed with the truth and sense of my statement, and issued the orders, or "Hitchcock rules," which checked up that close killing I complained of, May 1, 1904.

Then what happened? On the 26th of October, 1905, the very men who, in 1904, had united with Dr. Jordan and his "scientists," Stejneger, Lucas, and Townsend, confessed in an elaborate report that I was right—that these regulations of Hitchcock's order had been made just in time to save the breeding life of the rookeries from ruin at the hands of the lessees. Witness the following:

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, October 26, 1905.

SIR: I have the honor to submit the following report on the administration of affairs on the seal islands of Alaska during the year ended August, 1905:

* * * * *

There were so few bulls on certain rookeries on St. Paul Island this summer that, by reason of their scarcity, the harems were broken up before the usual period and bachelors were able to haul among the cows.

This occurred at a date when these young seals should have been excluded from the breeding grounds by vigilant bulls, and then forced to haul up, if they desired to haul at all, only on the bachelor's hauling ground.

This condition, in our opinion, is due to the scarcity of breeding males on the rookeries generally, and to their being so taxed in special localities with the service of the cows that they were unable or unwilling to drive out the bachelors. Had idle bulls been sufficiently numerous this condition would not have occurred.

* * * * *

A stop was made at Polovina on our way from Northeast Point on the 21st, and Messrs. Judge and Redpath and myself visited that rookery. We were not able to verify our assumption with regard to this rookery. By reason of the flatness of the approach to it, only the rearmost harems could be inspected, and those only with caution, lest the cows be stampeded. While we found six 2-year old bachelors in two small harems at the rear, we found also the harem formations to be much better preserved than at Hutchinson Hill. The bulls seemed active in preventing the escape of the cows and in rounding them up into their harems.

The fact, however, remains that only 3 idle bulls were found on this rookery at the height of the season. That the bulls present with cows were still able to maintain their harems on the 21st is more a tribute to their vitality than proof that enough adult males were present.

* * * * *

As I was taking photographs of the rookeries, I went ahead to make the necessary exposures before the formation of the cows should be disturbed by the counting of the harems. Mr. Judge followed with two natives and made the count. He stated that the bulls were practically docile and that no trouble was experienced in penetrating the mass of seals. He stated, also, that in his opinion the bulls were taxed to such an extent as to have virtually lost control of the breeding grounds, and that this

was the reason for their unusual amiability. He noted also that a great proportion of the supposed cows scattered about were bachelors.

* * * * *

The result of these regulations can not be felt before 1907, as has in effect been stated. During the interval which must elapse before that time a steady decrease in bulls will be encountered. The closest killing on land occurred during the seasons of 1902 and 1903. In the latter season the lessees released from the drives on St. Paul only 983 small seals. This practical annihilation of bachelors for this year will be felt on the rookeries four years thereafter, or in 1907.

* * * * *

LIMIT TO PROCREATIVE POWER OF BULLS.

Much has been said of the wonderful procreative power of bulls, and the theory has been advanced that a bull can serve without discomfort as many cows as he is able to get and hold.

Our experience this summer has convinced us that there is a limit to a bull's capacity and that the bulls on the rookeries at the height of the season had come nearer to reaching it than ever before to our knowledge. When it was possible on July 13 to penetrate the mass of breeding seals on the Reef, and on July 14 that on Zapadni, meeting with no more opposition than could be met successfully by two men armed with light poles, it must be believed that the bulls at these places were taxed to such a limit as to be shorn of most of their aggressiveness. On July 16 Mr. Judge with two men went through the mass under Hutchinson Hill on the plateau near the shore line, and experienced but little trouble. To have done this five years ago with the same mass would have been impossible.

* * * * *

The present scarcity of bulls is attributable directly to close killing on land, from which not enough bachelors were allowed to escape from the killing fields to maintain the requisite proportion of bulls.

For the last two years, however, regulations have been in force on the islands as the result of which a considerable number of bachelors are exempted from killing and allowed to escape. The animals thus saved are not old enough to appear upon the rookeries. It will be necessary for two more years to elapse before the animals may be counted upon. From that time, however, with the continuance of the regulations, it is believed that an ample supply of bulls will be present.

PRESENT REGULATIONS SHOULD BE CONTINUED.

Since it appears that a scarcity of bulls is threatened on the islands, and, in fact, has occurred actually on several of the rookery spaces on St. Paul, any change in the present regulations looking to a lessening of the restrictions placed on killing on the islands would be wholly unwise.

* * * * *

Respectfully,

W. I. LEMBKEY,
Agent in Charge Seal Islands.

The SECRETARY OF COMMERCE AND LABOR.

So much for Mr. Lembkey in 1905. Did he continue these regulations in 1906, which he says above are absolutely necessary to be so continued? No! I had the following to say to your committee July 30, 1912, to wit:

Now, what has become of that "6½-pound" 3-year-old limit by which he has sworn he "saved the 3-year-olds" in June and July, to be again "saved" by him as such in the autumn following by having this maximum limit of "6½ pounds" put on the taking of any "food skins"? Why, they are all killed.

Mr. MADDEN. How many people are there on the islands?
Mr. ELLIOTT. About 300; about 250 now. Why, those 3-year-olds so saved are all killed later in the season, and so killed as being under the limit of "8½ pounds"! He thus stupidly confesses to you, as above quoted, that he has nullified the very rules of the department that he was and is sworn to obey and enforce.

The Hitchcock rules ordered a "permanent mark" to be put upon these reserved seals, "and under no circumstances are they to be taken," etc. Why was it not done? The answer is easy. The lessees wanted those skins, and they manipulated Lembkey as above—they got them.

How was that manipulation by Lembkey, in turn, done, so as to get those "reserved" seals. I submit the following exposé of the deceit:

THE LESSEES SUBORN LEMBKEY AND THE BUREAU OF FISHERIES, AND THEN SECURE ALL OF THE "RESERVED" OR "SPARED" SEALS, IN VIOLATION OF THE SWORN STATEMENTS OF THE LATTER.

THE DEADLY PARALLEL.

Lembkey declares that a 6½-pound limit to food skins is ordered by the bureau, and that saves the "reserved" seals from subsequent killing by the lessees.

Mr. ELLIOTT. Now, Mr. Chairman, in the matter of the nullification of the Hitchcock rules, with this evidence duly considered by your committee of the illegal killing of those yearlings seals in 1910 (and that evidence of this guilt applies to every season's work on the Pribilof Islands ever since 1890 down to May 1, 1910), I desire to present the following testimony, which declares that ever since May 1, 1904, when the "Hitchcock rules" were first ordered by the Department of Commerce and Labor, those rules have been systematically and flagrantly violated by the agents of this department who were specially sworn to obey and enforce them.

On February 4, 1911, Chief Special Agent Lembkey was introduced by Secretary Charles Nagel to the United States Senate Committee on Conservation of National Resources, and during his examination by that committee he made the following statement, to wit, on page 14 (hearings on Senate bill 9959, February 4, 1911, Committee on Conservation of National Resources):

Dr. HORNADAY. How many "short 2-year-olds" were killed last year?

Mr. LEMBKEY. I do not understand your term. No seals under 2 years old, to my knowledge, were killed.

Dr. HORNADAY. What would be the age of the smallest yearlings taken?

Mr. LEMBKEY. Two-year-olds rarely, if any. I may state here, Dr. Hornaday, that a great difference of opinion exists between Mr. Elliott and the remaining people who understand this situation. There is a great gulf between their opinions, and it can never be reconciled on the question of the weights of skins of 2-year-olds.

Prof. ELLIOTT. I will present my information in a moment.

Dr. HORNADAY. The minimum weight is what?

Mr. LEMBKEY. Five pounds. During food drives made by the natives, when

But the official instructions of the bureau declare that that 6½-pound limit has been raised to 8½ pounds, and that Lembkey has killed all seals having skins under that limit.

[Instructions issued Mar. 9, 1906.]

SEC. 8. *Sizes of killable seals.*—No seals shall be killed having skin weighing less than 5 pounds nor more than 8½ pounds. Skins weighing more than 8½ pounds shall not be shipped from the islands, but shall be held there subject to such instructions as may be furnished you hereafter by the department. Skins weighing less than 5 pounds shall not be shipped from the islands, unless, in your judgment, the number thereof is so small as to justify the belief that they have been taken only through unavoidable accident, mistake, or error in judgment.

SEC. 10. *Seals for food.*—The number of seals to be killed by the natives for food for the fiscal year beginning July 1, 1906, shall not exceed 1,700 on the island of St. Paul and 500 on the island of St. George, subject to the same limitations and restrictions as apply to the killing of seals by the company for the quota. Care should be taken that no branded seals be killed in the drives for food.

[Instructions issued Apr. 15, 1907.]

Identical with instructions of 1906.

[Instructions issued Apr. 1, 1908.]

Identical with instructions of 1907.

[Instructions issued Mar. 27, 1909.]

SEC. 10. *Seals for food.*—Identical with instructions for 1906, 1907, and 1908, except in addition is added "The maximum weight for food skins shall not exceed 7 pounds."

[Instructions issued May 9, 1910.]

SEC. 11. *Seals for food.*—Driving for natives' food should not begin before October 20, and care should be exercised at that date that the skins of seals killed be no "stagey" to a degree that would impair the commercial value of the skin.

the seals killed are limited to 6½ pounds, in order to exclude all these 3-year-olds branded during the summer, you understand the natives do kill down a little more closely than our regulations allow, for the reason that they need the meat, and since they have to exclude all these fine, fat seals over 6½ pounds they go for the little fellows a little more closely.

The CHAIRMAN. How many seals were killed last year for food by the natives?

Mr. LEMBKEY. The limit was 2,500. Speaking offhand, I think about 2,300 were killed.

Q. Were any females killed?—A. No, sir; not to my knowledge, and, as I stated, I carefully interrogated these two gentlemen who had charge of this killing, and they stated that to their knowledge no female was killed.

Q. What class of males were killed by the natives for food?—A. Under 6½ pounds—

(Hearing No. 14, p. 907, July 25, 1912, H. Com. Exp. Dept. C. & L.)

Lembkey swears that he annually reserves from slaughter 1,000 3-year old male seals, before any killing is done, for the season in June.

Mr. LEMBKEY. Before any killing was done this summer, as has been the practice for some years past following the bureau's instructions, 1,000 of the choicest 3-year-olds appearing in the first drives of the season were reserved for future breeders and marked by shearing their heads, so as to render their subsequent recognition during the season an easy matter. These seals, thus marked, were immune from clubbing and were not killed. These 3-year-old seals the following year became 4-year-olds, the killing of which class in general is prohibited. Only after the 1,000 3-year-olds, known as the breeding reserve, is secured and marked does the killing of seals for skins begin. The killing is confined only to the 2 and 3-year-old immature males not required for purposes of reproduction. To obtain these, the breeding rookeries are not disturbed, but the bachelors hauling grounds on either island were driven every fifth or sixth day if seals were found thereon in sufficient numbers to justify driving. The killing season begins on July 1 and ends July 31, but one drive is always made subsequently on August 10 to furnish the natives with fresh meat during a portion of the so-called "stagey" season (when the seals shed their hair), which begins August 10 and ends October 20,

Drives for food should be made not oftener than the needs of the natives in that respect require. Drives for food on rookeries remote from the villages should not be made unless the carcasses actually are necessary for natives' food or for food for foxes, or for some other sound reason, and in any event, care should be taken to preserve for future use the carcasses of such seals as are not immediately disposed of. The number of seals to be killed for natives' food for the fiscal year beginning July 1, 1910, should not exceed 1,700 on St. Paul and 500 on St. George. No female seal or seal having a skin weighing under 5 pounds or more than 7 pounds shall be killed during the so-called "food-killing season." Care shall be taken that no reserved or marked bachelors be killed in the drives for food or at any other time.

[Instructions issued Mar. 31, 1911.]

Identical with instructions of 1910.

(Hearing No. 10, pp. 483-486, April, 1912, H. Com. Exp. Dept. C. & L.)

But Clark reports that these reserved seals of June are all killed as food seals in October following or in the following spring.

3. *The reserve of bachelors.*—Beginning with the season of 1904, there has been set aside each spring a special breeding reserve of 2,000 young males of 2 and 3 years of age. These animals have been marked by clipping the head with sheep shears, giving them a whitish mark readily distinguishing them to the clubbers. They are carefully exempted on the killing field and released.

This method of creating a breeding reserve seems open to considerable criticism, and has apparently been only moderately successful. The mark put upon the animal is a temporary one. The fur is replaced during the fall and winter, and the following spring the marked seals can not be recognized. The animals being 2 and 3 years of age are still killable the next season, the 2-year-olds in fact the second season. A new lot of 2,000 is clipped the next season, and these are carefully exempted, but, except in so far as animals of the previous season's marking are re-clipped, they have no protection the second season, and without doubt are killed.

If such is not the case, it is difficult to understand what becomes of them. The annual reservation from 1904 to 1907, both seasons included, would aggregate 8,000 animals. These animals would be of ages ranging from 8 to 5 years this season. The

and during which no killing is done.—
(*Hearing No. 9, pp. 362, 363, Feb. 29, 1912. House Com. Exp. Dept. Com. and Labor.*)

only animals present in 1909 which could have resulted from this reservation were the 513 idle and half bulls. Even if we assume that they have in the meantime replaced the entire stock of breeding bulls, this would account for only 1,900 of them, and the active bulls were for the most part of a distinctly older class.—(*Report G. A. Clark to Secretary Nagel, Sept. 30, 1909, p. 847, Appendix A, House Com. Exp. Dept. Com. and Labor, June 24, 1911.*)

Were these regulations continued? No. As soon as Mr. Hitchcock was promoted to the Postmaster General's office in 1905 a person named E. W. Sims, "solicitor" of the department, was put in charge of the fur-seal business, and then this same Mr. Lembkey was prevailed upon to nullify the "Hitchcock rules," so that in 1906 the lessees secured every young male seal that hauled out, over, and under 1 year of age and upward.

This close killing was continued on the islands up to the passage of the act of August 24, 1912, which stops it completely for five years.

And this close killing since 1896, when first ordered, has been done in violation of the regulations forbidding it, up to date, and is responsible for this wreck of the herd as we find it to-day.

What is the loss which the public Treasury has suffered since 1896 by reason of that violation of law and regulations then and since (i. e., reduced to a matter of dollars and cents)? I answer as follows:

I. This excessive close killing of the young males has so disturbed the balance of natural order and the system of the breeding rookeries that instead of having a herd of 1,000,000 seals on them to-day we have only 190,555.

II. Had it not been for the work of the pelagic sealer since 1896 to December 15, 1911, the harems on the islands to-day would be at the ratio of 250 to 500 cows (yes, even 1,000) to 1 bull, and that would have fairly destroyed the species by 1907-1909.

III. Therefore this killing so close and in violation of the regulations since 1896 to date has cost us the loss of over 120,000 seals taken in flagrant, criminal trespass by the lessees and in violation of their contract; but it has also cost us vastly more in the loss of the earning power of this herd, which should have been, and would have been, properly conserved had it not been for the greedy interference of these private interests when foreign governments were approached with negotiations for the elimination of pelagic sealing and all private interests in the killing of seals on land and in the sea.

IV. The sum total of loss actually suffered by the public Treasury through this combination between the lessees and our own agents and officials may be summed up fairly as follows, to wit:

To loss of 120,000 "yearlings," (or "eyeplaster" skins), at \$30.....	\$3, 600, 000
To loss of annual earnings of a fully restored herd (as it would have been had it not been for interference of lessees in 1890-91), of 4,700,000 seals from 1897 to 1913—16 years' output of 60,000 prime skins annually.....	48, 000, 000
Total loss.....	51, 600, 000

Or, in short, and to be nearly exact, we have lost \$3,600,000 by criminal trespass of lessees since 1896, and fully \$48,000,000 by improper interference of lessees and others with negotiations which, but for them, would have been successfully consummated in 1891-92, and the herd fully restored by 1897.

The following illustration of loss suffered on the rookeries and the hauling grounds of St. Paul Island holds good for the smaller sister island of St. George:

The acreage of the breeding rookeries on St. Paul Island in 1872-1874, when there were 1,500,000 breeding cows and 90,000 bulls thereon, was 144 acres.

The acreage of the hauling grounds of St. Paul Island in 1872-1874, when at least 1,500,000 yearlings, 2, 3, 4, 5, and 6 year old males were out on them intermittently during the season, was 3,200 acres.

In 1890 this acreage of the breeding rookeries was reduced to one-third of 1874, or to 46 acres.

In 1890 the hauling grounds of 1872-1874 were practically abandoned, because there were less than 100,000 yearlings, 2, 3, 4, 5, and 6 year old males out on them. The entire area then visited by the holluschickie was not more than one-tenth of the breeding grounds in 1890, or 5 acres.

In 1913 this acreage of the breeding seals had decreased from its form in 1890 at least five-sixths, or to 7½ acres.

In 1913 the hauling grounds of 1890 were about half the same area as then, with less than 40,000 yearlings, 2, 3, 4, 5, and 6 year old males, or to 3 acres.

The object in view which has stimulated this destruction, as above shown, is in turn exposed to view, as follows:

Statement of the net profits of the lessees of the seal islands of Alaska from 1870 to 1910, inclusive. From items gathered during the seasons of 1872-73, 1874, 1876, 1890, to date. July 29, 1910, by Henry W. Elliott.

PROFITS OF FIRST LESSEES, ALASKA COMMERCIAL CO., OF SAN FRANCISCO, CAL.

(First lease.)

1870-1890 (20 years): Total catch, 1,856,224 seals; of these when taken during the seasons of 1870-1878, 1884, and 1885, inclusive, the catches aggregated 969,374 seals; the average price per skin realized in London for them was nearly \$11.20 per skin, or.....	\$10, 746, 989. 80
The balance when taken during the seasons of 1879-1883 and 1886-1889, the catches aggregated 886,850 seals; the average price realized in London for them was nearly \$18.50 per skin, or.....	16, 407, 225. 00
Showing a gross sum total of.....	27, 153, 514. 80
From this gross sum total the cost of each skin at \$4.52½ as incurred by the lessees for tax, rental, and other charges incidental, must be subtracted, or the sum of.....	8, 399, 603. 60
Declaring a net profit of.....	18, 753, 911. 20

PROFITS OF THE UNITED STATES GOVERNMENT FROM THIS WORK OF THE LESSEES, AS ABOVE STATED.

Gross revenue derived from said catch of 1,856,224 seals, each skin paying a tax of \$3.17 (tax, rental, and bonus).....	\$5, 894, 230. 08
Less cost of supervision, patrol, and protection of the seal herds from 1889-1890, 21 years, inclusive, was an average of \$30,000, or in round numbers a sum total of.....	630, 000. 00
Declaring a net profit to the Government of.....	5, 264, 230. 08

PROFITS OF THE NORTH AMERICAN COMMERCIAL CO., OF SAN FRANCISCO.

(Second lease.)

1890-1910 (20 years): Total catch, 343,365 seals. With the exception of the seasons of 1894-1898, inclusive, the average price has been \$28 per skin; the highest average was in 1890, when it went to \$36.50 (due to all "prime skins"), and the lowest was in 1897, when it fell to \$15.50; the last sale, 1909, was \$30 and made up of "small pup" or "eyeplaster" skins chiefly.

This record of the second lease declares that its aggregated catch of 343,365 skins sold in London for.....	\$9, 614, 222. 00
From this gross sum total the cost of each skin at \$13.45 for tax, rental, and other incidental charges must be subtracted, or the sum of.....	4, 637, 646. 00
Declaring a net profit of.....	<u>4, 976, 574. 00</u>
Profit of the United States Government from this work of the lessees as stated above, derived from said catch of 343,365 seals, each skin paying a tax, rental, and bonus of \$10.22.....	3, 509, 190. 30
Less cost of patrol, supervision, and protection of this seal herd from 1889 to May 1, 1910, 20 years, at an average cost from start to finish of \$250,000 annually.....	5, 000, 000. 00
<u>Declaring a net loss of.....</u>	<u>1, 491, 809. 70</u>

This in brief is the loss fairly and conservatively stated, which the Public Treasury has suffered by the mismanagement of our fur-seal herd of Alaska since 1890-91 to date:

I have this to say anent that remarkable combination which has been made in Washington, on the seal islands, and elsewhere to loot and ruin this fine public property.

Whenever facts were courteously given to Secretary Nagel and his associates, these men either denounced the action as an "impertinence" and "meddlesome" or ignored them.

Of course this is the natural result of a partnership between the Government and private business interests. Such a partnership is a close corporation, into which no one else has a right to intrude.

To oppose the wishes of this combination, to question the facts upon which it relies, to suggest that any others, or the people have any rights that ought to be considered, even to seek for information outside this circle of the interests involved by the lease, all this was very "tiresome" and "impertinent."

The men on the inside, Liebes, Mills, Jordan, Elkins, Clark, Lembkey, Bowers, et al., had made up their minds that certain things must be true, and all they wanted was that "evidence" which "proved" their theory; they furnished the "evidence."

They did not want the truth as it actually exists, but the "truth" only in so far as it conformed to their preconceived ideas of what it should be.

With the foregoing statements carefully made, I now desire to submit the several items of fact which bear directly on the effect of killing yearling seals as has been done by the lessees and our own agents and others, upon the life of the fur-seal herd, and this showing I arrange as

EXHIBIT I.

In Exhibit III, following, are the itemized lists of more than 120,000 yearling seals which have been taken by the lessees since 1896, on the Pribilof Islands, in criminal trespass.

The sole object of prohibiting the killing of yearlings by law and regulations was and is to prevent the killing of female seals, since the sex of seals can not be told apart when as yearlings they haul out upon the islands. The yearling female is precisely of the same size, shape, and outward appearance and behavior, from every point of view, as is the male yearling. Unless she is caught and examined by our hand her sex can not be told truly by us or by any human being—only guessed wildly.

Therefore, as it is utterly impracticable to capture, examine, and separate the male and female yearlings on the hauling grounds or killing grounds, the killing of them as a class has been prohibited and wisely ordered, since this class is easily recognized on the slaughtering field.

In spite of this prohibition, when the numbers of 2 and 3 year old male seals as secured ran down year after year to zero, the lessees in order to get the full number allowed them of 2 and 3 year old seals, entered into a combination with the agents of the Government and slaughtered the yearlings by the tens of thousands; but falsified that work to the Government, declaring that no seals had been taken under 2 years of age since 1896. The details of this malfeasance and fraud on the part of the Government agents and the lessees are fully given in Exhibit III (pcsted).

In order that an adequate idea may be formed of what the loss to the herd is when female yearlings are killed (and half of the 120,000 yearlings taken since 1896 were females), the following table of increase which 4,500 slaughtered yearling cows in 1896 would have brought to the herd is given, to wit:

Table showing the natural increase of 4,500 yearling cows from 1896 to 1909 if they had been suffered to live undisturbed on the Pribilof rookeries.

Year.	Breeding cows.	Pups.	Yearling cows.	Yearling males.	Two-year-old males.	Three-year-old males.	Four-year-old males.	Remarks.
1896....	.....	.....	4,500	.....	.....	.....	.....
1897....	4,415	.....	.....	.....	.....	.....	.....
1898....	4,327	4,327	.....	.....	.....	.....	.....
1899....	4,241	4,241	1,031	1,031	.....	.....	.....
1900....	5,238	4,157	1,001	1,001	1,000	.....	.....
1901....	6,106	5,136	1,010	1,010	1,000	990	.....
1902....	6,997	5,984	1,250	1,250	1,000	1,000	840	
1903....	8,143	6,859	1,450	1,450	1,350	980	850	
1904....	9,477	7,981	1,700	1,700	1,650	1,294	800	
1905....	11,073	9,369	1,990	1,990	1,800	1,500	1,000	
1906....	12,846	10,851	2,342	2,342	2,250	1,760	1,200	
1907....	14,912	12,590	2,700	2,700	2,600	2,200	1,500	
1908....	17,324	14,614	3,000	3,000	2,850	2,600	2,000	
1909....	20,225	16,978	3,600	3,600	2,940	2,750	2,250	

The 5-year and 6-year old bulls are not carried in this table, which is to express the loss in value of commercial skins; all male skins over 4 years have no real commercial value.

The above exhibit declares that by 1909, or in 12 years' time from their initial or first impregnation, July, 1897, these 4,500 yearling cows of July, 1896, would have increased five fold—to 20,225 breeding adult females and to 16,978 pups born July, 1909, to 3,600 yearling cows of 1909 to 3,600 yearling bulls of 1909, to 2,940 2 year old bulls of 1909, to 2,750 3-year-old bulls of 1909, and to 2,250 4-year-old bulls of 1909, being the increase of 4,500 yearling cows to 52,343 seals in 12 years—from 1897 to 1909.

When Lembkey and the lessees killed yearlings, they knew that they were females after they had killed them and that they could not tell the sex until after they had killed them. In his report, 1904, page 55, Appendix A, Lembkey says: "One yearling was killed by me during the summer to determine the weight of that class of skins. The entire animal—a female * * * ." Again in his report he tells us that the yearling females are in the drives with the yearling males, and that he killed one to ascertain its weight and sex (p. 77, Appendix A), to wit: "On July 1, there were three yearling seals in the drives at North East Point. One of them, a typical specimen, was knocked down at my direction to ascertain the weight of the skin. It was found to be a female * * * ."

Dr. Jordan also knew that the yearlings hauled out males and females together, and that they could not be told apart as to sex by outward survey unless caught and handled. He is officially recorded as follows in that connection:

ST. PAULS ISLAND,
Saturday, August 1, 1896.

Dr. Jordan, assisted by the natives * * * drove up part of one and two year old seals from the Reef Rookery: they were examined with a view to determining whether or not yearling seals were to be found among these young bachelors. It is now conceded that yearling females do not haul out on the rookeries but among the holluschickie." (Official Journal Government Agent, St. Pauls Island, Alaska, p. 465.)

These 128,000 yearlings which were taken by "criminal trespass" between 1890-1909 were so taken in violation of law and regulations and by collusion with certain public agents, who had guilty knowledge of this work.

One-half of this number of yearlings by the natural law of their birth were female seals, which were to become nubile mother seals one year later, and which as such would each live from 10 to 12 years, bearing annually one pup during that period of their lives.

Therefore this killing by criminal trespass and in guilty knowledge of these 60,000 yearling cows has cost the Government the full value of that annual increment to the seal herd which those cow seals would have made since 1896, plus that increase in turn which their offspring would have made, and so on in turn annually up to the season of 1912.

Upon a basis of calculating that particular loss from this single killing of those 4,500 yearling cows in 1896, for example, thus suffered by the Public Treasury, we find that this loss from a systematic killing of yearlings which was begun by the lessees, in violation of the Carlisle rules of May 14, 1896, in June-July, 1896 (and continued by them up to the end of their lease in 1909), to be fairly stated as follows:

We start with 4,500 yearling cows which were killed in 1896; in 1897, if not so killed, they would have returned less 2 per cent of that number from natural death rate, or as 4,415 two-year-old cows; they go directly to the breeding grounds and are there impregnated for the first time as "nubiles."

In 1898 they return again as 3-year-old cows, or "primipares," less 2 per cent of their number from natural death rate, or 4,327 new cows, and each one bears one pup. They are again served and leave.

In 1899 they return again, less 2 per cent from natural death rate, or as 4,241 "multipares," and bear their pups—4,241 of them. In the meantime the 4,327 pups born in 1898 have returned to the hauling grounds as "yearlings," less 50 per cent of their number, or 2,163 of them.

In 1900 these cows return again, less 2 per cent natural death rate or 4,157 of them, and bear 4,157 pups; their number is now increased by the "nubiles," or their own daughters, which come out with them as 2-year-old cows from the yearlings of 1899, or 1,000 "nubiles," making 5,238 cows as breeders this year.

In 1901 these cows return exactly as in 1900, bear their pups, and are again increased in numbers by the "nubiles," or "yearlings," of 1900, making 6,106 cows as breeders this year; in the meantime the 4,327 pups born in 1898 have returned, less 50 per cent of their number in 1899, as 2,163 "yearlings," and in 1900 these "yearlings" have returned, less 2 per cent of their number from natural death rate, as 2-year-olds; one-half of them being females are "nubiles" (1,030 of them), and have gone upon the breeding grounds, never to be on the hauling grounds again, with the young males.

The foregoing table, showing the annual increase of those 4,500 yearling cows if not disturbed by man on the islands and in the sea, declares the fact that from 1896 to 1909 that that single killing of 4,500 yearling cows in 1896, in violation of the Carlisle rules, actually caused the loss of 20,225 adult female seals and 20,000 2-year-old male seals from the herd's total life.

Upon this basis of fact, in calculating the actual loss to the Public Treasury from the effect of taking 60,000 yearling cows from the Pribilof Island seal herd between 1890-1909, in criminal trespass by the lessees, it appears that—

I. That that killing of 60,000 yearling cows has had the full effect of taking 200,000 choice 2-year-old male seals from the Pribilof herd between 1890-1909, and it has also destroyed 200,225 adult breeding cow seals, or, summed up—

II. A property loss of 400,000 seals; the value of their skins is not less than \$20,000,000, to say nothing about the loss of the annual earning capacity. Then Elliott having charged the killing of these young yearling seals, males and females alike, Lembkey declared that it could not be so, since all the killing was done under his direction by the natives, who never made any mistake about the age of seals when they were killing them. Lembkey testified, January 25, 1907, to the Ways and Means Committee (MS. Notes, Hearing on Fur Seals, p. 58):

Mr. LEMBKEY. I may say, Mr. Chairman, that the clubbers on the islands are expert in their business and they can determine the weight of a skin on a live seal to within a fraction of a pound.

Mr. GROSVENOR. That's all I wanted to know.

Mr. LEMBKEY. They also know the age of a seal from his appearance.

The seal island natives, in a sworn statement made to the agents of the House Committee on Expenditures in the Department of Commerce, on St. Pauls Island, July 24, 1913, declared that they not only knew seals by ages, but that when they killed them they knew

it then, and that in 1896 they first began to kill yearling seals for the lessees under the orders of the lessees and the Government agents. (See Exhibit D, Report Special Agents, House Committee on Expenditures in the Department of Commerce, Aug. 31, 1913.)

The following proof is submitted that the pups are born equal in number as to sex, and that brings them as "yearlings" onto the islands males and females alike entirely as to numbers, outward shape, coats, size, and weights, as seen when driven and killed:

COMMITTEE ON EXPENDITURES IN THE
DEPARTMENT OF COMMERCE AND LABOR,
Friday, June 2, 1911.

The committee this day met, Hon. John H. Rothermel (chairman) presiding.

Mr. ELLIOTT. Now, Mr. Chairman, how do we know that yearlings are females and males equal in sex? How do we know, when we kill yearlings, that we are apt to kill as many females as males without examining them? How do we prove it? I prove it in this way first, and it has been affirmed even by this "advisory board." I said in 1881, in my official monograph, that from my calculations, in round numbers, a million pups are born every year on these islands.

Mr. McGUIRE. When was this?

Mr. ELLIOTT. In 1874 that I prepared it, but it was published officially in 1881. They have been carefully elaborated by the Government. That a million pups are born every year on these islands, and of this million one-half are males. How did I know that? In November, 1872, I stood over a killing of these pups, which were then 4½ to 5 months old, which was allowed by the Treasury Department for "native's food" [and that has been allowed for some time by the Russians], and just before these pups were departing for the winter, and the solitude of winter was to come over the islands, there being no birds, or fish, or anything, the natives wanted some choice food to hang up, some meat, and as the pups are the sweetest and most toothsome seal meat, they naturally desired pup meat. So they killed in the autumn, under my eyes, several squads, altogether some 10,000 pups; but I tallied 9,000 pups between November 15 and November 25, 1872, at St. Pauls village, of which 4,800 were males. The "advisory board," represented by Mr. F. A. Lucas, in 1897, addressed me a note saying:

"DEAR MR. ELLIOTT: Can you give me the exact number of pups you counted for sex and the proportion of males and females? Looking over my own notes makes me wish to quote you exactly.

"F. A. LUCAS."

I sent him this memorandum:

[Memorandum for Lucas.]

"Nine thousand pups driven November 15-25, 1872, 1,670 tallied by myself, 855 of which were males; the rest tallied by Church; average weight 39 pounds; some as high as 50 pounds and some as low as 28 pounds."

Then I received another note from Mr. Lucas, as follows:

"DEAR MR. ELLIOTT: Your figures on pups came in finely and make it certain that there is a small preponderance of males; our figures were, males, 388; females, 362—a total of 750, not far from yours.

"F. A. LUCAS."

That was a pretty close tally; you see I was right, and that I knew what I was about. I also penned this memorandum, which was made on that pup-weighing day:

"ST. PAUL ISLAND, BERING SEA,
"November 20, 1872.

"A pup, average weight of 4,800 fur-seal pups, as tallied November 20, 1872, determined on the killing grounds, average gross weight 39 pounds, thus: Clean skin, 2 pounds 11 ounces; all the blubber, 14 pounds; tendons, flesh, and flippers, 14 pounds and 5 ounces; bones and intestines, 7 pounds and 8 ounces—a total of 38 pounds and 8 ounces—"

Or a weight of practically 39 pounds for a pup that was 4½ to 5 months old. (Hearing No. 1, pp. 25, 26.)

EXHIBIT II. AN EXHIBIT OF THE FACTS WHICH SHOW US THE SOLE FIRST CAUSE OF THAT COMMERCIAL RUIN OF OUR FUR-SEAL HERD WHICH WE NOW OBSERVE ON THE PRIBILOF ISLANDS.

If it were not for these records elaborately and systematically made on those desolate hauling grounds, which I published in 1874 and 1890, it would be fairly impossible to get an adequate idea of what an immense herd of fur seals was in existence at the time and when we took possession of Alaska in 1867.

Then, when that idea is grasped, and it is made clear that ever since 1857, up to the hour of 1867 when the herd became ours, this wild life had remained at about a steady annual number of 4,700,000 seals of all classes, we ask, What have we done to reduce it, so by this year of 1913, all that we find surviving of it are only 190,555 seals of all classes?

Why did we lose this herd, when the Russians easily kept it from 1857 to 1867 in that fine form and number?

The answer is made easy in the light of the following facts:

I. It is a fact of indisputable record, that the Russians never killed or disturbed the female seals on the rookeries of St. Paul and St. George Island, from start to finish of their possession of them.

II. It is a fact of indisputable record, that from 1786-87 up to 1800 the Russians annually took from 120,000 to 60,000 young male, and yearling seals from these hauling grounds; and during all that time never took any seals at sea, nor were these seals taken at sea by any other people save the few annually secured by the northwest coast Indians.

III. It is a fact of indisputable record that the Russians, beginning in 1800 with an annual catch of 40,000 young male seals and yearlings, by 1817 had the greatest difficulty in getting that number then; and notes of protest against the killing on the islands were sent to Sitka by the caretaker, Kazean Shaishnikov, of St. Pauls Island, urging the governor of the R. A. Co. to rest the seals from killing for a term of years. No pelagic sealing was known to the Russians during this period of any kind.

IV. It is a fact of indisputable record that while the protest of Shaishnikov was noticed favorably by the governor, yet the directors of the R. A. Co. at St. Petersburg did not consent; that they renewed their orders to kill and sent one of their number, Gen. Yahnovsky, out from St. Petersburg in 1818 to the seal islands, charged with the business of examining into the cause of this loss of surplus male life on the islands.

V. It is a fact of indisputable record that Yahnovsky in 1820, after spending the entire season of 1819 on the Pribilof hauling grounds and rookeries, made a confidential, detailed report which declared that this immense decline in the life of the fur-seal herd was due entirely to the annual killing of all of the young male seals and

yearlings which the drivers of the company could secure; he urged a complete cessation of it for a term of years.

VI. It is a fact of indisputable record that this request of Gen. Yahnovsky was ignored by the directors, and the orders to get all of the young male seals and yearlings were annually renewed; and

VII. It is a fact of indisputable record that at the end of the season of 1834 instead of getting 20,000 holluschickie they secured with the "utmost exertion" only 12,000 "small" (yearling) seals; and that with the end of this season's work the herd was so reduced that the directors were obliged to order a 10 years' rest to all commercial killing on the islands, which went into effect in the summer of 1834, and was faithfully enforced; so that by 1844 commercial killing was resumed of a relatively small number, beginning with 10,000 to 13,000, increasing gradually annually up to 1857, when this herd yielded that year 62,000 "choice young male" seals, and the herd itself had regained its natural and normal maximum number, viz, from 4,500,000 to 5,000,000 seals of all classes.

VIII. It is a fact that during all this period of decline and restoration of the Russian herd from 1800 to 1857 there was nothing known of or hinted at which is now so well known as "pelagic sealing."

IX. It is a fact that when we took possession of the herd we leased them to a corporation, with a permit to take annually 100,000 young male seals, or 40,000 more every year than had been the average number taken by the Russian management since 1857.

X. It is a fact of indisputable record that by 1883 our lessees had great difficulty in getting their quota this year of 100,000 "prime" 3 and 4 year old skins; that they began to scour the hauling grounds for them and increased the rigor of that search and driving annually thereafter.

XI. It is a fact of indisputable record that up to this time of first difficulty since 1870 of getting annually 100,000 fine young male seals no pelagic sealing of the slightest consequence was in operation. Only six or seven small vessels, busy for a few weeks in the year off the Straits of Fuca and west coast of Vancouver Island, had appeared in the sea up to the opening of the season of 1886.

1. Therefore in the light, as above clearly and fairly thrown by these records of past experience, we now know that the Pribilof herd was reduced to the very same commercial ruin by 1834 which we now find our herd reduced to in 1913.

2. And that this ruin of 1834, and again in 1913, was caused by the very same close killing annually of all the young male seals and yearlings that could be secured by the greedy Russian contractors and by our lessees.

3. And that the Russians to save and restore the herd were compelled to stop this excessive and improper killing in 1834 and suspend any commercial killing on the islands for 10 years thereafter, or up to 1844-1846.

4. And that the experiment of annually taking 100,000 choice, young male seals since 1870 up to 1890 by our lessees, as against the habit of taking 60,000 annually by the Russian lessees, was a bad one; and that this number of 100,000 "surplus male seals" was an excessive and destructive killing, which has led to a complete elimination of the breeding male life of the herd, as we see it to day, and which policy if continued will surely exterminate the species itself.

I now reach in due order a very serious question which involves the intelligence and the honor of Dr. David Starr Jordan, who, as the chairman of the commission of 1896-7, visited the seal islands and reported to the United States Government upon the condition of this life.

In this report Dr. Jordan has deliberately falsified the authentic Russian records, which declared to him as they declare to us the fact that female seals were never killed by the Russian authorities on the seal islands of Alaska—never from start to finish of their régime.

DR. JORDAN DELIBERATELY FALSIFIES THE RUSSIAN RECORD IN RE
NOT KILLING FEMALE SEALS.

Dr. Jordan had full knowledge of the fact that the Russian killing of seals from the time the old Russian-American Co. took charge of the Pribilof herd in 1800, up to the day we received it from them in 1867, never permitted the killing of female seals. He, with that full knowledge in his possession, after holding it for nearly two years, has the following untruthful statement to finally report under date of February 24, 1898, relative to the conduct of this work of killing seals by the Russian management of the herd, to wit:

On page 25, Fur Seal Investigations, Part 1, 1898, under head of "The company's management," he says:

At once, upon assuming control of the islands, the Russian-American Co. put a stop to the ruthless slaughter which threatened the fur-seal herds with destruction * * *. They still continued to kill males and females alike. The injury to the herd naturally continued * * *.

That Dr. Jordan could make such a statement in distinct denial of the only authority which he has used and knows, is hard to believe, when on page 222 following, of this same report above cited, part 3, appears the following translation of Bishop Veniaminov's account of this killing, which was originally published in St. Petersburg, 1839, by Von Baer, to wit:

The taking of fur seals commences in the latter days of September * * *. The sickatchie (bulls) and old females (i. e., 2 years and older) having been removed, the others are divided into small squads, and are carefully driven to the place where they are to be killed, sometimes more than 10 versts distance * * *. When brought to the killing grounds, they are rested for an hour or more, according to circumstances, and then killed with a club * * *. Of those 1 year old, the males are separated from the females, and killed; the latter are driven carefully back to the beach.

Here is the explicit clear-cut statement made by Veniaminov, who, writing in 1825, after a season spent on St. Paul Island, denies Dr. Jordan's assertion that the Russians killed male and female seals alike, and that that killing of females destroyed the herd.

And still worse for Dr. Jordan, this translation quoted was made by Leonhard Stejneger, one of Dr. Jordan's own associates on the seal islands in 1896-97.

There is but one conclusion for any fair mind in the premises. That the Russians did not kill the female seals is positively stated by the only authority who has been invoked by Dr. Jordan in the premises, and who has been translated at length in Dr. Jordan's final report, and correctly translated, as above cited.

In this connection it is also passing strange that Dr. Jordan should have gone out of his way to misquote another authority who has explicitly denied the killing of female seals by the Russians. On page 25 Jordan's own statement is:

In 1820 Yanovsky, an agent of the imperial Government, after an inspection of the fur-seal rookeries, called attention to the practice of killing the young animals and leaving only the adults as breeders. He writes: "If any of the young breeders are not killed by autumn they are sure to be killed in the following spring."

Unfortunately for Dr. Jordan, he has not quoted Yanovsky correctly. He has deliberately suppressed the fact as stated by this Russian agent, and put another and entirely different statement in his mouth. Witness the following correct quotation of Yanovsky:

In his report No. 41, of the 25th February, 1820, Mr. Yanovsky in giving an account of his inspection of the operations on the islands of St. Paul and St. George, observes that every year the young bachelor seals are killed and that only the cows, seekatchie, and half siekatch are left to propagate the species. It follows that only the old seals are left, while if any of the bachelors are left alive in the autumn they are sure to be killed the next spring. The consequence is the number of seals obtained diminishes every year, and it is certain that the species will in time become extinct. (Appendix to case of United States Fur Seal Arbitration: Letter No. 6; p. 58, Mar. 15, 1821.)

Think of this deliberate, studied suppression of the fact that the Russians did not kill the female seals thus made by a "scientist" like Dr. Jordan, as above. Why does Dr. Jordan attempt to deceive his Government as to the real cause of that Russian decline of the herd between 1800-1837? Why, indeed, when the truth is so easily brought up to confound him?

He stands convicted out of his own hand of having falsified this record of Russian killing so as to justify the shame and ruin of that work of our own lessees, who are thus shielded by him in his official report to our Government dated February 24, 1898, and published by the Secretary of the Treasury in January, 1898, under title of "Fur Seal Investigations," parts 1, 2, 3, and 4, 1898.

Why does Dr. Jordan substitute the word "breeders" for Yanovsky's word "bachelors" in his quotation from that Russian agent? Because a "breeder" must be either a male or a female seal and "breeders" must be both male and female seals—the very idea that Yanovsky clearly denies—the idea of killing female seals. He denies it clearly by saying that the "young bachelors" are killed, and they only.

This substitution of "breeders" for "bachelors" by Jordan is a guilty attempt to conceal the truth as told by Yanovsky, and plainly told by that Russian.

At this point, and with special regard to the killing of yearling seals, Dr. Jordan, in 1909, when the charges were being put up to him that those young seals were being taken in violation of law and to the injury of the herd, made no denial himself, but urged Secretary Nagel to send his own associate and assistant, George A. Clark, up to islands to investigate and report upon the charges, etc. (See Appendix A, pp. 815, 816; June 24, 1911, House Com. Exp. Dept. Com. and Labor.)

In this connection I now ask the committee to observe the following record of that report and its result, to wit:

On April 26, 1909, Henry W. Elliott addressed a detailed letter of specific charges to Secretary Charles Nagel, declaring that the agents of the Government, in collusion with the lessees, were killing yearling seals in open, flagrant violation of the law and regulations.

Mr. Nagel made no answer to Mr. Elliott, but on May 7, 1909, he selected and appointed George A. Clark as an agent of the department to proceed to and investigate these charges on the seal islands of Alaska (said Clark being urged for this work by Dr. Jordan).

On September 30, 1909, Clark filed an elaborate report and confirmed Elliott's charges in re killing yearlings without any qualification, thus; and I contrast it with that of his associate, Lembkey, up there in 1909, who denies the same, to wit:

LEMBKEY, UNDER OATH, DECLARES THAT HE DOES NOT KILL YEARLING SEALS— AND NEVER HAS.

COMMITTEE ON EXPENDITURES
IN THE DEPARTMENT OF COM-
MERCE AND LABOR, HOUSE OF
REPRESENTATIVES,
*Washington, D. C., Thursday,
February 29, 1912.*

The committee met at 11 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

Testimony of Walter I. Lembkey, agent Alaska Seal Fisheries, Bureau of Fisheries, Department of Commerce and Labor.

Mr. LEMBKEY. Our killing is confined to 2 and 3 year old males exclusively. The seals which they desire to kill are dispatched at once by means of a blow on the top of the head with a heavy club, and the seal struck is rendered unconscious immediately, if not killed outright.

Briefly, Mr. Elliott has accused those charged with the management of the seal fisheries with malfeasance in office in that—

1. They have allowed the killing of thousands of yearling seals.

Mr. MCGILICUDDY. What do you call a yearling seal? Do you mean a seal that is 12 months old and no more?

Mr. LEMBKEY. A yearling seal, in the island nomenclature, is a seal which has returned to the islands from its first migration.

Mr. MCGILICUDDY. It may be more than 12 months old then?

Mr. LEMBKEY. It may be more, it may be a trifle less.

Mr. MCGILICUDDY. How much more than 12 months could it be?

Mr. LEMBKEY. It could not be but a little more, because all these seals are born during a period of three weeks, generally speaking, from the 25th of June to the 15th of July. Now, they return to the islands in a mass about the 25th of July.

Mr. MADDEN. If they were killed it would be a violation of law.

BUT CLARK, SPECIAL INVESTIGATOR OF SECRETARY NAGEL, REPORTS THE KILLING OF YEARLINGS BY LEMBKEY AND LESSEES!

The yearlings of both sexes for the season must number about 12,000 each.

This question of the proportion of the sexes surviving to killable and breeding age is a fundamental one. It could be settled in a very few seasons by such regulation of killing for the quota as would limit it to animals of 3 years of age and over, leaving the 2-year-olds untouched. The quota would then fall where it belongs, on the 3-year-olds, and give a close approximation of the survivals among the young males, which in turn could be applied to the young females. This was the method used in 1896-97, when a minimum of 6 pounds in weight of skins prevailed. 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.

The result of this manner of killing is that we have no clear idea from the quota of the number of younger animals belonging to the herd. From the irregularity of the movements of the yearlings of both sexes and the 2-year-old cows, they can not be counted or otherwise accurately estimated on the rookeries. (Report of George A. Clark to Secretary Charles Nagel, Sept. 30, 1909 (suppressed Nov. 17, 1909). See pp. 850-851, Appendix A, June 24, 1911, H. Com. Exp. Dept. of Com. & L.)

Mr. LEMBKEY. It would; if the regulations permitted it, however, it would be in accordance with existing law.

It should be remembered also that the law does not prohibit the killing of any male seal over 1 year or 12 months of age, although regulations of the department do prohibit the killing of anything less than 2 years old, or those seals which have returned to the islands from their second migration. (Hearing No. 9, pp. 360, 371, 372, Feb. 29-Mar. 1, 1912.)

We now come to the point in Secretary Nagel's agent's report where Mr. Nagel is specifically and clearly told that the lessees are taking yearling seals—are taking everything that comes into the drives—taking these little seals just as Elliott has charged they were taken on April 26, 1909, and taking them in open, flagrant violation of the law and regulations. The following description of that illegal and injurious slaughter is given to Mr. Nagel, September 30, 1909, and Mr. Secretary Nagel shut his eyes to it, and presumed to deny it to the Senate and House committees, February 4 and May 31, 1911, to wit:

July 23.—Attended the killing at Northeast Point and looked over the rookeries again after the drive. There are 5 harems to-day on the west side of Sea Lion Neck where only 3 were found on the 14th.

* * * * *

The killing at the point this morning yielded 475 skins. The total number of animals driven was 712. Of these, 136 were shaved heads; 48 were rejected because too big, 53 because too little. Out of the 712 animals, therefore, only 53, or 7½ per cent, are available for next year's quota.

With this may be compared a killing made at Northeast Point in 1897. The total number killed was 1,322. The full drive numbered 3,869. There were no shaved heads. Of the 2,547 exempted from killing, 500 were too large, 2,047 too small. The 2,047 small seals, or 55 per cent of the whole drive, were left for the quota of 1898. Contrast with this the 7½ per cent left for the quota of 1910.

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.

July 24.—A killing was made this morning from Reef and Lukanin. Tolstoi has ceased to yield any bachelors. The killing yielded 685 skins; 135 shaved heads were turned back. The total number of animals driven was 941. Of the remaining exemptions, 81 were too big for killing, 40 too little. In short, only slightly over 4 per cent of the animals driven were left for the quota of 1910. The actual percentage killed was 72. If we add the number of killable size marked for breeding reserve, 135, the percentage of killable seals in this drive rises to 87 per cent. In a drive made from these same rookeries on this date in 1897 the percentage of killable seals was 23. (Report of Geo. A. Clark, Sept. 30, 1909; Appendix A, pp. 887-888; House Committee on Expenditures in the Department of Commerce and Labor, June 24, 1911.)

Then again, this same agent of Secretary Nagel, and expert, as above cited, George A. Clark (also Dr. Jordan's assistant), says in a letter to W. T. Hornaday, dated August 26, 1911, that the lessees killed yearlings in 1909, and "defends" the act. He sends a copy to the Hon. J. H. Rothermel, and asks that it be "brought to the attention of your committee," under date of August 28, 1911. In

it occur the following statements in re killing yearling seals (1909), to wit:

Aside from this I approved rather than objected to the close killing * * * in 1909. It was a wise business policy in that season and in the seasons immediately preceding and following to take every possible male on which the North American Commercial Co. would pay the tax of \$10, and it must not be forgotten that the lessees paid this tax on every animal taken by them whether yearling or 3-year-old.

I criticized the close killing of the season of 1909 on two specific grounds. First, that it is economically wasteful to kill at 2 or 1 year old an animal which at 3 will produce a larger and a better skin. Second, that the lapping of the quota over the 3-year-olds tended to obscure an important scientific fact in the life of the herd which ought to be solved, and which I had hoped to throw some light upon. I objected to the killing of the younger seals upon these grounds only, and recommended that the killing be confined to the age of 3 years.

This shows that the killing of yearlings which Secretary Nagel denies in his letter to Senator Wesley L. Jones, February 23, 1911, was well known to and stated to Nagel by his own special investigator, George A. Clark, who was sent by him in 1909 to report upon this killing, and who did so report under date of September 30, 1909; his report appears to have been suppressed by Bowers (with Nagel's consent), and as stated on pages 82-84, Report of Elliott and Gallagher, agents House Committee on Expenditures in the Department of Commerce (Aug. 31, 1913).

IN PROOF OF THE FACT THAT THE LAND KILLING BY THE LESSEES HAS BEEN INJURIOUS AND WITHOUT PROPER RESTRAINT, THE FOLLOWING RECORD IS MADE, TO WIT (BY SECRETARY NAGEL'S OWN SPECIAL AGENT, SEPT. 30, 1909):

In 1896, Dr. Jordan and his assistant, George A. Clark, made an elaborate denial of the charge that excessive killing or too close killing of the young male seals had injured and if continued would exterminate the herd. (Pp. 33-36, Report, 1896: Treasury Doc., 1913.) In this argument they united in saying:

In all these regards (i. e., as to killing seals) the interests of the lessees of the islands must be identical with those of the herd itself and therefore with those of the Government of the United States.

George A. Clark, sent up in 1909 by Secretary Charles Nagel, and at Dr. Jordan's urgent request, to make an investigation into the condition of the herd, after the effect of 13 years' killing by the lessees as licensed in 1896, by Dr. Jordan, has this to say, as against the above, anent the interests of the lessees. (Report, 1909: Appendix A, p. 854.)

The history of the killing field since 1900 strongly suggests the wisdom of reserving to the Government in the future more complete control of work of taking the quota. The interests of the lessees and those of the herd are by no means identical, and the latter are paramount.

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.

* * * * *

A diminished breeding reserve has therefore been possible. But we must consider a reversed condition of things, if pelagic sealing is to be done away with. The herd will then begin to grow. It will require a constantly increasing reserve of breeding

males, which must be saved from the killing fields. A leasing company will be just as eager to get all possible skins and will press the product of the hauling grounds, rising all too slowly, to its limit unless restrained.

* * * 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.

Opposed to this struggle of the lessees has been the counter struggle of the Government's representatives to rescue a breeding reserve. Fortunately it has been successful.

The yearlings of both sexes for the season must number about 12,000 each.

This question of the proportion of the sexes surviving to killable and breeding age is a fundamental one. * * * During the present season and for some seasons past a minimum of 5 pounds has been in force and 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.

The result of this manner of killing is that we have no clear idea from the quota of the number of younger animals belonging to the herd. From the irregularity of the movements of the yearlings of both sexes, and the 2-year-old cows, they can not be counted or otherwise accurately estimated on the rookeries. (*Report of the special investigation ordered by Charles Nagel, Secretary of Commerce and Labor; filed Sept. 30, 1909, by Geo. A. Clark, pp. 850-851, 866, Appendix A, June 24, 1911. House Com. Exp. Dept. Com. and Labor.*)

For this change in 1909, from serving the lessees in 1896, Clark's report was suppressed, and edited by the lessees' men, Bowers and Lembkey, thus, November 17, 1909:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF FISHERIES,
Washington, November 17, 1909.

Mr. W. I. LEMBKEY,
Bureau of Fisheries, Washington, D. C.

SIR: Assuming that you have read and carefully considered the fur-seal report recently made by Mr. George A. Clark, who visited the islands during the past summer, I desire that you prepare a statement of your views regarding the report, particularly with reference to such data and conclusions contained therein as do not agree with your understanding of the facts and conditions.

Kindly let me have this statement in form convenient for use at the conference of the advisory board next Tuesday.

Respectfully,

GEO. M. BOWERS,
Commissioner.

This baneful result of Dr. Jordan's work in 1896-97, which was to assert positively that no killing by the lessees had been at fault or was the cause of the decline of the fur-seal herd or would be, is thus squarely admitted by his own man, in 1909—this man, Geo. A. Clark.

Leading up to this killing without any restraint (as stated truly by Clark) in 1896, and continued to 1909, by the lessees, is the following inside light on the cause and warrant which permitted that

illegal work to be eagerly and energetically prosecuted by both lessees and agents of the Government concerned, to wit:

WASHINGTON, D. C., *September 25, 1900.*

It is understood in this year's catch there is a much larger number than usual of 2-year-olds; the officials are very anxious that the young males in the herd should be weeded out as closely as possible, and as has been stated. * * * The department would be glad if a way could be found to induce the lessees to kill a considerable number of the 5-year-old bulls. (Fur Trade Review: New York City, October, 1900, p. 513.)

This utterly absurd and untruthful statement being made to conceal the truth that during this very season of 1900, there were so few 2-year-olds and 3-year-olds, and still fewer 4-year-olds, with no 5-year-olds left, that the lessees had issued orders to get every yearling seal that hauled out, every one save the "runts" (i. e., the "Ex. Ex. Sm. Pups").

Then, to soberly and boldly come into the presence of the House committee, and swear that no yearlings had ever been killed, from May 31, 1911, until the truth had been forced out of them April 13, 1912, was the business of Secretary Charles Nagel and his entire staff of fur-seal officials and "experts."

PROOF OF GUILTY KNOWLEDGE OF UNLAWFUL TAKING OF YEARLING SEALSKINS, 1896-1912.

That Charles Nagel, Geo. M. Bowers, Barton W. Evermann, Dr. David Starr Jordan, Geo. A. Clark, and the entire fur-seal service under their control had full and authoritative knowledge of the real weights of one, two, three, four, five, and six year old sealskins when fresh removed and properly skinned for salt curing, is well proven by the following facts of official record in the Department of Commerce and Labor, when they prosecuted and directed the killing of fur seals on the Pribilof Islands during the seasons of 1909, 1910, 1911, 1912, and 1913, to wit:

I. On April 17, 1874, Congress passed an act, which was approved on the 22d following, entitled "An act to enable the Secretary of the Treasury to gather authentic information in regard to the condition of the fur-seal herd of Alaska, and for other purposes," etc.

II. In obedience to the order of this act the Secretary appointed and instructed a special agent charged with that duty; his report was rendered to the Secretary November 16 following, and the Secretary, in June, 1875, published it as the accepted and fully established authority on all questions regarding the fur-seal herd and the conduct of the public business on the seal islands of Alaska. This official publication is entitled "A Report Upon the Condition of Affairs in the Territory of Alaska: November 16, 1874. 8vo. pp. 277. Washington. Government Printing Office. 1875. By Henry W. Elliott, special agent Treasury Department."

This was printed, and bound in cloth boards, and distributed by the department to all of its customs agents on the Pacific coast and in Alaska, on the seal islands, and very generally to the customs agents of the department in Washington, D. C., New England, New York, and Baltimore.

III. On page 150 of this publication is the following table of the measurements and weights of fur seals, one, two, three, four, five, and six years old, and of their skins when removed from their bodies:

Table showing the weight, size, and growth of the fur seal (Callorhinus ursinus), from the pup to the adult, male and female.

Age.	Length.	Girth.	Gross weight of body.	Weight of skin.	Remarks.
	<i>Inches.</i>	<i>Inches.</i>	<i>Pounds.</i>	<i>Pounds.</i>	
1 week.....	12-14	10-10½	6-7½	1½	A male and female, being the only ones of the class handled, June 20, 1873.
6 months.....	24	25	39	3	A mean of 10 examples, males and females, alike in size, Nov. 28, 1872.
1 year.....	38	25	39	4½	A mean of 6 examples, males and females, alike in size, July 14, 1873.
2 years.....	45	30	58	5½	A mean of 30 examples, all males, July 24, 1873.
3 years.....	52	36	87	7	A mean of 32 examples, all males, July 24, 1873.
4 years.....	58	42	135	12	A mean of 10 examples, all males, July 24, 1873.
5 years.....	65	52	200	16	A mean of 5 examples, all males, July 24, 1873.
6 years.....	72	64	280	25	A mean of 3 examples, all males, July 24, 1873.
8 to 20 years.....	75-80	70-75	400-500	45-50	An estimate only, calculating on their weight when fat, and early in the season.

On May 31, 1911, Mr. Henry W. Elliott made the following sworn statement to the House Committee on Expenditures in the Department of Commerce and Labor (Hearing No. 1, pp. 12, 13, House Com. Exp. Dept. Com. & Labor), to wit (Secretary Nagel was present):

Mr. ELLIOTT. I want the committee to understand the part which was taken by the lessees in 1872, with the Treasury agents, of whom I was one, in fixing an official standard whereby we could recognize every seal officially reported to the Treasury Department as it was sold in London, because the London classifications were different from ours as to phraseology.

The London people knew nothing and still know nothing about the age of seals, and they cared nothing about it. They were interested in the size and the quality. They ascertained and formed their idea of the skin's value primarily by its measurement, and, secondly, by its weight. The weight would vary. Sometimes more salt and blubber are used, and sometimes less. But the measurements were reasonably steady and constant. They measure their sealskins. We weighed ours on the islands. To reconcile those differences, it became very important in 1872 to know exactly what we were doing on the islands, so that we would understand exactly what they were doing in London when they sold them. I want the committee to fix this in their minds, because the whole thing turns on this proposition. I said to the superintendent, "Why do you kill all those big seals? Do they ask you to kill all the big seals and let all these smaller seals go? Why don't you take them all?" He said, "They do not want them. They want those large seals. They call them 'midlings' and 'smalls,' etc." Then I said, "Can we not have some arrangement made whereby we can avoid this culling of the herd? Don't you see, Dr. McIntyre, in a short time, if this is kept up, that no good male seal will ever get past your firing line to go onto the breeding rookeries?" He said, "Oh, yes, Brother Elliott, but just look at them out there—millions of them. You do not need to worry about that."

Well, I admitted that there was no need to worry then, but I said to my associates: "Gentlemen, we have got to have some understanding when we officially report to our Government what the grades of these seals are which the lessees are killing, so we can trace the record of their work from the islands to London and back again. Let us get together now and form a complete agreement as to what constitutes the skin of a 'yearling' seal, the skin of a '2-year-old,' and a '3-year-old,' and a '4-year-old,' a '5-year-old,' and so on." We worked over that thing through the whole season of 1872. That was something that these men took hold of with a great deal of pleasure. We renewed this discussion, comparison, and study on the skin weights, ages, etc., of the seals in 1873. Mr. McIntyre went to London and got the weights and measurements of a set of skins, which he took over as samples, of 1, 2, 3, 4, and 5 year olds. He brought them back to us with the stamp on them as "small pups," and so on. So there was no doubt of what we were doing. Officially, we had no

business with the sale or nomenclature of the skins in London. So, therefore, we eliminated that from our report, and we spoke of the settled standard on the islands; that they killed "prime," or "short" skins or "7-pound" or "6-pound" skins, as the case might be. We never alluded to them as being "middlings" or "smalls." We prepared a table, which you will find on page 81 of Special Bulletin No. 176 of the United States Fish Commission. That is the official publication which was agreed upon by the four Treasury agents with whom I was associated, the seven agents of the lessees (who were very much interested, indeed, in what we agreed upon), and a special commissioner of the United States, Lieut. Commander Washburn Maynard, United States Navy, who was with me in 1874. In that table you will find that a "yearling" seal weighs $4\frac{1}{2}$ pounds.

Mr. TOWNSEND. You mean the pelt or hide?

Mr. ELLIOTT. Yes; with a small amount of blubber which is attached, varying all the way from a quarter of a pound to a pound, as the agent orders it "loaded."

In 1882 the elaborated and final notes of Mr. Elliott's work of 1874, published by the Department of the Treasury in 1875, were again republished by order of the Government in Volume VIII, Tenth Census, United States of America, and in Special Bulletin No. 176. The original table, as above, of 1874-75 publication is on page 46. Then on page 81 appears the elaboration of those grades of fur which belong to the 1, 2, 3, 4, 5, and 6 year old skins, as follows, to wit:

GRADATION OF THE FUR OF *CALLORHINUS URSINUS*.

The gradation of the fur of *Callorhinus* may, perhaps, be best presented in the following manner:

One-year-old male, well grown, at July 1 of every season: Fur fully developed as to uniform length and thickness and evenness of distribution; it is lighter in color and softer in texture than hereafter during the life of the animal; average weight of skin as removed by the sealers from the carcass, $4\frac{1}{2}$ pounds.

Two-year-old male, well grown, at June 1 of every season: Fur fully developed as to even length and thickness and uniformity of distribution; it has now attained the darker buff and fawn color, sometimes almost brown, which it retains throughout the rest of the life of the animal; it is slightly and perceptibly firmer and stiffer than it was last year, not being at all "fluffy" as in the yearling dress now; average weight of skin as taken from the body, $5\frac{1}{2}$ pounds.

Three-year-old male, well grown, at June 1 of every season: Fur fully developed as to even length, but a shade longer over the shoulders, where the incipient "wig" is forming; otherwise perfectly uniform in thickness and even distribution; this is the very best grade of pelt which the seal affords during its life; average weight of skin, as taken from the body, 7 pounds.

Four-year-old male, well grown, at June 1 of every season: Fur fully developed as to even length, except a decided advance in length and perceptible stiffness over the shoulders, in the "wig"; otherwise perfectly uniform in thickness and even distribution; this grade is almost as safe to take and as good as in the 3-year-old; average weight of skin, as removed, 12 pounds.

Five-year-old male, well grown, at May to June 1 of every season: Fur fully developed, but much longer and decidedly coarser in the "wig" region; otherwise uniform in thickness and distribution; the coarseness of the fur over the shoulders and disproportionate length thereon destroys that uniformity necessary for rating A1 in the market; in fact, it does not pay to take this skin; average weight, 16 pounds.

Six-year-old male, well grown, from May to June 1 of every season: Fur fully developed, still longer and stiffer in the "wig" region, with a slightly thinner distribution over the post-dorsal region, and shorter; this skin is never taken—it is profitless; average weight, 25 pounds.

Seven-year-old and upward male, from May to June 1 of every season: Fur fully developed, but very unevenly distributed, being relatively scant and short over the posterior dorsal region, while it is twice as long and very coarse in the covering to the shoulders especially and the neck and chest; skins are valueless to the fur trade; weight, 45 to 60 pounds.

Then follows, on page 168, same publication, the following recapitulation of the above-cited growth and weights of fur seals.

Table showing the relative growth, weight, etc., of the fur seals.

[Compiled from the field notes of the author, made upon the killing grounds of St. George and St. Paul.]

Growth of fair average example.	1 day old.	6 months old.	1 year old.	2 years old.	3 years old.
Length: ¹					
Callorhinus ursinus (male).....inches..	12-13	24	38	45	52
Callorhinus ursinus (female).....do....	12-13	24	37	42½	48
Girth immediately behind fore-flippers: ³					
Callorhinus ursinus (male).....do....	9-10½	25	25	30	36
Callorhinus ursinus (female).....do....	9-10	25	25	30	34
Weight (avoirdupois): ⁴					
Callorhinus ursinus (male).....pounds..	5- 7½	39	40	58	87
Callorhinus ursinus (female).....do....	5- 7	39	39	56	60

Growth of fair average example.	4 years old.	5 years old.	6 years old.	7 years old.	8 years old.
Length: ¹					
Callorhinus ursinus (male).....inches..	58	65	72	75-80	(?)
Callorhinus ursinus (female).....do....	50	(?)	.....	.....	.....
Girth immediately behind fore-flippers: ³					
Callorhinus ursinus (male).....do....	42	52'	64	70-80	80-84
Callorhinus ursinus (female).....do....	36	37	(?)	.....	.....
Weight (avoirdupois): ⁴					
Callorhinus ursinus (male).....pounds..	135	200	280-350	400-500	500-600
Callorhinus ursinus (female).....do....	62	75	(?)	.....	.....

¹ Direct from tip of nose to root of tail.² Ceases.³ Eight year old citation an estimate only.⁴ Seven and 8 year estimates are not based upon actual weights; an opinion merely.

NOTE.—All fur seals, from yearlings to puberty, are termed "bachelors," or "holluschickie," and all male fur seals from the age of 5 years on are termed ("virile") bulls, or "seacatchie." All female fur seals from 1 year and upward are termed "cows," or "matkamie" ("mothers"). All the young under yearlings are termed "pups," or "kotiche" ("little cats").

Since this publication by the Government of the above tables of fur seal skin weights in 1875 and 1882, there has been no other attempt made to do so. There has been no witness before the House committee who has been able to show that an error of any kind is published in those tables.

The Hitchcock rules of May 1, 1904, as well as the Carlisle rules of May 14, 1896, were based upon those records of the weights of fur-seal skins taken from seals 1, 2, 3, 4, and 5 years old.

The attempt made to deny the accuracy of these tables by Nagel's confederates, Bowers, Lembkey, Evermann, and Lucas, ended instantly when those men were put under oath. Bowers declared he did not know what a yearling skin weighed. Lembkey has admitted its weight was 4½ pounds. He testified as follows:

Mr. LEMBKEY. I have taken the weights on the island of all seal skins weighed there.

Mr. ELLIOTT. You have? I want to call your attention to this, and the attention of the committee. You say you have taken note of the weights?

Mr. LEMBKEY. I have testified before the committee that every skin taken on the islands except a few that inadvertently were omitted were weighed there.

Mr. ELLIOTT. What is the weight of a yearling fur seal skin?

Mr. LEMBKEY. I weighed very few yearling skins, but they would usually run up to 4 or 4½ pounds. (Hearing No. 9; p. 435, Apr. 13, 1912, H. Com. Exp. Dept. C. & L.)

No other member of the advisory board save Lembkey knew what a yearling seal skin weighed or measured, and all confessed their ignorance under oath to the committee. (See pp. 914-919; hearing No. 14, July 25, 1912, H. Com. Exp., Dept. C. & L.)

Therefore when Secretary Straus in 1906, 1907, and 1908, and Secretary Nagel were plainly and clearly advised of the fact that their agents and the seal contractors or lessees were busy in violating the regulations of the Government on the seal islands, and falsely certifying the illegal catch of yearling male and female seals into them as "the skins of male seals not under 2 years of age," it was their sworn duty to have investigated into that fraud at once.

They did not; they shirked the responsibility; first, as Mr. Straus did, and who threw it upon an advisory board of "scientists," who, in turn, shamefully failed to do their duty in the premises, and who also found that Secretary Nagel wanted them to shield those men who had been guilty of that criminal trespass upon the fur-seal herd of Alaska. Having found this spirit of Nagel, these scientists weakly and improperly allowed their names to be used by Nagel as his justification, or "high scientific" authority for continuing that fraudulent killing.

Observe the manner in which Charles Nagel uses these "scientists" as "experts" to justify his ruinous and illegal slaughter of the yearling male and female seals annually. When taxed with this crime, he says to Senator Dixon, Chairman Senate Committee on Conservation of National Resources:

The CHAIRMAN. You may proceed.

Mr. ELLIOTT. Here is something that will interest you, because politicians and lawyers have a regard for "scientists" that is really unduly exalted. Most scientists are not as wise as some people wiser than they are, seem to think they are. Here is a letter from Secretary Charles Nagel in answer to an inquiry by the Committee on Conservation of National Resources as to his authority for his work of killing fur seals on the Pribilof Islands in violation of law and rules, and who puts this killing as done squarely upon Jordan, Stejneger, Merriam, et al.:

(Copy.)

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, January 14, 1911.

MY DEAR SENATOR: I have your communication of the 12th instant inclosing Senate bill No. 9959 to amend an act entitled "An act to protect the seal fisheries of Alaska, and for other purposes."

The essential purpose of this bill I take to be a suspension of seal killing for a period of five years from and after the 1st day of May, 1911. Since the hearing before your committee last year I have had some occasion to consider this question with the result that the impressions then expressed have, if anything, been strengthened.

Under existing conditions I can not believe that the seal herds would be in any sense conserved by suspending the killing of male seals in the manner in which it is now being done. So long as pelagic sealing is continued there does not appear to me to be even room for discussion. I believe it can be demonstrated that the number of female seals killed by the pelagic sealers substantially equals the number of male seals killed by the Government. If that be true, one and perhaps the chief argument which has been advanced would seem to be without foundation.

However, if pelagic sealing were discontinued and all the female seals were absolutely protected, I still believe that it would be perfectly safe, and in a measure necessary, in so far as the conservation of the herd is concerned, to kill a certain percentage of male seals. Of course my personal judgment is without value. I am relying upon the advice of experts who have been appointed to inquire and report and who have given the department the benefit of their opinion.

I gather that a further ground has been assigned for the discontinuance of seal killing, namely, that such discontinuance would be received by foreign countries as proof of our disinterestedness, and that such a course would serve to promote the consummation of treaties to prohibit pelagic sealing. If this were so, I should, of course, advocate the discontinuance, but I have no intimation from the State Department that such a course on our part would have the slightest bearing upon pending

negotiations. I can not undertake to speak upon this phase of the question, but no doubt that information can be readily obtained from the State Department.

I am glad to say that the results of the first year's experience under the law enacted last year are now at hand. Compared with the amounts received under the contract system the showing is, I think, a very satisfactory one. At the same time I would not be understood as saying that a gain in the receipt of a few hundred thousand dollars ought to be conclusive in determining the Government's policy. On the contrary, I am of the opinion that the primary consideration to have in mind is one of conservation, namely, the preservation of the herds. If I could believe that the policy which the Government now pursues in any sense endangers the herds I should advocate a change. My recommendation with respect to the bill now pending is based upon the opinion that the Government is now killing only such male seals as may be regarded as surplus, and that the preservation of the herds is not in any degree affected by this policy.

If it is proposed to have a hearing upon this bill I respectfully ask that as much notice as possible be given, so that I may make sure to have present those representatives of the bureau and such members of the boards and commissions as are more especially conversant with the question.

Very sincerely, yours,

(Signed) CHARLES NAGEL.

HON. JOSEPH M. DIXON,
United States Senate.

(Hearing No. 14, pp. 914-918, July 25, 1912, H. Com. Exp. Dept. C. & L.)

What did "those representatives of the bureau and such members of the boards and commissions," when put under oath and duly examined, say?

Why, each and every one of them, save Lembkey, declared themselves totally ignorant of what the killing of a yearling seal meant; they did not know what its size or its skin weight was; they did not know what Bowers, Nagel, and Lembkey were doing.

But Lembkey knew—and the truth was extorted from this most unwilling and shifty and evasive witness under close, determined cross-examination—Nagel was killing and had been killing yearling seals, females and males alike, by thousands and tens of thousands in 1909-10; yes, until checked by the law of August 24, 1912, from further illegal and ruinous slaughter.

Further proof of the guilty knowledge of the Bureau of Fisheries and of the advisory board on fur-seal service of the real and proper weights of sealskins when correctly removed from the bodies of 1, 2, 3, 4, 5, and 6 year old seals, is given in the following letter written to the President of the United States by Dr. David Starr Jordan, chairman of said board.

LELAND STANFORD JUNIOR UNIVERSITY,
OFFICE OF THE PRESIDENT,
Stanford University, Cal., January 16, 1906.

HON. THEODORE ROOSEVELT,
The White House, Washington, D. C.

DEAR SIR: * * * If the memorandum referred to by Mr. Elliott as the Hitchcock rules of 1904 be enforced, as I suppose they have been, the matter will soon regulate itself. * * * I note that Mr. Elliott states with reference to the "Hitchcock rules" that "the Department of Commerce and Labor engaged to order them" at his instance. This may be true, but these rules were drawn up by myself in Mr. Hitchcock's office in 1904. They seemed to me to represent a fair conservatism, and it is gratifying to find that for once I was in agreement with Mr. Elliott in a matter involving executive procedure.

* * * * *

Very respectfully, yours,

DAVID STARR JORDAN,
Former Commissioner in Charge Fur Seal Investigations.

(Appendix A, p. 331, June 24, 1911, H. Com. Exp. Dept. C. & L.)

Here is the unqualified statement made by Dr. Jordan that he has fully agreed upon a minimum weight of "5½ pounds" for skins to be taken on the Pribilof Islands; that this order represents "a fair conservation," and he is gratified to find "that for once" he "was in agreement with Mr. Elliott" on this "matter involving executive procedure."

With that full knowledge and great satisfaction on his part, over the fact that "5½ pounds" was a minimum weight of a correctly skinned seal's pelt which could be safely and properly taken without injury to the herd, January 16, 1906, as above declared, why did this chief authority on March 9, 1906, immediately following, agree to the lowering of this minimum weight to "5 pounds" on that day? And that lowering down done by his fellow-citizen and neighbor, Victor Metcalf, Secretary of Commerce and Labor, who lived only a few miles away from Palo Alto, at Oakland, Cal.!

Why did he agree to it? And still more and worse for Dr. Jordan and Secretary Charles Nagel's agents, as well as for Nagel himself, on November 23, 1909, these men all united in a unanimous recommendation that this improper "5-pound" minimum for seal pelts be continued in a new lease for the islands to be made May 1, 1910!

The following sworn testimony proves it, to wit:

Mr. BOWERS. On November 23, 1909, there was a meeting of the advisory board with the fur-seal board and the Commissioner of Fisheries and Deputy Commissioner of Fisheries (Dr. Hugh M. Smith), at which were present also Mr. Chichester and Mr. George A. Clark. After mature deliberation these gentlemen unanimously agreed upon the following recommendations:

1. It is recommended that the agent in charge, fur-seal service, shall, under the direction of the Secretary of Commerce and Labor, have full power to limit or restrict the killing of fur seals and blue foxes on the Pribilof Islands to any extent necessary and that no specified quota be indicated in the lease.

2. It is recommended that, for the present, no fur-seal skin weighing more than 8½ pounds or less than 5 pounds shall be taken, and that not more than 95 per cent of the 3-year-old male seals be killed in any one year. (Hearing No. 2, p. 110, July 9, 1911, H. Com. Exp. Dept. C. & L.)

Here is the change of a "fair" and proper minimum weight of 5½ pounds to one of "5 pounds," improperly made, ordered so as to facilitate the "loading" of yearling 4½-pound skins into the 2-year-old class or 5½-pound skins.

In spite of all the protests made since 1906 against this trick of regulation continuing so as to permit an easier criminal trespass by the lessees upon the seal herd, yet in 1909, these men in charge who are public officials, all sworn to protect and conserve that fine public property on the seal islands of Alaska, actually combined with the lessees, on November 23, and sought to continue that public imposition in a new lease.

Charles Nagel, David Starr Jordan, George M. Bowers, George A. Clark, B. W. Evermann, W. I. Lembkey, Isaac Liebes, S. B. Elkins, and D. O. Mills all had then guilty knowledge of this trespass by them, as above cited, in the past, in the present, and for the future, when this meeting was held November 23, 1909, in the city of Washington, D. C., office of the United States Commission of Fisheries, and then adjourned to Charles Nagel's office in the Department of Commerce Building the same day.

The men who were present at this remarkable meeting and voted as a unit to renew that lease and public imposition were David Starr

Jordan, Leonhard Stejneger, Frederic A. Lucas, Edwin A. Sims, Charles H. Townsend, Barton Warren Evermann, Walter I. Lembkey, Millard C. Marsh, George M. Bowers, Hugh M. Smith, H. D. Chichester, and George A. Clark. (See the official record of that presence and vote, p. 814, Appendix A, H. Com. Exp. Dept. C. & L., June 24, 1911.)

Secretary Nagel, in his letter to Senator Dixon dated January 14, 1911, and before he issued his orders through Bowers and Lembkey to kill seals on the Pribilof Islands, 12,002 of them in June and July following, has this to say in justification of that order for this killing of 6,247 yearling seals, which followed his directions.

Remember he had the specific protest of April 26, 1909, and proof of its charge September 30, 1909, before him, against the work of his agents in 1909 and 1910—that work of killing female and male yearling seals in violation of the law, and of the regulations pledged to the Congress of the United States March 9, 1904 (the Hitchcock rules). With those protests and proof thereof in his hands, he stated to the Senate committee January 14, 1911:

Under existing conditions I can not believe that the seal herds would be in any sense conserved by suspending the killing of male seals in the manner in which it is now being done. So long as pelagic sealing is continued there does not appear to me to be even room for discussion. I believe it can be demonstrated that the number of female seals killed by the pelagic sealers substantially equals the number of male seals killed by the Government. If that the true, one and perhaps the chief argument which has been advanced would seem to be without foundation.

However, if pelagic sealing were discontinued and all the female seals were absolutely protected, I still believe that it would be perfectly safe, and in a measure necessary, in so far as the conservation of the herd is concerned, to kill a certain percentage of male seals. Of course my personal judgment is without value. I am relying upon the advice of experts who have been appointed to inquire and report, and who have given the department the benefit of their opinion.

Here he tells the committee that he believes in killing those small seals "in the manner in which it is being done."

Then he declares that while his "personal judgment is without value, I am relying upon the advice of experts who have been appointed to inquire and report, and who have given the department the benefit of their opinion."

When those "experts," Stejneger, Merriam, Townsend, Lucas, and Evermann came up before the House committee in April and May, 1912, each and every one of them declared themselves ignorant of what Nagel had done with regard to killing yearling seals. They did not know what a yearling sealskin was. (See Hearing No. 14, pp. 914-919, July 25, 1912, H. Com. Exp. Dept. C. & L.)

When Secretary Nagel in order to fortify himself against attack, called the "advisory board on fur seal service" into session at Washington, D. C., November 23, 1909, and got from that body of "experts" (Jordan, Lucas, Townsend, Evermann, Bowers, Hugh Smith, Stejneger, Clark, and Lembkey) the "unanimous recommendation" that he renew the seal lease and continue this improper killing of 95 per cent of the male life, it will be noticed that Dr. C. Hartt Merriam and Frank H. Hitchcock did not attend and join in that "unanimous" recommendation.

The reason why Dr. Merriam did not is perhaps best stated in his testimony on May 4, 1912, to the House committee. He was opposed to the killing of yearling seals under any circumstances, to wit:

Mr. McGUIRE. Then, in case anyone in the House of Representatives has used your name as a person who would be opposed to the killing on the islands they were wrong about your position?

Dr. MERRIAM. They were wrong. I have never taken any such position. I have always held the contrary. I have always stated, since the first time I went there, that conservative killing on the islands was a benefit to the herd and not an injury, but I should not allow the killing of yearlings under any circumstances, and I should not kill more than 75 per cent of the young on land at any one time. I would be sure to leave more than enough for possible contingencies. (Hearing No. 11, pp. 694-695, May 4, 1912, H. Com. Exp. Dept. C. & L.)

So it is very evident that Secretary Nagel did not take the advice of Dr. Merriam, and as for Mr. Hitchcock, his well-known opposition to this violation of the rules of the department—the Hitchcock rules of May 1, 1904, needs no further comment here.

Then why did Secretary Nagel persist in killing these yearling seals, males and females alike? Of 7,333 of them in 1910 and 6,247 of them in 1911?

Because there was nothing left that the agents could find to kill, and this continued improper killing would make the false reports of 1906, 1907, 1908, and 1909, which the lessees had written, "regular," and hide the sudden collapse in killing which would appear instantly if no yearlings were taken in 1910; also in 1911.

That is why he persisted in this criminal trespass—to prevent the sudden exposure of it by contrast between the unlawful killing of 1909 with a lawful killing in 1910; and again in 1911.

SAMPLE OF THE SCIENTIFIC "AUTHORITY" QUOTED BY SECRETARY CHARLES NAGEL, JAN. 14, 1911, AS HIS WARRANT FOR KILLING 7,733 YEARLINGS IN 1910.

The peculiar and particular "science" which those lawless lessees and their agents on the islands and in Washington had complete regard for in the persons of Dr. Jordan and his assistants, is well exhibited in Dr. Leonhard Stejneger, whose remarkably frank testimony follows.

Stejneger, strangely enough, has no knowledge of what the agents of the Bureau of Fisheries, Bowers, et al., have been doing as to illegal killing of yearling seals on the Pribilof Islands, season of 1910. And he had no official consultation with Bowers or Nagel about it, he swears.

Then, in the next breath, he declares that if the law did not prevent, he would kill yearlings. In other words, he would do exactly as Bowers and Nagel did do.

Dr. Stejneger is unfortunate in his "scientific" advice to those men when he says:

I hold that you can kill, in the months of June and July—that is the season practically when the killing is done—in the season you can kill all the males without any detriment to the herd. I will say all the usable skins, three years and less; that is my opinion, my deliberate opinion.

The CHAIRMAN. But I understood Prof. Elliott to ask you whether you advised Mr. Bowers?

Dr. STEJNEGER. I may have said that very thing.

The CHAIRMAN. Kill all the killable seals?

Mr. ELLIOTT. That is, all he can find.

Dr. STEJNEGER. With the limitation if in season. I undoubtedly advised such a thing, and should advise it now.

He actually goes to the following extreme limit of license to destroy, to wit:

INVESTIGATION OF FUR-SEAL INDUSTRY OF ALASKA.

COMMITTEE ON EXPENDITURES IN THE
DEPARTMENT OF COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,
Saturday, May 4, 1912.

The committee met at 10 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

Present: Messrs. Young, McGillicuddy, and McGuire.

STATEMENT OF LEONHARD STEJNEGER.

LEONHARD STEJNEGER, having been duly sworn, was examined, and testified as follows:¹

The CHAIRMAN. Do you know whether, of your own personal knowledge, seals have been killed that were too small or too young, under the act of Congress?

Dr. STEJNEGER. I do not know, because I have not been on the island since 1897—since 1896.

If I may be allowed to make a statement, since you ask whether I had any statement to make, the law is the law, and has to be lived up to; but whether seal is killed as 1-year old or when older could not affect the seal herd to any extent and could not hurt it at all; you might just as well kill 1-year olds or 2-year olds or 3-year olds. As a matter of fact, you could not kill as large a percentage of 1-year olds as of 2 or 3 year olds. The 1-year olds would be 2-year olds the next year, and then you would kill them anyhow. The Government would realize a little less money for the smaller skins. That would be the whole result.

The CHAIRMAN. Dr. Evermann, do you or anyone else wish to ask the doctor any questions?

Dr. EVERMANN. I have no questions.

The CHAIRMAN. Mr. Elliott, do you want to ask him any questions?

Mr. ELLIOTT. I have only a few questions to ask him. Dr. Stejnegger, what is the length of a yearling fur seal of the Alaskan herd?

Dr. STEJNEGER. I could not tell you.

Mr. ELLIOTT. Have you ever measured one of the Alaskan herd?

Dr. STEJNEGER. No.

Mr. ELLIOTT. You do not know anything about the length of a skin of a yearling seal as taken from the body?

Dr. STEJNEGER. Of a yearling seal? I do not know; I have never seen a yearling seal killed on the American islands.

Mr. ELLIOTT. Were you in consultation with Mr. Bowers when he ordered the killing of 12,920 seals on the seal islands in 1910?

Dr. STEJNEGER. Do you mean in personal special consultation with Mr. Bowers?

Mr. ELLIOTT. Did Mr. Bowers—

Dr. STEJNEGER. Not outside of what I have said in the board.

Mr. ELLIOTT. No, no. I asked you, did Mr. Bowers advise with you?

Dr. STEJNEGER. Personally?

Mr. ELLIOTT. Not when he issued his order to kill 12,920 seals in 1910?

Dr. STEJNEGER. I do not quite understand whether it was with me personally or as a member of the board.

Mr. ELLIOTT. Well, as a member of the board, do you remember any consultation with him about issuing those orders?

Dr. STEJNEGER. No; I do not remember.

¹ He makes a flat statement that if the law did not prevent, he would kill yearlings. This "scientist" has been loudly finding fault with the pelagic sealers because they kill female seals, yet he, too, would kill female seals, for half of the yearlings are females. This is "science" with a vengeance, and just the kind that Nagel, Bowers, Lembkey, and Jordan appreciate as the tools of the lessees—Mills, Elkins, and Lieber.
H. W. E.

Mr. ELLIOTT. Then, Dr. Stejneger, I have no further questions to ask you, except this: I would like to ask about the Fur Trade Review, issue of September, 1900. On pages 456, 457, and 458 you are cited as the authority for the following [reading]:

“STEJNEGER’S ‘AUTHORITY’ FOR EXCESSIVE LAND KILLING.

“WASHINGTON, *May 25, 1901.*

“The best authorities here (Stejneger and the Treasury officials) agree that there is no necessity for a limit to the killing of the lessees on the islands for two reasons: First, because it is conceded that the welfare of the present herd requires the taking of as many killable males per annum as can be found; and, second, because * * * the proposed agreement between the United States and Great Britain would leave this Government the sole proprietor of the sealing industry in the eastern half of the Pacific Ocean and Bering Sea.” (Fur Trade Review, June, 1901, pp. 285-286.)

Do you still think it is the best thing to do to kill everything that can be found up there?

Dr. STEJNEGER. It depends upon the way—the exact words—in which you put it.

Mr. ELLIOTT. Here is the sentiment; is this your idea?—

“That there is no necessity to the limit of the killing of the lessees on the islands * * * because it is conceded that the welfare of the present herd requires the taking of as many killable males per annum as can be found.”

Dr. STEJNEGER. The point is “as can be found.” If you eliminate that, I can well conceive that I had advised as stated.

Mr. ELLIOTT. I am willing. You can eliminate everything and anything you have done. I do not object. But I want to know if you gave him that impression, that he could go up and kill everything he could find and do no harm.

Dr. STEJNEGER. Not *everything* and “do no harm.”

Mr. ELLIOTT. I mean “killable seals.”

Dr. STEJNEGER. Killable seals?

Mr. ELLIOTT. I mean killable seals—everything he could find.

Dr. STEJNEGER. That must be within the proper season for the killing.

Mr. ELLIOTT. 1910.

Dr. STEJNEGER. You want to pin me down to—

Mr. ELLIOTT. You are a scientist, and you can not be pinned down.

The CHAIRMAN. He is referring to the statement.

Dr. STEJNEGER. I have nothing to do with that. It is hearsay of a report of something; I have nothing to do with that.

Mr. ELLIOTT. I ask you if you hold those views?

Dr. STEJNEGER. Let me state what I hold and what I don't hold, in my own words: I hold that you can kill, in the months of June and July—that is the season practically when the killing is done—in the season you can kill all the males without any detriment to the herd. I will say all the usable skins, three years and less; that is my opinion, my deliberate opinion.

The CHAIRMAN. But I understood Prof. Elliott to ask you whether you advised Mr. Bowers.

Dr. STEJNEGER. I may have said that very thing.

The CHAIRMAN. Kill all the killable seals?

Mr. ELLIOTT. That is, all he can find.

Dr. STEJNEGER. With the limitation if in season. I undoubtedly advised such a thing, and should advise it now.

The CHAIRMAN. Do you think all the killable seals should be taken for the good of the herd?

Dr. STEJNEGER. All the killable seals that you can take there at that time. The fact is that you can not take all of the killable seals.

The CHAIRMAN. It seems to me—I am only trying to clear it up so that we will not have a misunderstanding when it is over—you should state whether you think it is best for the herd to take all of the killable seals.

Dr. STEJNEGER. With that reservation, all the killable seals that you can kill within the season. I do not mean that you can—

The CHAIRMAN. That you can find?

Dr. STEJNEGER. The ones that you can catch.

Mr. ELLIOTT. That is perfectly clear; that is all I wanted.

THE SUBORNATION OF SCIENCE TO SERVE A CRIMINAL TRESPASS
ON THE FUR-SEAL HERD OF ALASKA.

(To justify the killing of all the young male seals, the false argument was used that if they did not do so they would only grow up, go onto the breeding grounds, fight there, "and tear the cows to pieces and trample the pups to death." Dr. Stejneger was one of the scientific authorities quoted for this nonsense and fraud.)

Dr. Stejneger denies in his report of 1898, his own sworn statement made to the House committee of May 4, 1912, in re trampled pups. He does so in the most explicit language, and he is now quoted below from his finished and "elaborate report," which he handed to the chairman when he was sworn and examined. He says in it that the pups are not harmed by severe, prolonged trampling, to wit:

It is certainly significant that on Bering Island over a thousand pups are yearly driven to the killing ground, there to be released, without any visible harm coming to them worth mentioning. If these newly born seals can stand to be driven three-fourths of a mile from Kishotchnoye and to be repeatedly trampled upon by the larger ones piling up four high or more on top of them, it stands to reason that the vigorous holustiaki, or even the females as a whole, can suffer but little injury from the same cause. (The Fur-Seal Investigations, Pt. IV, 1898, p. 101, by Leonhard Stejneger.)

After having deliberately published the above as "facts" of his own observation in 1898, yet Dr. Leonhard Stejneger in 1912 denies it under oath to the House committee as follows.

Witness the following sworn proof of it, to wit:

INVESTIGATION OF FUR-SEAL INDUSTRY OF ALASKA.

COMMITTEE ON EXPENDITURES IN THE
DEPARTMENT OF COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,
Saturday, May 4, 1912.

The committee met at 10 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

Present: Messrs. Young, McGillicuddy, and McGuire.

STATEMENT OF LEONHARD STEJNEGER.

LEONARD STEJNEGER, having been duly sworn, was examined, and testified as follows:

Dr. STEJNEGER. In that case, I should say I first came to the Commander Islands in 1882 and stayed until the fall of 1883, remaining the winter.

Mr. MCGUIRE. Continuously?

Dr. STEJNEGER. Yes. I saw the whole business from beginning to end during two seasons. I mapped the rookeries, and I have made a very elaborate report on that. This [handing book to the chairman] gives all the data.

In 1896 I was appointed a member of the Fur-Seal Investigation Commission, of which Dr. Jordan was the chairman. We went up early in the season and I stayed on the Pribilof Islands for 10 days with the other members of the commission and went all over the rookeries at that time, and did part of the counting of the rookeries on the American islands, and then went over to the Commander Islands again and inspected the rookeries there, mapped the distribution of the seals on the rookeries then as compared to what they were in 1882, 1883, and 1895.

* * * * *

Mr. MCGUIRE. According to your observation, now, Doctor, if those herds were left alone untouched by man, what would you regard as the principal agencies of destruction of that animal life?

* * * * *

Dr. STEJNEGER. Fighting of the males and trampling of the pups.

Mr. McGUIRE. Then, where they were left untouched until they had accumulated large numbers of males, would there have been trampling under those conditions?

Dr. STEJNEGER. That is the greatest danger to the herd.

* * * * *

Mr. McGUIRE. Now, your testimony with respect to the killing of the pups by the fighting of battles by the males is based upon not only your general information, that you have been able to obtain in general way, but as well upon two years' actual stay upon seal islands?

Dr. STEJNEGER. Yes, sir.

Mr. McGUIRE. And upon your actual observation?

Dr. STEJNEGER. Surveys of the rookeries.

Mr. McGUIRE. You have personally observed those conditions, have you?

Dr. STEJNEGER. Yes, sir. (Hearing No. 11, pp. 699, 700, 703.)

On May 16, 1912, a few days following the above date of Stejneger's strange testimony as to the "destruction" caused by the killing of pups by the trampling of them by fighting males, his own associate, Dr. F. A. Lucas, on the **Indian** Commission, 1897-98, swears that he knows better—that he never saw a bull trample a pup to death:

The CHAIRMAN. What experience have you had as to the fur-seal industry in Alaska or as a member of the advisory board?

Dr. LUCAS. I was a member of the Fur-Seal Commission in 1896 and 1897. In 1896 I was on the islands or on the revenue cutter visiting the pelagic sealers from July 8 to September 5. In 1897 I was on the islands, on the revenue cutter visiting pelagic sealers and going to and from St. Paul and St. George from July 1 to August 17. The records of the work are here, Mr. Chairman [exhibiting books].

Mr. ELLIOTT. Now, Dr. Lucas, did you see up there a pup trampled to death by a bull?

Dr. LUCAS. No. (Hearing No. 12, May 16, 1912, pp. 706-719.)

DR. JORDAN CONDEMNNS THE KILLING OF YEARLINGS BY THE OLD LESSEES IN 1889, BUT HE PERMITS AND APPROVES THAT KILLING BY THE NEW LESSEES IN 1896-97, AND EVEN WHEN SO DONE IN VIOLATION OF LAW AND REGULATIONS.

That Dr. Jordan knew that the killing of yearlings was wrong and injurious to the life of the fur-seal herd, he gives the following proof of in his final report of February 24, 1898, to-wit: Speaking of the result of the work of killing by the lessees of 1870 during the last years of their lease, Dr. Jordan writes:

For a time these more vigorous methods had the desired effect, but the scarcity of bachelors as a result of the decreasing birth rate made it necessary finally to lower the age for killable seals, so as to include first, the 2-year-olds, and in the end many of the larger yearlings, in order to secure the requisite 100,000 skins. By these methods it happened in 1889 that practically the whole bachelor herd of 4 years and under down to the yearlings was wiped out. The result was the abnormal drop to 21,000 in the quota of 1890. * * *

It is not the intention here to justify the methods of killing employed in the closing years of the Alaska Commercial Co. Such killing ought never to have been allowed. (Fur-Seal Inves. pt. 1, 1898, p. 124.)

With this full understanding of the impropriety of killing those small seals thus given to us by Dr. Jordan, as above quoted, this gentleman actually has stultified himself by that writing as above, for he has approved and licensed in 1896 and 1897 the same injurious and illegal killing. He has done so in the following report, dated November 1, 1897, to the Secretary of the Treasury, to wit:

Last year the hauling grounds of the Pribilof Islands yielded 30,000 killable seals; during the present season a quota of only 20,890 could be taken. To get these it was necessary to drive more frequently and cull the animals more closely than has been

done since 1889. The killing season was closed on July 27, 1896. This year it was extended on St. Paul to August 7, and on St. George to August 11. The quota to be taken was left to our discretion, and every opportunity was given to the lessees to take the full product of the hauling grounds. Notwithstanding all their efforts, the quota of 1897 shows a decrease of 30 per cent in the class of killable seals, and when we take into account the increased number of drives, and the extension of the times of driving, the difference between the two seasons is even greater. (Fur Seal Investigations, Preliminary Report of 1897, Treas. Doc. No. 1994, p. 18, Nov. 1, 1897.)

Again, Dr. Jordan knew what yearlings were taken for skins, for he described that taking in 1889 as follows, when reviewing the tables of killing made by the lessees in 1889 as compared with that killing by them in 1890. Dr. Jordan says:

The contrast here visible between 1889 and 1890 is by no means a measure of corresponding decrease in the breeding herd. The fact is that the fictitious quota of 1889 was made up largely of yearlings which belonged properly to the quota of 1891. (Fur Seal Inves., 1898, pt. 1, p. 202.)

When Dr. Jordan certified the catch of 1896 (30,000) to the Secretary of the Treasury on November 7, 1896, as being made up of 3 and 2 year olds, and did not tell the truth that over 8,000 of these 30,000 skins taken by the lessees were yearlings, he knew better. (Treas. Doc. No. 1913, p. 21.)

He knew better because the lessees did not take any smaller skins in 1896 than they did in 1899. They took the yearlings or "small pups" and "Ex. sm. pups" in 1889, just as Jordan says they did. They took the same "Small pups" and "Ex. sm. pups" in 1896—8,000 of them—and Jordan denies the fact; he denies it by ignoring it, and asserting that "22,000 of these" (30,000) were 3-year-olds, when in truth not quite 7,500 of them were.

The London sales records, which proves the truth of Jordan's statement, that the lessees killed yearlings in 1889, also proves the untruth of Jordan's statement that the lessees did not kill yearlings in 1896. They convict Dr. Jordan of deceit in the matter and of falsifying the record of that killing in 1896 and 1897.

DR. JORDAN ATTEMPTS TO DENY THE OFFICIAL RECORDS OF THE EARLY ARRIVAL OF THE YEARLING SEALS ON THE HAULING GROUNDS AND THEIR APPEARANCE ON THE KILLING GROUNDS; HE IS FLATLY CONTRADICTED BY RECORDS OF THE SAME.

In his final report of February 24, 1898, Dr. Jordan says:

From the killing during the present season (1896), 15,000 animals too small to kill were turned back. As in the case of the young bulls, some of these, perhaps many, were driven and redriven, several drives being made from each hauling ground during the season. The actual number represented by this total of rejected animals can not be exactly determined. From this it would seem necessary to suppose that by no means all the younger seals appear on the hauling grounds during the killing season. In fact, the records of the drives show that it is only after the middle of July that the yearlings begin to arrive in numbers, and by the time the killing season is over the great majority of the killable seals are secured, leaving the population of the hauling grounds almost exclusively yearlings and 2-year-olds. (Fur Seal Inves. pt. 1, 1898, rept. Feb. 24, p. 99.)

With the following official "Records of the drives" staring Dr. Jordan in the face, it seems fairly incredible that he should have written so much untruth as above concerning them in re yearlings.

WEDNESDAY, JUNE 18, 1890.

Made a drive from Tolstoi and Middle Hill; killed 274; turned away 19 half-grown bulls. As many *yearlings* as choice seals killed, and half as many 2-year-olds as *yearlings* were allowed to return to the sea. This is a fair average of the work so far this season. (Official Journal Chief Special Agent Chas. I. Goff, in charge of St. Paul Island, p. 239.)

MONDAY, JUNE 23, 1890.

The N. A. C. Co. made a drive from Tolstoi and Middle Hill, killing 521 seals. Seventy-five per cent of the seals driven to the village were turned back into the sea; 10 per cent of these were 2-year-olds; balance *yearlings*. (Official Journal Chief Special Agent Chas. I. Goff, in charge of St. Paul Island, p. 231.)

TUESDAY, June 24, 1890.

N. A. C. Co. made a drive from Reef and Zotoi and killed 426 seals; about 65 per cent of this drive was turned back into the sea, about all of these were *yearlings*. (Official Journal Chief Special Agent Chas. I. Goff, in charge of St. Paul Island, p. 231.)

THURSDAY, June 26, 1890.

The N. A. C. Co. made a drive of seals Southwest Bay and killed 117 seals; about 62 per cent of those driven were turned back into the sea; of those turned away one-half were *yearlings*, one-fourth 2-year-olds, and one-fourth old bulls. (Official Journal Chief Special Agent Chas. J. Goff, in charge of St. Pauls Island, p. 231.)

Then independent of the above official record, which not only declares that the *yearlings* are out in full force as early as June 18, on the killing grounds, driven up with the others, we have the following sworn proof of the unwarranted denial of Dr. Jordan *in re* early appearance of the *yearlings*, to wit:

Mr. ELLIOTT. Now, as to *yearlings* on the islands. Here is an official report detailed day after day during the killing season of 1890, put on the files of the Treasury Department, and printed, and until the 1st of December, 1907, not a line had been issued from the Government officialism in charge of this business—not a line that says a single record of this work as to the killing on those islands in 1890 is improperly stated here. The only objection they make to it was that I officially assumed that driving these young and old seals hurt them. They claimed it did not hurt them, but that it did them good. We will leave that open. But the killing has hurt them; they admit that now officially. Let me read, on page 170:

"Monday, June 23, 1890. * * * Eleven pods of 561 animals driven up; 110 of them killed or one-fifth taken, or 80 per cent turned away. All under 7-pound skins, with the exception of a few wiggid 4-year-olds and a dozen or two old bulls. This gives a fair average of the whole drive to-day, some 2,500 animals, since 518 only were taken.

"* * * Those turned away (nearly 2,000) were 95 per cent at least 'long' and 'short' *yearlings*."

That has never been disputed to this hour.

"June 21, 1890. * * * At 7 a. m. I went down to the killing grounds and followed the podding and clubbing of the entire drive brought up from the Reef crest and Zoltoi Bluffs this morning. The Zoltoi pod arrived on the ground long before the Reef pod—two hours sooner. It was made up largely of polseecatchie and *yearlings*.

"* * * Seventy-five per cent of this drive was rejected. Every 3 and smooth 4 year old taken and every long 2-year-old. Nothing under or over that grade.

"The seals released this morning were *exclusively yearlings*, 'short' 2-year-olds, and the 5 and 6 year old half bulls or polseecatchie. No 'long' 2-year-old escaped, and so, therefore, many 5½ and 6 pound skins will appear in this catch.

"In the afternoon I took a survey of Lukannon Bay and its hauling grounds. * * * Thence over to Tolstoi sand dunes, where I saw about 600 or 700 *yearlings*, conspicuous by their white bellies.

* * * * * * * *

"June 26, 1890 (on p. 174). I walked over to the Zapadnie killing grounds this morning, arriving there about 9 o'clock. The drivers had collected a squad of about 340 holluschickie, which were clubbed thus—total 344 number driven, and number taken, 97, or about 72 per cent unfit to take, being made up *chiefly of yearlings*, 'short' 2-year-olds, and 'wiggid' 4-year-olds, and 5-year up to 7-year old bulls."

I knew what I was talking about, and so did the lessees. They rejected the yearlings and the short 2-year-olds.

"June 27, 1890. The drive to-day from Middle Hill, Tolstoi, and Bobrovia Yama (of Tolstoi near the point) panned out as follows: Total number driven 1,652; total number taken 394.

"Deduct 24 overcounted, leaves the whole number of animals driven 1,628; number taken 394, or 78 per cent rejected. Nothing taken under a 6-pound or 'long' 2-year-old skin."

Nothing was taken that day.

"Sixteen of the 394 skins taken in the killing grounds, as above cited, were rejected, in the salt house by the company's manager because they were too small. They were normal 2-year-olds, 5½-pound skins. Perhaps they will be glad to get them later."

They were.

"June 28, 1890. The superb sealing weather still continues. The natives are bringing up a small squad from the Reef as I write (5 p. m.).

"The following are field notes of the podding and clubbing of drive from Reef and Zolto Bluffs, June 28, 1890:

"Whole number of animals driven, 1,417; number taken, 203, or 85 per cent turned out. * * * Everything taken in this day's killing above a normal 2-year-old * * * i. e., all 6-pound skins and upward.

"June 30, 1890. The following are field notes of the podding and clubbing of drive from Middle Hill, English Bay, Tolstoi, Lukannon, and Ketavie:

"Whole number of animals driven, 1,262; number taken, 203, or 84½ per cent rejected. * * * Everything taken that was above 5½-pound skin, under those of the 5-year-olds and 'wiggid' 4-year-olds. * * * How many of *those yearlings* and 'short' 2-year-olds that were released this morning will again be driven before this season ends? Nearly all of them.

* * * * *

"July 1, 1890. The following are field notes of the podding and clubbing of drive made from every section of the reef, everything in back of Zolto Bluffs, Garbotch, and the entire circuit of the reef:

"Whole number of animals driven, 1,998; number taken, 245, or 89 per cent rejected. Last drive from this place, June 28, when 85 per cent were rejected. Everything taken over a 5-pound skin and under the 'wiggid' 4 and 5 year old pelts. *Ninety per cent of the seals rejected to-day were yearlings.*"

There are no yearlings on the islands now, we are told by these gentlemen. They have disappeared; they have gone to sea. There is no loss from pelagic sealing there now.

"This is the largest number yet driven in any one drive from this place thus far this season, and the catch among the smallest. The yearlings driven before, plus the new arrivals, are making the ratio."

The yearlings keep coming up and increasing this aggregate drive.

"July 2, 1890. The following are field notes of the podding and clubbing of a drive made from every section of Polavina and Stony Point:

"Whole number of animals driven, 1,929; number taken, 230, or 88½ per cent rejected. There were also 10 "road" and "smothered" skins, which made a total of 240 taken; last drive from this place, June 25, when 800 animals were driven and 263 taken, or 65 per cent rejected.

"This drive to-day covers a whole week's interval since the last drive from Polavina, and it shows that as the season advances the numbers driven rapidly increase, while the proportionate catch diminishes. In other words, the new arrivals, plus those redriven, will continue to steadily swell the gross aggregate driven day by day from now on, and not proportionately increase the catch. Rather, I believe that the catch will markedly diminish.

"To-day every good 2-year-old, every 3, and every "smooth" 4-year-old was knocked down out of the 1,929 animals; every one. Where, at this rate of killing, is the new blood left for the rookeries now so desperately needed there? Hardly a young bull left, between the effects of driving and the deadly club, save a few hundred of those demoralized and worthless half bulls, which I make note of as they come up in every drive; and these, the natives truly declare, will never go upon the rookeries.

"Thus far this season every seal that is eligible in weight, from a "long" 2-year-old male up to 5-year-olds, has been ruthlessly slain within a few days after its appearance on these desolate hauling grounds of St. Paul Island. They were as ruthlessly knocked down last year, and *to-day the yearlings* and everything above to 5-year-olds would be knocked down did not the new \$10.22 tax per sealskin save their lives."

They were afraid to take these *yearlings*, and they gave orders to let them alone. They said, "They will not pay our taxes and our expenses."

Mr. McGUIRE. The point you are developing now is, as I understand it, that the yearlings at that time were on the islands at this certain season of the year mentioned by you?

Mr. ELLIOTT. Yes; *admittedly*.

Mr. McGUIRE. The claim by certain persons now is that seals of this age and type are not at that season found on the islands. Is that what you are developing now?

Mr. ELLIOTT. I am claiming that that is an untruthful and improper report to make; that they are not there means that they have been killed and certified falsely into the books of the Government as 2-year-olds. Do not make any mistake about that.

As above quoted from Dr. Jordan's studied, elaborated, and final report of February 24, 1898, he gives as proof of the fact that he knew them—he knew the yearling seals as a class, and knew them well.

So knowing them, he could not have failed to witness the killing of yearlings in 1896–1897, thousands and thousands of them, in open, flagrant violation of the "Carlisle Rules" of May 14, 1896, which were duly posted on the Pribilof Islands, June 17, 1896.

That he knew the significance and the evil effect of killing yearlings in 1898 he also gives us full proof of in his final report of February 24, 1898. In criticizing the close and improper killing by the lessees during the season of 1889 he says, on page 103:

Finally it was necessary successively to lower the grade of killable skins until, in 1889, to get the quota of 100,000 nearly the entire bachelor herd down to and including most of the yearlings was taken. In 1890 the collapse came, when only 21,000 skins could be secured.

With this full knowledge possessed by Dr. Jordan of what a yearling seal was, and what it signified to kill down to that lowest grade, he actually falsifies the record of killing 30,000 seals in 1896, as done under his eyes. In his report of the killing on the Pribilof Islands during June and July, 1896, he denies that any yearling seals were killed, and repeats that untruth for the season's work of 1897, on the same grounds, in the following statements, to wit:

In 1896, 30,000 killable males were taken, 22,000 of these to the best of our information, being 3-year-olds.

Think for a moment of this studied untruth—the same London sales records which gave Dr. Jordan his warrant for truthfully stating the fact that yearlings were taken in 1889, as above cited—these sales records of this 1896 catch of 30,000 declare the fact that not quite 7,500 3 year olds were taken, and, moreover, they tell him that some 8,000 or 9,000 yearlings were also taken.

In 1897 the lessees took 20,890 skins—all that they could get—and Jordan again stands over that work on the islands. Again he falsifies the record of this killing as follows:

The quota of the year is made up practically of 3-year-old bachelors; some 2-year-olds are killed and some 4-year-olds, but the majority of those taken are 3-year-olds.

Not quite 7,000 of that 20,890 skins taken in 1897 were 3-year-olds. More than 8,000 yearlings were again taken in its total, and all of those little 30–34 inch yearling skins actually "loaded" with blubber in 1896 and 1897, so that they weighed as much as 3-year-old skins or 2-year-old skins. This fraud of "loading" those little skins was to cover the Carlisle limit of a minimum taken "not less than 6 pounds weight."

This loading of those small skins in 1896–97, when Dr. Jordan was on the islands (and continued ever since), and so done then, first, to evade the Carlisle rules of May 14, 1896, could not have

escaped Dr. Jordan's notice unless he was physically blind. He was not, but he actually shut his eyes to the illegal and injurious work.

On July 24, 1913, the native sealers who took part in this "loading" of those small yearling skins in 1896-97, testified to the agents of the House Committee on Expenditures in the Department of Commerce that this season of 1896 was the first one in which they ever received orders to take yearling seals, and that they have been taking them ever since and "loading" them also. (See pp. 93-100. Rept. Agents House Committee on Expenditures, Dept. of Com., Aug. 31, 1913.)

Dr. Jordan, however, was not content with merely ignoring the fact that in 1896 he had permitted the lessees to kill more than 8,000 yearling seals in open flagrant violation of the Carlisle rules of May 14, 1896; he went further. On page 206 of his Final Report Fur Seal Investigations, part 1, 1898, he has this studied statement of untruth made in review of the figures which show the daily killing made during June and July, 1896, and also those of 1897, to wit:

In this year (1896) more normal driving was permitted, but the increased quota is not wholly due to this fact * * *

The quota of 1897 was left indefinite under the direction of the commission, and the driving was planned with a view of making the quota represent the full product of the hauling grounds. For the same reason the killing was continued into August (to Aug. 11).

This is the language which Dr. Jordan uses to conceal the fact that in 1896 the lessees were permitted to illegally take 8,000 small yearling seals, and in 1897 over 7,000 of them in turn, to get the "full product of the hauling grounds:"

Why did Dr. Jordan and his associates in 1896 and 1897 fail to publish a table showing the sizes and weights of fur-seal skins as they were taken from the 1, 2, 3, 4, and 5 year old seals?

Because if they had, they would have been obliged to publish the fact that the lessees took 8,000 yearling sealskins in 1896, under their eyes, and in violation of the law and regulations published May 14, 1896. And again, that over 7,000 yearling skins were taken by the lessees under their eyes, and with their permission in 1897, in violation of those Carlisle rules of 1896.

The lack of attention given to the subject of the sizes and weights of fur-seal skins which is so marked in the preliminary reports of the Jordan-Thompson fur-seal commission's work, and its final report, 1898, is due to the fact that the lessees were killing yearling seals on St. Paul Island in 1896, when Jordan was there in full control of the business.

These seal-island lessees (D. O. Mills, United States Senator Elkins, and the Liebes, Isaac and Hermann), could not get their quota allowed them of 30,000 2, 3, and 4 year old seals, they unlawfully took, therefore, 8,000 yearling seals to fill up the number. They took them in spite of the regulations ordered May 14, 1896, by Secretary Carlisle prohibiting that work.

If Jordan and his associates had measured and weighed those skins as taken, they would have made a record (which they desired to conceal, and did then conceal), very plain, and self-evident of this illegal slaughter by these lessees.

That is the reason why the authentic and official tables of 1873-74, which show the size and weight of yearling seals and their skins, were not alluded to or questioned by Dr. Jordan. He found them accurate, and beyond his power to question. He then ignored the whole

subject in his labored, elaborated final report of 1898. (Fur Seal Investigations, pts. 1, 2, 3, 4, 1898.)

But when this final report was prepared, Dr. Lucas was obliged to present at least the suggestion of a table which should show the size of the fur seal as it grows from birth to full maturity. (See p. 7, pt. 3, Fur Seal Investigations, 1898.)

Instead of taking up a dozen or twenty examples of a yearling, he takes but one; he measures it, and it conforms exactly to the average which Elliott has published nearly 26 years earlier, it so happens.

But when he takes a single 2 year old, he makes it to be only 42 inches long, instead of that average of 45 inches which Elliott gets from the measurements of 30 specimens. (See Elliott's Mono. Seal Islands, p. 46, 1873-74.)

On the other hand, Dr. Lucas's associate on this Indian commission at the same time (1896), George A. Clark, measures also a single 2 year-old, and publishes its length as 48 inches. (See p. 510, pt. 2, 1898, Fur Seal Investigations.)

That difference naturally exists between a "short" or small 2-year-old and a "long" or large specimen of the same age. Lucas measures one and Clark the other. But Elliott, in 1872-73, taking note of those extremes, gathered up 30 specimens and took the average length, and publishes it as 45 inches.

Elliott found that large yearlings were 41 inches long and small ones only 29 to 30. He took an average of 20 or 30 specimens and placed the correct figure of 38 inches for a yearling's length in his table of 1873.

In the same mistaken manner Lucas took the measurements of but a single 3-year-old seal's body. He made it 49 inches long. It was a "short" or small specimen. But Clark, on the other hand, gets a "long" or large 3-year-old, and he makes it 54 inches long. Elliott, however, took an average of 20 or 30 specimens, and he finds the real average size to be 52 inches in length, which makes a stable conclusion for a 3-year-old.

Lucas and Clark fail in their work of getting result of sense or value by not going out into the field and getting the measurements of 30 or 40 specimens of these 1, 2, 3, and 4 year-old seals' bodies. Elliott made no such blunder which both Lucas and Clark admit they have done in the following statements:

I agree with Mr. Lucas on looking at these bachelors that it is necessary to readjust our ideas * * * what we have called "4-year-olds" are probably "5-year-olds."—G. A. Clark, p. 436, pt. 2.

I see that my tendency has been to underestimate the age of the smaller seals * * * (F. A. Lucas, p. 441, pt. 2.)

THE INITIAL FRAUD ON THE SEAL ISLANDS, AS PERPETRATED BY THE LESSEES AND OTHERS IN 1890-91.

There is an official record of the killing of seals on St. Pauls Island by which the lessees were enabled illegally to take 3,856 skins in violation of the orders of the President of the United States—so enabled by the subornation of the Government agents in charge of the Seal Islands. The limit of 6,000 skins was posted on St. Pauls Island June 10, 1891, and 1,500 skins on St. George was posted June 13, 1891. (Rept. Agts. H. Com. Exp. Dept. Commerce, pp. 128-132, Aug. 31, 1913.)

When the limit of 6,000 skins for the entire season of 1891, on St. Paul was posted June 10, 1891, just 810 skins had been taken, and by June 18, 1891, at the close of the killing on the reef that day, 6,622 skins had been taken, or an excess then of 622 skins for the whole season.

The killing, however, in spite of this peremptory order of the President prohibiting it after 6,000 seals had been taken, was continued in open defiance of that order by the lessees up to August 10, 1891, when they had secured 3,856 skins above the lawful limit on St. Paul and 961 skins above their lawful limit on St. George Island. Then they resumed this unlawful excess killing on November 2, 1891, and continued it to December 5, 1891, taking 800 skins in addition to the excess above stated.

This record of that unlawful killing and criminal trespass declares that these lessees, in collusion with the Government agents in charge, W. H. Williams and Joseph Stanley-Brown, took 4,817 prime seal-skins during the season of 1891 in open flagrant violation of the law and their instructions.

The motive for that particular criminal trespass was to profit by the sale of those excess skins at \$60 per skin, or \$289,020, which was a net guilty profit realized by said lessees.

The British commissioners, when they landed July 29, 1891, on St. Pauls Island and found the lessees busy killing seals in violation of the proclamation of President Harrison and the agreement of June 14 with the Government of Great Britain, put a stop to it, and refused to be satisfied with the false denial of it by Charles Foster's men, Brown and Williams. They dispatched a note to Lord Salisbury covering the same, which was speedily made public, and caused infinite humiliation to the American case in the controversy.

These British commissioners at first determined to return in 1892 and get the proof of the fact that this killing was done in violation of the law. This hint so disturbed the official tools of the lessees in the Treasury Department that the following "directions" were given to Chief Special Agent Williams by Charles Foster. The object of writing these "directions" was to enable Williams to do all he could to prevent any light being thrown on the real order of killing as it was done. (See entry as below, on p. 455 of the official journal, Government agent's office, St. Paul Island, under date of "*May 27, 1892.*")

UNITED STATES TREASURY DEPARTMENT,
Washington, D. C., May 2, 1892.

Maj. W. H. WILLIAMS,
United States Treasury Agent.

SIR: Your attention is called to the unfortunate representations made to Lord Salisbury last year by the British commissioners.

Their statements concerning the alleged violation of the *modus vivendi* in the matter of seal killing were based upon their misinterpretation of the terms of the *modus* and their misunderstanding of the facts. Especial effort should be made, therefore, to present with exceeding clearness any facts that you may deem necessary or proper to communicate to any British official visiting either island. All affidavits taken by such agents from the natives or other persons on the islands must be taken in the presence of a Government officer, and the foreign agents must conform to such rules of conduct concerning the rookeries as are required of citizens of the United States.

CHARLES FOSTER, *Secretary.*

Williams refused to return to the islands. He knew that he had falsified the facts July 29, 1891, to these British agents, and that they would convict him of it if he attempted to deny it. So he asked Foster to transfer him to another post. He was at once transferred to London and J. Stanley Brown put in his place. This man had no scruples in the matter and no responsibility "officially" in 1891, since Williams was his chief at that time.

RECAPITULATION OF THE FRAUD PERPETRATED BY THE LESSEES IN 1891, ON THE SEAL ISLANDS, WITH THE COLLUSION OF THE UNITED STATES' AGENTS IN CHARGE OF THE SAME.

May 3. The President vetoes and cancels permit for lessees to kill seals issued by Secretary Charles Foster, April 11, 1891.

May 27. By order of the Secretary of Treasury from the President, lessees are allowed to take 7,500 "food seals" during entire season of 1891.

June 13. To-day the order of May 27, limiting the killing on the Pribilof Islands to 7,500 for the entire season is posted and served on the lessees in St. Paul village, by the United States agent in charge. The catch on St. Paul is restricted to 6,000 seals, and the catch on St. George is restricted to 1,500.

June 13. Three thousand seven hundred and thirty seals were taken by the close of this day, and left 2,270 seals only for the lessees to lawfully take during the rest of this year on St. Paul Island.

June 15. Nine hundred and forty-one seals were taken by the close of this day on St. George Island, leaving only 559 seals for the lessees to lawfully take during the rest of this year on this island.

June 18. Six thousand six hundred and fifty-one seals were taken at the close of this day on St. Paul Island, and 651 seals had been taken to-day in violation of the President's order (duly posted here June 13 last), yet, in spite of that order, the killing was continued in violation of it, as follows: June 20, 119 seals; June 25, 215 seals; June 29, 400 seals; July 8, 100 seals; July 13, 121 seals; July 15, 122 seals; July 21, 177 seals; July 27, 248 seals; August 3, 118 seals; August 5, 407 seals; August 10, 100 seals; November 2, 31 seals; November 9, 37 seals; November 14, 142 seals; November 19, 188 seals; November 21, 2 seals; November 24, 133 seals; November 25, 102 seals; November 29, 162 seals; December 5, 3 seals.

Or a total of 9,579 seals taken, 3,579 of which were taken by the lessees in open flagrant violation of the law and order of the President of the United States (dated June 15), and posted in advance on the islands June 13, 1891.

July 1. 1,548 seals were taken at the close of this day on St. George Island, being 48 seals in excess of the limit ordered by the President, duly posted here on June 15 last; yet in spite of that order, this killing of seals was continued in violation of it, as follows: July 3, 30 seals; July 6, 119 seals; July 16, 54 seals; July 20, 54 seals; July 24, 72 seals; July 25, 181 seals; August 1, 26 seals; August 6, 15 seals; August 13, 83 seals; August 17, 55 seals; September 24, 36 seals; October 23, 104 seals; October 28, 25 seals; November 23, 71 seals; November 23, 26 seals.

Or a total of 2,461 seals taken, 960 of which were taken by the lessees in open flagrant violation of the law and order of the President

of the United States (dated June 15), and posted in advance on the islands June 14, 1891.

The above certified daily entry of killing, as made on the official journals of the agents of the Government in charge of the Seal Islands of Alaska, show that the lessees with the connivance and permission of the United States Government agents whom they suborned took 12,040 seals, or 4,540 seals in excess of their right to do so, and in open flagrant violation of the law and regulations.

The daily killing records are published on page 203 of the (Report of Fur Seal Investigations, part 1, 1898) Treasury Document 2017, published by order of the Secretary of the Treasury, June, 1898. The record of the posting of the President's order restricting all killing on the islands to 7,500 seals for the entire season of 1891, as given above, is found in Report of Special Agents, House Committee on Commerce, Aug. 31, 1913, page 128.

The motive for this criminal trespass by the lessees as above related was that those 4,540 illegally taken skins brought them an average of \$60 per skin, or \$272,400, which was net gain to them. *They took nothing after the order of the President was posted except the very finest young 3 and 4 year old seals that hauled out, and they took every one of them that did haul out up to the close of this season of 1891.*

It now becomes in order to show by an exhibit taken from the official records, the sworn testimony, and authentic letters, what relation—

Charles Nagel, as Secretary of Commerce and Labor;

Geo. M. Bowers, as United States Commissioner of Fisheries;

David Starr Jordan, as chairman Advisory Fur Seal Board;

Walter I. Lembkey, as chief special agent in charge of seal islands;

Isaac Liebes, president N. A. C. Co., lessees, and his associate lessees;

Jos. Stanley Brown, dual agent of the Government and lessees,

had and have, to this unlawful and complete destruction of the fur-seal herd of Alaska.

To do so, briefly, clearly, and faithfully as to truth of record, I have prepared the following statement, which I submit as Exhibit III; all citations of the records and sworn testimony have been carefully verified, and will stand as made.

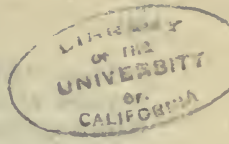


EXHIBIT III.

A certified list of 120,000 yearling sealskins taken by the lessees of the Seal Islands of Alaska between 1896 and 1910, in open self-confessed violation of the law and the regulations governing their contract, said illegal work being done in combination with certain sworn agents of the Government whose duty was to prevent it.

Said agents, instead, connived with said lessees and enabled this illegal and ruinous slaughter to be made annually from 1896 to 1910.

And this illegal and ruinous slaughter and criminal trespass by the lessees¹ upon the fur-seal herd of Alaska was duly pointed out to Secretary Oscar Straus in detail December 19, 1906, again on May 18, 1908, again on December 7, 1908, and repeated in detail to Secretary Charles Nagel April 26, 1909, again May 9, 1910, and again May 24, 1910. All of said detailed specific charges and proof of this illegal and ruinous killing were ignored and evaded by said Straus and Nagel.

ANALYSIS OF THE STATUTES WHICH GOVERN THE CONDUCT OF KILLING AND TAKING FUR SEALS ON THE PRIBILOF ISLANDS, BERING SEA, ALASKA, FROM 1869 TO 1913, INCLUSIVE.

March 4, 1869. Public resolution declaring the Pribilof group of seal islands are a Government reservation.

July 1, 1870. Act ordering a lease made for 20 years of the seal islands—1870—1890. It places the entire control of the killing and taking of fur seals in the hands of the Secretary of the Treasury, only fixing a maximum limit of 100,000 seals annually and prohibiting the killing of female seals and seals less than one year old. (See Hearing No. 10, pp. 462-463.)

May 1, 1890. Lease of 1870—1890 expires; new lease for 20 years—1890—1910; no change in act of 1870 made which permits this renewal of said lease to highest bidder, and reserves complete control for the Secretary of the Treasury as to killing and taking seals. (See Hearing No. 10, pp. 466-467.)

May 14, 1896. Secretary Carlisle orders "no yearling seals or seals having skins weighing less than 6 pounds" killed. Posted on the islands June 17, 1896. (See Report of Agents of House Committee on Commerce, Aug. 31, 1913, pp. 75, 76.)

May 1, 1904. "Hitchcock rules" ordered to-day by Secretary of Commerce and Labor, who does not know of the existence of the "Carlisle rules" of 1896, and which have been ignored by all officials and the lessees since the day they were posted in 1896.

¹ A conspiracy is a continuing offense, according to the United States Supreme Court. Two men who were the agents in bringing the Pennsylvania Sugar Refining Co. within the power of the Sugar Trust, which kept the refinery idle for years, sought to escape punishment for their part in a conspiracy to restrain trade and establish a monopoly by pleading the statute of limitations. That act would have run against the inception of the conspiracy, and the trial judge held that they could not be tried. But the Supreme Court holds, very rationally, that the statute does not protect them, for they continued their conspiracy in restraint of trade within the statutory period.—Philadelphia Record, December 14, 1910.

These "Hitchcock rules" prohibit the taking of "any seals under 2 years of age, and having skins weighing less than 5½ pounds." (Hearing No. 10, pp. 482, 483.)

March 9, 1906. The "Metcalf rules," ordered to-day, change the 5½-pound minimum weight of the Hitchcock rules to 5 pounds; otherwise no change is made in the order of the same. (See Hearing No. 10, p. 483.)

April 21, 1910. Act repeals leasing section of act of 1870; otherwise does not change the full control hitherto given the Secretary of Commerce and Labor to govern by regulations the seal killing on the islands, etc. (See Hearing No. 10, pp. 480-481.)

February 29, 1912. Chief Special Agent Lembkey, in charge of the seal islands, swears that the regulations of the department bind him not to kill seals "under 2 years of age" and that they are in effect, to wit:

Mr. MADDEN. If they were killed it would be a violation of law.

Mr. LEMBKEY. It would; if the regulations permitted it, however, it would be in accordance with existing law.

It should be remembered also that the law does not prohibit the killing of any male seal over 1 year or 12 months of age, although regulations of the department do prohibit the killing of anything less than 2 years old, or those seals which have returned to the islands from their second migration.

Mr. TOWNSEND. That is a regulation of the Secretary of Commerce and Labor?

Mr. LEMBKEY. Of Commerce and Labor; yes, sir. (Hearing No. 9, p. 373.)

A list of 128,000 yearling sealskins taken on the seal islands of Alaska by the lessees thereof during the term of their lease from May 1, 1890, to May 1, 1910.

One hundred and twenty thousand of these one hundred and twenty-eight thousand yearling seals have been taken in open, flagrant violation of the Carlisle rules of May 14, 1896, and the Hitchcock rules of May 1, 1904, which rules of the Treasury and Commerce and Labor Departments have the force of law.

These 120,000 sealskins, itemized in Elliott's list, are the skins of "small pups" and "extra small pups," as listed in the sales at London, each and every one of which has been measured there and certified to the trade there as being less than 34 inches long, and, so certified, sold upon that certification as to its size and class as a "small pup" or "extra small pup."

These measurements of the London sales classification are admitted by the Bureau of Fisheries as being absolutely accurate.

Under oath, the Bureau of Fisheries agent and man who has taken all the skins with the cooperation of the lessees on the Pribilof Islands since 1899 up to 1910—this agent admitted that a yearling sealskin of his own identification and measurement as such was 36½ inches long. (See Hearing No. 9, pp. 442, 443. Apr. 13, 1912. H. Com. Exp. Dept. of Com. and Labor.)

INVESTIGATION OF FUR-SEAL INDUSTRY OF ALASKA.

COMMITTEE ON EXPENDITURES IN THE
DEPARTMENT OF COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,

Tuesday, July 11, 1911.

The committee met at 10.30 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

The CHAIRMAN. I have some questions to ask. A great deal has been said before the committee about the illegal killing of seals on these islands, and I have therefore requested Prof. Elliott to make out a statement of what he considers a proper estimate of such illegal killing in the last 20 years of the lease. I told him to make the estimate year by year, and to submit it to the committee, and he has this statement here. I will ask you, Prof. Elliott, to take it up and discuss it with the committee, and I do this upon the theory that if the lessees were guilty of any illegal killing of seals, or were guilty of bringing this herd to partial destruction, that, under the securities that are lodged with the Government, as I understand it, they ought to make good whatever they did in the way of injury to the Government by any violation of the law, administration orders, or the provisions of the lease. I want the witness to state as an expert how many such killings of seals there may have been, and what he considers has been the injury done to the Government during the last 20 years.

Mr. ELLIOTT. Mr. Chairman, I will read the statement in detail:

MEMORANDUM, FOR HON. JOHN H. ROTHERMEL, IN RE SEAL SKINS TAKEN BY LESSEES
IN VIOLATION OF LAW.

Minimum numbers of yearling seals taken in violation of law by the North American Commercial Co., or lessees of the seal islands of Alaska. Figures taken from the sales catalogues of Messrs. C. M. Lampson's Sons, London, during period of lease held by the N. A. C. Co. aforesaid.

	Total skins taken.	Year- lings.		Total skins taken.	Year- lings.
1890.....	20,310	3,823	1901.....	22,672	13,000
1891.....	13,473	¹ 1,200	1902.....	22,304	14,500
1892.....	7,554	(1)	1903.....	19,374	15,600
1893.....	7,492	(1)	1904.....	13,128	6,500
1894.....	16,030	1,400	1905.....	14,368	6,918
1895.....	15,062	2,230	1906.....	14,478	6,837
1896.....	30,004	13,000	1907.....	14,888	7,000
1897.....	20,762	8,000	1908.....	14,965	6,500
1898.....	18,032	4,000	1909.....	14,350	7,000
1899.....	16,804	3,500			
1900 ²	22,473	9,500	Total.....	354,413	128,478

¹ Modus vivendi. ² Standard lowered this year for first time to "5-pound skins," or "yearlings."

HENRY W. ELLIOTT.

JULY 10, 1911.

Mr. CABLE. May I ask one question?

The CHAIRMAN. Certainly.

Mr. CABLE. Is it now against the law, or has it ever been against the law, to take a seal 1 year old? May I ask what is the understanding of the committee on that question? I want to get straight on it myself. Has it not always been perfectly legal to take seals a year old or more than a year old?

Mr. ELLIOTT. That is absolutely true. These seals are taken in June and July, but until the 1st of August following no one can tell what is a yearling seal.

Mr. CABLE. Then, is it your contention that this list you have read is based on seals that are killed under 1 year of age?

Mr. ELLIOTT. They must be under 1 year old. If you kill them in June or July, the benefit of the doubt belongs to them. If you kill a yearling seal on the 9th day of July, how do you know that it was born on the 9th day of July a year ago?

Mr. CABLE. I am not a seal expert.

Mr. ELLIOTT. You nor no other man could determine that.

Mr. CABLE. Do you claim that this list you have read is based upon seals that are under 1 year old?

Mr. ELLIOTT. Under 2 years old.

Mr. CABLE. Is there anything illegal in killing the year-old seals?

Mr. ELLIOTT. Not if you know it is a year old.

Mr. CABLE. What do you call a yearling seal?

Mr. ELLIOTT. A yearling seal is a yearling until it is 2 years old.

The CHAIRMAN. What is a yearling seal?

Mr. ELLIOTT. A yearling seal is one not under 1 year of age nor over 2 years of age. That is a yearling. You can not get away from that definition. A yearling is a yearling until it is 2 years old.

Mr. MCGILICUDDY. What is your understanding as to the law on the subject?

Mr. ELLIOTT. The law does not allow the killing of a seal under 12 months of age.

Mr. TOWNSEND. Under 2 years of age, according to that ruling of 1904?

Mr. ELLIOTT. Yes, sir; I put that in the department rules in 1904 to stop those butchers.

Mr. MCGILICUDDY. Then, it is agreed on all sides that it is legal to kill anything over 12 months old?

Mr. ELLIOTT. Yes, sir; I admit that, but you must prove it.

That this killing of seals under 2 years of age was in violation of law and the regulations is admitted under oath by the Bureau of Fisheries agent, W. I. Lembkey, who has killed all the seals under the instructions of the Treasury, Commerce and Labor Departments, and Bureau of Fisheries since 1899 to date of July 7, 1913, thus:

On page 372, Hearing No. 9, he testified as follows:

"Mr. MCGILICUDDY. What do you call a yearling seal? Do you mean a seal that is 12 months old and no more?

"Mr. LEMBKEY. A yearling seal, in the island nomenclature, is a seal which has returned to the islands from its first migration.

"Mr. MCGILICUDDY. It may be more than 12 months old then?

"Mr. LEMBKEY. It may be more; it may be a trifle less.

"Mr. MCGILICUDDY. How much more than 12 months could it be?

"Mr. LEMBKEY. It could not be but a little more, because all these seals are born during a period of 3 weeks, generally speaking, from the 25th of June to the 15th of July. Now, they return to the islands in a mass about the 25th of July.

* * * * *

"Mr. MADDEN. If they were killed, it would be a violation of law?

"Mr. LEMBKEY. It would; if the regulations permitted it, however, it would be in accordance with existing law.

"It should be remembered also that the law does not prohibit the killing of any male seal over 1 year or 12 months of age, although regulations of the department do prohibit the killing of anything less than 2 years old, or those seals which have returned to the islands from their second migration.

"Mr. TOWNSEND. That is a regulation of the Secretary of Commerce and Labor?

"Mr. LEMBKEY. Of Commerce and Labor; yes, sir."

He testified as follows, on page 442, Hearing No. 9:

"Mr. ELLIOTT. Mr. Lembkey, do you know the length of a yearling seal from its nose to the tip of its tail?

"Mr. LEMBKEY. No, sir; not offhand.

"Mr. ELLIOTT. You never measured one?

"Mr. LEMBKEY. Oh, yes; I have measured one.

"Mr. ELLIOTT. Have you no record of it?

"Mr. LEMBKEY. I have a record of it here.

"Mr. ELLIOTT. What is its length?

"Mr. LEMBKEY. The length of a yearling seal on the animal would be, from the tip of the nose to the root of the tail, 39½ inches in one instance and 39½ in another instance—

"Mr. ELLIOTT. Yes.

"Mr. LEMBKEY. And 41 in another instance. I measured only three."

* * * * *

Also on page 443:

"Mr. ELLIOTT. How much can you say is left on a yearling after you have taken the skin off?

"The CHAIRMAN. How much skin is left after you have taken it off?

"Mr. ELLIOTT. Yes, sir; after they remove it for commercial purposes a certain amount is left on.

"Mr. LEMBKEY. I stated about 3 inches.

"Mr. ELLIOTT. Then that would leave a yearling skin to be 35 inches long.

"Mr. LEMBKEY. No; if it was 39½ inches long, it would leave it 36½ inches. That is, all the animal from the tip of the nose to the root of the tail would be 39½ inches long. Three inches off that would leave 36½ inches."

On the 13th of April, 1912, while Special Agent Lembkey was testifying, the following admission was made by him that he knew that the London measurements of the skins taken by him on the seal islands of Alaska, were the reliable and indisputable record of their sizes, and that the weights of the same were not, to wit:

Mr. LEMBKEY. You might make a yearling skin weigh 9 pounds by the adding of blubber, yet when it got to London it would be only so long and so wide.

Mr. ELLIOTT. That is it.

Mr. LEMBKEY. And of course it would develop in the classification when the skins would be exposed for sale.

(Hearing No. 9, p. 447, Apr. 13, 1912.)

The CHAIRMAN. What is the question to this witness?

Mr. ELLIOTT. I asked if he does not know that the sizes are established by measurements?

The CHAIRMAN. Just answer that question. Do you know it?

Mr. LEMBKEY. I have been so informed.

Mr. ELLIOTT. Do you doubt it?

Mr. LEMBKEY. Oh, no.

(Hearing No. 9, p. 441, Apr. 13, 1912; Ho. Com. Exp. Dept. Com. and Labor.)

The fact that Charles Nagel, Secretary of Commerce and Labor, had full prior knowledge of the falsifying of these skin weights into the books of the department as the weights of 2-year-old male seals when in truth they were not, is fully set forth in the following records of his office, to wit, and also that he was confronted with the indisputable proof of the fraud by the lessees in giving their lease, viz;

17 GRACE AVENUE, LAKEWOOD, OHIO,
December 19, 1906.

HON. OSCAR STRAUS,

Secretary Department Commerce and Labor, Washington, D. C.

DEAR SIR: In the report of the Secretary of Commerce and Labor recently transmitted by the President to Congress, a discussion of the condition of the fur-seal herd of Alaska appears, and reference is made to the report of E. W. Sims, who made an investigation into the status of this herd last summer.

The Secretary repeats the words of Mr. Sims, and says that the fur-seal herd is rapidly disappearing as the result of pelagic sealing; he also adds that in his judgment the "destructive effect of this method of taking seals has not been fully realized"—i. e., by anyone until this season.

The Secretary is right in saying that this herd is "rapidly disappearing," but is entirely wrong in saying that the destructive effect of pelagic sealing has not been fully realized; he does not seem to know that on the strength of my showing of the full effect of pelagic sealing under existing law and regulations which I gave to the Ways and Means Committee of the House December 21, 1894, that that committee and the House took action February 22, 1895, to suppress and put the pelagic hunter out of business; but this wise, sensible, and merciful action of the House was defeated in the Senate by sworn agents of the Government, who denied this danger and injury incident to pelagic sealing, claiming that the rules of the Bering Sea tribunal were sufficient to avert it.

Again I brought this danger of pelagic sealing forward in 1898, after the Jordan-Thompson agreement of November 16, 1897, had utterly denied it. Again my charges of this real danger were officially denied by sworn agents of the United States Government in the service of the Treasury Department and indorsed by the Secretary of that department in a letter dated February 7, 1902, addressed to the chairman of the Ways and Means Committee of the House.

I answered this erroneous official statement of Secretary Shaw by making an exhibit for the committee which declared that by the end of the season of 1907 the male

breeding life on the Pribilof Islands would be extinct. (See Rept. Ways and Means Com., 2303; 57th Cong., 1st sess., pp. 4, 5.)

The committee overruled the Secretary of the Treasury and agreed with me; it reported and passed a House bill, February 2, 1903, which would have put an end to the inhuman and indecent business of the pelagic hunter had it not been again defeated in the Senate by a false statement made to the Senate Foreign Relations Committee by Senator Fairbanks, February 17, 1903, who assured his colleagues that an agreement to a satisfactory settlement had been reached in the Anglo-American Joint High Commission, and that that commission would publish it soon after it reconvened; that that reconvention would take place soon after the 4th of March, 1903; hence the House bill was not necessary.

I knew that this statement of Senator Fairbanks was without warrant and said so to his colleagues in the Senate at the time, but the sine die adjournment on March 4 prevented action, and so this second attempt to suppress the pelagic hunter failed. And it failed not from any want of understanding of the destructive effect of pelagic sealing, as the Secretary of Commerce and Labor says existed until the Sims report of 1906 had been made. Mr. Metcalf was himself a member of the Ways and Means Committee in 1902, when I gave that body the full understanding of this work of pelagic sealing, and he was also a member when I again reinforced my argument in 1902 with figures and facts, March 9-10, 1904.

He also heard my indictment of the excessive land killing by the lessees before this committee in 1904; he heard it denied by the lessees, and only partly agreed to by the Department of Commerce and Labor, solely on the strength of my showing March 9-10, 1904, did the department pledge to the committee the annual reservation of 2,000 choice young male seals from slaughter by the lessees on the Pribilof Islands.

On the 26th of October, 1905, the agent of the department in charge of the seal islands of Alaska, in an official report admits that my charge of injury through excessive land killing by the lessees is correct. (See p. 81, S. Doc. No. 98, 59th Cong., 1st sess.)

On page 33 of Secretary Metcalf's report for 1906 he tells us that the lessees during the season of 1906 "took 14,643 fur-seal skins, including 281 skins taken during the previous season." Then, in this same paragraph, and immediately following, he says that only 10,942 seals were killed on St. Paul Island and 1,685 seals were killed on St. George Island during the season of 1906. This analysis which he makes of his own figures declares the fact that 2,016 skins, and not "281 skins," came over into the catch of 1906 from 1905.

The significance of this you will at once observe when you understand that these 2,016 skins were the "food seals," which were killed in October and November, 1905, and still more, they were the 2,000 choice young male seals ordered spared and sheared (not branded) in June and early July, 1905, this sheared mark having entirely disappeared by the middle or end of September, since every fur seal by the end of September annually completely renews its own hair—sheds and grows it anew in August and September.

That this is not even faintly understood by the Secretary is plain, for in the next paragraph he proceeds to tell us that "in addition to the branded seals reserved for breeding purposes, 4,724 small and 1,944 large seals were dismissed from the drives as being ineligible for killing under the department's regulations."

More misinformation with regard to the subject can not be put into fewer words. Witness the following:

I. These seals were not branded; they were sheared instead, in June and early July. Then by the end of September they completely lose this mark of reservation, and each and every one of them that hauls out on the Pribilof Islands during October-November is killed as a "food" seal, and the lessees get the skins, which are carried over into the catch for the next season. (See the official proof of this on pp. 8, 64, 65, and 86 of S. Doc. No. 98, 59th Cong., 1st sess.)

II. These "4,774 small" seals do not represent in fact more than 800 or 1,000 such seals. Most of these seals have been recounted over and over again as they were redriven and then dismissed during the season. Some of them have reappeared in this fictitious total six or seven times.

III. These "1,944 large seals" were the sheared and spared seals of 1906 so marked in June and early July. Last October and November they were killed as they hauled out, as "food" seals, and their skins will appear in the quota or catch of the lessees for 1907, if these men are permitted to kill next season.

With regard to the report of Mr. Sims, I shall not dwell upon the many obvious and plain errors of statement and conclusion which appear in it. I do not do so because he admits that his experience in the premises is limited to a short week on the seal islands during the summer of 1906. No man, it matters not how great his inherent ability, can master this question and intelligently discuss it with so little experience.

With the single exception of correctly speaking of this immediate danger of complete extinction of the fur-seal herd of Alaska, under existing conditions, Mr. Sims is completely at sea and in profound error over everything that he brings into conclusion and recommends in his report of August 31, 1906.

Very sincerely, your friend and servant,

HENRY W. ELLIOTT.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, January 2, 1907.

Mr. H. W. ELLIOTT,
No. 17 Grace Avenue, Lakewood, Ohio.

SIR: I have to acknowledge the receipt of your letter of the 19th ultimo, commenting upon that portion of the Secretary's last annual report which refers to the Alaskan fur-seal service, and to thank you for the information therein contained.

Respectfully,

LAWRENCE O. MURRAY,
Assistant Secretary.

NO. 17 GRACE AVENUE, LAKEWOOD, OHIO,
May 18, 1908.

HON. OSCAR STRAUS,
Secretary Commerce and Labor, Washington, D. C.

DEAR SIR: On the 19th of December, 1906, I addressed to you a letter in which I pointed out to you certain pronounced errors of statement made in an official report to you by one E. W. Sims on the condition of the fur-seal herd of Alaska. That I did so was fairly imperative on my part, since these errors of statement and recommendation, which this inexperienced and wholly untrained agent made, were entirely subversive of the truth, and most injurious for those public interests at stake, if acted favorably upon by you.

On the 2d of January, 1907, I received an official acknowledgment of the receipt of that letter aforesaid, with the simple "thank you for the information contained." That acknowledgment was enough; it made no suggestion of an error in any statement on my part. There was none, and I knew it when I addressed you.

My chief protest in that letter was against the grave misstatement by Mr. Sims, who said that all of those seals ordered spared by the Hitchcock rules were duly "branded," and so exempted from slaughter ever afterwards by the lessees; that this "branding" was faithfully done, and those spared seals thus permitted to live, grow up into breeding bulls for the rookeries; all this officially and explicitly reported to you, when in fact it was not true.

Therefore I described to you the manner in which these seals were not branded—not one of them—and how they were sheared instead. How this sheared mark was entirely lost a few weeks later when the seal went into its natural annual molt and renewed all of its body hair. So that those sheared seals thus "branded" in June and July and spared then, when they hauled out again in October and November following were without any mark of exemption and were killed then by the lessees as "food" seals; that in this manner those land butchers were actually nullifying the regulations of the department, which Mr. Sims erroneously declared the faithful observance of to you.

What has been the result of this truthful and clear statement on my part to you made December 19, 1906? What has been done with regard to the conduct of affairs on the islands during the season following?

I have the official answer of the agents—your agents—now in my hands. It is printed as Senate Document No. 376, Sixtieth Congress, first session. Since I have myself officially reported to my Government on this life, and as I have so reported up to date that no man or official following me or prior to my work has thus far been able to successfully impeach the entire truth and sense of my published official records in 1881 and in 1890 (Monograph Seal Islands of Alaska, Government Printing Office, 1881), and (H. Doc. No. 175, 54th Cong., 2d sess.). I am constrained to review these reports of your agents for the seasons of 1906-7, inclusive. That review is here-with inclosed for your information and use. If I have made an error in it and it is publicly presented to me, I will be most happy to acknowledge it; but I desire to say that I do not believe it can be questioned seriously by any authority. I challenge the correction confidently.

Your agent, Mr. Lembkey, has no warrant or even the shadow of authority to ignore or dispute that table of skin weights which I officially published on page 81, Monograph Seal Islands of Alaska in 1881. He can not and will not be permitted to set aside in this idle manner, as he does on page 84, Senate Document No. 376, that long-established and standard agreement of all the United States Treasury agents, the agents of the lessees, and myself, upon these skin weights, from 1872 up to 1881; and, still more, his attempt to deny that record so officially published is in turn flatly denied by the life and growth of the fur seal itself to-day. That life and growth has not changed one hair's breadth from its order when I, first of all men, accurately recorded it in my published work—officially recorded it in 1872-90, inclusive.

I desire to say that it is with great reluctance that I take up this matter; but I can not let any officialism of to-day reflect ever so little upon my own of yesterday and which I shall defend against all ignorant or venal criticism, now and in the future, just as successfully as I have done so in the past. I refer especially to the "scientific" vagaries of Merriam and Jordan in 1891 and 1896-7 and the venal and calumnious work of John W. Foster before the Bering Sea Tribunal in 1893.

In the light of this letter, herewith inclosed, and which can not be truthfully clouded by any man, it must be clear to you that the lessees can not be permitted by you to safely kill a seal next summer on the Pribilof Islands; but your agents can be directed to permit the natives to kill some 2,500 or 3,000 small male seals for food without any risk to mention of doing injury to the public interests concerned.

I am, very respectfully, your most obedient servant,

HENRY W. ELLIOTT.

The back-room officials managed to keep Mr. Straus very quiet—so quiet that Elliott jogged him up a few months later, thus:

1232 FOURTEENTH STREET, NW.,
Washington, D. C., December 7, 1908.

Hon. OSCAR STRAUS,
Secretary Commerce and Labor.

DEAR SIR: On the 18th of May last I addressed a letter to you, in which I called your attention to the salient errors of statement made to you in the 1906-7 reports of your seal-island agent, as printed by order of the Secretary. (S. Doc. No. 376, 60th Cong., 1st sess.)

In this letter aforesaid I inclosed a published review of that work of your agent. (Plain Dealer, Cleveland, Ohio, May 17, 1908.) I charged the lessees in this article (as inclosed) with the violation of their contract, since in taking their catch for 1907 they had killed yearling seals, and had done so because they were obliged to kill them or fail to get the 15,000 skins you allowed them to get under the terms of the Hitchcock rules. To get them they have openly violated those regulations of the department, and the inclosed evidence of their own sales agent in London convicts them of that charge—indisputably convicts them.

Even if we were to admit for sake of argument on this score that Special Agent Lembkey's classification of skin weights is correct, as published on page 84, Senate Document No. 376, above cited, even then this London classification declares that at least 6,000 yearlings were killed in the total catch of last season (1908). They must take these yearlings or have nothing—there is nothing left. That is the fact, and these men are draining the very dregs of that life up there to get the quota you allow them to have.

Very sincerely, yours,

HENRY W. ELLIOTT.

Mr. Straus however, growing embarrassed over this plain and direct offer of proof of fraud in the Bureau of Fisheries, put up the following evasion of his responsibility in the premises; he issued an executive order transferring the whole business into the hands of the Hon. Geo. M. Bowers, as the directly responsible agent of the Government, to wit:

DECEMBER 28, 1908.

To the Commissioner of Fisheries, the agents charged with the management of the seal fisheries in Alaska, and others concerned:

By virtue of the authority vested in me by the Revised Statutes of the United States, sections 1973 and 161, and by the organic act creating this department, approved February 14, 1903, it is hereby ordered that, subject to the direction of the head of the department, the Commissioner of Fisheries shall be charged with the general management, supervision and control of the execution, enforcement, and

administration of the laws relating to the fur-seal fisheries of Alaska; that the agents charged with the management of the seal fisheries of Alaska, together with such other persons in the employ of the department as may hereafter be engaged in the execution of the said laws, shall be subject to the immediate jurisdiction and control of the Commissioner of Fisheries, and shall, in addition to the duties required of them by law, perform such other duties as he may, with the approval of the Secretary of Commerce and Labor, prescribe; that the appropriations for "Salaries, agents at seal fisheries in Alaska," 1908 and 1909, "Salaries and traveling expenses of agents at seal fisheries in Alaska," 1908 and 1909, and "Supplies for native inhabitants, Alaska," 1908 and 1909, shall be expended under the immediate direction of the Commissioner of Fisheries, subject to the supervision of the Secretary; and that all records, papers, files, printed documents and other property in the department appertaining to the fur-seal fisheries of Alaska shall be transferred from their present custody to the custody of the Bureau of Fisheries.

OSCAR S. STRAUS, *Secretary.*

This relieved Oscar Straus from answering Elliott directly, and threw it upon his successor, Charles Nagel, who appears on the scene March 4, 1909.

In the meantime Mr. Bowers, finding that the scent was growing pretty strong out of this fraud in killing seals, persuaded Secretary Straus to appoint a "high scientific advisory board" on fur-seal service, so that troublesome questions of citizens like Elliott could be "authoritatively" answered. Accordingly, on January 15, 1909, he appointed "Dr. David Starr Jordan (chairman), Dr. Leonhard Stejneger, Dr. C. Hart Merriam, Hon. Edwin W. Sims, Mr. Frederic A. Lucas, and Mr. Charles H. Townsend" as "the advisory board, fur-seal service." All the men named promptly accepted this appointment, and the board was formally commissioned February 6, 1909. (See Appendix A, pp. 811-813, June 24, 1911, H. Com. Exp. Dept. C. & L.)

Mr. Elliott taking due notice of this shift, and waiting patiently until the successor of Secretary Straus had been in office long enough to get his hearings, addressed the Hon. Charles Nagel a letter covering specifically the subject of fraud on the part of the lessees, as follows:

LAKWOOD, OHIO, *April 26, 1909.*

HON. CHAS. R. NAGEL,

Secretary Commerce and Labor, Washington, D. C.

DEAR SIR: On the 8th of May, 1908, I addressed a letter to your immediate predecessor, inclosing a copy of a recent publication of facts over my own signature. In this letter I urged him to shut down that work of the lessees on the seal islands of Alaska, since it was being done in open and self-confessed violation of the regulations of the Government. The published statements, which I took the trouble to arrange and present in this responsible manner to him, demanded that action from him. But he took none. And still more, he did not even acknowledge the receipt of my letter aforesaid, which gave him this information, lacking on his part in the premises.

However, I know that such silence is the common refuge of that particular officialism which is both unable and unwilling to dispute a statement of fact running counter to its order. But I simply did my duty in the premises, as a good citizen should do.

Now, it is both my duty and my pleasure to renew this request and address it to you, and to inclose copies of the publications as sent to Mr. Straus last May. Also, in this connection, I desire to add that on December, 7 1908, I again submitted additional figures and facts to Mr. Straus, in a letter of that date, which declared that the lessees had again violated the specific terms of their contract during the season of 1908 by killing thousands of seals specifically prohibited from such killing by the express order of the Hitchcock rules. To this letter and its indisputable serious charge no acknowledgment has been made; no attempt to deny its statements has been even hinted at. The reason for that silence is good. The truth of my charge has been self-confessed by the lessees in London.

I therefore, on the strength of those figures and facts which I have submitted to the department, as above cited (May 18 and Dec. 7, 1908), respectfully renew my request that this work of the lessees be wholly suspended, and at once. I do so

in the clear light of the inclosed statements of fact. I also recommend that the law which bonds and binds this corporation leasing the seal islands of Alaska be enforced before it shall be too late to reach the lessees with those fines and penalties ordered by it for the public good.

I am, very respectfully, your friend and servant,

HENRY W. ELLIOTT.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF FISHERIES,
Washington, April 29, 1909.

Mr. HENRY W. ELLIOTT,
Lakewood, Ohio.

SIR: This bureau has received, by reference from the department, your letter of the 26th instant, in which you invite attention to the condition of the seal herd on the Pribilof Islands, and inclosed clippings on the same subject from the Cleveland Plain Dealer, together with your comments thereon. Your communication, with its inclosures, has been placed on file.

Very respectfully,

GEO. M. BOWERS,
Commissioner.

These specific charges thus made by Mr. Elliott stirred Secretary Nagel to appoint a special "expert investigator," one Geo. A. Clark, who was urged for this work by Dr. David Starr Jordan. This appointment of Clark was made on May 7, 1909 (see pp. 819-820, Appendix A, H. Com. on Exp. Dep. Com. & Labor). Clark went to the Pribilof Islands; made his report September 30, 1909.

In this report (on pp. 850, 851, Appendix A) he confirms the truth of Elliott's charges in re killing yearlings, as follows:

The yearlings of both sexes for the season must number about 12,000 each.

This question of the proportion of the sexes surviving to killable and breeding age is a fundamental one. It could be settled in a very few seasons by such regulation of killing for the quota as would limit it to animals of 3 years of age and over, leaving the 2-year-olds untouched. The quota would then fall where it belongs, on the 3-year-olds, and give a close approximation of the survivals among the young males, which in turn could be applied to the young females. This was the method used in 1896-97, when a minimum of 6 pounds in weight of skins prevailed. 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.

The result of this manner of killing is that we have no clear idea from the quota of the number of younger animals belonging to the herd. From the irregularity of the movements of the yearlings of both sexes and the 2-year-old cows, they can not be counted or otherwise accurately estimated on the rookeries.

With this proof of the truth of Elliott's charges in his hands, Mr. Secretary Nagel actually, on May 9, 1910, again renews the same killing orders of 1909, and again sends this guilty agent, Lembkey, up to kill 13,000 seals during June and July, 1910.

Lembkey kills 12,920 seals in 1910, and then when put under oath, April 13, 1912, before the House Committee on Expenditures in the Department of Commerce and Labor, he admits that 7,733 of them are the skins of yearling seals, taken by him in open, flagrant violation of the law and regulations which he was compelled to quote and confess that he had full knowledge of at the time he was busy in this malfeasance! (See pp. 372, 429, 434, 441, 442, 443, 446, 447, Hearing No. 9, Feb. 29, April 13, 1912, House Committee on Expenditures in the Department of Commerce and Labor.)

There is nothing ambiguous or indefinite in Mr. Elliott's letter of April 26, 1909, above quoted. Mr. Nagel was a lawyer of long-established practice and fully grasped the sense and point of Elliott's indictment, but he made no reply. Thinking it possible, however,

that he had not been specific enough, and to put Mr. Nagel beyond doubt as to his meaning, Elliott again addressed Nagel as follows:

LAKWOOD, 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 violated 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.

Giving Mr. Nagel full time to answer and knowing well why he did not answer, Elliott, on May 24, 1910, closed this record made as above, of timely, courteous warning to high officials of fraud practiced in their names on the seal islands, by sending the following square charge of the same to Charles Nagel, Secretary, to wit:

LAKWOOD, OHIO, *May 24, 1910.*

HON. CHAS. NAGEL,
Secretary Commerce and Labor, Washington, D. C.

DEAR SIR: As a good citizen and being possessed of abundant knowledge, based upon indisputable fact, I addressed a letter dated December 18, 1906, to your immediate predecessor, Hon. Oscar Straus. In this letter to him I specified certain grave and inexcusable errors of official reports made to him by his subordinates and certain specific acts of official malfeasance by the same, in re conduct of the public business on the seal islands of Alaska.

On the 2d of January, 1907, I received a single acknowledgment of the receipt of this letter, above cited, with "thanks for the information contained"; but taking notice of the fact that in spite of the indisputable truth of my charges and propriety of prompt reform to be made by him in the premises, Mr. Straus had made no move to do so, again I addressed a cautious letter May 18, 1907, to him, in which I renewed those charges and request for reform. To this letter I have never received even that perfunctory acknowledgment which was the entire return for my first one.

Of course I know why it was not answered—that subordinate officialism was guilty as indicted. It pigeonholed my letters; yet I had charity for Mr. Straus. I knew how hard it is for one in his position to get at the truth, so I quietly gathered an additional statement of fact bearing on this guilty officialism aforesaid, and again on December 7, 1908, I addressed a letter, courteously but firmly renewing my charges and request that he put an end to this malfeasance specified.

Did I receive an answer? No. Why? Because that guilty officialism again silently pigeonholed my letter, since it convicted and dismissed certain officers if acted upon.

Mr. Straus went out of office March 4, 1909. You succeeded. Knowing that you could not have any definite knowledge of this fur-seal business under your direction, except as you gathered it from this same guilty officialism aforesaid, I addressed you in turn a letter dated April 26, 1909, exposing that malfeasance under your hand. On the 29th following your perfunctory acknowledgment of its receipt came to me.

But to this day no attempt has been made since by you to answer its grave, explicit, and indisputable charges of official malfeasance on the part of your subordinates. Of course there is good reason for this silence on the part of that officialism thus indicted. It is guilty. But yet what are you sworn to do in the premises?

On the 9th instant I have addressed to you a final brief of this malfeasance on the part of your seal-island subordinates. Will continued silence on your part vindicate them?

Very truly, yours,

HENRY W. ELLIOTT.

Taking full notice of the fact that the Hon. Nagel did not intend to recognize the facts in the premises, Mr. Elliott rearranged the salient items of fraud in re of the lessees and mailed them on July 12, 1909, to President Taft, as follows, to wit:

The President wants nothing but the facts—he will attend to nothing else, coming from anyone, no matter how close that person may be to him personally. (News item.)

BRIEF.

Analysis of the sworn official evidence which John Hay transmitted to Congress in 1902, which convicts the lessees of the seal islands of Alaska of gaining their lease from the Government, on March 12, 1890, by fraud and perjury, and which is self-confessed in this publication by those lessees aforesaid.

This proof is detailed in the testimony given to the Ways and Means Committee of the House of Representatives by Henry W. Elliott, on January 14, 26, and 28, 1907. (Said testimony is found in the record of that fur-seal hearing given to Mr. Elliott by that committee on those dates and duly preserved on the files.)

Respectfully submitted for the information and the use of the President by Henry W. Elliott, July 12, 1909.

MEMORANDUM FOR THE PRESIDENT IN RE FUR-SEAL FRAUDS.

The evidence which has been sent in to Congress by John Hay that convicts the lessees of the seal islands of Alaska of fraud and perjury March 12, 1890, in securing their lease from the Government, is found as follows:

In February, 1890, Secretary Windom invited bids for the renewal of the lease of the seal islands of Alaska, said lease to run from May 1, 1890, 20 years.

On February 20, in the presence of the agents and representatives of the bidders for this lease, he opened nine proposals. These bids were all carefully scheduled and referred by the Secretary to a board of survey, composed of three chiefs of divisions in the Treasury Department. This board was directed to report to the Secretary the best bid offered as above stated for the Government to accept.

This board of survey found that the bid of the North American Commercial Co., of San Francisco, Cal., was the best for the public and so reported to Mr. Windom. This finding was unofficially made known to the bidders, and the Secretary informed the president of the North American Commercial Co., Isaac Liebes, that on the 12th of March this lease aforesaid would be awarded to him then if he appeared at the Treasury Department at that time and complied with the stipulations and regulations demanded by law and the department.

Mr. Liebes appeared as desired and above cited. Mr. Windom then said to him that he had been credibly informed by good authority that Mr. Liebes and his associate bidders, in the name of the North American Commercial Co., were owners of pelagic hunting schooners and interested in the buying and selling of fur-seal skins taken at sea. If that were true then Mr. Windom said that he had a plain duty to perform and would throw out the bid of the North American Commercial Co.

President Liebes replied that this charge that he and his associates then owned a pelagic hunting schooner or schooners or were then interested in the buying and selling of pelagic skins was not true. He said that he and his associates had disposed of all their interests in pelagic sealing vessels and skins and came into this bidding entirely clean and free of any association with or interest in that business of pelagic sealing as charged.

Secretary Windom then told him that he (Liebes) must make oath to that declaration; that if he did so then this lease aforesaid would be duly awarded to the North American Commercial Co.

Mr. Liebes replied and said that he was then ready to do so; and he did so in the presence of the Secretary and the several chiefs of division, who formed the Board of Survey, as above stated. This oath having been duly made and recorded, Mr. Windom then, on March 12, 1890, formally executed the lease and awarded it to the North American Commercial Co. aforesaid. (See pp. 142-143, H. Doc. No. 175, 54th Cong., 2d sess.)

When Mr. Isaac Liebes swore, on the 12th day of March, 1890, that neither he nor any of his associates in the North American Commercial Co. owned pelagic hunting vessels or were interested in the business of pelagic sealing, on that day and date aforesaid he committed deliberate perjury, and by so doing he secured that lease from the Government, as above described, in a fraudulent manner.

The official sworn proof of this perjury aforesaid is found in the following: Report on the foreign relations of the United States, 1902, Appendix I, etc., sent into Congress by John Hay. This Appendix I is also published as House Document No. 1, Fifty-seventh Congress, second session.

On page 203 of this House Document No. 1 aforesaid is the sworn official oath of sole ownership of the pelagic hunting schooner *James Hamilton Lewis*, executed January 10, 1890, by Herman Liebes, the partner of Isaac Liebes and associate member and director of the North American Commercial Co. aforesaid.

This record of the ownership of the *James Hamilton Lewis* as above cited, in the name of Herman Liebes, associate incorporator and director of the said North American Commercial Co. (with Isaac Liebes, D. O. Mills, and Lloyd Tevis), stands without change on the books of the United States customhouse, office of the collector of the port, San Francisco, Cal., as quoted above, up to September 17, 1890. Then this sealing schooner, the *James Hamilton Lewis*, is sold by H. Liebes to H. Liebes & Co. (Inc.). So that, then, this said vessel stands on the collector's books as the property of Herman and Isaac Liebes. (See p. 120, "Exhibit A," H. Doc. No. 1, aforesaid.)

Then and thereafter, up to July 29, 1891, this sworn proof of the ownership of that vessel, as above cited, stands without change; but on this date a bill of sale is made of that vessel by H. Liebes & Co. (Inc.) to Max Waizman, etc. (See p. 120, Exhibit A, H. Doc. No. 1, 57th Cong., 2d sess.)

Thus the State Department, in this form and time, sends the proof clear and undisputable to Congress that Isaac Liebes, president of the North American Commercial Co., of San Francisco, Cal., did, on the 12th day of March, 1890, utter fraud and perjury in the presence of the Secretary of the Treasury, William Windom; that by said utterance he fraudulently secured the lease of the seal islands of Alaska, as above stated, from the Government.

HENRY W. ELLIOTT.

JULY 12, 1909.

All of which is respectfully submitted on this 12th day of July, 1909, for the information and the use of the President of the United States.

HENRY W. ELLIOTT.

The President, after studying them, on July 29, 1909, sent them to Secretary Nagel for examination and report, and on the 6th of August following Elliott finally was recognized as follows:

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, August 6, 1909.

SIR: The receipt is acknowledged, by reference from the President, of your communication of the 12th ultimo, in which you make certain charges against the North American Commercial Co. in connection with its lease of the seal islands.

In reply you are advised that your letter and the statements contained therein will receive proper consideration.

Respectfully,

ORMSBY MCHARG,
Assistant Secretary.

MR. HENRY W. ELLIOTT,
17 Grace Avenue, Lakewood, Ohio.

Did Secretary Nagel ever make any "examination" into these grave charges and official proof cited of the truth of them? Not a line has ever been put upon the files of his office which declares that he did so, but he did authorize a newspaper scout named Gus Karger to publish the following improper and untruthful statement, to wit:

I. Secretary Nagel has instructed them (the officials of the United States Fish Commission) to pay no attention to his (Elliott's) charges. * * *

II. Elliott has made charges against James G. Blaine, John Hay, and Charles Foster. * * * He has also made charges against Hon. John W. Foster. * * *

III. He (Elliott) was thrown almost bodily out of the Ways and Means Committee on account of getting into a controversy there with the Hon. Sereno Payne, the chairman. * * *

IV. He used to be an authority 20 years ago, * * * but he is now getting somewhat confused. * * *

The officials of the Bureau of Fisheries have a most intense dislike for this man * * *.—(Cincinnati Times-Star, Aug. 30, 1909.)

The last effort made by Charles Nagel as Secretary of Commerce and Labor to shield these guilty lessees and his own subordinates from exposure and punishment is found fully made in the following letter to Hon. Wesley L. Jones, chairman Senate Committee on Fisheries. Mr. Nagel deliberately uses a series of "loaded" skin weights to deceive Senator Jones, thus:

FEBRUARY 23, 1911.

HON. WESLEY L. JONES,
United States Senate, Washington, D. C.

SIR: I have the honor to acknowledge receipt of your letter of the 10th instant, inclosing a communication to you from Henry W. Elliott relative to the sealskins taken on the Pribilof Islands during the season of 1910. Mr. Elliott sends you a memorandum giving certain data which he wishes you to believe were taken from the Fur Trade Review for February, 1911, showing that 8,000 skins out of the 12,920 sold in London in December last were taken in violation of the regulations of the department.

Mr. Elliott's statements relative to fur seals and the fur-seal question have for many years been characterized by reckless extravagance. As long ago as 1886 the governor of Alaska in his official report to the President of the United States for that year (p. 22) said:

"The fact is either Mr. Elliott entertains a mistaken idea of the duty he owes to his employers (the Alaska Commercial Co., by whom I am unwilling to believe him prompted in his persistent misrepresentations of Alaska and her people), or else he must be governed by a malicious hatred of the people of this Territory, among whom he is chiefly noted on account of the colossal impediment with which his veracity seems to be afflicted. It is incomprehensible why the statements of this man under the circumstances should be accepted by committees of Congress in matters pertaining to a Territory he has not seen for a dozen years in preference to those of officers of the Government who are on the ground and sworn to faithfully and conscientiously guard the interests committed to their care."

The memorandum of Mr. Elliott states:

"On pages 61 and 62 of the New York Fur Trade Review for February 1911, * * * is the following official classification of the sale made December 16 last of the fur-seal skins taken as above cited, to wit:

78 "smalls," or 3-year-olds.....	7½ to 8 lb. skins
793 large pups, or "short" 3-year-olds and "long" 2-year-olds. . . .	6½ to 7 lb. skins
3,775 "middling pups" or "short" 2-year-olds and "long" yearlings. 5½ to 6 lb. skins	
6,195 "small pups" or yearlings.....	4½ to 5 lb. skins
1,809 "ex. sm. pups" or "short" yearlings.....	3½ to 4 lb. skins
270 (not well classified).	

It is believed that you will be interested in learning that the foregoing figures, submitted by Elliott as being contained in the issue of the Fur Trade Review, do not appear therein but have been deliberately supplied for the purpose of influencing you and the members of your committee. The Fur Trade Review article gives a detailed statement of the sales of sealskins in London, but differs from the Elliott quotation thereof in the following particulars, as you may readily ascertain by consulting the publication: (1) The official record of the sales of the various sizes of sealskins shows a material difference from Elliott's figures, of which not a single one is correctly given; (2) The official statement contains no reference whatever to the ages of the seals, and all the ages inserted in Elliott's alleged quotation are fictitious; and (3) the printed record makes no mention whatever of the weights of the skins, all the figures given by Elliott being supplied by him for his own purposes.

As you are doubtless aware, the trade designations of the sealskins ("smalls," "large pups," "small pups," etc.) have no reference to the actual ages of the seals. Thus, the term "small pups" include seals 2 years old whose skins weigh over 5 pounds and less than 6 pounds, while the term "large pups" is applied to skins that weigh over 6½ pounds.

For your information, there is appended hereto a statement received from Messrs. Lamson & Co., of London, dated November 9, 1910, by which firm these skins were sold, showing the number, weights, and classification as to size of the skins to which Elliott refers. These weights correspond with those taken on the islands before shipment. The smallest weights reported by Lamson are 4 pounds 10 ounces, of which weight there were only 11 skins. The next smallest weight thus reported was 4 pounds 15 ounces, or within 1 ounce of the size prescribed by the departmental regulations, and these embrace only 81 skins; this immaterial underweight was due to the excessive

care of the natives in removing from the skins every vestige of fatty tissue for food. There were thus only 92 skins which, while taken in conformity with law, were under the limit of 5 pounds prescribed by the department, and of these between 70 and 75 per cent were taken for food purposes by the natives after the close of the regular killing season.

When the possibilities of error in judgment as to weight of pelts not yet removed from the seals and of unavoidable accidents incident to the killing of thousands of animals are considered, the wonder is that there are so few undersized animals killed. The results indicate careful supervision by the agents and also accuracy on the part of the clubbers.

The law forbids the killing of seals less than 1 year old except when necessary to secure food for the natives. This necessity did not arise in 1910, and, consequently, no seals under 1 year old were killed in that year.

Respectfully,

CHARLES NAGEL, *Secretary.*

To heighten the meanness and deceit employed by Secretary Nagel in the foregoing letter, he uses a retracted and self-confessed slander uttered by "the governor of Alaska" (A. P. Swineford). The "governor" was haled before the House Committee on Merchant Marine and Fisheries to answer for the libel above quoted by Nagel, and then and there made a complete and full retraction of it. "I have been misled and misinformed," he told the chairman. (See H. Rep. 3883, 50th Cong., 2d sess, App. A, pp. XXV-XXVIII.)

And furthermore, and in proof of the fact that Charles Nagel, Secretary of Commerce and Labor, was specifically informed of the illegal and improper killing being done on the Seal Islands of Alaska under his authority and by his authority, the following additional sworn proof of that guilty knowledge possessed by Mr. Nagel, is offered, to wit:—

EXHIBIT A.

LETTER FROM THE COMMITTEE OF THE CAMP FIRE CLUB TO SECRETARY NAGEL.

[Italics ours.]

BEDFORD PARK,
New York City, May 10, 1910.

HON. CHARLES NAGEL,

*Secretary of the Department of Commerce and Labor,
Washington, D. C.*

SIR: I am sorry to be obliged to pursue the interests of the fur seal any further; but a recent publication of news from Washington compels me to do so.

Closely following the information that you have placed the seal islands in charge of the Bureau of Fisheries, I am confronted by this alleged statement by Commissioner Bowers, as published by Mr. Ashmun Brown, regular correspondent, in the Seattle Post-Intelligencer, on Sunday, May 1:

Commissioner Bowers said to-day:

"Certainly there will be no wholesale killing; but some seals in the herd ought to be killed from time to time, and that is all that is intended."

To all those who know that the situation demands, for at least five years, a complete cessation of all seal killing on the Pribilof Islands, coupled with the knowledge that Commissioner Bowers and his advisers on the fur seal hold to the view that a certain percentage of fur seals should be killed each year—"for the good of the herd"—the publication quoted above is rather startling. I would be glad to know whether Commissioner Bowers has been correctly quoted, and also whether it really is his intention to kill seals "from time to time."

At the hearing before the Senate Committee on Conservation, on March 22, I became painfully conscious of the fact that Mr. Lembkey, who is one of Commissioner Bowers's chief advisers, earnestly desires that the killing of seals shall go on, and that evidently it was through his advice that a very large appropriation was asked for, for the purchase of a plant which would facilitate such operations. It seemed to me perfectly evident that Mr. Lembkey is anxious to have the job of superintending the killing of the seals on the islands; and therefore I regard his presence on the fur-seal board of the Fisheries Bureau, and as an adviser to Fish Commissioner Bowers, as dangerous to the interests of the fur seal.

While I am on this subject I desire to respectfully call your attention to the fact that at least a majority of the advisory board of the fur-seal service—if not indeed the whole body—is of the opinion that the killing of surplus male seals should go on to the extent of 95 per cent each year. This fact is fully attested in recommendation No. 2, as adopted on November 23, 1909, at a full meeting of the board. You will find it in the copy of the recommendations now on file in your office. The advisory board of seven persons and the fur-seal board of the Fisheries Bureau, also consisting of seven persons, not only jointly approved the making of a new killing lease, as shown by recommendation No. 1, but also, by direct implication, approved the killing of "95 per cent of the 3-year-old male seals." The advisory board completely failed to recommend a close season for the fur seals, or for any restriction on commercial killing, beyond a paltry 5 per cent per annum of the 3-year-old males.

In view of the present situation, I respectfully suggest that, because of his personal interests in the killing of fur seals for commercial purposes, it is to the interest of the Government that Mr. Walter I. Lembkey be dropped from the fur-seal board, and that Mr. Henry W. Elliott, of Cleveland, Ohio, should be appointed to a position on the advisory board. I think it is no more than fair that among the 14 persons who hold the fate of the fur seal in their hands there should be at least *one person* who can represent the views of a very large number of sportsmen and naturalists who are interested in seeing the fur-seal industry restored by the most thorough and expeditious methods, but whose views are not at present represented in any manner whatsoever before your department.

Yours, very respectfully,

W. T. HORNADAY,
Chairman, etc.

Mr. Nagel replies deliberately to Dr. Hornaday in the following letter, which is both arrogant, and insulting, to wit:

EXHIBIT B

LETTER FROM SECRETARY NAGEL TO THE COMMITTEE OF THE CAMP FIRE CLUB.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, May 15, 1910.

SIR: I have read your letter of the 10th instant with some surprise. As you know, you have been given the fullest opportunity to give your advice as to the management of the seal herds before the congressional committees, and with respect to the particular subject which you now have in mind your advice was not accepted. If you had not had the opportunity to present your views, and urged them for the first time now, I might have some questions as to the propriety of my course. But since all the phases were presented to the committee, and Congress by unanimous vote charged me with the responsibility of determining what should be done by way of killing, you will appreciate that I must regard the question as closed.

I may add that as far as I know there are only two persons who manifest any interest in this matter and who differ from the view which has been accepted by Congress and by the department. I have reason to believe that members of the Camp Fire Club who have had an opportunity to visit the islands and to see the seal herds—a privilege of which I believe you have not availed yourself—entertain views directly opposed to yours. In fact, I would be glad to know whether you are writing in your own person, or as representative of the club, when you sign yourself as chairman.

Now, Mr. Hornaday, you have considerable responsibilities in your official employment, and I shall endeavor not to molest you. I hope that you will accord me the same privilege in my capacity. I always welcome advice; I do not fear criticism; but I do discourage unnecessary comment upon other men engaged in my bureau who are charged with responsible duties, who are expected to be loyal, and who are not in a position to defend themselves. I regard it as my part to speak up for them.

Respectfully,

CHARLES NAGEL,
Secretary.

Mr. W. T. HORNADAY,
*Chairman Committee on Game Protective Legislation,
The Camp Fire Club of America.*

This threat of Mr. Nagel "to molest" Dr. Hornaday if the latter did not drop this business of looking at the manner in which those public interests were being destroyed, did not prevent Dr. Hornaday from continuing that observation, for the following answer by him was quickly made, which gave Secretary Nagel full knowledge and ample warning of what he might expect if he pursued this seal herd with illegal slaughter, to wit:

EXHIBIT C.

LETTER FROM THE COMMITTEE TO SECRETARY NAGEL.

BEDFORD PARK,
New York City, May 18, 1910.

HON. CHARLES NAGEL,
Secretary of Commerce and Labor.

DEAR SIR: Your letter of May 15 in reply to my inquiry regarding the accuracy of the published interview quoting Commissioner Bowers as saying that fur seals are to be killed by your department this year on the Pribilof Islands confirms my worst fears. You do not contradict the published information that seal-killing operations are to proceed this year under your authority and direction. You and the friends of the fur seal are now literally at the parting of the ways, and only your calmest judgment can save you from making a very grave mistake.

If the English language has any meaning, your own letter clearly indicates that it is your intention to go on killing seals. It means that you will not permit the harried herds anything in the nature of a close season. You say that my advice on this point "was not accepted." You assume that Congress agrees with you regarding the continued killing of seals, and you say that you "regard the question as closed."

I think the inclosed printed report of the Camp Fire Club's committee on game protective legislature will show you whether or not I represent the Camp Fire Club, or at least all of it except the one member who is known to share your views.

Your implied threat to me if I pursue this matter any further is of no effect anywhere. You are welcome to "molest" me if you can. But it happens that I am not on trial in this matter or in any other. I do not write you now to threaten you, but only to give you, in the friendliest spirit in the world, a solemn warning not to commit an act that will be a grave error. If you have read the newspapers during the past three months, you must know that the acts of even a Cabinet officer are subject to review by the public he is supposed to serve, and no threats of yours, either expressed or implied, will for one moment deter me and the hundreds of strong and capable men I represent from holding you accountable for your future acts regarding the fur seal. We do not propose that our work shall be nullified in the manner that you calmly propose.

You say my "views were not accepted." This would be important if it were true.

Why did President Taft send a special message to Congress to provide against the making of a new killing lease?

To stop the killing of the fur seals on the Pribilof Islands.

Did the President, or did Senator Dixon's committee, or the United States Senate, intend for one moment that you should go right on in the bloody killing business without a halt?

No! A thousand times no, and you know it!

Was it not partly for the purpose of clearing our hands of fur-seal blood and clearing the road for treaties by the State Department that the new law was driven through Congress?

You now propose to nullify the whole act, and set up Lembkey in the killing business in place of the North American Commercial Co.

When you and I were before the Senate Committee I saw clearly what was in Lembkey's mind, and at last I suspected what was in yours. It was then that I demanded of you a positive assurance regarding your intentions, some proof that you were giving the committee a square deal. And what did you reply?

You were careful to give no assurance whatever. You merely shifted uneasily in your chair and said, "I would like to have the right to kill seals, for I think it would be a good thing to hold it as a club over the heads of the pelagic sealers," or words to that effect.

Now, what is it that you are really going to do?

You propose to use the bloody club on the seals themselves forthwith; and you propose to pay good Government money for a lot of old junk with which to carry on the seal-slaughtering business.

I tell you, Mr. Secretary, that the records of the last 15 years of fur-seal history are black with official blunders, and some other things even more serious. The records are all accessible for publication, if necessary. I had hoped that through President Taft's wise, prompt, and very statesmanlike initiative a new era had dawned. I know that the United States Senate intends that there shall be a change for the better, and I know that in the Senate my views regarding the stoppage of seal killing just now are accepted. If you doubt it, we can very easily have that question decided in the Senate Chamber. I warn you that if you permit any seals to be killed on those islands during your term of office it will be a breach of the faith that has been reposed in you by the Senate Committee on the Conservation of National Resources. As to the consequences of this course, it is not necessary for me to make any predictions just now.

Yours, very truly,

W. T. HORNADAY,

Chairman Committee on Game Protective Legislation and Preserves.

Approved by—

JULIUS H. SEYMOUR,
Council for the Camp Fire Club.

MAY 18, 1910.

This vigorous, square, truth-telling letter, as above quoted, of Dr. Hornaday, stung Secretary Nagel into the following answer, which at once squarely puts him in the light of having full knowledge of what the nature of the illegal killing he was about to perpetuate was, to wit:

EXHIBIT D.

LETTER FROM SECRETARY NAGEL TO THE COMMITTEE.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, May 23, 1910.

DEAR SIR: I have read your letter of the 18th instant. It is apparent that further correspondence will not aid the situation. You are entitled, however, to know the position of the department, and I shall endeavor to state it as briefly as possible.

That pelagic sealing ought to be stopped is admitted by everyone, and every effort is being made to put a stop to this brutal and uneconomic practice. So far nothing positive has been accomplished. You are of the opinion that in the meantime the preservation of the seal herds would be furthered by a closed season upon the islands for a certain number of years. As to this there is, to say the least, a difference of opinion. Those who have been charged with the responsibility to investigate these conditions advise that a cessation to the killing will only play into the hands of pelagic sealers. They are of the opinion that the killing of a large proportion of male seals is not only safe, but conduces to the preservation of the herd. It is proposed, for the present, to proceed upon this theory, as Congress is understood to have contemplated when the new law was enacted. The President and the State Department are fully advised of what it is proposed to do. I think it right to inform you because you seem to contemplate steps to have the policy of this department reversed. Inasmuch as the season is approaching, any action of that kind ought to be taken promptly.

In your letter of the 10th instant you said that "because of his personal interests in the killing of fur seals for commercial purposes it is to the interests of the Government that Mr. Walter I. Lembkey be dropped from the fur-seal board." More especially because of the use of that language, I asked you whether you were writing in your own person or as representative of the club. You now assure me that you represent the club, and I must call on you to specify your complaint against Mr. Lembkey. If your objection is based merely upon a difference of opinion between you and Mr. Lembkey as to the wisdom of killing seals, it will serve no purpose to discuss the matter further with me. If, however, you mean to say that Mr. Lembkey is disqualified as an official because of personal or financial interests in the killing of fur seals for commercial purposes, then it is fair that he should be notified of that charge, and that the department should be advised at once in order that it may investigate. If you are prepared to specify so that this matter may be made the subject of an

inquiry, I shall be obliged to have you do it promptly, because Mr. Lembkey is expected to leave for Alaska in the near future, and after he has gone it will be difficult to make a change or even to communicate in time to take action.

Respectfully,

CHARLES NAGEL, *Secretary.*

Dr. W. T. HORNADAY,
Camp Fire Club of America, New York City.

P. S.—Since dictating the above, Mr. Bowers has shown me your letter to him of the 19th instant. You make serious comments upon one or more of the fur-seal experts or expert advisers. Of course, I do not know what you have in mind, but inasmuch as these advisers occupy positions of some responsibility, especially at this time, it is of great importance to me to know the facts just as promptly as possible, and you are therefore invited to put in my possession all such statements as you may be willing to give that will enable me to make a proper inquiry.

CHARLES NAGEL, *Secretary.*

To this letter asking for specific charges, Dr. Hornaday at once sent the following direct, pointed specifications, to wit:

EXHIBIT C.

LETTER FROM THE COMMITTEE TO SECRETARY NAGEL.

BEDFORD PARK,
New York City, May 18, 1910.

Hon. CHARLES NAGEL,
Secretary of Commerce and Labor.

DEAR SIR: Your letter of May 15 in reply to my inquiry regarding the accuracy of the published interview quoting Commissioner Bowers as saying that fur seals are to be killed by your department this year on the Pribilof Islands confirms my worst fears. You do not contradict the published information that seal-killing operations are to proceed this year under your authority and direction. You and the friends of the fur seal are now literally at the parting of the ways, and only your calmest judgment can save you from making a very grave mistake.

If the English language has any meaning, your own letter clearly indicates that it is your intention to go on killing seals. It means that you will not permit the harried herds anything in the nature of a close season. You say that my advice on this point "was not accepted." You assume that Congress agrees with you regarding the continued killing of seals, and you say that you "regard the question as closed."

I think the inclosed printed report of the Camp Fire Club's committee on game protective legislation will show you whether or not I represent the Camp Fire Club, or at least all of it except the one member who is known to share your views.

Your implied threat to me if I pursue this matter any further is of no effect anywhere. You are welcome to "molest" me if you can. But it happens that I am not on trial in this matter or in any other. I do not write you now to threaten you, but only to give you, in the friendliest spirit in the world, a solemn warning not to commit an act that will be a grave error. If you have read the newspapers during the past three months, you must know that the acts of even a Cabinet officer are subject to review by the public he is supposed to serve, and no threats of yours, either expressed, or implied, will for one moment deter me and the hundreds of strong and capable men I represent from holding you accountable for your future acts regarding the fur seal. We do not propose that our work shall be nullified in the manner that you calmly propose.

You say my "views were not accepted." This would be important if it were true. Why did President Taft send a special message to Congress to provide against the making of a new killing lease?

To stop the killing of the fur seals on the Pribilof Islands.

Did the President, or did Senator Dixon's committee, or the United States Senate, intend for one moment that you should go right on in the bloody killing business without a halt?

No! A thousand times no, and you know it!

Was it not partly for the purpose of clearing our hands of fur-seal blood and clearing the road for treaties by the State Department that the new law was driven through Congress?

I respectfully suggest that the American people will be interested in knowing through your investigations how many female seals and very young seals were killed during the past eight years when on outsiders were visiting the islands to observe

and report. It appears to be a fact that the sales of skins from our islands have shown the slaughter of many yearling and pup seals, contrary to law. Now, who is to blame for *permitting* that slaughter?

I will also point out to you that the report of the total number of seals surviving last year, as made to you by Mr. Clark and published by you, is manifestly erroneous and absurd in that it reports a number of living seals far in excess of existing facts. At present I will do no more than draw your attention to the fact (officially published) that on December 17, 1903, Mr. Walter I. Lembkey declared to his chief in the Department of Commerce and Labor (Hon. Frank H. Hitchcock), in the presence of Mr. Henry W. Elliott, "that at the close of the season of 1903, August 1, the whole number of fur seals alive then on the Pribilof Islands *was not to exceed 150,000.*"

Now, Mr. Secretary, I ask you: Where is the man of intelligence who will have the hardihood to say that the fur seals of the Pribilof Islands, harried constantly, as they have been by a powerful fleet of pelagic sealers, have not decreased more than 10 per cent since December, 1903? Look at the London market reports of the annual catches of the pelagic sealers of "Alaskan" seals; consider that according to your own Mr. Lembkey *two* seals are killed and *lost* for every *one* killed and secured by the pelagic sealers; then decide whether you think the total number of seals has not enormously decreased during the past seven years. And yet your Mr. Clark has officially reported to his chief that the seals on the islands "now number less than 140,000" (see your annual report). Why should "140,000" be suggested, when the real figure can hardly be *one-half* that? Was it not to deceive you into thinking that the number so deftly suggested is approximately the real number living? I claim that it was.

Who is there that will go before the American people and assert that there are now more than 60,000 seals belonging to our islands, except the men who wish to make a living by killing them? That there were only 14,336 killable seals on the islands last year, when 15,000 were desired, is very significant.

We are now at the parting of the ways; for I see clearly that you and the Camp Fire Club of America do not agree on any one essential point. We shall feel it our duty to appeal to the President, asking him to take the responsibility of directing a suppression of hostilities by your department. We shall tell him that when you were before Senator Dixon's committee that committee unsuspectingly approved *your* bill (clothing yourself with most absolute powers) in the belief that no seals were to be killed by your orders in the immediate future. Fortunately, it was first promised that you should have \$100,000 for the purchase of the effects of the North American Commercial Co. Then it was pointed out that if no seals were killed and no wages paid the natives therefor the entire support of the natives must be provided by Congress.

As you will undoubtedly remember, and as the records will show, there exists abundant documentary proof of this fact. It was your Mr. Lembkey who then said: "Well, gentlemen, if there is to be no seal killing then we will need a larger appropriation *to enable us to take care of those natives.*" Thereupon some one finally proposed \$50,000 as the additional amount necessary for the support of the natives because no seals were to be killed by them, and they would receive no wages as they heretofore have done. The \$100,000 you originally proposed was then and there increased to \$150,000 for that purpose. It was appropriated by Congress, promptly and cheerfully, and you have it to-day.

But the unquestionable "gentleman's understanding" on which that extra \$50,000 was granted you does not rest on my memory, nor even upon the stenographic report of the hearing before the Senate Committee on Conservation. What the committee expected of you and the purpose of that extra \$50,000 was clinched on the floor of the Senate by Chairman Dixon in the following words, explaining to Senator Hale why your appropriation was to be so large as \$150,000:

"But in the meantime, if we put into effect the closed season, these Indians will be living on the islands with nothing to live upon, with no physicians or schools; and in view of their support and maintenance temporarily, *until the killing again takes place*, the Secretary felt that the Government should make some provision to take care of them in the meantime." (Congressional Record, Mar. 23, 1910, p. 3655.)

The "Secretary" referred to was Hon. Charles Nagel, Secretary of Commerce and Labor, who, with \$50,000 to his credit especially to enable him to maintain 300 natives without paying them wages for butchering seals, now calmly proposes to accept the advice of the evil genius of the fur seal, and go right on with killing operations.

As indisputable evidence I will attach to this letter a portion of the Congressional Record containing Senator Dixon's exact language.

Now, what was the intention of President William H. Taft, when he penned his special message to Congress in behalf of the fur seal? Here are his exact words, as published in Senate Document No. 430, March 15.

"The policy which the United States has adopted with respect to the killing of seals on the islands is not believed to have had a substantial effect upon the reduction of the herd; but the discontinuance of this policy is recommended in order that the United States may be free to deal with the general question in its negotiations with foreign countries. To that end it is recommended that the leasing system be abandoned for the present, and that the Government take over entire control of the islands, including the inhabitants and the seal herds. The objection which has heretofore been made to this policy, upon the ground that the Government would engage in private business, has been deprived of practical force. The herds have been reduced to such an extent that the question of profit has become a mere incident, and the controlling question has become one of conservation."

As any man may see from the foregoing, the President and Congress intended, and still do intend, that the slaughter of fur seals on our islands *shall immediately cease!* Just when they will be willing for killing to be resumed is a question that the future alone can determine. Congress, as representing the people of this Nation, desires that the international fur-seal disgrace shall end immediately, and that blundering shall cease. The good intentions of the President and Congress are entirely beyond dispute. They accepted your bill without question; and they gave you \$50,000 for the first year's maintenance of the natives who no longer would draw wages from seal butchery. They even gave you, most generously, and almost without question, \$100,000 with which to buy up the old property of the outgoing lessees—old junk, we call it—at prices to be fixed by your representatives.

All this was done in the belief that you honestly intended to take the first and most important step in ending the great scandal.

We warn you not to make a false step in this matter. If you carry out your present intention blame will fall heavily, and it will fall upon you and Commissioner George M. Bowers. The public will not care who advised you two to break faith with Congress or who "concur" in it. You will be arraigned on the floors of Congress and in the press of America, and if the terms of your arraignment are severe you will have only yourself and the evil genius of the fur seal to thank for it.

The moderate tone of your last letter has made me feel deeply sorry that you are being led by blind guides into a totally false position, and one which quickly will prove very hateful to you. I am taking all this trouble to warn you because Senator Dixon has assured me that at heart you are a very conscientious man. You have not followed the fortunes of the fur seal for 30 years, as I have. You are depending upon the advice of men who are giving you bad advice—for several different reasons. The one man whose advice would be worth most to you—Mr. Henry W. Elliott—is cordially disliked by some of the "fur-seal" experts whose mistakes he has mercifully exposed.

If the Secretary of State really wishes you to slaughter seals in order to facilitate the making of treaties against seal slaughter (?), then may Heaven help his "negotiations," for assuredly they will need it. In the well-nigh annihilation of the fur-seal industry the Department of State already has many failures to answer for, and it is high time for those failures to give place to one diplomatic success.

Yours, very truly,

W. T. HORNADAY,
*Chairman Committee on Game Protective Legislation and Preserves,
Camp-Fire Club of America.*

Approved and signed by—

JULIUS H. SEYMOUR,
Counsel.

A. S. HOUGHTON.
CHARLES D. CLEVELAND.
MANHALL McLEAN.
GEORGE WM. BURLEIGH.
WILLIAM B. GREELEY.

Did Charles Nagel attempt to answer and deny those specific charges of fraud and wrongdoing put up to him in the above responsible and authoritative form and record? No. He issued his orders as usual to Walter I. Lembkey, and killed in the following June and July 12,920 seals, out of which 7,733 were self-confessed yearling seals—self-confessed by his own agent, Lembkey. (See Hearing No. 9, pp. 434, 435, 436-442, 443, Apr. 13, 1913; H. Com. Exp. Dept. C. & L.)

In conclusion, and cumulative proof of this charge against Charles Nagel as above made May 18, 1910, is the following letter of United States Senator Dixon, chairman of the Committee on Conservation of National Resources, United States Senate, who exposes the fact that he has been deceived by Charles Nagel with regard to this very subject of Dr. Hornaday's letter of above quotation, to wit:

UNITED STATES SENATE,
COMMITTEE ON CONSERVATION OF NATIONAL RESOURCES,
May 23, 1910.

MY DEAR DR. HORNADAY: I had a personal talk with Secretary Nagel the other day regarding the matter of killing some of the male seals, and after he had explained to me the circumstances, I felt better contented. I think you can rest assured that the killing will only be to make a show, with the understanding that this move is done at the instance and request of the State Department, in order to cover certain phases of the international treaty negotiations, which Secretary Nagel says are now pending. I wish I could quote you some of his statements made, but he says that the understanding between Knox and himself is thorough regarding the matter, and he feels positive that he is pursuing the right source at this special time.

I do not believe, from his statement, that any great number of seals will be killed, and that as soon as the pending negotiations are settled the policy of killing will be reversed.

Yours, very truly,

JOS. M. DIXON.

Dr. W. T. HORBADAY,
2969 Decatur Avenue,
Bedford Park, N. Y.

This letter of Dixon to Hornaday shows that Nagel had deliberately deceived Senator Dixon as to his intended purpose of violating the close time in 1910, which he had promised the Senate Committee on Conservation of National Resources March 22, 1910, he could order for the season right ahead, and for which close time he received \$50,000 from the committee to support the natives during the year in that idleness which would follow.

Dr. HORNADAY. The same date; that is to say, in the hearing of March 22, 1910 [reading]:

"Present: Senators Dixon (Chairman), Dick, Jones, Briggs, Dillingham, Guggenheim, Heyburn, Dolliver, Clark of Wyoming, Bankhead, Overman, and Smith of South Carolina.

"Hon. Charles Nagel, Secretary of the Department of Commerce and Labor; Solicitor Charles Earl; George M. Bowers, Commissioner of the Bureau of Fisheries; Dr. B. W. Everham, of the Bureau of Fisheries; Walter I. Lembkey, agent of the seal fisheries; and Dr. W. T. Hornaday appeared."

The first appropriation asked for by Mr. Nagel, with which to carry out the terms of the bill which he had drafted, was \$100,000. That sum was to be used chiefly in buying the properties and paraphernalia of the outgoing North American Commercial Co., in order that with that paraphernalia the business of killing seals could be continued.

In behalf of the Camp Fire Club I called attention to the fact that it was desirous that the killing should cease for a time, and there should be a closed season, which we demanded should be 10 years. That matter was discussed, and it was tacitly agreed upon by members of that committee that there should be a closed season, and that is what prompted Senator Dixon to use the expression that he did. Then, said Mr. Lembkey, "Gentlemen, if there is to be a closed season, we must have more money; we must have money with which to support those natives during their idle period." I will read to you the words that I wrote down at the time:

"Well, gentlemen, if seal killing has to stop, we will have to have a larger appropriation in order to support those 300 natives, whose wages will stop."

Mr. TOWNSEND. You are quoting Mr. Lembkey now?

Dr. HORNADAY. Yes, sir. On being asked how much more he thought would be necessary he said, "We will need about \$50,000 more," and that amount was agreed to then and there, for the purpose of supporting those idle natives whose wages would stop.

Mr. TOWNSEND. That is the explanation Senator Dixon gave to Senator Hale when the bill came in with \$150,000?

Dr. HORNADAY. Precisely, and that is a matter of record in the records of Congress. Now, if that does not prove an understanding that seal killing should stop, then the English language is absolutely worthless.

Mr. SEYMOUR. And the \$50,000 was appropriated?

Dr. HORNADAY. The \$50,000 was appropriated, and Secretary Nagel sat there and accepted it.

Mr. SEYMOUR. For the express purpose of taking care of the Indians during the closed season?

Dr. HORNADAY. Precisely, and for no other purpose.

Mr. SEYMOUR. And Secretary Nagel heard it and understood it and agreed to it, did he?

Dr. HORNADAY. He did, and he has the money now, undoubtedly.

Mr. TOWNSEND. This debate that you introduced in your testimony, covering explanations by Senator Dixon to Senator Hale as to why this \$50,000 in addition was granted, you took from the Congressional Record?

Dr. HORNADAY. Certainly, and from no other source. I clipped pages from the Record itself. I did not quote it. (Hearing No. 6, pp. 267, 268, July 27, 1911: H. Com. Exp. Dept. C. and L.)

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. (Gov. Dillingham, chairman, on Mar. 8, 1904.)

Mr. Frank H. Hitchcock 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. On page 35, Hearings on Fur Seals, Ways and Means Committee, Fifth-eighth Congress, second session, on House Joint Resolution 124, appears the following:

Page 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. We will also prohibit the killing of seals above 4 years of age. Killing will thus be restricted to seals between 2 and 4 years old.

Page 36:

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

Mr. HITCHCOCK. Yes.

Mr. WILLIAMS. 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 is the point. The great objection to the killing of these small seals, and I take it the only objection, is the difficulty in 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 page 987, Appendix A, and the following published charges had also been sent to Secretary Nagel as early as June 26, 1909, to wit:

MEMORANDUM FOR HON. CHAS. NAGEL.

With special regard for the subject of my letter to you of April 26th instant, I have published the following to-day, for which I have the complete warrant and proof in hand.

HENRY W. ELLIOTT,
17 Grace Avenue, Lakewood, Ohio.

JUNE 26, 1909.

CHARGES MADE ARE RECORDS—PROF. ELLIOTT DECLARES THEY ARE NOT PERSONAL WITH HIM—INVOLVE QUESTION OF SEAL SLAUGHTER—WHY HE TAKES MATTER UP WITH THE ATTORNEY GENERAL.

"Those are not my charges," said Prof. Henry W. Elliott, when questioned Saturday by the News concerning the letter he sent to Attorney General Wickersham, and which was published in the News Friday.

"The charges are statements of official record and sworn affidavits in the files of the State and Treasury Departments which convict and order the punishment of those men. I have merely made an arrangement of them, so that they become at once intelligible and indisputable in their showing," replied Elliott. "I found that these men had gotten into complete control of the officialism which succeeded John Hay in the Department of State, and I had no other way at my command of removing them than this one of showing them up."

ASKED BURTON TO HELP.

"You say that mutual friends of President Roosevelt and yourself assured you that the former would surely act on this showing of yours. Do you mind telling who these friends were?"

"No, I do not object; and I will tell if you press the question: It is a natural one, because so many have asked me why Mr. Burton has not insisted on this being done, which I now urge upon the Attorney General. Mr. Burton did try to get Secretary Root to make a date on which to meet with him and myself, in the State Department; this attempt was made by Mr. Burton on March 6, 1907. Root peremptorily refused to do so. Mr. Burton was very much surprised, and when he reported that refusal to me, I at once told him why Root did not meet us in his (Burton's) presence. Root knew I would bring these matters up."

"What is the particular offense of those men whom you desire the Attorney General to proceed against and punish?"

"Those men are the men who, in 1890-91, seduced Mr. Blaine from the path of his plain duty in the premises; and that lapse on his part cost us that fiasco at Paris which resulted in the award of the Bering Sea tribunal; that award put the fur seal herd of Alaska into the hands of the land and sea butchers of it completely; just what it was not supposed to do, by the people, and not intended to be; that result has cost us the loss of over 5,000,000 of fur seals—a property loss of over \$30,000,000 up to date, and still this question is unsettled. Now yet, and worse, it has inflicted the most indecent and cruel killing of those seals that has ever been licensed by a civilized government; all this sin and shame fairly fastened on us by those men. Do you wonder why I want them punished?"

WHY HE DIDN'T GO.

"Couldn't Senator Burton have gone to see President Roosevelt?"

"Yes, and, no; necessarily there is a distinct line drawn between the legislative and executive officers of our Government; a Senator or a Congressman has no right to go down to the office of a Cabinet member and personally order business; and no Cabinet officer has the right to go up to a committee in Congress and personally lobby or promote his business there. True, some Senators and certain Congressmen and certain Cabinet officers do violate this proper rule; but Mr. Burton would not. *Mr. Burton understands that I am right in this Alaskan fur seal business; he has frankly admitted it, and he has explained to my complete satisfaction why he thought it would be useless on his part to try and get Roosevelt to act.* Mr. Cassidy and Mr. Howland both so understand it now, as they would have understood it then," replied Mr. Elliott.

"Then you believe that these men can be punished on that evidence which you ask the Attorney General to order out of the Ways and Means Committee?"

"There is not a shadow of doubt of it. Why has it been suppressed if that fact of its power to convict those men was not well known to certain men close to President Roosevelt?" said the professor. (Evening News, Cleveland, Ohio, June 26, 1909.)

RECAPITULATION OF THE PROOF OF GUILTY KNOWLEDGE OF CHARLES NAGEL IN RE KILLING YEARLING SEALS IN VIOLATION OF LAW AND THE REGULATIONS.

[See Exhibit III for details.]

April 26, 1909.—Henry W. Elliott gives Secretary Charles Nagel specific details of the killing of yearling seals by the agents of the Government on the seal islands of Alaska. He urges Nagel to stop it and punish the lessees for this criminal trespass. (See pp. 74, 75, Dixon Hearings, Rothermel letter, May 20, 1911.)

May 7, 1909.—Secretary Nagel appoints George A. Clark as a special investigator and sends him to the seal islands to report upon the truth of Elliott's charges in re killing yearling seals. (See pp. 819-820, Appendix A, June 24, 1911.)

September 30, 1909.—George A. Clark reports that Lembkey has killed yearling seals during this season of 1909 and in past seasons. October 8, Nagel receives this report, and on October 9 he turns it over to Lembkey. *It is suppressed.* (See pp. 850, 851, Appendix A, June 24, 1911.)

May 9, 1910.—With this proof of the truth of Elliott's charges of April 26, 1909, in his hands, furnished by his own agent, Clark, Nagel to-day again sends Lembkey to the islands to kill seals just as he had done in 1909. Lembkey kills 12,920 seals in June and July, 1910. On April 13, 1912, he confesses to House Committee on Expenditures in the Department of Commerce and Labor that 7,733 of them were yearlings. (See pp. 485, Hearing No. 10.)

February 4, 1911-May 31, 1911.—Secretary Charles Nagel attends sessions of the United States Senate Committee on Conservation of Natural Resources and of the House Committee on Expenditures in the Department of Commerce and Labor, and his agents admit that Lembkey has again been sent with orders to kill in 1911 just as he had killed in 1910. And they enter a studied and emphatic denial on February 4, 1911, and June 9, 1911, that they have ever killed any yearling seals. (See pp. 82, Hearing No. 20, p. 360, Hearing No. 9, pp. 434-444, Hearing No. 9.)

December 15, 1911.—The London sales records show that 12,002 Pribilof Island fur sealskins were sold to-day, taken last June and July (1911), by Nagel, Bowers, and Lembkey; that 6,247 of these skins were less than 34 inches long and were thus yearling skins. (See pp. 731-733, Hearing No. 12.)

The guilty knowledge of George M. Bowers, who stated June 9, 1911, under oath, that the fur sealskins are classified and sold by weights in London, said statement being a falsehood and made to deceive the committee, and so confessed by his confederate, Chief Special Agent Lembkey April 13, 1912, under oath, to the committee, to wit:

Mr. BOWERS. Mr. Chairman, may I add one word? In Mr. Elliott's statement it appears that "In 1873, early in June, Dr. McIntyre returned to the seal islands with this classification, by measurement, of his Pribilof skins in London." Those measurements are shown in the monograph—measurements and weights—prepared in those days by Mr. Elliott, and in that monograph a yearling skin, a large yearling, if I quote the language correctly, is presumed to weigh 4½ pounds, and he shows the weight each year of the skins from that up to 7½ and 8, or more. I do not know how to tell the age of a sealskin—that is, the exact and correct age to the day or month—any more than a farmer could tell the age of some other fellow's pig if he were not

present at the time the pig came into existence, and I can only base the correctness of these weights upon the evidence that was submitted by Mr. Elliott and his monograph.

Mr. TOWNSEND. Mr. Commissioner, will you proceed and read the weights of the kill of 1910, as certified by Mr. Lembkey?

Mr. BOWERS. I have both the weights on the islands and the weights in London.

Mr. TOWNSEND. I will examine you now as to the killing of seals after the expiration of this lease and when the killing was made, as it has been called here by the Government. The report shows that in the year 1910, 12,920 seals were killed, and the evidence before the committee is that of those 8,000 were yearlings.

Mr. BOWERS. Well, that evidence is false.

Mr. TOWNSEND. That is your answer to that, is it?

Mr. BOWERS. Yes, sir. Here are the weights on the basis, you understand, that a 4½-pound skin is a yearling. There are the weights for 1909, the island weights and the London weights. I think, probably, you will find one skin weighing less than 4½ pounds. (Hearing No. 3, pp. 129, 130.)

C. M. LAMPSON & Co.,
London, November 19, 1910.

*Assortment of Alaska salted fur sealskins for account of United States Government,
Department of Commerce and Labor.*

[New York, Ck, 1/228.]

	Lbs.	Ozs.
78 smalls.....	7	15
713 large pups.....	7	12
3,032 middling pups.....	6	7
4,899 small pups.....	5	12
1,266 ex. small pups.....	5	5
11 ex. ex. small pups.....	4	10
33 smalls, low.....	7	11
135 large pups, low.....	6	9
498 middling pups, low.....	6	1
501 small pups, low.....	5	9
88 ex. small pups, low.....	5	0
10 small, cut.....	7	2
71 large pups, cut.....	6	13
238 middling pups, cut.....	6	2
421 small pups, cut.....	5	6
81 ex. small pups, cut.....	4	15
6 small, rubbed.....	7	0
55 large pups, rubbed.....	6	14
195 middling pups, rubbed.....	6	6
290 small pups, rubbed.....	5	11
75 ex. small pups, rubbed.....	5	3
36 faulty.....		

12,732 average based on December, 1909, prices 144/.

5 small.
21 large pups.
48 middling pups.
94 small pups.
18 ex. small pups.
2 faulty.

188 average based on December, 1909, prices 120/.

12,920

Subject to recount.

Mr. PATTON. You mean it is a report that is sworn to by the people who do the selling in London?

Mr. BOWERS. No, sir; it is the classification of the London merchants who sell the skins for the United States Government.

Mr. PATTON. And they pay on that weight?

Mr. BOWERS. They sell on those weights. Their classification is made on those weights.

Mr. ELLIOTT. Right there I want to interpose the statement that they do not weigh those skins to classify them. They measure them. (Hearing No. 6, p. 291.)

In this distinct and positive statement the United States Commissioner of Fisheries tells the committee that the London classification of its 12,920 fur-seal skins, which have been taken on the seal islands during its season of 1910 and sold in London December 16, 1910—that this classification is done there by the weights of the skins.

He does this in full personal knowledge of the fact that those London agents have classified those skins by measurement, so as to get at their size; that the buyers care nothing for the weight of the salt cured skins—they are buying the skins according to their size.

That he made this statement to the committee for the purpose of deceiving them, and that he knew better, for he had personally attended the classification and selling of those skins in London December 16, 1910, is attested by his own official record, as follows:

[Appendix A, p. 1009.]

LONDON, December 16, 1910.

Hon. CHARLES NAGEL,
Secretary of Commerce and Labor, Washington, D. C.

MY DEAR MR. SECRETARY: I have just wired you the total results of the fur-seal-skin sale which has just taken place:

"Conditions considered, have had a remarkably successful sale. Total amount, 89,424 pounds."

When we take into consideration the average grading of the skins as compared with last year, there is a loss of only about 3 per cent.

I am inclosing you a copy of the advertisements for the year 1909 as well as for 1910. I think it is well to have these for office reference. I had hoped for a larger amount, but, after conference with the fur dealers of London, was prepared to receive 10 per cent or even 15 per cent less than last year's prices, and I think, as I have said above, that we had a very successful sale.

I leave the latter part of the week for Germany and will go direct to Bad Nauheim, I regret to say that my condition has not improved.

Wishing you and yours a merry Christmas and a happy and prosperous New Year, I am, with renewed assurances of my highest personal esteem and regard,

Very truly, yours,

GEO. M. BOWERS.

Here he tells the Secretary that he has been busy with the buyers and that he had also been busy with the Lampsons, who did the classifying and selling of those small skins to the buyers aforesaid, as his own agents.

That a man of common sense and average ability should personally attend this sale as the representative of the Secretary of Commerce and Labor and then make that dogmatic statement of untruth in good faith as to the classification of the skins, as above, is simply unbelievable; he knew better; he never had a buyer tell him or his own agent tell him that untruth which he tells to the committee under oath.

In further proof of the personal understanding which Mr. Commissioner Bowers had of what ordered the conduct of the sale of those skins, the additional letters are submitted. It is fairly incredible to believe that a subject which affected the prices of his skins—the "grading" of them as he calls it, or the classification of them—was

not fully explained to him by his agent, the Lampsons, and those buyers, whom he speaks of, to wit:

[Appendix A, pp. 1009-1010.]

LONDON, December 16, 1910.

HON. CHARLES NAGEL,
Secretary of Commerce and Labor,
Washington, D. C., U. S. A.

MY DEAR MR. SECRETARY: Herewith inclosed you will find catalogues showing the prices received at the auction this day for the fur seals of Alaska and elsewhere, and when we take into consideration the number of skins offered for sale and the climatic as well as financial conditions, I think we have had, as far as our skins are concerned, an exceptionally good sale.

Lot No. 1 sold at a decline of 20 shillings as compared with last year—this gave me the blues. The second lot, 400 large pups, sold at a decline of 9 shillings; this of course was better, but when 6,200 small pups and extra small pups sold at a loss of 1 shilling as compared with last year, this very much improved the situation. Unfortunately our skins did not grade so well as heretofore. You will observe that the 664 skins of the North American Commercial Co. did not bring prices nearly so good as those gotten by the Government. You will further observe that the skins of the northwest coast sold at an average of at least $7\frac{1}{2}$ per cent less as compared with the prices received by us, notwithstanding the fact that the skins of the northwest coast this year graded a little better than usual.

Under the terms of the sale a remittance by C. M. Lampson & Co. will be made on December 30. I shall leave London on the 19th, and my address for the next three weeks will be Hotel Kaiserhof, Bad Nauheim, Germany,

With assurances of personal esteem and regard, believe me,
Sincerely,

GEO. M. BOWERS.

LONDON, December 19, 1910.

HON. CHARLES NAGEL,
Secretary Commerce and Labor, Washington, D. C., U. S. A.

DEAR MR. SECRETARY: Herewith inclosed you will find several statements for record in the department, one showing the number of skins sold, the prices realized for each lot, and the average weight of the skins; then another statement showing by whom purchased. I also inclose a report showing the prices received for all other skins sold, with last year's prices, for the purpose of comparison; also a statement issued by C. M. Lampson & Co., as well as two other statements, one by Phillips, Pollitzer & Co., and the other by Blatspiel, Staup & Haycock, the principal London buyers of the Alaskans. These reports will show the situation so far as London and the Continent are concerned. It pleases me to state that the gross proceeds from the sale for the 12,920 skins is £89,624 16s., an advance of £200 more than the amount given in my cablegram. The amounts received, as shown in this report, differ some little from the statement I sent you some days ago, but on the whole our Government gains an additional £200.

Your cablegram of congratulations was greatly appreciated, and I feel much relieved after a hard year's arduous labor. I leave for Berlin to-night, and will proceed from there to Bad Neuheim immediately after Christmas and make a strenuous endeavor to recuperate, or, in other words, to recover my health.

With the compliments of the season, believe me,
Sincerely,

GEO. M. BOWERS.

P. S.—In a personal letter to Mr. Cable I stated I would send him a list of purchasers. This is found in a catalogue which I have marked "Document 4." My address will be Hotel Kaiserhof, Bad Neuheim.

That Mr. Commissioner Bowers knew better, that he had full knowledge of the fact that those skins had been classified by measurement in London, is given below by the sworn admission of his own agent, W. I. Lembkey.

Mr. YOUNG. Let me before you pass from that ask this: You weigh these green skins on the islands, and then measure them in the markets in London. What is your purpose in weighing, and what is their purpose in measuring?

Mr. LEMBKEY. Our purpose in weighing the skins on the island is to get them within the weights prescribed by the regulations. Our regulations prescribe maximum and minimum weights. These weights are 5 pounds—

Mr. YOUNG. Does that relate to the question of age?

Mr. LEMBKEY. Five pounds and eight and one-half pounds.

Mr. YOUNG. Passing from the weight, in London what is the determining purpose in measuring?

Mr. LEMBKEY. They measure them, I fancy—

Mr. YOUNG. Are they trying to arrive at the question of age, too?

Mr. LEMBKEY. They are trying to get the size of the skin or the amount of fur on the animal.

Mr. YOUNG. They care nothing about the question of age there?

Mr. LEMBKEY. Nothing at all.

Mr. YOUNG. That is all I care to ask. (Hearing No. 9, pp. 448, 449.)

* * *
Mr. BOWERS. Mr. Lembkey is not a member of the advisory board, but is a member of the fur-seal board.

Mr. ELLIOTT. We want that distinctly understood. We want to find out where he comes in, and where to put the responsibility. Is not Mr. Lembkey responsible for anything? Did he not get his orders from you?

Mr. BOWERS. He did, under those instructions.

Mr. ELLIOTT. Does he not get his orders from that advisory board, through you? (Hearing No. 2, pp. 116-117.)

Mr. BOWERS. He gets his orders from me as approved by the Secretary.

Mr. ELLIOTT. And he is bound by them?

Mr. BOWERS. He is.

Mr. ELLIOTT. Then, Mr. Chairman, I want Mr. Bowers to explain right here why Mr. Lembkey, introduced by Secretary Nagel, said on February 4 last, at a hearing of the conservation committee of the United States, on page 10, in answer to this question;

“The CHAIRMAN. How many did you kill last year?”

“Mr. LEMBKEY. We killed 12,920.

“Q. What was the youngest seal you killed; what age?”

Mr. BOWERS. Where is that?

Mr. ELLIOTT. I hope you will get that. I want Mr. Bowers to get these questions, Nothing would please me less than to appear as a prosecutor here, because I am not, I want to get at the facts. On page 10 the chairman of this Senate committee asked certain questions of Mr. Lembkey. Mr. Lembkey is introduced to that committee by Secretary Nagel as the responsible agent of the Department of Commerce and Labor to speak for him; and for you, of course.

“The CHAIRMAN. How many did you kill last year?”

“Mr. LEMBKEY. We killed 12,920.

“Q. What was the youngest seal you killed; what age?”

“A. Two years old.”

There we have the official statement of the Department of Commerce and Labor, without doubt or equivocation, without any question of law or anything, given to the Senate committee, that they had killed none of those seals, 12,920, under 2 years of age, Are you ready to certify to that statement here before this committee?

Mr. BOWERS. That is Mr. Lembkey's statement.

Mr. ELLIOTT. No; but, my dear sir, he is your agent. I want you to certify to it.

Mr. CABLE. Do you want him to certify to it, or are you asking whether he does?

Mr. ELLIOTT. Excuse me if I am arguing, but I want to get at the responsibility for this statement. If Mr. Lembkey is irresponsible, why was he brought up there? If he is responsible, why are you evading the responsibility?

Mr. BOWERS. I am not evading anything; I want that distinctly understood.

Mr. ELLIOTT. Then you certify to that statement?

Mr. BOWERS. I do not have to certify to any statement made by another man, That is his statement. That is the statement as it comes to the Bureau of Fisheries from the officials. That is an official record as it comes to me.

We now come into the immediate relation of the United States Bureau of Fisheries to this fur-seal business of the Government. When Dr. Jordan and his associated scientists, Stejneger, Lucas, and Townsend finished their work of completely approving the most rigorous and injurious driving and close killing of the seals by the lessees, they then published, in 1898, this approval in their final report on fur-seal investigations; the lessees then determined to have a

continuation of such "scientific" indorsement. Prior to this the naturalists, generally, had secured the insertion of a clause in an appropriation bill as early as March 3, 1893 (27 Stat., 583), which reads as follows:

The Commissioner of Fish and Fisheries is authorized and required to investigate under the direction of the Secretary of the Treasury, and when so requested report annually to him regarding the conditions of seal life upon the rookeries of the Pribilof Islands; and he is also directed to continue the inquiries relative to the life history and migrations of the fur seals frequenting the waters of Bering Sea.

This caused the sending of several naturalists to the islands in 1894 and 1895 on that errand. The lessees had not found any of them at all troublesome, and when Dr. Jordan closed his initial service to them in 1897 as a scientist, they resolved to have no succeeding naturalist get up there who might not be as tractable.

So, the astute and active lessee, United States Senator Elkins, in the full determination to have a man at the head of this Bureau of Fisheries on whom he could rely, secured the appointment and the confirmation of one George M. Bowers, as United States Commissioner of Fisheries, in February, 1898.

Here was a man notoriously ignorant of every detail of this office, and yet selected and confirmed in spite of the law which declares that he "must be learned as a fish culturist," and "an educated scientist"—just because lessee Elkins wanted it done for this personal reason. And that man Bowers came before the House committee with a pitiful attempt to tell them that Elkins did not order his appointment and confirmation, to wit:

MR. BOWERS. I never asked a single man in the United States to indorse me for the Commissionership of Fisheries.

MR. TOWNSEND. If you will impart information to this committee as to how to secure such good positions without indorsements, it will be interesting.

MR. BOWERS. I had the indorsements for the collectorship of Senator Elkins and then—

MR. TOWNSEND (interposing). That is all right. Now, we will go on from that point. Senator Elkins, at the time he indorsed you for that office, and when he found—

MR. BOWERS (interposing). Not for that office; he did not indorse me for the collectorship at all.

MR. TOWNSEND. Did he indorse you for this position of Commissioner of Fisheries?

MR. BOWERS. I presume he did, as did the entire West Virginia delegation, as well as ex-Senator Faulkner, at that time a member of the Senate.

MR. TOWNSEND. I have no doubt they were perfectly justified in doing so, because you have the reputation of being a very skillful and useful man, and there is no reflection implied in this question. I am simply trying to get before the committee whom your political backers were.

MR. BOWERS. Well, Senator Elkins and I were warm friends.

MR. TOWNSEND. And he was at that time a stockholder, was he not, in the company that had the contract for the seal killing?

MR. BOWERS. I was not aware of that, sir, and I am not to-day. And I never heard that Senator Elkins held an interest in the seal contract until I was told so on the islands in 1906.

MR. McDERMOTT. What did they say to you at that time?

MR. BOWERS. I was told by one of the employees of the North American Commercial Co., when I was there with Mr. Sims, that "your Senator from West Virginia is a stockholder in this company."

MR. TOWNSEND. That was before the transfer was made to your department that you became aware of that?

MR. BOWERS. Well, I was told that at that time.

MR. TOWNSEND. Now, that is satisfactory. You took charge of the affairs of this contract something like 15 or 16 months before the expiration of the contract, did you not?

MR. BOWERS. Yes; something like that. (Hearing No. 2, pp. 70, 71, June 9, 1911. H. Com. Exp. Dept. Com. & Labor.)

By getting their own man into this office, armed with that "duty" and authority of making "scientific" studies of that herd, and of the lessees' work annually, it became easy for Mr. Senator Elkins and Mr. D. O. Mills to control that arm of inquiry, and report. Then, with that "scientific" control on the one hand, with the control of the civil agents on the other, the lessees had nothing to concern themselves about over reports that might be annually filed in the Treasury Department, or in the Bureau of Fisheries.

The results that followed amply paid them for their trouble in getting this unfit man Bowers installed. They kept him there, too, in spite of protests and proof of his unfitness piled mountain high.

The lessees also had another object in sight, and Bowers was the man to reach it for them. They knew that they would have great opposition to a renewal of their lease in 1910, so they banked upon Bowers in this office as being able to secure that renewal for them.

In order that Bowers should not be hampered, they persuaded Theodore Roosevelt and Oscar Straus to put all of the details of this fur seal business into Bowers's control by an Executive order dated December 28, 1908, as follows, to wit:

DECEMBER 28, 1908.

To the Commissioner of Fisheries, the agents charged with the management of the seal fisheries in Alaska, and others concerned:

By virtue of the authority vested in me by the Revised Statutes of the United States, sections 1973 and 161, and by the organic act creating this department, approved February 14, 1903, it is hereby ordered that, subject to the direction of the head of the department, the Commissioner of Fisheries shall be charged with the general management, supervision and control of the execution, enforcement, and administration of the laws relating to the fur-seal fisheries of Alaska; that the agents charged with the management of the seal fisheries of Alaska, together with such other persons in the employ of the department as may hereafter be engaged in the execution of the said laws, shall be subject to the immediate jurisdiction and control of the Commissioner of Fisheries, and shall, in addition to the duties required of them by law, perform such other duties as he may, with the approval of the Secretary of Commerce and Labor, prescribe; that the appropriations for "Salaries, agents at seal fisheries in Alaska," 1908 and 1909, "Salaries and traveling expenses of agents at seal fisheries in Alaska," 1908 and 1909, and "Supplies for native inhabitants, Alaska," 1908 and 1909, shall be expended under the immediate direction of the Commissioner of Fisheries, subject to the supervision of the Secretary; and that all records, papers, files, printed documents and other property in the department appertaining to the fur-seal fisheries of Alaska shall be transferred from their present custody to the custody of the Bureau of Fisheries.

OSCAR S. STRAUS, *Secretary.*

The story of how United States Commissioner of Fisheries, George M. Bowers, used every arm of his office to secure a renewal of this lease for his patrons, is one of the most remarkable exhibitions, self-confessed, of arrogant, official malfeasance that has ever been put into sworn testimony; and how he failed is equally interesting. It is all set forth in Hearing No. 3 (pp. 147-162, July 6, 1911, H. Com. Exp. Dept. Com. & Labor). A brief excerpt of this amazing testimony is given below:

Mr. ELLIOTT. And I want Mr. Bowers to pay some attention to this, because this is important, at least some good lawyers have told me that it is very important to him—

"Being an official letter covering a 'memorandum' addressed to George M. Bowers, commissioner, urging him to take steps to prevent the passage of the Dixon fur-seal resolutions introduced in the United States Senate by Senator Joseph M. Dixon. (S. Res. 90, 91, 92.)

"December 7, 1909. This letter from the 'bureau,' dated December 16, 1909, and signed by Barton W. Evermann, urges Bowers to send agents to New York, there to 'educate' the Camp Fire Club and induce them to agree to the 'bureau's idea of renewing the lease,' as follows:

"EXHIBIT No. 6.

"DEPARTMENT OF COMMERCE AND LABOR,
"BUREAU OF FISHERIES,
"Washington, December 16, 1909.

"THE COMMISSIONER:

"The Washington Star of December 10 last announced that the Camp Fire Club, of New York, had inaugurated a campaign to save the fur-seal herd through legislation designed to prevent the re-leasing of the sealing right, the cessation of all killing on the islands for 10 years except for natives' food, and to secure the opening of negotiations with Great Britain to revise the regulations of the Paris tribunal. As the result of this movement, on December 7 three resolutions were introduced by Senator Dixon, of Montana, one of which embodies the provisions before mentioned, the other two calling for the publication of fur-seal correspondence and reports since 1904.

"As the object of this movement is at variance with the program of this bureau and of the recommendations of the advisory fur-seal board, notably in the plan to prevent killing and the renewal of the seal island lease, the advisability is suggested of having Messrs. Townsend, Lucas, and Stanley-Brown use their influence with such members of the Camp Fire Club as they may be acquainted with with the object of correctly informing the club as to the exact present status of the seal question and of securing its cooperation to effect the adoption of the measures advocated by this bureau¹

"The attached letter is prepared, having in view the object stated.

"BARTON W. EVERMANN.

"Exhibit No. 7. Being the official letter of 'George M. Bowers, commissioner,' to Secretary Commerce and Labor, dated February 8, 1910, inclosing copies of three letters, all urging renewal of the seal lease and giving the reasons of the writers for such renewal, to wit, H. H. Taylor, president N. A. C. Co. (lessees), dated January 27, 1910; C. H. Townsend, for 'fur seal advisory board,' dated January 31, 1910. Alfred Fraser, London agent for the N. A. C. Co. (lessees), January 28, 1910, as follows:

X. When Cleveland replaced Harrison, March 4, 1893, it became necessary to put a Democrat in the place of chief special agent in charge of the seal islands, Joseph Stanley-Brown.

So Joseph B. Crowley was appointed chief; First Assistant Agent Murray, Republican, was dropped for James Judge, a Democrat; but the lessees were careful of their man, Murray. They had him made a salmon fishing inspector for Alaska, without a moment's loss of time.

Then when McKinley came in, March 4, 1897, it was in turn necessary to drop Crowley, Democrat, and back came the subservient Murray to the office of chief special agent.

Murray died in Colorado October, 1898, and was succeeded by John M. Morton, who was as subservient in turn as Murray had been. Morton died on St. Pauls Island July, 1900, and he was succeeded by one W. J. Lembkey, as chief, who has been equally subservient to the

¹ COMMITTEE ON EXPENDITURES IN THE
DEPARTMENT OF COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,
Friday, June 9, 1911.

The committee met at 10 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

TESTIMONY OF MR. GEORGE M. BOWERS, COMMISSIONER OF FISHERIES.

Mr. BOWERS. No new lease was made, but the killing was done under governmental supervision.

Mr. TOWNSEND. You will be questioned about that later. After the first suggestion of this bill you know of no efforts that were made to delay the passage of that legislation?

Mr. BOWERS. I know of no effort that was made to delay the passage of that legislation.

Mr. TOWNSEND. And if any evidence should be introduced to the contrary, it would surprise you?

Mr. BOWERS. So far as I am concerned it would, yes; and as far as I am concerned it would the Bureau of Fisheries and the department. (Investigation of fur-seal industry of Alaska, p. 73.)

seal contractors, and has been steadily in office as such ever since, up to August 1, 1913. We will later have to consider Lembkey again.

But this selection and appointment of these Government agents by the lessees is not all that those contractors have had to do in the premises; it was not enough; so they have had that particular "back-room" officialism in the Treasury Department, which is the direct and immediate annex to the Secretary's office; also in their control and hire, because it was necessary that the reports and work of these resident seal-island agents be insured of a friendly interpretation and official reception in the United States Treasury Department, so that whenever any "impertinent" or pertinent questions were asked of the Secretary as to the conduct of the lessees or the public business on the islands, either by citizens or by Congress, no "official" blunder as to a proper answer would be made; it has been managed as follows:

A standing order of the department put this seal island business, reports, etc., all in the care of the "chief special agent in charge of the islands"; the then "assistant agents" were all ordered to report to him; he then used his discretion as to how much or how little of these reports he was to use or forward to the department; then, when this report of the chief special agent in charge of the seal islands was sent to the Treasury Department it was received and filed in the "office of the chief special supervising agent"; to this man the Secretary of the Treasury looked for all the official information and advice he had at his command; and from this man the Secretary always received the draft of that part of his annual report to Congress which related to the seal islands of Alaska.

Therefore, the importance of having such a man in their control is easy to understand; they got him. When Special Agent Elliott came down from his investigation into the condition of affairs on the islands, September 7, 1890, he found that a man named A. K. Tingle was this "chief supervising special agent." He was a cousin of George R. Tingle, the superintendent of the lessees, and "general manager" on the islands. Of course Elliott found him "deeply interested," but, in favor of the public interests? Not at all.

Then when Cleveland came in, a "Democrat" was put in Tingle's place, and he (Tingle) went into the hire of the Sugar Trust. When Cleveland went out, of course, a "Republican" had to come back into this "office" of "chief supervising special agent," and one W. S. Chance, a docile tool of the lessees, took that place. Elliott calls him a "tool," with all of the proof of that fact in his hands.

With this official machinery in their hands, and in complete control of it, the lessees have actually written every annual report of the Secretary of the Treasury to Congress on the condition of this fur-seal herd, and their own conduct, since 1890, up to the hour that this business went to the Department of Commerce and Labor, July 1, 1903.

XI. We pass now from the "divided" control of the lessees to the single control of the U. S. Bureau of Fisheries. Do we find any improvement? No, if anything, it became quite as bad; fully as much so.

The moment the renewal of the lease was defeated, March, 1910, and the lessees put out of business, these scientists of the Bureau of Fisheries resolved to have the sealskin business continued just the

same, only they would do it themselves. The work of slaughtering seals in 1910 was, therefore, taken up and pushed as hard, and close by them on the islands, as it had been by the greedy lessees in 1909.

Vigorous protests were made Secretary Nagel by good citizens, but without the least avail. He had determined to continue the "benevolent" killing by the lessees, so as to appear "regular" in his indorsement of that injurious work when backing those butchers during the lease. He stimulated Dr. Jordan and his old "scientific" authorities who had shielded that illegal work of the lessees since 1896 to again come forward and deny this improper killing and vouch for its continuation in 1910 and 1911, under United States Commissioner Bowers's and Mr. Lembkey's direction, as being done wholly right in every respect.

The proclamations by Jordan and his subordinate scientists, were used by Secretary Nagel as his righteous, sensible warrant for killing "small" seals; that "it was necessary for the good of the herd," etc.

This stirred up an investigation into that killing, by order of Congress in May, 1911, and the following salient evidence of an organized attempt to deceive the Committee on Expenditures in the Department of Commerce and Labor by the scientists associated with the bureau, and Dr. Jordan's commission, known as the "advisory board," was quickly exhibited.

This attempt to deceive the committee was made with reference to—

First. The regulations of the department governing the taking of seals and their skins.

Second. The classification of these skins when taken.

Third. The behavior of breeding fur-seal bulls.

1. With regard to the law and regulations which governed the taking of fur seals on the islands, the Bureau of Fisheries prepared an elaborate statement, and presented it under oath to the committee, and in that statement made the following distinct, and specific false, and improper denial of the "Carlisle rules" issued May 14, 1896, and quoted above under Section VI, to wit:

COMMITTEE ON EXPENDITURES IN THE
DEPARTMENT OF COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,
Friday, April 19, 1912.

The committee met at 10.30 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

Present: Representatives McDermott, Young, McGuire, and Patton.

Testimony of Barton W. Evermann.

The witness was sworn by the chairman.

THE CHAIRMAN. Doctor, you may state your official position.

Dr. EVERMANN. My official position is assistant in charge of the Alaska fisheries service, in the Bureau of Fisheries, Department of Commerce and Labor.

THE CHAIRMAN. Now, if you desire, you may proceed to submit whatever facts you have for the consideration of the committee.

Dr. EVERMANN. * * *

2. The second charge is that at least 128,478 yearling male seals were killed by the lessee from 1890 to 1909, both inclusive, contrary to law and the regulations.

In answer to this charge it should be sufficient to say that the law has never made it illegal to kill yearling male seals; nor has it ever been contrary to the regulations to kill yearling male seals, except in the seasons of 1904 and 1905, as is shown by the regulations for the various years to which I have called your attention. Therefore, even if 128,478 yearling male seals have been killed since 1899 (which is not admitted) they could not have been killed illegally, because there was no law against killing yearling male seals, and there has been no regulation against killing yearling male seals, except in 1904 to 1909.

The fact that the "Carlisle rules" prohibiting the killing of yearlings in distinct terms, were issued May 14, 1896, and duly published and recorded on the Seal Islands is here vainly denied, and concealed from the committee in a carefully written statement prepared by the Bureau of Fisheries, and given to it under oath; and, the fact that those orders of Secretary Carlisle have never been amended or revised until the "Hitchcock rules" of 1904 were ordered, is also concealed from the committee by that false statement.

2. With regard to the classification of these fur-seal skins when taken on the islands, and then shipped to London for sale, there, the Bureau of Fisheries made a series of statements when first before the committee which were found later to be entirely false, and which said Fisheries Bureau had to admit were such.

When the question was first directly put to George M. Bowers, United States Commissioner of Fisheries, as to how these skins taken under his orders on the Seal Islands, were classified, so as to show their sizes and ages in London, he said (Hearing No. 3, p. 128, June 28, 1911, Ho. Com. Exp. Dept. Com. and Labor):

Mr. TOWNSEND. I will examine you now as to the killing of seals after the expiration of this lease and when the killing was made, as it has been called here by the Government. The report shows that in the year 1910, 12,920 seals were killed, and the evidence before the committee is that of those 8,000 were yearlings.

Mr. BOWERS. Well, that evidence is false.

Mr. TOWNSEND. That is your answer to that, is it?

Mr. BOWERS. Yes, sir. Here are the weights on the basis, you understand, that a 4½-pound skin is a yearling. There are the weights for 1909—the island weights and the London weights. I think probably you will find one skin weighing less than 4½ pounds.

C. M. LAMPSON & Co., London, 19th Nov., 1910.

Assortment of Alaska salted fur sealskins for account of United States Government, Department of Commerce and Labor.

[New York, Ck. 1/228.]

	Lbs.	Ozs.
78 smalls.....	7	15
713 large pups.....	7	2
3,032 middling pups.....	6	7
4,899 small pups.....	5	12
1,266 ex. small pups.....	5	5
11 ex. ex. small pups.....	4	10
33 smalls, low.....	7	11
135 large pups, low.....	6	9
498 middling pups, low.....	6	1
501 small pups, low.....	5	9
88 ex. small pups, low.....	5	0
10 small, cut.....	7	2
71 large pups, cut.....	6	13
238 middling pups, cut.....	6	2
421 small pups, cut.....	5	6
81 ex. small pups, cut.....	4	15
6 small, rubbed.....	7	0
55 large pups, rubbed.....	6	14
195 middling pups, rubbed.....	6	6
290 small pups, rubbed.....	5	11
75 ex. small pups, rubbed.....	5	3
36 faulty.		

12,732 average based on December, 1909, prices 144/.

5 small.
21 large pups.
48 middling pups.
94 small pups.
18 ex. small pups.
2 faulty.

188 average based on December, 1909, prices 120/.

12,920

Subject to recount.

(Hearing No. 6, p. 291, July 27, 1911, Ho. Com. Exp. Dept. Com. and Labor.)

Mr. PATTON. You mean it is a report that is sworn to by the people who do the selling in London?

Mr. BOWERS. No, sir; it is the classification of the London merchants who sell the skins for the United States Government.

Mr. PATTON. And they pay on that weight?

Mr. BOWERS. They sell on those weights. Their classification is made on those weights.

Mr. ELLIOTT. Right there I want to interpose the statement that they do not weigh those skins to classify them. They measure them. (Hearing No. 9, pp. 374-375.)

Mr. LEMBKEY. These skins which were sent to London, during the years 1909 and 1910, were weighed by the factors after their arrival in London and the weights found to correspond with those taken on the island. As this factor, Lampson & Co., is essentially a disinterested person, being concerned not the least with the question of weights or regulations, but wholly with the sale of the skins and the payments therefor, their verification of these weights may be taken as conclusive of their accuracy.

So far, therefore, as concerns compliance with the regulations and the law in the killing of male seals, no malfeasance can be proven, because not only the records of the department but the weights of the same skins in London, taken by an independent and responsible body of experts, prove that the limits of weight laid down by the instructions of the department have been complied with as closely as it is possible for human agency to do so. The weights of skins taken on the islands show this, and furthermore these weights have been verified in London by an independent and responsible body of men.

Here is the man who has been placed in full charge of this public business, the commissioner himself, under oath, actually swearing to a deliberate falsehood of his own invention. He swears that these skins, which have been taken under his orders, are sold in London by weight. What was this man's object in so testifying? ¹

To conceal the fraud of taking yearling sealskins on the islands which weigh only 4½ pounds each, clean skinned, as the work was done by different men and at different times, this weight was raised by blubber to 5, 5½, 6, 6½, 7, and 8 pounds.

The committee has under its control a series of 400 sealskins taken in 1913 just as these skins were taken and sold in 1910. Their

¹ That Mr. Bowers had full knowledge of the fact that he was deceiving the committee is given by his own associate and subordinate, most unwillingly, to the committee, and goes completely to declare the proof of Mr. Bowers's possession of guilty knowledge and use of it to deceive. Chief Special Agent Lembkey swears:

Mr. YOUNG. Let me before you pass from that ask this: You weigh these green skins on the islands and then measure them in the markets in London. What is your purpose in weighing, and what is their purpose in measuring.

Mr. LEMBKEY. Our purpose in weighing the skins on the island is to get them within the weights prescribed by the regulations. Our regulations prescribe maximum and minimum weights. Those weights are 5 pounds—

Mr. YOUNG. Does that relate to the question of age.

Mr. LEMBKEY. Five pounds and eight and one-half pounds.

Mr. YOUNG. Passing from the weight, in London what is the determining purpose in measuring.

Mr. LEMBKEY. They measure them, I fancy—

Mr. YOUNG. Are they trying to arrive at the question of age, too.

Mr. LEMBKEY. They are trying to get the size of the skin or the amount of fur on the animal.

Mr. YOUNG. They care nothing about the question of age there.

Mr. LEMBKEY. Nothing at all.

Mr. YOUNG. That is all I care to ask. (Hearing No. 9, pp. 448, 449, Apr. 13, 1912, Ho. Com. Exp. Dept. Com. and Labor.)

exhibition declares every detail of that fraudulent classification by weight which the Bureau of Fisheries and the lessees managed so as to falsify the returns of their illegal killing on the islands annually to the Government.

The scientists of the Bureau of Fisheries, who have aided Mr. Bowers in this false statement as to classification, and whom he cites to the committee as his "authority" for making it in the following words, are (Hearing No. 2, p. 111, Ho. Com. Exp. Dept. Com. and Labor)—

Mr. BOWERS. I had in mind getting the best talent I could; I expected probable criticism.

Mr. TOWNSEND. I am not criticizing you now.

Mr. BOWERS. I endeavored to get the best talent it was possible to get and to act upon their advice in this fur-seal matter.

Mr. CABLE. Give the names of the members of the advisory board.

Mr. BOWERS. The members of the fur-seal board and of the advisory board, fur-seal service, are as follows (Hearing No. 2, pp. 109-110):

"FUR-SEAL BOARD, BUREAU OF FISHERIES.

"In the Bureau of Fisheries, general matters regarding the fur seals are considered by a fur-seal board, consisting of the following:

"Dr. Barton Warren Evermann (chairman), who is chief of the Alaska Fisheries Service and who has been in Alaska a number of times. He was a member of the fur-seal commission of 1892, when he spent six months in the North Pacific and Bering Sea and on the seal islands studying the fur seal.

"Mr. Walter I. Lembkey, who has been in immediate charge of the seal islands for many years: appointed March 22, 1899.

"Mr. James Judge, who, as assistant agent, fur-seal service, has spent many years on the islands; appointed April 30, 1894.

"Mr. A. B. Alexander, Chief of the Division of Statistics and Methods of the Fisheries, who, as fishery expert on the steamer *Albatross*, visited the seal islands often, and who has made a more careful study of pelagic sealing than any other man.

"Mr. M. C. Marsh, pathologist of the Bureau of Fisheries, who spent the season of 1906 on the seal islands making a study of the seal herd.

"The advisory board, fur-seal service, consists of the following:

"Dr. David Starr Jordan, president of Stanford University, who was chairman of the International Fur Seal Commissions of 1896 and 1897, appointed in pursuance of the treaty of February 29, 1892, and whose published report in four volumes is the most comprehensive, thorough, and valuable treatise that has ever been published on all matters pertaining to the fur seal and the seal islands. Dr. Jordan is the most distinguished and best-known naturalist in the world.

"Dr. Leonhard Stejneger, head curator of biology, United States National Museum, for two years resident on the Russian seal islands, member of the Fur Seal Commissions of 1896 and 1897, as a member of which he visited and studied all the fur-seal rookeries of Alaska, Russia, and Japan. His report on the Russian seal islands is the most critical and thoughtful that has been written.

"Dr. C. Hart Merriam, until recently chief of the Biological Survey, member of the Fur Seal Commission of 1890, and the greatest living authority on mammals.

"Dr. Frederic A. Lucas, Director of the American Museum of Natural History, member of the Fur Seal Commissions of 1896 and 1897, and one of the keenest, most discerning, and best-known naturalists.

"Dr. Charles H. Townsend, director of the New York Aquarium, for many years naturalist on the fisheries steamer *Albatross*, member of the Fur Seal Commissions of 1896 and 1897, and distinguished as a naturalist and field investigator. Dr. Townsend made a special study extending over many years of our fur seals and pelagic sealing.

"Hon. Edwin W. Sims, United States attorney for the northern district of Illinois in 1906, when Solicitor for the Department of Commerce and Labor spent the season on the seal islands, where he made a very careful study of the conditions on the islands.

"Hon. Frank H. Hitchcock, Postmaster General, who, when chief clerk of the Department of Commerce and Labor, had charge of the administration of the seal service.

"In addition to the above the department had the advice of—

"Dr. F. W. True, Assistant Secretary of the Smithsonian Institution, who spent the season of 1895 on the seal islands as a special commissioner for the Government to study the fur seal. Dr. True is one of the most distinguished mammalogists, and has given special attention to marine mammals.

"Mr. George A. Clark, secretary of Stanford University, who, as secretary of the Fur Seal Commissions of 1896 and 1897, spent many months on the seal islands, when there was made, under his immediate supervision, the most careful census of the fur-seal herd that has ever been made. Mr. Clark was again on the seal islands during the entire season of 1909, where he was sent by the Secretary of Commerce and Labor as an expert to study the seal herd during the last year of the North American Co.'s lease."

Here is an imposing list of names who are thus cited by Mr. Commissioner Bowers as being his "advisers" and as the men who have enabled him to make that false declaration of classification by weights in London (by his "loaded" green-skin weights on the islands). What did these men do when summoned and put under oath by the committee and questioned as to this charge made against Commissioner Bowers of killing yearling seals in violation of the rules of the department—did they deny the charge? No. They all swore that they did not know anything about it; that they did not know how to describe the length or weight of a yearling sealskin. Witness the following:

I. Dr. Leonhard Stejneger, member of Advisory Board Fur-Seal Service, Department of Commerce and Labor (pp. 679-680, Hearing No. 11, House Committee on Expenditures in the Department of Commerce and Labor, May 4, 1912):

The CHAIRMAN. Mr. Elliott, do you want to ask him any questions?

Mr. ELLIOTT. I have only a few questions to ask him. Dr. Stejneger, what is the length of a yearling fur seal of the Alaskan herd?

Dr. STEJNEGER. I could not tell you.

Mr. ELLIOTT. Have you ever measured one of the Alaskan herd?

Dr. STEJNEGER. No.

Mr. ELLIOTT. You do not know anything about the length of a skin of a yearling seal as taken from the body?

Dr. STEJNEGER. Of a yearling seal? I do not know; I have never seen a yearling seal killed on the American islands.

* * * * *

Mr. ELLIOTT. Were you in consultation with Mr. Bowers when he ordered the killing of 12,920 seals on the seal islands in 1910?

Dr. STEJNEGER. Do you mean in personal special consultation with Mr. Bowers?

Mr. ELLIOTT. Well, as a member of the board do you remember any consultation with him about issuing those orders?

Dr. STEJNEGER. No; I do not remember.

II. Dr. C. Hartt Merriam, member of Advisory Board Fur-Seal Service, Department of Commerce and Labor (p. 692, Hearing No. 11):

The CHAIRMAN. Well, how long have you been on the advisory board?

Dr. MERRIAM. Since the beginning. I do not remember the date; but I have been absent from the city during a number of the sittings of that committee, as I am engaged in field work in the West at least half of every year, and therefore have not been in Washington at the time most of these meetings were held.

The CHAIRMAN. Were you at the meeting of the advisory board that the previous witness referred to in his testimony?

Dr. MERRIAM. I do not remember any such meeting.

The CHAIRMAN. Are you a member of the board now?

Dr. MERRIAM. Yes.

On page 99, Hearing No. 11:

Mr. ELLIOTT. Doctor, while you were on the island did you ascertain the length and weight of a yearling seal?

Dr. MERRIAM. I did not.

Mr. ELLIOTT. Do you know anything about the length and the weight of a yearling sealskin?

Dr. MERRIAM. Nothing.

Mr. ELLIOTT. One question more. I understood you to say that you had not been in consultation with Mr. Bowers when he issued his orders for killing 13,000 seals in 1910?

Dr. MERRIAM. I do not think I was present at any conference when that matter was up.

III. Dr. Barton W. Evermann, member of Fur-Seal Board, Alaska Seal Fisheries, Department of Commerce and Labor (p. 622, Hearing No. 10):

Mr. ELLIOTT. I know; I have not disputed that, but I want to find what you did on the island. You didn't do anything, you say.

Dr. EVERMANN. I didn't say that.

Mr. ELLIOTT. You didn't weigh or measure a seal on the islands, did you?

Dr. EVERMANN. My recollection is that I did not.

On pages 639, 640, Hearing No. 10:

Dr. EVERMANN. Do you know that Mr. Fraser states that the process of dressing skins instead of stretching them rather shrinks them?

Mr. ELLIOTT. No; he hasn't said so anywhere. Now, Mr. Lembkey said on page 442 that he had measured a yearling seal—three of them. He says here [reading]:

“Mr. LEMBKEY. The length of a yearling seal on the animal would be, from the tip of the nose to the root of the tail, $39\frac{1}{2}$ inches in one instance and $39\frac{1}{2}$ inches in another—

“Mr. ELLIOTT. Yes.

“Mr. LEMBKEY. And 41 in another. I measured only three.

“Mr. ELLIOTT. Yes.”

Do you dispute those measurements?

Dr. EVERMANN. I do not dispute them.

On page 639, Hearing No. 10:

Mr. ELLIOTT. Now, you can find exactly what was in Mr. Lembkey's mind by turning to page 428, at the bottom of the page [reading]:

“The CHAIRMAN. What is your answer?”

“Mr. LEMBKEY. I certified that they were all over 2 years with the exception of the negligible few that were taken through accident.

“Mr. ELLIOTT. In the spring of 1910 you took 12,920 seals. You killed them there under your directions, and you took the skins.

“The CHAIRMAN. Let him answer the question.

“Mr. LEMBKEY. Is that a question or a statement? He is making a statement, as I understand it.

“The CHAIRMAN. Answer the question.

“Mr. LEMBKEY. I did.

“The CHAIRMAN. That settles it.

“Mr. ELLIOTT. Out of the 12,920 skins which you took through the season of 1910, how many of them exceeded in length 34 inches?”

“Mr. LEMBKEY. I do not know.”

Then he tells the committee on page 434 that 7,733 of them, according to this London certificate, are the skins of “small pups” and “extra small pups.” And then he renews that statement on page 441 and quoted Mr. Fraser as his authority.

Dr. EVERMANN. So far as I know, Mr. Lembkey has not denied, and I can say I have not denied, the classifications as given by Lampson's. If they say that there are so many extra small pups and so many small pups, I presume that classification is correct. I am also convinced that the statement which Lampson & Co. gave me, that a skin 35 inches long which they certified as an extra small pup is an extra small pup, and that the skin $37\frac{1}{2}$ inches long which Lampson & Co. certified to the Bureau of Fisheries as being a small pup is a small pup skin.

Mr. ELLIOTT. Were they salted skins?

Dr. EVERMANN. Those were dressed skins.

Mr. ELLIOTT. They were “doped” and dressed and fixed up. They were not these skins, salted skins.

Mr. McGUIRE. What do you mean by “doped and dressed?”

Mr. ELLIOTT. They are “stretched” and “doped” when they are dressed. The dressers “dope” them with soap and sugar, and grease and all sorts of things; pull and tread them backward and forward and stretch them into all sorts of shapes. That is what they call “doping.”

V. Dr. Charles H. Townsend, member of Advisory Board Fur-Seal Service, Department of Commerce and Labor (pp. 736, 737, Hearing No. 12):

Mr. MCGILLICUDDY. Is there any way to determine the age of a seal from an examination of the skin after it is taken off the body?

Dr. TOWNSEND. Oh, yes. I think a person handling a considerable number of them would be able to throw out the different ages.

Mr. MCGILLICUDDY. There seems to have been two ways of determining the age of a seal, one is by the measurement of the skin and the other by the weight. You are familiar, I suppose, with both methods?

Dr. TOWNSEND. Only from hearsay. I do not know that I ever measured one or ever weighed one.

Mr. MCGILLICUDDY. You have no practical information on that subject?

Dr. TOWNSEND. I have no practical information on that subject. I do not remember that that matter was ever in my instructions at any time. I do not remember that I ever went into it.

Mr. MCGILLICUDDY. So far as your information goes, which do you regard as the more reliable way of determining the age of a seal, by measurement or by weight?

Dr. TOWNSEND. I can not say. I have not gone into that subject.

On page 801, Hearing No. 13:

* * * * *

The CHAIRMAN. It has been suggested that I ask a few questions as to your biological knowledge, and, therefore, I proceed along that line. What have you published officially as to the size and weight of fur-seal skins as taken on the seal islands of Alaska?

Dr. TOWNSEND. I do not remember to have published anything on that point.

The CHAIRMAN. What do you know of the composition of the catch of 12,920 fur-seal skins taken by orders of Hon. Charles Nagel, Secretary of Commerce and Labor, and Mr. George M. Bowers, United States Fish Commissioner, during the season of 1910 on the Pribilof Islands?

Dr. TOWNSEND. I am not posted on the composition of that catch.

Hearing No. 14, pages 914-919, as summed up below:

IV. Dr. David Starr Jordan, president Advisory Board Fur-Seal Service, etc., Department of Commerce and Labor (p. 580, Hearing No. 10):

Mr. ELLIOTT. Are you quoting Dr. Jordan?

Dr. EVERMANN. I am quoting some things that Dr. Jordan has said.

Mr. ELLIOTT. Is Dr. Jordan a man of truth?

The CHAIRMAN. You are quoting from Dr. Jordan?

Mr. ELLIOTT. I want to find if Dr. Jordan is a man of truth?

The CHAIRMAN. That is not for the witness to determine.

Mr. ELLIOTT. He is assailing me in that matter and quoting Dr. Jordan.

The CHAIRMAN. The witness can not say whether he is telling the truth or whether he is not.

Mr. ELLIOTT. I would like to have it go in the record whether he considers Dr. Jordan a man of truth.

The CHAIRMAN. The witness will proceed.

(And Dr. Evermann proceeds without being able to answer Elliott.)

VI. Dr. Frederic Augustus Lucas, member Advisory Board Fur-Seal Service, Department of Commerce and Labor (p. 726, Hearing No. 12):

Mr. ELLIOTT. Yes; I find no fault with that record, either. It is exactly as I published it nearly 40 years before. Now, Dr. Lucas, when you take the skin off that yearling seal and salt it down, how long is it?

Dr. LUCAS. I do not know. I have never measured a skin after salting.

Mr. ELLIOTT. You never measured it before salting, did you?

Dr. LUCAS. I never measured the skin before salting.

Mr. ELLIOTT. Neither before nor after? Then how do you know that in the killing up there they are not killing yearling seals?

Dr. LUCAS. By the weight of the skins.

Mr. ELLIOTT. Are you acquainted with the tables of salted weights published by one of your associates, of 275 skins, which give a complete denial to your statement?

Dr. LUCAS. I am not.

Mr. ELLIOTT. You have never seen the table of Mr. Judge?

Dr. LUCAS. I presume I have seen the table, but I never noticed it.

Mr. ELLIOTT. Two hundred and seventy-five salted skins which he weighed shows that a salted skin 33 inches long will weigh as much as a green skin 37½ inches long.

Does that agree with your statement?

Mr. MCGUIRE. Doctor, right there, you say sometimes—

Dr. LUCAS. That is equivalent—

Mr. ELLIOTT. The table states it; he (Mr. Judge) says these sizes of those skins are not fixed by weight.

Dr. LUCAS. May I make a statement? In all these sales of skins the skins are advertised by weight and not by size.

Mr. ELLIOTT. Are they advertised by weight? Find an advertisement by weight in the Lampson catalogs and you will find something I have never been able to find.

Finally one man associated with these experts of Secretary Nagel's appointment, W. I. Lembkey, appeared. He did know what a yearling seal skin was, and after a determined attempt to deny that he did, the following admission was made by him under cross-examination, to wit (Hearing No. 9, Apr. 13, 1912):

On page 443:

"Mr. ELLIOTT. How much can you say is left on a yearling after you have taken the skin off?

"The CHAIRMAN. How much skin is left after you have taken it off?

"Mr. ELLIOTT. Yes, sir; after they remove it for commercial purposes a certain amount is left on.

"Mr. LEMBKEY. I stated about 3 inches.

"Mr. ELLIOTT. Then that would leave a yearling skin to be 35 inches long.

"Mr. LEMBKEY. No; if it was 39½ inches long it would leave it 36½ inches. That is, all the animal from the tip of the nose to the root of the tail would be 39½ inches long. Three inches off that would leave 36½ inches."

In this distinct affirmation and statement, Mr. Lembkey tells the committee that a "yearling" fur-seal skin of his own identification and measurement is 36½ inches long. It then became, in order to understand what the lengths of those 12,920 fur-seal skins were, which he took during the season of 1910 on the Pribilof Islands, and then certified them into the record of his work as being—all of them—"taken from male seals not under 2 years of age." (See testimony Apr. 13, 1912, pp. 428, 429, Hearing No. 9).

With the exhibition as above, of that complete ignorance of the "scientists," we come to the testimony of the one man who directed and did the killing, and who does know, to wit: (Hearing No. 14, p. 905; July 25, 1912; Ho. Com. Exp. Dept. Com. and Labor.)

Mr. Lembkey having thus identified "7,733" of his 12,920 skins as "small pups" and "extra small pups," the committee then examined him as to the lengths of those "small pup" and "extra small pup" skins; he then testified as follows, page 441, Hearing No. 9:

"Mr. ELLIOTT. I am getting at the analysis of your catch which you have given here already. You have given in a statement here that 8,000 of them were "small" and "extra small."

"Mr. LEMBKEY. 7,700.

"Mr. ELLIOTT. 7,700?

"Mr. LEMBKEY. 7,733 were small and extra small pups.

"Mr. ELLIOTT. Mr. Fraser tells us that those seals, none of them measured more than 34 inches nor less than 30 inches.

"Mr. LEMBKEY. The committee can see what Mr. Fraser states. Mr. Fraser states that small pups measured 33¾ inches in length."

The CHAIRMAN. What would that indicate as to age?

Mr. ELLIOTT. I am coming to that—

"Mr. ELLIOTT. From there [indicating] to there [indicating] on that diagram—

"Mr. LEMBKEY. 33¾ inches in length, and extra small pups measured 30 inches in length.

"Mr. ELLIOTT. Then you have some extra small pups there which makes it 8,000?

"Mr. LEMBKEY. Only 11 of those.

"Mr. ELLIOTT. It does not amount to anything.

"Mr. LEMBKEY. It just makes your 8,000 about 300 more than the actual number.

"Mr. ELLIOTT. That is the reason I used those round numbers. It does not amount to anything one way or the other.

"Mr. LEMBKEY. The actual number is 300 short of 8,000, Mr. Elliott."

Mr. Lembkey thus testifies that his own summary and official record of the measurements of "7,733 fur seal skins," which he took during the season of 1910 on the Pribilof Islands, declares the fact that not one of them exceeds in length 34 inches. That fact determines them—all of them—to have been the skins taken from yearling seals—

Mr. MADDEN. Let me ask you a question. According to Mr. Lembkey's testimony read by you, he testified that the length of a yearling would be 39½ inches, and when it was skinned the skin itself would be 36½ inches. Does it always follow that a yearling seal measures just the same or within an inch or two of the same length?

Mr. ELLIOTT. I think the range is about 3 to 4 inches; a small yearling skin goes 30 inches, a good average yearling skin 34 inches, and a "long" yearling 36 inches. There are three grades.

Mr. MADDEN. All seals are not of the same size?

Mr. ELLIOTT. No; but there is the general average, and you can very easily keep within the limit.

3. As a warrant for the urgent need of killing annually on the islands, practically all of the young male seals that could be secured, the Bureau of Fisheries issued statements to the press, and made a sworn statement as follows to the committee, April 20, 1913 (Hearing No. 10, p. 521, H. Com. Exp. Dept. Com. & Labor):

6. If the surplus males are not killed, they not only become valueless for their skins, but they grow up into bulls not needed for breeding purposes, but which nevertheless pass on to the rookeries, where they do great damage to the breeding herd by fighting among themselves for possession of the cows, often tearing the cows to pieces, so injuring them that many of their pups are still-born, trampling the helpless pups to death, exhausting their own vitality and virility, and rendering themselves less potent than they would be without such useless struggle—in short, causing infinite trouble and injury to the rookeries without a single compensating advantage.

That this statement was absolutely without foundation in fact, that it was deliberately put up to the committee to deceive, and so warrant this excessive and illegal killing on the islands since 1890, to date of its making, as above, has been made a matter of repeated record in the hearings held from May 31, 1911, to July 31, 1912.

The spectacle of 22 "distinguished scientists" being invoked by the Bureau of Fisheries to sustain that untruthful statement, when each and every one of those "authorities" have never given out a word touching it, in all of their writing and talking, that even faintly asserts the same.

Nothing of the kind has ever been witnessed on the breeding rookeries by any competent authority, and nothing of the kind ever will be, since it is not the habit of these animals to "tear the cows to pieces," and "trample the helpless pups to death."

All of this fighting between the bulls takes place, and is over practically, every season, long before the cows arrive; it was accurately observed and published by Elliot 40 years ago. (See Mono. Seal Islands, 1874-1882.)

The foregoing briefed selections from the sworn testimony cited, declares that a combination has existed between the officials of the Seal Islands and the lessees' agents from 1891 to 1909, which was continued in Washington between said contractors and the Bureau of Fisheries to deceive the Departments of the Treasury and Commerce and the House committee.

It declares the fact that this officialism and the lessees have not succeeded in deceiving the committee, and the committee is fully warranted in asking the House to approve its findings of fact and recommendations as set forth in its report, No. 1425, on Jan. 31, 1913.

DR. DAVID STARR JORDAN AND HIS ASSOCIATE "SCIENTISTS" STEJ-
NEGER, LUCAS, TOWNSEND, AND EVERMANN CONSPIRE WITH THE
LESSEES (LIEBES, ELKINS, AND MILLS) TO CONCEAL THE FACT THAT
THIS KILLING ON THE ISLANDS WAS RAPIDLY DESTROYING THE
FUR-SEAL HERDS THEREON, AS SAID LESSEES WERE PROSECUTING
THAT SLAUGHTER, 1896-1910, INCLUSIVE.

Dr. Jordan deliberately falsifies the Russian records and the records of the slaughter by the lessees, 1896-97, to shield those public enemies and enable them to continue their illegal and ruinous work. (Hearing No. 2, pp. 65, 66, June 8, 1911, H. Com. Exp. Dept. Com. & Labor.)

Mr. ELLIOTT. Way back as far as 1826 the Russians themselves recognized the fact that they were culling the herds too closely—that they were ruining the business by the land killing of all the choice males; they knew that they alone on the islands were to blame, because no such thing as hunting fur seals in the water by white men then was dreamed of, much less done.

In December, 1820, Gen. Yanovsky, the Imperial Russian agent, sent over to Sitka from St. Petersburg in 1818 to examine into the question of that decline of the fur-seal catch, then wrote to his Government that "so severe is this practice of" culling the best males for slaughter, "that if any of the young breeders are not killed by autumn, they were sure to be killed by the following spring," and urged the reformation of this work then on the islands.

Here is this evil of overdriving and culling the herd presented and defined 50 years before I saw it and nearly 70 years before Jordan denies its existence in 1898. Think of it. We have sent two investigating commissions since 1890 up to our ruined fur-seal preserves on the Pribilof Islands, one in 1891 and the other in 1896-97, and yet in spite of this plain Russian record and my detailed and unanswerable indictment of that particular abuse in 1890, these commissioners blindly and stupidly deny it. They attempt to set aside the Russian record by saying that the Russians then killed females as well as males and drove them up to the shambles in equal numbers.

The Russians did nothing of the sort. They began the season early in June by driving from the hauling grounds precisely as we do to-day and continued so to drive all through the rest of the season; they never went upon the rookeries and drove off the females; they never have done so since 1799. How then did the females get into their drives?

The females fell into these drives of the Russians because that work was protracted through the whole season, from June 1 to December 1. In this way the drivers picked up many cows after August 1 to 10 to the end of November following, since some of these animals during that period leave their places on the breeding grounds and scatter out over large sections of the adjacent hauling grounds, so as to get mixed in here and there with the young males. Thus the Russians in driving across the flanks of the breeding grounds, going from the hauling grounds, during every August, September, October, and November, would sweep up into their drives a certain proportion of female seals which are then scattered out from the rookery organization and are ranging at will over those sections of the hauling grounds driven from. What that proportion of this female life so driven was, in Russian time, no man to-day can precisely determine. From the best analysis I can make of it I should say that the Russian female catch in their drives never exceeded 30 per cent of the total number driven at any time, and such times were rare, and that it ranged as low as 5 per cent of female life up to the end of August annually.

Now, what does Jordan say to-day about this work which the Russians condemned 70 years ago and I in 1890?

"As land killing has always been confined to the males, and as its operations are to-day what they have been since the herd came into the American control, except in so far as they have been improved, this means that land killing is not and has not been a factor in the decline of the herd."

I went up in 1890 prejudiced against the pelagic sealer. I am yet; but prejudice can not make answer to the following facts:

In 1890 I found in the place of 3,193,670 breeding fur seals and their young, only 959,455.

In the place of a round million of nonbreeding young male seals on the hauling grounds in 1872-1874, I found a scant 100,000.

It is and was easy to account for the heavy shrinkage of life on the rookeries, for the pelagic sealer has been hard at work on the female life since 1885-86; he has killed in the water 75 to 80 females to every 20 males, and this proportion in killing ought to be shown on the breeding grounds. It was.

But what about that infinitely greater loss among the young males on the hauling grounds? If the pelagic sealer was all to blame (as Jordan says he is) for this ruin of the herd, why should this class of seals of which he kills the fewest be the one class most fearfully decimated.

I began on the ground in 1890 to review every season's work on the islands since 1874. I found that in 1883 the supply of surplus male seals had so dwindled on the islands that the driving was then extended to all of the hauling fields; that extension declared increased difficulty in getting the supply long before the pelagic sealer had entered Bering Sea or had really begun destructive work in the North Pacific Ocean.

If the pelagic sealer had not caused this trouble on the islands in 1883-1887, of getting the full supply of killable young male seals, what had? An epidemic or disease? No, not a trace of it. Then there remained but two reasonable answers; either too many seals were annually killed by the lessees, or the method of driving to cull the herds so driven was at fault.

The effect of killing annually 100,000 young male seals of a single high grade upon the whole herd as begun in 1870 was an experiment. It went far beyond the Russian limit and method, for it added a much greater danger. It called for the systematic culling out of all the seals driven under 3 years of age and over 4 years.

This act of steadily killing every fine 3-year-old and 4-year-old male that comes up annually in the drives began in a few years to create a serious interference with that law of natural selection in the life of the herd which enables the fur seal to be so dominant a pinniped. This interference is at once seen by a thoughtful naturalist when the continued culling out of the very finest young male seals from the herd takes place annually. How long would any stock breeder keep up the standard of his herd in this State if he annually slaughtered all of the very finest young males that were born into it or brought into it?

Yet Dr. Jordan comes forward in his final report with this plain confession of his inability to grasp a well-established truth in regard to the life of wild animals. Listen to him (Chap. IX, p. 128):

"The whole matter (theory of overdriving) is too absurd for serious consideration, and might be passed by with the silent contempt which it deserves were it not for the fact that it was accepted by the British commissioners in 1891 and made the chief foundation of the British contention before the Paris tribunal of arbitration."

Yet, curiously enough, Dr. Jordan, on page 120, immediately preceding this dogmatic deduction, cuts all the ground out from under his own feet in the following statement:

"But suppose the killing was continued through a series of years, every 3-year-old being killed, the reserve would in time be cut off and the stock of breeding bulls die out. It is impossible to say how long it would take to produce this effect, because we do not know the length of the life of a bull. We may infer, however, that it is not less than 15 years, and therefore the injurious effects of this excessive killing, begun in any given year and continued indefinitely, would not be seen within 10 years at least."

This he publishes under the caption of "A hypothetical case."

It is not hypothetical. It is the real story of the driving and killing on the islands from 1880 up to 1890. During all those years I know, from the records of the work and the direct personal testimony of the men who did the work, that they never allowed a 3-year-old seal to escape that they could get. That in 1883 they first began to fall behind in their run of 3-year-old seals from the hunting grounds of 1872-1874, which had so abundantly supplied them. Then they began to extend their driving to the hitherto untouched hauling grounds of the islands, until by 1896 they were driving from every nook and corner on the islands where a young male seal hauled out, and by 1889, in spite of the frantic exertions that they made, they got less than one-quarter of their quota of 3-year-old skins. They had to make it up in yearlings and "short" 2-year-olds for that year.

In the face of this positive truth about the work of 1889, which appears in my report of 1890, Dr. Jordan, in 1898, makes the following strange blunder of statement: "To destroy this class (3-year-olds) or any considerable number of them would at once weaken the herd. But there would be no object in such killing, and it has never been thought of" (p. 120).

Never been thought of. Why, it was the sole aim and thought of the land butchers to get every fine 3-year-old and 4-year-old seal that could be secured in the seal drives from 1872 to 1890. When the supply of this grade dwindled on the original

sources of supply then the work of driving from the hitherto untouched reservoirs was regularly increased with vigor and tireless persistency.

But Dr. Jordan makes his case still worse, for he goes on to say that this overkilling is not practicable. On page 121 he declares: "In the hypothetical case above cited we have supposed that every male of a given age could be taken. While in theory this is possible, in practice it could probably never be done. There are certain hauling grounds, such as Lagoon, Zapadnie Head, Otter Island, Seevitch Rock, and Southwest Point, from which the seals have not and never have been driven. The young males frequenting there were left undisturbed."

This emphatic statement by Dr. Jordan is wholly and completely untrue. I have the record and the proof that each and everyone of these places of retreat which he names above have been annually visited by the sealing gangs on St. Paul Island since 1884; and these "undisturbed" seals have been regularly driven off from those particular places, so that they would haul out on other places where they could be taken more advantageously, or they were killed, thousands and tens of thousands of them, right on the ground itself, notably on Southwest Point in 1884-1886. They were entirely tunted off from other islands because the law and the lease does not allow the lessees to kill seals there. And this particular secret work was in progress right up to the hour when I stopped it, July 20, 1890.

Now, who has imposed upon Dr. Jordan with this bald untruth? Who has so completely and shamefully misled him? What avails his high personal character or his deserved reputation as a naturalist when he makes a gross and a monumental blunder like this? A blunder upon which he bases his whole defense of an abuse which I condemn?

It is in order now to submit the proof that Dr. Jordan has falsified this island work as to not driving or taking of seals by the lessees to slaughter from certain "reservations" and "inaccessible places." It is given in Hearing No. 14, July 25, 1912 (pp. 923-924, H. Com. Dept. Com. & Labor), thus:

Mr. ELLIOTT. One of the most flagrant and inexcusable matters of "scientific" malfeasance as to conduct of the public business on the seal islands of Alaska is that repeated and untruthful statement made by Dr. David Starr Jordan in 1896-1898, and which I have made the following review of (see pp. 66, 67, Hearing No. 2, June 9, 1911, H. Com. Exp. Dept. Com. & Labor), and continued by his associates ever since, to wit:

"But Dr. Jordan makes his case still worse, for he goes on to say that this overkilling is not practicable. On page 121 he declares: 'In the hypothetical case above cited we have supposed that every male of a given age could be taken. While in theory this is possible, in practice it could probably never be done. There are certain hauling grounds, such as Lagoon, Zapadnie Head, Otter Island, Seevitch Rock, and Southwest Point, from which the seals have not and never have been driven. The young males frequenting there were left undisturbed.'"

Mr. ELLIOTT. I submit herewith, appended, the following proof of that erroneous statement made by Dr. Jordan, as above cited, to wit:

Those "whistles" used on St. Paul, in 1890, and for driving off those seals as stated in my notes following these of St. George, were not unknown, it is clear, to the lessees at least six years before I knew anything about them.

[Wardman's Entries.]

ST. GEORGE ISLAND, *July and late June.*

June 28, 1884. * * * First driving off of the young seals from under High Bluffs just west of Stony Arteet. The natives set up small, noisy windmills, spilled coal oil on the rocks, and set a number of small flags. * * *

But a few days afterward I [Wardman] was astonished to see the young seals all back there laying in and around these windmill "screechers" and the fluttering flags, showing no fear of them whatever. * * *

Natives sent down every few days with boats and whistles to drive the holluschickie off, since they can not round them up, and kill on the beach margin—too narrow.

[Elliott's diary, St. Pauls Island, May 21-Aug. 14, 1890.]

THURSDAY, *July 3, 1890:*

Palmer, back from North east Point this evening, reports that all the native sealing gang used their whistles and stampeded the holluschickie under the bluffs at Lukanin and on Katavie Point, as they came down with him; he says that they told him that

they all had these whistles and used them to drive seals out of the rookeries, especially under these bluffs of Lukanin, of the Reef and Seevitchie Kammers; also of the shelf on Zapadnie and Polovina Bluffs.

SATURDAY, July 5, 1890.

Tingle drove all the holluschickie off from the landing (at Otter Island) as soon as we came ashore.

JULY 9, 1890.

Three natives driving holluschickie under the "drop" at Zapadnie. They told me that they had killed several thousand down there on the shelf in 1887-88, and carried the skins off in the baidar; only a few here to-day, and so drove them off, rather than make a killing; also that every one of the S. W. Point seals were slaughtered there on the ground in 1887-88; finest lot seals ever rounded up, not one under size, and all secured.

[Elliott's diary on St. Pauls Island, May 21-Aug. 14, 1890.]

THURSDAY, July 3, 1890.

Mr. Goff¹ asked me to-night if I was aware of the fact that the natives had been ordered to sweep the bluff margins at Zapadnie and strew broken bottles, coal-oil cans, etc., on the rocks. I told him that I was; that this work of hustling out every young male seal that could be found hiding in the shelter of the rookery margins and under the high bluffs at Zapadnie, Polovina, Lukannon, and west side of Reef Point, Sievitchie Kammen, and Otter Island was begun here in 1884, and also on St. George.

Mr. Goff also asked me if I knew that the natives were supplied with whistles for stampeding the holluschickie on the rookery margins next to the surf, and that squads were employed secretly at the work. I told him, yes; that Palmer¹ had witnessed and heard such a "drive" under Lukannon bluffs, when he was coming down from Northeast Point, 4th instant. Palmer reported the occurrence to me.

What shall we do? As matters stand, do nothing but record it; it simply shows the extreme diminution of the young male life.

FRIDAY, July 4.

Booterin and Artamonov both shrugged their shoulders this morning when I asked them about the whistles—"Excuse me, please," and off they shuffled with very wise grins.

I cornered Aggie Cushing to-day, and he admitted that he had been ordered to "salt" the bluff rocks at Zapadnie in 1889; that every seal had been killed at S. W. Point and "Kursoolah" by the end of the season of 1888; that this hauling ground was not driven; the baidar came direct from the village and the men rounded the seals all up on the ground itself, killed and skinned them there, "all big seals;" "fine, very fine seals; none got away." "When did you first come, Aggie?" "June, 1886, we came first time." "Why?" "Big, fine seals, sir; get 'em; every one, too." "Its pretty well grass grown over there now; when did you quit killing there?" "We got them all in 1888, sir." "Why haven't any seals hauled there since?" "There ain't any left—they have all gone, maas lucken." "When do you think the trouble began here, Aggie?" "It first became hard, Mr. Elliott, in 1883, and it has been getting harder and slower all the time." "Have you got a whistle, Aggie?" "Yes," and showed it to me, slung under his shirt by a neck string; it was a regular pewter dog whistle. Aggie begged off when asked as to details of the work of the whistle brigade, and I dropped the subject.

DR. JORDAN DELIBERATELY FALSIFIES THE RUSSIAN RECORD IN RE NOT KILLING FEMALE SEALS.

Dr. Jordan had full knowledge of the fact that the Russian killing of seals from the time the old Russian American company took charge of the Pribilof herd in 1800, up to the day we received it from them in 1867, never permitted the killing of female seals. He, with that full knowledge in his possession, after holding it for

¹ Chas. J. Goff, named above, is dead. W. S. Palmer, however, also named and quoted above, is now employed as one of the curators and preparators in the United States National Museum, Washington, D. C. (May 13, 1913).

nearly two years, has the following untruthful statement to finally report under date of February 24, 1898, relative to the conduct of this work of killing seals by the Russian management of the herd, to wit.

On page 25, Fur Seal Investigation, Part I, 1898, under head of the "Company's management," he says:

At once, upon assuming control of the islands, the Russian American company put a stop to the ruthless slaughter which threatened the fur-seal herds with destruction. * * * They still continued to kill males and females alike. The injury to the herd naturally continued. * * *

That Dr. Jordan could make such a statement in distinct denial of the only authority which he has used, and knows, is hard to believe, when on page 222, following, of this same report above cited, part third, appears the following translation of Bishop Veniaminov's account of this killing, which was originally published in St. Petersburg, 1839, by Von Baer, to wit:

The taking of fur seals commenced in the latter days of September. * * * The siekatchie (bulls) and old females (i. e., two years and older) having been removed, the others are divided into small squads and are carefully driven to the place where they are to be killed, sometimes more than ten versts distant. * * *

When brought to the killing grounds they are rested for an hour or more, according to circumstances, and then killed with a club. * * * Of those 1 year old, the males are separated from the females and killed; the latter are driven carefully back to the beach.

Here is the explicit, clear cut statement made by Veniaminov, who, writing in 1825, after a season spent on St. Pauls Island, denies Dr. Jordan's assertion that the Russians killed male and female seals alike, and that that killing of females destroyed the herd.

And still worse for Dr. Jordan, this translation quoted, was made by Leonhard Stejneger, one of Dr. Jordan's own associates on the Seal Islands, in 1896-97.

There is but one conclusion for any fair mind in the premises. That the Russians did not kill the female seals is positively stated by the only authority who has been invoked by Dr. Jordan in the premises, and who has been translated at length in Dr. Jordan's final report, and correctly translated, as above cited.

In this connection it is also passing strange that Dr. Jordan should have gone out of his way to misquote another authority who has explicitly denied the killing of female seals by the Russians. On page 25, Jordan's own statement is—

In 1820 Yanovsky, an agent of the Imperial Government, after an inspection of the fur-seal rookeries, called attention to the practice of killing the young animals and leaving only the adults as breeders. He writes: "If any of the young breeders are not killed by autumn they are sure to be killed in the following spring."

Unfortunately for Dr. Jordan, he has not quoted Yanovsky correctly. He has deliberately suppressed the fact as stated by this Russian agent, and put another and entirely different statement in his mouth; witness the following correct quotation of Yanovsky:

In his report No. 41, of the 25th February, 1820, Mr. Yanovsky, in giving an account of his inspection of the operations on the islands of St. Paul and St. George, observes that "every year the young bachelor seals are killed, and that only the cows, seekatchie, and half siekatch are left to propagate the species." It follows that only the old seals are left, while if any of the bachelors are left alive in the autumn they are sure to be killed the next spring. The consequence is the number of seals obtained diminishes every year, and it is certain that the species will in time become extinct. (Appendix to case of United States Fur Seal Arbitration, Letter No. 6, p. 58, Mar. 5, 1821.)

Think of this deliberate, studied suppression of the fact that the Russians did not kill the female seals thus made by a "scientist" like Dr. Jordan, as above. Why does Dr. Jordan attempt to deceive his Government as to the real cause of that Russian decline of the herd between 1800 and 1834? Why, indeed, when the truth is so easily brought up to confound him?

Why does Jordan substitute "breeders" for Yanovsky's "bachelors"? to deceive; for a "breeder" is a female seal as well as male, and that is precisely what Yanovsky has stated—that female seals are not killed, but the "young bachelor" seals are; and are all killed in the spring if they are not so killed in the autumn prior.

He stands convicted out of his own hand of having falsified the record of Russian killing so as to justify the shame and ruin of that work of our own lessees, who are thus shielded by him in his official report to our Government dated February 24, 1898, and published by the Secretary of the Treasury, in January, 1898, under title of "Fur Seal Investigation, parts 1, 2, 3, and 4, 1898."

The record of Dr. David Starr Jordan on the killing grounds of the Seal Islands in 1896-97, clothed with full authority to regulate the killing of seals, then:

VII. On July 11, 1896, less than one month after the publication of those "Carlisle rules," above quoted, Dr. David Starr Jordan landed on the Seal Islands, clothed with a supervising power on the part of the Government over all this killing of the seals. He sends to the department a report on this subject, and conceals from it the fact that those "Carlisle rules" of May 14, 1896, have been openly and flagrantly violated during the very first season of their publication. (See Preliminary Report No. 7, 1896, p. 21, Treas. Doc. No. 1913, by David Starr Jordan.)

The department has every confidence in Dr. Jordan as a naturalist, who could not be deceived as to what "yearling" seals were, and accepted his indorsement of this work by the lessees who killed those yearling seals as above cited, in violation of that specific prohibition by the department and under Dr. Jordan's supervision.

But Dr. Jordan *did* know what a yearling seal was, and the following entries made in the official journal declare it, for he was busy in securing them as specimens for his own use, to wit: Under date of Sunday, September 27, 1896, the following entry appears on page 53 of the official journal of the Government agents on St. Paul Island:

13. The skin of a yearling bull, smothered in the food drive from Lukannon was taken for Stanford University.

8. A yearling holluschak shot on reef, supposed to be a virgin cow; the skin taken for California Academy of Sciences.

Dr. Jordan had with him three naturalists, who served as his subordinates on the occasion of his visit in 1896 and again in 1897 to the Seal Islands. These associates, Messrs. Stejneger, Lucas, and Townsend, all united with Dr. Jordan in that report of 1896 (Treas. Doc., No. 1913, Nov. 7, 1896), which gave this illegal killing of yearlings in 1896 a clean bill of health and which is so faithfully recorded in the London sales sheet, December following, as being in violation of those rules of May 14, 1896, above cited.

That Dr. Jordan, at the head of a great university, should thus attempt to conceal the truth about that killing as above stated, seems fairly unreasonable. What influence could the lessees have over

him? Leland Stanford, Jr., University was then governed by a board of trustees, and chief on that board was one of the lessees, D. O. Mills. That lessee was a commanding figure. It might have been very unpleasant in result for Dr. Jordan had he stopped the lessees' work, as he should have done, and reported their violation of the Secretary of Treasury's order to the department, as was his sworn duty to do.

Whatever may have been the cause of Jordan's dereliction in the premises, the fact remains that he was derelict, and not from want of knowledge of what a yearling seal was.

On July 24, 1913, the natives of St. Paul Island, during the course of a meeting with the agents of the House Committee on Expenditures in the Department of Commerce, on St. Paul Island, had this to say of Dr. Jordan and this illegal work of 1896 (this statement is a deposition duly taken):

Question. When, after this year (1890), did you get orders to kill those small seals—to kill all of them that came in the drives?

Answer. In 1896 we commenced to take the 5-pound skins, to the best of our recollection.

Question. Who directed this work of killing the small seals on the killing grounds?

Answer. We do not remember; but J. Stanley Brown was the company's agent at that time.

Question. Did the Government agents object?

Answer. We do not remember.

This shows that no objection on the part of the Government agents was made, or those natives surely would have recalled it, just as they remembered that this particular work was begun, as stated.

VIII.—This work of Dr. David Starr Jordan in 1896, was repeated by him in 1897, and the same covering given to the killing of small seals; and, on page 18 of his second preliminary report, dated November 1, 1897, he says:

Last year the hauling grounds of the Pribilof Islands yielded 30,000 killable seals. During the present season a quota of only 20,890 could be taken. To get these it was necessary to drive more frequently and cull the animals more closely than has been done since 1889. The killing season was closed on July 27, in 1896. This year it was extended on St. Paul to August 7, and on St. George to August 11. The quota was left to our discretion, and every opportunity was given the lessees to take the full product of the hauling of grounds.

ISAAC LIEBES SECURES THE APPOINTMENT OF LEMBKEY THROUGH THE MEDIUM OF DR. JORDAN ON SEPTEMBER 30, 1900, BY SECRETARY GAGE.

We have shown how the lessees managed to get rid of Chief Special Agent Goff and Assistant Agent Lavender, and then to suborn Assistant Agents Murray and Nettleton, who at first had joined with Goff. We have shown how they secured the appointment of Williams to succeed Goff, and Ziebach to take Lavender's place. We have shown how they secured the appointment of J. Stanley Brown to take Williams's place after the latter had expressed his dislike of the course which he had been ordered to pursue as Goff's successor. We have shown how Brown promptly made an official order July 8, 1892, turning the whole business of driving, selection, and killing of seals on the killing grounds to the lessees; and we have shown how Brown, for this guilty subserviency and malfeasance as a United States agent, had been made the "superintendent of the North American

Commercial Co.," or the lessees' work on the islands in 1894. We have shown how Murray was rewarded by being made chief special agent in 1887; and when he died in 1888 how John Morton, another subservient man, was put in charge as "United States chief special agent" by the lessees. It now becomes necessary to show how Liebes had W. J. Lembkey appointed as Morton's successor September 30, 1900, which was soon after Morton's death on the island of St. Paul, July 15, 1900.

This record of Liebes's and Elkins's (lessees) influence is important at this juncture, because Lembkey has been the active official instrument which those men have used to secure illegally more than 100,000 "small pup," or yearling seals, since 1899 up to May 1, 1910.

When Mr. Lembkey was put under oath, April 13, 1912, he swore that he did not know who recommended his appointment as John Morton's successor. He testified to the committee as follows:

Mr. ELLIOTT. Mr. Lembkey, you were appointed when?

Mr. LEMBKEY. Appointed to what position, sir?

Mr. ELLIOTT. To your office of assistant agent in the seal islands of Alaska.

Mr. LEMBKEY. In 1899.

Mr. ELLIOTT. From what place where you appointed?

Mr. LEMBKEY. From what place?

Mr. ELLIOTT. Yes, from what position?

Mr. LEMBKEY. I was appointed—

Mr. ELLIOTT. What position were you holding?

Mr. LEMBKEY. I was holding a clerkship in the Treasury Department at the time of my appointment.

Mr. ELLIOTT. That appointment was dated when?

Mr. LEMBKEY. I do not know; I do not remember.

Mr. ELLIOTT. About what time did you go to the islands in 1899?

Mr. LEMBKEY. I got there some time in May or June—I forget which; I think May.

Mr. ELLIOTT. Who was the chief special agent in charge of the islands?

Mr. LEMBKEY. John M. Morton.

Mr. ELLIOTT. When were you appointed as chief special agent in charge of the seal islands?

Mr. LEMBKEY. Some time in 1900. I think in October.

Mr. ELLIOTT. You were appointed to take the position of whom?

Mr. LEMBKEY. John M. Morton.

Mr. ELLIOTT. Who asked for your appointment?

Mr. LEMBKEY. I do not know.

Mr. ELLIOTT. Is it true that Mr. Isaac Liebes asked Dr. Jordan to telegraph Secretary Gage that you be appointed to Mr. Morton's place?

Mr. LEMBKEY. I did not know Mr. Isaac Liebes at that time, and, of course, I do not suppose he did. However, as I have stated, I do not know who made the recommendation. I am under the impression the recommendation was made by the supervising special agent.

Mr. ELLIOTT. It was not made by Dr. Jordan?

Mr. LEMBKEY. I do not know anything about it. Dr. Jordan himself has denied that he ever made any recommendation in the case. So far as I know I can not answer the question. I was on the seal islands at the time of my appointment.

Mr. ELLIOTT. You were on the seal islands at the time of your appointment?

Mr. LEMBKEY. At the time of my appointment as agent in charge.

Mr. ELLIOTT. Mr. Morton died when?

Mr. LEMBKEY. He died during my absence from the islands. I think it was in July, 1900, or June; I am not certain which—either June or July of 1900.

Mr. ELLIOTT. You do not know who asked for your appointment?

Mr. LEMBKEY. I have not any knowledge whatever on that subject. (Hearing No. 9, p. 425, Apr. 13, 1912, H. Com. Exp. Dept., C. & L.)

Lembkey swears that he does not know who asked for his appointment, as above-cited testimony attests. The following statement of fact shows that Isaac Liebes, for the lessees, asked Dr. Jordan to urge Lembkey as Morton's successor, and that Jordan did Liebes's bidding,

and Secretary of the Treasury Gage, September 30, 1900, in response to Jordan's request, appointed Lembkey.

In April, 1899, W. J. Lembkey, a \$1,200 clerk in the Customs Division, United States Treasury Department, was appointed to the vacancy of an assistant special agent for service on the seal islands. At the same time John Morton, assistant agent, was promoted to the chief special agent's office, made vacant by the death of Joseph Murray, October, 1898, at Fort Collins, Colo.

Morton and Lembkey went up together from San Francisco, and landed on St. Paul Island on June 10, 1899. Morton, in August following, went back to Washington for the winter, and left Lembkey on St. Paul Island in charge.

When Morton returned, June 11, 1900, to St. Paul Island, he found Lembkey ill and suffering from an ulcerated jaw, or threatened necrosis of his jawbone. Lembkey obtained an immediate leave of absence and left the island at once, on June 13, proceeded direct to San Francisco on Liebes's chartered ship, *Homer*, to go under a surgeon's treatment when he arrived there (on or about June 27 or 28, or early in July, 1900).

In the meantime Morton became ill, and died July 15, 1900. He died in the Government agent's house on St. Paul Island. The news of Morton's death reached Washington and San Francisco on or about August 1 to 8 following. Lembkey, who had in the meantime been relieved by surgical treatment, had started back to the islands on the same vessel of the lessees which had carried him down, the *Homer*. She sailed on or about August 8 for this return trip to St. Paul. Before he left San Francisco, and while down there on this errand, as above stated, he was a frequent visitor to the office of Isaac Liebes, on those matters of business which were connected with his living on the islands with his family free of all cost for board, together with service for not himself, but for his wife and daughter. He also had the business of his passage up and down free for his wife and daughter on that vessel, and himself, if his allowance of \$600 per annum for traveling expenses did not meet his own trip costs to and from Washington.

Thus Mr. Lembkey became very well acquainted with Mr. Liebes, and the seals never failed to form a common bond of interest. Liebes soon knew Lembkey well.

When Liebes learned of Morton's death, as usual, he at once looked for a "proper successor" for the man whom he could trust as a United States agent in charge. He sent word to David Starr Jordan, then at Palo Alto, that he (Liebes) desired him (Jordan) to telegraph Secretary Gage of the immediate need for selection of a fit successor to John Morton, and that he (Jordan) desired the appointment of W. J. Lembkey; that was done by Jordan, on or about August 25 or 28, or thereabouts. On September 30, 1900, Gage ordered, as Morton's successor, the appointment of Lembkey, and notified Ezra W. Clark that he had done so at the request of Dr. Jordan. Clark had been promised the place and did not fail to tell why he had lost it.

It will be observed that Lembkey swears that he does not know who urged his appointment; he was on the seal islands at the time of his appointment; he arrived on the islands—after leaving San Francisco on the *Homer*, August 8—on the 19th of August, 1900.

Since his appointment was not made until September 30 following, at Liebes's and Jordan's inspiration, he did not get news of it until the following season, early in May.

Now let us see what Dr. Jordan has to say about this, after he had been charged with this nomination of Lembkey (by Henry W. Elliott). He addressed a letter to President Roosevelt, dated January 16, 1906, in which he made the following evasive reference, to wit:

I may say incidentally, with reference to the concluding remark of Mr. Elliott in his letter, that while I formed a very favorable opinion of Mr. Lembkey during his incumbency of a position in the Treasury Department in 1896-97, it is not just to him to say that "he owes his appointment" to my nomination. Nor is it fair to hold Mr. Lembkey responsible for the failure to solve these scientific questions. They demand a training which he doubtless has not had, and in any event they could not have been worked out successfully in addition to the ordinary duties and responsibilities of his position. The naturalist who is to understand the herd must spend practically all his time in observation of the rookeries.

Against this evasive answer (no denial) of his part in securing Lembkey's appointment, the files of the Treasury will show, in the appointment clerk's office, that telegram from Jordan, which urged the appointment of Lembkey, *and which secured it.*

Later, in 1905, Lembkey, fearing the result of an examination into his work at the islands by Mr. F. H. Hitchcock, in 1905-6, "cast an anchor to the windward," and told the truth October 26, 1905, about the effect of the killing by the lessees (pp. 157-179, Appendix A.).

The moment that Lembkey understood that the lessees had prevented Hitchcock from visiting the islands (early in 1906), he (Lembkey) returned to his service of the lessees, abjectly and shamefully; ate his own words of truth, and joined with Jordan in the usual annual eulogy of the "benevolent killing" on the islands, and the hypocritical cry of "terrible destruction by the pelagic sealers," etc., as the following exhibit clearly declares, to wit:

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, October 26, 1905.

Sir: I have the honor to submit the following report on the administration of affairs on the seal islands of Alaska during the year ended August, 1905:

There were so few bulls on certain rookeries on St. Paul Island this summer that, by reason of their scarcity, the harems were broken up before the usual period and bachelors were able to haul among the cows.

This occurred at a date when these young seals should have been excluded from the breeding ground by vigilant bulls, and then forced to haul up, if they desired to haul at all, only on the bachelor's hauling ground.

This condition, in our opinion, is due to the scarcity of breeding males on the rookeries generally, and to their being so taxed in special localities with the service of the cows that they were unable or unwilling to drive out the bachelors. Had idle bulls been sufficiently numerous this condition would not have occurred.

The present scarcity of bulls is attributable directly to close killing on land, from which not enough bachelors were allowed to escape from the killing fields to maintain the requisite proportion of bulls.

Respectfully,

W. I. LEMBKEY,
Agent in Charge Seal Islands.

The SECRETARY OF COMMERCE AND LABOR.

But, in 1913, he has another "report" to make—to wit:

Mr. LEMBKEY. The number of breeding bulls on the island, as found by the foregoing census, is 1,356 active and 329 idle, a total of 1,685 bulls ready for service. With 39,400 breeding and 10,297 virgin females, occupied with 1,356 active bulls, the average harem is only 36. *The 329 idle bulls which did not secure cows during the summer will serve some of the 2-year-old or virgin cows coming in for their initial impregnation*

in the fall, and would reduce the size of the average harem to 30, a perfectly normal ratio of the sexes.

It might be claimed that the size of the herd of idle bulls is very small, and that therefore not enough male seals escape the killing grounds to maintain an ideally healthy relation between breeding males and females. It is true that the number of idle bulls is small, but proportionately it is as large as any true friend of the seals would desire. With a total of only 1,685 adult bulls present, the idle, 329, represent 19 per cent, or nearly one-fifth, of the whole number present. This number has not been estimated, but has actually been counted one by one, so that the presence of these bulls is not in the least a matter of conjecture, but is an assured fact. With 1 bull idle out of every 5 present, *not even the most radical critic could fail of conviction that an ample surplus of male life exists, and for this reason the killing of male seals on land has not been of such a nature as to endanger in any way the safety of the herd or its future increase.*—(Hearing No. 9, p. 368, Feb. 29, 1912, H. Com. Dept. Com. & Labor.)

NOTE.—There is no breeding after August 1, annually, and no one knows it better than Lembkey.—H. W. E.

GUILTY KNOWLEDGE OF THE BUREAU OF FISHERIES.

That the Bureau of Fisheries had complete knowledge of the fact that these "loaded" weights which are certified into the skin records of killing and taking by the lessees did not govern the size or value of them when sold is admitted, under oath, as follows:

Mr. MADDEN. The point is, does the weight of the skin have anything to do with the value of the skin?

Mr. LEMBKEY. The weight of the skin, in my opinion, has nothing to do with the value of the skin.

Mr. MADDEN. Is it sold by the pound, or how?

Mr. LEMBKEY. Not by the pound, by the size—the amount of fur on it. If we should leave 5 pounds of blubber on the skin there would only be so much fur on it for the garment maker to make the garment of.

Mr. MCGILLICUDDY. *If you took a young skin and for the purpose of making it appear by weight older, you could deceive?*

Mr. LEMBKEY. *We certainly could deceive.* We could fill it with any sort of substance.

Mr. MCGILLICUDDY. You say measurement would not be reliable because it might be stretched. Suppose you did not stretch it, suppose you take it honestly, then would it be, if honestly taken, would it be a test?

Mr. LEMBKEY. I tried to make that clear to the committee.

The CHAIRMAN. That is a direct question. Why do you not answer it?

Mr. LEMBKEY. I am attempting to. It is impossible; of course all our actions up there are honestly—

Mr. MADDEN (interposing). Answer the question right straight. Do not try to explain it.

Mr. LEMBKEY. I have attempted to state that in measuring a green skin it is impossible to find out its exact length when you lay it on the ground, because it may curl up, or roll, or stretch, *and it can only be measured after it has become hardened by salt.*

Mr. MCGILLICUDDY. *Then it will not stretch?*

Mr. LEMBKEY. *Certainly not.*

Mr. MCGILLICUDDY. That is the proper time to measure it, after it has become rigid and stiff?

Mr. LEMBKEY. Certainly.

Mr. MCGILLICUDDY. *You can not then stretch or shrink it?*

Mr. LEMBKEY. *No, sir.*

Mr. MCGILLICUDDY. *With an honest measurement of that kind of skin would it not determine the age?*

Mr. LEMBKEY. *I fancy, yes.*

Mr. MCGILLICUDDY. *Is there any doubt about it?*

Mr. LEMBKEY. *I do not think so.* I say fancy, because I never attempted to judge of age by the measurements.

Mr. MCGILLICUDDY. In that way, if anybody wanted to, they could not deceive, because you say they could not stretch it?

Mr. LEMBKEY. You could not stretch it after it had been salted four or five days, because the skin then is not very pliable.

MR. MCGILLICUDDY. *Then it is your idea that measurement is reliable after a certain number of days?*

MR. LEMBKEY. *Yes, after it has been in salt, but when the skin is green it would not be a reliable test.* (Hearing No. 9, pp. 399-400, Feb. 29, 1912, Ho. Com. Exp. Dept. Com. and Lab.)

Here the chief special agent of the Bureau of Fisheries in charge of the seal islands distinctly tells the committee that when those skins taken by him have been in salt "four or five days" they can not be stretched or shrunken; that they are then fixed for a reliable measurement, and so fixed when they leave the islands for the London sales.

Then, later on, this chief special agent in charge of the seal islands, when asked by the committee to give his measurements made by himself of a yearling seal of his own identification as such, he swears (on pp. 442, 443) as follows (Hearing No. 9.):

MR. LEMBKEY. Now, Mr. Elliott, proceed.

MR. ELLIOTT. Mr. Lembkey, do you know the length of a yearling seal from its nose to the tip of its tail?

MR. LEMBKEY. No, sir, not off-hand.

MR. ELLIOTT. You never measured one?

MR. LEMBKEY. Oh, yes, I have measured one.

MR. ELLIOTT. Have you no record of it?

MR. LEMBKEY. I have a record of it here.

MR. ELLIOTT. What is its length?

MR. LEMBKEY. The length of a yearling seal on the animal would be, from the tip of the nose to the root of the tail, $39\frac{1}{2}$ inches in one instance and $39\frac{1}{2}$ in another instance—

MR. ELLIOTT. Yes.

MR. LEMBKEY. *And 41 in another instance. I measured only three.*

MR. ELLIOTT. *When you take a skin off of that yearling seal, how much of that skin do you leave on there?*

MR. LEMBKEY. You do not leave very much on the tail end there [indicating]; not nearly so much as your sketch would show.

MR. ELLIOTT. It does not matter.

MR. LEMBKEY. *We leave about 3 inches, perhaps, on the head.*

MR. ELLIOTT. How much can you say is left on a yearling after you have taken the skin off?

THE CHAIRMAN. How much skin is left after you have taken it off?

MR. ELLIOTT. Yes, sir; after they remove it for commercial purposes a certain amount is left on.

MR. LEMBKEY. *I stated about 3 inches.*

MR. ELLIOTT. *Then that would leave a yearling skin to be 35 inches long.*

MR. LEMBKEY. No; *if it was $39\frac{1}{2}$ inches long it would leave it $36\frac{1}{2}$ inches.* That is, all the animal from the tip of the nose to the root of the tail would be $39\frac{1}{2}$ inches long. *Three inches off that would leave $36\frac{1}{2}$ INCHES.*

In this distinct and explicit statement, Mr. Lembkey tells the committee that a yearling seal skin of his own identification and measurement is $36\frac{1}{2}$ inches long, and that its measurement as such is fixed and constant after "four or five days in salt."

On page 447, he admits to the committee that the official classification of his catch of 12,920 seal skins taken by him in 1910 and measured in salt carries 7,733 skins which are less than 34 inches long (or are yearling skins), any one of them, as follows:

MR. ELLIOTT. I am getting at the analysis of your catch which you have given here already. You have given in a statement here that 8,000 of them were "small" and "extra small."

MR. LEMBKEY. 7,700.

MR. ELLIOTT. 7,700?

MR. LEMBKEY. *7,733 were small and extra small pups.*

MR. ELLIOTT. Mr. Fraser tells us that those seals none of them measured more than 34 inches nor less than 30 inches.

Mr. LEMBKEY. *The committee can see what Mr. Fraser states. Mr. Fraser states that small pups measured 33 $\frac{1}{4}$ inches in length.*

Mr. ELLIOTT. From there [indicating] to there [indicating].

Mr. LEMBKEY. *Thirty-three and three-quarters inches in length, and extra small pups measured 30 inches in length.*

Mr. ELLIOTT. Then you have some extra small pups there which makes it 8,000.

Mr. LEMBKEY. Only 11 of those.

Mr. ELLIOTT. It does not amount to anything.

Mr. LEMBKEY. *It just makes your 8,000 about 300 more than the actual number.*

Mr. Lembkey can not sensibly dispute the fact that he has taken 7,733 "yearling" seals in 1910; and this done in open violation of the law and regulations of the department which he is sworn to obey and enforce, and which he quotes to the committee (on p. 372) as follows:

Mr. MADDEN. *If they were killed it would be a violation of law.*

Mr. LEMBKEY. *It would; if the regulations permitted it, however, it would be in accordance with existing law.*

It should be remembered also that the law does not prohibit the killing of any male seal over 1 year or 12 months of age, *although regulations of the department do prohibit the killing of anything less than 2 years old, or those seals which have returned to the islands from their second migration.*

Mr. TOWNSEND. *That is a regulation of the Secretary of Commerce and Labor?*

Mr. LEMBKEY. *Of Commerce and Labor; yes, sir.*

Mr. YOUNG. Let me before you pass from that ask this: You weigh these green skins on the islands, and then measure them in the markets in London. *What is your purpose in weighing, and what is their purpose in measuring?*

Mr. LEMBKEY. *Our purpose in weighing the skins on the island is to get them within the weights prescribed by the regulations. Our regulations prescribe maximum and minimum weights. Those weights are 5 pounds—*

Mr. YOUNG. Does that relate to the question of age?

Mr. LEMBKEY. Five pounds and eight and one-half pounds.

Mr. YOUNG. *Passing from the weight, in London what is the determining purpose in measuring?*

Mr. LEMBKEY. *They measure them, I fancy—*

Mr. YOUNG. Are they trying to arrive at the question of age, too?

Mr. LEMBKEY. *They are trying to get the size of the skin or the amount of fur on the animal.*

Mr. YOUNG. They care nothing about the question of age there?

Mr. LEMBKEY. *Nothing at all.*

Mr. YOUNG. That is all I care to ask.

That these natives know what they are doing when directed by the lessees to kill seals, the following testimony of Chief Special Agent Lembkey fully attests; it is found on page 58 of manuscript notes of Ways and Means hearing, January 25, 1907.

Mr. LEMBKEY. I may say, Mr. Chairman, that the clubbers on the island are expert in their business, and they can determine the weight of a skin on a live seal to within a fraction of a pound.

Mr. GROSVENOR. That is all I wanted to know.

Mr. LEMBKEY. They also know the age of a seal from his appearance.

Manuscript notes, page 59:

Mr. CLARK. These experts can tell a 4-year-old from a 3-year-old, can they?

Mr. LEMBKEY. By looking at him.

Mr. CLARK. By looking at him?

Mr. LEMBKEY. Yes.

Mr. CLARK. They are pretty expert.

Mr. NEEDHAM. Are these killers, "natives"?

Mr. LEMBKEY. Yes, they are natives. I can state positively that they arrive at that degree of experience.

We find that on May 14, 1896, the Secretary of the Treasury instructed the agents in charge of the seal islands to permit "no taking of seals that had skins less than 6 pounds in weight," or "yearlings." This order is entered at length, at page 14, of the official record or journal, of the special agent, St. Paul Island, on June 17, 1896. In 1900, Chief Special Agent Lembkēy (succeeding John Morton, who died that year) submits a report to the Treasury Department for this season's work of 1900 (as well as 1901), in which he says:

In 1900 the standard was lowered from 6 pounds to 5 pounds, being the first time in the history of this business, and as many 5-pound skins as could be found were taken.

An inspection of the official journal of the chief special agent, St. Paul's Island, for the season of 1900, fails to show any entry of any order from the Secretary of the Treasury which rescinds that official order of May 14, 1896, and which would be in the same official log book if made. By what authority was this killing which Mr. Lembkey, and which the London records certify to—by what legal or moral authority was that killing, as well as "the taking of skins weighing less than 6 pounds or yearlings," made during this season? None, whatever.

In 1904, following the visit of Senators Dillingham, Nelson, Burnham, and Patterson (this killing of those yearling seal having been noticed by those Senators on the islands August 3, 1903), they introduced a bill which suspended entirely the work of the lessees on these islands. That caused the Secretary of Commerce and Labor, Mr. Cortelyou, to come forward and engage to check up this work of killing the small seals and yearlings, and on his pledge the Senators refrained from pressing that bill. He accordingly issued what is known as the Hitchcock Rules, ordered May 1, 1904, which forbade the killing of "any seal having a skin weighing less than 5½ pounds or any seals under 2 years of age."

We now reach that combination made between the lessees and the Government agents to evade this order of the Hitchcock Rules; when Hitchcock left the Department of Commerce and Labor early in 1905 these men went to work as follows:

An unwilling confession was made by Lembkey of that guilt of nullification, when cross-examined, under oath, before the House Committee on Expenditures Department Commerce and Labor, February 20-April 13, 1912. (See pp. 363, 458, Hearing No. 9.)

This conspiracy to enable D. O. Mills, United States Senator Elkins, and Isaac Liebes, as lessees, to enrich themselves at the public cost and credit, has been shielded and approved by the "scientific" "Advisory Board on Fur-Seal Service," with Dr. David S. Jordan, as "president" of the same.

Liebes and Lembkey got together to nullify the Hitchcock Rules in 1906, which ordered the reservation of 2,000 young male seals (1,000 2-year-olds and 1,000 3-year-olds), annually before the lessees' killing began, this reservation being ordered thus, to prevent the swift impending ruin of all male breeding seal life on the rookeries.

In further proof of the fact that Lembkey knew he was killing those "reserved" 3-year-old seals, so as to meet the wishes of Liebes, the following official evidence is submitted.

In 1905 First Assistant Agent Judge, finding that he was killing in October and November, 1904, all of the 3-year-old seals which

had been "reserved" and "immune" from slaughter in June and July previously, he made a clear pointed statement to that effect in his annual report, dated June 5, 1905, to wit:

To remove all possibility of killing branded seals in the fall on which the brands have become indistinct it will be necessary to prohibit the slaughter of any animal the skin of which weighs over 6 pounds. (Rept. Agt. Jas. Judge, p. 180; Appendix A: H. Com. Exp. Dept. Com. & Labor, June 24, 1911.)

Now, in the face of this distinct proof given him as above, that he must make a 6-pound maximum limit for food skins, or let the lessees continue to nullify the Hitchcock Rules, does W. I. Lembkey do so? Observe the following sworn statement by him that he does not—that he kills them all:

Mr. McGUIRE. Right there, Mr. Lembkey, did you prohibit their killing them?

Mr. LEMBKEY. I did.

Mr. McGUIRE. Over 4 years of age?

Mr. LEMBKEY. I did.

Mr. ELLIOTT. In 1904?

Mr. LEMBKEY. Yes.

Mr. ELLIOTT. Did you do it in 1905?

Mr. LEMBKEY. Yes.

Mr. ELLIOTT. How did you do it? You had no brand on them.

Mr. LEMBKEY. By fixing a limit of 8½ pounds on the skins to be taken. (Hearing No. 9, p. 458, Apr. 13, 1912, H. Com. Exp. Dept. Com. & Labor.)

**BRIEF SUMMARY OF THAT SWORN TESTIMONY WHICH DECLARES THIS
GUILTY COLLUSION—IN NULLIFYING THE HITCHCOCK RULES.**

Lembkey, February 4, 1911, declares "the weight of a 3 year old skin is 7 pounds," and to "save the 3 year-olds," he has ordered "no skins taken which are over 6½ pounds."

[Hearing No. 14, p. 907, July 25, 1912.]

Mr. ELLIOTT. Now, Mr. Chairman, in the matter of the nullification of the Hitchcock rules, with this evidence duly considered by your committee of the illegal killing of those yearling seals in 1910 (and that evidence of this guilt applies to every season's work on the Pribilof Islands ever since 1890 down to May 1, 1910), I desire to present the following testimony, which declares that ever since May 1, 1904, when the "Hitchcock rules" were first ordered by the Department of Commerce and Labor, those rules have been systematically and flagrantly violated by the agents of this department who were specially sworn to obey and enforce them.

On February 4, 1911, Chief Special Agent Lembkey was introduced by Secretary Charles Nagel to the United States Senate Committee on Conservation of National Resources, and during his examination by that committee he made the following statement, to wit, on page 14 (hearings on Senate bill 9959, February 4, 1911, Committee on Conservation of National Resources):

"Dr. HORNADAY. How many 'short 2-year-olds' were killed last year?

"Mr. LEMBKEY. I do not understand your term. No seals under 2 years old, to my knowledge, were killed.

"Dr. HORNADAY. What would be the age of the smallest yearlings taken?

"Mr. LEMBKEY. Two-year-olds rarely, if any. I may state here, Dr. Hornaday, that a great difference of opinion exists between Mr. Elliott and the remaining people who understand this situation. There is a great gulf between their opinions, and it can never be reconciled on the question of the weights of skins of 2-year-olds.

"Prof. ELLIOTT. I will present my information in a moment.

"Dr. HORNADAY. The minimum weight is what?

"Mr. LEMBKEY. Five pounds. *During food drives made by the natives, when the seals killed are limited to 6½ pounds, in order to exclude all these 3-year-olds branded during the summer, you understand the natives do kill down a little more closely than our regulations allow, for the reason that they need the meat, and since they have to exclude all these fine, fat seals over 6½ pounds they go for the little fellows a little more closely.*

"The CHAIRMAN. How many seals were killed last year for food by the natives?

"Mr. LEMBKEY. The limit was 2,500. Speaking offhand, I think about 2,300 were killed.

"Q. Were any females killed?—A. No, sir; not to my knowledge, and, as I stated, I carefully interrogated these two gentlemen who had charge of this killing, and they stated that to their knowledge no female was killed.

"Q. *What class of males were killed by the natives for food?*—A. *Under 6½ pounds—*"

Then, soon after stating that "6½ pound" limit, Lembkey admitted that he did not put that reservation down to "6½ pounds" until proof had been given him, that an 8½ pound skin limit did not spare those 3-year olds (*and, he did not fix that limit even then*), to wit:

[Dixon Hearing, p. 19, Feb. 4, 1911.]

Senator HEYBURN. State the document and the page from which you read.

Prof. ELLIOTT. Senate Document No. 98, Fifty-ninth Congress, first session, page 86. Here is the official report of Mr. W. I. Lembkey, in which the preservation and protection and conservation of this seal life, which he so graphically described to you a moment ago, is blown clear out of water by its own force of official denial.

REPORT OF AGENT JAMES JUDGE.

ST. GEORGE ISLAND, June 5, 1905.

DEAR SIR: I have the honor to submit the following report of affairs on St. George Island, covering the interval from August 14, 1904, to date:

SEALS.

On October 7 Little East Rookery was carefully gone over for the purpose of counting dead pups, but none were found.

At that season foxes in greater or less numbers are always present on the rookeries and quickly eat the pups or older animals that may happen to die. Pup skulls were frequently found during September in the rear of the rookeries, where they had undoubtedly been left by the foxes, the bodies having been devoured.

Further counting of dead pups was therefore not attempted, as it seemed a disturbance of the seals to no good purpose.

The first food drive was made October 19; killed, 59; dismissed, 6 large, 197 small, and 6 brands. Two of the latter were from St. Paul. While all brands were very faint, those made with shears were less discernible than those made with hot irons. *Just the slightest trace of a brand on one of the dead informed us that the wrong animal had been knocked down. The skin weighed 8 pounds. That other 3-year-olds branded in the spring, on which the fur had grown out so that the brand had become obliterated, were also killed is more than probable, as 69 per cent of the dead skins weighed 7 pounds and over, the heaviest weighing 9 pounds.*

Mr. LEMBKEY. May I interrupt the gentlemen just a second to ask whether the report does not state that Mr. Judge at once took measures to prevent the killing of any more of these branded seals by limiting the weights of skins to 6½ pounds, a practice which has been followed ever since?

Did Lembkey tell the truth? No; he deliberately denies under oath, April 13, 1912, what he asserts as above in re a "6½-pound limit" and thus admits his guilt in the premises, as below, to wit:

Mr. ELLIOTT. Now, what follows, gentlemen of the committee—*does he make that order of reservation? No; he actually nullifies it, and unwittingly confesses that malfeasance in the following sworn statement made to your committee April 13 last, on page 458, Hearing No. 9, Lembkey affirms:*

"Mr. McGUIRE. Right there, Mr. Lembkey, did you prohibit killing them?"

"Mr. LEMBKEY. I did.

"Mr. McGUIRE. Over 4 years of age?"

"Mr. LEMBKEY. I did.

"Mr. ELLIOTT. In 1904?"

"Mr. LEMBKEY. Yes.

"Mr. ELLIOTT. Did you do it in 1905?"

"Mr. LEMBKEY. Yes.

"Mr. ELLIOTT. How did you do it? You had no brand on them.

"Mr. LEMBKEY. *By fixing a limit of 8½ pounds on the skins to be taken.*"

Now, *what has become of that "6½-pound" 3-year-old, limit by which he has sworn he "saved the 3-year-olds" in June and July, to be again "saved" by him as such in the autumn following by having this maximum limit of "6½ pounds" put on the taking of any "food skins"?* Why, they are all killed.

Mr. MADDEN. How many people are there on the islands?

Mr. ELLIOTT. About 300; about 250 now. Why, those 3-year-olds so saved are all killed later in the season, and so killed as being under the limit of "8½ pounds"! He thus stupidly confesses to you, as above quoted, that he has nullified the very rules of the department that he was and is sworn to obey and enforce.

The Hitchcock rules ordered a "permanent mark" to be put upon these reserved seals, "and under no circumstances are they to be taken," etc. *Why was it not done?* The answer is easy. *The lessees wanted those skins, and they manipulated Lembkey as above—they got them.*¹

The natives made no mistake—not at all—"they took those 4-year-olds for 3-year-olds" just because the lessees' agents ordered them to do so. E. W. Clark is not telling *all* of the truth—only part of it, for good reasons of his own, perhaps!

ST. GEORGE ISLAND, August 14, 1907.

DEAR MR. LEMBKEY. It has occurred to me that you may wish a formal statement regarding the marking of the young male seals at this island for a breeding reserve. The following is a statement in detail:

Date.	Rookery.	2 years old.	3 years old.	4 years old.
June 12	Staraya Artel.....	29	32	20
17	North.....	14	14	11
19	Zapadni.....	14	18	15
20	East.....	26	28	15
21	Staraya Artel.....	68	61	6
25	East.....	38	37	14
27	Zapadni.....	11	12	4
	Total.....	200	202	85

While the marking of 4-year-old seals is not enjoined. I deemed it wise to mark those which the natives caught, believing that if they would make the error of taking these seals for three years old when we were branding they were likely to make a similar error when we came to killing, and it was a good plan to render such seals immune for the season.

Our selection of seals for breeding was of the first class, and the marks remain as conspicuous now as when first applied.

Very respectfully,

EZRA W. CLARK,
Assistant Agent in Charge.

¹ The manner in which they were "reserved" and then taken is set forth as follows:

3. *The reserve of bachelors.*—Beginning with the season of 1904, there has been set aside each spring a special breeding reserve of 2,000 young males of 2 and 3 years of age. These animals have been marked by clipping the head with sheep shears, giving them a whitish mark readily distinguishing them to the clubbers. They are carefully exempted on the killing field and released.

This method of creating a breeding reserve seems open to considerable criticism, and has apparently been only moderately successful. The mark put upon the animal is a temporary one. The fur is replaced during the fall and winter, and the following spring the marked seals can not be recognized. The animals being 2 and 3 years of age are still killable the next season, the 2-year-olds in fact the second season. A new lot of 2,000 is clipped the next season, and these are carefully exempted, but, except in so far as animals of the previous season's marking are re-clipped, they have no protection the second season, and without doubt are killed.

If such is not the case, it is difficult to understand what becomes of them. (Report of G. A. Clark, p. 847, Appendix A, H. Com. Exp. Dept. C. and L.)

(Appendix A, p. 533, House Committee on Expenditures in the Department of Commerce and Labor, June 24, 1911.)

THE DEADLY PARALLEL.

Lembkey says the 3-year-olds and other holluschickie are not driven out from shelter of the breeding cows.

But his assistant tells him that they are so "pulled out from among the cows."

Chief Special Agent LEMBKEY:

"Furthermore, the 3-year-olds, having passed the age of puberty, are not found on the hauling grounds during the fall, but are hauled among the cows on the rookeries when they can not be driven. This is an additional safeguard against their killing, and of itself would disprove any allegation that these marked seals are subsequently killed." (Report, Dec. 14, 1906, S. Doc. 376, p. 13, 60th Cong. 1st sess.)

Assistant Agent JAMES JUDGE:

"Seals.—Four hundred and fifty-eight seals of the quota of 500 allowed the natives of this island for food were obtained. The first drive was made on October 19, from Staraya Artel, and 220 seals were killed; 209 small, sixty-five 3-year-olds, five 4-year-olds, six 5-year-olds, two 6-year-olds, and 4 branded were turned away. Three other drives were made as follows: October 31, Staraya Artel rookery, 148 seals were killed; twelve 3-year-olds released; November 9, Staraya Artel and North, 44 seals killed; November 16, North rookery, 25 seals killed; October 20 to November 10, Zapadni Guards, 21 seals killed.

"The last three drives were made up entirely of seals pulled out from among the cows by the natives, and as very careful selection had taken place on the rookery very few were turned away from the killing field." (Report June 3, 1907, S. Doc. 376, p. 105, 60th Cong., 1st sess.)

And in final and complete proof of this guilty knowledge possessed by Liebes, Lembkey, Evermann, and Bowers, as lessees and officials, that these "reserved" seals were being taken in violation of regulations, the deadly parallel is drawn upon them, thus:

Lembkey declares that the regulations "*order no food skins taken over 6½ pounds*"; and that he faithfully obeys them:

But Evermann furnishes the committee with copies of these regulations which order "*no food skins taken over 8½ pounds*"—and thus confessing the deceit of Lembkey! (and himself also).

Mr. LEMBKEY:

Notwithstanding repeated allegations to the contrary, the regulations of the department fully protect the breeding herd and these regulations are carefully and thoroughly observed. They require that no female or marked male should be killed, and no male seal having a pelt weighing less than 5 or more than 8½ pounds. During the food killing season of the fall and spring seals having skins weighing over 6½ pounds or under 5 pounds may not be taken, this extra limitation being enforced to prevent the killing of those males marked for breeding purposes after the new hair has grown in and obliterated the mark which is placed upon their hides at the beginning of the season.

Dr. EVERMANN:

I wish to call particular attention to these paragraphs of the instructions regarding reservations to be made:

[Instructions issued Mar. 9, 1906.]

SEC. 8. *Sizes of killable seals.*—*No seals shall be killed having skins weighing less than 5 pounds nor more than 8½ pounds. Skins weighing more than 8½ pounds shall not be shipped from the islands, but shall be held there subject to such instructions as may be furnished you hereafter by the department. Skins weighing less than 5 pounds shall not be shipped from the islands, unless, in your judgment, the number thereof*

Mr. MADDEN. Right there, let me ask a question.

Mr. LEMBKEY. Yes, sir.

Mr. MADDEN. I do not think it will interfere. You said that seals two or three years of age were killed?

Mr. LEMBKEY. Yes, sir.

Mr. MADDEN. And that no skin weighed less than 5 or more than 8 pounds?

Mr. LEMBKEY. More than 8½ pounds.

Mr. MADDEN. *Except during a certain period of the season when the higher weight was reduced to 6½ pounds?*

Mr. LEMBKEY. Yes, sir.

Mr. MADDEN. What becomes of the seals more than 3 years of age?

Mr. LEMBKEY. They are allowed to mature as breeders. (Hearing No. 9, p. 363, Feb. 29, 1912, House Com. Exp. Dept. Commerce and Labor.)

is so small as to justify the belief that they have been taken only through unavoidable accident, mistake, or error in judgment.

SEC. 9. *Killing season.*—The killing season should begin as soon after the 1st of June as the rookeries are in condition for driving. Seals shall not be killed by the lessee later than July 31. No seals whatever shall be taken during the stagey season. The killing of pups for food for the natives, or for any other purpose, is not to be permitted.

SEC. 10. *Seals for food.*—*The number of seals to be killed by the natives for food for the fiscal year beginning July 1, 1906, shall not exceed 1,700 on the island of St. Paul and 500 on the island of St. George, subject to the same limitations and restrictions as apply to the killing of seals by the company for the quota.* Care should be taken that no branded seals be killed in the drives for food.

[Instructions issued Apr. 15, 1907.]

SEC. 6. *Quota.*—Identical with instructions of 1906.

SEC. 7. *Reservation of young males.*—Identical with instructions of 1906.

SEC. 8. *Sizes of killable seals.*—No seals shall be killed having skins weighing less than 5 pounds *nor more than 8½ pounds.* Skins weighing less than 5 pounds or more than 8½ pounds shall not be shipped from the islands, but shall be held there subject to such instructions as may be furnished you hereafter by the department.

SEC. 9. *Killing season.*—The killing season should begin as soon after the 1st of June as the rookeries are in condition for driving. Seals shall not be killed by the lessee later than July 31. The killing of pups for food for the natives, or for any other purpose, is not to be permitted.

SEC. 10. *Seals for food.*—*Identical with instructions of 1906.*

[Instructions issued Apr. 1, 1908.]

SEC. 6. *Quota.*—Identical with instructions of 1907.

SEC. 7. *Reservation of young males.*—Identical with instructions of 1906 and 1907.

SEC. 8. *Sizes of killable seals.*—*Identical with instructions of 1907.*

SEC. 9. *Killing season.*—Identical with instructions of 1907.

SEC. 10. *Seals for food.*—*Identical with instructions for 1907.* (Hearing No. 10, pp. 483-484, Apr. 19, 1912, House Com. Exp. Dept. Commerce and Labor.)

When the Hitchcock rules were first published the lessees were shocked, and at once took Lembkey to task—how could *he* do such an act?

Lembkey tells them that Elliott did it—that HE was not to blame, and that Elliott was the “pest” that prevented Lembkey from fully serving Liebes. Under examination April 13, 1912, he testifies—

[Hearing No. 9, p. 455.]

Mr. ELLIOTT (reads from Lembkey's letter to Hitchcock, May 20, 1904):

“When I pointed out that my instructions were not discretionary, he stated that he would at once protest to the department. He requested that I inform him by official letter of the requirement, which I did, and, at his urgent request, inclosed a copy of your letter. I have taken pains to explain to him the situation that existed in Washington last winter, and that the attitude of the department is not one of hostility to the company, but necessary to avoid sinister results.”

Mr. LEMBKEY. Sinister results?

Mr. ELLIOTT. Yes. [Reading:]

“While admitting in one breath ‘a knowledge of the Elliott campaign——’”

You told him I did this thing, did you not?

Mr. LEMBKEY. *I certainly did.*

Mr. ELLIOTT. I am glad you did.

Mr. LEMBKEY. *I told him that you were the greatest pest the department ever had.*

Mr. ELLIOTT. I am glad to hear that. That is music to me.

Before this order was made, May 1, 1904, we find Lembkey busy with Jordan and working with Liebes for the illegal killing of small seals.

Lembkey tried to prevent the “5½-pounds limit” being ordered in 1904, and confesses the attempt, under cross-examination to the committee, thus—

[Hearing No. 9, p. 449, Apr. 13, 1912.]

Mr. ELLIOTT. *Mr. Lembkey, in 1904 the Hitchcock rules were first published, I believe. Have they been changed since then?*

Mr. LEMBKEY. *Yes, they have.*

Mr. ELLIOTT. *As to killing any seal under 2 years of age?*

Mr. LEMBKEY. *Not so far as to killing any seal under 2 years of age, but in 1906 they were changed so as to make the minimum weight 5 instead of 5½ pounds.*

Mr. ELLIOTT. *Why did the department fix 5½ pounds in 1906?*

Mr. LEMBKEY. Now you are asking me something. Mr. Elliott, I do not believe I am qualified to answer; just how the department arrived at an opinion of that kind would hardly be a question for me to testify to.

Mr. ELLIOTT. *You were not consulted?*

Mr. LEMBKEY. I was not consulted when the order was written.

Mr. ELLIOTT. That is all I wanted to get at, sir. In 1900 and—

Mr. LEMBKEY. *I will state, however, that I made a recommendation to the effect that the weight be decreased from 5½ pounds to 5 pounds, if that is what you have reference to.*

Mr. ELLIOTT. *Oh, you did. Did you make that recommendation in 1904?*

Mr. LEMBKEY. If I remember correctly I recommended that the minimum weight in 1904 be fixed at 5 pounds.

Mr. ELLIOTT. *Yes; and Mr. Hitchcock overruled you.*

Mr. LEMBKEY. I do not say that he overruled me. *He fixed the weight, according to his published statement, at 5½ pounds so that there would be absolutely no question as to the fact that the seals taken were over 2 years of age.*

Mr. ELLIOTT. Were “not under 2 years of age?”

Mr. LEMBKEY. Over 2 years of age.

Mr. ELLIOTT. Does not this regulation say “under 2 years of age?”

Mr. LEMBKEY. I guess we are talking about the same thing only we do not recognize it. He said there should be no question of the fact that the skins taken were over 2 years of age. I presume that is what you mean, too.

Finding that they could not get any change in the rules of May 1, 1904, ordered, so that they might be easier to nullify on the islands (for nullify them the lessees at once did), they sets to work and *Lembkey got busy with Liebes in planning a change in the rules of the Hitchcock Order of May 1, 1904, which prevented them from taking yearlings, without a good deal of trouble.*

They succeeded in 1906, after Hitchcock left the Department of Commerce and Labor, and not until then.

After Mr. Hitchcock went into the Postmaster General's office, March, 1905, Lembkey succeeded in lowering the minimum 5½-pound standard weight set by "Hitchcock rules," to 5 pounds by March 9, 1906, and so took the "yearlings" for the lessees, easier, as "2-year-old male seals," and falsely certified them as such! *The lessees not only objected to the 5½-pound limit which shut out the yearlings, but they claimed the right to kill all the 4-year-olds as well! as shown by the following testimony in Hearing No. 9, p. 454, April 13, 1912, to wit:*

MR. ELLIOTT. *When these Hitchcock rules were published in 1904, and you went out to San Francisco, was any protest made to you by the lessees?*

MR. LEMBKEY. You know perfectly well that there was, Mr. Elliott.

MR. ELLIOTT. *What did you tell them, Mr. Lembkey?*

MR. LEMBKEY. Perhaps since you have in mind my report for 1904 which makes mention of those protests from the company, I had better refer to those so that the committee may know just exactly what was done. On page 81 of Appendix A of these hearings in which is published my annual report as agent in charge of the seal fisheries for the year 1904 I discuss the following under the subheading "protests from the company":

"While the North American Commercial Co. complied in every particular this summer with the regulations of the department, I received from its officers several protests against the department's action in restricting the catch of the company."

This report is addressed to Mr. Hitchcock:

"Upon receipt of your letter of May 12 last prescribing a 5½-pound limit on 2-year-old skins, I notified Mr. Taylor, the president of the company, of the contents of the letter. He at once entered a vigorous protest. Upon my informing him that I had no option in the matter, he appealed directly to the department, and held the company's vessel in Sausalito for half a day until the receipt of the department's reply. With that matter, however, you are familiar.

"Upon arrival at the islands, while discussing the coming season's work with Mr. Redpath, the company's general agent, I mentioned the prohibition against the killing of 4-year-olds, and stated that, to give effect to this prohibition, I would place a limit on large skins of from 8½ to 9 pounds. Mr. Redpath at once expressed surprise at the existence of this prohibition and entered a vigorous protest against any interference with the killing of 4-year-olds. He produced a copy of the department's instructions to me and quoted from the clause relating to the restriction of killing in support of his argument."

Then finding that there was an easy way to nullify these "reservations" of the Hitchcock Rules, the lessees quickly used a pair of sheep shears and "branded" the "spared" seals as follows: All this done with the servile collusion of the agents of the Government:

To provide a definite reserve of male life for breeding purposes the agents tell me they drove up in the early part of the season, and before killing was begun by the company, 2,000 bachelor seals of 2 and 3 years of age and shaved their heads with sheep shears, thus marking them so that they can be identified by the clubbers and exempted on the killing field. These shaved heads constitute a large part of the animals turned back at each killing. It is to be noted that among those turned back without brand there are none which show evidence of the clipping of last season. It may be inferred, therefore, that the fur and water hair is replaced during the winter. The identification mark is not a permanent thing, but one designed to serve for the current killing season. To insure these animals exemption for breeding purposes next year they must be again shaved next June.

In the killing this morning it may be noted that 27 animals with shaved heads, designated as 3-year-olds, were released, but of the unbranded animals released only 5 are designated as 4-year-olds. It is only a supposititious case, but if we assume that twenty-seven 3-year-olds were exempted by the shaving of last season, here are only 5 that have successfully run the gauntlet of the second year.

In a word the marking of a 2 or 3 year old seal by a temporary mark which is obliterated by the following season, the animal still being killable as a 3 or 4 year old, is futile for the purpose of establishing a breeding reserve.

There is another criticism that may justly be brought against this method of marking that is, clipping or shaving the head—it does not in any way impair the value of the skin. Undoubtedly this is a provision to prevent loss through carelessness. If a clubber accidentally strikes a shaved seal its skin is as good as any other, and such accidents occur, although infrequently.

The criticism, however, lies in this: The skin is just as valuable to the pelagic sealer as if it were not marked. The shaving of the head is a good plan for identification by the clubber. It would be unwise to attempt to burn a brand on the seal at this point, but while the animal is caught for the purpose of shaving, a permanent burned brand should be placed on the back or shoulder which will mar the value of the skin to the pelagic sealer. If it mars the value of the skin also from the company's point of view, then greater care should be taken in clubbing the animals. The present plan puts a premium on carelessness, and an animal exempted this season is liable to be killed next season. The only way to prevent this is to shave the head of this year's 2-year-old next year as a 3-year-old, and again as a 4-year-old the third season; all of which is a useless waste of energy. (Report Geo. A. Clark, Sept. 30, 1909, pp. 885, 886; Appendix A, June 24, 1911; H. Com. Exp. Dept. Com. & Labor.)

In getting the Hitchcock minimum limit of "5½ pounds" REDUCED to "5 pounds," Lembkey and Liebes succeeded in getting it done without any warrant, in 1906, and so confess it, when cross-examined, to wit:

[Hearing No. 9, pp. 449-451, 450, April 13, 1912.]

Mr. ELLIOTT. Mr. Lembkey, when you made that statement in 1901, you went to Mr. Hitchcock and recommended a 5-pound limit. *What did he tell you in 1904?*

Mr. LEMBKEY. I do not remember just what he did tell me, Mr. Elliott.

Mr. ELLIOTT. *Did he not tell you that you were taking yearling skins?*

Mr. LEMBKEY. No, sir; *he told me that you had made the charge that we were taking yearling skins.*

Mr. ELLIOTT. Was he not impressed with the fact that you were taking yearling skins?

Mr. LEMBKEY. *No, he was not.*

Mr. ELLIOTT. *Yet he fixed the limit five and one-half pounds?*

Mr. LEMBKEY. He did it solely as I have stated—to place the limit so high that you nor any other man could make any objection to the policy of the department.

Mr. ELLIOTT. That was very correct on his part, was it not?

The CHAIRMAN. Never mind about that.

Mr. ELLIOTT. When Mr. Hitchcock left the department who succeeded him?

Mr. LEMBKEY. As chief clerk? I think Mr. Bowen did.

Mr. ELLIOTT. Mr. Bowen. *Did you again renew your recommendation?*

Mr. LEMBKEY. I do not remember that I recommended that the weight be reduced to 5 pounds in 1905, Mr. Elliott.

Mr. ELLIOTT. *That order of reduction was made in 1906?*

Mr. LEMBKEY. *In 1906.*

Mr. ELLIOTT. Who was the chief clerk then?

Mr. LEMBKEY. I presume Mr. Bowen was.

Mr. ELLIOTT. *And you again made the recommendation?*

Mr. LEMBKEY. Not to Mr. Bowen; no. *The recommendation was made, I think, to the Secretary, but it was made through Mr. Sims, the solicitor of the department, who then had charge of the seal business.*

Mr. ELLIOTT. Have you any table of weight measurement of your own making which warranted you in making that recommendation?

Mr. LEMBKEY. I had not. I expressed that as my opinion.

THE "SALT WEIGHT" DECEPTION BY LEMBKEY, IN 1904; REPEATED BY MARSH, 1911; AND SWORN TO, BY EVERMANN, JULY 30, 1912, IN ORDER TO DECEIVE AND FALSIFY THE RECORD OF KILLING YEARLING SEALS.

The trick.—*He "shakes all the salt off," then weighs them after six days' curing.*

[P. 79.—Appendix A; Lembkey, Sept. 7, 1904.]

EXPERIMENTS IN WEIGHTS OF SALTED SKINS.

In connection with the weighing of individual skins on the killing field, it was thought wise to determine whether or not skins gained or lost weight after being salted. Should any discrepancy of this kind occur, the weights of these skins in London would not coincide with those taken on the islands.

On July 17, 107 skins taken at Tolstoi were weighed individually, and, after being immersed in salt water to keep them moist during the journey from the field to the salt house, were salted. Their aggregate weight on the field before wetting was 705 pounds. On July 23 they were taken out of salt and reweighed, when their aggregate weight was 759½ pounds, a gain of 54½ pounds on 107 skins, or one-half pound a skin. *As the salt was thoroughly shaken off these skins,* the accretion of water from dipping them in the lagoon may be represented by the gain in weight.

On July 26 I weighed 100 skins, nearly dry, on a platform scales at the salt house, finding them to weigh 644½ pounds. They were then salted. On July 30 they were hauled out of salt and reweighed, when their combined weight was 643½ pounds, a loss of 1 pound on 100 skins. These may be taken as typical to show the effect of salt and water upon skins. I was not able to experiment with perfectly dry skins after the date mentioned, but I believe the latter will show a slight loss of weight after being in salt for a period.

Very truly, yours,

W. I. LEMBKEY,
Agent in Charge Seal Fisheries.

Mr. F. H. HITCHCOCK,
Chief Clerk, Department of Commerce and Labor.

Lembkey has not truthfully stated this experiment: He made the following entry himself, in the official journal of his office on St. Paul Island and did not water those skins, then (that was an afterthought) he does not shake off all the salt, either. (P. 149.)

SATURDAY, JULY 23, 1904.

On July 18, 107 skins taken on Tolstoi were weighed and salted. To-day they were hauled out of the kench and reweighed. At the time of killing they weighed 705 pounds, and on being taken out they weighed 759½ pounds, a gain in salting of 54½ pounds, or one-half pound per skin.

Then, *Lembkey swears, April 13, 1912, that he has never weighed these skins after salting.*—(p. 446 Hearing No. 9, H. Com. Exp. Dept. Com. & Labor.)

Mr. ELLIOTT. Mr. Lembkey, you say you have never weighed these skins after you have salted them? You have never weighed them?

Mr. LEMBKEY. I have never weighed them after the salting on the islands; no, sir.

Lembkey's trick is repeated by Marsh and Evermann, 8 years later. (Hearing No. 14; pp. 974; 975; July 29, 1912.)

DR. EVERMANN. Last year, when Mr. M. C. Marsh, naturalist, fur-seal service, went to the Pribilof Islands, he was instructed to make certain investigations, one of which was to determine by actual experiment the effect that salting has upon the weight of fur-seal skins. He made a very careful investigation of the matter, and his report

has just been received. It is so interesting and valuable that I wish to put it in the record. *His investigation settles the question conclusively and for all time. It shows that salting causes fur-seal skins to lose weight.* The report is as follows:

* * * * *

"The average loss of weight for the whole 60 skins is 0.63 pound, or 10 ounces. This is an understatement of the average loss of weight, which, I believe, is at least an ounce greater. The reason is that *it is practically impossible to mechanically remove all the salt from the skins before reweighing. They were shaken, swept, and brushed, but a few grains and crystals of salt were always left adhering to each side of the skin.* Obviously it would not do to wash them off. By more carefully cleaning a few of the reweighed skins and then again weighing them, I estimate this residual salt to average an ounce or something more."

Against the above, observe the following facts, to wit:

In the village salt house, St. Paul Island, July 29, 1913, 400 fur-seal skins which had been taken July 7, 1913, weighed "green," and put into salt there, were taken out of the kench, salted, and bundled for shipment, and then weighed. This weighing declared the fact that the salt-cured skins had been increased over their "green" weights all the way from a minimum of one-half pound to a maximum of 1½ pounds per skin. (See table of 400 skins; pp. 102-105; Rept. Spl. Agents; H. Com. Exp. Dept. Commerce, Aug. 31, 1913.)

SELF-CONFESSED OFFICIAL DECEIT IN RE YEARLING SEALSKINS.

To show that Mr. Lembkey in his report to the Secretary of Commerce for 1904 was deliberately deceiving the department as to the size and weight of yearling sealskins, the following deadly parallel on himself is drawn, since it is of his own making.

On September 7, 1904, Lembkey says in his official report (p. 77. Appendix A):

On July 1 there were 3 yearling seals in the drives at Northeast Point. One of them, a typical specimen, was knocked down at my direction to ascertain the weight of the skin. It was found to be a female. The carcass before sticking weighed 34 pounds, and the skin taken off hurriedly, with considerable loose blubber adhering, weighed 4½ pounds. The removal of this loose blubber left the skin weighing only 3½ pounds.

While no further effort was made to determine the weight of yearling skins, this instance shows that the skins of this class of animals are far below the limit of weight now prescribed by the department, and are too small to have appeared in the company's catch at any time, except by an accident in clubbing.

Then, on April 13, 1912, to the House committee, he testifies that he knows that yearling sealskins weigh from 4 to 4¾ pounds (see p. 435, Hearing No. 9), to wit:

Mr. LEMBKEY. As I stated to the committee, I knew nothing whatever about the measurements.

Mr. ELLIOTT. How do you know anything about the weights?

Mr. LEMBKEY. Because I have taken the weights.

Mr. ELLIOTT. Oh, you have?

Mr. LEMBKEY. I have taken the weights on the island of all sealskins weighed there.

Mr. ELLIOTT. You have? I want to call your attention to this, and the attention of the committee. You say you have taken note of the weights?

Mr. LEMBKEY. I have testified before the committee that every skin taken on the islands except a few that inadvertently were omitted were weighed there.

Mr. ELLIOTT. What is the weight of a yearling fur-seal skin?

Mr. LEMBKEY. I weighed very few yearling skins, but they would usually run up to 4 or 4¾ pounds.

On April 13, 1912, when under oath before the House Committee on Expenses in the Department of Commerce and Labor, Mr. Lembkey testified that the length of a yearling seal of his own identification

and measurement was 39½ inches, thus (p. 442, Hearing No. 9, House Committee on Expenses in the Department of Commerce and Labor; Hearing No. 10, pp. 639, 640, May 2, 1912):

Dr. EVERMANN. Do you know that Mr. Fraser states that the process of dressing skins instead of stretching them rather shrinks them?

Mr. ELLIOTT. No; he hasn't said so anywhere. Now, Mr. Lembkey said, on page 442, that he had measured a yearling seal—three of them. He says here [reading]:

“Mr. LEMBKEY. The length of a yearling seal on the animal would be from the tip of the nose to the root of the tail, 39½ inches in one instance and 39½ inches in another—

“Mr. ELLIOTT. Yes.

“Mr. LEMBKEY. And 41 in another. I measured only three.

“Mr. ELLIOTT. Yes.”

Do you dispute those measurements?

Dr. EVERMANN. I do not dispute them.

Here we have the Bureau of Fisheries joining in with Lembkey in declaring that the length of a yearling seal is 39½ inches. Now, Mr. Lembkey, on page 443, Hearing No. 9, tells the committee that the length of the skin of this yearling seal as he (Lembkey) removes it is 36½ inches long, thus:

Mr. ELLIOTT. Then that would leave a yearling skin to be 35 inches long?

Mr. LEMBKEY. No; if it was 39½ inches long it would leave it 36½ inches. That is, all of the animal, from the tip of the nose to the root of the tail, would be 39½ inches long. Three inches off that would leave 36½ inches.

Now, what is the weight of Mr. Lembkey's yearling skin which he has taken and declared to be 36½ inches long? He tells the department on September 7, 1904, in a carefully prepared report, as quoted above, that it is “only 3½ pounds.”

Is he telling the truth? Observe the following part of list of 400 tagged 32–36-inch long skin weights which he made himself July 7, 1913, on St. Paul Island, and affixing the tags thereto himself, declaring those weights duly registered by himself:

Record of seals taken and weights recorded of skins, July 7, 1913, made by W. J. Lembkey.

Tagged No. of skin.	Green weight of skin.		Measurements (length) of these same skins (taken and weighed by Lembkey), made July 29, 1913, by Elliott and Gallagher.
	Lbs.	Oz.		Inches.
4623.....	5	11¼	32
4318.....	7	11½	34
4273.....	6	10	34
4406.....	6	11	34
4294.....	8	2¾	36
4246.....	5	15¾	31
4244.....	4	3½	32
4751.....	6	1	32
4275.....	8	7¼	32

The above citation of a few of the 400 tagged and weighed skins which are all given in extenso by the agents of the House Committee on Expenditures in the Department of Commerce, August 31, 1913, shows that Mr. Lembkey deliberately deceived the department, September 7, 1904, when he declared that he “determined the weight of a yearling sealskin” to be “3½ pounds.”

That these measurements are reliable when made "in the salt," Mr. Lembkey testifies at length to the House Committee on Expenditures in the Department of Commerce and Labor; Hearing No. 10; pages 399-340, as follows:

Mr. LEMBKEY. I have attempted to state that in measuring a green skin it is impossible to find out its exact length when you lay it on the ground, because it may curl up, or roll, or stretch, and it can only be measured after it has become hardened by salt.

Mr. MCGILLICUDDY. Then it will not stretch?

Mr. LEMBKEY. Certainly not.

Mr. MCGILLICUDDY. That is the proper time to measure it, after it has become rigid and stiff?

Mr. LEMBKEY. Certainly.

Mr. MCGILLICUDDY. You can not then stretch or shrink it?

Mr. LEMBKEY. No, sir.

Mr. MCGILLICUDDY. With an honest measurement of that kind of skin, would it not determine the age?

Mr. LEMBKEY. I fancy, yes.

Mr. MCGILLICUDDY. Is there any doubt about it?

Mr. LEMBKEY. I do not think so. I say, fancy, because I never attempted to judge of age by the measurements.

Mr. MCGILLICUDDY. In that way, if anybody wanted to, they could not deceive, because you say they could not stretch it?

Mr. LEMBKEY. You could not stretch it after it had been salted four or five days, because the skin then is not very pliable.

Mr. MCGILLICUDDY. Then it is your idea that measurement is reliable after a certain number of days?

Mr. LEMBKEY. Yes, after it has been in salt, but when the skin is green it would not be a reliable test.

Those measurements of Mr. Lembkey's yearling skins (31-36½-inch skins), as taken and weighed by himself, July 7, 1913, were made in the salt-house kench of St. Paul Island, in the presence of Messrs. Hatton, Clark, Whitney, and Lembkey, of the Bureau of Fisheries, and Messrs. Elliott and Gallagher for the House Committee on Expenditures in the Department of Commerce; they were all agreed upon as correct when taken and recorded, July 29, 1913, by the gentlemen above named.

AN EXHIBIT OF THE COMMUNITY OF INTEREST BETWEEN THE LESSEES OF THE SEAL ISLANDS OF ALASKA AND CERTAIN OFFICIALS OF THE STATE DEPARTMENT AND BUREAU OF FISHERIES, 1890-1905, IN PROMOTING A FRAUDULENT CLAIM AT THE HAGUE, JUNE, 1902.

THE COMMUNITY OF INTEREST EXISTING BETWEEN THE SEAL LESSEE, LIEBES, AND THIRD ASSISTANT SECRETARY, H. H. D. PEIRCE, UNITED STATES STATE DEPARTMENT, IN THE BUSINESS OF PIRATICAL PELAGIC SEALING, AS COVERED BY THEIR ASSOCIATION WITH ALEXANDER M'LEAN, AND HIS EMPLOYMENT BY LIEBES, CULMINATING IN 1905.

The sworn record of that association of McLean with Liebes begins in 1890, as follows. He was, during seasons of—

1890. In command of the *J. Hamilton Lewis*; H. Liebes, owner; raids Copper Island and gets off, August 1, with two men badly hurt.

1891. In command of the *J. Hamilton Lewis*; seized August 2, while raiding Copper Island with the crew of the *E. E. Webster*, owned by H. Liebes and commanded by his brother; vessel confiscated and he is imprisoned at Vladivostok a few weeks.

1892. In command of the *Rosa Sparks*, sealing schooner of San Francisco; no raids this year.

1893. In command of the steam sealer *Alexander*, flying the Hawaiian flag; he is caught by the U. S. S. *Mohican* raiding Northeast Point, St. Paul Island, in July, but escapes in the fog because the war vessel's engines were disabled.

The *Alexander* was owned by Isaac and Herman Liebes up to December 21, 1893. In November, 1893, Liebes's attorneys, Jeffries and Tingle, filed claims against Russia for damages in re seizure of the *James Hamilton Lewis*; those claims were put up to the United States State Department in the name of a "dummy" owner ("Max Waizman") and Alexander McLean, as an "American citizen lawfully engaged," etc. McLean's record since 1893, follows. He was during—

1894 to 1902. In command of various pelagic vessels, but under re-straint from the lessees, since the claim of the *J. Hamilton Lewis* is being prepared and pressed, up to its successful end November 29, 1902, at The Hague.

1896. He appears as a "true American" before the claims award commission, which sits at Victoria, in settlement of damage suits against the United States Government for seized sealers and vessels in 1866-1889; he testifies, "at the peril of his life," for the American commissioners as to the value of the British boats seized. (See Rept. 2128, Senate bill 3410, 58th Cong., 2d sess.) He is in truth working for the highest figures obtainable from the United States Treasury, instead of the lowest.

1903. He can not be placed with certainty this year.

1904. He raids Copper Island August 2, in the "Mexican" schooner *Cervencita*: one of his men seriously shot.

1905. He attempts a raid on St. Paul Island, Northeast Point, but is driven off, he is sailing in the *Acapuleo*, and defies arrest by United States agents, for he is a British subject; at Victoria British Columbia, in October, 1905.

Why did McLean defy arrest? Why was he undisturbed at Victoria? Why, when he had been indicted, August 19, 1905, in the United States District Court of California, San Francisco, charged with conspiracy to defraud the United States Government, under section 5440, Revised Statutes?

It was because the United States State Department, when asked (Sept. 16 and Oct 16, 1905) by the United States consul at Victoria, Abraham E. Smith, to authorize and instruct him (Smith) to demand the arrest and extradition of Alexander McLean, agreeably to the terms of that above-cited indictment of August 19, 1905, refused to so "instruct" Consul Smith. The United States district attorney (Devlin), of the California District Court, had also asked (Sept. 7, 1905) Consul Smith to demand the arrest and extradition of McLean; but Smith replied that unless the State Department ordered this action on his part, he would not move in the matter—that he could not.

But Smith, nevertheless, did address a request in September (16th) to H. H. D. Peirce, (as Acting Secretary or) Assistant Secretary of State, for authority to make this demand on the British authorities at Victoria for McLean's arrest and extradition. Peirce made no answer. On October 16, 1905, Smith again called Peirce's attention to this fact, that McLean was still in Victoria, under indictment at San Francisco, but "unless specially instructed by the department to demand extradition," he, Smith, will not move in the premises (despite the urgent request that he do so, as made by United States District Attorney Devlin, of California), and that up to date (Oct. 16, 1905) "no such instruction has been received, and, therefore, the whole affair appears to be closed."

Now, why did Peirce, as Acting Secretary of State, when the United States consul, Smith, first asked him to authorize this demand for McLean's extradition (September, 1905), decline to do so and then so influence the Attorney General's office in Washington as to have the hint given Devlin in San Francisco that McLean could not be extradited, "according to the State Department," for this offense,

etc.; that he (McLean) "must be arrested by a British officer of the patrol fleet," etc.?

The reason is found in the report of the House Committee on Expenditures in the Department of Commerce and Labor, No. 1425, Sixty-second Congress, third session, page 4, to wit:

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

In Hearing No. 13, page 831, June 20, 1912, House Committee on Expenditures in the Department of Commerce and Labor, is the following:

STATEMENT OF ISAAC LIEBES.

The witness was duly sworn by the chairman.

The CHAIRMAN. What is your full name?

Mr. LIEBES. Isaac Liebes.

The CHAIRMAN. Where do you live?

Mr. LIEBES. In San Francisco.

The CHAIRMAN. And what is your business?

Mr. LIEBES. I am a merchant.

The CHAIRMAN. What kind of business as a merchant do you conduct?

Mr. LIEBES. Fur business, and I am also connected with the salmon business. I am vice president of the Northern Navigation Co., Northern Commercial Co., director in the North American Commercial Co., and I am connected with 9 or 10 other corporations in San Francisco.

The men indicted August 19, 1905, in re "*Acapulco*" in the United States District Court of San Francisco, were Alexander McLean, R. J. Tyson, S. E. R. de Saint, W. J. Wood, and W. J. Woodside, charged with conspiracy under section 5440, Revised Statutes.

In Hearing No. 4, page 184, July 11, 1911, House Committee on Expenditures in the Department of Commerce and Labor, is the following sworn record of—

THE PROGRESSION OF CAPT. ALEXANDER M'LEAN AS AN "AMERICAN CITIZEN."

1890. In command of the *J. Hamilton Lewis*; H. Liebes, owner; raids Copper Island and gets off, August 1, with two men badly hurt.

1891. In command of the *J. Hamilton Lewis*; seized August 2, while raiding Copper Island with the crew of the *E. E. Webster*, owned by H. Liebes and commanded by his brother; vessel confiscated and he is imprisoned at Vladivostok a few weeks.

1892. In command of the *Rosa Sparks*, sealing schooner of San Francisco; no raids this year.

1893. In command of the steam sealer *Alexander*, flying the Hawaiian flag; he is caught by the U. S. S. *Mohican* raiding Northeast Point, St. Paul Island, in July, but escapes in the fog because the war vessel's engines were disabled.

1894 to 1902. In command of various pelagic vessels, but under restraint from the lessees, since the claim of the *J. Hamilton Lewis* is being prepared and pressed, up to its successful end November 29, 1902, at The Hague.

1896. He appears as a "true American" before the claims award commission, which sits at Victoria, in settlement of damage suits against the United States Government for seized sealers and vessels in 1866-1899; he testifies, "at the peril of his life," for the American commissioners as to the value of the British boats seized. (See Rept. 2128, Senate bill 3410, 58th Cong., 2d sess.) He is in truth working for the highest figures obtainable from the United States Treasury, instead of the lowest.

1903. He can not be placed with certainty this year.

1904. He raids Copper Island August 2, in the "Mexican" schooner *Cervencita*; one of his men seriously shot.

1905. He attempts a raid on St. Paul Island, Northeast Point, but is driven off; he is sailing in the *Acapulco*, and defies arrest by United States agents, for he is a British subject; at Victoria, British Columbia, in October, 1905.

1906. He raids St. Paul Island July 16-17, with a Japanese outfit; five Japs killed, and 12 prisoners taken; there is a fleet engaged in this raid, which attacked five rookeries at once and on the same days; they got away from all of them, except Northeast Point, with seals and no casualties.

The *Alexander* was owned by Herman Liebes up to December 30, 1891; then transferred to "H. Liebes & Co.," and owned until December 27, 1893; then transferred to Pacific Trading Co., in which Liebes was a director.

The *E. E. Webster*, owned by Herman Liebes up to October 21, 1893; then transferred as "owned" by dummy "Max Waizman" to the Pacific Trading Co.

The *Acapulco* was outfitted in San Francisco, March 5, 1904, and her captain, McLean, was indicted for conspiracy there, August 19, 1905; he was charged with "equipping and furnishing supplies" for the *Acapulco* in San Francisco Bay, in May, 1905.

During the trial of McLean's associates in the southern district California court, Capt. Alexander Woodside, president of the "Pacific Trading Co.," was unable to give to the court the names of the directors of his company. "Ten barrels of beef" had been supplied to the *Acapulco* by the "Pacific Trading Co.," and the court wanted to find out who were the responsible men in its organization.

In re Herman and Isaac Liebes, as lessees, buying pelagic sealskins: 1890-1911.

Who was the Victorian agent of the Liebes, after Moss "died" in 1893?

In 1892, Morris Moss, of Victoria, B. C., made oath that he was the resident agent of H. Liebes & Co. (of San Francisco) and that he "bought from ten to twenty thousand pelagic fur sealskins annually" for Liebes.

On June 20, 1912, Isaac Liebes, under oath, made the following evasive and shifty, if not wholly false, answers to the questions as stated below (Hearing No. 13, p. 881, June 20, 1912, House Committee on Expenditures in the Department of Commerce and Labor):

The CHAIRMAN. Do you know Morris Moss?

Mr. LIEBES. I did know him; yes.

The CHAIRMAN. Was he connected with your firm at any time?

Mr. LIEBES. He used to be a buyer in Victoria at one time for H. Liebes & Co.—I think about 25 years ago. I think he has been dead twenty-odd years.

The CHAIRMAN. Who succeeded him for you?

Mr. LIEBES. He never had a successor there.

The CHAIRMAN. Where was he from?

Mr. LIEBES. He was a resident of Victoria; I do not know where from.

The CHAIRMAN. Then he bought skins for you at Victoria?

Mr. LIEBES. He bought all kinds of skins for H. Liebes & Co., mostly land furs, beaver, mink, otter, and those things.

The CHAIRMAN. And sealskins, too?

Mr. LIEBES. He might have done so; I do not remember any sealskins, but possibly in those early days he might have bought some.

If Liebes tells the truth, Moss must have died almost immediately after this sworn deposition in 1892 was made by him as above cited and quoted in volume 5, Proceedings Tribunal Arbitration, 1893, pages 670, 671.

Liebes swears that Moss, who "died" in 1893, had no successor for his place as the "resident agent of H. Liebes & Co." He asks the committee to believe that a business of "buying from ten to twenty thousand pelagic fur sealskins annually" from the hunters at Victoria, B. C., was abandoned by the Liebes when Moss died. (Vol. 2, Proceedings Tribunal Arbitration, 1893, p. 341; see Morris Moss's deposition.)

That Liebes had not only had an agent in Victoria busy in buying pelagic sealskins, but also, like Moss, a member of the Victoria Sealers' Association, immediately after Moss's death up to the day that the Hay-Elliot treaty went into effect, December 15, 1911, will be found a matter of business record in Victoria when a competent search for it is made.

H. H. D. Peirce under oath admits that he knew that the Liebes were the owners of the *James Hamilton Lewis*. (Hearing No. 13, pp. 779-782, May 29, 1911, House Committee on Expenditures in the Department of Commerce and Labor.) This admission is made by him, to wit:

THE COMMITTEE ON EXPENDITURES IN THE
DEPARTMENT OF COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,
Wednesday, May 29, 1912.

The committee this day met, Hon. John H. Rothermel (chairman) presiding.

STATEMENT OF MR. H. H. D. PEIRCE.

The witness was duly sworn by the chairman.

The CHAIRMAN. What is your full name?

Mr. PEIRCE. Herbert Henry Davis Peirce.

The CHAIRMAN. What is your profession?

Mr. PEIRCE. I am a diplomat.

The CHAIRMAN. Well, you are a lawyer by profession?

Mr. PEIRCE. An international lawyer; I am not a member of the bar.

The CHAIRMAN. What is your present occupation?

Mr. PEIRCE. I am one of the counsel for the Government in the American-British Claims Arbitration.

The CHAIRMAN. What was your position with the Government some years ago?

Mr. PEIRCE. I was first secretary of legation at St. Petersburg, and after it became an embassy, secretary of embassy. I was the Third Assistant Secretary of State.

The CHAIRMAN. You may tell the committee what the real issue was before the tribunal as to the *James Hamilton Lewis* case.

Mr. PEIRCE. The Russian Government had seized the *James Hamilton Lewis* for poaching, as they call it, seals on the Copper Island. The *James Hamilton Lewis* was arrested outside of the 3-mile limit. She was on her way; the captain alleged that the weather was thick, and that he had proceeded to Copper Island in order to get his bearing—whether that is true or not I do not know, but it was a thing disputed—and there was lying off around the southern extremity of Copper Island a Russian cruiser which the master of the *James Hamilton Lewis* could not see, and as he came up toward the island he must have been pretty well within the 3-mile limit, for if he saw the vessel he certainly could have seen the island; the cruiser came around the point, and then McLean, who was the master of the *James Hamilton Lewis*, turned tail and sailed away.

The cruiser pursued her and pursued her beyond the 3-mile limit and there seized her. I claimed for the owners and officers and crew that her presence in Russian waters was innocent, that there was no corpus delicti, that she had gone there for a perfectly reasonable purpose, and was merely exercising the rights that any vessel had, and that her pursuit and capture beyond the 3-mile limit was a violation of her right to sail upon any sea.

The CHAIRMAN. It was decided, then, that she was not in Russian waters?

Mr. PEIRCE. The arbitrator accepted absolutely my argument.

The CHAIRMAN. In order to sustain your argument, it was necessary to prove that the master was an American citizen and that the vessel was owned by American citizens?

Mr. PEIRCE. Yes.

The CHAIRMAN. Who was the master?

Mr. PEIRCE. One Alexander McLean.

The CHAIRMAN. Can you tell from memory whether the Russians found some seal-skins when she was captured?

Mr. PEIRCE. My recollection is they did, and that damages were awarded for the seizure of those sealskins.

The CHAIRMAN. As well as for the property?

Mr. PEIRCE. As well as for the property and the loss of the probable catch.

The CHAIRMAN. If I am not mistaken, I think they had 424 skins.

Mr. PEIRCE. That is my recollection. I am somewhat vague.

The CHAIRMAN. You also proved to the satisfaction of the tribunal that the vessel was owned by American citizens?

Mr. PEIRCE. I filed such documents as I could obtain, which appeared to establish the owners' title of the vessel.

The CHAIRMAN. Who were the owners?

Mr. PEIRCE. H. Liebes & Co., I believe.

The CHAIRMAN. Who were they?

Mr. PEIRCE. I can only answer from hearsay.

The CHAIRMAN. Just in a general way.

Mr. PEIRCE. I think they were dealers in sealskins or promoters of pelagic sealing, or something of that sort; I do not know.

The CHAIRMAN. You finally settled. You may tell the committee what your compensation was, if you will?

Mr. PEIRCE. Certainly. My compensation in the case of the *C. H. White*, and I think also the *Kate and Anna*—I am not sure of that—no; my compensation in the case of the *C. H. White*, for which I recovered an award of \$52,000, was \$5,000, less my counsel fees, which amounted to \$1,000. I received \$4,000.

The CHAIRMAN. Did anybody else receive any compensation?

Mr. PEIRCE. I do not know. I presume James Embry got a large compensation, but I do not know.

The CHAIRMAN. Who went with you to The Hague tribunal?

Mr. PEIRCE. Mr. Townsend. I forget his initials.

The CHAIRMAN. Charles Townsend.

Mr. PEIRCE. He had been employed, I think, by the Treasury Department when the care of the seal herd was under the Treasury Department.

The CHAIRMAN. He was sent with you as an expert?

Mr. PEIRCE. As an expert.

The CHAIRMAN. To assist you in presenting the case?

Mr. PEIRCE. Yes, sir; as a witness.

The CHAIRMAN. Did he receive any compensation?

Mr. PEIRCE. That I do not know. He received, if my recollection serves me aright, his traveling expenses, which I think I paid to him, to be refunded out of the award.

The CHAIRMAN. Did you pay him any money out of your fee?

Mr. PEIRCE. No, sir. (Townsend, Bureau of Fisheries "Expert," aids Peirce, p. 784.)

ISAAC LIEBES FALSIFIES IN RE OWNERSHIP, AND INTEREST IN THE BUSINESS OF PELAGIC SEALING AND ITS PRACTICAL PROMOTION, AS A LESSEE OF THE SEAL ISLANDS. 1890-1903.

Mr. FAULKNER. Mr. Liebes, will you state to the committee whether you were interested in the *J. Hamilton Lewis*?

Mr. LIEBES. No; not to my knowledge. (P. 833, Hearing No. 13, June 18, 1912.)

INVESTIGATION OF FUR-SEAL INDUSTRY OF ALASKA.

The CHAIRMAN. You were the owner at one time of the *J. Hamilton Lewis*?

Mr. LIEBES. I was not.

The CHAIRMAN. Was it not transferred to you by Herman Liebes?

Mr. LIEBES. Never, that I know.

The CHAIRMAN. I simply wish to call your attention to the fact that there is a certificate from the custom officers to the effect that it was recorded in the records of the Government in San Francisco that you were the owner at a certain date.

Mr. FAULKNER. I have never seen it.

Mr. LIEBES. If you will let me see it I will be glad.

Mr. FAULKNER. I have never been able to see that, but that Herman Liebes transferred it to H. Liebes & Co. The certificate appears on page 120.

The CHAIRMAN. Herman Liebes and H. Liebes & Co. (Inc.)—is that correct?

Mr. FAULKNER. Yes. There is a declaration on page 204 showing that Herman Liebes is the owner, and on page 120 there is a certificate showing that he transferred it to H. Liebes & Co. on the 17th day of September, 1890.

The CHAIRMAN. Yes; that is right.

Mr. FAULKNER. And subsequently, on the 29th day of July, 1891, transferred it to Max Waizman. (P. 856, Hearing No. 13, June 20, 1912.)

PROOF, SELF-CONFESSED, BY LIEBES, THAT HE HAS FALSIFIED, AS ABOVE.

The CHAIRMAN. Here is a document purporting to be signed by Max Waizman on the 22d day of December, 1902, which reads as follows: (P. 860, Hearing No. 13, June 20, 1912.)

"Know all men by these presents that I, *Max Waizman*, for value received, have sold and by these presents do grant, assign, and convey to *unto Isaac Liebes* all my right, title, and interest in and to my claim against the Russian Government for the seizure of the schooner *James Hamilton Lewis* by the Russian man-of-war *Aleut*, on August 2, 1891, whilst 20 miles off Copper Islands, en route to San Francisco, together with her apparel, equipment, boats, guns, stores, provisions, and 426 sealskins, and for breaking up the season's cruise, the same unto the said Isaac Liebes, hereby constituting and appointing said Isaac Liebes, my true and lawful attorney, irrevocable in my name, place, and stead, for the purpose aforesaid, to ask, demand, sue for, attach, levy, recover, and receive all such sum and sums of money which now are or may hereafter become due, owing and payable for or on account of all or any of the accounts, dues, debts, and demands above assigned; giving and granting unto the said attorney full power and necessary, as fully, to all intents and purposes, as I might or could do, if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do or cause to be done by virtue hereof.

"In witness whereof, I have hereunto set my hand and seal the 22d day of December, 1902.

"MAX WAIZMAN.

"Witness—

"BEN. A. GOLDSMITH."

This was an assignment to you of all his right, title, and interest in the claim which he had against the Russian Government.

Mr. FAULKNER. I do not understand it in that way. I understand that is an assignment to H. Liebes & Co., with power of attorney to Isaac Liebes to collect this money.

The CHAIRMAN. *No; it says:*

Have sold and by these presents do grant, assign, and convey unto Isaac Liebes all my right, title, and interest in and to my claim against the Russian Government for the seizure of the schooner *James Hamilton Lewis*.

Mr. FAULKNER. Oh, I understood it to be to H. Liebes & Co.

Mr. LIEBES. I thought your question was whether he did not transfer the vessel to me.

The CHAIRMAN. Is this a correct statement of what took place?

Mr. LIEBES. I have no recollection of the document, but if any signature is on there it must be so.

PEIRCE SWEARS THAT TINGLE TOLD HIM THAT LIEBES WAS THE OWNER, AND PRODUCES THE PROOF OF IT.

The CHAIRMAN. Did you have all the affidavits and papers on me which were necessary to make out a case? I mean copies of the papers.

Mr. PEIRCE. To make out the case against the Russian Government, certainly. They are all published in Appendix 1 of Foreign Relations for 1902. They are all published in English. The original preparation of the case was in French. It is quite a volume and required a good deal of French writing.

The CHAIRMAN. The Liebes were interested in all the vessels—were they not?

Mr. PEIRCE. I have no knowledge of that, except by hearsay. *After the proceedings at The Hague, Geo. R. Tingle told me that they were, as I remember it, that they practically owned most of the pelagic sealing vessels. That is the impression I got from him in some way. I cannot be sure, however.*

The CHAIRMAN. In other words, they practically controlled the pelagic sealing and they were members of the North American Commercial Co.?

Mr. PEIRCE. I did not know any of that of my own knowledge. I simply heard it after the argument at The Hague from *Tingle*. I have this morning seen a letter which I wrote to my counsel, and in which I said that *Tingle had informed me that the sale of the James Hamilton Lewis to Waizman was a mere cloak and that it was not bona fide sale.* Whether that is true or not, I can not say.

The CHAIRMAN. You certainly thought it was true or you would not have written it? (P. 784, Hearing No. 12, June 4, 1912.)

Mr. PEIRCE. *I certainly thought it was true at the time, and I think it probably was. I simply quoted Mr. Tingle as having suggested that; I did not vouch for it.* (P. 785, Hearing No. 12, June 4, 1912.)

The CHAIRMAN. I understand that there is an affidavit on file, a copy of which is before me, an affidavit which it was necessary for you to use in order to substantiate the claim of the United States before The Hague tribunal. I will read the affidavit and will let you make such statement in connection thereto as you may desire. (P. 785.)

Mr. PEIRCE. No; I have never seen that affidavit, so far as I can remember, or heard of it. I am very sure that it was not used in that proceeding. I speak, of course, from memory. There were a great many documents filed in the arbitration, but I have no recollection of that and I do not think it was filed. You will be pleased to observe, sir, that that is *Isaac Liebes. The owners were Herman Liebes & Co.*

The CHAIRMAN. *But it was transferred by a bill of sale and Isaac Liebes is the man who turned up to get all the money so that there would not be any left for you.*

Mr. PEIRCE. I brought an injunction against Patton and Embry. Now that you speak of it, I believe *Liebes did turn up* in connection with the *James Hamilton Lewis*, but I brought no injunction against him, I think. I think we settled it by agreement because *Tingle had filed an agreement with Liebes to pay him 25 per cent of the award and, as I remember, the department paid him that 25 per cent, he paying me the 10 per cent.*

The CHAIRMAN. He even had a power of attorney from Max Waizman?

Mr. PEIRCE. Yes, sir; and I presume Patton in that connection said to me something about the sale of the *James Hamilton Lewis* to Max Waizman. (P. 786.)

ISAAC LIEBES IDENTIFIES TINGLE AS THE EMPLOYEE OF THE LESSEES FROM MARCH 12, 1890, TILL HIS DEATH IN 1906.

The CHAIRMAN. Who was *George R. Tingle*?

Mr. LIEBES. He was employed by the North American Commercial Co.

The CHAIRMAN. Is he living or dead?

Mr. LIEBES. I believe he is dead.¹

The CHAIRMAN. When did he enter the employ of the North American Commercial Co.?

Mr. LIEBES. *Shortly after the lease.*²

The CHAIRMAN. And he became what? What did he do for the company?

Mr. LIEBES. I believe he was the company's representative on the seal islands.

The CHAIRMAN. Was he the general superintendent, or what was his title?

Mr. LIEBES. I really do not remember what his title was.

The CHAIRMAN. Did he continue during the whole period of the lease, or not?

Mr. LIEBES. No, sir; he died some time afterwards.

The CHAIRMAN. How long afterwards?

Mr. LIEBES. I really could not tell you.

The CHAIRMAN. Was he living in 1902, or not?

Mr. LIEBES. I can not tell you. (P. 846, Hearing No. 13, June 20, 1912.)

The CHAIRMAN. Mr. Liebes, it appeared that he filed some papers as attorney in the *J. Hamilton Lewis* matter.

Mr. LIEBES. Well, if you will let me see those papers, I will refresh my memory.

The CHAIRMAN. Do you not remember that *George R. Tingle* did file some papers in the *James Hamilton Lewis* case and signed them as attorney for the claimants?

Mr. LIEBES. I saw it in the record as I read it.

The CHAIRMAN. Yes, sir; that is in the record.

Mr. LIEBES. I have read it in the record.

¹ Tingle died in 1906.

² Lease given him Mar. 12, 1890.

The CHAIRMAN. Mr. Elliott, do you know on what date those papers were filed?

Mr. ELLIOTT. They were first filed in 1893.

The CHAIRMAN. I understand that the Tingle papers were filed in 1893. At that time Tingle was in the employ of the North American Commercial Co., *was he not?* (Tingle employed 1890 to 1906. For 16 years.)

Mr. LIEBES. *Yes, sir; I believe so.* I am not certain about that, but *that is my impression.*

PEIRCE IDENTIFIES TINGLE AS LIEBES'S AGENT, PAYING HIM, ETC.

The CHAIRMAN. What did you receive from the *James Hamilton Lewis* case?

Mr. PEIRCE. To the best of my recollection, I received the same amount, or a little less, from the *James Hamilton Lewis* case. I think *I received 10 per cent.* Mr. Tingle told me that he was entitled to 25 per cent, and that if he paid me 10 per cent, then he would pay somebody 5 per cent or 2½ per cent, and that would equalize it. (P. 785, Hearing No. 12.)

LIEBES TRIES TO DENY THAT ORDER OF PAYMENT BY INDIRECTION.

The CHAIRMAN. Mr. Peirce stated to the committee that he was employed by George R. Tingle, who was the attorney who filed the papers.

Mr. FAULKNER. Attorney in fact.

The CHAIRMAN. In any capacity that you may choose to call it. Was George R. Tingle attorney in fact?

Mr. LIEBES. *I could not tell you, sir.*

The CHAIRMAN. He was then still in the employ of the North American Commercial Co., was he not?

Mr. LIEBES. What year do you mean?

The CHAIRMAN. When these papers were filed; I think it was in 1893.

Mr. LIEBES. *I believe he was employed in 1893; I am not positive, but I think so.* (P. 858, Hearing No. 12.)

THE RECORD DECLARES THE FACT THAT LIEBES WAS THE "OWNER," 1890-1902; AND PAID TINGLE, PEIRCE, AND TOWNSEND FOR SERVICES, MARCH, 1903, AFTER THEY SECURED THE MONEY—NOVEMBER 29, 1902.

The CHAIRMAN. You filed a bond and drew the money after paying Peirce, Townsend, and Tingle, and there is a statement at which you may look.

Mr. LIEBES. *Yes, sir; I see that.*

The CHAIRMAN. In this connection I think we might as well let this memorandum become a part of the record. (P. 861, Hearing No. 13.)

Said memorandum follows:

RUSSIAN SEALING CLAIMS.

Claim of the owner and crew of the schooner <i>James Hamilton Lewis</i> against Russia.	
Amount received from Russia in settlement of the award made by the arbitrator, under convention of Aug. 26, 1900.....	\$47,684.78
Deducted by Department of State as reimbursement of the pro rata share of expenses incurred in arbitration.....	1,001.56

Available for distribution to claimants.....	46,683.22
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Distribution made as follows:	
<i>Herbert H. H. D. Peirce</i> and <i>George R. Tingle</i> , for attorneys' fees, by direction of the schooner and attorney for crew.....	\$13,949.00
<i>Isaac Liebes</i> , assignee of the owner, and assignee and attorney for members of crew, under bond filed with the department.....	32,547.65
C. H. Townsend, pro rata share of \$410 paid to him for services as a sealing expert in giving expert testimony before arbitrator.....	186.57
	<hr/>
	46,683.22

The above amounts were paid to parties named by certificate of the Secretary of State on the Secretary of the Treasury, as per form herewith, in accordance with the provisions of the act of February 26, 1896.

Bureau of Accounts, May 28, 1912.

W. AF.

LIEBES KNOWINGLY VIOLATES HIS CONTRACT IN RE OWNERSHIP OF SAID "JAMES HAMILTON LEWIS."

The CHAIRMAN. Is it not a fact that when you signed the lease and gave bonds for its faithful observance, March 12, 1890, a pelagic hunting schooner, owned by your fellow lessee, Herman Liebes, was then at work hunting for seals at sea?

Mr. LIEBES. *I had no knowledge of it.*

The CHAIRMAN. You say you have no knowledge of it?

Mr. LIEBES. I say if such was the case, *I had no knowledge of it.*

The CHAIRMAN. Is it not a fact that the *James Hamilton Lewis*, the ownership of which was vested in Herman Liebes, had cleared, on or before March, 1890, from San Francisco, bound for hunting fur seals at sea?

Mr. LIEBES. *I have no recollection of that at all, sir.*

The CHAIRMAN. Is it not a fact that at the close of the season of 1890 the aforesaid *James Hamilton Lewis* had taken some 1,471 fur-seal skins at sea, or more of them?

Mr. LIEBES. *I have no knowledge of it.*

The CHAIRMAN. Do you mean to say, Mr. Liebes, that they did or did not, or that you don't know anything about it?

Mr. LIEBES. *I don't know anything about it.*

The CHAIRMAN. Is it not a fact that on or about August 1, 1890, the *James Hamilton Lewis* raided the fur-seal rookeries on Copper Is and (Commander or Russian Is'ands), was fired on, two men badly wounded, but managed to escape capture? (P. 887.)

Mr. LIEBES. *I have no knowledge of that.*

The CHAIRMAN. Is it not a fact that on September 17, 1890, you, Isaac Liebes, president of the North American Commercial Co., became a part owner of the *James Hamilton Lewis*?

Mr. LIEBES. *I don't know anything about it. (P. 886, Hearing No. 13.)*

The CHAIRMAN. Did you know when you read the Windom lease that he had bound you in its terms not to engage in pelagic sealing, on the pain of penalties and the forfeiture of your lease and bonds if you did?

Mr. LIEBES. *I have never seen such a lease that I know of.*

The CHAIRMAN. Did Secretary Windom modify or change his draft of the new lease of May 1, 1890-May 1, 1910, in the least when you accepted and signed it March 12, 1890?

Mr. LIEBES. *That is a matter that I do not know anything about. (P. 887, Hearing No. 13, June 20, 1912.)*

The CHAIRMAN. Is it not a fact that when you signed the lease and gave bonds for its faithful observance, March 12, 1890, a pelagic hunting schooner, owned by your fellow lessee, Herman Liebes, was then at work hunting for seals at sea?

Mr. LIEBES. I had no knowledge of it.

The CHAIRMAN. You say you have no knowledge of it?

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Mr. LIEBES. I don't know anything about it. (P. 887, Hearing No. 13, June 20, 1912.)

The CHAIRMAN. Is it not a fact that on or about August 1, 1890, the *James Hamilton Lewis* raided the fur-seal rookeries on Copper Island (Commander or Russian Islands), was fired on, two men badly wounded, but managed to escape capture?

Mr. LIEBES. I have no knowledge of that.

The CHAIRMAN. Is it not a fact that on September 17, 1890, you, Isaac Liebes, president of the North American Commercial Co., became a part owner of the *James Hamilton Lewis*?

Mr. LIEBES. I don't know anything about it.

The CHAIRMAN. Is it not true that Isaac and Herman Liebes held this ownership of the said *James Hamilton Lewis* between them until July 29, 1891?

Mr. LIEBES. I have no personal knowledge of that.

Mr. FAULKNER. Mr. Chairman, I think he ought to be allowed to say, too, that the records show here that it was assigned in September, 1900.

The CHAIRMAN. Yes; I think he has said that. Will you repeat what the consideration was when Max Waisman transferred the interests that he had in the *James Hamilton Lewis* to you? I asked you that this morning, I believe.

Mr. LIEBES. Whatever the document calls for.

The CHAIRMAN. Mr. Liebes filed an affidavit with the Secretary at the time of the execution of the lease that he was not knowingly engaged in—

Mr. ELLIOTT (interposing). Pelagic sealing of any kind whatever; that was the distinct impression he gave to Mr. Windom.

The CHAIRMAN. Do you know how many pelagic sealskins were taken by the *James Hamilton Lewis* in 1890?

Mr. ELLIOTT. I only know from the sworn depositions of one of her hunters, George Wester, filed with the tribunal, 2,625 skins. (See S. Doc. 177, pt. 8, pp. 712-714, 53d Cong., 2d sess.)

The CHAIRMAN. I have a letter which I received in behalf of the committee stating that the *James Hamilton Lewis* ended a trip September 11, 1890, and had 1,464 sealskins, and the collector of the port of San Francisco questions the 2,625 skins as I had suggested in my letter to him. Can you explain the difference between those two sets of figures?

Mr. ELLIOTT. The deponent, Wester, who swears that those skins were taken, explains it in his affidavit. He says they were taken in the spring catch; before they went over to the Russian side they had eleven hundred and odd skins, which makes the 2,625 skins. The fourteen hundred and odd skins that came down to San Francisco September 11, 1890, came direct from the Russian islands.

The CHAIRMAN. And in 1890 the Liebes were the owners of the *James Hamilton Lewis*.

Mr. ELLIOTT. Yes; and so certified to The Hague by Peirce and Townsend, who did not deny it there. (P. 962, Hearing No. 14, July 30, 1912.)

WASHINGTON, D., C., February 16, 1901.

HON. HERBERT H. D. PEIRCE,
St. Petersburg.

MY DEAR MR. PEIRCE: Yours of 18th January came duly to hand. I can well imagine how you feel toward my clients in the *James Hamilton Lewis* case; indeed, I had quite a spat with them in San Francisco on the question of advancing you \$500 on account of valuable services rendered, and made it clear to them they could not escape payment to you in the event of the arbitrators awards being unfavorable. I wish you render me a bill for money paid out in their behalf, that I may have it in hand as the opportunity may be presented for me to meet them before the conclusion of the case; if so, I will make another effort to secure a payment to you.

I feel myself it is a long dry spell. Surely the end is near at hand when we will get our pay with heavy interest to make up for the very shabby treatment you have received. Whatever award is made and paid will come through the State Department and by them paid to me as attorney of record, thus giving me the control of its distribution at this end of the line, which insures your fee and my own.

I thank you for the two copies of your presentation of the case, which by an oversight of the department were sent to Ed at Philadelphia. In a letter from him received to-day he informed me he had them and after reading would send to me. He said your work stands out very prominently in the able brief you submitted. He, with myself, feels quite indignant at my client's refusal of my request; rely on my squaring the goods satisfactorily when I get the check in my own hands. I thank you for your kind expressions to me personally, and hope to wind up this long drawn-out case to our mutual interests, the sooner the better, that we may have the benefit of our share.

As soon as you can give me an idea of the probable date of a decision, for my own information only, I would be glad to have it. Wishing you the greatest success.

I am, sincerely yours,

GEO. R. TINGLE.

WASHINGTON, D. C., July 25, 1901.

MY DEAR MR. PEIRCE: Your esteemed favor of 6th instant was duly received, inclosing copy of your rejoinder, which leaves nothing to add; it is complete. I at once called at the department. Judge Pennfield agreed to order the printing done, so that, as you say, closes our case.

I do hope no delay without the very best reasons will prevent the early consideration of the case by the arbitrator, so that his conclusion may be reached within the time.

The weather here is extremely oppressive; heat intense.

I congratulate you on the practical conclusion of your great labors in the Russian cases and hope for a substantial award as the result.

Yours, truly,

GEO. R. TINGLE.

DEPARTMENT OF STATE,
OFFICE OF THIRD ASSISTANT SECRETARY,
Washington, February 27, 1903.

MY DEAR JUDGE COLE: I inclose herewith copies of papers authorizing me to act as counsel for the owners, officers, and crew of the *James Hamilton Lewis* and the *Cape Horn Pigeon*. My employment in the case of the *C. H. White* was similarly authorized, verbally. I also inclose dispatch to United States Ambassador at St. Petersburg, informing him that I had been appointed counsel for the Government, without compensation from the Government for my services.

I also send a copy of a letter received to-day by Mr. Tingle in answer to his letter to Herman Ganss, which I had supposed to be in reply to his letter to him asking for copies of papers which he was to file here, in the *James Hamilton Lewis* case. He has not sent the copies. I have advised Mr. Tingle to file his papers making claim for 25 per cent. I forgot to ask you whether you had looked up the question, to see whether you could find a citation giving a precedent for the Secretary of State to hold up 25 per cent on the basis of Mr. Tingle's contract with these people.

Yours, very truly,

HERBERT H. D. PEIRCE.

Judge CHARLES C. COLE,
Century Building, Washington, D. C.

The genesis of Senate bill 3410, which was introduced to legalize and take to the United States Court of Claims the demands of 57 pelagic sealing vessels, owners, masters, and crews thereof, for damages. This bill was promoted chiefly by the Liebes's interests in Washington, D. C., with Don M. Dickinson as "chief attorney for claimants." Behind him were ex-Senator C. J. Faulkner and H. H. D. Peirce et al.

THE BRIEFED CHRONOLOGY OF THIS BUSINESS, BEGINNING WITH THE AWARD OF THE BERING SEA TRIBUNAL, AUGUST 16, 1893, AND ENDING WITH THE DEFEAT OF SENATE BILL 3410, JANUARY 20, 1905.

August 16, 1893.—Award of Bering Sea Tribunal, Article VIII, provides for settlement of claims of British sealing vessels seized by the United States in the "open waters of Bering Sea," seasons of 1886-87-89, inclusive, etc.

February 8, 1896.—Convention agreed upon between Great Britain and the United States to settle said claims as designated in Article VIII of the award of the Bering Sea Tribunal. Victoria, B. C., is the appointed place for assembling the commission, and July, 1896, the time of meeting. There are 11 British vessels named as legal claimants. Don M. Dickinson is appointed senior counsel for the United States.

December 17, 1897.—An award is made by the Victoria arbitrators of \$414,000 damages for the British claimants.

February 26, 1902.—A convention (stimulated by Liebes and Elkins) is agreed upon between Russia and the United States to settle the claims of Liebes's vessel, *James Hamilton Lewis*, and three other American vessels seized by the Russian Government in the Okhotsk and Bering Seas during 1889-91. The Hague is named as place of convention meeting, and June 14, 1902, as date of said meeting. H. H. D. Peirce and C. H. Townsend are appointed as delegates of the United States to present and prosecute the claims of Liebes et al. before the arbitrator.

November 29, 1902.—An award of \$28,588 is given to the claimants in re *James Hamilton Lewis*, with "interest on that sum at 6 per cent per annum from 1st January, 1892, until the day of full payment." To the *Kate and Anna*, \$1,488 in United States money, with "interest on that sum at 6 per cent per annum until the day of full payment." To the *C. H. White*, the sum of \$32,444 in United States money with "interest on that sum of 6 per cent per annum, from 1st of January, 1893, to the time of full payment." To the *Cape Horn Pigeon* (whaling bark) the "sum of \$38,750 in United States money with interest on that sum at 6 per cent per annum from the 9th of September, 1892, until the day of payment in full."

March 22, 1903.—Liebes, Tingle, Peirce, and Townsend divide that *James Hamilton Lewis* award as made, on this day, total sum of \$46,682, between them.

December 19, 1904.—The success of these claimants at The Hague stimulated Liebes and his associates in the pelagic sealing industry to prepare and have introduced Senate bill 3410; they secured a favorable and unanimous approval by the Foreign Relations Committee of a report (No. 2128) on April 13, 1904 (written by their attorneys, Don M. Dickinson et al.). This bill carries the names of 57 sealing vessels, in which the entire list of Liebes's fleet appears, including that of the *James Hamilton Lewis*.

January 6-20, 1905.—Senate bill 3410 is defeated after a series of heated debates running through four daily sessions of the Senate, viz, January 6, 10, 19, and 20. Senators Platt (Connecticut) and Dolliver fight it. Senators Foraker, Fulton, Lodge, in chief, defend it, but can not secure its passage.

NOTE.—The sealing schooners which have been traced into the full, and part ownership of Herman and Isaac Liebes, are found in this bill as the *Mary Ellen*, the *San Diego*, the *Alexander*, the *Otter*, the *E. E. Webster*, the *James Hamilton Lewis*, and the *La Ninfa*.

ROOT'S LETTER "EXONERATING PEIRCE" AND THE FRAUD AT THE HAGUE CAN NOT BE FOUND.

Before the Ways and Means Committee January 25, 1907, ex-Senator Faulkner, of West Virginia, hired attorney of the seal contractors, had the following to say about a letter written by Secretary of State Elihu Root in 1906, which completely "exonerated" H. H. D. Peirce from any blame in The Hague fraud of 1902. He says on pages 44, 45, manuscript notes of hearing:

This subject came up when Mr. Peirce was appointed minister to Sweden, and the whole question was canvassed and examined thoroughly by the Committee on Foreign Relations of the Senate. It was at this time that Secretary Root wrote a letter exon-

erating and explanatory of the whole matter to the President. I tried to secure a copy of that letter to be embraced in this record, but unfortunately Mr. Root had gone to Canada, and I could not get it.

And Mr. Root returned the next day, January 26, 1907, and Mr. Faulkner lost all interest in that letter, because it did not even hint at these frauds at The Hague, or refer to that matter of the *James Hamilton Lewis*.

THE OFFICIAL RESPONSIBILITY OF CHARLES H. TOWNSEND FOR THE FRAUD PRACTICED AT THE HAGUE, JUNE 27—JULY 4, 1902, AND THE RECORD OF HIS WORK UP TO THAT DATE FROM 1883, AS AN AGENT AND PELAGIC SEALING EXPERT OF THE UNITED STATES COMMISSION OF FISH AND FISHERIES, WHICH GAVE HIM FULL AND COMPLETE ADVANCE KNOWLEDGE OF THIS BOGUS PRACTICE AFORESAID.

Dr. C. H. Townsend, under oath, made the following statement to the committee, May 24, 1912, to wit (pp. 734—735, hearing No. 12):

Dr. TOWNSEND. I have dictated some matter here and looked it over.

My acquaintance with matters pertaining to the fur seal may be stated briefly as follows:

Nine visits to the Pribilof Islands, covering the breeding seasons of nine different years, the first in 1885, the last in 1900. The average length of time spent on the Pribilof Islands figures up 35 days a year, including July and the earlier part of August. I have been there as early as June 1 and as late as October 10. These visits were made under the auspices of the Fish Commission, the Treasury Department, or the Department of State, and the work generally consisted in the preparation of charts showing the annual distribution of seals on the different rookeries and the making of photographs to demonstrate the correctness of the charts. During all of the later visits I participated in the annual census of the seal herd and frequently made cruises on Government vessels in the vicinity of the islands for the purpose of collecting information relative to pelagic sealing. The photographs and charts are now in the files of the Bureau of Fisheries and some of them have been published along with my reports on the condition of the seal rookeries and on pelagic sealing.

In July, 1895, I visited the Commander Islands—those are the Russian seal islands—and made photographs.

During the latter part of May, 1892, I visited Guadalupe Island, off the west coast of Mexico, for the purpose of making inquiries relative to the fur seal of Lower California. This work was done under the direction of the Secretary of State.

In 1902 I was sent by the Department of State to The Hague as sealing expert in the arbitration of sealing claims against Russia. In 1888, as naturalist of the fisheries steamship *Albatross*, I visited a rookery of the Antarctic fur seals in Tierra del Fuego and obtained specimens for the National Museum.

While connected with the fur-seal investigations of 1896-97 I collected the log books of 123 vessels engaged in pelagic sealing and prepared a large chart showing the distribution and migration of the American and Asiatic fur-seal herds.

I have just simply thrown that together to show that I have a certain familiarity with the subject.

This statement, carefully prepared and read from a typewritten sheet by Mr. Townsend, makes his relation to the fur-sealing business of the United States Government, as an "agent" and "assistant" and a "sealing expert" of the United States Bureau of Fisheries, the United States Treasury Department, and the United States Department of State, perfectly clear and definite.

It shows that before Dr. C. H. Townsend was sent to The Hague in 1900 that he had had nine years' experience personally with the fur-seal herd of Alaska and of study into the business of pelagic sealing, and his own record of the above experience is supplemented by the statement made by himself, in "Who's Who" for 1912, that he was 43 years of age when he went to The Hague, possessed of all

that experience above cited with regard to the seals and their hunters in the sea.

A review carefully made by the committee of Dr. Townsend's record, as above given by him, from the official documents and records of the Treasury and State Departments and United States Fish Commission, in no respect differs from the relation of it as he has given it to the committee.

During the progress of Dr. Townsend's examination, on page 750, hearing No. 12, he further defines his experience as a "sealing expert" in the employ of the United States Fish Commission, to wit:

When I was detached from the work at the seal islands by this commission, in 1896, I went around among the sealers in revenue cutters and collected data to make a chart of seal migrations. I collected the log books of 123 vessels engaged in pelagic sealing at various times from 1883 to 1897, with an aggregate catch of 304,713 seals. I plotted the known position of every one of these vessels on every day when a seal was killed in any part of the Pacific Ocean, throughout each month's sealing, in a different color, so that this chart, based as it is on the records of the sealing fleet from 1883 to 1897, shows where the seals actually were.

As Dr. Townsend first entered the service of the Government at Baird, Cal., in 1883, as an "assistant" of the United States Commission of Fish and Fisheries, this statement declares that he had had 14 years' experience with the whole business of land killing and sea killing of our fur-seal herd up to 1897. So, when he went to The Hague as the "seal expert" of the United States Bureau of Fisheries and the United States Department of State, he went there with all the authority which such a commission commanded, as based upon such an extended experience (p. 406-407, H. Doc. No. 1, 57th Cong., 2d sess.).

It will be observed that he says he had been busy making an exhaustive examination into the records of "123 vessels" engaged in pelagic sealing, at various times from 1883 to 1897.

As the *James Hamilton Lewis*, during the seasons of 1890-91, was one of the largest and most notorious of all the vessels in that fleet, it is not to be supposed for a moment that Dr. Townsend, familiar since 1885 with the whole story annually of land and sea killing, and especially charged with the duty of looking into all the details of pelagic sealing from 1883 to 1897, could have overlooked or shut his eyes to the prominent appearance of the *James Hamilton Lewis* in 1890 and her spectacular disappearance in 1891. How could he, when the daily papers of the Pacific coast recited at great length the strange and exciting details of this vessel's career in 1890 and finish in 1891? Columns of the newspapers of San Francisco were filled with the story of the remarkable catch—the "high-line" catch of the *James Hamilton Lewis* in 1890. See, for instance, the San Francisco Chronicle's issue of September 14, 1890, and in 1891, columns of the same city papers, all of them, again were given up, October 4, 1891, to the story of how she had been captured off Copper Island, August 2, while her crew was ashore killing seals as pirates. (See San Francisco Examiner and Chronicle, issues of Oct. 4, 1891.)

Therefore, when Dr. Townsend made the following answer to the committee, he told the truth (p. 754, hearing No. 12).

The CHAIRMAN. I will ask you some questions now. I call your attention to the matter appearing at pages 178 and 179 of these hearings. You will find there what purports to be an article which appeared in the Cleveland Leader, on Saturday, August 11, 1906. Do you know Capt. Alexander McLean?

Dr. TOWNSEND. Yes, sir; I knew one of the McLeans, and I think it was Alexander—no, sir; it was not Alexander; it was Daniel McLean, his brother, whom I knew.

The CHAIRMAN. Do you know who Alexander McLean was?

Dr. TOWNSEND. Yes, sir.

The CHAIRMAN. Who was he?

Dr. TOWNSEND. He was a man who led a great many raids on the seal islands; I think on the Commander Islands as well as the Pribilof Islands.

The CHAIRMAN. What was the name of his ship?

Dr. TOWNSEND. I can not say. He was at it a good many years and must have had a good many ships. I can not remember the names of them.

The CHAIRMAN. Did he own the *J. Hamilton Lewis*?

Dr. TOWNSEND. I might be able to answer that question if I had the proceedings of The Hague Tribunal before me. The *J. Hamilton Lewis* was one of the vessels in question there.

The CHAIRMAN. He was in the employ of Mr. Herman Liebes, was he not?

Dr. TOWNSEND. I do not know whose employ he was in. I can not say at the present moment.

The CHAIRMAN. The information I gather from this statement is that he was in the employment of Herman Liebes, who was one of the lessees in the North American Commercial Co.

Dr. TOWNSEND. I think it is stated somewhere in the The Hague Tribunal hearings that Liebes unquestionably owned sealing vessels while he was also an investor or shareholder, probably, in the Fur Seal Co. That is my recollection.

The CHAIRMAN. And one of the vessels was the *J. Hamilton Lewis*?

Dr. TOWNSEND. I think the *J. Hamilton Lewis* was Liebes's vessel.

Mr. McDERMOTT. Was that a vessel engaged in pelagic sealing?

Dr. TOWNSEND. Yes, sir.

Mr. MCGILLICUDDY. When you say "sealing," do you mean pelagic sealing?

Dr. TOWNSEND. Yes, sir.

Mr. McDERMOTT. They are pirates, are they not?

Dr. TOWNSEND. Yes, sir.

As the "sealing expert" of the Bureau of Fisheries, he had in his own mind, by 1897, this direct personal knowledge of the character of that pelagic sealing which was known as "piracy," and familiarly called "raiding" by the sealers themselves. Only a few of those pelagic sealers as "captains," or "masters" of the fleet of "123 vessels" which Townsend was acquainted with (as he deposes on p. 750), were guilty of this raiding. These captains who, like Alexander McLean and his brother Dan McLean, were well known among all sealers and often unsparingly denounced by the law-abiding sealing-vessel owners and masters. Had Dr. Townsend been deaf, blind, and dumb during that period from 1885 to 1897, in which he told the committee he was "busy studying the records of these sealers," he then could not have escaped some knowledge of Alexander McLean as a British subject and "pirate" up to 1889 and then as a bogus "American citizen" in the *James Hamilton Lewis* during 1890 and 1891.

But he tells the committee that he did know McLean as a "raider" and a "pirate," on page 754, and Dr. Townsend also tells the committee that he knew that Liebes, lessee of the seal islands, owned the *James Hamilton Lewis* when he was promoting the claim of "Max Waizman" (the "dummy" owner) and the British pirate, Alexander McLean, as the "American owner and master" of the *James Hamilton Lewis* at The Hague, June 27–July 4, 1902. (See pp. 407–441, H. Doc. No. 1, 57th Cong., 2d sess.)

Now, what were those influences which caused this sworn official, Dr. Townsend, to present and urge upon the Court of Arbitration at The Hague this claim as a just and valid one, which he knew at heart and in truth was a fraudulent one?

H. H. D. Peirce, Townsend's associate, as Third Assistant Secretary of State, says that he, Peirce, was in the game for the fees; for all the money he could get out of the award as such—he makes no bones about it; and so he sued Liebes and Tingle, April 7, 1903, for \$11,333.33 fees in re, this award for the owners and the master of the *James Hamilton Lewis*, viz, \$47,684.78. (See equity suit No. 23886; filed Apr. 7, 1903; United States Supreme Court, D. C.; *H. H. D. Peirce v. Liebes and Tingle*.)

But Townsend denies receiving any compensation, or having any personal interest in the matter, except to represent to the court that this *James Hamilton Lewis* was a vessel "lawfully cleared" and "lawfully engaged" in pelagic sealing. He describes his activities to the committee (p. 758, Hearing No. 12), to wit:

The CHAIRMAN. I do not want him to make a statement that he can not substantiate, but I would like to know now, Dr. Townsend, in what capacity you were at The Hague Tribunal in this matter?

Dr. TOWNSEND. In the progress of the work before The Hague Tribunal it became necessary for the Secretary to produce information on various sealing matters, such as the movements of sealing vessels. I carried along with me a trunk full of log books of sealing vessels. We would have before us the charges made by the Russian representative during the day, and we would work all night preparing something to refute the charges. I carried the log books that had been taken from the vessels.

So when the Russians charge this vessel, the *James Hamilton Lewis*, and her owners and master, with being illegally owned by the lessees, and as such, unlawfully engaged, together with the record of piracy, Townsend says that he "would work all night preparing something to refute the charges"!

Did Charles H. Townsend properly and truthfully refute the charges? Did he not deceive the court? Did any other "expert" at that time appear, who carried the indorsement of 10 years' experience as a "sealing expert" by his Government, before the court? No.

So, on the strength of Townsend's sworn statements made to the arbitrator, Dr. Asser, he awarded November 29, 1902, \$28,588 with interest at 6 per cent to the *Lewis* claimants (pp. 457-458, H. Doc. No. 1, 57th Cong., 2d sess.).

Indeed, the arbitrator had no other course; there was no one present to appear against Townsend who could show any "scientific" knowledge, or acquaintance whatever, with the business of pelagic sealing; and, that no doubt should remain in the minds of the interested parties as to whom he was indebted for that information which led him to make this award, Dr. Asser, (we are informed on p. 440, H. Doc. No. 1, 57th Cong., 2d sess.), states as follows, to wit:

SESSION OF FRIDAY MORNING, JULY 4, 1902.

The session opened at 10 a. m.

The arbitrator, Mr. Asser, expressed his thanks to the two powers who have been pleased to have done him the honor to confer upon him the office of arbitrator. He complimented the two delegates upon the preparation of the memorandum and the rejoinders, and assured them of his appreciation of the supplementary information. He thanked the experts also. The task of the Russian experts, who were obliged to express themselves in another language, was particularly difficult. They, nevertheless,

made clear more than one point. He particularly thanked Mr. Charles Townsend, who, by his works and his scientific knowledge, greatly facilitated the task of the arbitrator. He thanked the secretaries also.

The session adjourned at 11 o'clock.

This evidence supplied to the committee by Dr. Townsend himself, of his work at The Hague, makes it perfectly clear that he personally knew of the fact that Liebes owned the *James Hamilton Lewis*, and that as such she was illegally operating, with Liebes holding the lease of the Seal Islands. He also admits knowledge as early as 1897, at the latest, of "123 sealing vessels" and their masters. He could not have failed to know of the *James Hamilton Lewis* and the lessees' ownership of her, or of the fact that Alexander McLean was her master, and a British pirate; all of this must have been well known to him by 1897, for he says so, to the committee, on page 754, No. 12.

What was the interest, after all, which drew Dr. Townsend into making this false showing for the *James Hamilton Lewis* at The Hague? He denies receiving any money from Liebes thus (p. 819, Hearing 13):

Mr. MCGILLICUDDY. How large was your compensation from Isaac Liebes for your services as an expert at The Hague, June and July, 1902, in getting this award of \$50,000 for the owners, master, and crew of the *James H. Lewis*?

Dr. TOWNSEND. I was paid by the Fish Commission.

Mr. MCGILLICUDDY. What was your compensation?

Dr. TOWNSEND. I was not paid by Liebes at all.

At this point the committee finds that Dr. Townsend has been paid by Liebes one sum of \$186.57 for "services as a sealing expert," etc. (See p. 861, Hearing No. 13.) This sum he declares was not received from Liebes "at all." But the official record of its payment denies him. Was that all he received? Note the following:

On May 20th, 1902, and before Dr. Townsend started for The Hague with Third Assistant Secretary of State Pierce from Washington, D. C., Liebes's agent, George R. Tingle, who had secured the detail by George M. Bowers, United States Fish Commissioner, of Townsend for service in re *James Hamilton Lewis* claim, addressed a letter to the Secretary of State, in which he asked that Townsend be permitted to receive his "expenses and fees" for services as "sealing expert," out of any award that he, Townsend, should secure for the *Lewis* claimants at The Hague. Tingle makes the same request in this letter for the services of H. H. D. Pierce as "counsel" for the *Lewis* claimants. That this letter should have been written without the knowledge or consent of Dr. Townsend or Mr. Pierce is simply an idle assumption. This is the letter which declares the interest that both Townsend and Pierce had in this claim, as being for "expenses and fees" in return for the services to Liebes. (Equity Suit No. 23,886: H. H. D. Pierce v. Liebes, Tingle, et al., April 7th, 1903; docket of the Supreme Court of the District of Columbia.)

WASHINGTON, D. C., May 20, 1902.

Mr. SECRETARY: In view of the request of the arbitrator that experts in whaling and sealing be sent to give expert opinions in the arbitration at The Hague and the importance of having the Hon. H. H. D. Peirce, counsel for the Government, present at the hearing, I have the honor to request on behalf of the claimants for the seizure of the *James Hamilton Lewis* that all expenses of such experts, and of Mr. Peirce as counsel, in making the journey to The Hague and return, be paid and charged pro rata to the claimants, such expenses to be deducted from the award allowed by the arbitrator and paid by the Russian Government.

As there are two classes of claims, one for sealing and one for whaling, I have the honor to request that the expenses and fees of the sealing expert be charged to the claimants in the sealing case.

I have further the honor to request that \$1,000 be paid to the Hon. Hertz H. H. D. Peirce for his unusual expenses up to date, and during his journey as an advance upon the contingent fee which will be due him from the award, and that the same be deducted from the award of the *James Hamilton Lewis* when paid.

I have the honor to be, sir, very respectfully, yours,

(Signed) GEO. R. TINGLE,
Attorney for the owners, officers, and crew
of the *James Hamilton Lewis*.

To the Hon. JOHN HAY, *Secretary of State*.

The committee can find no exact record of the full compensation which Dr. Townsend received for his "expenses and fees" as paid to him by Liebes, agreeably to the above understanding.

When Liebes was interrogated (see pp. 894-895, Hearing No. 13) he said:

The CHAIRMAN. Now, here is something that I did not ask Mr. Liebes. In the case of the damages of the *James Hamilton Lewis*, did you settle with Tingle and Peirce individually? And how with C. H. Townsend?

Mr. LIEBES. I settled with the parties that had any claims, but who they were I do not know. It was settled through my attorneys in San Francisco.

The CHAIRMAN. This is a question by Mr. Elliott. Mr. Peirce said, on page 785, that Tingle paid him 10 per cent, that to "somebody else 5 per cent," or "2½ per cent," that that was the equalization of the attorneys' fee which was deducted from the award made for the *James Hamilton Lewis*, which you received in the *James Hamilton Lewis* case? How was that?

Mr. LIEBES. I can not recall the circumstances.

The CHAIRMAN. Now, here is a question that Mr. Elliott does not ask. Do you know that the attorneys received 25 per cent?

Mr. LIEBES. I don't know that.

The CHAIRMAN. I mean Tingle and Peirce and somebody else. Now, Peirce says he received 10 per cent and that Tingle told him that he would have to pay 5 per cent or 2½ per cent to somebody else, and that would even it up finally between him and Peirce. Do you know anything about that?

Mr. LIEBES. No, sir.

The testimony declares that no other parties except Tingle, Peirce, and Townsend appear as attorneys or "experts" in making up and presenting this fraudulent claim of the *James Hamilton Lewis* at The Hague, June 27-July 4, 1902; and no hint, even, of any other party, or parties, is recorded, save Liebes, who as Tingle's "client" and the "owner" of the said vessel and "claim" is held responsible for the division of this award of \$50,000, which he makes as such, on April 24, 1903, between Tingle, Townsend, Peirce, and himself. (See p. 861, Hearing No. 13; and p. 785, Hearing No. 12.)

This sum of the award was paid to Tingle and Liebes by the Secretary of the Treasury; and the State Department "memorandum" of the payments shows that Tingle divided \$13,049 between Peirce, Townsend, and himself as "fees." Peirce affirms that division by Tingle, on page 785, Hearing No. 12. Townsend denies it. The official record shows that Tingle did make that division, as Peirce swears. (See p. 861, Hearing No. 13; p. 785, Hearing No. 12.)

Townsend admits his hand in the fraud (Hearing No. 12, pp. 734, 755, May 24, 1912, H. Com. Exp. Dept. C. and L.):

COMMITTEE ON EXPENDITURES IN THE
DEPARTMENT OF COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,
Friday, May 24, 1912.

The committee this day met, Hon: John H. Rothermel (chairman) presiding.

STATEMENT OF DR. CHARLES H. TOWNSEND, OF NEW YORK.

The witness was duly sworn by the chairman.

The CHAIRMAN. What is your full name?

Dr. TOWNSEND. Charles Haskins Townsend.

The CHAIRMAN. Where do you live?

Dr. TOWNSEND. I live in New York. I have lived there for some time. I am from Pennsylvania, where my family is living.

The CHAIRMAN. What is your business?

Dr. TOWNSEND. I have charge of the aquarium in New York; I am the director.

The CHAIRMAN. How long have you held that position?

Dr. TOWNSEND. Since 1902.

The CHAIRMAN. Are you a member of the advisory board on the fur seals?

Dr. TOWNSEND. I believe I have that privilege.

The CHAIRMAN. What was the dispute which was settled by The Hague tribunal?

Dr. TOWNSEND. The matter pending there was whether the United States was entitled to damages for sealing vessels seized by Russia.

The CHAIRMAN. Was the *James Hamilton Lewis* one of them?

Dr. TOWNSEND. That was one of the vessels seized, I am pretty sure.

The CHAIRMAN. Who represented the Government before this tribunal?

Dr. TOWNSEND. The Assistant Secretary of State.

The CHAIRMAN. Who was he?

Dr. TOWNSEND. Mr. Peirce.

The CHAIRMAN. Were you there also?

Dr. TOWNSEND. Yes, sir.

The CHAIRMAN. In what capacity were you there?

Dr. TOWNSEND. Mr. Peirce took me along as a sealing expert.

The CHAIRMAN. To assist him in what he was doing?

Dr. TOWNSEND. Yes, sir; to assist in handling the case over there.

The CHAIRMAN. Did you know at the time that they were the owners of these vessels in which this pirate turned up?

Dr. TOWNSEND. No; I never knew anything about that until those things were brought out at The Hague.

The CHAIRMAN. It was developed at The Hague that the Liebes were the owners of this vessel?

Dr. TOWNSEND. That is my recollection.

The CHAIRMAN. And I suppose that is in the public records?

Dr. TOWNSEND. Everything, sir, that is connected with the matter must be between the covers of that book and be between the covers of some other public document in which the matter was brought up a year or so later on, perhaps by Mr. Elliott. But it is all published.

Mr. ELLIOTT. When this was brought out at The Hague, what did you advise Mr. Peirce to do, as his "expert pelagic sealing adviser"?

Dr. TOWNSEND. I do not know that Mr. Peirce ever asked me for advice over there. He instructed me to produce certain documents that would help him refute claims, etc. I was a statistician.

Mr. ELLIOTT. Did you produce any documents that refuted Liebes's claim?

Dr. TOWNSEND. I have no recollection in regard to it. Whatever was done is in the book.

The lessees demand the rejection of the recommendations of the sworn agents of the Government, and secure the removal of Charles J. Goff, chief special agent in charge, with their own men, Williams and Brown, as successors, April 5, 1891:

CONCERNING THE "OGDEN MILLS LETTER" TO SECRETARY CHARLES FOSTER, APRIL 2, 1891, AND ITS INCLOSURES.

[See pp. 311, 312, Hearing No. 7.]

Mr. ELLIOTT. On Saturday, August 5, 1911, Mr. Bowers read into the record of this committee, for the purpose of discrediting me, a copy of a letter which I have searched in vain for during the last 16 years; it was the "Ogden Mills letter" of April 2, 1891; it asked Secretary Charles Foster, Treasury Department, to immediately overrule all the sworn official reports of his own special agents on the seal islands, and issue to the North American Commercial Co. (the lessees) a permit to kill 60,000 seals on the Pribilof Islands during the season just ahead—the summer of 1891 ("if they can be found").

These agents of the Treasury on the seal islands, four of them—Chief Special Agent Charles J. Goff, and assistants, Joseph Murray, S. W. Nettleton, and A. W. Lavender, had all united August 1-14, 1890, in specific reports which urged that the Secretary of the Treasury permit no killing of seals in 1891 by the lessees, and for an indefinite future; those reports were supplemented by mine, dated November 19, 1890.

The tragic, sudden death of William Windom, January 29, 1891, brought a successor to the Treasury whom the lessees seemed to have completely in their control, for so complete was that control that the following astonishing record is made in the premises, started April 25, 1891, by issuing that killing order April 11, 1891, and the full sequence of the "Ogden Mills" letter, above cited, to wit:

The sole warrant which this letter gave to Secretary Foster for asking him to set aside the verdict of those sworn officials above cited was "the inclosure of a series of five affidavits" and a letter "signed by Capt. Healey, U. S. R. M.," all of whom declared in their "affidavits" and statements that after that date on which the lessees' work was stopped, July 20, 1890, the seals "hauled out" in large numbers, suddenly, and there were plenty of fine killable seals to be had, and would have been secured by the lessees if Elliott and Goff had not unjustly and perfidiously used their official authority to so order that stoppage.

This letter, though signed by Ogden Mills, was really written by George R. Tingle, who was the general manager of the lessees on the seal islands. Mr. Mills never could have written such a false and detailed letter of his own knowledge, and had he known the truth of what he was writing about, I firmly believe that he would have refused to sign it. I can not think otherwise, because it was such a letter.

In the first place, all those affidavits he has cited must have been made after the 14th of August, 1890. They were made by the employees of the North American Commercial Co. under pressure from George R. Tingle, who also signed one of them; they were supplemented by a letter to Secretary Charles Foster, from Capt. Michael Healey, United States Revenue Marine, who touched at the islands in October, 1890, and who wrote to Foster about the "seals being as numerous then as they had ever appeared to him in all previous years." (Think of such a statement from such a man who knew so little!)

Those "affidavits" were simply bogus—they were false *ab initio*. They were received by Mr. Foster on April 3, 1891, in this Mills letter aforesaid, and then what happened?

On or about the 5th of April Mr. Charles J. Goff was called into Secretary Charles Foster's office and told that he need not concern himself with the seal-island business any further; that "the department had other business for him to transact at Montreal," Canada (i. e., looking after immigration cases). Goff was directed to proceed there forthwith (and he did). No complaint against him was uttered by Foster—just called him in and sent him to Montreal in the "regular order of official business" which governs all the special agents. Goff was astonished; he was speechless, but obeyed.

Then what happened? On or about April 9 a man named W. H. Williams was appointed "Chief special agent of the seal islands, vice Goff, transferred;" and, on April 11, this man started for San Francisco from Washington with a secret permit from Secretary Charles Foster, dated April 11, to the North American Commercial Co., giving them authority, as lessees, to kill 60,000 seals on the Pribilof Islands during the season just ahead, "if they can be found," etc.

The following history of what the lessees demanded and secured on the seal islands June–August, 1891, shows the same greed which was exhibited by the Russian lessees in 1819–20, when an honest demand was made of them to stop their ruinous work. Like our Mills and Elkins, they prevailed; the herd was ruined and well-nigh exterminated by 1834. (Hearing No. 10, pp. 662–663, Apr. 24, 1912, H. Com. Exp. Dept. C. and L.)

There is a written record officially made, of the fact that the lessees actually continued to kill seals illegally, 4,782 of them—large, choice seals, after they had been ordered not to do so by the Treasury Department. (See Exhibit H., Rept. Agents H. Com. Exp. Dept. Com., 1913.)

And still more, if it had not been for that protest which the British commissioners made July 29, as stated by said exhibit in that “private” meeting, those lawless lessees and their official confederates would have continued to kill “food” seals during the rest of the year.

This exhibit declares that nothing stood between the lessees and their uninterrupted seal killing during the *modus vivendi*, but that quick action of the British commissioners; the prohibition of the President, the specific “orders” of the Treasury Department, and their repeated reiteration by Chief Special Agent Williams, that nothing to exceed 7,500 “food” seal skins should be taken, was, to them, a mere use of words to conceal their illegal work, not to stop it, a *fulgur brutum*, in short.

They took 10,782 skins on St. Paul, when ordered, May 27, 1891, not to exceed 6,000 during the entire season.

They took 3,218 seal skins on St. George, when ordered not to exceed 1,500 during the entire season.

And they did all that up to and by August 11, 1891, with the official orders prohibiting that killing posted June 13, 1891, on the islands.

Mr. J. Stanley-Brown who shares this malfeasance with Williams (W. H.) in 1891, came up again June 9, 1892, as the United States chief special agent, and on Friday, July 8 (1892), following turned the entire control of the killing over to the lessees, and for that service he was made the “superintendent” of the lessees’ business on the islands in June, 1894. (See Exhibit B, Rept. Agents H. Com. Exp., Dept. Com., Aug. 30, 1913.)

W. H. Williams, the agent who was put suddenly, April 5, 1891, in Goff’s place by Charles Foster, and who was so selected because Foster had complete control over him, went up to St. Paul’s Island, and landed there June 10, 1891. He was also accompanied by Joseph Stanley-Brown, who went as Charles Foster’s “own man” to get the facts.

It will be noted in the foregoing statement that when Williams after cooperating with Brown in this illegal killing of some 14,000 seals during the season of 1891, in violation of the international law which fixed it at 7,500 for that year, it will be noted that he leaves the islands on August 11, 1891, and returns to Washington.

Does he ever return to the islands? No. Mr. Joseph Stanley-Brown takes his place, and on Thursday, June 9, 1892, arrives on St. Paul’s Island as the chief special agent in charge.

What had Williams done? Why was he quietly put over, and "transferred" to London, as Goff before him had been transferred to Montreal?

He was "transferred" because he spoke plainly, after his unpleasant experience on the islands during the summer of 1891, as a tool of the lessees. He told his friends at home and in Washington that this work on the islands must stop and the lessees put out; he saw the greedy hand that prevented any settlement with Great Britain, and was ashamed of his part in the business of illegally killing those seals, under the whip of the lessees, and, among other plain truths, he said:

In my opinion the only way to save the Pribilof herd is by an entire cessation of sealing for a considerably period. I have heard diverse views on this subject, and about closed seasons of 1 to 10 years as being the only way to restore the herd to its best form. I believe in 10 years.

Whatever period is adopted it should involve the entire cessation of seal killing on the islands. Of course, I am speaking unofficially, as I have no part in the present deliberation of the commission.—(Fur Trade Review, Oct. 1, 1898, p. 446, New York.)

And this is the same "scientist" and "keen business man" who was introduced to the House Committee on Expenditures in the Department of Commerce and Labor, April 20, 1912, in the following "modest" terms by the United States Bureau of Fisheries, to wit:

Dr. EVERMANN. One of the interesting phases of this question that has attracted my attention is the attitude which some persons have assumed toward the large numbers of able and distinguished naturalists who have visited the seal islands and who are without question the men most familiar with the fur-seal herd and the many problems connected with its management and effective conservation.

Within the last 25 years nearly a score of the most distinguished naturalists not only of this country, but of Great Britain, Canada, and Japan have visited our seal islands for the specific purpose of studying the habits of the fur seals and the problems connected with the proper management of the herd. Among these gentlemen I may mention the following:

Dr. EVERMANN (reading):

"Dr. Barton Warren Evermann, in charge of the Alaska fisheries service, who, as special fur-seal commissioner in 1892, spent six months on our seal islands in the North Pacific and on the Russian seal islands, studying the fur-seal rookeries, hauling grounds, and migrations.

"Mr. Joseph Stanley-Brown, of New York, spent the seasons of 1891, 1892, 1894, 1895, 1896, 1897, and 1899 on the seal islands, where, as naturalist and keen business man, he made very thorough study and investigations not only of the habits of the seals, but very valuable study of the economic questions involved." (Hearing No. 10, pp. 518-519; H. Com. Exp. Dept. C. & L.)

The "value" of Joseph Stanley-Brown's "studies" to the lessees can be at once grasped by the most casual observer, but the value thereof, to the public interests which he was sworn to guard, and paid to do so, no man living or dead can find the least evidence of.

That the greedy lessees found him "valuable," however, goes without question, for we find this entry made on page 222 of the St. Paul Journal, to wit:

WEDNESDAY, JUNE 6, 1894.

Steamer *Lakme*, of the North American Commercial Co., arrived having on board, J. B. Crowley and wife, as chief agent, and Mr. Judge and wife; also Mr. Brown, superintendent of North American Commercial Co., Mr. Chicester and Mr. Armstrong.

THE BUREAU OF FISHERIES INVOKES THE SERVICES OF JOSEPH STANLEY-BROWN TO RENEW THE SEAL LEASE, AND DEFEAT PENDING LEGISLATION WHICH PREVENTS THAT RENEWAL.

Mr. ELLIOTT. And I want Mr. Bowers to pay some attention to this because this is important, at least some good lawyers have told me that it is very important to him—

“Being an official letter covering a ‘memorandum’ addressed to Mr. George M. Bowers, commissioner, urging him to take steps to prevent the passage of the Dixon fur-seal resolutions introduced in the United States Senate by Senator Joseph M. Dixon. (S. Res. 90, 91, 92.)

“December 7, 1909. This letter from the ‘bureau,’ dated December 16, 1909, and signed by Barton W. Evermann, urges Bowers to send agents to New York, there to ‘educate’ the Camp Fire Club and induce them to agree to the ‘bureau’s idea of renewing the lease,’ as follows:”

EXHIBIT No. 6.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF FISHERIES,
Washington, December 16, 1909.

The COMMISSIONER:

The Washington Star of December 10 last announced that the Camp Fire Club, of New York, had inaugurated a campaign to save the fur-seal herd through legislation designed to prevent the re-leasing of the sealing right, the cessation of all killing on the islands for 10 years except for natives’ food, and to secure the opening of negotiations with Great Britain to revise the regulations of the Paris tribunal. As the result of this movement on December 7 three resolutions were introduced by Senator Dixon, of Montana, one of which embodies the provisions before mentioned, the other two calling for the publication of fur-seal correspondence and reports since 1904.

As the object of this movement is at variance with the program of this bureau and of the recommendations of the advisory fur-seal board, notably in the plan to prevent killing and the renewal of the seal island lease, the advisability is suggested of having Messrs. Townsend, Lucas, and Stanley-Brown use their influence with such members of the Camp Fire Club as they may be acquainted with with the object of correctly informing the club as to the exact present status of the seal question and of securing its cooperation to effect the adoption of the measures advocated by this bureau.¹

The attached letter is prepared, having in view the object stated.

BARTON W. EVERMANN.

“Exhibit No. 7. Being the official letter of ‘George M. Bowers, commissioner,’ to Secretary Commerce and Labor, dated February 8, 1910, inclosing copies of three letters, all urging renewal of the seal lease and giving the reasons of the writers for

¹“COMMITTEE ON EXPENDITURES IN THE
“DEPARTMENT OF COMMERCE AND LABOR,
“HOUSE OF REPRESENTATIVES,
“Friday, June 9, 1911.

“The committee met at 10 o’clock a. m., Hon. John H. Rothermel (chairman) presiding.

“TESTIMONY OF MR. GEORGE M. BOWERS, COMMISSIONER OF FISHERIES.

“Mr. BOWERS. No new lease was made, but the killing was done under governmental supervision.

“Mr. TOWNSEND. You will be questioned about that later. After the first suggestion of this bill you know of no efforts that were made to delay the passage of that legislation?

“Mr. BOWERS. I know of no effort that was made to delay the passage of that legislation.

“Mr. TOWNSEND. And if any evidence should be introduced to the contrary, it would surprise you?

“Mr. BOWERS. So far as I am concerned it would, yes; and as far as I am concerned it would the Bureau of Fisheries and the department.” (Investigation of Fur-Seal Industry of Alaska, p. 73.) (Hearing No. 3, p. 157, July 6, 1911, H. Com. Exp. Dept. C. and L.)

such renewal, to wit, H. H. Taylor, president N. A. C. Co. (lessees), dated January 27, 1910; C. H. Townsend, for 'fur-seal advisory board,' dated January 31, 1910; Alfred Fraser, London agent for the N. A. C. Co. (lessees), January 28, 1910, as follows:

THE OFFICIAL RECORD OF THE FRAUDULENT SECRET PERMIT GIVEN BY CHARLES FOSTER TO MILLS, ELKINS AND LIEBES TO KILL SEALS—60,000 SEALS—ON APRIL 11, 1891, AGAINST THE UNANIMOUS OPPOSITION OF THE AGENTS OF THE GOVERNMENT ON THE SEAL ISLANDS OF ALASKA.

1890. *July 20.*—Chief Special Agent Charles J. Goff and his assistants on the Seal Islands of Alaska stop the lessees from killing seals to-day, thereon, because they find that female seals "in milk" are being slaughtered, and that the surplus male life does not exist which is proper to kill.

1890. *August 1.*—Chief Special Agent Goff and his assistants, Murray, Nettleton, and Lavender, all unite in separate reports to the Secretary of the Treasury in asking that the work of the lessees be suspended at once on the islands and indefinitely.

1890. *November 19.*—Henry W. Elliott, special commissioner, under authority of act approved April 5, 1890, reports urging that the work of the lessees be suspended at once and indefinitely, and that a *modus vivendi* be established with Great Britain for seven years whereby no killing in the sea or on the land will be done by subjects and citizens of the high contracting parties.

1891. *April 7.*—Secretary James G. Blaine agrees with Sir Julian Pauncefote, the British ambassador, to a *modus vivendi* of at least one year whereby there shall be no killing on the islands or in the sea of fur seals. (See British Blue Book: Further correspondence respecting the Bering Sea seal fisheries.)

No. 1.—*The Marquis of Salisbury to Sir Julian Pauncefote.*

[Telegraphic.]

FOREIGN OFFICE, *April 17, 1891.*

Bering Sea.—Mr. Blaine's suggestion, which you mention in your private letter of the 7th April, that pending the award of the arbitration on the Bering Sea question all seal fishery should be stopped, both by sea and land, seems worthy of consideration.

If we approve of it, would Mr. Blaine prefer that the proposal should come from us? (British Blue Book entitled "U. S., No. 2, 1891: Correspondence respecting the Bering Sea fisheries," presented to both houses of Parliament by command of Her Majesty, June, 1891. Printed for Her Majesty's Stationery Office by Harrison & Sons, St. Martin's Lane, printers in ordinary to Her Majesty, etc.)

No. 3.—*Sir J. Pauncefote to the Marquis of Salisbury.*

[Telegraphic—Received Apr. 23.]

WASHINGTON, *April 23, 1891.*

I have the honor to report that the Secretary of State returned to Washington and invited me to call on him.

He expressed himself as gratified at the favorable consideration given by Her Majesty's Government to his alternative suggestion, and in response to your lordship's inquiry he said that he would prefer that the proposal, which seemed to him very fair, should come from Her Majesty's Government, etc.

At this point I can recapitulate, and then carry the story of Mr. Blaine's duplicity and malfeasance in the premises down as follows, *seriatim*, to wit:

March 15, 1891. Sir Julian Pauncefote urges Mr. Blaine to agree upon a *modus vivendi* for the coming season in Bering Sea, whereby no killing of fur seals shall be done on the Seal Islands of Alaska by American citizens and no killing at sea shall

be permitted for British subjects; in the meantime both high contracting parties shall carefully study the question and then agree upon a plan of proper resumption of seal killing, etc.

Mr. Blaine demurred and suggested a 25-mile zone of pelagic prohibition around the Seal Islands instead; to this Sir Julian objected, saying that it was impracticable and would not be easily enforced, etc.

April 7, 1891. Sir Julian again urges Mr. Blaine to unite with his Government in a total suspension of all killing of fur seals on the Pribilof Islands and in the sea of Bering, during the coming season of 1891. Mr. Blaine agrees to do so if the British Government will notify him of its desire and willingness to do so.

Sir Julian Pauncefote then mails to Lord Salisbury this proposal of Mr. Blaine to stop all killing on the Pribilof Islands during the season of 1891, if the British Government will prohibit its subjects from all killing of fur seals at sea (in Bering Sea), during this period aforesaid. This letter sent to New York and mailed by "special post" on this day and date, April 7, 1891, to London.

April 11, 1891. Secretary Blaine, without informing Sir Julian, violates this agreement of April 7, 1891, as above cited; he gives to the lessees of the Seal Islands (D. O. Mills, Isaac and Herman Liebes, Lloyd Tevis, and S. B. Elkins) a secret permit to kill 60,000 seals on these islands, "if they can be found," during the season of 1891.

April 13, 1891. Charles Foster, Secretary of the Treasury, admits, when personally interrogated by Hon. Wm. McKinley and Henry W. Elliott, that he has given this order of permission to kill 60,000 seals, "because Blaine authorizes it, and has told me that Salisbury is ugly and will not stop his people from killing."

April 22, 1891. Sir Julian Pauncefote denies that his Government "is ugly," and asserts that it is willing to stop the seal slaughter.

April 24, 1891. Henry W. Elliott, in a half-column letter to the New York Evening Post of to-day's issue, under caption of "Some seal history," tells this story of Mr. Blaine's duplicity and venality, as above cited; it is telegraphed all over the country, briefly, and on—

May 3, 1891. President Harrison vetoes or orders the cancellation of this secret and infamous permit; he then orders steps to be taken in the State Department which result, June 14, 1891, in the *modus vivendi* being officially published, as originally suggested by Henry W. Elliott November 19, 1890, and Sir Julian on April 7, 1891, as stated above.

With this clearly and indisputably recorded as above, it is now in order to produce the cause of this malfeasance of both Secretary James G. Blaine and Secretary Charles Foster—what was the pressure upon those high officials which led them to dishonor the trust which they were sworn to observe and obey for the public good.

We now observe in the following letter of April 2, 1891, the studied letter of the lessees—the deliberate and studied foundation of fraud and deceit upon which Charles Foster was compelled to stand suddenly in full public view, May 3, 1891, and—*fall*.

OFFICE OF THE NORTH AMERICAN COMMERCIAL CO.,
MILLS BUILDING,
New York, April 2, 1891.

HON. CHARLES FOSTER,
Secretary of the Treasury, Washington, D. C.

DEAR SIR: The North American Commercial Co. begs to submit for your consideration the following:

There is a marked difference of opinion between Mr. Elliott, special agent, and the Treasury agents on the seal islands and the North American Commercial Co., lessee of those islands, as will appear by the reports of the Treasury agents and statements of the agents of the North American Commercial Co. and others, on file in your department.

The contest to obtain the new lease caused some irritation and feeling. In beginning operations under the new lease it was natural that the Treasury agents should sympathize with the old company. The Alaska Commercial Co., the old lessee, made a spirited contest to have the new lease awarded to it. Mr. Elliott, at the time of the bidding and for 15 years before, had been an employee of the Alaska Commercial Co. He did all he could to secure the new lease for his company. He urged the Secretary of the Treasury in person to award the lease to the Alaska Commercial Co., although its bid was lower.

Under these circumstances it was unfortunate that Mr. Elliott should have been appointed an agent to report on the condition of seals, etc., under a special act of Congress which he drafted and caused to be passed and under instructions which he wrote.

It was also unfortunate that extending the time for taking seals on the islands should have been left to the discretion of Mr. Goff, Treasury agent, because by not exercising this discretion wisely and extending the time beyond July 20 the United States lost in taxes nearly \$400,000 and the lessee one-half as much.

Your attention is called to the fact that in the advertisement for bids to lease the islands the Secretary of the Treasury expressly stated that for the year 1890 the lessee should take 60,000 seals. It is also provided in the lease that the new company should take this number, yet the Treasury agent saw fit, in the discretion given him, to arbitrarily forbid the new company from taking more than 20,995 seals, which was not only a great loss to both the Government and lessee, but in violation of the statements contained in the advertisement and the terms of the lease. The record will show that on the 20th day of July, the last day of the killing, 2,000 seals were taken, and the proof is at hand both positive and abundant that if the time had been extended until the 10th of August the full quota of 60,000 killable seals could have been taken. The company states as a reason why the full quota was not taken by the 20th of July was because the salmon, which largely constitute the food of the seals, were two or three weeks later going north last season, which will account for the seals appearing two or three weeks later on the islands than in former years.

Secretary Windom regarded the failure to take 60,000 seals as a mistake, and one he wished he could repair. Considering this, and for other reasons, he said to the attorney of the N. A. C. Co., early in February, that it was his purpose to allow the company to take 60,000 this year, and 100,000 in the discretion of the Treasury agent, if the seals appeared on the islands.

It is claimed by the company that granting a positive and definite order to take 60,000 killable seals this year of the kind named in the laws and regulations can not work harm to the Government nor deplete the herd. If the killable seals do not come upon the islands they can not be taken; and if they do, the company should be allowed to take them.

Mr. Elliott was on the islands in 1874, and did not return until 1890, a period of 15 years. Mr. Tingle, whose report and protest against Treasury Agent Goff's arbitrary action is on file, was Treasury agent on the islands for 4 years—from 1885 to 1889—during which time he spent 18 months continuously on the islands. His opportunities for observing the seals and seal life and understanding their habits, of recent years, has been much more extended than that of Mr. Elliott. As against Mr. Elliott's report and those of the Treasury agents, which it is believed Mr. Elliott inspired, stands the testimony of Mr. Tingle; the sworn statements now on file in your department of Antoine Melovidoff, brother-in-law of Mr. Elliott, a native of the islands and governor of St. Paul; that of Daniel Webster, the oldest sealer on the island; the letter of Dr. W. H. McIntyre, now World's Fair Commissioner from Vermont, who spent 17 years on the islands; as also statements of J. C. Redpath, C. A. Fowler, Capt. * * * Healey, and Dr. L. A. Noyes—all except Mr. Tingle disinterested parties.

It is submitted that this mass of testimony and sworn statements is entitled to due weight and consideration, and if not sufficient to overcome the reports of Mr. Elliott and the Treasury agents, they are at least strong enough to raise a doubt, the benefit of which should be given to the Government and lessee and be settled only by impartial testimony and by persons who had no connection with the old company and no prejudices against the new.

It is said that parties interested in the old company declared, on their failure to obtain the new lease, that they would break up the new company in two years. It is submitted that after the company has spent many hundred thousand dollars in preparing to comply with the obligations under the new lease, and the losing of 40,000 skins out of 60,000 the first year, and the proposition of Mr. Elliott to take none this year, would nearly reach the point of breaking up the company.

It is claimed by the present lessee that the taking of killable seals under the rules and regulations of the department does not deplete the seal herd. By the terms of the lease it can not be terminated except for cause. If the Government can suspend taking seals for one year, it may for any number of years, which would, in effect, abrogate the lease. The Government is bound by the terms of the lease as well as the lessee. It has for a valuable consideration leased the exclusive right to the North American Commercial Co. for 20 years to take seals on the islands of St. Paul and St. George. It may be said that the Secretary has the power under the law to limit or designate the number of seals to be taken; the company claims this is to be re-

sonably construed and does not mean that the lessee shall be entirely deprived of taking seals.

It has been suggested that pending arbitration if England should stop the Canadian poachers from taking seals in the Bering Sea that the United States should agree to suspend the taking of seals on land. It is not clear what right England has to make any demand upon the United States to stop taking animals on its own soil. But it is submitted on behalf of the company that the United States has leased the exclusive right to take seals on the Pribilof group of islands, and the controversy between the two countries presents itself with the lease in existence and the obligations of the United States to the lessee in full force. The lease stands as part of the condition of affairs that can not be changed, and while the United States can not terminate the lease except for cause, it should not be asked that it be done pending arbitration or as a preliminary to a fair settlement.

The interests of the Government and lessee are the same and not in any sense antagonistic and should not be made so. The lessee is as much interested in preserving seal life as the Government, and whenever it is shown to be in the interest of preserving seal life it will willingly consent to a reasonable suspension of killing seals on the islands. But the company feels that with the present light on the subject it would be unfair both to the Government and to it to suspend taking seals for this year. The company, in obedience to the terms of the lease and by way of preparation for this year's work, has already incurred and is still incurring heavy expenses.

Respectfully,

(Signed) NORTH AMERICAN COMMERCIAL Co.,
By OGDEN MILLS.

Every paragraph in that letter of Ogden Mills is false; he signs it for the lessees, D. O. Mills, Lloyd Tevis, Herman and Isaac Liebes, and S. B. Elkins (soon to be Harrison's Secretary of War, and then after, in 1894, Senator from West Virginia). The absolute untruth and fraud of its conception is fully bared by the sworn testimony in Hearing No: 10, pages 662-668, April 24, 1912. (H. Com. Exp. Dept. C. and L.).

Think of the strange stupidity of the following brazen untruth—of that untruth which bristles all through every paragraph in this venal letter, to wit:

Secretary Windom regarded the failure to take 60,000 seals as a mistake, and one he wished he could repair. Considering this, and for other reasons, he said to the attorney of the N. A. C. Co., early in February, that it was his purpose to allow the company to take 60,000 this year, and 100,000 in the discretion of the Treasury agent, if the seals appeared on the islands.

William Windom dropped dead into his chair, on the evening of January 29, 1891, at the banquet of the New York Chamber of Commerce, in that city.

Yet this falsifier who pens the above tells us that "early in February" following, Windom intended to reverse his own sworn agents and let these public enemies have full swing at the public property then in dire jeopardy on the Seal Islands of Alaska.

William Windom in the presence of Henry W. Elliott, at the residence of James G. Blaine, in Washington, January 6, 1891, agreed with Mr. Blaine to a total suspension of the lessees work for five years from date, if the British Government would compel the prohibition of pelagic sealing in Bering Sea and the North Pacific for the same length of time from date.

This letter of Ogden Mills urging Foster to set aside the unanimous testimony of his own sworn agents, and let the lessees have full sweep at the public preserves on the Seal Islands of Alaska was carefully planned and prepared with the full knowledge of D. O. Mills, of Lloyd Tevis, of S. B. Elkins, of Isaac and Herman Liebes,

all stockholders in the North American Commercial Co., or the agent of theirs as lessees of the Seal Islands of Alaska.

Upon this fraudulent and lying lessees' letters authority, and all of those bogus worthless perjured affidavits signed by their own hired men and tools, Charles Foster actually, three days after he had received this rascally letter, reversed the ruling of his own agents (the agents of Wm. Windom) and gave Elkins and Liebes a secret permit to kill 60,000 seals on April 11 following.

Can a better exhibition of turgid self-confessed, wicked, malfeasance in high official position be found?

In order that no question shall be raised or can be raised sensibly as to the fact that Charles Foster did give that secret permit of April 11, 1891, as above stated, I submit the letters of Mr. Foster, who admits that malfeasance to me, after I had put the question squarely up to him and while witnesses to the truth of it were then living, and who stood ready to prove it, if Foster presumed to deny it.

THE SUBORNATION OF THE STATE AND TREASURY DEPARTMENTS BY THE SEAL LESSEES.

On the 2d of May, 1912, the following sworn statement was given to the House Committee on Expenditures in the Department of Commerce and Labor, which exhibits the improper influence possessed and used by the lessees, to wit:

NOTE FOR HON. JOHN H. ROTHERMEL.

When John Hay asked me on June 20, 1903, to take this letter of mine, as written to Hon. John A. Kasson, of May 10, 1903, with its recitation of the amazing revelation of Mr. Blaine's malfeasance as made by Sir Julian Pauncefote, and inclosed to Mr. Hay by Mr. Kasson, for this purpose, as stated by the latter, Mr. Hay said: "This is a matter which I can not discuss with you. I know it is true, and that makes any use of it at this time and in this department impossible. It is best returned to you, and my desire is that nothing be said in the premises at the present time and while this business is pending between Canada and ourselves."

Just think of this terrible revelation made by Sir Julian of Mr. Blaine's duplicity, and worse, as Secretary of State, thus made to me, April 22, 1891—think of it in the light of the following facts, to wit:

March 15, 1891. Sir Julian Pauncefote urges Mr. Blaine to agree upon a modus vivendi for the coming season in Bering Sea, whereby no killing of fur seals shall be done on the Seal Islands of Alaska by American citizens and no killing at sea shall be permitted for British subjects; in the meantime both high contracting parties shall carefully study the question and then agree upon a plan of proper resumption of seal killing, etc.

Mr. Blaine demurred and suggested a 25-mile zone of pelagic prohibition around the Seal Islands instead; to this Sir Julian objected, saying that it was impracticable and would not be easily enforced, etc.

April 7, 1891. Sir Julian again urges Mr. Blaine to unite with his Government in a total suspension of all killing of fur seals on the Pribilof Islands and in the sea of Bering during the coming season of 1891. Mr. Blaine agrees to do so if the British Government will notify him of its desire and willingness to do so.

Sir Julian Pauncefote then mails to Lord Salisbury this proposal of Mr. Blaine to stop all killing on the Pribilof Islands during the season of 1891 if the British Government will prohibit its subjects from all killing of fur seals at sea (in Bering Sea) during this period aforesaid. This letter sent to New York and mailed by "special post" on this day and date, April 7, 1891, to London.

April 11, 1891. Secretary Blaine without informing Sir Julian violates this agreement of April 7, 1891, as above cited; he gives to the lessees of the Seal Islands (D. O. Mills, Isaac and Herman Liebes, Lloyd Tevis, and S. B. Elkins) a secret permit to kill 60,000 seals on these islands, "if they can be found," during the season of 1891.

April 13, 1891. Charles Foster, Secretary of the Treasury, admits, when personally interrogated by Hon. William McKinley and Henry W. Elliott, that he has given this order of permission to kill 60,000 seals "because Blaine authorizes it, and has told me that Salisbury is ugly and will not stop his people from killing."

April 22, 1891. Sir Julian Pauncefote denies that his Government "is ugly," and asserts that it is willing to stop the seal slaughter.

April 24, 1891. Henry W. Elliott in a half-column letter to the New York Evening Post of to-day's issue, under caption of "Some seal history," tells this story of Mr. Blaine's duplicity and venality, as above cited; it is telegraphed all over the country, briefly, and on—

May 3, 1891. President Harrison vetoes or orders the cancellation of this secret and infamous permit; he then orders steps to be taken in the State Department which result, June 14, 1891, in the *modus vivendi* being officially published, as originally suggested by Henry W. Elliott, November 19, 1890, and Sir Julian, on April 7, 1891, as stated above.

HENRY W. ELLIOTT.

WASHINGTON, D. C., *May 2, 1912.*

(Hearing No. 10, p. 672, May 2, 1912, H. Com. Exp. Dept. Com. and Labor.)

In further illustration of this subornation, and proof of it, Mr. Elliott, on January 25, 1907, gave to the Ways and Means Committee of the House of Representatives the following original letters of Charles Foster which admit that he issued that secret order to kill 60,000 seals on April 11, 1891, and which permit, after its exposure April 22 by Elliott, was "officially" dated "May 27," and then canceled "officially" May 27, 1891, by telegraph to Williams, at San Francisco, Cal.

CHARLES FOSTER'S ADMISSION TO ELLIOTT THAT HE HAD ISSUED A SECRET PERMIT TO KILL 60,000 SEALS, APRIL 11, 1891.

[Copies of the original letters made by Ways and Means Committee, H. R., Jan. 25, 1907: Hearing on Fur Seals. MS. notes of same, pp. 92 et seq.]

FOSTORIA, OHIO, *January 11, 1895.*

MR. HENRY W. ELLIOTT.

MY DEAR SIR: The temper of your note of the 9th indicates that you propose to assail the late administration for its conduct of the fur-seal question.

In the discharge of my duty in the relation to this question I felt that it was best your services be dispensed with. I knew that this act would result in your hostility to me, and in due time I would be assailed by you. Now, as to your question as to the whereabouts of letters of Capt. Healey, I do not recall any conversation with you in which Capt. Healey's name was used.

If we had such a conversation as you suggest, whatever statement I made was truthful. I have no knowledge of the whereabouts of the letters of Capt. Healey.

My order of the 11th of April authorizing the taking of seals limited the catch to the "killable seals, not to exceed 60,000." My orders to Capt. Williams were not to allow the company to take any seal that was not in size, age, and sex allowed by the contract.

Yours, truly, etc.,

CHARLES FOSTER.

SMITHSONIAN INSTITUTION,
Washington, D. C., January 19, 1895.

DEAR SIR: Your reply of the 11th instant has only reached me this morning, not reaching Washington until yesterday afternoon, so that I can not be held responsible for my seeming delay in reply. You speak of the "tone" of my letter of the 9th instant. I wrote you a business letter, as you are a business man, and there is no other tone to it.

You assume that my purpose is to "assail the late administration" for its conduct of the fur-seal question. That action on my part was taken some time ago, and effectively, when I, like tens of thousands of other Republicans in Ohio, in November, 1892, cheerfully helped to hurl that administration from its brief and unpleasant prominence. I don't purpose now, as a live man, to get up and kick a dead antagonist, and you are

not fair in making so mean a suggestion to me. You certainly are not going to be assailed by me, for you are in no shape to be assailed.

Why should you allude to the canceling of my commission? I never alluded to it to you or to anybody else except with satisfaction. Why, indeed, should I? You did not appoint me; you had nothing whatever to do with it; and when the accident of death brought you into a little spell of brief authority you exercised it; I never objected and I never cared, for this is a mere personal matter that does not interest anybody but ourselves.

But the seal question is and was a public trust, and your record on that score is a proper subject for investigation and fair record.

Now to business: I am not responsible for this digression. You say that you "don't remember that Healey letter"; that settles it as far as this inquiry is concerned; but you are silent as to my inquiry as to where are those statements of the employees of the N. A. Com. Co. Who had the right to withdraw those papers from the files of the department—these papers which you told the reporter of the New York Tribune, May 8, 1891, were in the department on file, distinctly contradicting my statement as to decrease in seal life? These papers were, I suppose, your justification for that permit to kill 60,000 seals, over the sworn testimony of every Treasury agent of the Government on the seal islands against it at the time you gave it out. I repeat, for your own credit, that these papers be produced.

Your order to Maj. Williams put no restrictions on the killing of 60,000 male seals over the age of 1 year. Had that order not been canceled, as it was by my direct effort, it would have permitted and directed the most shameful killing on the seal islands of all the shameful seal slaughter yet done on the islands or in the waters around them.

Very truly, yours,

HENRY W. ELLIOTT.

Mr. CHARLES FOSTER,
Fostoria, Ohio.

TOLEDO, OHIO, *January 23, 1895.*

Mr. HENRY W. ELLIOTT,
Washington, D. C.

DEAR SIR: Your favor of the 19th instant reached me at this place this morning. I have been troubled with an inflamed eye and have been over here for treatment several days. I wrote as I did because it seemed to me that your letter assumed an air of arrogance and suspicion, and, I might add, innuendo. If I did you an injustice I beg your pardon. I have no knowledge whatever of the letters and papers to which you refer. No paper was removed from the files by my order or with my knowledge. If they are not now on the files they have been removed clandestinely or by order of some one else. My record in relation to my official conduct is open to the world; I did nothing that I would not do over again to-day with the present lights I have on the subject.

Yours, respectfully,

CHARLES FOSTER.

SMITHSONIAN INSTITUTION,
Washington, D. C., January 26, 1895.

DEAR SIR: Yours of the 23d instant was duly received yesterday, and I am glad that you admit that my position of "assailing" you was an assumption on your part. It certainly was, and I can call on your own men, Stanley Brown and Maj. Williams, to bear witness to the truth of my statement that I repeatedly said to them that I was well satisfied to be out of the association that they belonged to in this fur-seal business.

You know the act which sent me to the seal islands in 1890 was passed expressly for that purpose, and as stated in both Houses of Congress when the subject was up before them, it could not have been passed had it not been as stated, and Mr. Windom freely told me so before the bill was ever introduced.

I knew, as everybody admits here to-day, that I was right on this seal business; and that you and Mr. Blaine were wrong in giving that scandalous order to Elkins in distinct violation of that offer made by Blaine to Her Majesty's Government, April 7, 1891. * * * you issued the order violating the faith of the department on the 11th of April, 1891. I exposed that fact on April 22, 1891, and you "dispensed with my services" on the 25th of April, 1891. Of course we parted. We had to part.

Very truly, etc.,

HENRY W. ELLIOTT.

CHARLES FOSTER,
Fostoria, Ohio.

The steps taken by Elliott to uncover the deceit and malfeasance of Blaine and Foster are given by him to the committee, April 24, 1912, as follows:

MR. ELLIOTT: How was that secret permit of April 11 found out and soon made public? By the rarest of accident. It was thus:

On or about April 8, Sir Julian Pauncefote was a guest at a certain private or social dinner given to him. His hostess sat beside him; during the progress of this entertainment, Sir Julian remarked to her that he believed that he had been instrumental at last in settling the vexed fur-seal question, and that Mr. Blaine and he had just agreed that no further slaughter on the islands or in the Bering Sea was to take place for at least six or seven years, or that until both Governments had thoroughly investigated the conditions, no killing was to be resumed, at least.

On the evening of April 11, following, this lady was at another social entertainment, and there overheard the attorney for the North American Commercial Co. congratulate an unknown person who stood beside him in the reception line over their success during the day in getting Charles Foster to give them a permit to kill seals; that "nobody in Washington knew anything about it," and "nobody was to know any-about it" either, etc.

In a moment it flashed on the mind of this lady that Sir Julian had been duped or those men were in error; second thought told her that the lessees' attorney (Gen. N. L. Jeffries) was one who knew his business, and it must be true. She had heard me tell how Mr. Blaine was pledged to a close season; so, on the following day, she called on me at the Smithsonian Institution and told me of what she had heard, all as above stated.

Astonished and mortified, I at once set to work to find out the truth. I knew that if this was a secret permit that if I went up to either Mr. Blaine or to Secretary Foster, they would not admit it; it must be secret, or it would be published and I would, too, have been called in and notified of such an order, and the reasons why it was given over the denial of it by myself and all of the official reports of the department's seal agents. As Congress had adjourned March 4, 1891, there was no way of getting a resolution of inquiry and the like introduced and passed. I therefore asked Congressman William McKinley, jr., who was still in the city, to call on Secretary Charles Foster and put this inquiry sharply and squarely up to him.

Major McKinley did so. On Monday morning—I think on or about April 14, 1891—he called on Foster at the Treasury Department. Later, same day, he reported to me that Foster first shirked the answer; then admitted that he had given this secret order on April 11, and had given it after a full understanding with Mr. Blaine, who on that day had informed him that there was no hope of getting any *modus vivendi* from Great Britain; that "the British were ugly," etc.

This report of Maj. McKinley aroused my suspicions as to the status in so far as Great Britain's part in the business was concerned. I knew all the time that the Canadians opposed my plan; but I had taken two letters over to Secretary Blaine in January and February, 1891, written to me from London, and by a gentleman who was very close to Lord Salisbury. These letters assured me that Salisbury was in favor of my *modus vivendi*. (I gave those letters to Mr. Blaine and he kept them.)

If anything was to be done to stop this infamous killing permit thus started under cover, it must be done at once and before the lessees' vessel was loaded in San Francisco and cleared for the islands. I knew that such a permit would be flashed instantly over to them there, and that this work of getting ready for the season's killing was surely under way.

On the 22d of April, 1891, I learned directly and positively that the British premier was not "ugly," was not aware of the fact that he was secretly misrepresented here by our own high officialism in charge of this fur seal question. Knowing this, then, I took the only step I could take as a good citizen to stop this infamous game as played between the lessees and Secretary Charles Foster, using Secretary Blaine as their shield. I wrote a brief, terse story of it, and signed my name; then addressed it to the New York Evening Post on the evening of this day, April 22. That letter was published in that paper Friday, April 24, 1891. It stirred official Washington from top to bottom in the State and Treasury Departments. This exposure of that secret killing order went all over the United States instantly in the press dispatches, and it caught the eye of President Harrison, who at this time was on a railroad-touring circuit of the Pacific Coast and somewhere in California. He vetoed this infamous killing order by wire, either from Los Angeles or San Francisco, on May 3, 1891 (or from some point in California). This was published in the New York Herald May 4, 1891. (Hearing No. 10, p. 664, Apr. 24, 1912, Ho. Com. Exp. Dept. Com. and Labor.)

The manner in which he finally reached Sir Julian and so learned of the deceit of Blaine and was thus enabled to expose the jobbers and stop the slaughter that season of 1891, as the secret permit of April 11 ordered, is set forth by Elliott in terrible words of truth to the rotten officials of the Bureau of Fisheries, thus:

The CHAIRMAN. All right then. I suppose it is the sense of the committee that the statement shall go in?

Mr. PATTON. I have no objection.

The CHAIRMAN. Then it is so ordered.

WASHINGTON, May 12, 1903.

DEAR COL. HAY: I do not know why the inclosed is sent to me, except for my sympathy with Elliott in the matter of the Alaskan seals. Nor do I know what to do with it except to place it at your disposition to decide if there is wisdom in his suggestion.

Very faithfully yours,

KASSON.

(Given to me by Mr. Hay, in Department of State, June 20, 1903, 11.40 a. m.—
H. W. E.)

LAKEWOOD, OHIO, May 10, 1903.

MY DEAR MR. KASSON: In packing away a lot of papers to-day I came upon those minutes of the interview which took place between Sir Julian and myself in April, 1891. You suggested that I put them into writing after I had recited them to you in your residence, December 10, 1901. I inclose a copy of them.

Reading them over, the thought occurs to me that the desperate condition of affairs on the seal islands to-day warrants Sir Michael in doing exactly what Sir Julian did in 1891. He can override the Canadians and agree upon a *modus vivendi* for 1904, just as Sir Julian did for 1891.

Sir Julian took this action solely on the strength of his belief in the truth of my representation and report of 1890. Sir Michael can have not only all of this ground but the important additional data which I have placed in Mr. Hay's hands.

I had to go as a stranger, personally, to Sir Julian in 1891, on account of Mr. Blaine's "infirmity" of purpose. Mr. Hay can go to Sir Michael with vastly greater effect and tact than I went to Sir Julian. He can take these authentic records, illustrations, facts, and figures which I have given him recently and lay them with great emphasis before the British ambassador.

Something must be done this summer and before Congress meets. Otherwise, if naught comes from the State Department, the pending seal bill, now lying in the Senate Foreign Relations Committee, will be passed in short order, as a measure absolutely necessary to save the fur seal species of Alaska from complete extinction.

It would be a great feather in Mr. Hay's cap, and also for that of Sir Michael, if such a *modus* for 1904 was agreed upon as was that of 1891.

I have never said a word to Mr. Hay about this particular matter and the securing in 1891 of that *modus vivendi* which I urged in my report of 1890. I do not know whether I ought to. If you think it proper and will serve as a useful side light, I venture to ask that you see Mr. Hay and talk it over with him, for, really, the more I think of it the more I am inclined to believe that Sir Michael can easily do again what his distinguished predecessor did in the premises, and for which action he was highly rewarded by his Government, in spite of the bitter opposition of the Canadians.

With every regard for you,

I am, faithfully, your friend,

HENRY W. ELLIOTT.

Hon. JOHN A. KASSON, *Washington, D. C.*

[Inclosure.]

WASHINGTON, D. C., December 10, 1901.

During a call made upon Mr. John A. Kasson this morning and for the purpose of understanding fully what the High Joint Commission did about the fur seal question before it was strangled by the boundary dispute February 22, 1899, Mr. Kasson said to me that I ought to reduce to writing that account which I had given him of the adoption of my *modus vivendi* of 1891-1893; this account to be sealed and not broken during the life of the British ambassador, the other party, James G. Blaine, being dead.

I therefore make the following statement, which will constitute a complete sequel to my diary notes of what took place between Mr. Blaine and myself prior to my interview with Sir Julian.

Wednesday, April 22, 1891: After due reflection and in spite of the fact that I had never met the British minister, I resolved this morning to call upon him and put the question directly to him whether or no he had refused to entertain any proposition for a *modus vivendi* in Bering Sea for the protection of the fur seals, as he was charged with doing by Charles Foster on the 13th instant (see preceding memoranda).

I took the Connecticut Avenue street car on F, corner Tenth NW., and entered the British Legation door at half past 10 o'clock in the morning; the servant took my card, left me standing in the hall, returned in a few minutes saying that Sir Julian was dressing and would see me when he came down. I was ushered into the office, which opens directly from the hall, opposite the drawing-room. I had penciled on my card the words "concerning the fur seals of Alaska," so that he might know what I was after.

I was not alone more than 10 or 15 minutes before Sir Julian came into the room, and he greeted me with the greatest courtesy, saying that he had heard a great deal about me and that he had asked Secretary Blaine to introduce me several times.

I replied, saying that I too had often asked Mr. Blaine to present me, but that he had not done so.

"I have called on you, Sir Julian, this morning on my own responsibility. I do not come from Mr. Blaine. I have come to make an inquiry which may be improper; if it is, pardon me and give no answer, but I want to inform you that an order to kill 60,000 fur seals was given to the lessees of the seal islands on the 11th instant; that this order to kill was based upon the refusal of your Government to unite with mine in a *modus vivendi* whereby all killing on land and in the sea is to be suspended during the coming season in Bering Sea. If this refusal of your Government to act with mine is authentic, then I want to say to you from my full knowledge and understanding of the question that killing 60,000 young male seals on the Pribilof Islands this summer means the absolute extermination of that life up there, and the shame of this doing is upon your Government."

Sir Julian's manner instantly changed as I spoke; his expression became one of intense surprise; he answered in language substantially as follows, walking up and down the end of the room where we were standing, alternately facing and partly turning from me:

"It is not true; my Government has been trying to get Mr. Blaine to agree upon some such plan ever since the opening of March, and it was not until the 7th day of this month that he agreed to it, and I am expecting to hear by return post of the acceptance by my Government of the *modus vivendi*. I posted the offer of Mr. Blaine on the same day and immediately after he made it to me. Really, my dear sir, you surprise me. I do not believe that Mr. Blaine knows what he does want. I have been having quite a time trying to find out."

We then talked a few minutes about the condition of the seals, the attitude of the Canadians, and of our lessees. He said that it was a case in which the testimony was exceedingly conflicting, and that under the circumstances the only humane and wise thing to do was to stop the killing for a season at least and look into the matter during the meantime. He said that as far as he was concerned his sympathy was for the seals and he would give them the benefit of every doubt.

I then took my departure, having been with him about half an hour.

HENRY W. ELLIOTT.

THE LESSEES, D. O. MILLS, UNITED STATES SENATOR ELKINS, AND ISAAC LIEBES, PARTICIPATE IN THE PROFITS OF THIS ILLEGAL KILLING OF SEALS AND HAVE FULL KNOWLEDGE OF THAT WORK.

The interest which these lessees had in getting those 343,365 seal skins is clearly established by an exhibit of their profit in the business, as given ante, page —.

The question at once arises, Since these men have made a net gain for themselves of \$5,000,000, have they made that gain honestly?

The answer, based upon the following facts of record, is that they have not; they have violated the law and regulations of the Government, in order to get those seals; and, in so doing they have wrought

great injury to the fur-seal herd to the end of practically destroying its value, for the next 10 years. To gain that end of violating these rules and regulations of the Government, these men, Liebes, Tevis, Mills, and Elkins, have successfully combined with certain agents of the Government in charge of the seal islands, as will appear by the following:

II. Isaac and Herman Liebes, Lloyd Tevis, D. O. Mills (lessees), on the 12th day of March, 1890, combined with Stephen B. Elkins and George R. Tingle to deceive William Windom, Secretary of the Treasury, in order to gain from him the lease of the seal islands of Alaska, said lease running from May 1, 1890, to May, 1910 (20 years).

They were successful, and so secured the lease (full details of which were given to the Ways and Means Committee, January 14, 1907, by Henry W. Elliott, and renewed by him to the House Committee on Expenditures in the Department of Commerce and Labor, May 15, 1911).

III. On the 5th day of April, 1891, Charles J. Goff, United States special agent in charge of the seal islands, was removed therefrom, through the combined efforts of said lessees and Charles Foster, Secretary of the Treasurer, said Goff having stopped said lessees in their illegal and injurious killing of seals on the Pribilof Islands, June 20, 1890, and having recommended that all killing by said lessees be suspended entirely for an indefinite term of years for the public good.

Said lessees had one W. H. Williams appointed in Goff's place April 5, 1891, and with Charles Foster's own selection also, Joseph Stanley Brown was appointed April 23, 1891, to visit the islands as his own personal representative "to get the facts," etc.

These men reached the island June 10, 1891; the international *modus vivendi* of June 15, 1891, was anticipated by them, in their instructions of May 27, 1891, which were not to permit the lessees to take more than 7,500 seals. These orders were duly entered in the official journal on the islands, June 13, 1891. In spite of this specific order not to permit the killing of more than 7,500 seals on both islands during the entire season of 1891, yet these lessees so influenced these agents, Williams and Brown, as to actually kill and secure the skins of 13,695 seals by August 11 following, and have the same regularly endorsed by them.

IV. On June 9, 1892, said Joseph Stanley Brown, returned to the seal islands as the "chief special agent in charge"; and, on July 8, 1892, he ordered that the entire supervision and control of the Government over the lessees on the killing grounds be given to the lessees; thus, as the following certified copy of the official orders reads on the official journal of the United States Treasury agent, St. Pauls Island (p. 2).

FRIDAY, JULY 8, 1892.

The entire control and management of the killing grounds and killing of the seals were given to Mr. Fowler, of the N. A. C. Co., by order of Mr. J. Stanley Brown, agent in charge, and Assistant Agent Murray was ordered to count the seals.¹

V. Having thus given the entire control of the Government agents over the killing of seals by the lessees to said lessees themselves on the 6th day of June, 1894, Mr. J. Stanley-Brown came back to these seal islands as the paid superintendent of the lessees and took charge of their interests on the killing grounds. The following official entry declares Mr. Brown's association with the lessees (p. 222, official journal of the United States Treasury agent in charge of St. Paul Island):

WEDNESDAY, JUNE 6, 1894.

Steamer *Lakme* of the North American Commercial Co. arrived, having on board J. B. Crowley and wife, as chief agent, and Mr. Judge and wife, also Mr. Brown, superintendent of North American Commercial Co., Mr. Chichester, and Mr. Armstrong.

VI. On May 14, 1896, Secretary of the Treasury John G. Carlisle issued an order to the agents in charge of the seal islands of Alaska, which specifically directed them to prohibit the lessees from "killing yearlings or seals having skins weighing less than six pounds," thus:

[P. 14] Official record or journal of the chief special agent in charge of the seal islands, St. Paul Island. This letter is entered by J. B. Crowley (p. 14) in the journal of his office Tuesday, June 17, 1896, and before the killing was begun.]

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 14, 1896.

Mr. J. B. CROWLEY,
*Special Agent in Charge of the Seal Islands,
care of North American Commercial Co.,
San Francisco, Cal.*

SIR: I inclose herewith for your information copy of a letter, dated the 13th instant, addressed by me to the Secretary of the Treasury and approved by him, in relation to the taking of fur seals on the Pribilof Islands and determining the quota of such seals to be allowed the North American Commercial Co. during the season of 1896. You are instructed to permit said company to take on the islands during the season of 1896 all killable male seals over and above the number which in your opinion is sufficient to fertilize the female seals, the number taken not to exceed in any event 30,000 seals. The killing of yearlings and seals whose skins weigh less than six pounds is prohibited.

Respectfully, yours,

C. S. HAMLIN, *Acting Secretary.*

True copy.

Attest:

A. F. GALLAGHER.

¹ Mr. J. Stanley Brown appears in 1894, on the seal islands, as the "superintendent of the N. A. C. Co." He is still useful in this conspiracy as late as 1909, in the attempt then made by the Bureau of Fisheries to renew the Elkins-lease, as the following official letter attests:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF FISHERIES,
Washington, December 16, 1909.

The COMMISSIONER:

The Washington Star of December 10 last announced that the Campfire Club, of New York, had inaugurated a campaign to save the fur-seal herd through legislation designed to prevent the re-leasing of the sealing right, the cessation of all killing on the islands for 10 years except for natives' food and to secure the opening of negotiations with Great Britain to revise the regulations of the Paris tribunal. As the result of this movement, on December 7 three resolutions were introduced by Senator Dixon, of Montana, one of which embodies the provisions before mentioned, the other two calling for the publication of fur-seal correspondence and reports since 1904.

As the object of this movement is at variance with the program of this bureau and of the recommendations of the advisory fur-seal board, notably in the plan to prevent killing and the renewal of the seal-island lease, the advisability is suggested of having Messrs. Townsend, Lucas, and Stanley Brown use their influence with such members of the Campfire Club as they may be acquainted with with the object to correctly informing the club as to the exact present status of the seal question and of securing its cooperation to effect the adoption of the measures advocated by this bureau.

The attached letter is prepared, having in view the object stated.

BARTON W. EVERMANN.

In spite of this distinct prohibition of the killing of "yearlings" by the Secretary, yet the records of the London sales show that the lessees took some 8,000 "yearling" or "eyeplaster" skins in open, flagrant violation of these specific rules of the department in getting this quota of 30,000 seals allowed them subject to those orders.

The part which Mr. Joseph Stanley-Brown took in loading those small yearling skins, 8,000 of them, in order to weigh them in as "not under six pounds, and as 2-year-old male seals" after Secretary Carlisle's orders were posted, may be easily understood. It needs no description.

Dr. Jordan, in his final report, declares that he is under great obligations to Mr. Brown for the valuable aid given him (Jordan) while studying the seal herd.

EXHIBIT IV. THE EXPERTS QUOTED BY SECRETARY NAGEL AS HIS ADVISERS IN KILLING FUR SEALS IN VIOLATION OF LAW, ALL DENY THEIR RESPONSIBILITY, AND ALL DENY ANY PERSONAL KNOWLEDGE AS TO WHETHER THAT KILLING WAS LEGAL OR ILLEGAL, AS DONE BY NAGEL.

On April 26, 1909, Secretary Charles Nagel was notified in specific detail that his agents, under his directions, were killing seals on the Pribilof Islands in open, flagrant violation of the law and regulations. On May 18, 1910, the executive committee of the Camp Fire Club of America addressed a stirring letter of protest to the Secretary of Commerce and Labor against any further killing of seals on the Pribilof Islands for commercial purposes, and the Secretary was warned that if any seals were killed by him it would be a breach of the faith reposed in him by the Senate Committee on Conservation of National Resources. This being ignored, on May 27, 1910, the executive committee of this Camp Fire Club addressed a second letter recording its final protest, and warning the Secretary of Commerce and Labor not to make a false step in the matter. This warning was unheeded, and under orders from the Secretary of Commerce and Labor, dated May 9, 1910, 12,920 fur seals were slaughtered on the Pribilof Islands in June and July, 1910.

On December 16, 1910, the skins of those seals thus slaughtered and taken by the order of Secretary Charles Nagel, as above stated, were sold in the London fur market, and the official records of the sale revealed the fact that 7,733 of those skins were classified as "small pups" and "extra small pups." The London measurements which declare this classification show that these skins were taken in violation of the law and regulations.

On January 9, 1911, Senator Knute Nelson introduced Senate bill No. 9959, entitled "An act to protect the seal fisheries of Alaska, and for other purposes." This bill was introduced at the request of the Camp Fire Club of America for the purpose of preventing by mandatory law the killing of any fur seals on the Pribilof Islands for commercial purposes during the next five years.

On January 10 the chairman of the Senate committee submitted a copy of this bill thus introduced by Senator Nelson, to Secretary Charles Nagel, and asked him to express his opinion officially to the committee upon its merits, alluding also to the protests against his killing in 1910 and thereto recorded, and made directly against the action of his agents, killing seals under his direction, in violation of the law and regulations. On January 14, 1911, Secretary Charles Nagel addressed the following letter to Chairman Dixon:

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, January 14, 1911.

MY DEAR SENATOR: I have your communication of the 12th instant inclosing Senate bill No. 9959 to amend an act entitled "An act to protect the seal fisheries of Alaska, and for other purposes."

The essential purpose of this bill I take to be a suspension of seal killing for a period of five years from and after the 1st day of May, 1911. Since the hearing before your

committee last year I have had some occasion to consider this question with the result that the impressions then expressed have, if anything, been strengthened.

Under existing conditions I can not believe that the seal herds would be in any sense conserved by suspending the killing of male seals in the manner in which it is now being done. So long as pelagic sealing is continued there does not appear to me to be even room for discussion. I believe it can be demonstrated that the number of female seals killed by the pelagic sealers substantially equals the number of male seals killed by the Government. If that be true, one and perhaps the chief argument which has been advanced would seem to be without foundation.

However, if pelagic sealing were discontinued and all the female seals were absolutely protected, I still believe that it would be perfectly safe, and in a measure necessary, in so far as the conservation of the herd is concerned, to kill a certain percentage of male seals. Of course my personal judgment is without value. I am relying upon the advice of experts who have been appointed to inquire and report and who have given the department the benefit of their opinion.

I gather that a further ground has been assigned for the discontinuance of seal killing, namely, that such discontinuance would be received by foreign countries as proof of our disinterestedness and that such a course would serve to promote the consummation of treaties to prohibit pelagic sealing. If this were so, I should, of course, advocate the discontinuance, but I have no intimation from the State Department that such a course on our part would have the slightest bearing upon pending negotiations. I can not undertake to speak upon this phase of the question, but no doubt that information can be readily obtained from the State Department.

I am glad to say that the results of the first year's experience under the law enacted last year are now at hand. Compared with the amounts received under the contract system the showing is, I think, a very satisfactory one. At the same time I would not be understood as saying that a gain in the receipt of a few hundred thousand dollars ought to be conclusive in determining the Government's policy. On the contrary, I am of the opinion that the primary consideration to have in mind is one of conservation, namely, the preservation of the herds. If I could believe that the policy which the Government now pursues in any sense endangers the herds, I should advocate a change. My recommendation with respect to the bill now pending is based upon the opinion that the Government is now killing only such male seals as may be regarded as surplus, and that the preservation of the herds is not in any degree affected by this policy.

If it is proposed to have a hearing upon this bill, I respectfully ask that as much notice as possible be given, so that I may make sure to have present those representatives of the bureau and such members of the boards and commissions as are more especially conversant with the question.

Very sincerely, yours,

(Signed) CHARLES NAGEL.

HON. JOSEPH M. DIXON,
United States Senate.

In this letter above cited, Secretary Nagel says that he himself possesses no knowledge as to the work being done on the islands, but that he issued his orders and relied upon the judgment of experts duly qualified and appointed, who gave him their advice. On June 9, 1911, Fish Commissioner Bowers, representing the Secretary of Commerce and Labor, appeared before the House Committee on Expenditures in the Department of Commerce and Labor, and presented to the Committee the names of those experts upon whom the department relied as its authority for killing small seals in violation of law and regulations.

Mr. Bowers testified as follows (June 9, 1911, Hearing No. 2, p. 109):

MR. BOWERS. Yes, sir. I ought to have another statement here that I would like to have offered, but I am not able to find it at present. If the gentleman will permit, I wish to say that these regulations are in conformity to recommendations made by this advisory board.

MR. CABLE. Give the names of the members of the advisory board.

MR. BOWERS. The members of the Fur-Seal Board and of the Advisory Board, Fur-Seal Service, are as follows:

"In the Bureau of Fisheries, general matters regarding the fur seals are considered by a fur-seal board, consisting of the following:

"Dr. Barton Warren Evermann (chairman), who is chief of the Alaska Fisheries Service and who has been in Alaska a number of times. He was a member of the Fur-

Seal Commission of 1892, when he spent six months in the North Pacific and Bering Sea and on the seal islands studying the fur seal.¹

"The Advisory Board, Fur-Seal Service, consists of the following:

"Dr. David Starr Jordan, president of Stanford University, who was chairman of the International Fur-Seal Commissions of 1896 and 1897, appointed in pursuance of the treaty of February 29, 1892, and whose published report in four volumes is the most comprehensive, thorough, and valuable treatise that has ever been published on all matters pertaining to the fur seal and the seal islands. Dr. Jordan is the most distinguished and best-known naturalist in the world.

"Dr. Leonhard Stejneger, head curator of biology, United States National Museum, for two years resident on the Russian seal islands, member of the Fur-Seal Commissions of 1896 and 1897, as a member of which he visited and studied all the fur-seal rookeries of Alaska, Russia, and Japan. His report on the Russian seal islands is the most critical and thoughtful that has been written.²

"Dr. C. Hart Merriam, until recently Chief of the Biological Survey, member of the Fur-Seal Commission of 1890, and the greatest living authority on mammals.³

"Dr. Frederic A. Lucas, director of the American Museum of Natural History, member of the Fur-Seal Commissions of 1896 and 1897, and one of the keenest, most discerning and best-known naturalists.⁴

"Dr. Charles H. Townsend, director of the New York Aquarium, for many years naturalist on the fisheries steamer *Albatross*, member of the Fur-Seal Commissions of 1896 and 1897, and distinguished as a naturalist and field investigator. Dr. Townsend made a special study extending over many years of our fur seals and pelagic sealing.⁵

These experts thus certified to the committee as the authority upon whom the department relied for this killing, above stated, in violation of law and regulations, were Messrs. Merriam, Stejneger, Lucas, Townsend, Evermann, and Lembkey.

Thereupon the committee summoned those experts to appear and testify as to their knowledge of this killing as above stated. The following analysis of their testimony declares the fact that not one of those experts was above quoted by Secretary Nagel, January 14, 1911, and June 9, 1911, except Lembkey had any knowledge whatever of this killing as ordered by Secretary Nagel. They also declared complete ignorance of the work as it has been done under orders of Secretary Nagel; and still further they all declared, except Lembkey, that they, of their own personal knowledge, can not pass any opinion upon this work as to whether it was legally or illegally done. This testimony follows, being taken from the sworn statements of those gentlemen and paralleled with that of their own writings and the depositions of their associates in the Bureau of Fisheries, "Advisory board fur-seal service," to wit:

I.

The sworn statements of Dr. C. Hart Merriam, who is one of the experts cited to the United States Senate Committee on Conservation of National Resources, January 14, 1911, and to the House Committee on Expenditures in the Department of Commerce and Labor, June 9, 1911, by Secretary Charles Nagel as his authority for killing seals in violation of the law and the regulations, to wit:

Mr. BOWERS. The members of the fur-seal board and of the advisory board, fur-seal service, are as follows:

Dr. C. Hart Merriam, for many years chief of the Bureau of Biological Survey, and perhaps the ablest living mammalogist of the world.

Dr. Merriam was one of the two special commissioners sent to the seal islands in 1891 by the United States Government to study, in conjunction with commissioners from Great Britain and Canada, the island life of the seals. (Hearing No. 2, p. 109, June 9, 1911, H. Com. Exp. Dept. C. & L.)

¹ Evermann testified that his "experience" on the islands was just nine days in 1895.

² Stejneger has testified that his "experience" on the islands was just 10 days, in 1896.

³ Merriam has testified that his "experience" on the islands was just 10 days, in 1891.

⁴ Lucas has testified that his "experience" on the islands was just 92 days, or "about so long," in two years.

⁵ Townsend has testified that his "experience" on the islands was just 212 days, or "about so long," in 10 years.

THE DEADLY PARALLEL.

Secretary Nagel don't know anything himself—he relies wholly upon the advice of experts duly appointed.

The letter of Secretary Charles Nagel in answer to inquiry by Committee on Conservation of National Resources as to his "authority" for his work of killing fur seals on the Pribilof Islands in violation of law and rules, and who puts this killing as done squarely upon Jordan, Stejneger, Merriam, et al.

[Copy.]

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, January 14, 1911.

MY DEAR SENATOR: I have your communication of the 12th instant inclosing Senate bill No. 9959 to amend an act entitled "An act to protect the seal fisheries of Alaska, and for other purposes."

The essential purpose of this bill I take to be a suspension of seal killing for a period of five years from and after the 1st of May, 1911. Since the hearing before your committee last year I have had some occasion to consider this question with the result that the impressions then expressed have, if anything, been strengthened.

Of course my personal judgment is without value. I am relying upon the advice of experts who have been appointed to inquire and report and who have given the department the benefit of their opinion.

If it is proposed to have a hearing upon this bill, I respectfully ask that as much notice as possible be given, so that I may make sure to have present those representatives of the bureau and such members of the boards and commissions as are more especially conversant with the question.

Very sincerely, yours,
(Signed) CHARLES NAGEL.

Hon. JOSEPH M. DIXON,
United States Senate.

The fur-seal "experts" alluded to by Secretary Nagel in the above letter are all "officially" and modestly presented, June 9, 1911, to the House Committee on Expenditures in the Department of Commerce and Labor, as follows (see p. 109, Hearing No. 2) (Hearing No. 14, pp. 914-918, July 25, 1912.):

But Merriam swears that he has not advised Secretary Nagel, and does not know anything about it, either.

The CHAIRMAN. Well, how long have you been on the advisory board?

Dr. MERRIAM. Since the beginning. I do not remember the date; but I have been absent from the city during a number of the sittings of that committee, as I am engaged in field work in the West at least half of every year, and therefore have not been in Washington at the time most of these meetings were held.

The CHAIRMAN. Were you at the meeting of the advisory board that the previous witness referred to in his testimony?

Dr. MERRIAM. I do not remember any such meeting.

The CHAIRMAN. Are you a member of the board now?

Dr. MERRIAM. Yes.

* * * * *

Mr. ELLIOTT. One question more. I understood you to say that you had not been in consultation with Mr. Bowers when he issued his orders for killing 13,000 seals in 1910?

Dr. MERRIAM. I do not think I was present at any conference when that matter was up.

Mr. ELLIOTT. I have no further questions to ask at this time.

The CHAIRMAN. Is there anything else that you wish to state, Doctor?

Dr. MERRIAM. No. (Hearing No. 11, May 16, 1912, pp. 692, 699.)

Mr. ELLIOTT. I wish to ask Dr. Merriam some questions. Dr. Merriam, when did you arrive on the seal islands for the first time in your life?

Dr. MERRIAM. In the summer of 1891.

Mr. ELLIOTT. What was that date—about what time?

Dr. MERRIAM. On the morning of July 28.

Mr. ELLIOTT. When did you leave?

Dr. MERRIAM. I left on August 10. (Hearing No. 11, May 16, 1912, p. 695.)

United States Fish Commissioner Bowers declares that Dr. Merriam is one of his authorities who approves the killing on the islands—

Mr. BOWERS. The members of the fur-seal board and of the advisory board, fur-seal service, are as follows:

FUR-SEAL BOARD,
BUREAU OF FISHERIES.

In the Bureau of Fisheries, general matters regarding the fur seals are considered by a fur-seal board, consisting of the following:

Dr. C. Hart Merriam, until recently chief of the Biological Survey, member of the Fur Seal Commission of 1890, and the greatest living authority on mammals.

Mr. BOWERS. I had in mind getting the best talent I could; I expected probable criticism.

Mr. TOWNSEND. I am not criticizing you now.

Mr. BOWERS. I endeavored to get the best talent it was possible to get and to act upon their advice in this fur-seal matter. (Hearing No. 2, p. 109, June 9, 1911, H. Com. Exp. Dept. Com. & Labor.)

Lucas says that "Merriam and himself," have "observed," and "have exact knowledge," etc.

AMERICAN MUSEUM
OF NATURAL HISTORY,
New York, February 24, 1912.

DEAR SIR: Absence from the city has delayed my replying to your favor of February 21, which I am very glad to receive.

Let me say, first, that my exact knowledge in regard to the killing of seals under 2 years of age during the years 1909 and 1910 must, like that of others who did not see the actual killing, be based on the published statement of their weights. In addition, however, I have my own experience to aid in translating these weights. The advisory board recommended that no sealskins under 5 pounds in weight be taken, this being the average weight of a 2-year-old skin. The weight given by Elliott in 1875 was (see postscript) 5½ pounds, but this was based on an average of only 10 skins. There is a bare possibility that

Dr. Merriam denies having any knowledge of what Bowers has been doing—he would "not kill yearlings under any circumstances."

Mr. McGUIRE. Then, in case anyone in the House of Representatives has used your name as a person who would be opposed to the killing on the islands they were wrong about your position?

Dr. MERRIAM. They were wrong. I have never taken any such position. I have always held the contrary. I have always stated, since the first time I went there, that conservative killing on the islands was a benefit to the herd and not an injury, but I should not allow the killing of yearlings under any circumstances, and I should not kill more than 75 per cent of the young on land at any one time. I would be sure to leave more than enough for possible contingencies.

Mr. McGUIRE. Have you made any personal investigation as to whether the Government has killed excessively?

Dr. MERRIAM. I know nothing about that from personal knowledge.

Mr. ELLIOTT. One question more. I understood you to say that you had not been in consultation with Mr. Bowers when he issued his orders for killing 13,000 seals in 1910?

Dr. MERRIAM. I do not think I was present at any conference when that matter was up. (Hearing No. 11, pp. 694, 695, 699, May 4, 1912, H. Com. Exp. Dept. Com. & Labor.)

Dr. Merriam swears that he has no exact knowledge, and has not "observed" with Lucas.

Mr. ELLIOTT. Doctor, while you were on the island did you ascertain the length and weight of a yearling seal?

Dr. MERRIAM. I did not.

Mr. ELLIOTT. Do you know anything about the length and the weight of a yearling sealskin?

Dr. MERRIAM. Nothing.

Mr. ELLIOTT. Did you make any measurements up there?

Dr. MERRIAM. I do not remember offhand. I examined a great many pup seals for sex.

Mr. ELLIOTT. You did not measure the yearlings, Doctor?

Dr. MERRIAM. I measured or at least weighed some of the seals, but I do not remember offhand.

Mr. ELLIOTT. Have you published any record of it?

Dr. MERRIAM. I think not.

these might be short 3-year-olds, but I will let the matter stand as stated. According to the observations of Dr. Merriam and myself there is about 20 per cent variation from the average either way, so that some 2-year-old sealskins would weigh but 4 pounds and others would weigh 6 pounds. The island weights of the skins in 1909 show that a few were taken under 5 pounds, these being small 2-year-olds; and it is, of course, impossible to judge within a half a pound of the weight of a skin while it is on a seal. The accuracy of these weights is corroborated by the London weights given. Please bear in mind that the terms "large pups," "middling pups," etc., given in the London sales table, refer to weights and not to ages. Consequently I haven't the slightest hesitancy in taking my affidavit that undersized skins have not been systematically taken.

The yearling seals are very readily distinguished from all others, as I hope I may have the pleasure of pointing out to you some day either here or in Brooklyn, and their skins would weigh from $3\frac{1}{2}$ to $4\frac{1}{2}$ pounds.

* * * *

Pardon me for troubling you with a number of explanatory details, but I wish above all things to make it clear that I am not speaking by hearsay, or making statements without foundation, but that I am writing of matters with which I have a direct acquaintance.

Faithfully, yours,

F. A. LUCAS.

Hon. EDWARD W. TOWNSEND,
*Committee on the Library,
House of Representatives.*

(Hearing No. 14, pp. 947, 948, July 27, 1912.)

Just before his cross-examination, he saw seal bulls fighting fiercely on rookery.

Dr. MERRIAM. I do not know the relative importance of the three natural causes of destruction of young pups. The three causes that seem to be the most potent, after doing away, of course, with pelagic sealing, are (1) the destruction of pups by the killer whale in the fall, when the killer whales circle around the islands close to shore and eat large numbers of pups; (2) the destruction by trampling on the rookeries, especially during the battles between the bulls; and (3) the destruction caused by an intestinal worm, which I think of much less consequence than at first supposed, though a number do die from the hookworm disease. These three causes kill a large number of pups each year—pups of the season.

Mr. ELLIOTT. No, and therefore you made no record that we could get hold of to-day?

Dr. MERRIAM. I doubt if I measured any of the 2-year-old seals.

Mr. ELLIOTT. I have never been able to find it.

(Hearing No. 11, p. 699, May 16, 1912.)

But, after his cross-examination, he never saw bulls fighting—just effects of it.

Mr. ELLIOTT. Did you see any fighting of the bulls?

Dr. MERRIAM. I saw no general fighting of the old bulls on the breeding rookeries.

Mr. ELLIOTT. That is right.

Dr. MERRIAM. But I saw much evidence of the fighting by lacerated bulls.

Mr. ELLIOTT. And do you not know it is a matter of official record that this fighting takes place many weeks before the females arrive?

Dr. MERRIAM. It mainly takes place early in the season.

Mr. ELLIOTT. That is right.

Dr. MERRIAM. But is not entirely finished before the females arrive.

Mr. ELLIOTT. But you never saw the finish, did you?

Mr. McGUIRE. You are not prepared to testify as to the relative destructiveness of these three agents?

Dr. MERRIAM. No; I do not know; it would be only a guess.

Mr. McGUIRE. What would be your guess, if you have any guess.

Dr. MERRIAM. My guess would be that the number killed by killer whales and by trampling on the rookeries, assuming the rookeries are pretty full—I do not mean at the present time, when the rookeries are so empty—would be about even.

Mr. McGUIRE. I see.

Dr. MERRIAM. The killing by trampling and the killing by the killer whales would be about even, and the deaths produced by internal parasites would be very much fewer than half of those from either of the other causes.

Mr. McGUIRE. Well, what steps would you take to reduce the killing by trampling? Suppose you were right in charge of that herd, what would you do?

Dr. MERRIAM. The only recommendation that has occurred to me is to lessen the number of superfluous males; in other words, to decrease the fighting.

Mr. McGUIRE. You would do that by diminishing—

Dr. MERRIAM. By thinning out the superfluous males by killing many of them before they are old enough to go on the rookeries, so that the fighting would not be so severe, thus lessening the number of young killed by trampling. The battles are very fierce, as everyone knows who witnesses them.

Mr. McGUIRE. In proportion, then down to a certain number of males, as the number of males are diminished, the losses from trampling are less?

Dr. MERRIAM. That seems rational.

Mr. McGUIRE. Yes; that seems rational. What number of females would you leave for each male? What do you think would be a fair estimate? (Hearing No. 11, pp. 694, 696; May 4, 1912.)

Merriam tells the committee how he would manage so as to kill 75 per cent of the seals only.

Mr. ELLIOTT. I do not wish to have you do it, either, Doctor. Doctor, you said you could "kill down to 75 per cent." How do you know when you are "killing down to 75 per cent"—will you tell the committee how you arrive at that conclusion?

Dr. MERRIAM. I suppose if there are a hundred nonbreeding male seals on the hauling grounds, and 75 per cent of those are driven off, leaving 25, and the 75 are killed, we would have reason to suspect that we had killed 75 per cent of the non-

Dr. MERRIAM. I am not clear enough about that to be willing to make a positive statement.

Mr. ELLIOTT. Did you see any "trampling of pups?"

Dr. MERRIAM. I saw trampling of pups, and I saw a male seal on a belated harem seize a female seal from another harem, and the bull of the harem to whom the female belonged attacked the first one very savagely; that I saw, but it was like the case of the young seal, it was a belated case. Those incidents were mostly over before the time of my visit.

Mr. ELLIOTT. That is exactly as I understand it. You got there too late to see the breeding. Dr. Merriam, did you see any "cows killed and torn to pieces" by these bulls?

Dr. MERRIAM. I saw a cow torn, as I have just stated, but not killed. Whether she died afterwards or not I do not know.

Mr. ELLIOTT. I published that in full detail in 1874. Did I not publish the fact at the same time that all this "fighting" takes place from six to two weeks before the general, full arrival of the cows, except in sporadic cases? (See p. 42, Spl. Bulletin 176, U. S. Com. Fish and Fisheries, 1882.)

The CHAIRMAN. The witness may not know what you wrote.

Mr. ELLIOTT. He is a student of natural history and a specialist on seals, and he certainly read that monograph of mine over and over again. You will admit that, will you not, Doctor?

Dr. MERRIAM. I certainly have not read it for more than 20 years.

Mr. ELLIOTT. You read it when you went up there, all right.

Dr. MERRIAM. I probably read it immediately on my return.

Mr. ELLIOTT. Now, Dr. Lucas, did you see up there a pup trampled to death by a bull?

Dr. LUCAS. No.

Elliott tells the committee that no man can kill down to 75 per cent or 95 per cent, and know when he has done so.

The CHAIRMAN. You make your statement to the committee, and we can get along better in that way.

Mr. ELLIOTT. They can not and do not know how to save that "5 per cent"; I will show you exactly how they do not save that "5 per cent" and can not possibly save it; no living man can.

The CHAIRMAN. You give us your statement.

Mr. ELLIOTT. I will. When they go out to drive up seals they drive up what they find on a given hauling ground. Say

breeding seals present on that hauling ground at that time.

Mr. ELLIOTT. Yes. Then, the next day—right there, that is all right to begin with; that is the first day of the driving. The next day you go out and you find another hundred.

Dr. MERRIAM. Yes; we might find twice as many as on the first day, or only half as many, as these nonbreeding seals go back and forth in the ocean, which the old male seals do not.

Mr. ELLIOTT. You count your second drive of 100 seals, Doctor, and you take another "75 per cent"; how near are you to the fact that you have not killed the seals that you saved the first day? How do you know that you have spared that "25 per cent" when you killed them again the next day you drove and then again took "75 per cent" of them?

Dr. MERRIAM. I would not do all the driving from one rookery. There are a large number of rookeries on the island, which could be driven in succession.

Mr. ELLIOTT. Of course, you can not do it from one "rookery." I did not say you did, but you drive from each and every hauling ground over and over again during the season—from six to ten or more times. (Hearing No. 11, p. 697, May 4, 1912.)

there are 100 on that given hauling ground they kill 95 of them and allow 5 to go, and that is 5 per cent saved. That point is clear, is it not? Then the 5 that are saved go back to the sea, and they go back to the hauling grounds, perhaps, the same day, or even within a half hour they may return to the hauling grounds from whence they were driven. Then in two or three days the native "drivers" go out there again and these men drive up another 100, and they kill them right down to 5 again, without knowing how many of that 5 were driven over the second time; so they have counted up as saving "10" when they have not saved "5." They go back again to that hauling ground six or seven times before the killing season is over and drive up 100 each time in the same way, and before they get through they do not faintly know how many of that original "5" have been saved. While they theoretically have saved "30," yet they may not have even saved "5" and no living man knows.

Dr. EVERMANN. The only answer to that is that it is not true.

Mr. ELLIOTT. Why is it not true?

Dr. EVERMANN. They have never killed up to 95 per cent.

Mr. ELLIOTT. How do you know?

Dr. EVERMANN. I do not know it, but I simply have the information from the agents' reports.

Mr. ELLIOTT. The agents' reports show it is pretty close killing, and that they, too, do not know. I have followed and studied hundreds of seal drives, and I do know what a man can do in fact and what he can not do in the premises. (Hearing No. 14, p. 934, July 25, 1912.)

II.

The sworn statements of Dr. Leonhard Stejneger, who is one of the experts cited to the United States Senate Committee on Conservation of National Resources, January 14, 1911, and House Committee on Expenditures in Department of Commerce and Labor, June 9, 1911, by Secretary Charles Nagel, as his authority for killing seals in violation of the laws and regulations, to wit:

Mr. BOWERS. * * * The advisory board, fur-seal service, consists of the following: * * * Dr. Leonhard Stejneger, head curator of biology, United States National Museum, for two years resident on the Russian seal islands, member of the Fur Seal Commissions of 1896 and 1897, as a member of which he visited and studied all the fur-seal rookeries of Alaska, Russia, and Japan. His report on the Russian seal islands is the most critical and thoughtful that has been written. * * * (Hearing No. 2, p. 109, June 9, 1911.)

THE DEADLY PARALLEL.

Stejneger swears that pups are trampled to death (1912):

INVESTIGATION OF FUR-SEAL INDUSTRY OF ALASKA.

COMMITTEE ON EXPENDITURES IN THE DEPARTMENT OF COMMERCE AND LABOR, HOUSE OF REPRESENTATIVES,

Saturday, May 4, 1912.

The committee met at 10 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

Present: Messrs. Young, McGillicuddy, and McGuire.

STATEMENT OF LEONHARD STEJNEGER.

LEONHARD STEJNEGER, having been duly sworn, was examined, and testified as follows:

Dr. STEJNEGER. In that case, I should say I first came to the Commander Islands in 1882 and stayed until the fall of 1883, remaining the winter.

Mr. MCGUIRE. Continuously?

Dr. STEJNEGER. Yes. I saw the whole business from beginning to end during two seasons. I mapped the rookeries, and I have made a very elaborate report on that. This [handing book to the chairman] gives all the data.

In 1896 I was appointed a member of the Fur Seal Investigation Commission, of which Dr. Jordan was the chairman. We went up early in the season and I stayed on the Pribilof Islands for 10 days with the other members of the commission and went all over the rookeries at that time, and did part of the counting of the rookeries on the American islands, and then went over to the Commander Islands again and inspected the rookeries there, mapped the distribution of the seals on the rookeries then as compared to what they were in 1882, 1883, and 1895.

Mr. MCGUIRE. Now, your testimony with respect to the killing of the pups by the fighting of battles by the males is based upon not only your general information, that you have been able to obtain in general way, but as well upon two years' actual stay upon seal islands?

Dr. STEJNEGER. Yes, sir.

Mr. MCGUIRE. And upon your actual observation?

Dr. STEJNEGER. Surveys of the rookeries.

Mr. MCGUIRE. You have personally observed those conditions, have you?

Dr. STEJNEGER. Yes, sir.

Stejneger denies that pups are trampled to death (1898):

It is certainly very significant that on Bering Island over a thousand pups are yearly driven to the killing ground, there to be released without any visible harm coming to them worth mentioning. If these newly-born seals can stand to be driven three-fourths of a mile from Kishotchnoye and to be repeatedly trampled upon by the larger ones piling up four high, or more, on top of them, it stands to reason that the vigorous holustioki, or even the females, as a whole can suffer but little injury from the same cause. (Fur-Seal Investigations, Part IV, 1898, p. 101, by Leonhard Stejneger.¹)

¹ NOTE.

Dr. STEJNEGER. I should think that if they were left and had been left for some time by themselves it would be the fighting of the males.

Mr. MCGUIRE. The fighting of the males and trampling of the pups?

Dr. STEJNEGER. Fighting of the males and trampling of the pups. (Hearing No. 11, p. 702, May 4, 1912, H. Com: Exp. Dept. C. and L.)

Stejneger denies the quotation: But Stejneger is correctly quoted.

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LEONHARD STEJNEGER, having been
duly sworn, was examined, and testified
as follows:

Mr. ELLIOTT. Drive all classes—bulls,
cows, and pups up together?

Dr. STEJNEGER. Gathering in every
seal that they could lay their hands on in
the Russian Islands, so as not to let pelagic
sealers get hold of them.

Mr. ELLIOTT. Since you have suggested
that remarkable order of work on the Rus-
sian Islands, you are quoted by one of
your associates recently, before another
committee, as saying that one bull seal
was sufficient to serve 250 or 500 females.
Are you really properly quoted there?

Dr. STEJNEGER. I am certainly mis-
quoted.

Dr. EVERMANN. There is no such quo-
tation.

Mr. ELLIOTT. I have it here published.

Dr. EVERMANN. I ask Mr. Elliott to
produce it. Now is the time to pro-
duce it.

The CHAIRMAN. Do you have it with
you?

Mr. ELLIOTT. Yes; it is here, and I will
put the whole thing in right now. I have
got it right here. I will put it right in,
and have it printed.

Dr. EVERMANN. I insist it be put in
now. We want it now.

Mr. ELLIOTT. It will go right in. Now,
I have got it right here.

The CHAIRMAN. Take your time and do
it. Dr. Evermann wants it produced,
and I think it ought to be placed in the
record if it can be found.

Dr. EVERMANN. If he has it, the thing
to do is to show it.

Mr. ELLIOTT. Here it is. [Exhibiting
paper to the committee.] Now, right
here, in the Seattle Sunday Times, issue
of October 11, 1908, I state to Mr. Frank
H. Hitchcock, who has quoted from Dr.
Jordan's letter to him, dated January 12,
1904 (Swarthmore College, Pennsylvania),
[reading]:

"Now, most all of these men know bet-
ter, but are silent in the shadow of Jordan.
Even Stejneger, with his fairy tale of two

astounding as it appears, there can be
but little doubt that the single old bull
had served the 526 females on this rookery
(Poludinnoye) and was, moreover, in fit
condition to keep the younger bull at a
respectful distance as late in the season as
July 30. (Fur Seal Investigations, Pt.
IV, 1898, p. 168, by Leonhard Stejneger.)

bulls being enough to serve 500 cows (which Jordan so gravely quotes here to you with all of the pompous gravity and true coarseness of ignorance)—even he can not find a trace to-day of either those 'two bulls' or '500 cows' which he so specifically describes on Copper Island in 1896—good reason—they are extinct. That ghost dance has ended forever over there. But Jordan does not even know it at this late hour.'

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THE DEADLY PARALLEL ON STEJNEGER AND EVERMANN.

Mr. ELLIOTT. Drive all classes—bulls, cows, and pups up together?

Dr. STEJNEGER. Gathering in every seal that they could lay their hands on in the Russian Islands, so as not to let pelagic sealers get hold of them.

Mr. ELLIOTT. Since you have suggested that remarkable order of work on the Russian Islands, you are quoted by one of your associates recently, before another committee, as saying that one bull seal was sufficient to serve 250 or 500 females. Are you really properly quoted there?

Dr. STEJNEGER. I am certainly misquoted.

Dr. EVERMANN. There is no such quotation.

Mr. ELLIOTT. I have it here published.

Dr. EVERMANN. I ask Mr. Elliott to produce it. Now is the time to produce it.

The CHAIRMAN. Do you have it with you?

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Mr. ELLIOTT. Here it is. [Exhibiting paper to the committee.] Now, right here, in the Seattle Sunday Times, issue

Astounding as it appears, there can be but little doubt that the single old bull had served the 526 females on this rookery (Poludinnoye), and moreover, was in fit condition to keep the younger bull at a respectful distance as late in the season as July 30. (Fur Seal Investigations, Pt. IV, 1898, p. 168, Leonhard Stejneger.)

Dr. EVERMANN. But permit me to quote the words of several distinguished zoologists who have studied the fur seal on the land and in the sea. * * *

First. I want to quote from Dr. David Starr Jordan, president of Stanford University. * * * Therefore only 1 bull in 30 is absolutely necessary under present conditions. That this limit could be materially lowered without positive danger to the herd is conclusively shown by the * * * observations of the past three years, as detailed by Dr. Stejneger, show that a male fur seal is capable of attending to the wants of between 100 and 200 cows. * * * (Hearings on H. R. 16571, Jan. 4, 1912, pp. 129, 130, H. Com. Foreign Affairs.)

of October 11, 1908, I state to Mr. Frank H. Hitchcock, who has quoted from Dr. Jordan's letter to him, dated January 12, 1904 (Swarthmore College, Pennsylvania), [reading]:

"Now, most all of these men know better, but are silent in the shadow of Jordan. Even Stejneger, with his fairy tale of 2 bulls being enough to serve 500 cows (which Jordan so gravely quotes here to you with all of the pompous gravity and true coarseness of ignorance)—even he can not find a trace to-day of either those 'two bulls' or '500 cows' which he so specifically describes on Copper Island in 1896—good reason—they are extinct. That ghost dance has ended forever over there. But Jordan does not even know it at this late hour."

Stejneger swears he did not recommend renewal of the lease:

The CHAIRMAN. Are you a member of the advisory board on fur seals?

Dr. STEJNEGER. Yes, sir.

The CHAIRMAN. You say you have been together once or twice. When was that?

Dr. STEJNEGER. The first time, I think, was just before the expiration of the old lease, and when the board recommended that the Government take over the sealing business and not let the islands to any company to exploit.

The CHAIRMAN. You say that was done for the purpose of discussing whether there should be another lease or not?

Dr. STEJNEGER. Yes. We were asked our opinion whether that would be the better procedure for the Government, to undertake the sealing itself or to lease it to a company. That is my recollection. I want you to understand that so far as my understanding goes, these were the meetings in which I have taken part. There may have been others, for all I know.

The CHAIRMAN. At this meeting, when it was discussed as to whether there should be a re-leasing of the islands, what was your decision in the matter?

Dr. STEJNEGER. Our recommendation was that the Government take over the whole business.

The CHAIRMAN. And not lease the islands any longer?

Dr. STEJNEGER. And not lease the islands any longer to any company.

The CHAIRMAN. And you say that you met at the suggestion of the Secretary of Commerce and Labor?

Dr. STEJNEGER. That is my recollection. We were appointed or we got a letter from the Secretary of Commerce and Labor asking us to serve in an advisory capacity to him. We determined

Sworn proof submitted that he did recommend renewal of lease:

Exhibit No. 3, being a "draft of new lease for seal islands" handed to George M. Bowers, December 15, 1909, by Barton W. Evermann and said draft "is prepared by the Bureau of Fisheries" and "by its advisory board on fur-seal service, in compliance with your request" (i. e., George M. Bowers), as follows:

EXHIBIT No. 3.

DEPARTMENT OF
COMMERCE AND LABOR,
BUREAU OF FISHERIES,
Washington, December 15, 1909.

Mr. COMMISSIONER: There is handed you herewith for your consideration a draft of lease of the seal islands. This has been prepared by Mr. Lembkey and myself in compliance with your request. We have endeavored to make the form of the lease agree with the recommendations recently made by the advisory board, fur-seal service, in conference with the fur-seal board. For your convenience a number of references and citations have been indicated. It is believed that an examination of this tentative draft will enable the Secretary to arrive at the exact form desired.

Respectfully,

BARTON W. EVERMANN,
Assistant in charge Scientific Inquiry.

The lease should be renewed. It is foolish to abolish killing on land while seals are being killed in the water. Cessation of killing on land means encouragement to pelagic sealing. Should pelagic or sea killing be abolished, it might be well to have a closed season on land as well, to allow the herd to recuperate.

nothing; we just recommended. We gave our opinion on certain points and recommended it; that is all.

The CHAIRMAN. Did you put that in writing and send it to the Secretary?

Dr. STEJNEGER. I think there was undoubtedly a letter at that time.

The CHAIRMAN. Was it your opinion that the further leasing of the islands would not be for the best interests of the Government?

Dr. STEJNEGER. Most decidedly. (Hearing No. 11. pp. 675, 676, May 4, 1912.)

DEPARTMENT OF
COMMERCE AND LABOR,
BUREAU OF FISHERIES,
Washington, December 16, 1909.

The COMMISSIONER:

The Washington Star of December 10 last announced that the Campfire Club, of New York, had inaugurated a campaign to save the fur-seal herd through legislation designed to prevent the releasing of the sealing right, the cessation of all killing on the islands for 10 years except for natives' food, and to secure the opening of negotiations with Great Britain to revise the regulations of the Paris tribunal. As the result of this movement, on December 7 three resolutions were introduced by Senator Dixon, of Montana, one of which embodies the provisions before mentioned, the other two calling for the publication of fur-seal correspondence and reports since 1904.

As the object of this movement is at variance with the program of this bureau and of the recommendations of the advisory fur-seal board, notably in the plan to prevent killing and the renewal of the seal island lease, the advisability is suggested of having Messrs. Townsend, Lucas, and Stanley-Brown use their influence with such members of the Campfire Club as they may be acquainted with with the object of correctly informing the club as to the exact present status of the seal question and of securing its cooperation to effect the adoption of the measures advocated by this bureau.

The attached letter is prepared, having in view the object stated.

BARTON W. EVERMANN.

Exhibit No. 7, being the official letter of "George M. Bowers, commissioner," to Secretary Commerce and Labor, dated February 8, 1910, inclosing copies of three letters, all urging renewal of the seal lease and giving the reasons of the writers for such renewal, to wit. H. H. Taylor, president N. A. C. Co. (lessees), dated January 27, 1910; C. H. Townsend, for "fur-seal advisory board," dated January 31, 1910; Alfred Fraser, London agent for the N. A. C. Co. (lessees), January 28, 1910, as follows. (Hearing No. 3, pp. 152-157, July 6, 1911.)

Stejneger says Hitchcock agreed with him in opposition to the "Hitchcock rules" issue:

Mr. ELLIOTT. One more question: When Chief Clerk Hitchcock, of the Department of Commerce and Labor, was preparing the "Hitchcock rules," putting a check on this killing of all those seals which you

Sworn proof submitted that Hitchcock issued the rules in opposition to Stejneger's wish:

Mr. ELLIOTT. He did? Right there I want to ask you about this: On page 53 of "Hearing on Fur Seals," March 10, 1904, Ways and Means Committee, House of Representatives, Mr. Hitchcock, under

recommended the slaughter of just now [to Mr. BOWERS], did he consult with you about this matter?

Dr. STEJNEGER. He did.

Mr. ELLIOTT. And you advised him to do just what you said now?

Dr. STEJNEGER. I did.

Mr. ELLIOTT. What did he say to you? Do you remember?

Dr. STEJNEGER. He said that that was not in his hands. He said it was up to Congress. He said he consulted me, not as to what he should do, but as to what he should answer to the committee that was then handling the question in Congress.

Mr. ELLIOTT. Did he agree with you?

Dr. STEJNEGER. He did. (Hearing No. 11, p. 682, May 4, 1912.)

the caption of an additional statement, says:

"I want to say to the committee that the restrictions I proposed this morning would be considered extreme by these gentlemen. There is not one of these scientists who has suggested measures that are nearly as radical as those I have proposed. I have purposely made the regulations somewhat extreme, in the view of these gentlemen, with the idea of being on the safe side, particularly during the first year of the department's administration of the seal service."

And he is alluding to yourself and your associates?

Dr. STEJNEGER. Where is that allusion?

Mr. ELLIOTT. Preceding here. You will find it on this page.

* * * * *

Mr. ELLIOTT. Therefore, Mr. Hitchcock did not agree with you, did he?

Dr. STEJNEGER. I did not say he did not agree with me.

Mr. ELLIOTT. I thought you said he agreed with you?

Dr. STEJNEGER. That he could do it. That does not mean necessarily that the rules should be framed accordingly. That is altogether different.

Mr. ELLIOTT. In other words, Mr. Hitchcock did not take your advice when he proposed those rules?

Dr. STEJNEGER. He certainly did not.

Mr. ELLIOTT. That is what I want; that is it, Doctor. (Hearing No. 11, pp. 682-684, May 4, 1912.)

All killing of fur seals on Pribilof Islands is ordered under "recommendation of advisory board," of which Stejneger is a member:

Mr. BOWERS. I have referred, in my report of June 30, 1909, to the Alaskan fur-seal service as follows:

"On the establishment of the Department of Commerce and Labor, in 1903, the Alaskan fur-seal service was transferred thereto from the Department of the Treasury, to which it had been attached for many years. In the Department of Commerce and Labor this service formed a distinct branch and was administered through the Secretary's office until December 28, 1908, when it was transferred to the Bureau of Fisheries. The Commissioner of Fisheries has appointed a special board, composed of five members of the bureau's staff who have personal knowledge of the Alaskan fur seals, and to this board will be assigned for consideration and recommendation all matters pertaining to the seal life on the Pribilof

Stejneger swears that he does not know whether the killing has been in violation of law or not:

The CHAIRMAN. Do you know whether, of your own personal knowledge, seals have been killed that were too small or too young, under the act of Congress?

Dr. STEJNEGER. I do not know, because I have not been on the island since 1897—since 1896.

* * * * *

The CHAIRMAN. Mr. Elliott, do you want to ask him any questions?

Mr. ELLIOTT. I have only a few questions to ask him. Dr. Stejneger, what is the length of a yearling fur seal of the Alaskan herd?

Dr. STEJNEGER. I could not tell you.

Mr. ELLIOTT. Have you ever measured one of the Alaskan herd?

Dr. STEJNEGER. No.

Mr. ELLIOTT. You do not know anything about the length of a skin of a yearling seal as taken from the body?

Islands, the blue foxes, and other animal resources on the islands, and the Government's relations to the natives and the lessees. On January 13, 1909, the Secretary, on the recommendation of the commissioner, appointed an advisory board for the fur-seal service, consisting of Dr. David Starr Jordan, Dr. Leonard Stejneger, Dr. C. Hart Merriam, Mr. Frederic A. Lucas, Hon. Edwin W. Sims, Hon. Frank H. Hitchcock, and Mr. Charles H. Townsend. The Government is thus enabled to avail itself of the expert knowledge possessed by these naturalists and officials, who, through visits to the seal islands and through previous duty on fur-seal commissions or in the administration of the fur-seal service, are familiar with the problems involved in the management of the seal herd and the seal islands. (Hearing No. 2, p. 78, June 9, 1911.)

Stejneger swears that pups are naturally trampled to death by the bulls, but—

Mr. McGUIRE. According to your observation, now, Doctor, if those herds were left alone untouched by man, what would you regard as the principal agencies of destruction of that animal life?

Dr. STEJNEGER. The principal destruction would probably be the killing or the death of the old by natural causes.

Mr. McGUIRE. Would you regard that as about the second most destructive agency?

Dr. STEJNEGER. I should think that if they were left and had been left for some time by themselves it would be the fighting of the males.

Mr. McGUIRE. The fighting of the males and trampling of the pups?

Dr. STEJNEGER. Fighting of the males and trampling of the pups.

Mr. McGUIRE. Then, where they were left untouched until they had accumulated large numbers of males, would there have been trampling under those conditions?

Dr. STEJNEGER. That is the greatest danger to the herd.

Mr. McGUIRE. Now, your testimony with respect to the killing of the pups by the fighting of battles by the males is based upon not only your general information, that you have been able to obtain in general way, but as well upon two years' actual stay upon seal islands?

Dr. STEJNEGER. Yes, sir.

Dr. STEJNEGER. Of a yearling seal? I do not know; I have never seen a yearling seal killed on the American islands.

Mr. ELLIOTT. Were you in consultation with Mr. Bowers when he ordered the killing of 12,920 seals on the seal islands in 1910?

Dr. STEJNEGER. Do you mean in personal special consultation with Mr. Bowers?

Mr. ELLIOTT. Did Mr. Bowers—

Dr. STEJNEGER. Not outside of what I have said in the board.

Mr. ELLIOTT. No, no. I asked you, did Mr. Bowers advise with you?

Dr. STEJNEGER. Personally?

Mr. ELLIOTT. Not when he issued his order to kill 12,920 seals in 1910?

Dr. STEJNEGER. I do not quite understand whether it was with me personally or as a member of the board.

Mr. ELLIOTT. Well, as a member of the board, do you remember any consultation with him about issuing those orders?

Dr. STEJNEGER. No; I do not remember. (Hearing No. 11, pp. 679, 681, May 4, 1911.)

Lucas swears that pups are not trampled to death by the bulls:

Mr. ELLIOTT. How many days were you on the islands in 1896? I want that answered.

Dr. LUCAS. On the islands and at sea on the *Rush*, going to and from St. Paul and St. George—

Mr. ELLIOTT. That is not my question, sir.

Dr. LUCAS. I will have to figure it up if you want the exact number of days.

Mr. ELLIOTT. Then you don't know?

Dr. LUCAS. I can find that out. I have it on record here.

The CHAIRMAN. About how many days?

Dr. LUCAS. About 50 days in 1896, allowing about 9 days' time spent at sea going to and from one island to another.

Mr. ELLIOTT. In 1897 how many days were you on the islands?

Dr. LUCAS. About 42 days.

Mr. ELLIOTT. On the islands?

Dr. LUCAS. That is about the number. I have the exact data right here.

Mr. ELLIOTT. Now, Dr. Lucas, did you see up there a pup trampled to death by a bull?

Dr. LUCAS. No. (Hearing No. 12, p. 719, May 16, 1912.)

Mr. McGUIRE. And upon your actual observation?

Dr. STEJNEGER. Surveys of the rookeries.

Mr. McGUIRE. You have personally observed those conditions, have you?

Dr. STEJNEGER. Yes, sir. (Hearing No. 11, pp. 701, 702, 703, May 11, 1912.)

Stejneger would kill yearlings if the law did not prevent, but—

The CHAIRMAN. Do you know whether of your own personal knowledge seals have been killed that were too small or too young, under the act of Congress?

Dr. STEJNEGER. I do not know, because I have not been on the island since 1897—since 1896.

If I may be allowed to make a statement, since you ask whether I had any statement to make, the law is the law, and has to be lived up to; but whether seal is killed as 1-year-old or when older could not affect the seal herd to any extent and could not hurt it at all; you might just as well kill 1-year-olds or 2-year-olds or 3-year-olds. As a matter of fact, you could not kill as large a percentage of 1-year-olds as of 2 or 3 year olds. The 1-year-olds would be 2-year-olds the next year, and then you would kill them anyhow. The Government would realize a little less money for the smaller skins. That would be the whole result. (Hearing No. 11, p. 679, May 4, 1912.)

Merriam would not kill yearlings "under any circumstances."

Mr. McGUIRE. Then, in case anyone in the House of Representatives has used your name as a person who would be opposed to the killing on the islands they were wrong about your position?

Dr. MERRIAM. They were wrong. I have never taken any such position. I have always held the contrary. I have always stated, since the first time I went there, that conservative killing on the islands was a benefit to the herd and not an injury, but I should not allow the killing of yearlings under any circumstances, and I should not kill more than 75 per cent of the young on land at any one time. I would be sure to leave more than enough for possible contingencies.

Mr. McGUIRE. Have you made any personal investigation as to whether the Government has killed excessively?

Dr. MERRIAM. I know nothing about that from personal knowledge. (Hearing No. 11, pp. 694, 695, May 4, 1912.)

III.

The sworn statements of Dr. Barton W. Evermann, who is one of the experts cited to the United States Senate Committee on Conservation of National Resources, January 14, 1911, and to the House Committee on Expenditures in Department of Commerce and Labor, June 9, 1911, by Secretary Charles Nagel as his authority for killing seals in violation of the law and regulations, to wit:

Mr. BOWERS. Yes, sir. I ought to have another statement here that I would like to have offered, but I am not able to find it at present. If the gentlemen will permit, I wish to say that these regulations are in conformity to recommendations made by this advisory board.

Mr. CABLE. Give the names of the members of the advisory board.

Mr. BOWERS. The members of the fur-seal board and of the advisory board, fur-seal service, are as follows:

Dr. Barton Warren Evermann (chairman), who is chief of the Alaska fisheries service and who has been in Alaska a number of times. He was a member of the fur-seal commission of 1892, when he spent six months in the North Pacific and Bering Sea and on the seal islands studying the fur seal. (Hearing No. 2, p. 109, June 9, 1911.)

THE DEADLY PARALLEL.

He stretches; before his cross-examination he spent "six months on our seal islands studying," etc.

COMMITTEE ON EXPENDITURES
IN THE DEPARTMENT OF COM-
MERCE AND LABOR, HOUSE
OF REPRESENTATIVES.

Washington, Saturday, April 20, 1912.

Hon. John H. Rothermel (chairman).
presiding.

Present: Hon. James Young, Daniel J.
McGillicuddy, Bird S. McGuire, and
Charles E. Patton.

TESTIMONY OF BARTON W. EVERMANN.

The witness was sworn by the chairman.

Dr. EVERMANN. Within the last 25 years nearly a score of the most distinguished naturalists not only of this country, but of Great Britain, Canada, and Japan have visited our seal islands for the specific purpose of studying the habits of the fur seals and the problems connected with the proper management of the herd. Among these gentlemen I may mention the following. (Reading:)

"Dr. Barton Warren Evermann, in charge of the Alaska fisheries service, who, as special fur-seal commissioner in 1892, spent six months on our seal islands in the North Pacific and on the Russian seal islands, studying the fur-seal rookeries, hauling grounds, and migrations."

The CHAIRMAN. You take most of this information you get from records and documents, do you not, Doctor?

Dr. EVERMANN. I have been in the islands myself.

The CHAIRMAN. Or from actual personal observations?

Dr. EVERMANN. I have been in the seal islands myself once.

The CHAIRMAN. When was that?

Dr. EVERMANN. In 1892.

Mr. ELLIOTT. How long were you there?

Dr. EVERMANN. I spent six months on a fur-seal investigation in 1892. (Hearing No. 10, p. 518.)

He shrinks; after his cross-examination he "spent only 10 days on our seal islands studying," etc.

COMMITTEE ON EXPENDITURES
IN THE DEPARTMENT OF COM-
MERCE AND LABOR, HOUSE
OF REPRESENTATIVES.

Thursday, April 25, 1912.

The committee met at 10.30 o'clock a. m., pursuant to recess taken, Hon. John H. Rothermel (chairman) presiding.

STATEMENT OF DR. BARTON W. EVERMANN,
CHIEF, ALASKA FISHERIES SERVICE.
BUREAU OF FISHERIES.

Mr. ELLIOTT. Dr. Evermann, when did you first go to the seal islands?

Dr. EVERMANN. In the spring of 1892.

Mr. ELLIOTT. When did you land there?

Dr. EVERMANN. I do not recall the exact date when I landed on either of the islands.

Mr. ELLIOTT. Do you know the month?

Dr. EVERMANN. It was either July or August.

Mr. ELLIOTT. Was that your first landing?

Dr. EVERMANN. Yes.

Mr. ELLIOTT. Which island did you land on?

Dr. EVERMANN. I first landed on St. Paul and later I went to St. George.

Mr. ELLIOTT. About what time did you land on St. Paul?

Dr. EVERMANN. Some time in July or August.

Mr. ELLIOTT. How long did you stay there?

Dr. EVERMANN. Only a few days.

Mr. ELLIOTT. What do you mean by a "few days"?

Dr. EVERMANN. The exact number of days I can not recall.

Mr. ELLIOTT. Was it two days?

Dr. EVERMANN. It was about a week or 10 days. (I have since consulted the record; I find I was on the Pribilof Islands continuously from July 19 to July 31.)

Mr. ELLIOTT. You stayed on St. Paul Island all that time?

Dr. EVERMANN. I was on both islands.

Mr. ELLIOTT. You went over to St. George?

Dr. EVERMANN. Yes.

Mr. ELLIOTT. How long were you on the islands?

Dr. EVERMANN. Only a very few days.

Mr. ELLIOTT. That is what I thought. (Hearing No. 10, p. 621.)

Evermann compelled to admit that he has had only a few days' experience on the seal islands.

Mr. ELLIOTT. Dr. Evermann, when did you first go to the seal islands?

Dr. EVERMANN. In the spring of 1892.

Mr. ELLIOTT. When did you land there?

Dr. EVERMANN. I do not recall the exact date when I landed on either of the islands.

Mr. ELLIOTT. Do you know the month?

Dr. EVERMANN. It was either July or August.

Mr. ELLIOTT. Was that your first landing?

Dr. EVERMANN. Yes.

Mr. ELLIOTT. Which island did you land on?

Dr. EVERMANN. I first landed on St. Paul and later I went to St. George.

Mr. ELLIOTT. About what time did you land on St. Paul?

Dr. EVERMANN. Some time in July or August.

Mr. ELLIOTT. How long did you stay there?

Dr. EVERMANN. Only a few days.

Mr. ELLIOTT. What do you mean by a "few days"?

Dr. EVERMANN. The exact number of days I can not recall.

Mr. ELLIOTT. Was it two days?

Dr. EVERMANN. It was about a week or 10 days. (I have since consulted the record; I find I was on the Pribilof Islands continuously from July 19 to July 31.) (Hearing No. 10, p. 621, Apr. 24, 1912.)

The "Carlisle rules," of May 14, 1896, which prohibit the killing of yearling male seals, and which have never been amended or revised until 1904, when a 5½-pound limit was made in lieu of the 6-pound limit.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 14, 1896.

MR. J. B. CROWLEY,
Special Agent in Charge of the Seal Islands, care North American Commercial Co., San Francisco, Cal.

SIR: I inclose herewith for your information copy of a letter dated 13th instant, addressed to me by the Secretary of the Treasury and approved by him, in relation to the taking of fur seals on the Pribilof Islands and determining the quota of such seals to be allowed the North American Commercial Co. during the season of 1896. You are instructed to permit said company to take on the islands during the season of 1896 all kill-

And while there learned nothing about the size and weight of sealskins—he knows nothing.

Mr. ELLIOTT. Did you make any records of lengths and measurements, weights and growth of seals while you were there?

Dr. EVERMANN. I did of some seals which I assisted in taking on the Commander Islands.

Mr. ELLIOTT. No, no; I mean these islands.

Dr. EVERMANN. I made notes of weights and measurements so far as I recall at this time. I did not weigh or measure any seals on St. Paul or St. George.

Mr. ELLIOTT. You say your observation on the islands does not cover that point at all?

Dr. EVERMANN. My statement regarding the measurements and weights of fur seals is the one to which I called attention yesterday.

Mr. ELLIOTT. I know; I have not disputed that, but I want to find what you did on the island. You didn't do anything, you say.

Dr. EVERMANN. I didn't say that.

Mr. ELLIOTT. You didn't weigh or measure a seal on the islands, did you?

Dr. EVERMANN. My recollection is that I did not.

Mr. ELLIOTT. If you had, you would have made notes of it, wouldn't you?

Dr. EVERMANN. I presume I would. (Hearing No. 10, pp. 621-622, Apr. 24, 1912.)

Dr. Evermann, under oath, swears that no regulations were ever issued by the Government forbidding the killing of yearling seals, except in 1904 and 1905. A falsehood, and studied to deceive the committee.

Dr. EVERMANN.

2. The second charge is that at least 128,478 yearling male seals were killed by the lessee from 1890 to 1909, both inclusive, contrary to law and the regulations.

In answer to this charge it should be sufficient to say that the law has never made it illegal to kill yearling male seals: nor has it ever been contrary to the regulations to kill yearling male seals, except in the seasons of 1904 and 1905, as is shown by the regulations for the various years to which I have called your attention. Therefore, even if 128,478 yearling male seals have been killed since 1890 (which is not admitted), they could not have been killed illegally, because there was no law against killing yearling male seals, and there has been no regulation against

able male seals over and above the number which, in your opinion, is sufficient to fertilize the female seals, the number taken not to exceed in any event 30,000 seals. The killing of yearlings and seals whose skins weigh less than 6 pounds is prohibited.

Respectfully, yours,
(Signed) C. S. HAMLIN,
Acting Secretary.

(Official entry of the above on p. 14 of the journal of the chief special agent in charge of the seal islands, St. Paul Island, under date of entry as follows: "Tuesday, June 17, 1896.")

Evermann swears that there are no regulations by Nagel which prohibit the killing of yearlings.

Dr. EVERMANN. Page 8, Mr. Elliott says:

"The law and the regulations of Mr. Nagel forbid the killing of any seal 'under two years of age.'"

The law has never forbidden the killing of male seals under two years of age; nor has any regulation issued by Secretary Nagel. (Hearing No. 10, p. 585, Apr. 24, 1912.)

killing yearling male seals, except in 1904 to 1909.

But I shall not rest with that answer. Although it has always been perfectly legal to kill 1-year-old male seals, and although the regulations, with the exception of the few years mentioned, have never said that 1-year-old male seals should not be killed, nevertheless the agents' reports state and show that it has never been the practice during these twenty-odd years to kill any seals under 2 years old. This has been explicitly stated again and again by the agents, and the department has no reason to doubt the truth of their reports. (Hearing No. 10, p. 493, Apr. 24, 1912, Ho. Com. Exp. Dept. Com. and Labor.)

But Lembkey swears. February 29, 1912, that there are such regulations, and which have the force of law.

Dr. EVERMANN. On page 8, line 8 from the bottom, you say:

"The law and regulations of Mr. Nagel forbids the killing of any seal 'under two years of age.'"

Is that true.

Mr. ELLIOTT. That is true.

Dr. EVERMANN. Does the law say so?

Mr. ELLIOTT. The "law and regulations" say so; yes.

Dr. EVERMANN. Does the law say so?

Mr. ELLIOTT. Yes; the regulations have the force of law. (Hearing No. 10, p. 613, Apr. 24, 1912.)

Mr. LEMBKEY. It may be useful to bear in mind, however, that small seals and female seals may be taken at any time for natives' food without violation of existing law.

Mr. MADDEN. It would not be allowed under the regulations?

Mr. LEMBKEY. Under the regulations it would not be, but it would not be an illegal act to kill those if the regulations would allow such practice. I am just bringing out that point.

Mr. MADDEN. You say that the regulations do not allow it?

Mr. LEMBKEY. No.

Mr. MADDEN. And the regulations have the effect of law?

Mr. MCGILICUDDY. Yes.

Mr. MADDEN. If they were killed it would be a violation of law.

Mr. LEMBKEY. It would; if the regulations permitted it, however, it would be in accordance with existing law.

It should be remembered also that the law does not prohibit the killing of any male seal over 1 year or 12 months of age, although regulations of the department do prohibit the killing of anything less

Assistant Agent Judge, in order to save the "spared" 3-year-olds from being all killed as "food seals," urges a 7-pound maximum skin limit for such seals.

Presuming that branding of bachelors is to continue, a rule fixing a maximum weight of 7 pounds for food skins taken in the fall would save the 3-year-olds, which I take to be the all-important object. (Appendix, A, p. 180: Report of Asst. Agent Jas. Judge, St. George Island, June 5, 1905, H. Com. Exp. Dept. Com. and Labor, June 24, 1911.)

than 2 years old, or those seals which have returned to the islands from their second migration.

Mr. TOWNSEND. That is a regulation of the Secretary of Commerce and Labor?

Mr. LEMBKEY. Of Commerce and Labor; yes, sir. (Hearing No. 9, p. 372, Mar. 1, 1912.)

But Lembkey, with the Bureau of Fisheries "science," orders an "8½-pound" maximum food skin limit, so as to get those "reserved" seals of June and July in October and November following.

Mr. MCGUIRE. Right there, Mr. Lembkey, did you prohibit their killing them?

Mr. LEMBKEY. I did.

Mr. MCGUIRE. Over 4 years of age?

Mr. LEMBKEY. I did.

Mr. ELLIOTT. In 1904?

Mr. LEMBKEY. Yes.

Mr. ELLIOTT. Did you do it in 1905?

Mr. LEMBKEY. Yes.

Mr. ELLIOTT. How did you do it? You had no brand on them.

Mr. LEMBKEY. By fixing a limit of 8½ pounds on the skins to be taken.

Mr. ELLIOTT. How could you preserve any skins without having them marked?

Mr. LEMBKEY. We would avoid the killing of them and thereby preserve them. If you do not kill a seal you allow it to live, do you not?

Mr. ELLIOTT. My dear sir, how do you know what you see hereafter? Every seal after it passes its third year without a mark on it, you kill it.

Mr. LEMBKEY. I beg your pardon?

Mr. ELLIOTT. Every seal that passed from its third year, that passed from 1904, became a 4-year-old in 1905, did it not?

Mr. LEMBKEY. Yes. (Hearing No. 9, p. 458, Apr. 13, 1912, H. Com. Exp. Dept. Com. and Labor.)

[Instructions issued Mar. 9, 1906.]

Dr. EVERMANN:

"SEC. 8. *Sizes of killable seals.*—No seals shall be killed having skin weighing less than 5 pounds nor more than 8½ pounds.

"SEC. 10. *Seals for food.*—The number of seals to be killed by the natives for food for the fiscal year beginning July 1, 1906, shall not exceed 1,700 on the island of St. Paul and 500 on the island of St. George, subject to the same limitations and restrictions as apply to the killing of seals by the company for the quota." (Hearing No. 10, pp. 483, 484; Apr. 20, 1912.)

Dr. Evermann says he did not wish to renew the lease—not he; nor did any of his official associates; oh, no—

Dr. EVERMANN. Now, as to re-leasing the islands; I do not understand the purpose of Mr. Elliott and certain followers of his in seeking to show that the advisory board, the Bureau of Fisheries, and their individual members favored re-leasing the islands.

Your attention is called also to the recommendations of the advisory board dated November 23, 1909. Recommendation No. 3 says:

"It is recommended that there be adopted a system of regulations similar to those in force on the Commander Islands, the Government to assume entire control in all essential matters pertaining to the fur seals, blue foxes, natives, and the islands in general, and the lessee to be restricted to the receiving, curing, and shipping of the skins taken."

This recommendation was unanimously agreed to by the advisory board, fur-seal service (Dr. David Starr Jordan, chairman; Dr. Leonard Stejneger, Dr. Fred-eric A. Lucas, Mr. Edwin W. Sims, Dr. Charles H. Townsend), the fur-seal board (Dr. Barton Warren Evermann, chairman; Mr. Walter I. Lembkey, and Mr. Millard C. Marsh), the Commissioner of Fisheries (Hon. George M. Bowers), the Deputy Commissioner of Fisheries (Dr. Hugh M. Smith), assistant fur-seal agent (H. D. Chichester), and special scientific expert (Mr. George A. Clark). (See p. 814, Appendix A.)

I desire the committee to note also that the elimination of the lessee was thus recommended long before Dr. Hornaday, representing the Camp Fire Club, appeared before the Senate Committee on Conservation and properly opposed the leasing system, which he did at the hearings of February 26 and March 22, 1910. This was more than a year after Dr. Jordan had expressed the "hope that the Government will not under any circumstances lease the products of the islands, at least in such form as has been in vogue for the past 40 years." And it was more than three months after the Commissioner of Fisheries and six other members of the Bureau of Fisheries united with the advisory board in a recommendation that the leasing system be discontinued. (Hearing No. 14, pp. 981, 982, July 29, 1912.)

But his record shows that he was hard at the very job, with those associates in full cry with him, too.

Mr. ELLIOTT. And I want Mr. Bowers to pay some attention to this because this is important, at least some good lawyers have told me that it is very important to him—

"Being an official letter covering a 'memorandum' addressed to George M. Bowers, commissioner, urging him to take steps to prevent the passage of the Dixon fur-seal resolutions introduced in the United States Senate by Senator Joseph M. Dixon. (S. Res. 90, 91, 92.)

"December 7, 1909. This letter from the 'bureau,' dated December 16, 1909, and signed by Barton W. Evermann, urges Bowers to send agents to New York, there to 'educate' the Camp Fire Club and induce them to agree to the 'bureau's' idea of renewing the lease,' as follows:

EXHIBIT No. 6.

DEPARTMENT OF COMMERCE
AND LABOR,
BUREAU OF FISHERIES,
Washington, December 16, 1909.

The COMMISSIONER:

The Washington Star of December 10 last announced that the Campfire Club, of New York, had inaugurated a campaign to save the fur-seal herd through legislation designed to prevent the re-leasing of the sealing right, the cessation of all killing on the islands for 10 years except for natives' food, and to secure the opening of negotiations with Great Britain to revise the regulations of the Paris tribunal. As the result of this movement, on December 7 three resolutions were introduced by Senator Dixon, of Montana, one of which embodies the provisions before mentioned, the other two calling for the publication of fur-seal correspondence and reports since 1904.

As the object of this movement is at variance with the program of this bureau and of the recommendations of the advisory fur-seal board, notably in the plan to prevent killing and the renewal of the seal-island lease, the advisability is suggested of having Messrs. Townsend, Lucas, and Stanley-Brown use their influence with such members of the Campfire Club as they may be acquainted with, with the object of correctly informing the club as to the exact present status of the seal question and of securing its cooperation to effect the adoption of the measures advocated by this bureau.

The attached letter is prepared, having in view the object stated.

BARTON W. EVERMANN.

"Exhibit No. 7. Being the official letter of 'George M. Bowers, commissioner,' to Secretary Commerce and Labor, dated February 8, 1910, inclosing copies of three letters, all urging renewal of the seal lease and giving the reasons of the writers for such renewal, to wit, H. H. Taylor, president N. A. C. Co. (lessees), dated January 27, 1910; C. H. Townsend, for 'fur-seal advisory board,' dated January 31, 1910, Alfred Fraser, London agent for the N. A. C. Co. (lessees), January 28, 1910, as follows." (Hearing No. 3, p. 157, June 9, 1911.)

The self-confessed sham of "accurate count," or "census," of the fur-seal herd.

Mr. ELLIOTT. I call your attention to the census tables that you have just been talking about, and on page 606 this appears:

"Official reports of Department of Commerce and Labor to Congress from 1904, annually; made to close of season of 1909, declare that in 1904, 243,103 seals of all classes alive August 1, 1904; 1905, 223,000 seals of all classes alive August 1, 1905; 1906, 185,000 seals of all classes alive August 1, 1906."

And so on. You bring this down to August 1, 1910, and in 1911 you announced to the House Committee on Foreign Affairs that there were about 133,000 seals of all classes alive. Now, in 1904, according to this statement, there were 243,103 seals of all classes alive August 1, 1904. Now, Mr. Chairman, I would like to have Dr. Evermann explain to your committee why in these long series of census tables—from 1904 to 1911—he has made no subtraction for loss by pelagic sealing, the most "terrible destruction" which he claims was at work on that herd; and why in making up these census tables and emitting these official alarm calls to Congress about this "terrible destruction" he neglects to subtract that loss from these tables.

The CHAIRMAN. What do you mean by "loss"?

Mr. ELLIOTT. The loss entailed by pelagic sealing. There is not a seal subtracted from these tables for that; not a single seal that the pelagic hunter has destroyed since 1904.

The CHAIRMAN. What is the object of your statement in this connection?

Mr. ELLIOTT. To show that these census tables are of no value; they mean nothing; they do not show the number of seals that are there. He admits it here tonight; that these seals are out at sea and wandering about in the nebulous North Pacific, and they have them all

Evermann swears that the "ghost dance" seals at sea always supply the loss on land:—Stejneger, "authority."

The CHAIRMAN. If that is the case, let Dr. Evermann explain it.

Dr. EVERMANN. The pelagic sealers do the deducting—

Mr. ELLIOTT (interposing). You do not; you keep right on.

Dr. EVERMANN (continuing). And we count only what are left.

The CHAIRMAN. It seems to me from what he read and the way Mr. Elliott puts the question to the witness, that he is under the impression that if you take the census, say, of 1909, in August, and there are found 100,000 seals, that next year when those seals return you should deduct the number that were killed by pelagic sealers in calculating the next census. Is that correct?

Mr. ELLIOTT. That is it; and they have got to do it; if not done, then the census is erroneous.

Dr. EVERMANN. Of course, that is perfectly easily understood. You will recall that in Dr. Stejneger's testimony he made the statement that his observation and study of the question lead him to believe that a relatively small percentage of the yearling seals are ever present on the islands at any one time, and that a large percentage of the 2-year-olds are not on the islands, and that even a percentage of the older seals—the 3, 4, and 5 year old seals—are not upon the islands all the time. Now, those numbers, it seems to me, that are not upon the islands at any time will enter into the catch by the pelagic sealers. But whether they do or not, that would not justify you in reporting a fewer number of seals upon the islands than is actually there. Suppose the census of 1910 showed on the islands 100,000 seals at the end of the killing season and the statistics of the pelagic catch showed a killing of exactly 100,000 seals between the time of taking that census and the time that you would take the next census in

"counted in their minds." (Hearing No. 14, pp. 935-937, July 25, 1912.)

Evermann swears that no man has ever been able to truly tell the seal's age, as a yearling, 2-year-old, etc.

Dr. EVERMANN. No one knows and no one ever has known the age of any seal on the seal islands, barring, of course, the pups of the year that have not yet left. When a pup is born on the islands, so long as it stays there you know its age, but when it leaves in the fall and comes back again the next season, you do not know absolutely whether it is the pup born in the preceding summer or one born two or three summers preceding.

(In the hearing on H. R. 16571, House Committee on Foreign Affairs, January 3, 1912, page 48.) (Hearing No. 14, p. 930, July 25, 1912.)

Evermann does not know the age of one seal on the islands, yet he is able to count them all by ages!

Mr. ELLIOTT. Again, in the hearing on H. R. 16571, House Committee on Foreign Affairs, January 3, 1912, page 48, he says:

"No one knows and no one ever has known the age of any seal on the seal islands, barring, of course, the pups of the year that have not yet left. When a pup is born on the island, so long as it stays there you know its age, but when it leaves in the fall and comes back again the next season, you do not know absolutely whether it is the pup born in the preceding summer or one born two or three summers preceding."

He tells you, and he told them, that he did not know a 3-year-old from a 1-year-old or a 1-year-old from a 2-year-old, and "that no man knows." Now, what does he do? The next day before that committee, January 4, 1912, page 129, Dr. Evermann says:

"At the end of the killing season of 1910; that is, after the 12,922 surplus male seals were killed, this was the census of

1911—then, if that were true, and if Mr. Elliott's contention were true, there should not be a single seal on the islands in 1911, should there? But we look and see, and if we find any there we count them. (Hearing No. 14, pp. 935, 936, July 25, 1912.)

But, the next day he returns, and is able to tell the ages of each and every seal in the herd!

Mr. ELLIOTT. He tells you, and he told them, that he did not know a 3-year-old from a 1-year-old or a 1-year-old from a 2-year-old, and "that no man knows." Now, what does he do? The next day before that committee, January 4, 1912, page 129, Dr. Evermann says:

"At the end of the killing season of 1910, that is, after the 12,922 surplus male seals were killed, this was the census of the herd: Bulls, active with harem, 1,381; bulls, idle and quitters, 303 (those are surplus bulls); half bulls, 2,336; 3-year-old bachelors, 1,200; 2-year-old bachelors, 4,500; yearling bachelors, 11,441."

Oh, he can count them now!

"Male pups, 21,725."

Oh, he counts them down to 5!

"Yearling bachelors, 11,441; male pups, 21,725; breeding cows, 43,450; 2-year-old cows, 12,124; yearling females, 11,441; female pups, 21,725, making a total of 131,626." (Hearing No. 14, p. 930, July 25, 1912.)

He classifies them as "green forms," "red forms," etc., and then counts these "forms" of various color!

Dr. EVERMANN. May I say just a word?

The CHAIRMAN. Yes.

Dr. EVERMANN. My statement on page 48 is absolutely correct, and anyone can see that it is correct when you consider it for a moment. We know the ages of the pups that are born, say, this year on the island; we know their ages as long as they stay under observation, but when they leave in the fall and we see nothing more of them until the next spring it is perfectly evident that it is impossible for anybody to pick out any seal next spring and identify it with any particular seal which was on the island the year before unless it has a distinguishing mark upon it, and these pups have no distinguishing mark, of course. You could say that all of the books in this room of that color [indicating] were black and that all of some other color were red, and so on. That would answer our purposes for classification; yet in this case we know it is not true, because this book is not black. And in the

the herd: Bulls, active with harem, 1,381; bulls, idle and quitters, 303 (those are surplus bulls); half bulls, 2,336; 3-year-old bachelors, 1,200; 2-year-old bachelors, 4,500; yearling bachelors, 11,441."

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"Yearling bachelors, 11,441; male pups, 21,725; breeding cows, 43,450; 2-year-old cows, 12,124; yearling females, 11,441; female pups, 21,725, making a total of 131,626." (Hearing No. 14, pp. 930, 931, July 25, 1912.)

other case we do not know the seal is a 3-year-old seal or a 2-year-old seal; but the probabilities are that those seals which we call 3-year-old seals are 3-year-old seals, and the probabilities are that those we call 2-year-old seals are 2-year-old seals; but it is not a matter of knowledge;

The CHAIRMAN. You think you are dealing with probabilities and not mathematical exactness?

Dr. EVERMANN. We are simply handling a series of objects which are before us, which can, by their sizes and appearances, be put into different classes. We put them into different classes, and we give them designated terms. We say that these possessing this size and this general appearance we will call 3-year-olds; those that have certain differences from the 3-year-olds we call 2-year-olds. But we do not know it, and Mr. Elliott does not know it.

Mr. ELLIOTT. I never assumed I did anything like it and never made the stupid assumption.

Dr. EVERMANN. Mr. Elliott says that because certain skins weigh certain weights they must have been yearlings—

Mr. ELLIOTT (interposing.) I know it.

Dr. EVERMANN. But he does not know anything about it, any more than the rest of us; he assumes they are yearling seals. It is assumed that skins which weigh less than 5 pounds are yearlings, and that assumption is probably correct.

Mr. ELLIOTT. You do not know it, but I do.

Dr. EVERMANN. I think that is all I care to say. (Hearing No. 14, pp. 931, 932, July 25, 1912.)

But, the London sales expert regrets to find that the skins are getting poorer year after year.

NEW YORK, November 25, 1910.

GEORGE M. BOWERS, Esq.,
Commissioner Bureau of Fisheries,
Department of Commerce and
Labor, Washington, D. C.

DEAR SIR: Inclosed I beg to hand you particulars of assortment of the Alaska fur seal received this day from C. M. Lampson & Co., whose valuation of the skins based upon the prices realized for last year's catch is 12,732 skins at 144s. average per skin and 188 skins at 120s. average per skin. The latter I presume are food skins.

Evermann swears that the skins are getting better every year under "scientific" management.

Mr. ELLIOTT. Now, there is something, and since Dr. Evermann is here I am going to introduce it. Before the House Committee on Foreign Affairs, January 4, 1912, Dr. Evermann, in the course of his address, said (see p. 128):

"The skins which go to them this year are better than those which they received last year [that is, 1910], and those last year were better than those received the year before [that is, 1909], and so on."

On page 1007 of Appendix A to hearings before this Committee on Expenditures in the Department of Commerce and Labor is a letter from Alfred Fraser to George

M. Bowers, dated November 25, 1910, in which this language appears:

"DEAR SIR: Inclosed I beg to hand you particulars of assortment of the Alaska fur seal received this day from C. M. Lampson & Co., whose valuation of the skins, based upon the prices realized for last year's catch, is 12,732 skins at 144s. average per skin, and 188 skins at 120s. average per skin. The latter I presume are food skins.

"I regret to find that the assortment is not quite up to that of last year's catch."

Now, how do you reconcile your statement to the House Committee on Foreign Affairs with this official notification that you are not telling the truth?

Dr. EVERMANN. To what year does that refer?

Mr. ELLIOTT. That refers to the catch of the year 1910 being better than the year 1909.

Dr. EVERMANN. My references are to the years 1910 and 1911.

Mr. ELLIOTT (interposing). You go back to the year 1909.

Dr. EVERMANN. No.

Mr. ELLIOTT. You do.

He was speaking on January 4, 1912, to the Committee on Foreign Affairs of the House, and speaking of the catch of 1911. He could not speak of the catch of 1912, for he did not know and no one could know about the catch at that time; and if he did not know how it was taken, how could he say they were better than the catch of 1911? I want him to answer that question.

Dr. EVERMANN. We know what our policy is as to possible improvement of the catch from year to year. (Hearing No. 14, p. 929, July 29, 1912.)

Evermann swears that there is no word from London that the skins are getting inferior.

Dr. EVERMANN. And Dr. Hornaday, while admitting that some males are still left, claims that they are not virile. Both Mr. Elliott and Dr. Hornaday claim that virile male life has been inadequate for many years.

If such has been the case, the herd should show evidences of physical deterioration. But those who have seen the herd in recent years say there is no evidence of physical deterioration; the individual seals are just as large and fine and fit at any given age as they ever were.

Mr. ELLIOTT. How do they know it? How do those natives know it?

Dr. EVERMANN. There has been no complaint from London that the skins were not as fine as they ever were. (Hearing No. 10, p. 605, Apr. 20, 1912.)

I regret to find that the assortment is not quite up to that of last year's catch.

The percentages of the several grades of skins as compared with last year's collection are as follows:

Condition.	Number.	1910	1909
		<i>Per ct.</i>	<i>Per ct.</i>
Prime skins.....	9,999	78.53	83.28
Low skins.....	1,255	9.86	5.82
Cut skins.....	821	8.21	6.45
Rubbed skins.....	621	4.88	3.53
Faulty skins.....	36	.28	.28
	12,732	100	100

The skins count up two short of the number invoiced, but they will be returned on delivery.

I regret to state that the fur trade so far this season is dull, owing in a great measure to the very high cost of all articles, but business will no doubt improve should cold weather set in.

I have reason to believe that the number of pelagic seal taken this year will be about equal to that of last year.

Yours, very truly,

ALFRED FRASER.

Mr. SECRETARY: Not as satisfactory as I should like to have seen this statement. Am home and can not leave to-day.

GEO. M. BOWERS.

NOVEMBER 26, 1910.

(Appendix A, p. 1007, June 24, 1911.)

But the word from London is published up to January 17, 1913, that the skins are inferior from year to year, growing more so!

London sales: January 17, 1913.

Philips Politzer & Co., report.

Alaskas 3,773 skins (December, 1911, 12,492). The quantity offered was about a quarter of the last sale (December, 1911) and with the exception of some so-called "food skins" no more are expected for five years. The present collection was not up to the usual standard in quality or appearance, in spite of which, however, prices remained very firm. (Fur Trade Review, New York, February, 1913, p. 66.)

Evermann quotes Townsend and Lucas to prove that the seals just naturally trample their young to death.

Dr. EVERMANN. I desire to incorporate in my statement the following from Dr. Charles H. Townsend, Mr. George A. Clark, and Dr. F. A. Lucas, three of the best informed men in this or any other country on the fur-seal question, all of whom were members of the Fur-Seal Commissions of 1896 and 1897:

[Science, Mar. 1, 1912.]

THE PRIBILOF FUR-SEAL HERD.

In Science of February 2, 1912, Mr. McLean, of the Campfire Club's committee on game protection, says, among other things, about the diminishing fur-seal herd, that "the best remedy is to let it absolutely alone."

Nature's methods are wasteful.

Last November I had some correspondence with a Member of the House of Representatives, who was taking the agitation of the Campfire Club against the killing of surplus male seals very seriously. I quote the following from a letter I wrote to him at that time:

"In order to prevent annual loss of new-born young, we must prevent the flooding of the breeding grounds by big males. The logical way to do this is to market a large proportion of the 3-year olds, as we always have done, and thus prevent them from growing up into valueless but dangerous and destructive supernumeraries.

"I take exception to the line in your letter 'unless the herd is further depleted by the Bureau of Fisheries.' The herd is not to be 'depleted,' as the females are already saved for 15 years by the cessation of pelagic sealing, but the polygamous male part of the herd must be depleted (to quote your word again) if you propose to mature all your annual crop of infant seals. Nature will do the depleting if you don't, and half the loss will be female pups.

The fact is that the innocent Camp Fire Club is being used by the unscrupulous lobby which has always been kept at work by the pelagic sealers. One excuse suits it as well as another; this time it is the killing of surplus males. It is a pity that year after year it should succeed in getting the support of men of good standing who happen to be ignorant of the real facts involved.

C. H. TOWNSEND,

Member Advisory Board Fur Seal Service.

(Hearing No. 10: pp. 597-598, Apr. 25, 1912.)

But Evermann did not know that Lucas would soon be obliged to deny that trampled-pup fiction.

The CHAIRMAN. About how many days?

Dr. LUCAS. About 50 days in 1896, allowing about 9 days' time spent at sea, going to and from one island to another.

Mr. ELLIOTT. In 1897 how many days were you on the islands?

Dr. LUCAS. About 42 days.

Mr. ELLIOTT. On the islands?

Dr. LUCAS. That is about the number. I have the exact data right here.

Mr. ELLIOTT. Now, Dr. Lucas, did you see up there a pup trampled to death by a bull?

Dr. LUCAS. No.

Mr. ELLIOTT. You know there is a report of some 46 pages with your name associated with Dr. Jordan as one of the distinguished scientists who had made this close study of the seals that summer. Now, in 1897, you discovered those pups were not trampled to death, didn't you?

Dr. LUCAS. The greater part of them. Yes; we revised our causes of the previous year.

Mr. ELLIOTT. Who revised them?

Dr. LUCAS. I did most of it, because I was the one on whom devolved this report on the causes of mortality. (Hearing No. 12, pp. 719, 720, May 16, 1912.)

Evermann takes Hornaday to task for expression of opinion; for lack of experience unfits him—

DR. HORNADAY'S STATEMENTS REGARDING THE NATURAL HISTORY OF THE FUR SEAL.

Dr. EVERMANN: It is with extreme reluctance that I venture to call attention to what I believe to be fundamental mistakes in Dr. Hornaday's testimony before this committee and the Senate Committee on Conservation of National Resources. Dr. Hornaday and I are good friends, and have been such for many years. I fully appreciate the splendid work he has done as director of the New York Zoological Park and his interesting contributions to popular natural history literature. I realize, however, that in this fur-seal matter he has relied chiefly upon Mr. Elliott for his data. Dr. Hornaday admitted before this committee that he had never been on the seal islands; that he had never seen a fur-seal herd; that he had never seen a live fur seal except the two now at the Bureau of Fisheries and the one in the New York Aquarium furnished it by the United States Bureau of Fisheries; and, moreover, that he does not claim to be an expert on the life history of the fur seal. He even admits that he does "not pose as having expert information of that kind" and that his "interest in that phase of the subject is largely academic." Those statements are entirely frank and fair. One who has never been on the seal islands or who has not seen considerable numbers of fur seals can not possess any knowledge of the subject. Knowledge is acquired only through personal experience; this Dr. Hornaday has not had. The life history of an animal can be studied only by observing the animals themselves; this Dr. Hornaday has had no opportunity to do. The most that he can have is information, and that will be reliable and of value only if obtained from trustworthy sources. (Hearing No. 10, pp. 601, 602, Apr. 25, 1902.)

Evermann quotes 22 men in support of a self-confessed biological untruth.

Dr. EVERMANN. Here we have a list of more than a dozen naturalists, practically all of whom are men of international reputation and all of whom are known as men of education, intelligence, and unimpeachable character. Then there is an equal number of careful business men of unquestioned honesty and ability.

These 22 men are all men of ability and integrity. Each and every one of them

But, it soon develops that Evermann himself lacks experience in the same premises.

STATEMENT OF DR. BARTON W. EVERMANN, CHIEF, ALASKA FISHERIES SERVICE, BUREAU OF FISHERIES.

Mr. ELLIOTT. Dr. Evermann, when did you first go to the seal islands?

Dr. EVERMANN. In the spring of 1892.

Mr. ELLIOTT. When did you land there?

Dr. EVERMANN. I do not recall the exact date when I landed on either of the islands.

Mr. ELLIOTT. Do you know the month?

Dr. EVERMANN. It was either July or August.

Mr. ELLIOTT. Was that your first landing?

Dr. EVERMANN. Yes.

Mr. ELLIOTT. Which island did you land on?

Dr. EVERMANN. I first landed on St. Paul, and later I went to St. George.

Mr. ELLIOTT. About what time did you land on St. Paul?

Dr. EVERMANN. Some time in July or August.

Mr. ELLIOTT. How long did you stay there?

Dr. EVERMANN. Only a few days.

Mr. ELLIOTT. What do you mean by a "few days"?

Dr. EVERMANN. The exact number of days I can not recall.

Mr. ELLIOTT. Was it two days?

Dr. EVERMANN. It was about a week or 10 days. (I have since consulted the record; I find I was on the Pribilof Islands continuously from July 19 to July 31.) (Hearing No. 10, p. 621, Apr. 25, 1912.)

Elliott exposes the deceit practised by Evermann in asserting that untruth.

The CHAIRMAN. Just make a note that the statement will be found in hearing No. 3 at page so-and-so.

Mr. ELLIOTT. Hearing No. 3, page 155. It is in connection with a "comparison of the proposed lease of the seal islands with the present lease," and under section 4 these words occur:

"The lease should be renewed. It is foolish to abolish killing on land while

has seen the fur-seal herd, has made a study of the various problems involved in its proper management, and they are unanimously agreed on the following propositions:

5. The surplus males should be killed before they reach the age of 5 years, because when they have attained that age their skins become relatively of little value.

6. If the surplus males are not killed they not only become valueless for their skins, but they grow up into bulls not needed for breeding purposes, but which nevertheless pass on to the rookeries, where they do great damage to the breeding herd by fighting among themselves for possession of the cows, often tearing the cows to pieces, so injuring them that many of their pups are still-born, trampling the helpless pups to death, exhausting their own vitality and virility, and rendering themselves less potent than they would be without such useless struggle—in short, causing infinite trouble and injury to the rookeries without a single compensating advantage.

Mr. McGUIRE. Does that involve the conclusion of anyone else? Are those conclusions of your own based—

Dr. EVERMANN (interposing). No; those are the conclusions of these twenty-odd people, whose names I have read. Now, on the other side, against those 22, we will place Mr. Elliott, and Mr. Elliott alone. (Hearing No. 10, pp. 520, 521, Apr. 24, 1912.)

Evermann swears a salted seal-skin shrinks 6 inches from its green length.

Mr. McGUIRE. I would like a little more light with reference to this first skin. The seal, as I understand it, measured 43½ inches.

Dr. EVERMANN. Yes.

Mr. McGUIRE. Those are your figures?

Dr. EVERMANN. Yes, sir.

Mr. McGUIRE. Those are the official measurements made by the agents of the Government?

Dr. EVERMANN. Yes, sir.

Mr. McGUIRE. The skin now, not when it was taken from the seal, but now, in a salted condition, measures 34½ inches. Am I right about that?

Dr. EVERMANN. Yes, sir.

Mr. McGUIRE. Now, you asked Mr. Elliott to state from those measurements the age of that seal.

Dr. EVERMANN. Yes, sir.

Mr. McGUIRE. And he, as he stated, taking Lampson & Co.'s figures as a basis, stated that it was a yearling?

seals are being killed in the water. Cessation of killing on land means encouragement to pelagic sealing. Should pelagic or sea killing be abolished, it might be well to have a closed season on land as well as to allow the herd to recuperate."

The CHAIRMAN. Who says this?

Mr. ELLIOTT. The Bureau of Fisheries, the advisory board, and the whole scientific aggregation—"a closed season to allow the herd to recuperate," whereas they now claim there will be "trampled pups" and "torn females" if they are allowed "to recuperate" during "a closed season." These men have conjured up that story, and it is faked. It is not published in any official document; no man, from Dr. Jordan down to the smallest one of his associates, has published such a statement in all of their official reports up to 1909. It is only recently, in a communication from the Bureau of Fisheries to the Senate, that they now say, as "scientists," if these animals are allowed to grow up there in a closed season they will go onto the rookeries and "fight and tear the females to pieces and trample the young to death."

The CHAIRMAN. Well, we have had that before.

Mr. ELLIOTT. You have never had this unwitting self-confession of utter insincerity before; this is the first you have had it, so confessed by them, brought to your attention. (Hearing No. 14, pp. 970, 971, July 29, 1912.)

But in a sworn deposition nine native sealers say that properly salted sealskins do not shrink under the green lengths.

ST. PAUL ISLAND, ALASKA,
Town Hall, July 24, 1913.

Question. Did you drive and kill seals last summer?

Answer. Yes.

Question. How large were they?

Answer. We killed them by ages as we killed them before. Mr. Lembkey was the Government agent and Mr. G. A. Clark was counting the seals. When we were salting skins last year, Mr. Clark did not allow us to stretch the skins as we always have done and do when spreading them in the trench as we salt them. We stretch them out about 2 or 3 inches as we spread them, then put salt on them, and then they shrink back into their natural shape. (Native sealers' deposition to Agents H. Com. Exp. Dept. Com. and Labor, July 24, 1913, pp. 93-95; Rep't said agents, Aug. 31, 1913.)

Mr. LEMBKEY. I have attempted to state that in measuring a green skin it is

Dr. EVERMANN. Yes, sir. (Hearing No. 10; p. 531; Apr. 24, 1912.)

Mr. ELLIOTT. Then when you remove this skin you leave how much on it?

Mr. LEMBKEY. I suppose about 3 to 3½ inches.

Mr. ELLIOTT. No more?

Mr. LEMBKEY. We take off as much skin as we can. It is my impression that we do not leave more than 3 inches. I have stated that repeatedly to the committee. (Hearing No. 9, p. 443, Apr. 13, 1912.)

Evermann swears that salting a sealskin decreases its weight; he submits "proof" of it:

Dr. EVERMANN. Last year, when Mr. M. C. Marsh, naturalist, fur-seal service, went to the Pribilof Islands, he was instructed to make certain investigations, one of which was to determine by actual experiment the effect that salting has upon the weight of fur-seal skins. He made a very careful investigation of the matter, and his report has just been received. It is so interesting and valuable that I wish to put it in the record. His investigation settles the question conclusively and for all time. It shows that salting causes fur-seal skins to lose weight. The report is as follows:

"The average loss of weight for the whole 60 skins is 0.63 pound, or 10 ounces. This is an understatement of the average loss of weight, which, I believe, is at least an ounce greater. The reason is that it is practically impossible to mechanically remove all the salt from the skins before reweighing. They were shaken, swept, and brushed, but a few grains and crystals of salt were always left adhering to each side of the skin. Obviously it would not do to wash them off. By more carefully cleaning a few of the reweighed skins and then again weighing them, I estimate this residual salt to average an ounce or something more.

"The careful identification of every skin and the care given to every detail of the weighing make it quite certain that the salting of sealskins as practiced on St. Paul Island subtracts materially from its original weight when freshly skinned. Presumably, though not necessarily, the London weights reported are less than the actual weights of the skins at the island killings. If any change takes place during transportation to London, it is likely to be a further loss, and if the London

impossible to find out its exact length when you lay it on the ground, because it may curl up, or roll, or stretch, and it can only be measured after it has become hardened by salt.

Mr. MCGILLICUDDY. Then it will not stretch?

Mr. LEMBKEY. Certainly not.

Mr. MCGILLICUDDY. That is the proper time to measure it, after it has become rigid and stiff?

Mr. LEMBKEY. Certainly.

Mr. MCGILLICUDDY. You can not then stretch or shrink it?

Mr. LEMBKEY. No, sir. (Hearing No. 9, pp. 399, 400, Mar. 1, 1912.)

Chief Special Agent Lembkey makes an official record of fact which exposes the trick of Evermann:

Chief Special Agent Lembkey makes the following entry on page 149 of the journal of the Government agent on St. Paul Island, to wit:

SATURDAY, *July 23, 1904.*

On July 18, 107 skins taken on Tolstoi were weighed and salted. To-day they were hauled out of the trench and reweighed. At the time of killing they weighed 705 pounds, and on being taken out they weighed 759½ pounds, a gain in salting of 54½ pounds, or one-half pound per skin. (Report Agents H. Com. Exp. Dep. Com., Aug. 31, 1913, p. 112.)

weights deal with the skin in the condition in which it arrives, freed of most of the salt about which it is wrapped, a loss, compared with the fresh weight, almost without exception, will appear." (Hearing No. 14, pp. 974, 975, July 29, 1912.)

Evermann and his "scientific" associates declare that the fur-seal breeding nucleus of 50,000 cows will require eight years in which to double itself:

Mr. ELLIOTT. Then, with this testimony in his hands, Mr. W. I. Lembkey and his associates in the Bureau of Fisheries went before the House Committee on Foreign Affairs, January 3, 1912, and the following statement was then made that day to this committee by Mr. Lembkey, to wit (pp. 40, 41, hearings on H. R. 16571, Jan. 3, 4, 1912):

"The CHAIRMAN. Assuming, Mr. Lembkey, that there was a closed season on the Pribilof herd for a period of 10 years, what, in your opinion, would be the number in the herd at the expiration of that time?"

"Mr. LEMBKEY. I regret to state that the increase would not be as phenomenal as has been held out before this and other committees. As nearly as I can approximate it, the increase in seal life which would result from an absolute cessation of pelagic sealing would equal 100 per cent every nine years. That is to say, the herd would double itself every nine years. I am willing to say eight years. We will say the herd will double itself every eight years. Now, if we should start in 1911 with approximately 50,000 breeding females, in 1919 we would have 100,000 breeding females, representing an increase of 100 per cent within a period of eight years. During the next eight years, however, the 100,000 breeding females would increase to 200,000, representing a net increase in the period of 16 years of 150,000 breeding females, and, of course, the next eight years would see 400,000 breeding females in the herd. While they would increase at the same ratio, the numerical increase would be much greater as the herd became larger.

"The CHAIRMAN. That applies to both the males and females?"

Elliott follows with table of increase, which declares that 50,000 breeding nucleus will double itself in five years, and that total, 100,000, will double itself in the next four years, and so on:

Mr. ELLIOTT. As Mr. Lembkey did not finish his statement in general, and was followed immediately by Dr. Evermann, I did not get in my answer to it until the next day's session. In due time I reached it, and took this particular question up as follows; see pages 98 to 101, inclusive, hearings on H. R. 16571. Now, gentlemen, I am going to read this to you and ask that you interrupt me, and where you think I am not clear, for here is the crux of the business:

"I will now show you a table, Exhibit F, which will surprise you. Yesterday the representative of the Bureau of Fisheries, and the scientists behind them, told you it will take eight years to double the 50,000 females now surviving. You heard that statement that it would take eight years, and then another eight years would ensue before we had 200,000 cows. Why, the assumption was so transparently foolish that even the chairman, who had never given it a thought, at once began to pick it to pieces. Let me submit to you a statement of annual increase from a nucleus of 50,000 breeding female seals on the Pribilof rookeries, which will follow a complete cessation of killing male seals thereon, provided that that rest dates from February 1, 1912, or from and after the passage of this act, and is not broken until the 1st of February, 1928, being a close time of 15 years. This suspension of all such killing as above cited will enable the only power to operate, which is the natural law governing this life, and which alone can effect that restoration, and full restoration, to a safe annual rate of increase which will permit an annual killing indefinitely into the future of from 60,000 to 80,000 choice surplus male seals on and

“Mr. LEMBKEY. Yes, sir. The increase will be in the nature of about 100 per cent every eight years.”

You see, they could see through this crude, almost stupid, proposition that this herd would not double itself except once every eight years. (Hearing No. 14, p. 1002, July 29, 1912.)

after the opening of the season of 1928; and this killing then done without the slightest injury to its annual birth rate thereafter on the breeding grounds.”

Year.	Breeding cows.	Nubiles.	Pups (males).	Pups (females).
1911.....	50,000	10,000	25,000	25,000
1912.....	54,000	10,000	27,000	27,000
1913.....	57,600	15,750	28,800	28,800
1914.....	66,870	24,300	33,435	33,435
1915.....	74,358	26,000	37,179	37,179
1916.....	88,793	30,092	44,396	44,396
1917.....	103,314	33,462	56,657	56,657
1918.....	120,066	42,163	65,033	65,033
1919.....	145,997	46,496	77,998	77,998
1920.....	192,000	57,100	96,000	96,000
1921.....	225,000	58,000	112,000	112,000
1922.....	260,000	61,000	130,000	130,000
1923.....	321,000	74,000	165,000	165,000
1924.....	395,000	100,000	197,000	197,000
1925.....	450,000	162,000	275,000	225,000
1926.....	612,000	200,000	306,000	306,000
1927.....	800,000	200,000	400,000	400,000

Year.	Yearlings (males and females).	2-year-olds (males).	3-year-olds (males).	4-year-olds (males).
1911.....				
1912.....	35,000			
1913.....	37,800	15,750		
1914.....	40,320	24,300	14,180	
1915.....	46,808	26,000	21,870	12,762
1916.....	52,052	30,002	23,600	19,683
1917.....	62,156	33,462	27,000	21,240
1918.....	72,983	42,163	30,000	25,000
1919.....	92,830	46,496	38,000	28,000
1920.....	104,000	50,100	40,000	35,000
1921.....	135,000	58,000	46,000	36,000
1922.....	165,000	61,000	52,000	40,000
1923.....	200,000	74,000	57,000	45,000
1924.....	231,000	100,000	68,000	50,000
1925.....	350,000	162,000	85,000	57,000
1926.....	400,000	200,000	140,000	65,000
1927.....	450,000	200,000	165,000	80,000

(Hearing No. 14, pp. 1004, 1005, July 29, 1913.)

Evermann and his associates attempt a "correction" of Elliott's table.

Dr. EVERMANN. I would state that this has been brought in by Mr. Elliott to show some point which he wished to make, and I wish to show how very cautious any committee must be in accepting facts, alleged facts, or figures submitted to it by Mr. Elliott. Where he got 800,000 cows in 1927, that method of computation will give only 303,371.

DEPARTMENT OF COMMERCE
AND LABOR, BUREAU OF FISHERIES,
Washington, January 18, 1912.

Hon. W. S. GOODWIN,
House of Representatives,
Washington, D. C.

SIR: Referring to the table submitted by Henry W. Elliott to the Committee on Foreign Affairs at the hearing on January 4, 1912, and printed on page 99 of the hearings, showing the prospective increase in the seal herd of the Pribilof Islands, I have the honor to advise that a critical examination of this table shows such serious errors in computation and such glaring discrepancies as to render the table unreliable and wholly misleading. The bureau transmits herewith a copy of Elliott's figures for breeding cows, nubles, and female pups, with the correct computations in parallel columns, so that the nature of the discrepancies can be seen at a glance. The corrected figures have been arrived at throughout by using Elliott's own basis of computation. Some of the errors are so palpable as to be readily apparent to the committee. The prospective number of breeding cows in the herd in 1927 is shown to be 303,371, whereas Elliott claims that there will then exist 800,000 breeding cows.

If the committee consider it worth while to have a hearing on this matter, the bureau will be pleased to show in detail the numerous inaccuracies in Elliott's table.

By direction of the commissioner.

Very respectfully,

H. M. SMITH,
Acting Commissioner.

But Elliott again exposes the nonsense of that "correct" table of Evermann's.

WASHINGTON, D. C.,
January 18, 1912—6 p. m.

Hon. WM. SULZER,

Chairman Committee on Foreign Affairs.

DEAR SIR: I have before me a letter addressed to a member of your committee from Acting Fish Commissioner H. M. Smith, dated January 18, 1912. He informs Mr. Sharp that he has been in labor during the last two weeks over my table of increase to the small nucleus of our fur-seal herd, which I gave to your committee in his presence January 4 last. He says that he now finds this table of mine full of "serious errors," "glaring," etc., and incloses "a scientific" "correction" of it—"Montes parieunter, ridiculus mus."

Mr. Smith and his "scientific" associates belong to that class of men who can see a fly on a barn door, but who can not see the door. Let me, therefore, present that problem of increase for that herd to you in another form, as I would have done January 4 last had Mr. Smith then attempted the least denial of my table given you then. It can be done very briefly and clearly, to wit:

We start in July, this year, with 50,000 breeding "cow" seals; during this July coming they will add 25,000 pup "cow-seals" to their breeding strength, or 50 per cent increase of it. But, we subtract from that 50 per cent of increase a loss of 30 per cent due to natural causes during the interval of its birth in 1912 and its reappearance on the islands in 1913, as "yearling" cow seals. Then, the loss of this "yearling" cow-seal life during the season of 1913, and its reappearance as a breeding or "nubile" life, is not to exceed 2 per cent, and that adds 18 per cent net increase of breeding strength by the opening of the season of 1914. This net annual increase of 18 per cent over all natural loss will hold good for the next 15 years, because this is a newborn increase from 1912—all young cows, the oldest of them in 1927 not over 15 years.

What is the sum of \$50,000 at 18 per cent annual interest compounded for 15 years? Therefore, you observe, I have not misled you.

I am, very respectfully, your obedient servant,

HENRY H. ELLIOTT.

Table showing prospective increase in Pribilof seal herd from 1911 to 1927, submitted by Henry W. Elliott, with correct computations in parallel columns.

THE RIGGS NATIONAL
BANK OF WASHINGTON,
Washington, D. C., January 31, 1912.
Mr. HENRY W. ELLIOTT,
Room 423, Senate Office Building,
Washington, D. C.

DEAR SIR: In the absence of Mr. Glover, who has been confined to his home by illness for several days, I am taking the liberty of replying to your letter of the 29th instant, addressed to him. We have made the calculation indicated on the inclosed slip, by the use of five space logarithm tables, and the result is \$598,642.857.

Very truly, yours,
HENRY H. FLATHER.

Cashier.

(Hearing No. 10, pp. 591, 592, Apr. 24, 1912.)

Year.	Breeding cows.	
	Elliott.	Correct.
1911.....	50,000	50,000
1912.....	54,000	54,000
1913.....	57,600	57,600
1914.....	66,870	66,015
1915.....	74,358	74,723
1916.....	83,793	83,580
1917.....	103,314	93,938
1918.....	120,066	105,728
1919.....	145,997	118,852
1920.....	192,000	133,598
1921.....	225,000	150,213
1922.....	260,000	168,887
1923.....	321,000	189,874
1924.....	395,000	213,473
1925.....	450,000	240,005
1926.....	612,000	269,834
1927.....	800,000	303,371

Year.	Nubiles.	
	Elliott.	Correct.
1911.....	10,000	10,000
1912.....	10,000	10,000
1913.....	15,750	15,750
1914.....	24,300	17,010
1915.....	26,000	18,144
1916.....	30,092	20,795
1917.....	33,462	23,538
1918.....	42,163	26,328
1919.....	46,496	29,590
1920.....	57,100	33,304
1921.....	58,000	37,439
1922.....	61,000	42,084
1923.....	74,000	47,317
1924.....	100,000	53,199
1925.....	162,000	59,810
1926.....	200,000	67,244
1927.....	200,000	75,601

Year.	Female pups.	
	Elliott.	Correct.
1911.....	25,000	25,000
1912.....	27,000	27,000
1913.....	28,800	28,800
1914.....	33,435	33,008
1915.....	37,179	37,362
1916.....	44,396	41,790
1917.....	56,657	46,969
1918.....	65,033	52,864
1919.....	77,998	59,426
1920.....	96,000	66,799
1921.....	112,000	75,106
1922.....	130,000	84,443
1923.....	165,000	94,937
1924.....	197,000	106,736
1925.....	225,000	120,002
1926.....	306,000	134,917
1927.....	400,000	151,685

(Hearing No. 10, pp. 590, 591, Apr. 24, 1912.)

Evermann misquotes authentic testimony to support idle and baseless statements in re loss of life to seal herd:

Dr. EVERMANN. It is admitted by practically everyone that not more than 1 in 5 of those fatally wounded is secured by the pelagic sealers. Mr. Elliott himself has stated that, in his judgment, not more than 1 in 10 is recovered. But let us use the more conservative estimate. The number secured by the pelagic sealers in the eight years from 1890 to 1897 was 635,739. Accepting 1 to 5 as the proper ratio of seals secured to seals killed by the pelagic sealers, the number mortally wounded and not recovered was 2,542,956; and the total number killed was 3,178,695 seals.

And at least 80 per cent of these, or 2,542,956, were females. Or, if we accept Mr. Elliott's ratio of number lost to number secured, the number killed was 6,357,390, of which 3,085,912 were females.

Mr. ELLIOTT. Mr. Elliott said nobody could fix a ratio; it is ridiculous.

Dr. EVERMANN. * * * Mr. Elliott says that not more than 1 in 10 is secured. (P. 141, Committee Merchant Marine and Fisheries, hearing, June 8, 1888.)

Mr. ELLIOTT. I do not say anything of the kind. It is an absurd, ridiculous assertion repeatedly repeated here.

The CHAIRMAN. One minute.

Mr. ELLIOTT. I won't let a man sit there as a scientist and utter falsehoods here.

Dr. EVERMANN. The remark—

Mr. ELLIOTT (interposing). You can not find it. I said this: The idea of estimating loss at sea was a pipe dream; no man knew what was lost. (Hearing No. 10, pp. 523-525, Apr. 20, 1912.)

Evermann attempts to justify fraud on the seal islands to the committee:

Dr. EVERMANN. An examination of Mr. Elliott's report on his work on the Pribilof Islands in 1890, published in June, 1896, shows that he kept a diary or journal in which he recorded his daily observations and field notes. This record appears to have been very carefully kept. On pages 181 and 182 I find his entry for July 7, 1890. You should examine this entry. I have read it carefully, and I fail to find in it any mention whatever of the killing of female seals. If Mr. Elliott discovered on that date that the agents were permitting the lessees to kill female seals, and if he had with the lessees' agent and the Government agent the heated

Evermann is compelled to read the testimony which he had misquoted:

The CHAIRMAN. Where was the testimony adduced?

Dr. EVERMANN. June 8, 1888, Committee on Merchant Marine and Fisheries, page 140. (Reading):

"Shooting fur seals in the open waters of the sea or ocean with the peculiar shot and bullet cartridges used involves an immense waste of seal life. Every seal that is merely wounded, and even if mortally wounded, at the moment of shooting dives and swims away instantly, to perish at some point far distant and to be never again seen by its human enemies; it is ultimately destroyed, but it is lost, in so far as the hunters are concerned. If the seal is shot dead instantly, killed instantly, then it can be picked up in most every case; but not 1 seal in 10 fired at by the most skillful maine hunters is so shot, and nearly every seal in this 10 will have been wounded, many of them fatally. The irregular tumbling of the water around the seal and the irregular heaving of the hunter's boat, both acting at the same moment entirely independent of each other, make the difficulty of taking an accurate aim exceedingly great and the result of clean killing very slender." (Pp. 140-141.)

Mr. ELLIOTT. Is it there where you say I say 10, and only 1 recovered?

Dr. EVERMANN. I read the testimony.

Mr. ELLIOTT. But you know I do not say that.

Dr. EVERMANN. The committee will pass upon that.

Mr. ELLIOTT. Very well; I am satisfied. (Hearing No. 10, pp. 527-529, Apr. 20, 1912.)

But, the fraud is at once exposed to the committee:

Mr. ELLIOTT. In the first place, all those affidavits he has cited must have been made after the 14th of August, 1890. They were made by the employees of the North American Commercial Co. under pressure from George R. Tingle, who also signed one of them; they were supplemented by a letter to Secretary Charles Foster, from Capt. Michael Healey, United States Revenue Marine Service, who touched at the islands in October, 1890, and who wrote to Foster about the "seals being as numerous then as they had ever appeared to him in all previous years." (Think of such a statement from such a man, who knew so little!)

controversy to which he refers in his letter to Mr. Windom, does it not look strange that he makes no mention whatever of the matter in his diary? It seems almost inconceivable that so important a matter as the unlawful killing of female seals should not have been recorded at the time.

Mr. ELLIOTT. It is recorded in the Treasury Department.

Dr. EVERMANN. Not until two months later does he put the matter on record. He has explained why he did not embody this information in his final report to Mr. Windom, but that does not explain why it is not even hinted at in his "Daily field notes," which, he states, are given in extenso in Section VIII of his 1890 report.

In his letter to Secretary Windom he claims that he discovered that three females had been killed and straightway ordered all killing stopped. Because three seals had been killed illegally he stopped all killing. Is that what an efficient and fair-minded agent would have done? No; not at all. On the contrary, an intelligent agent, competent to cope with the situation, would have stopped the killing of females, if such were being killed, but would have continued the proper killing of males, just the same. No one except Mr. Elliott has claimed there was not an abundance of killable males. Indeed, Daniel Webster, who was in immediate charge of the killings on the islands for more than 20 years, and the chief, Anton Melovidov, have both stated under oath that 60,000 good merchantable skins could have been taken in 1890 without any injury to the herd. These respective statements follow.

Here is a copy of the sworn statement made by Daniel Webster. It touches upon several matters. They are all more or less pertinent, but I will not read them all. (Hearing No. 10, p. 489, Apr. 19, 1912.)

Those "affidavits" were simply bogus—they were false ab initio. They were received by Mr. Foster on April 3, 1891, in this Mills letter aforesaid, and then what happened?

On or about the 5th of April Mr. Charles J. Goff was called into Secretary Charles Foster's office and told that he need not concern himself with the seal-island business any further; that "the department had other business for him to transact at Montreal," Canada (i. e., looking after immigration cases). Goff was directed to proceed there forthwith (and he did). No complaint against him was uttered by Foster—just called him in, and sent him to Montreal in the "regular order of official business" which governs all the special agents. Goff was astonished; he was speechless, but obeyed.

Now, gentlemen, what happened? We come right back to this letter of Ogden Mills. A new administration took charge March 4, 1895. I determined to get copies of those "affidavits" which Charles Foster published a mention of in the New York Tribune, May (9?), 1891, as his authority for that suppression of my report of 1890, and those of my official associates, Messrs. Goff, Murray, Nettleton, and Lavender.

I called on Secretary John G. Carlisle of the Treasury. He evinced the liveliest interest in this question and asked Assistant Secretary Charles S. Hamlin to go with me to the chief supervising special agent's office and furnish me with copies of those affidavits, Capt. Healey's letter, etc.

Did we find those affidavits or the Healey letter? No. We traced them out from the Ogden Mills letter receipt in April, 1891, to one division after another, only to find that they had been received, had been noted, and had disappeared from the files when Charles Foster left the Secretary's office, March 4, 1895.

Why were those "affidavits" and that letter of Healey removed and taken from the official files when Charles Foster published notes of them as his official warrant for suppressing the sworn official reports of Charles J. Goff and his three assistants in charge of the seal islands for 1890, and my special report of 1890 to Mr. Windom, ordered by act approved April 5, 1890?

Why? Because their authors had perjured themselves, and if those "affidavits" had been in the hands of John G. Carlisle the lessees would have been obliged, in my opinion, by Mr. Carlisle to surrender their lease. That is why they were abstracted by or with the full knowledge and consent of Charles Foster, Secretary of the Treasury, on or some time before March 4, 1895. Nobody else could have

Evermann prompting Bowers to deny the regulation prohibiting the killing of yearlings:

Mr. McGUIRE. The only point of difference, apparently, between yourself and Dr. Elliott is on the question of the age of the seals at the killing. I believe you said your instructions to your agents are that under no circumstances are seals to be killed under 2 years of age?

Mr. BOWERS. There is no instruction to that effect this year; there was none last year to that effect; and I am not aware that it has been modified in any way; but there is an understanding, and there is a statement from the agent to the effect that no seals were taken under 2 years of age. Of course, you understand we are operating under this law which was passed a year ago, and there is no provision in that giving instructions to the agents on the islands.

Mr. McGUIRE. I understand that the regulations of 1904, with respect to the ages, have not been modified by this law; am I right or not?

Mr. BOWERS. Well, I am not sufficiently versed in the regulations of 1904, and I can not recall from memory.

Mr. McGUIRE. Well, as read a few moments ago, the statement was that none were to be killed under 2 years of age, and then you subsequently stated none had been killed to your knowledge under 2 years of age.

Mr. BOWERS. As understood from the reports submitted to us by agents on the islands, and we adjudged that, to some extent, too, by the weight of the skins.

Mr. McGUIRE. Do you know now, of your own knowledge, whether the regulations of 1904, with respect to the ages of the seals at the time of killing, have been modified?

Mr. BOWERS. Well, I am not familiar with those regulations.

Dr. EVERMANN. New regulations are issued every year.

Mr. BOWERS. I can not recall the regulations of 1904, because I can not recall having read the. They were not under

removed them or would have dared to do so, as I was told by the Treasury officials.

Those men whose names were signed to these bogus "affidavits" as inclosed in that "Ogden Mills" letter above cited are all dead save one. That survivor of this job is one James C. Redpath. He has been the general overseer and assistant general manager of the lessees ever since May 21, 1890, up to the hour that their lease expired, May 1, 1910. (Hearing No. 10, pp. 663, 665, Apr. 24, 1912.)

Secretary Nagel brings Lembkey and Evermann to swear February 4, 1911, that no seals were killed under 2 years of age:

Mr. ELLIOTT. We want that distinctly understood. We want to find out where he comes in, and where to put the responsibility. Is not Mr. Lembkey responsible for anything? Did he not get his orders from you?

Mr. BOWERS. He gets his orders from me as approved by the Secretary.

Mr. ELLIOTT. And he is bound by them?

Mr. BOWERS. He is.

Mr. ELLIOTT. Then, Mr. Chairman, I want Mr. Bowers to explain right here why Mr. Lembkey, introduced by Secretary Nagel, said on February 4 last, at a hearing of the conservation committee of the United States, on page 10, in answer to this question:

"The CHAIRMAN. How many did you kill last year?"

"Mr. LEMBKEY. We killed 12,920.

"Q. What was the youngest seal you killed; what age?"

"A. Two years old."

There we have the official statement of the Department of Commerce and Labor, without doubt or equivocation, without any question of law or anything, given to the Senate committee, that they had killed none of those seals, 12,920, under 2 years of age. Are you ready to certify to that statement here before this committee?

Mr. BOWERS. That is Mr. Lembkey's statement.

Mr. ELLIOTT. No; but, my dear sir, he is your agent. I want you to certify to it.

Mr. BOWERS. I am not evading anything; I want that distinctly understood.

Mr. ELLIOTT. Then you certify to that statement?

Mr. BOWERS. I do not have to certify to any statement made by another man. That is his statement. That is the statement as it comes to the Bureau of Fisheries from the officials. That is an official record as it comes to me. (Hearings No. 2, p. 117, June 9, 1911.)

my supervision in those days. The regulations of 1910 do not make a restriction of that character. (Hearing No. 2, p. 106, June 9, 1911.)

“Scientists” Bowers and Evermann deny the good results of the modus vivendi of 1891-1893:

Mr. ELLIOTT. Now, on page 137, right under this, following right there, Mr. McGillicuddy asks Mr. Bowers this question:

“Mr. MCGILlicuddy. Do you think it would be well to have a closed time?”

“Mr. BOWERS. Not on land. There was a closed time from 1891, I believe, until 1894. The modus vivendi was put in operation then. That modus vivendi did more to exterminate the seals than any previous order issued or given for the five years prior to 1890.”

Did you inspire or aid him in making that declaration, Dr. Evermann?

Dr. EVERMANN. No, sir.

Mr. ELLIOTT. Haven't you made a similar declaration?

Dr. EVERMANN. I have made a statement regarding the modus vivendi.

Mr. ELLIOTT. As being the most destructive thing possible, didn't you?

Dr. EVERMANN. In the essential features of that statement I agree fully with Commissioner Bowers, and as to the evil results of the modus vivendi, yes. (Hearing No. 10, pp. 633, 634, Apr. 20, 1912.)

Mr. ELLIOTT. Mr. Lembkey, in 1904 the Hitchcock rules were first published, I believe. Have they been changed since then?

Mr. LEMBKEY. Yes; they have.

Mr. ELLIOTT. As to killing any seal under 2 years of age?

Mr. LEMBKEY. Not so far as to killing any seal under 2 years of age, but in 1906 they were changed so as to make the minimum weight 5 instead of 5½ pounds. (Hearing No. 9, p. 449, Apr. 13, 1912.)

But their associate Townsend, “sealing expert,” does not deny those good results.”

Mr. ELLIOTT. Is Mr. Charles H. Townsend a reliable witness as to the modus vivendi?

Dr. EVERMANN. Mr. Townsend is a very reliable man; yes.

Mr. ELLIOTT. Allow me to read what Mr. Charles H. Townsend says of this modus vivendi in his report to United States Fish Commissioner MacDonald, February 26, 1894:

“It is undoubtedly true, however, that the closing of Bering Sea to sealing vessels during the period of the modus vivendi has had a most salutary effect, and that the rookeries of the Pribilof Islands in their present condition are so nearly stationary as regards the number of seals since this regulation came into effect is distinctly traceable to the protection so afforded.”

That is found on page 7, Senate Document 137, Fifty-fourth Congress, first session.

Mr. McGUIRE. Is this the honorable Charles H. Townsend?

Mr. ELLIOTT. No; he is an associate of Dr. Evermann in the Fur Seal Bureau. He is one of those scientists brought in as an authority for all the Bureau of Fisheries is doing. Now I want to ask Dr. Evermann how he reconciles his sweeping denunciation of the modus vivendi of 1891-1893 with this statement of Mr. Townsend?

Dr. EVERMANN. When the committee calls Dr. Townsend, as I believe the committee has arranged to do, Dr. Townsend can give his own explanation of his own reports and statements.

Mr. ELLIOTT. And you do not have any thing to take back? You are willing to stand by your denunciation?

Dr. EVERMANN. Undoubtedly.

Mr. ELLIOTT. Mr. Townsend was up there and knew what he was talking about, didn't he?

Dr. EVERMANN. I am not offering any apology for Mr. Townsend's testimony.

Mr. ELLIOTT. He had personal knowledge, and you had not, didn't he?

Evermann tells the committee of his qualification by experience and study on the seal islands:

Dr. EVERMANN. One of the interesting phases of this question that has attracted my attention is the attitude which some persons have assumed toward the large numbers of able and distinguished naturalists who have visited the seal islands and who are without question the most familiar with the fur-seal herd and the many problems connected with its management and effective conservation.

Within the last 25 years nearly a score of the most distinguished naturalists, not only of this country but of Great Britain, Canada, and Japan, have visited our seal islands for the specific purpose of studying the habits of the fur seals and the problems connected with the proper management of the herd. Among these gentlemen I may mention the following:

Dr. EVERMANN (reading):

"Dr. Barton Warren Evermann, in charge of the Alaska fisheries service, who, as special fur-seal commissioner in 1892, spent six months on our seal islands in the north Pacific and on the Russian seal islands, studying the fur-seal rookeries, hauling grounds, and migrations."

The CHAIRMAN. You take most of this information you get from records and documents, do you not, Doctor?

Dr. EVERMANN. I have been in the islands myself.

The CHAIRMAN. Or from actual personal observations?

Dr. EVERMANN. I have been in the seal islands myself once.

The CHAIRMAN. When was that?

Dr. EVERMANN. In 1892.

Mr. ELLIOTT. How long were you there?

Dr. EVERMANN. I spent six months on a fur-seal investigation in 1892.

Mr. ELLIOTT. How long were you on the islands?

Dr. EVERMANN. Only a very few days.

Mr. ELLIOTT. That is what I thought. (Hearing No. 10, pp. 518-519, Apr. 20, 1912.)

Dr. EVERMANN. He had knowledge of conditions on the islands in that year which I did not possess, because I was not on the islands in that year. (Hearing No. 10, p. 634, Apr. 20, 1912.)

Proof found of the "value" of his experience and study while "six months on our seal islands" ("studying"):

JOURNAL OF THE OFFICE OF THE UNITED STATES TREASURY AGENT IN CHARGE OF ST. PAUL'S ISLAND, ALASKA.

Friday, July 22, 1892.

Messrs. Evermann and Miller visited Northeast Point. Prof. Evermann reports the finding of four cow seals dead at Northeast Point.

Monday, July 25, 1892.

The watchman at Northeast Point, Martin Nedaragoff, reports that the cow seals reported dead by Prof. Evermann were not fur seals at all, but four sea lion pups.

Agent Brown and Dr. Voss and Messrs. Macoun and Maynard will go to Northeast Point and make a thorough investigation of the matter.

Messrs. Brown and Chichester, accompanied by Dr. Voss, went to Northeast Point and made a thorough investigation of the dead seal cow question, and they found that they were sea lion pups, and that Prof. Evermann was mistaken, and that the native watchman was right in every particular.

Evermann, Bowers, and Smith put out this story showing their opposition to the Hay-Elliott treaty:

[Boston Transcript, Oct. 30, 1909.]

THE "SEAL MONOPOLY"—A COMPLETE EXPLANATION OF THE ARRANGEMENT.

Exclusive rights on the Pribilof Islands again to be granted to the North American Commercial Co.—The monopoly is only American; it does not cover the entire business—There is, however, much criticism, and many charges of abuses are made; but the Government is satisfied with the system—Some provisions of the contract—The Hay-Elliott plan for a remedy of conditions.

PROF. ELLIOTT'S REMEDY.

WASHINGTON, *October 28.*

Newspaper offices have been invaded more or less of late by communications from Prof. Henry W. Elliott, of Ohio, formerly a well-known figure in Washington, sharply criticizing the apparent inaction of the United States Government in reaching an international agreement for the protection of the seal industry. Prof. Elliott is fond of harking back to an agreement which he, in cooperation with Secretary of State John Hay, was about to conclude with Sir Mortimer Durand, the British ambassador, when the negotiations were terminated by the retirement of Mr. Hay, whose death followed soon after. The Hay-Elliott agreement, as it has been styled, would have settled the whole fur-seal question, in the opinion of Prof. Elliott; but according to the view of Government officials who are supposed to know most about the sealing question, it would still have left the main question not only unsettled, but in a worse situation than before. This agreement, which bears date of March 7, 1905, provided:

(1) That all killing of fur seals on the Pribilof Islands and in the waters of Bering Sea and the North Pacific should be entirely suspended and prohibited to American citizens and British subjects for a period of 12 or more years from its date.

(2) That when, after this period of rest has lapsed, killing may be resumed on these islands only, and only of a safe number of surplus male seals annually found there, no killing at sea of any kind whatever to be resumed; this killing to be done by the American resident agents on the islands, jointly under the supervision of Canadian resident agents.

(3) That for this complete suspension of the rights of British subjects to kill

Evermann then attempts to deny this record as published by him in the Boston Transcript, October 30, 1909:

The CHAIRMAN. You thought it was a good thing to bring about this treaty, did you not?

Dr. EVERMANN. Undoubtedly, Mr. Chairman. And I may say that the other members of the Bureau of Fisheries and myself contributed everything within our power to bring about the signing of the treaty.

The CHAIRMAN. Do you not think it would have been a good thing if this treaty had been entered into when Hay was Secretary of State?

Dr. EVERMANN. A treaty of this kind ought to have been negotiated in the eighties, undoubtedly; the earlier the better; but even late is better than never at all. But it seemed to have never been handled effectively until last year. (Hearing No. 14, pp. 991, 992, July 29, 1912.)

A CURIOUS "EXPLANATION"

Stung into some semblance of activity by recent exposures of lamentable conditions in the seal fisheries of the Bering Sea, the Department of Commerce and Labor at Washington has at last been moved to offer a detailed defense of its attitude of neglect. The Washington correspondent of the Boston Transcript, in a two-column review of sealing conditions as they appear to Secretary Nagel's department, performs a public service by uncovering the official mind upon this important question.

The Transcript man, claiming to advance no opinions of his own, gives a fairly complete picture of the governmental attitude upon the seal-fisheries question. He reflects the department's "reasons" for opposing a settlement of the long controversy in accordance with the Hay-Elliott plan, which was in favor both at Washington and Ottawa when Mr. Hay was Secretary of State, and is still favored at the Canadian capital. This plan of agreement contemplated a treaty between the United States and Great Britain (Canada) first and then a similarly binding agreement with Russia and Japan, the nations next in interest. The Government's excuse for not pressing a settlement upon this plan, as it could have been done at any time since the death of John Hay, is thus told through the Transcript correspondent:

"Even though Japan and willing Russia join with Great Britain and the United States in an international agreement, nothing would exist to hinder France or

seals on the high seas, Canada will bear one-fourth of the expense of maintenance of the natives of the seal islands, annually, and cost of care and conservation of the fur-seal herd; and Canada will receive one-fourth of the gross proceeds of the sale of skins annually taken on these islands.

Prof. Elliott appends his opinion that when the Alaska fur-seal herd is fully restored, from 75,000 to 80,000 young male seals can safely be taken every season without injury to the regular birth rate of the herd.

However much impression the Hay-Elliott agreement may have made upon the authorities at the time, it has failed to command the esteem of the officials of the State Department and the Bureau of Fisheries since. They point out that its great inherent weakness is that apparently it comprehends only Canada and the United States as necessary factors in an international sealing agreement, whereas not only is Japan the chief aggressor, but she and every other country in the world would still enjoy the right to kill seals in the open sea, without the competition which the United States now supplies on the Pribilof Islands. Even should Japan and willing Russia join with Great Britain and the United States in an international agreement, nothing would exist to hinder France or any other country from pelagic sealing, hence the only effect of such an agreement might be to turn the fur-seal fisheries of the world over to countries which now do not participate in them. It is obvious, therefore, that to be effective an international agreement must include pretty much all the civilized nations of the earth. In view of this apparently self-evident truth, the Elliott solution of the problem is regarded in Washington as a very ineffective affair. The point can be made also, that the Senate probably would be slow to ratify any treaty that contemplated the payment of a royalty to a foreign Government upon products which are clearly the property of the United States. (Hearing No. 3, pp. 151, 152, July 6, 1911.)

Evermann introduces the agent of the seal lessees to the committee as another person.

NATURALISTS WHO HAVE STUDIED THE FUR SEAL FAVOR KILLING OF SURPLUS MALES.

Dr. EVERMANN. One of the interesting phases of this question that has attracted my attention is the attitude which some persons have assumed toward the large numbers of able and distinguished naturalists who have visited the seal islands and who are without question the men most familiar with the fur-seal herd and

any other country from pelagic sealing; hence the only effect of such an agreement might be to turn the fur-seal fisheries of the world over to countries which now do not participate in them. It is obvious, therefore, that to be effective an international agreement must include pretty much all the civilized nations of the earth."

The explanation is weak and preposterous. Take France, for instance, as a possible pelagic sealer. What ports could she, engaged in contraband trade, use as bases of supplies? Where would she land her skins? The nearest French port is perhaps 10,000 miles away as ships must sail. Her furs would spoil, her sailors and fishermen starve, her vessels, tossed and wrecked in that stormy sea, could not be repaired. And as with France, so with any other nation outside the circle of the proposed agreement.

The United States, Great Britain, Russia, and Japan control the situation by geographical conditions. There is every reason to believe that the three would join with the Government at Washington to stop the wanton destruction of a great natural resource if the State Department would but take the initiative.

Meanwhile the old question remains unanswered: Why does the United States refuse to act? This "explanation" of the Transcript correspondent is notable for its utter failure to explain. (Plain Dealer, Cleveland, Ohio, Nov. 8, 1909.)

The reason why Jos. Stanley-Brown is so highly regarded by the Bureau of Fisheries.

OFFICIAL JOURNAL OF THE AGENT IN CHARGE OF ST. PAULS ISLAND, ALASKA.

Thursday, June 9, 1892.

Mr. J. Stanley-Brown arrived and took the place of Maj. Williams as United States agent in charge of the seal islands.

Friday, July 8, 1892.

The entire control and management of the killing grounds and the killing of the seals were given to Mr. Fowler, of the

the many problems connected with its management and effective conservation.

Within the last 25 years nearly a score of the most distinguished naturalists, not only of this country, but of Great Britain, Canada, and Japan, have visited our seal islands for the specific purpose of studying the habits of the fur seals and the problems connected with the proper management of the herd. Among these gentlemen I may mention the following (reading):

"Dr. Barton Warren Evermann, in charge of the Alaska fisheries service, who, as special fur-seal commissioner in 1892, spent six months on our seal islands in the North Pacific and on the Russian seal islands, studying the fur-seal rookeries, hauling grounds, and migrations.

"Mr. Joseph Stanley-Brown, of New York, spent the seasons of 1891, 1892, 1894, 1895, 1896, 1897, and 1899 on the seal islands, where, as naturalist and keen business man, he made very thorough study and investigations not only of the habits of the seals but very valuable study of the economic questions involved."

Evermann attempts to misstate the Russian record of killing:

Dr. EVERMANN. They took a great number of these seals during the closed season from 1835 to 1846?

Mr. ELLIOTT. Yes; "gray pups," all males, in November, annually, and it didn't destroy them either. It would be a good thing to follow that to-day.

Dr. EVERMANN. On page 65, line 1, you say:

"Way back as far as 1826 the Russians themselves recognized the fact that they were culling the herds too closely—that they were ruining the business by the land killing of all the choice males; they knew that they alone on the islands were to blame, because no such thing as hunting fur seals in the water by white men then was dreamed of, much less done."

Do you seriously claim that it was the killing of males that reduced the herd?

Mr. ELLIOTT. I claim that the Russian agents so reported.

Dr. EVERMANN. Do you claim it did?

Mr. ELLIOTT. Certainly I do.

Dr. EVERMANN. Do you not know that up to at least 1835 female seals were regularly killed by the Russians?

Mr. ELLIOTT. No. I know you injected it into a report of another committee of this House, and the chairman of the committee apologized for the misinformation he got from you. I'm glad you asked me that question. (Hearing No. 10, p. 616, April 24, 1912. House Committee on Ex-

North American Commercial Co., by order of Mr. J. Stanley-Brown, and Assistant Agent Murray was ordered to count the seals.

Wednesday, June 6, 1894.

Steamer *Lakme*, of the North American Commercial Co. arrived, having on board * * * Mr. Brown, superintendent of the North American Commercial Co.

Elliott submits to the committee the facts in re method of Russian killing:

Mr. ELLIOTT. Way back as far as 1826 the Russians themselves recognized the fact that they were culling the herds too closely—that they were ruining the business by the land killing of all the choice males; they knew that they alone on the islands were to blame, because no such thing as hunting fur seals in the water by white men then was dreamed of, much less done.

In December, 1820, Gen. Tanovsky, the imperial Russian agent, sent over to Sitka from St. Petersburg in 1818, to examine into the question of that decline of the fur-seal catch, then wrote to his Government that "so severe is this practice of" culling the best males for slaughter, "that if any of the young breeders are not killed by autumn, they were sure to be killed by the following spring," and urged the reformation of this work then on the islands.

Here is this evil of overdriving and culling the herd presented and defined 50 years before I saw it, and nearly 70 years before Jordan denies its existence in 1898. Think of it—we have sent two investigating commissions since 1890 up to our ruined fur-seal preserves on the Pribilof Islands, one in 1891 and the other in 1896-7, and yet, in spite of this plain Russian record and my detailed and unanswerable indictment of that particular abuse in 1890, these commissioners

penditures in the Department of Commerce and Labor.)

blindly and stupidly deny it. They attempt to set aside the Russian record by saying that the Russians then killed females as well as males and drove them up to the shambles in equal numbers.

The Russians did nothing of the sort. They began the season early in June by driving from the hauling grounds precisely as we do to-day and continued so to drive all through the rest of the season; they never went upon the rookeries and drove off the females; they never have done so since 1799. How, then, did the females get into their drives?

The females fell into these drives of the Russians because that work was protracted through the whole season—from June 1 to December 1. In this way the drivers picked up many cows after August 1 to 10, to the end of November following, since some of these animals during that period leave their places on the breeding grounds and scatter out over large sections of the adjacent hauling grounds, so as to get mixed in here and there with the young males. Thus the Russians in driving across the flanks of the breeding grounds, going from the hauling grounds, during every August, September, October, and November, would sweep up into their drives a certain proportion of female seals which are then scattered out from the rookery organization and are ranging at will over those sections of the hauling grounds driven from. What that proportion of this female life so driven was, in Russian time, no man to-day can precisely determine. From the best analysis I can make of it I should say that the Russian female catch in their drives never exceeded 30 per cent of the total number driven at any time, and such times were rare, and that it ranged as low as 5 per cent of female life up to the end of August annually. (Hearing No. 2, p. 65, June 8, 1911, House Committee on Expenditures in the Department of Commerce and Labor.)

IV.

The sworn statements of Dr. Charles H. Townsend, who is one of the experts cited to the United States Senate Committee on Conservation of National Resources, January 14, 1911, and to the House Committee on Expenditures in Department of Commerce and Labor, June 9, 1911, by Secretary Charles Nagel, as his authority for killing seals in violation of the law and regulations.

Mr. BOWERS. The advisory board, fur-seal service, consists of the following:

* * * * *

Dr. Charles H. Townsend, director of the New York Aquarium, for many years naturalist on the fisheries steamer *Albatross*, member of the Fur Seal Commissions of 1896 and 1897, and distinguished as a naturalist and field investigator. Dr. Townsend made a special study extending over many years of our fur seals and pelagic sealing. (Hearing No. 2, p. 109, June 9, 1911.)

THE DEADLY PARALLEL.

All killing of fur seals on Pribilof Islands is ordered under recommendation of advisory board, of which Townsend is a member:

Mr. BOWERS. I have referred, in my report of June 30, 1909, to the Alaskan fur-seal service as follows:

"On the establishment of the Department of Commerce and Labor, in 1903, the Alaskan fur-seal service was transferred thereto from the Department of the Treasury, to which it had been attached for many years. In the Department of Commerce and Labor this service formed a distinct branch and was administered through the Secretary's office until December 28, 1908, when it was transferred to the Bureau of Fisheries. The Commissioner of Fisheries has appointed a special board, composed of five members of the bureau's staff who have personal knowledge of the Alaskan fur seals, and to this board will be assigned for consideration and recommendation all matters pertaining to the seal life on the Pribilof Islands, the blue foxes, and other animal resources on the islands, and the Government's relations to the natives and the lessees. On January 13, 1909, the Secretary, on the recommendation of the commissioner, appointed an advisory board for the fur-seal service, consisting of Dr. David Starr Jordan, Dr. Leonard Stejneger, Dr. C. Hart Merriam, Mr. Frederic A. Lucas, Hon. Edwin W. Sims, Hon. Frank H. Hitchcock, and Mr. Charles H. Townsend. The Government is thus enabled to avail itself of the expert knowledge possessed by these naturalists and officials, who, through visits to the seal islands and through previous duty on fur-seal commissions or in the administration of the fur-seal service, are familiar with the problems involved in the management of the seal herd and the seal islands."

Mr. PATTON. These recommendations were made to your bureau?

Mr. BOWERS. Yes.

Mr. PATTON. And were not made by you at all?

Mr. BOWERS. No, sir.

Mr. PATTON. But were made by this advisory board?

Mr. BOWERS. Yes, sir. [Reading:]

"It is recommended that, for the present, no fur-seal skin weighing more than 8½ pounds or less than 5 pounds shall be taken, and that not more than 95 per cent of the 3-year-old male seals be killed in any one year." (Hearing No. 2, p. 111, June 9, 1911.)

Townsend swears that he does not know how the killing has been done on the islands; does not know what a yearling seal skin is.

The CHAIRMAN. What can you tell us about the killing of seals?

Dr. TOWNSEND. I hardly know what the methods are at the present time. I have not been there since 1900. I could only discuss that subject now in a general way, if that would be satisfactory.

The CHAIRMAN. You have not been there since 1900?

Dr. TOWNSEND. Not since 1900.

Mr. MCGILlicuddy. Are you familiar with the means and modes of skinning seals as they do up there on the islands?

Dr. TOWNSEND. Yes.

Mr. MCGILlicuddy. Is there any way to determine the age of a seal from an examination of the skin after it is taken off the body?

Dr. TOWNSEND. Oh, yes; I think a person handling a considerable number of them would be able to throw out the different ages.

Mr. MCGILlicuddy. There seem to have been two ways of determining the age of a seal, one is by the measurement of the skin and the other by the weight. You are familiar, I suppose, with both methods?

Dr. TOWNSEND. Only from hearsay. I do not know that I ever measured one or ever weighed one.

Mr. MCGILlicuddy. You have no practical information on that subject?

Dr. TOWNSEND. I have no practical information on that subject. I do not remember that that matter was ever in my instructions at any time. I do not remember that I ever went into it.

Mr. MCGILlicuddy. So far as your information goes, which do you regard as the more reliable way of determining the age of a seal, by measurement or by weight?

Dr. TOWNSEND. I can not say. I have not gone into that subject. (Hearing No. 12, pp. 736, 737, May 24, 1912.)

Bowers swears that Townsend advised him as a member of the fur-seal advisory board.

Mr. PATTON. These recommendations were made to your bureau?

Mr. BOWERS. Yes.

Mr. PATTON. And were not made by you at all?

Mr. BOWERS. No, sir.

Mr. PATTON. But were made by this advisory board?

Mr. BOWERS. Yes, sir. [Reading:]

"It is recommended that, for the present, no fur-seal skin weighing more than 8½ pounds or less than 5 pounds shall be taken, and that not more than 95 per cent of the 3-year-old male seals be killed in any one year." (Hearing No. 2, p. 111, June 9, 1911.)

But Townsend swears he does not know anything of the job, and does not know what he said to Nagel.

The CHAIRMAN. What do you know of the composition of the catch of 12,920 fur-seal skins taken by orders of Hon. Charles Nagel, Secretary of Commerce and Labor, and Mr. George M. Bowers, United States Fish Commissioner, during the season of 1910 on the Pribilof Islands?

Dr. TOWNSEND. I am not posted on the composition of that catch. The catch made on the islands is supposed to be made from seals that are over 1 year old, from the 2-year-olds and from some of the small 3-year-olds. Perhaps I should say the 3-year-olds with some of the smaller 4-year-olds and the larger 2-year-olds. I do not remember exactly what they were killing, but they were skins of sizes which were highly marketable, and that the fur trade could use to the best advantage. It does not make a great deal of difference what size skins you take so long as you do not take too many of the males.

The CHAIRMAN. How many of these 12,920 skins are skins not taken from seals under 2 years of age?

Dr. TOWNSEND. I have not examined the records of their ages or the records of their sizes, and can not answer the question without consulting the records.

The CHAIRMAN. Did you have a talk with Secretary Nagel after he received, on May 10, 1910, the printed protest of the Camp Fire Club of America against the issue of the orders to kill 13,000 seals during the season of 1910?

Dr. TOWNSEND. I have frequently called on Secretary Nagel when I have been in Washington, and I have discussed seal matters with him, but what I have said to him I can not say. I do not remember discussing that point with him.

The CHAIRMAN. What did you discuss with him?

Dr. TOWNSEND. Matters pertaining to the seal islands in general.

The CHAIRMAN. Did Secretary Nagel consult with you before sending his reply of May 15, 1910, to this protest of the Camp Fire Club?

Dr. TOWNSEND. I do not remember. I do not remember that I ever talked over the matter with Mr. Nagel until after the Camp Fire Club had been agitating the matter for some time.

The CHAIRMAN. Well, you did discuss it with him, didn't you?

Dr. TOWNSEND. I have discussed fur seals with him. (Hearing No. 13, p. 801, June 8, 1912.)

Townsend swears that he never believed in renewing the seal lease.

The CHAIRMAN. Dr. Townsend, you were asked at a former hearing whether you wrote a letter advising the releasing of the islands for another term of years.

Dr. TOWNSEND. I believe there was such a question.

The CHAIRMAN. And there was such a letter produced in the hearing, or a copy of a letter for the hearing. That letter was dated, I think, January, 1910, was it not?

Dr. TOWNSEND. I have forgotten the letter. I have not seen it since then.

The CHAIRMAN. The letter is dated January 31, 1910.

Dr. TOWNSEND. Yes, sir.

The CHAIRMAN. On November 17, 1909, the advisory board had a meeting in which you participated and pursuant to which you made some recommendations to the Secretary of Commerce and Labor. Do you remember that there was such a meeting?

Dr. TOWNSEND. I was at such a meeting; yes, sir.

The CHAIRMAN. And the printed documents here show that it was on November 23, 1909. Was there any discussion of the releasing of the islands at this meeting of the advisory board?

Dr. TOWNSEND. I have no distinct recollection of just what we did at these meetings. I do not remember that that point was discussed with any fullness, at least.

The CHAIRMAN. If you were of the opinion that the islands should not be released, why did you not make such a recommendation to the Secretary, together with the other members of the board?

Dr. TOWNSEND. I was never of the opinion that the islands should be released. I simply supposed that it would be impossible for the Government to take them over, and that they would be released no matter what anybody could say, because they had always been leased. While I lived on the islands, there was always more or less friction between the lessees and the Government's authorities, and I always felt that the Government had as well have the profits of the seal islands rather than divide them with the lessees. (Hearing No. 13, p. 797, June 8, 1912.)

But Townsend "as a member of the advisory board" urges a renewal of the seal lease.

The "advisory board" gets busy—must renew the Elkins lease.

NEW YORK AQUARIUM,
Battery Park, New York, January 31, 1910.

HON. GEORGE M. BOWERS,
Commissioner United States Bureau of
Fisheries, Washington, D. C.

DEAR SIR: As a member of the fur-seal advisory board of your department and one always interested in matters pertaining to the fur-seal industry, I wish to call your attention to an important letter received from Mr. Alfred Fraser, which is inclosed herewith.

I have known Mr. Fraser for many years and have every confidence in his knowledge of this subject, as well as his entire sincerity. During the many years that the subject of the fur-seal fishery has been before our Government authorities he has supplied freely important statistics of the fur-seal trade. He has been the principal American buyer of sealskins in this country, and has been in the business for a lifetime.

There can be no doubt that a reduction in the number of sealskins now coming from the Pribilofs would be of most injurious to the sealskin trade.

It is to be hoped that the Pribilof Islands will be released this year, and that a small supply of skins will be kept available to the fur trade. The reasons for this are strongly set forth in Mr. Fraser's letter.

It is also important that the Treasury Department be requested to reconsider the matter of duty on sealskins.

The margin of profit left to the trade after the payment of duties on skins whose value is already enhanced by the Government tax on the Pribilof catch, makes them enormously expensive. In fact, their cost is almost prohibitive.

I feel that with fur-seal service transferred to your bureau and the presence in your office of a number of men well informed on this subject, you are in a position to make a good presentation of Mr. Fraser's letter to the proper authorities, and I earnestly hope that you will undertake to have this important matter properly presented.

I would suggest also that a copy of this letter be sent to Senator Dixon, who has introduced a resolution calling for a cessation of seal killing on the Pribilofs, which would undoubtedly result in more harm than good at the present time.

Very respectfully, yours,

C. H. TOWNSEND.

(Hearing No. 3, July 6, 1911, pp. 159, 160.)

Townsend does not remember that he did anything to try and defeat the re-leasing bill.

Mr. ELLIOTT. Did you, at the time Mr. Bowers asked you to take up with the Campfire Club of America the subject of renewing the fur-seal lease—

Dr. TOWNSEND. What is the question?

Mr. ELLIOTT. Did you, at the time Mr. Bowers asked you to take up with the Campfire Club of America the subject of renewing the fur-seal lease, in which Ogden Mills is interested, have any—

Dr. TOWNSEND (interposing). I have no recollection of Mr. Bowers asking me to take up the matter of the Campfire Club.

Mr. ELLIOTT. You do not? Let me see if you do not. On page 157, of hearing No. 3, is a letter dated "Department of Commerce and Labor, Bureau of Fisheries, Washington, D. C., December 16, 1909," signed by "Barton W. Evermann" (p. 157)—Have you got it?

DEPARTMENT OF COM. AND LABOR,
BUREAU OF FISHERIES,
Washington, December 16, 1909.

The COMMISSIONER:

The Washington Star of December 10 last announced that the Campfire Club, of New York, had inaugurated a campaign to save the fur-seal herd through legislation designed to prevent the re-leasing of the sealing right, the cessation of all killing on the islands for 10 years except for natives' food, and to secure the opening of negotiations with Great Britain to revise the regulations of the Paris tribunal. As the result of this movement, on December 7 three resolutions were introduced by Senator Dixon, of Montana, one of which embodies the provisions before mentioned, the other two calling for the publication of fur-seal correspondence and reports since 1904.

As the object of this movement is at variance with the program of this bureau and of the recommendations of the advisory fur-seal board, notably in the plan to prevent killing and the renewal of the seal island lease, the advisability is suggested of having Messrs. Townsend, Lucas, and Stanley Brown use their influence with such members of the Campfire Club as they may be acquainted with with the object of correctly informing the club as to the exact present status of the seal question and of securing its cooperation to effect the adoption of the measures advocated by this bureau.¹

The attached letter is prepared, having in view the object stated.

BARTON W. EVERMANN.

But Lucas remembers—Townsend started him.

Mr. ELLIOTT. Yes. Now, I would like to ask you, Dr. Lucas, with this letter before you, who called on you, and asked you to go to work and stop this legislation in Congress?

Dr. LUCAS. At the immediate moment I do not recall that anyone called upon me and asked me to stop this legislation in Congress.

Mr. ELLIOTT. This resolution of Senator Dixon's presented December 7, 1909; you don't remember anyone at all calling on you in regard to that?

Dr. LUCAS. If anyone it was Dr. Townsend.

Mr. ELLIOTT. Did he cite any authority for calling on you?

Dr. LUCAS. He did not.

Mr. ELLIOTT. Just his own individual idea?

Dr. LUCAS. To the best of my knowledge he said this resolution was up—I wish this to be taken down as mere hearsay, Mr. Chairman; he called me up over the phone and said this resolution was up, and asked me to write a protest against it, which I did.

The CHAIRMAN. A protest against the enactment of the law?

Dr. LUCAS. Against the enactment of the proposed law making a closed season. (Hearing No. 12, pp. 724, 725, May 16 1912.)

Dr. TOWNSEND. Yes.

Mr. ELLIOTT. Is that letter under your eye so I do not need to read it?

Dr. TOWNSEND. Yes; I have read this letter here, sir. What do you wish to ask me in connection with it?

Mr. ELLIOTT. Who called on you, who used their influence with you, before you went to Mr. Lucas, and asked him to write letters to Members of Congress opposing the Dixon resolution, which prevented the renewal of the lease? Who asked you to go to Mr. Lucas?

Dr. TOWNSEND. I do not remember that anybody asked me to go to Mr. Lucas. (Hearing No. 12, pp. 775, 776. May 26, 1912.)

Townsend is engaged in the business of "preventing well-meaning Congressmen from being deceived," etc.

[Science, Mar. 1, 1912.]

TO THE EDITOR OF SCIENCE: In Science for February 2 Mr. Marshall McLean, member of the Camp Fire Club, enters the list of those who would by indirection ruin the fur-seal herd. He would have "natural conditions" rule upon the fur-seal islands and "all killing of selected males for commercial purposes * * * cease until the tide of increase in the fur-seal herd has once more set toward the flood." He lays down as reason for this the principle "that when any species of wild animal has become so depleted as to be in danger of extinction, the best remedy is to let it absolutely alone."

"This is not the first time I have endeavored to prevent well-meaning Congressmen from being deceived by the misrepresentations which have been poured upon them for many years. The mischief-maker referred to has bobbed up every other year for the past 18 years and has been discredited every time. I hope you will look up his record as just published in House Document No. 93, Sixty-second Congress, first session, pages 1153-1162."

The Member of the House to whom I sent this letter has at last presented an amendment to the State Department bill in which he proposes to limit the killing of male seals to 5,000 a year for five years, 7,500 a year for the following five years, and 10,000 annually for five years after that. At the end of 15 years new regulations to be adopted.

Now that is better. The gentleman has evidently been thinking it over. We shouldn't probably kill much closer if allowed to have our own way. Perhaps by the time the treaty bill reaches the Senate Congress will decide that the Bureau of Fisheries is able to handle the seal fishery safely for the seal herd and for the Government.

The well-meaning Congressmen take notice of Townsend's efforts; they are not deceived.

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

The committee therefore recommends:

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

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

(3) That the State Department take up with Russia the matter of the case of the

As to the criticism of my general statement about the *Uncinaria* parasite, I can only reply that our diminished rookeries are not at present overspreading into the parasite-infected sand areas. In fact, Mr. Heath states; as quoted by Mr. McLean, "these areas have been abandoned." They must of course be fenced to protect the younger seals from infection as soon as the breeding grounds begin to expand. As to shooting some of the big males when they get too numerous, it would puzzle the experts, as well as Mr. McLean, to say which were the fittest to survive. They all look alike. Old ocean attends to the matter of selection in the case of the fur seal, weaklings do not survive the seven months' migration swim among the killer whales of the Pacific. If Mr. McLean will bring his committee to my office where there is a fairly complete set of rookery photographs and charts, he will get a clearer understanding of the Pribilof breeding grounds than he has at present. The fact is that the innocent Camp Fire Club is being used by the unscrupulous lobby which has always been kept at work by the pelagic sealers. One excuse suits it as well as another; this time it is the killing of surplus males. It is a pity that year after year it should succeed in getting the support of men of good standing who happen to be ignorant of the real facts involved.

C. H. TOWNSEND,

Member Advisory Board Fur Seal Service.

(Hearing No. 10, pp. 597, 598, Apr. 20, 1912.)

Townsend, in 1895, declared that the land killing was injurious.

In the investigation made by said commission the methods of land killing as well as pelagic sealing should be studied. It may be remembered that Mr. Henry W. Elliott, formerly United States special agent, in his report of 1890, claimed that the methods of driving and killing the seals on the land were injurious to the herd. In this conclusion he is corroborated by Mr. Townsend, of the Fish Commission, whose report is also annexed. (Report of Chas. S. Hamlin, Asst. Secy. Treasury, Mar. 1, 1895, p. 452: "Seal and Salmon Fisheries." Vol. I, 1898.)

"James Hamilton Lewis" for the purpose of rectifying the wrong done by said Liebes, C. H. Townsend, and H. H. D. Peirce, against the Government of Russia, a friendly power.

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

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

(H. Rept. No. 1425, Jan. 31, 1913. 62d Cong., 3d sess., pp. 4, 5.)

But he fell down in the shadow of Jordan and found that the lessees do no harm.

Mr. McGUIRE. Have you made any investigations recently as to what the Government is doing, and as to whether, in your judgment, the killing is being carried on just as it should be done, resulting in a reduction of the number of the surplus males?

Dr. TOWNSEND. I am of the opinion that the matter is being very carefully handled by men who understand it; that they are harvesting such of the crop as should be harvested, and that they are saving a sufficient number of breeding males. Now that the convention with Russia, Japan, and Great Britain looking to the cessation of pelagic sealing has been held, I think that the treaty should be ratified and pelagic sealing put an end to. I do not think that the males should be killed too closely, and I am not of the opinion that they have been killed too closely. (Hearing No. 13, p. 810; June 8, 1912; H. Com. Exp. Dept. C. and L.)

Townsend swears that he produced documents at The Hague which refuted charges of piracy. In re the *James Hamilton Lewis* claim.

THE CHAIRMAN. Did you know at the time that they were the owners of these vessels in which this pirate turned up?

DR. TOWNSEND. No; I never knew anything about that until those things were brought out at The Hague.

THE CHAIRMAN. It was developed at The Hague that the Liebes were the owners of this vessel?

DR. TOWNSEND. That is my recollection.

THE CHAIRMAN. And I suppose that is in the public records?

DR. TOWNSEND. Everything, sir, that is connected with the matter must be between the covers of that book and be between the covers of some other public document in which the matter was brought up a year or so later on, perhaps by Mr. Elliott. But it is all published.

MR. ELLIOTT. When this was brought out at The Hague, what did you advise Mr. Pierce to do, as his "expert pelagic sealing adviser"?

DR. TOWNSEND. I do not know that Mr. Pierce ever asked me for advice over there. He instructed me to produce certain documents that would help him refute claims, etc. I was a statistician.

MR. ELLIOTT. Did you produce any documents that refuted Liebes's claim?

DR. TOWNSEND. I have no recollection in regard to it. Whatever was done is in the book.

MR. MCGILICUDDY. Why did you ignore the abundant sworn testimony on file in the Department of State since 1893 that the *James Hamilton Lewis* was a sealing "pirate," or raider, of seal rookeries on the Commander Islands in 1890 and 1891?

DR. TOWNSEND. I had no information about the ownership of vessels that were said to be raiding rookeries until the time that I was sent to The Hague.

MR. MCGILICUDDY. Well, did you know that there was sworn testimony on file in the Department of State in 1893 that the *James Hamilton Lewis* was a sealing "pirate," or raider, of seal rookeries on the Commander Islands in 1890 and 1891?

DR. TOWNSEND. No; I only knew from hearing it discussed, or knowing about the raids as I saw it discussed in the newspapers.

MR. MCGILICUDDY. If your attention was called to it in that way, did you make

But the facts of sworn record prove that the *Lewis* claim (her owner and master's) was a fraudulent one, and known widely as such.

MR. ELLIOTT.

THE PROGRESSION OF CAPT. ALEXANDER M'LEAN AS AN "AMERICAN CITIZEN."

1890. In command of the *J. Hamilton Lewis*; H. Liebes, owner; raids Copper Island and gets off, August 1, with two men badly hurt.

1891. In command of the *J. Hamilton Lewis*; seized August 2, while raiding Copper Island with the crew of the *E. E. Webster*, owned by H. Liebes and commanded by his brother; vessel confiscated and he is imprisoned at Vladivostock a few weeks.

1892. In command of the *Rosa Sparks*, sealing schooner, of San Francisco; no raids this year.

1893. In command of the steam sealer *Alexander*, flying the Hawaiian flag; he is caught by the U. S. S. *Mohican* raiding Northeast Point, St. Paul Island, in July, but escapes in the fog because the war vessel's engines were disabled.

1894 to 1902. In command of various pelagic vessels, but under restraint from the lessees, since the claim of the *J. Hamilton Lewis* is being prepared and pressed, up to its successful end November 29, 1902, at The Hague.

1896. He appears as a "true American" before the claims award commission, which sits at Victoria, in settlement of damage suits against the United States Government for seized sealers and vessels in 1866-1889; he testifies, "at the peril of his life," for the American commissioners as to the value of the British boats seized. (See Rept. 2128, Senate bill 3410, 58th Cong., 2d sess.) He is in truth working for the highest figures obtainable from the United States Treasury, instead of the lowest.

1903. He can not be placed with certainty this year.

1904. He raids Copper Island August 2, in the "Mexican" schooner *Cervencita*; one of his men seriously shot.

1905. He attempts a raid on St. Paul Island, Northeast Point, but is driven off; he is sailing in the *Acapulco*, and defies arrest by the United States agents, for he is a British subject; at Victoria, British Columbia, in October, 1905.

1906. He raids St. Paul Island July 16-17, with a Japanese outfit; five Japs killed, and 12 prisoners taken; there is a fleet engaged in this raid, which attacked

any effort to ascertain what the evidence was that was on file in the department?

Dr. TOWNSEND. No. (Hearing No. 12, p. 774, May 25, 1912; Hearing No. 13, p. 818, June 8, 1912).

Townsend swears that it was no concern of his when he learned that the *Lewis's* claim was fraudulent—he was a “youngster” at the time he vouched for it.

The CHAIRMAN. Don't you know that the Liebes received that money?

Dr. TOWNSEND. I know that damages were awarded in favor of the United States for these vessels, but how much was allowed to the owners of this vessel I do not know.

The CHAIRMAN. Don't you know that the Liebes received it?

Dr. TOWNSEND. I do not know. I suppose they did. I presume they did. The case was decided in favor of the United States, and I have no doubt they were paid; but from personal knowledge of it, I can not say.

The CHAIRMAN. Do you swear that they did not receive it?

Dr. TOWNSEND. No, sir.

The CHAIRMAN. Will you swear that they did not own the vessel?

Dr. TOWNSEND. No, sir; I certainly could not do that.

The CHAIRMAN. Don't you know that they did own it?

Dr. TOWNSEND. I think they owned it; yes, sir; and they probably were paid. I am simply avoiding the making of a statement about a thing of which I am not absolutely positive.

The CHAIRMAN. Do you know whether it was important that the Government officials or the Secretary of the Treasury should have found out that the Liebes were the owners of this vessel in order that they could take proper action, so far as the lease was concerned, or upon the bond that was given by the company to the Government?

Dr. TOWNSEND. No, sir; I was a good deal of a youngster, and I did not meddle with those matters of the Government that did not concern me at all. (Hearing No. 13, p. 805, June 8, 1912.)

five rookeries at once and on the same days; they got away from all of them, except Northeast Point, with seals and no casualties. (Hearing No. 4, p. 184, July 11, 1911.)

But Townsend was 43 years old—an old “youngster” to plead the baby act. He was born in 1859. He vouched for this job in 1902.

TOWNSEND, *Charles Haskins*: Zoologist, b. Parnassus, Pa., September 29, 1859. * * * fisheries expert Russo-American Arbitration at The Hague, 1902 * * *. Address, *Aquarium*, New York. (Who's Who in America, 1912-13, p. 2113.)

(NOTE.—This is Townsend's own description of his age and standing when he vouched for the pirate McLean and lessee Liebes's claim as being “just and valid” at The Hague, June-July, 1902.)

The bogus log of the pirate ship sent to the State Department by lessee Liebes December 8, 1899.

Mr. ELLIOTT. The claim dragged, because the log book of the *Lewis* was in the hands of its captors. It was necessary that a log book be produced which would show that at the time of the seizure the *Lewis* was on the high seas. The log book taken by the Russians does not show where the vessel was at the time or what she had been doing. This difficulty is met by Liebes, who, through an agent, George R. Tingle, the general manager of the lessees of the seal islands, who, on December 8, sends, with a letter, the "original log" of the *J. Hamilton Lewis*. McLean swears to it and Tingle vouches for it to Secretary of State Olney. Tingle says that this long delay (six years) in producing the log was due to his absence from the city, when, in truth, he was in Washington nine months of each year ever since 1899 up to the date of the letter. But this log, which owners and masters have offered as the original log of the *J. Hamilton Lewis*, is soberly and solemnly received at the State Department as a bona fide exhibit for presentation at The Hague. (Hearing No. 4, p. 181, July 11, 1911.)

Townsend don't know Liebes—he does not know much about San Francisco pelagic-sealing facts—he got the great bulk of that data in Victoria, British Columbia.

Mr. ELLIOTT. Dr. Townsend, when did you first meet Isaac and Herman Liebes?

Dr. TOWNSEND. I have no recollection of ever meeting either of them.

Mr. ELLIOTT. You do not know them?

Dr. TOWNSEND. I am pretty sure that I have never met either of them.

Mr. ELLIOTT. Have you never seen them?

Dr. TOWNSEND. I have never seen them.

Mr. ELLIOTT. You never have conferred with them?

Dr. TOWNSEND. I have no recollection of it.

Mr. ELLIOTT. Have you ever been in their place of business?

Dr. TOWNSEND. They used to have a big store in San Francisco; it is possible I may have been in it. I have no recol-

Townsend, as an "expert," vouches for this pirate's log being genuine and legally in form, at The Hague July, 1902.

Mr. MCGILICUDDY. Do you mean to say that our Government claimed damages for the seizure of a vessel by the Russian Government when such vessel was engaged in pelagic sealing?

Dr. TOWNSEND. Yes, sir.

Mr. MCGILICUDDY. And that was done through our State Department?

Dr. TOWNSEND. That is about my recollection.

Mr. MCGILICUDDY. You were there as an expert, were you not?

Dr. TOWNSEND. Yes, sir.

The CHAIRMAN. I do not want him to make a statement that he can not substantiate, but I would like to know now, Dr. Townsend, in what capacity you were at The Hague Tribunal in this matter?

Dr. TOWNSEND. In the progress of the work before The Hague Tribunal it became necessary for the Secretary to produce information on various sealing matters, such as the movements of sealing vessels. I carried along with me a trunk full of log books of sealing vessels. We would have before us the charges made by the Russian representative during the day, and we would work all night preparing something to refute the charges. I carried the log books that had been taken from the vessels. (Hearing No. 12, pp. 756, 758, May 24, 1912.)

But when Victoria is reached, Townsend has no data whatever as to pelagic-sealing business duly claimed by him May 25, last.

The CHAIRMAN. Who compose the Victoria Sealers' Association?

Dr. TOWNSEND. I do not know who the officers are.

The CHAIRMAN. What is their business?

Dr. TOWNSEND. I suppose it is a company for the carrying on of pelagic sealing. They are the owners of vessels, and must be located in Victoria.

The CHAIRMAN. Is that their place of business?

Dr. TOWNSEND. Very likely. I can hardly imagine that it would be anywhere else.

The CHAIRMAN. How long have they been in business there?

Dr. TOWNSEND. I do not know, but probably for a good many years.

The CHAIRMAN. Do you know a man by the name of Morris Moss?

lection of ever going there to see those men.

Mr. ELLIOTT. You were engaged as an employee of the Bureau of Fisheries, looking into this matter of pelagic sealing for a number of years, were you not? And, in your reports, you had occasion to see the "owners" and look into "the books of the owners" of pelagic-sealing vessels, did you not?

Dr. TOWNSEND. I got most of my log books directly from captains of vessels.

Mr. ELLIOTT. Do you not know from your investigation that Liebes was the largest dealer in pelagic sealskins on the Pacific coast?

Dr. TOWNSEND. The great bulk of my data was obtained, not in San Francisco, but in Victoria.

(Hearing No. 12, pp. 773, 774, May 25, 1912.)

Townsend repeats the falsehood of Jordan in re a fictitious pelagic-sealer's lobby—the former takes his cue from the latter's telegram to Congress.

[Science, Mar. 1, 1912.]

TO THE EDITOR OF SCIENCE:

If Mr. McLean will bring his committee to my office where there is a fairly complete set of rookery photographs and charts, he will get a clearer understanding of the Pribilof breeding grounds than he has at present. The fact is that the innocent Camp Fire Club is being used by the unscrupulous lobby which has always been kept at work by the pelagic sealers. One excuse suits it as well as another, this time it is the killing of surplus males. It is a pity that year after year it should succeed in getting the support of men of good standing who happen to be ignorant of the real facts involved.

C. H. TOWNSEND,

Member Advisory Board Fur Seal Service.

(Hearing No. 10, pp. 597-598, Apr. 20, 1912.)

Dr. TOWNSEND. I do not remember any such person.

The CHAIRMAN. Do you know that he is connected with the Sealers' Association, or the Victoria Sealers' Association.

Dr. TOWNSEND. No, sir; I have no information on the subject.

The CHAIRMAN. Do you know of any business relation between Liebes & Co. and the Victoria Sealers' Association?

Dr. TOWNSEND. No, sir.

The CHAIRMAN. You never did discover that as long as you were connected with the Bureau of Fisheries?

Dr. TOWNSEND. I was probably not interested in it at all. As furriers, they were probably were interested in every thing of that kind.

The CHAIRMAN. Lampson & Co. have an agent with the Victoria Sealers' Association, have they not?

Dr. TOWNSEND. I can not say; I do not know.

The CHAIRMAN. Do you know the number of skins that were consigned by the Victoria Sealers' Association in 1895 and 1896?

Dr. TOWNSEND. No, sir; but that is a matter of record, no doubt.

(Hearing No. 13, pp. 807, 808, June 8, 1912.)

Townsend attempts a denial of the responsibility of the derogatory Osborn-Grant letter, while Elliott proves that in 1909 he refused to admit any "rights" for pelagic sealers.

Mr. ELLIOTT. Yes. Dr. Townsend, I have in my hand a letter signed by Henry Fairfield Osborn and Madison Grant, president and chairman of the New York Zoological Society, general office, No. 11 Wall Street, dated February 8, 1912, addressed to the Hon. W. S. Goodwin, Committee on Foreign Affairs, Washington, D. C. In this letter appears the following paragraph:

"Mr. Henry W. Elliott, who holds views opposite to the foregoing, is and has been for many years a man entirely discredited in the scientific world and is not taken seriously by anyone who has followed his record in connection with this subject during the past 18 years. We believe that those who have supported him in this unnecessary and senseless agitation, which has been solely instigated by him, have been grossly misled."

I ask if you inspired that letter?

PALO ALTO, CAL.,
February 5, 1912.

HON. WM. SULZER,
House of Representatives,
Washington, D. C.:

To incorporate a clause establishing in fur-seal bill a close season prohibiting killing of superfluous males would do no good to herd, but would kill treaty. No one knows this better than the pelagic-sealers' lobby, which for 20 years has been led by Henry W. Elliott.

DAVID STARR JORDAN.

(Hearing No. 12, p. 771, May 25, 1912.)

Dr. TOWNSEND. Mr. Chairman, do I understand that this question comes from you?

Mr. ELLIOTT. It comes from me.

Dr. TOWNSEND. Must I submit to the cross-examination by Mr. Elliott?

The CHAIRMAN. You will just answer the question.

Dr. TOWNSEND. I am not responsible for the writings of Mr. Grant or Mr. Osborn. I have nothing to do with their statements.

(Hearing No. 12, pp. 768, 769, May 25, 1912.)

17 GRACE AVE., LAKEWOOD, OHIO,
November 3, 1909.

Dr. DAVID STARR JORDAN,
Stanford University, Cal.

DEAR SIR: Your letter of the 6th instant has been duly received. With regard to that appearance of my track chart in your report of 1896, you seem to be not quite clear in your mind as to how it got in there as it did. Perhaps the following statement of fact may help you to know its publication there without that credit given to me as its author which is indisputably mine:

With regard for the "rights" of those Victorian sea wolves, I hope that they will never get a penny for their rotting vessels or their "good will." They have had far, far too much already at the expense of humanity and decency. Let their vessels rot, and let their owners rot with them.

Very truly, yours,

HENRY W. ELLIOTT.

(Hearing No. 12, pp. 763, 764, May 25, 1912.)

But Osborn says they advised how to write.

Mr. ELLIOTT (reading):

THE AMERICAN MUSEUM
OF NATURAL HISTORY,
OFFICE OF THE PRESIDENT,
New York, January 22, 1912.

DEAR SIR: As president of the American Museum of Natural History, I have been securing the advice of the expert zoologists of this institution, especially of Dr. Frederic A. Lucas, who is a trained authority on the fur-seal question. I desire to protest against the proposed amendment to the fur-seal bill (drafted by the State Department), which amendment provides a 15-year closed season on male seals. This amendment, should it become law, would exterminate the great seal herd of the United States, and is founded upon ignorance of the first principles of breeding under natural conditions, and of the artificial conditions

Townsend and Lucas deny Osborn's letter.

Mr. ELLIOTT. Did you inspire the letter which Henry Fairfield Osborn, president of the American Museum of Natural History, wrote to Chairman William Sulzer?

Dr. LUCAS. I did not. Kindly note, Mr. Elliott asked if I inspired that letter.

The CHAIRMAN. Do you know anything about it?

Dr. LUCAS. Only after it was written.

The CHAIRMAN. Were you in consultation about it with anyone?

Dr. LUCAS. No; my advice was not asked.

Mr. ELLIOTT. Do you agree with Mr. Osborn in this statement:

NEW YORK ZOOLOGICAL SOCIETY,
New York, January 22, 1912.

MY DEAR MR. SULZER: I understand there is a proposal to add to the fur-seal bill drafted by the State Department an

amendment for a 15-year closed season on male seals.

This amendment is a vicious one, which will certainly lead to the complete extermination of the seals. I understand it was proposed by Mr. Elliott, who has no standing in this country as a zoologist, and I believe is supported by my friend Dr. Hornaday, who, I regret to say, has come under the influence of Mr. Elliott. Dr. Hornaday's position in the matter is entirely personal, and does not in any way represent the judgment of the New York Zoological Society. All the zoologists of note in this country, all the scientific experts whose opinions are worthy of consideration, all the trained experts who have made a special study of the fur-seal problem, all naturalists who understand that an excess of males is fatal to both the females and the young, and finally all those who desire through intelligent study of the question from motives of humanity as well as from motives to protect the economic interests of the United States, are opposed to the 15-year closed season.

The reason is a very simple one, which you can yourself readily understand, namely, that there is an unnatural excess of males on the islands, due to the fact that pelagic sealing has destroyed 85 females out of the 100 in the herd; thus the balance of nature has been destroyed. When there are not enough females to go around, the bulls will fight for them, and in doing so will kill both the females and the pups. Under natural conditions of breeding there would be an equal number of females and males; nature takes care of these things, but the pelagic sealers have produced a set of new and entirely artificial conditions; consequently the proposal of the United States Fish Commission experts to keep down the resulting excess of males, and thus to restore gradually the balance which nature has instituted for all time between the sexes is the only one which will preserve this great herd.

I have given this matter very prolonged study and have read all the documents, and I regret to say that your committee has been given a great amount of misinformation under the guise of sentiment for the protection of these animals. I am one of the most ardent advocates of protection of the wild animal life of this country and in this spirit and in the interests of my country I can not express myself too emphatically. My opinion is identical (with the exception of my friend Dr. Hornaday) with that of all the leading zoologists and mammalogists of rank in the United States, and if you desire I can have prepared for your committee at short notice a document signed by all these men. The article by Hugh

which have been brought about on the islands through prolonged and fateful pelagic sealing.

I am, very respectfully,
HENRY FAIRFIELD OSBORN,
President.

HON. WILLIAM SULZER,
*Chairman Committee on Foreign
Affairs, House of Representatives,
Washington, D. C.*

I am strongly in favor of the bill itself. Now, how did he get the idea that they would be exterminated after he had conferred with your scientific acumen?

Dr. LUCAS. Men may confer, you know, and do something entirely different.

Mr. ELLIOTT. How did he get that impression, if not from you?

Dr. LUCAS. I do not know. You will find all my publications entirely different from that.

Mr. ELLIOTT. So you will not be responsible for what Dr. Osborn says?

Dr. LUCAS. Not in this case; certainly not.

Mr. MCGILLICUDDY. Did you have any part in causing Dr. Henry Fairfield Osborn to write to Hon. William Sulzer a letter dated January 22, 1912, in which the former tells the latter that unless the surplus young males are all killed by man these animals will, if left alone by man, grow up and exterminate the species in a few years? Did you inspire that letter?

Dr. TOWNSEND. That is not such a letter as I would write.

Mr. MCGILLICUDDY. Do you think he stated it sensibly or correctly?

Dr. TOWNSEND. No; I do not think he stated it correctly.

Mr. MCGILLICUDDY. Have you ever made any statement about it or protested against his statement of it?

Dr. TOWNSEND. Only as I have written about it since then; I have not ventured to criticise him, but I have stated the case with regard to the seals very plainly a number of times. I have not attempted to criticise him. (Hearing No. 12, pp. 722, 723, May 16, 1912 (Lucas's testimony); Hearing No. 13, pp. 824, 825, June 8, 1912 (Townsend's testimony).)

M. Smith, of the United States Fisheries Bureau, one of the finest and most unprejudiced and unbiased men of science in the country, in the last number of the National Geographical Magazine exactly expresses the truth on this subject.

With your permission, I should like to publish this letter, but will not do so without your permission.

With best wishes for the prosecution of the many grave and important questions which are before your committee, and with continued personal regard, I am, Sincerely, yours,

HENRY FAIRFIELD OSBORN,
President.

HON. WILLIAM SULZER,
Chairman House Committee on Foreign Affairs, House of Representatives, Washington, D. C.

Dr. LUCAS. I do not agree with that, which shows very plainly I did not inspire the letter.

Townsend, naturalist, does not believe the natural law which governs wild life is the best; he knows better.

Mr. McGUIRE. Do you approve the present policy, then, that the Government continue the killing?

Dr. TOWNSEND. I approve that.

Mr. McGUIRE. And, in your judgment, will the seals increase under the present regulations and the present method of killing by the Government, in case pelagic sealing is stopped?

Dr. TOWNSEND. Oh, yes; they are bound to increase. The stock of breeders will increase, and when the pelagic sealers stop killing the females at sea there will be more pups born. The animals are polygamous, and the males fight so much among themselves that they destroy a part of the crop of infant seals by their fighting.

Mr. McGUIRE. Then, in your judgment, there is nothing to be gained by the cessation of the killing of the seals, providing the regulations are proper?

Dr. TOWNSEND. There is nothing to be gained. The male seals are on shore; they do not go away to sea as the females do when they are nursing their young, and they can be managed; they can be farmed, and the surplus stock of males disposed of just the same as you dispose of the surplus stock of any domestic animals, your surplus male stock. It is a clear-cut proposition, and very well understood by those who have been up there. (Hearing No. 13, p. 812, June 8, 1912.)

Liebes, seal contractor, has carefully studied the question and has the same improvement over natural law in mind.

The CHAIRMAN. Do you think it would be better to kill males not less than 3 years old than to kill males less than 2 years old?

Mr. LIEBES. Well, naturally, they are more valuable; but if there is no pelagic sealing at all, then, naturally, it makes no difference what you kill, except the natural enemies they have in the water.

The CHAIRMAN. But I have always had the impression, without knowing anything about the subject, except what I have heard at these hearings, that it was killing too closely that would injure the herd—I mean, killing them too young.

Mr. LIEBES. Oh, no. As I say, there are too many "P's," too many professors, too much politics, and too much pelagic sealing; that is what is killing the herd more than anything else.

The CHAIRMAN. Is there any politics in the killing up there?

Mr. LIEBES. No; not up there, but in Washington. You can not run a stock farm from Washington and tell them what is going to happen next year. You should have men there in whom you have confidence, and let them run the thing. A business man, running a stock farm, would not sit down in Washington and write a letter up north telling them to let the stock run wild for 5 or 10 years. My Lord, it would be ruinous; that would kill off the herd; they would destroy themselves. (Hearing No. 13, p. 878, June 20, 1912.)

Townsend don't like Elliott.

Dr. TOWNSEND. To go back to the subject of the hearings: I have nothing to add to what has been said by the hard-working and efficient officials of the Department of Commerce and Labor whom Elliott has placed under fire. What I have written in the past year in Science has already been reprinted in the hearings, and my views are there available.

I am unwilling, after 20 years of acquaintance with the ways of Elliott, to appear before any committee in which he may be an inquisitor, or where he may even be present.

The CHAIRMAN. I want to be entirely fair to the witness, and would suggest that if there is any place you can discover in any of the hearings where Mr. Elliott falsified or has overstepped the truth, so far as the chair is concerned you are entirely at liberty to submit the statement.

Mr. ELLIOTT. He should be compelled to.

The CHAIRMAN. One moment. I simply make that statement on account of the allegations in the statement which the witness has just read.

Dr. TOWNSEND. It would take a good deal of your time, Mr. Chairman, to go through and point these out.

Mr. ELLIOTT. You will have to before you leave the city; I will tell you that. You will answer a good many other questions to-day. (Hearing No. 12, pp. 739, 740, May 24, 1912.)

One of a hundred reasons why.

The CHAIRMAN. Dr. Townsend, do you know the extent to which Liebes dealt in sealskins?

Dr. TOWNSEND. I could not say that I know the extent; I simply know they were furriers interested in all kinds of furs, especially seals.

The CHAIRMAN. Did you know at the time that they were the owners of these vessels in which this pirate turned up?

Dr. TOWNSEND. No; I never knew anything about that until those things were brought out at The Hague.

The CHAIRMAN. It was developed at The Hague that the Liebes were the owners of this vessel?

Dr. TOWNSEND. That is my recollection.

The CHAIRMAN. And I suppose that is in the public records?

Dr. TOWNSEND. Everything, sir, that is connected with the matter must be between the covers of that book and be between the covers of some other public document in which the matter was brought up a year or so later on, perhaps by Mr. Elliott. But it is all published.

Mr. ELLIOTT. When this was brought out at The Hague, what did you advise Mr. Pierce to do, as his "expert pelagic sealing adviser"?

Dr. TOWNSEND. I do not know that Mr. Pierce ever asked me for advice over there. He instructed me to produce certain documents that would help him refute claims, etc. I was a statistician.

Mr. ELLIOTT. Did you produce any documents that refuted Liebes's claim?

Dr. TOWNSEND. I have no recollection in regard to it. Whatever was done is in the book. (Hearing No. 12, p. 774, May 24, 1912.)

V.

The sworn statements of Dr. Frederic Augustus Lucas, who is one of the experts cited to the United States Senate Committee on Conservation of National Resources, January 14, 1911, and to the House Committee on Expenditures in Department of Commerce and Labor, June 9, 1911, by Secretary Charles Nagel, as his authority for killing seals in violation of the law and regulations, to wit:

Mr. BOWERS. * * *

FUR-SEAL BOARD,
BUREAU OF FISHERIES.

In the Bureau of Fisheries, general matters regarding the fur seals are considered by a fur-seal board, consisting of the following;

* * * * *

Dr. Frederic A. Lucas, Director of the American Museum of Natural History, member of the Fur Seal Commissions of 1896 and 1897, and one of the keenest, most discerning, and best-known naturalists. * * * (Hearing No. 2, p. 109, June 9, 1911.)

THE DEADLY PARALLEL.

Lucas attempts to pass a "doped" sales sheet on the committee as a genuine sheet.

Dr. LUCAS. May I make a statement? In all these sales of skins the skins are advertised by weight and not by size.

Mr. ELLIOTT. Are they advertised by weight? Find an advertisement by weight in the Lampson catalogues and you will find something I have never been able to find.

Dr. LUCAS (reading):

"C. M. Lampson & Co. exposed to sale by auction at the College Hill public sale room on Friday, December 15, 1911, at 2 o'clock precisely, the following goods, viz, 12,002 skins, salted fur seal, Alaska."

Here follows the table:

"Lot 1, 1 middling and small, 10 pounds, no ounces; 98 smalls, 8 pounds, 4 ounces."

Mr. ELLIOTT. Since when was that put out?

Dr. LUCAS. Last December.

Mr. ELLIOTT. That is a notation put on by somebody else.

Dr. LUCAS. This is a copy of the list.

Mr. ELLIOTT. That is not the catalogue of sales in London.

Dr. LUCAS. This is a catalogue of the sales.

(Mr. Elliott takes paper.)

Mr. ELLIOTT. I've got it here.

Dr. LUCAS. Absolutely; hand that paper back here.

Mr. ELLIOTT. Certainly. Those figures ought not to have been written on there. They have never been put on in the original statement, and time of sales of those skins. (Hearing No. 12, p. 726, May 16, 1912.)

But he is exposed and prevented by the presentation of a genuine sheet.

Dr. LUCAS. Show me one where they are not in.

Mr. ELLIOTT. I've got it right here. You can look over the London sales catalogues of the Lampsons like this one for 20 years, and you can find neither weight nor measurement.

Dr. LUCAS. Then they don't mean anything.

Mr. ELLIOTT. They do "mean anything." How do you suppose these skins are classified?

Dr. LUCAS. By weight.

Mr. ELLIOTT. No, sir. How could they classify them by weight—get the size by weight?

Dr. LUCAS. Aren't you willing to say that they are classified by weight?

Mr. ELLIOTT. No; because Mr. Fraser says, on pages 30 to 33 of hearing No. 1, that they are classified by measurement.

The CHAIRMAN. I do not suppose that the people who deal in skins care so much about the weight as the size. It is the size which is needed to cover a person's back, isn't it?

Mr. MCGUIRE. I do not know how they classify them. There seems to be a difference in these copies. If this is genuine that the doctor has, it seems to me that they sometimes do put in the figures of weights and sometimes they do not put them in.

Mr. ELLIOTT. They never have. I have the whole series of catalogues for 20 years. That is a notation made by somebody else; exactly as I might make a notation on it now and here.

Dr. LUCAS. I would like to ask one question, which is if these skins are sold by measurement why is it that they are always alluded to in the sales and on the lists of seals taken as weighing so much?

Mr. ELLIOTT. I have never known of them being alluded to in that way in the sales. Here is the sales catalogue of the Lampsons' last sale, December 29, 1911. There is not the slightest allusion to measurement or weight there. They are all classified by measurements, which govern the sizes of "small pups," "middling pups," etc.

The CHAIRMAN. There seems to be a variation in these statements. Is the original document here?

Mr. ELLIOTT. Here it is. I will put it right in if you like [handing paper to chairman]. (Hearing No. 12, p. 727, May 16, 1912.)

The "doped" sales sheet of London broker, which Lucas presented as genuine.

The CHAIRMAN. Is that correct?

Dr. LUCAS. No; I have the same thing of that very sale, which came from Mr. Fraser, Lampson & Co.'s agent in New York.

Mr. ELLIOTT. I do not dispute the notations; but, Fraser did not attend the sale; he has made them outside.

The CHAIRMAN. I would suggest that we print both statements in the record and compare them afterwards. These two statements may be marked "Exhibit A," submitted by Dr. Lucas, and "Exhibit B," offered by Mr. Elliott.

The documents referred to are as follows:

"EXHIBIT A.

"C. M. Lampson & Co. exposed to sale by auction at the College Hill public sales-room on Friday, December 15, 1911, at 2 o'clock precisely, the following goods, viz, 12,002 salted fur-seal skins, Alaska. Prompt, December 29, 1911.

"The purchasers are particularly requested to have some one in attendance to superintend the counting, as no claim for deficiencies can be allowed after the goods have been counted and delivered from the warehouse."

* * * * *

12,002 SKINS, SALTED FUR SEAL, ALASKA.

[In cold storage at New Hibernia Wharf. Samples at C. M. Lampson & Co.'s warehouse, 64 Queen Street, E. C. At per skin, to advance 1s. Buyers are requested to note that all skins are stamped "L A" on the right cheek.]

Lot No.	Shillings.	Number and kind.	Weight.
			Lbs. oz.
Lot 1.....	224	1 middling and small..	10 0
		98 smalls.....	8 4
Lot 2.....	202	80 large pups.....	7 4
Lot 3.....	206	do.....	
Lot 4.....	206	do.....	
Lot 5.....	206	do.....	
Lot 6.....	206	69 large pups.....	
Lot 7.....	174	90 middling pups.....	6 8
Lot 8.....	174	do.....	
Lot 9.....	172	do.....	
Lot 10.....	172	do.....	
Lot 11.....	172	do.....	
Lot 12.....	172	do.....	
Lot 13.....	172	do.....	
Lot 14.....	172	do.....	
Lot 15.....	172	do.....	
Lot 16.....	172	do.....	
Lot 17.....	172	do.....	
Lot 18.....	170	do.....	
Lot 19.....	170	do.....	
Lot 20.....	170	do.....	
Lot 21.....	170	do.....	
Lot 22.....	168	do.....	
Lot 23.....	168	105 middling pups.....	
Lot 24.....	130	100 small pups.....	5 13
Lot 25.....	128	do.....	

* * * * *

(Hearing No. 12, pp. 728, 729, May 16, 1912.)

The genuine sales sheet of the London broker, given to committee.

The CHAIRMAN. Where does this list that you have come from?

Mr. ELLIOTT. From Lampson's agent in New York.

The CHAIRMAN. I would suggest that we print both statements in the record and compare them afterwards. These two statements may be marked "Exhibit A," submitted by Dr. Lucas, and "Exhibit B," offered by Mr. Elliott.

The documents referred to are as follows:

"EXHIBIT B.

"C. M. Lampson & Co. Exposed to sale by auction at the College Hill public sale room on Friday, December 15, 1911, at 2 o'clock precisely, the following goods, viz, 12,002 salted fur-seal skins, Alaska. Prompt, December 29, 1911.

"The purchasers are particularly requested to have some one in attendance to superintend the counting, as no claim for deficiencies can be allowed after the goods have been counted and delivered from the warehouse."

* * * * *

12,002 SKINS, SALTED FUR SEAL, ALASKA.

[In cold storage at New Hibernia Wharf. Samples at C. M. Lampson & Co.'s warehouse, 64 Queen Street, E. C. At per skin, to advance 1s. Buyers are requested to note that all skins are stamped "L A" on the right cheek.]

Lot No.	Shillings.	Number and kind.
Lot 1.....	224	1 middling and small.
		98 small.
Lot 2.....	202	80 large pups.
Lot 3.....	206	Do.
Lot 4.....	206	Do.
Lot 5.....	206	Do.
Lot 6.....	206	69 large pups.
Lot 7.....	174	90 middling pups.
Lot 8.....	174	Do.
Lot 9.....	172	Do.
Lot 10.....	172	Do.
Lot 11.....	172	Do.
Lot 12.....	172	Do.
Lot 13.....	172	Do.
Lot 14.....	172	Do.
Lot 15.....	172	Do.
Lot 16.....	172	Do.
Lot 17.....	172	Do.
Lot 18.....	170	Do.
Lot 19.....	170	Do.
Lot 20.....	170	Do.
Lot 21.....	170	Do.
Lot 22.....	168	Do.
Lot 23.....	168	105 middling pups.
Lot 24.....	130	100 small pups.
Lot 25.....	128	Do.

* * * * *

(Hearing No. 12, pp. 731, 732, May 16, 1912.)

Lucas declares that the size of the skin has nothing to do with its classification.

Dr. LUCAS. You are also doubtless familiar with the fact that the classification of the seals in the sales has absolutely nothing to do with actual ages and sizes. (Hearing No. 12, p. 708, Mar. 16, 1912.)

But the London sales agent says that its size does determine it, by measurement so classed.

TESTIMONY OF MR. ALFRED FRASER.

(The witness was duly sworn by the chairman.)

Mr. FRASER. Yes. I was in the fur business, being a member of the firm of C. M. Lampson & Co.

The CHAIRMAN. For how many years did you say you were connected with that company?

Mr. FRASER. I was connected with them since 1865.

The CHAIRMAN. What was your business as their representative?

Mr. FRASER. I took care of their business in New York.

The CHAIRMAN. If you will kindly send us a catalogue I will look it over and submit it to the committee. Prof. Elliott, do you want to ask any question?

Mr. ELLIOTT. Just one question, not to criticise Mr. Fraser, because he has told the exact truth [reading]:

"The London classification of skins is based upon the length of the skin, and then weight (p. 916, vol. 8, Proceedings of the Bering Sea Tribunal)."

Mr. FRASER. That is so; I do not dispute that. (Hearing No. 1, pp. 29, 33, June 2, 1911.)

Mr. ELLIOTT. The London people knew nothing, and still know nothing, about the age of seals, and they cared nothing about it. They were interested in the size and the quality. They ascertained and formed their idea of the skin's value primarily by its measurement, and, secondly, by its weight. The weight would vary. Sometimes more salt and blubber are used and sometimes less. But the measurements were reasonably steady and constant. They measure their sealskins. We weighed ours on the islands. (Hearing No. 1, p. 12, May 31, 1911.)

Lucas swears that the green skins weigh more than when salted.

Dr. LUCAS. For example, you will find large pups here whose skins weighed 7 pounds 4 ounces, the size of either an average 2-year-old or a small 3-year-old seal; middling pups weighing 6 pounds 4 ounces, the size of a 3-year old. And if these seal-skins follow the rule of other skins—and I have handled a great many hundreds of skins—they will weigh less at the London sales after being salted than they will weigh fresh on the islands, because when a skin is salted the salt takes the moisture out of it and it comes to the sale in a semi-dry condition. (Hearing No. 12, p. 708, May 16, 1912.)

The London authority declares that the salted skins are heaviest, and the island records confirm it.

Mr. ELLIOTT. I will go further, and submit as Exhibit J this paper. I won't read all of this in regard to the British authority on Alaskan fur-seal classification and what he says, as compared with our tables; but I will read one word from a chief British authority in an official letter written December 21, 1892, by Sir Curtis Lampson's sons to the British commissioners, Sir George Baden-Powell and Dr. George M. Dawson. Sir Curtis Lampson says:

"We are unable to answer your inquiry as to in what class in the sales catalogue would be placed a skin classified on the islands as, say, a 7-pound skin, as we do not

know whether the classification you mention refers to the skins as taken from the animals or after they have been cured and salted ready for shipment. The process of curing and salting must of necessity add to the weight. (See p. 916, Proceedings of the Tribunal of Arbitration, vol. 8, Paris, 1893.)" (Hearing No. 1, p. 14, May 31, 1912.)

The London authority is confirmed on the Seal Islands.

[Official Journal, Government Agent in Charge Seal Islands, St. Pauls Island, Alaska.]

SATURDAY, July 23, 1904.

On July 18, 107 skins taken on Tolstoi were weighed and salted. To-day they were hauled out of the bench and reweighed. At the time of killing they weighed 705 pounds, and on being taken out they weighed 759½ pounds, a gain in salting of 54½ pounds, or one-half pound per skin. (Entry made on p. 149 by W. I. Lembkey, Chief Special Agent in Charge Seal Islands.)

But he has never seen the table of one of his associates which denies his claim that the skins are classified by weight:

Lucas weighed and measured no sealskins, because this work had been done:

Mr. ELLIOTT. Nowhere in your table is there a record of a "green" skin weight?

Dr. LUCAS. Not in my table. No; except the one I think of, one skin only. The weight had been very carefully taken by Government agents and others, and it was a part of the work we did not deem it necessary to take.

"There is a large amount of evidence bearing on these facts collected by Messrs. Judge and Lembkey, and I have perfect faith in their observations from my personal knowledge of the men." (F. A. Lucas to Hon. E. H. Townsend, Feb. 24, 1912. Hearing No. 14, p. 948.)

Mr. ELLIOTT. I've got it right here. You can look over the London sales catalogues of the Lampons like this one for 20 years, and you can find neither weight nor measurement.

Dr. LUCAS. Then, they don't mean anything.

Mr. ELLIOTT. They do "mean anything." How do you suppose these skins are classified?

Dr. LUCAS. By weight.

Mr. ELLIOTT. No, sir. How could they classify them by weight—get the size by weight?

Dr. LUCAS. Aren't you willing to say that they are classified by weight?

Mr. ELLIOTT. No; because Mr. Fraser says, on pages 30 to 33 of hearing No. 1, that they are classified by measurement. (Hearing No. 12, pp. 726, 727, May 16, 1912.)

Mr. ELLIOTT. How do you know that the weight determines the size?

Dr. LUCAS. The size determines the weight.

Mr. ELLIOTT. Does it?

Dr. LUCAS. The size determines the weight.

Mr. ELLIOTT. Are you sure of that?

Dr. LUCAS. Naturally, to a great extent it does.

Mr. ELLIOTT. Are you acquainted with the tables of salted weights published by one of your associates, of 275 skins, which give a complete denial to your statement?

Dr. LUCAS. I am not.

Mr. ELLIOTT. You have never seen the table of Mr. Judge?

Dr. LUCAS. I presume I have seen the table, but I never noticed it. (Hearing No. 12, p. 726, May 16, 1912.)

Lucas says that the weights show that no yearling skins are taken:

AMERICAN MUSEUM
OF NATURAL HISTORY,
New York, February 18, 1912.

DEAR SIR: Noticing your remark on page 2168 of the Congressional Record for February 14, I take the liberty of saying that the weights of the sealskins (catches 1909 and 1910), as published by the Government agents and in the report of the London fur sales, show conclusively that there has been no systematic killing of undersize fur seals—that probably none is under 2 years of age.

As you doubtless are aware, the largest seals of any given year may be, and frequently are, larger than seals born the year previous, so that there is an overlapping of sizes and weights.

I base the above statements on my own observations, on the reports of Mr. Judge and Mr. Lembkey, and on the statements published by Mr. Elliott in his report of 1873. I confess that I quote Mr. Elliott with some hesitancy, because, as I wrote the Hon. Mr. Sulzer, he does not know the difference between a 2-year-old and a 3-year-old seal. My reason for this statement is that subsequent to 1890 Mr. Elliott published a "field diagram," in which he includes certain seals marked "2-year-olds," or "nubiles." Two-year-old females do not occur on the rookeries and very few are on the islands in June. The bulk of them arrive in July and August after the rookery system has been broken up, as is well shown in photographs. The youngest seals in the harems are 3-year-olds.

I am, faithfully yours,

F. A. LUCAS.

HON. EDWARD W. TOWNSEND,
Committee on Foreign Affairs,
House of Representatives,
Washington, D. C.

Lucas swears that the weight of the skin determines its size:

Mr. ELLIOTT. Yes: * * * Now, Dr. Lucas, when you take the skin off of that yearling seal, and salt it down, how long is it?

Dr. LUCAS. I do not know. I have never measured a skin after salting.

Mr. ELLIOTT. You never measured it before salting, did you?

Dr. LUCAS. I never measured the skin before salting.

Mr. ELLIOTT. Neither before or after. Then how do you know that in the killing up there they are not killing yearling seals?

But cross-examination makes him admit that he does not know what the weights are:

(Hearing No. 14, pp. 948, 949, July 25, 1912.)

Mr. ELLIOTT. Never mind the female. Did you measure the skin and weigh it?

Dr. LUCAS. I did not.

Mr. ELLIOTT. Nowhere in your table is there a record of a "green" skin weight?

Dr. LUCAS. Not in my table. No.

Mr. ELLIOTT. And your record stands, of course.

Dr. LUCAS. This record as printed stands.

Mr. ELLIOTT. Yes; I find no fault with that record, either. It is exactly as I published it nearly 40 years before. Now, Dr. Lucas, when you take the skin off of that yearling seal, and salt it down, how long is it?

Dr. LUCAS. I do not know. I have never measured a skin after salting.

Mr. ELLIOTT. You never measured it before salting, did you?

Dr. LUCAS. I never measured the skin before salting.

Mr. ELLIOTT. Neither before or after. Then how do you know that in the killing up there they are not killing yearling seals?

Dr. LUCAS. By the weight of the skins.

Mr. ELLIOTT. How do you know that the weight determines the size?

Dr. LUCAS. The size determines the weight.

Mr. ELLIOTT. Does it?

Dr. LUCAS. The size determines the weight. (Hearing No. 12, pp. 725, 726, May 16, 1912.)

Proof instantly produced that it does not:

There are 134 skins thus listed above, every one of which is not to exceed $3\frac{1}{2}$ inches long. If those small skins had all been properly skinned, no one of them would weigh more than 5 pounds green and three-fourths of them would not exceed $4\frac{1}{2}$ pounds. Yet we find that they all have been so loaded with blubber, when fresh skinned, that with the exception of 18 skins, they are weighing as much and even more than properly skinned 2-year old seal pelts do, and many of them weigh into the 3 year-old class.

Dr. LUCAS. By the weight of the skins.

Mr. ELLIOTT. How do you know that the weight determines the size?

Dr. LUCAS. The size determines the weight.

Mr. ELLIOTT. Does it?

Dr. LUCAS. The size determines the weight. (Hearing No. 12, pp. 725, 726, May 16, 1912.)

The following was contributed by Dr. Lucas to the New York Times of February 23, 1912:

"THE FUR SEAL HERD.

"To the EDITOR OF THE NEW YORK TIMES:

"Since my name appears in your editorial article on the fur seal question, may I have space to state my opinions?"

"Finally, the published figures of the London sales show conclusively that there has been no systematic killing of anything below the two-year olds, and not so very many of those. All reports to the contrary are absolutely false.

"It should also be stated that the terms 'pups,' 'small pups,' and 'extra small pups' are dealers' terms and have nothing whatever to do with the actual ages of the seals. Also, that sealskins weighed in London, after being salted and half-way dried, weigh less than they do when freshly taken from the seals, as they are weighed at the islands.

"F. A. LUCAS,

"Member of the Fur Seal Commission of 1896 and 1897;

"Member of the Advisory Board, Fur Seal Service."

Lucas says that Merriam and himself have some "exact knowledge":

AMERICAN MUSEUM OF
NATURAL HISTORY,
New York, February 24, 1912.

DEAR SIR: Absence from the city has delayed my replying to your favor of February 21, which I am very glad to receive.

Let me say, first, that my exact knowledge in regard to the killing of seals under 2 years of age during the years 1909 and 1910 must, like that of others who did not see the actual killing, be based on the published statement of their weights. In addition, however, I have my own experience to aid in translating these weights. The advisory board recommended that no sealskins under 5 pounds in weight be taken, this being the average weight of a 2-year-old skin. The weight given by Elliott in 1875 was (see postscript) 5½ pounds, but this was based on an average of only 10 skins. There is a bare possibility that

As an instance of that falsification in those weights above listed, No. 4612 is 32 inches long and is so blubbered that it weighs 8 pounds 4¾ ounces, and No. 4244 is also only 32 inches long—same size—yet, not blubbered, weighs but 4 pounds 3¾ ounces.

These two small yearling skins show beyond dispute that no classification of these skins by weight can be sensibly or honestly made. (Report Agents H. Com. on Exp. Dept. Commerce, Aug. 31, 1913, p. 107.)

But Merriam swears that he has no knowledge whatever:

Mr. ELLIOTT. Doctor, while you were on the island did you ascertain the length and weight of a yearling seal?

Dr. MERRIAM. I did not.

Mr. ELLIOTT. Do you know anything about the length and the weight of a yearling sealskin?

Dr. MERRIAM. Nothing.

Mr. ELLIOTT. Did you make any measurements up there?

Dr. MERRIAM. I do not remember off-hand. I examined a great many pup seals for sex.

Mr. ELLIOTT. You did not measure the yearlings, Doctor.

Dr. MERRIAM. I measured or at least weighed some of the seals, but I do not remember off-hand.

Mr. ELLIOTT. Have you published any record of it.

Dr. MERRIAM. I think not.

these might be short 3-year-olds, but I will let the matter stand as stated. According to the observations of Dr. Merriam and myself, there is about 20 per cent variation from the average either way, so that some 2-year-old sealskins would weigh but 4 pounds and others would weigh 6 pounds.

Pardon me for troubling you with a number of explanatory details, but I wish above all things to make it clear that I am not speaking by hearsay, or making statements without foundation, but that I am writing of matters with which I have direct acquaintance.

Faithfully, yours,

F. A. LUCAS.

Hon. EDWARD W. TOWNSEND,
Committee on the Library,
House of Representatives.
(Hearing No. 14, pp. 947, 948, July 25, 1912.)

Lucas swears that he believes 5½ pounds is the "good average" of a 2-year-old skin.

Dr. LUCAS. In regard to the sizes and ages of killable seals, Dr. Evermann has pointed out in his admirable résumé that there is no law against the killing of male seals of any age. There have been regulations against it, but all I can say is that no yearlings have been systematically killed. I took Mr. Elliott's figures of 1873 as a good average. He cites the weight of 2-year-old skins as 5½ pounds. I agree with him there. I think that is a good average. I might say that I have not weighed any sealskins myself. (Hearing No. 12, p. 708, May 16, 1912.)

Lucas records the appearance of 2-year-old cows, or nubles, on the breeding grounds at the height of the breeding season July 14-20, 1897:

JULY 14, 1897.

I made a count of Ardiguen this morning with Mr. Macoun. * * *
Three or four bulls with 2-year-old cows were seen on Zapadine this afternoon.
(F. A. LUCAS.)

JULY 20, 1897.

There is nothing in the condition of the harems to warrant the supposition that the 3-year-old cows are the cause of the height of the season on the rookeries. It is evident also that the 2-year-olds are already

Mr. ELLIOTT. No, and therefore you made no record that we could get hold of to-day?

Dr. MERRIAM. I doubt if I measured any of the 2-year-old seals.

Mr. ELLIOTT. I have never been able to find it. Therefore, you have no record of the length and weight of a yearling seal?

Dr. MERRIAM. I think I have none. I think I have weights and measurements of pups, but not of yearling seals. (Hearing No. 11, p. 699, May 4, 1912.)

But Lucas recommends, November 23, 1909, a lower weight, 5 pounds, for a 2-year-old skin.

Mr. PATTON. These recommendations were made to your bureau?

Mr. BOWERS. Yes.

Mr. PATTON. And were not made by you at all?

Mr. BOWERS. No, sir.

Mr. PATTON. But were made by this advisory board?

Mr. BOWERS. Yes, sir. [Reading:]

"It is recommended that, for the present, no fur-seal skin weighing more than 8½ pounds or less than 5 pounds shall be taken, and that not more than 95 per cent of the 3-year-old male seals be killed in any one year." (Hearing No. 2, p. 111, June 9, 1911.)

Lucas denies the appearance of 2-year-old cows, or nubles, on the breeding grounds at the time of breeding 3 and 4 year olds are there. They are not there at the breeding season, in July:

AMERICAN MUSEUM OF
NATURAL HISTORY,
New York, February 18, 1912.

DEAR SIR: Noticing your remark on page 2168 of the Congressional Record for February 14, I take the liberty of saying that as to the question of 2-year-old females not occurring on the rookeries, I may say that the yearlings and the 2-year-olds come to the islands late. Pardon me for saying that this statement of mine is borne out by the observations of all naturalists who have been on the Pribilof Islands.

present in considerable numbers. It seems more likely that the advent of these classes of seals depends upon their ages, the earlier coming into heat earlier as 2-year olds, and bearing their pups earlier as 3-year-olds.

(F. A. LUCAS AND GEO. A. CLARK.)
(Fur Seal Investigations, part 2, 1898,
pp. 557, 566.)

I confess that I quote Mr. Elliott with some hesitancy, because, as I wrote the honorable Mr. Sulzer, he does not know the difference between a 2-year-old and a 3-year-old seal. My reason for this statement is that subsequent to 1890 Mr. Elliott published a "field diagram," in which he includes certain seals marked "2-year-olds," or "nubiles." Two-year-old females do not occur on the rookeries and very few are on the islands in June. The bulk of them arrive in July and August after the rookery system has been broken up, as is well shown in photographs. The youngest seals in the harems are 3-year-olds.

I am, faithfully yours,

F. A. LUCAS.

HON. EDWARD W. TOWNSEND,
Committee on Foreign Affairs,
House of Representatives,
Washington, D. C.

[NOTE.—This letter confessing the strange "scientific" ignorance of the writer of the fact that those nubiles do appear on the breeding rookeries when the breeding season is not broken up, and only appear then, is a sad revelation of nonsense on the part of Lucas as an investigator. No breeding of any kind takes place after that date or before, viz, July 4-25 annually, to any noteworthy extent; none whatever after August 1.—H. W. E.]

Lucas¹ says that the virgin or 2-year-old cows do not come on the breeding rookeries.

AMERICAN MUSEUM OF
NATURAL HISTORY,
New York, February 18, 1912.

DEAR SIR: Noticing your remark on page 2168 of the Congressional Record for February 14, I take the liberty of saying that the weights of the sealskins (catches 1909 and 1910), as published by the Gov-

But¹ Jordan finds them there just as Elliott found and described them in 1872-1874.

OFFICIAL JOURNAL OF THE GOVERNMENT
AGENT'S OFFICE.

ST. PAUL ISLAND, ALASKA,
Friday, July 31, 1896.

Dr. Jordan found two 2-year-old virgin seal cows on the Reef Rookery, which he killed for scientific research.

¹ Dr. Evermann. Dr. David Starr Jordan. His associate, whose name I am now reading: "Dr. F. A. Lucas, director of the American Museum of Natural History, New York City, member of the fur-seal commissions of 1896 and 1897, when he spent about four months on the Seal Islands, devoting the entire time to a study of the rookeries and hauling grounds. Dr. Lucas is one of the keenest and most conservative of American zoologists."

¹ Dr. Evermann (reading): "Dr. David Starr Jordan, president of Stanford University, chairman of the fur-seal commissions of 1896 and 1897, and who, in company with his associates, spent the seasons of those two years on our Seal Islands and on the Russian islands, visiting every rookery and every hauling ground and studying the fur seal from every important point of view. Besides spending several months actually on the islands, he spent many more months in collating and studying the data resulting from his own observations and those of his associates and in a study of the literature of the subject.

"Mr. George A. Clark, of Stanford University, secretary to the fur-seal commissions of 1896 and 1897 and special investigator on the Seal Islands during the entire season of 1909. Mr. Clark has had a wider experience in enumerating the seal herd than any other man and is one of the most careful observers who has ever visited the Seal Islands."

ernment agents and in the report of the London fur sales, show conclusively that there has been no systematic killing of undersize fur seals—that probably none is under 2 years of age.

As you doubtless are aware, the largest seals of any given year may be, and frequently are, larger than seals born the year previous, so that there is an overlapping of sizes and weights.

I base the above statements on my own observations, on the reports of Mr. Judge and Mr. Lembkey, and on the statements published by Mr. Elliott in his report of 1873. I confess that I quote Mr. Elliott with some hesitancy, because, as I wrote the honorable Mr. Sulzer, he does not know the difference between a 2-year-old and a 3-year-old seal. My reason for this statement is that subsequent to 1890 Mr. Elliott published a "field diagram," in which he includes certain seals marked "2-year-olds," or "nubiles." Two-year-old females do not occur on the rookeries and very few are on the islands in June. The bulk of them arrive in July and August after the rookery system has been broken up, as is well shown in photographs. The youngest seals in the harems are 3-year-olds.

I am, faithfully, yours,

F. A. LUCAS.

HON. EDWARD W. TOWNSEND,
Committee on Foreign Affairs,
House of Representatives,
Washington, D. C.

[NOTE.—This letter confessing the strange "scientific" ignorance of the writer of the fact that those nubiles do appear on the breeding rookeries when the breeding season is not broken up, and only appear then, is a sad revelation of nonsense on the part of Lucas as an investigator. No breeding of any kind takes place after that date or before, viz, July 4-25 annually, to any noteworthy extent; none whatever after August 1.—H. W. E.]

(Hearing No. 14, pp. 948, 949, July 25, 1912.)

ST. PAUL ISLAND,
July 14, 1912.

GORBATCH:

There are six little virgin cows in the two large harems under Rock 12.

(U. S. typed notes of Geo. A. Clark, p. 256.)

Lucas says that the 2-year-old cows do not come out on the rookeries:

AMERICAN MUSEUM
OF NATURAL HISTORY,
New York, February 24, 1912.

DEAR SIR: Absence from the city has delayed my replying to your favor of February 21, which I am very glad to receive.

Let me say, first, that my exact knowledge in regard to the killing of seals under 2 years of age during the years 1909 and 1910 must, like that of others who did not see the actual killing, be based on the published statement of their weights.

As to the question of 2-year-old females not occurring on the rookeries, I may say that the yearlings and the 2-year-olds come to the islands late. Pardon me for saying that this statement of mine is borne out by the observations of all naturalists who have been on the Pribilof Islands. My report on the Breeding Habits of the Pribilof Fur Seal was based on the observations of our entire party during the two seasons there, and are supported by the English naturalists D'Arcy W. Thompson and G. E. H. Barrett Hamilton. We found, as I have stated, that the 2-year-old female seals are not in the rookeries; that the majority of them appear on the islands after the 1st of August, and that very few are there before the middle of July. This was one of the distinct additions that we were able to make to the natural history of the fur seal, and it helped out in a matter of which Mr. Elliott, as stated in his 1873 report, was confessedly ignorant.

If you would be good enough to read the little items on pages 44, 47, and 53 of my report on the Breeding Habits of the Pribilof Fur Seals, I will be much obliged, and I trust that you will kindly take the necessary time to do so. I sent Mr. Flood my last available copy of this report, but it is included in part 3, Report of the Fur Seal Investigations for 1896 and 1897, which it will be easy for you to have brought to you. My other copies are packed away in boxes, but if I can unearth one I shall be most happy to do so.

Pardon me for troubling you with a number of explanatory details, but I wish above all things to make it clear that I am not speaking by hearsay, or making statements without foundation, but that I am writing of matters with which I have a direct acquaintance.

Faithfully, yours,
F. A. LUCAS.

HON. EDWARD W. TOWNSEND,
*Committee on the Library,
House of Representatives.*

(Hearing No. 14, pp. 947, 948, July 25, 1912.)

But Jordan finds them there just where Elliott said they were in 1872-1890.¹

OFFICIAL JOURNAL OF THE GOVERNMENT
AGENT'S OFFICE.
ST. PAULS ISLAND, ALASKA,
Saturday, August 1, 1896.

Dr. Jordan assisted by the natives drove up three small harems from Garbotch Rookery, and upon investigation found that there were a number of 2-year-old virgin cows among them.

¹ It must be borne in mind that perhaps ten or twelve per cent of the entire number of breeding females were yearlings last season, and come up onto these breeding grounds now as virgins, for the first time during this season—as two-year-old cows. They, of course, bear no young. (Monograph of the Seal Islands, 1872-82; Elliott, p. 50. Spl. Bulletin, 176: U. S. Fish Commission, 1882.)

Lucas says that if the seals are not killed down as young males they will grow up to "destroy the mothers and pups."

The following was contributed by Dr. Lucas to the New York Times of February 23, 1912:

"THE FUR SEAL HERD.

"To the EDITOR OF THE NEW YORK TIMES:

"Since my name appears in your editorial article on the fur seal question, may I have space to state my opinions? My attitude in regard to the 'trampled pup' question and the damage done by unnecessary males has been conservative, as you will see by the following quotations from my report of 1898 on the 'Causes of Mortality Among Seals,' based on observations of 1896 and 1897:

"Rough handling by the males may be set down as the most evident known cause of death among the females, and the greater the proportion of bulls the greater the number of deaths, so that in a state of nature the superabundance of bulls must probably be an important factor, if not the chief factor, in checking the increase of the fur seals. As the proportion of the sexes at birth is equal, and as at least 30 males are born where one is needed, there must in olden times have been a prodigious amount of fighting and a mighty turmoil on the breeding grounds, with a consequent destruction of mothers and pups. There were 42 dead cows on Reef rookery in 1897, and if there was such a visible loss with only a moderate surplus of males what must have taken place before any males were killed by man? It is evident that if many cows are killed outright, many more must be badly injured and eventually die, an inference made in discussing the mortality among the pups, where it was suggested that the loss of these injured females at sea probably accounted for much of the early starvation of the young.'" (P. 91.)

(Hearing No. 10, p. 600, Apr. 20, 1912.)

The "science" of Dr. Lucas:

Mr. MCGILICUDDY. What is your estimate as to the required number of males to a specified number of females?

Dr. LUCAS. May I refer to my report? I went into the matter very carefully in this. We found that the average number of seals in a harem in 1896 and 1897 was about 35. That was at a time when the number of surplus bulls was very large. There was a very large number of useless bulls who could get no cows, who had been crowded out. Thirty-five was the minimum average for a harem, and 50 or 60 would be what might be called a good

But his associate, Lembkey, in whom he has "perfect faith," declares that if not so killed, they "will increase again to between four and five millions."

Mr. LEMBKEY. In 1890 conservative estimates placed the number on the Pribilof Islands between four and five millions. To-day there are probably not over 180,000 in the entire herd.

Mr. WILLIAMS (of Mississippi). At the end of 18 or 19 years, if no killing at all, you think they would go back to between four and five millions?

Mr. LEMBKEY. I have no doubt they would. (Hearing on Fur Seals, Ways and Means Committee, Jan. 25, 1907; p. 66, notes; M.S. typed.)

Mr. LEMBKEY. * * * So, that shows that in 15 years this (Robbens Reef) herd had rehabilitated itself, and I suppose that if the Pribilof herd were left alone, immune from land killing as well as sea killing, it would do the same thing. (Hearing on Fur Seals, Ways and Means Committee, Jan. 25, 1907, House of Representatives; p. 62, notes M.S. typed.)

Its error exposed:

Mr. ELLIOTT. This assumption by Jordan, Lucas, and the rest of that "science" crowd in the Bureau of Fisheries that the breeding of that seal life is precisely as so many cattle, sheep, or horses—that only a very small per cent of the male life is needed, is simply baseless—the difference is wide, and those "scientists" lack common sense in not observing it.

Cattle, sheep, and horses breed during every month of the year; fur seals breed during only 1 month of the year, and mostly in only 10 or 15 days of that month, from July 10 to 20, annually.

working proportion. So long as the harems do not on the average exceed this there is no reason to suppose that the number of bulls is too small. One bull to 50 or 60 cows is not too high an average, but in 1896 and 1897 there was 1 bull on the average to every 35 cows. There was in one case over 100, but the bull could not hold them, and a good many got away. Some of the harems also were very small. I checked that off a little by getting the opinion of breeders as to what might be the relative number under control of the animals. One estimate is that 1 ram is sufficient for 50 ewes and that 1 bull is sufficient for 25 cattle. When running at large 1 stallion is sufficient for 20 to 40 mares, but when under control the number may be much larger, well on toward 100. And that is in a state of domestication where polygamy is artificial. Here we have polygamy brought about by natural conditions and where there is no danger of overestimating the number of females to males. (Hearing No. 12, p. 709, May 16, 1912, H. Com. Exp. Dept. C. and L.)

Lucas swears that he did not advise Osborn to write a foolish letter:

Mr. ELLIOTT. That is right? The other gentleman, Mr. Townsend, does. Did you inspire the letter which Henry Fairfield Osborn, president of the American Museum of Natural History, wrote to Chairman William Sulzer?

Dr. LUCAS. I did not. Kindly note, Mr. Elliott asked if I inspired that letter.

The CHAIRMAN. Do you know anything about it?

Dr. LUCAS. Only after it was written.

The CHAIRMAN. Were you in consultation about it with anyone?

Dr. LUCAS. No; my advice was not asked.

How long would a herd of cattle hold its numbers if all the breeding was put into only 10 days of every year—from July 10 to 20—and only 1 bull living to serve 100 cows? What would 1 ram do with 100 ewes? What would a stallion do with 100 mares? What, if only half that number to serve?

Why that service would fail; and at the best, would be feeble to impotent after a short day or two of demand. (H. W. Elliott to Secretary Redfield, May 4, 1913, Dept. of Commerce Bldg.)

But Osborn says Lucas gave him the advice upon which the foolish letter rests:

Mr. ELLIOTT (reading):

"THE AMERICAN MUSEUM OF
"NATURAL HISTORY,
"OFFICE OF THE PRESIDENT,
"New York, January 22, 1912.

"DEAR SIR: As president of the American Museum of Natural History, I have been securing the advice of the expert zoologists of this institution, especially of Dr. Frederic A. Lucas, who is a trained authority on the fur-seal question. I desire to protest against the proposed amendment to the fur-seal bill (drafted by the State Department), which amendment provides a 15-year closed season on male seals. This amendment, should it become law, would exterminate the great seal herd of the United States, and is founded upon ignorance of the first principles of breeding under natural conditions and of the artificial conditions which have been brought about on the islands through prolonged and fateful pelagic sealing.

"I am, very respectfully,
"HENRY FAIRFIELD OSBORN,
"President.

"HON. WILLIAM SULZER,
"Chairman House Committee on
"Foreign Affairs, House of Rep-
"resentatives, Washington, D. C.

"I am strongly in favor of the bill itself."

Now, how did he get the idea that they would be exterminated after he had conferred with your scientific acumen?

Dr. LUCAS. Men may confer, you know, and do something entirely different.

Mr. ELLIOTT. How did he get that impression, if not from you?

Dr. LUCAS. I do not know. You will find all my publications entirely different from that.

Mr. ELLIOTT. So you will not be responsible for what Dr. Osborn says?

Dr. LUCAS. Not in this case; certainly not.

But, pinned down, he admits that Stiles had told him first.

Lucas claims that he first discovered the hookworm cause of pup's death.

Mr. ELLIOTT. Isn't it true, Doctor, that it was through C. W. Stiles that the hookworm was discovered?

Dr. LUCAS. No.

Mr. ELLIOTT. Didn't he first call your attention to that?

Dr. LUCAS. No; I called his attention to it. (Hearing No. 12, p. 720, May 16, 1912.)

Dr. LUCAS. * * * Mr. Chairman, may I make a statement right here?

The CHAIRMAN. Yes.

Dr. LUCAS. This will be the best answer I can possibly make. In 1896, as you may remember, I stated we penned up a pup and allowed it to die; to starve to death. I took it with me to St. George Island and let it lie out there overnight and dissected it, noting carefully the condition of the organs, so that we could say what were the conditions of the organs after starvation. In examining this pup I found two or three small worms in the intestines. Now, to find worms in the intestines of a young animal struck me as a very curious circumstance, so I preserved them carefully and submitted them to Dr. Stiles. In 1897, before I went up on the islands, Dr. Stiles brought those to me and said that they were *Uncinaria*, a very dangerous parasite, and under suitable conditions it might be the source of a great death rate among the young seals. Acting on the advice of Dr. Stiles I looked very carefully for this worm and found it. I have a record of the first pup actually found to have died from *Uncinaria*.

Mr. ELLIOTT. So Dr. Stiles really did advise you of the direct cause of death of these seals?

Dr. LUCAS. No; he said it was possible.

Mr. ELLIOTT. And then you found it to be true?

Dr. LUCAS. Yes.

Mr. ELLIOTT. So Dr. Stiles deserves the credit for having found it?

Dr. LUCAS. He deserves the credit for having made a prediction that came true. (Hearing No. 12, p. 721, May 16, 1912.)

Lucas swears pups starve because bulls kill their mothers.

Mr. McGUIRE. Now, Doctor, you speak of a certain mortality on account of the starving of the young. This starvation may be caused by the loss of the mother cow having been killed by the males. That is one cause?

Dr. LUCAS. Yes. (Hearing No. 12, p. 711, May 16, 1912.)

Lucas tries to deny his "discovery" of the "fact" that the fur seal naturally tramples its own young to death.

The CHAIRMAN. About how many days?

Dr. LUCAS. About 50 days in 1896, allowing about 9 days' time spent at sea going to and from one island to another.

Mr. ELLIOTT. In 1897 how many days were you on the islands?

Dr. LUCAS. About 42 days.

Mr. ELLIOTT. On the Islands?

Dr. LUCAS. That is about the number. I have the exact data right here.

Mr. ELLIOTT. Now, Dr. Lucas, did you see up there a pup trampled to death by a bull?

Dr. LUCAS. No.

Mr. ELLIOTT. Did you, in 1897, exhibit a series of trampled pups to the biological society here in Washington and say that 11,000 had been trampled to death by bulls?

Dr. LUCAS. I did not.

Mr. ELLIOTT. Did you not address the society on January 4, 1897, on the subject of trampled pups?

Dr. LUCAS. I did not.

Mr. ELLIOTT. Didn't you exhibit a series of pups in alcohol?

Dr. LUCAS. I did not.

Mr. ELLIOTT. Didn't you call attention to the state of these 11,000 pups, which you stated on the platform during the

Elliott swears that Lucas never saw a bull kill a cow, that Lucas fakes the statement.

Mr. ELLIOTT. Right on that point, Mr. Chairman, not one of these scientists—Dr. Jordan, George A. Clark, Merriam, Stejueger, Lucas, or Townsend—have published a line in their reports upon that life in which they describe the "fighting of bulls so as to tear the cows to pieces and trample their pups to death." Now, their sole argument to-day, that they brought over to the Senate, is that if we let these young seals grow up in a closed season they will go to fighting and will "tear the cows to pieces and trample the pups to death." It is a fake story; it is contrary to the natural law that governs them; and I am not going to quietly sit here and let it even be hinted at that I am an "enemy" of the fur seals because I believe in the natural laws of their wild life governing them being freed from the checks put upon them by half-baked naturalists. (Hearing No. 14, pp. 954, 955, July 30, 1912.)

But his memory is refreshed, and he does recall it.

Mr. ELLIOTT. What did you talk about?

Dr. LUCAS. Causes of mortality among seal pups.

Mr. ELLIOTT. Didn't you say it was due to trampling?

Dr. LUCAS. No.

Mr. ELLIOTT. The record of your report of 1896 denies it.

Dr. LUCAS. Find it.

Mr. ELLIOTT. The preliminary report of 1896—"Cause of destruction of pups is chiefly due to trampling by males." You signed that with Dr. Jordan, didn't you?

Dr. LUCAS. I think I did not sign that report. That report was made by Dr. Jordan.

Mr. ELLIOTT. Would there be a report by Dr. Jordan or any other member of the board that is not sent to you to sign?

Dr. LUCAS. Yes. Dr. Jordan, as head of the commission, took the combined reports of the various members of the commission and drew up the preliminary report.

Mr. ELLIOTT. You are associated with him in that preliminary report of 1896, aren't you? You don't deny it, do you?

Dr. LUCAS. Deny what?

Mr. ELLIOTT. The association and quotation by Dr. Jordan of you?

course of your remarks had been trampled to death?

Dr. LUCAS. I did not.

Mr. ELLIOTT. After you had read your paper on this subject of trampled pups, didn't Dr. Merriam rise and say he agreed with you?

Dr. LUCAS. I do not recall. I do not have the minutes of that meeting.

Mr. ELLIOTT. Then didn't Mr. C. H. Townsend rise and say that some of the things he had missed, but he agreed with you?

Dr. LUCAS. I recall the meeting.

Mr. ELLIOTT. It is coming back to you now. Didn't Mr. True—this was January 4, 1897, at Cosmos Hall—didn't Mr. True arise and say that he had failed to notice these trampled pups?

Dr. LUCAS. I do not know.

Mr. ELLIOTT. Didn't Dr. Stejneger also rise and say that he was considerably embarrassed but that he had no reason to doubt your discovery of trampled pups?

Dr. LUCAS. Dr. Stejneger remarked that he doubted it.

Mr. ELLIOTT. Now, it is coming back to you that you did address them on the subject of trampled pups?

Dr. LUCAS. No; causes of mortality among seal pups.

Mr. ELLIOTT. Is that in answer to my question?

Dr. LUCAS. It is. (Hearing No. 12, p. 719, May 16, 1912.)

Lucas, "scientist," would not stop killing, "for the good of the herd."

Mr. McGUIRE. Assuming that pelagic sealing has been stopped, would you suspend killing on the islands?

Dr. LUCAS. No, sir.

Mr. McGUIRE. What would you do?

Dr. LUCAS. I should recommend, as I think I have done elsewhere, that the first year a less number of seals be taken than has been taken, in order to provide sufficient males for the females spared by pelagic sealing. If we killed 12,000 seals last year, I would say, do not kill but 10,000 this year, to make sure of having a sufficient amount. I believe in taking no chances and leaving no loophole for criticism. That would be of course a precautionary measure.

The cessation of killing on land would release an undue number of males that would do no good, that would simply disturb the rookeries and be a dead loss commercially. (Hearing No. 12, pp. 712, 713, May 16, 1912.)

Dr. LUCAS. I didn't know that he quoted me. I haven't that document by me. Have you the document?

Mr. ELLIOTT. I don't need it. You don't deny its existence, do you?

Dr. LUCAS. I know there is such a report.

Mr. ELLIOTT. You know there is a report of some 46 pages with your name associated with Dr. Jordan as one of the distinguished scientists who had made this close study of the seals that summer. Now, in 1897, you discovered those pups were not trampled to death, didn't you?

Dr. LUCAS. The greater part of them. Yes; we revised our causes of the previous year.

Mr. ELLIOTT. Who revised them?

Dr. LUCAS. I did most of it, because I was the one on whom devolved this report on the causes of mortality. (Hearing No. 12, p. 720, May 16, 1912.)

Liebess, lessee, would not stop killing, "for the good of the herd."

The CHAIRMAN. Have you any idea or general knowledge of about how many seals there are in the herd now?

Mr. LIEBES. No, sir; I have no knowledge.

The CHAIRMAN. The business is almost destroyed, is it not, Mr. Liebess?

Mr. LIEBES. Well, not necessarily so. If they are allowed to recuperate, they will be all right. They will be able to take seals each year, and I certainly think that is the only way to do. This idea of shutting down for a number of years is unnecessary and absolute rot. You have got to run your seal herd like you would run a stock range; it has got to be left to people who understand the business, and in the discretion of the officers in charge, men of ability, if you have confidence in them, and from what I have seen of the Department of Fisheries they certainly have the ability, and the people around the islands certainly understand their business. They are good, conscientious people. If such people run the thing and take the surplus males each year, it will be all right. It is absolutely essential that it should be run like a stock farm is run.

Lucas says that he did not advise a renewal of the lease.

The CHAIRMAN. Would you have considered it would be better to lease the islands for another 20-year term?

Dr. LUCAS. No, I would not, Mr. Chairman. The part in regard to re-leasing it I should deem objectionable, as you will see by the resolution adopted by the advisory board at its meeting.

The CHAIRMAN. I wish that resolution could be produced.

Dr. LUCAS. It is in the record.

Mr. PATTON. In the doctor's evidence before he said that he believed it would be better for the Government to have control, and control the killing there under the present system.

Mr. ELLIOTT. The Government has always had perfect control over the killing on those islands since 1870.

Mr. PATTON. The Government does the killing itself, where it was done by leasing companies before.

Mr. ELLIOTT. This letter says they don't want it done.

Mr. MCGUIRE. I don't so understand it, but the letter is the best evidence.

The CHAIRMAN. The letter will speak for itself. (Hearing No. 12, p. 725, May 16, 1912.)

The CHAIRMAN. Do you think male seals should be killed that are less than 2 years old?

Mr. LIEBES. I do not think there is any rule about it at all; it is a question of running it right. (Hearing No. 13, pp. 877, 878, June 20, 1912.)

But the Bureau of Fisheries officially quotes him as recommending a renewal of the lease.

Mr. ELLIOTT. On page 157, hearing No. 3, July 6, 1911, is a letter from the Bureau of Fisheries dated December 16, 1909, signed by Barton W. Evermann. It urges Fish Commissioner Bowers to send agents to New York and educate certain people and induce them to agree to the bureau's idea of renewing the lease of the seal islands and preventing any cessation of the killing thereon. Now, in this letter, which I will put into the hearing today as Exhibit No. 6, appears the following statement:

DEPARTMENT OF
COMMERCE AND LABOR,
BUREAU OF FISHERIES,
Washington, December 16, 1909.

The COMMISSIONER:

The Washington Star of December 10 last announced that the Campfire Club of New York had inaugurated a campaign to save the fur-seal herd through legislation designed to prevent the re-leasing of the sealing right, the cessation of killing on the islands for 10 years except for natives' food, and to secure the opening of negotiations with Great Britain to revise the regulations of the Paris tribunal. As the result of this movement, on December 7 three resolutions were introduced by Senator Dixon, of Montana, one of which embodies the provisions before mentioned, the other two calling for publications of the fur-seal correspondence and reports since 1904.

As the object of this movement is at variance with the program of this bureau and of the recommendations of the advisory fur-seal board, notably in the plan to prevent killing and the renewal of the seal island lease, the advisability is suggested of having Messrs. Townsend, Lucas, and Stanley-Brown use their influence with such members of the Campfire Club as they may be acquainted with, with the object of correctly informing the club as to the exact present status of the seal question and of securing its cooperation to effect the adoption of the measures advocated by this bureau.

The attached letter is prepared, having in view the object stated.

BARTON W. EVERMANN.

(Hearing No. 12, p. 724, May 16, 1912.)

Lucas admits that he did want a new lease made on the Russian plan.

Dr. LUCAS. The cessation of killing on land would release an undue number of males that would do no good, that would simply disturb the rookeries and be a dead loss commercially. Government control has always seemed to us the best method, as it has proven on the Russian islands, where the Government has the absolute power to fix the number and make a closed season at any time it wishes.

This recommendation was unanimously agreed to by the advisory board, fur-seal service (Dr. David Starr Jordan, chairman; Dr. Leonard Stejneger, Dr. Frederic A. Lucas, Mr. Edwin W. Sims, Dr. Charles H. Townsend), the fur-seal board (Dr. Barton Warren Evermann, chairman; Mr. Walter I. Lembkey, and Mr. Millard C. Marsh), the Commissioner of Fisheries (Hon. George M. Bowers), the Deputy Commissioner of Fisheries (Dr. Hugh M. Smith), assistant fur-seal agent (H. D. Chichester), and special scientific expert (Mr. George A. Clark). (Hearing No. 12, p. 713, May 16, 1912.)

But Elliott shows the committee that such a lease adds to gain of lessees at public cost and loss.

Mr. ELLIOTT. That will not be necessary; I will just pass on. The terms of this lease, which he proposed, increased the profits of the lessee and added to the cost of the Government.

The lessees are relieved of the present cost to them of a great many things—schools, doctors—their entire plant is purchased; they pay no more taxes; all costs are taken from them; and yet they are to get all of the skins taken for the same cost that they did in the old lease.

Dr. EVERMANN. That is not correct.

The CHAIRMAN. The lease will speak for itself.

Mr. ELLIOTT. The lease speaks to that effect, because there has never been an hour since the islands have been leased that the Government has not had absolute control over the lessees and the killing. All this twaddle about the "Government getting control of the killing" is mere dust and verbiage; there has never been an hour since the first lease was made in 1870 when an officer of the Government up there has not had the power to stop the killing down to a single seal, and hold it there—what more power could you have under any "new lease," or any such condition? I exercised that power in 1890, and no man dare dispute it and does not dispute it to this day.

The CHAIRMAN. Why can it not be disputed?

Mr. ELLIOTT. Because no man has set aside my findings of fact that summer; they were stopped; and nobody since has attempted to interfere with it, and no Secretary of the Treasury has ever said I did wrong. Over at Paris, in 1893, our agents said to the tribunal that my action in 1890 was a good thing, and they paraded there with great satisfaction the fact that our Government had stopped this slaughter on the islands to save that life, and they wanted Great Britain to intervene to stop it in the sea on their side. (Hearing No. 14, p. 993, July 29, 1912.)

VI.

The sworn statements of W. I. Lembkey, chief special agent, in charge of the seal islands of Alaska, who is one of the experts cited to the United States Senate Committee on Conservation of National Resources, January 14, 1911, and to the House Committee on Expenditures in the Department of Commerce and Labor, July 9, 1911, by Secretary Charles Nagel as his authority for killing seals in violation of law and regulations, to wit:

Mr. CABLE. Give the names of the members of the advisory board.

Mr. BOWERS. The members of the fur-seal board and of the advisory board, fur-seal service, are as follows:

FUR-SEAL BOARD,
BUREAU OF FISHERIES.

In the Bureau of Fisheries, general matters regarding the fur seals are considered by a fur-seal board, consisting of the following:

Dr. Barton Warren Evermann (chairman), who is chief of the Alaska Fisheries Service and who has been in Alaska a number of times. He was a member of the fur-seal commission of 1892, when he spent six months in the North Pacific and Bering Sea and on the seal islands studying the fur seal.

Mr. Walter I. Lembkey, who has been in immediate charge of the seal islands for many years; appointed March 22, 1899. (Hearing No. 2, p. 109, June 9, 1911.)

THE DEADLY PARALLEL.

Lembkey swears that he does not kill yearling seals.

But Clark, special investigating expert, reports that yearlings are killed—"no seal too small" for killing.

COMMITTEE ON EXPENDITURES
IN THE DEPARTMENT OF
COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,
Washington, Thursday, February 29, 1912.

The committee met at 11 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

TESTIMONY OF WALTER I. LEMBKEY, AGENT
ALASKA SEAL FISHERIES, BUREAU OF
FISHERIES, DEPARTMENT OF COMMERCE
AND LABOR.

Mr. LEMBKEY. Our killing is confined to 2 and 3 year old males exclusively. The seals which they desire to kill are dispatched at once by means of a blow on the top of the head with a heavy club, and the seal struck is rendered unconscious immediately, if not killed outright. (Hearing No. 9, p. 360, Feb. 29, 1912, H. Com. Exp. Dept. Com. and Labor.)

July 23.—Attended the killing at Northeast Point and looked over the rookeries again after the drive. There are 5 harems to-day on the west side of Sea Lion Neck, where only 3 were found on the 14th.

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.

July 31.—This is the last day of sealing, and preparations are being made to drive every rookery. The killing from Reef and Gorbach yields 660 skins. This represents 76 per cent of the animals driven. One hundred and ten seals are obtained from Lukanin and Kitovi. No small seals are rejected in this drive; 21 small ones are left from the Reef drive. Nineteen skins are obtained at Halfway Point. The drive at Northeast Point gives 330 skins; 15 small ones only are exempted. Zapadni, redriven to-day, gives 41 additional skins taken. Three small ones are released. At the drive yesterday from this rookery 39 small

animals were released. Most of these are probably included in the killing to-day. Gorbatch is driven a second time to-day and 62 skins taken.

This is certainly whirlwind sealing and an effective clean-up of the hauling grounds. If the Alaska Commercial Co. cleaned up the hauling grounds without reference to the new lessees in the season of 1889, the North American Commercial Co. has in like manner cleaned up the hauling grounds without reference to the lessees of next year.

The total of to-day's killing on St. Paul is 1,222 skins. (Report G. A. Clark to Secretary Nagel, Sept. 30, 1909, pp. 887, 888, 892, 893; Appendix A, June 24, 1911. H. Com. Exp. Dept. Com. and Labor.)

But Special Agent Clark reports that Lembkey has killed and kills yearling seals.

Lembkey swears that he does not kill yearling seals.

COMMITTEE ON EXPENDITURES
IN THE DEPARTMENT OF
COMMERCE AND LABOR,
HOUSE OF REPRESENTATIVES,
Washington, Thursday, February 29, 1912.

The committee met at 11 o'clock a. m., Hon. John H. Rothermel (chairman) presiding.

TESTIMONY OF WALTER I. LEMBKEY, AGENT
ALASKA SEAL FISHERIES, BUREAU OF
FISHERIES, DEPARTMENT OF COMMERCE
AND LABOR.

Mr. LEMBKEY. Our killing is confined to 2 and 3 year old males exclusively. The seals which they desire to kill are dispatched at once by means of a blow on the top of the head with a heavy club, and the seal struck is rendered unconscious immediately, if not killed outright. (Hearing No. 9, p. 360, Feb. 29, 1912.)

The yearlings of both sexes for the season must number about 12,000 each.

This question of the proportion of the sexes surviving to killable and breeding age is a fundamental one. It could be settled in a very few seasons by such regulation of killing for the quota as would limit it to animals of 3 years of age and over, leaving the 2-year-olds untouched. The quota would then fall where it belongs, on the 3-year-olds, and give a close approximation of the survivals among the young males, which in turn could be applied to the young females. This was the method used in 1896-97, when a minimum of 6 pounds in weight of skins prevailed. 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.

The result of this manner of killing is that we have no clear idea from the quota of the number of younger animals belonging to the herd. From the irregularity of the movements of the yearlings of both sexes and the 2-year-old cows, they can not be counted or otherwise accurately estimated on the rookeries.

GEORGE ARCHIBALD CLARK,
*Assistant in Charge of
Fur-Seal Investigation.*

STANFORD UNIVERSITY,
September 30, 1909.

(Appendix A, pp. 850, 851, June 24, 1911.)

Lembkey swears that every step is taken to guard the female seals from killing.

Mr. LEMBKEY. Females on land are protected by every effort of human ingenuity that can be devised compatible with the taking of the skins of the surplus young males, and the committee can be assured first that the number killed in the past is negligible and that none ever have been or will be killed deliberately.

In treating of the subject of the killing of females, I have suppressed no fact that would aid the committee in forming its conclusions regarding the number of these animals killed. After hearing this evidence I am sure that the committee will conclude that, in regard to the accidental killing of an occasional female, in spite of the greatest care exercised, no charge of malfeasance will lie. When we consider the fact, also, that thousands of these females were killed annually by pelagic sealers in the sea, it can be seen that the accidental and unavoidable killing on land of a half dozen females annually could have, to say the least, no bearing upon the future of the herd. (Hearing No. 9, p. 381, Mar. 1, 1912, H. Com. Ex. Dept. Com. and L.)

Lembkey compelled to admit that he does not know whether female skins are taken, or not; no penalty for killing them inflicted.

Mr. McLEAN. After the skins are removed, can you distinguish between a male and female 2-year-old?

Mr. LEMBKEY. Yes, sir; at once. Oh, I beg pardon—2-year-olds?

Q. After the skin is removed from the animal?—A. If you would look at the carcass of a 2-year old you could not distinguish it readily, but the man skinning the seal recognizes it the moment he takes it into his hand to skin it. Of course he examines the organs and matters of that kind.

Q. But the animal is then dead?—A. The animal is then dead.

Q. What I asked you was this—after the skin is removed from the animal, by the inspection of the skin itself could you distinguish between a male or a female 2-year old.—A. You could by looking at the teats of the animal.

Q. And are they developed on a 2-year-old female?—A. I don't know that they are. You could find them there possibly. I don't know whether they are developed or not; I never examined a skin to find out.

The CHAIRMAN. How positive can you be, then, Mr. Lembkey, that no females are killed?

Mr. LEMBKEY. The reason upon which I base that positive statement that no females are killed is this: Stringent orders are given to all the skimmers to report at once any female knocked down in the drives. They are ordered to report it to the agent in charge of the killing and in charge of the men.

Mr. McLEAN. Is there a penalty then inflicted upon the killer for killing the female and when he reports it?

Mr. LEMBKEY. No; because the killing gang consists of six persons, we will say, and it is impossible to tell which one of those six knocked down the seal; but if a female should be knocked down by accident an admonition is given to the clubbers.

Q. So that it is quite possible?—A. They are jacked up.

Q. It is quite possible if a female was killed through inadvertence that the native might not report it?—A. No; because the man who reports the presence of the female would not in the least be culpable, because he is a skimmer, having nothing to do with the killing.

Q. He is probably a relative?—A. I should not say that. There is no great penalty attached to the killing of a female, such as to lead the men to suppress the fact of its presence. (Dixon Hearing, U. S. Senate Com. Cons. Nat. Resources, pp. 15, 16, Feb. 4, 1911.)

Under cross - examination, Lembkey admits that a yearling sealskin of his own identification and measurement is $36\frac{1}{2}$ inches long.

Mr. LEMBKEY. Briefly, Mr. Elliott has accused those charged with the management of the seal fisheries with malfeasance in office in that—

1. They have allowed the killing of thousands of yearling seals.

Mr. ELLIOTT. I am coming to that. I want to get it distinctly in the record that this man knew exactly what he was doing all along.

It became necessary, then, for the committee to get from Mr. Lembkey his own identification and measurement of a yearling seal and its skin. To this end he was examined, and he testified as follows—you will see the point, because he has testified that he did not kill anything "under 2 years old," because the regulations forbid it. He testified as follows, on page 442, Hearing No. 9:

"Mr. ELLIOTT. Mr. Lembkey, do you know the length of a yearling seal from its nose to the tip of its tail?"

"Mr. LEMBKEY. No, sir; not offhand.

"Mr. ELLIOTT. You never measured one?"

"Mr. LEMBKEY. Oh, yes; I have measured one.

"Mr. ELLIOTT. Have you no record of it?"

"Mr. LEMBKEY. I have a record of it here.

"Mr. ELLIOTT. What is its length?"

"Mr. LEMBKEY. The length of a yearling seal on the animal would be from the tip of the nose to the root of the tail, $39\frac{1}{2}$ inches in one instance and $39\frac{1}{2}$ in another instance—

"Mr. ELLIOTT. Yes.

"Mr. LEMBKEY. And 41 in another instance. I measured only three."

* * * *

Also on page 443:

"Mr. ELLIOTT. How much can you say is left on a yearling after you have taken the skin off?"

"The CHAIRMAN. How much skin is left after you have taken it off?"

"Mr. ELLIOTT. Yes, sir; after they remove it for commercial purposes a certain amount is left on.

"Mr. LEMBKEY. I stated about 3 inches.

"Mr. ELLIOTT. Then that would leave a yearling skin to be 35 inches long.

"Mr. LEMBKEY. No; if it was $39\frac{1}{2}$ inches long, it would leave it $36\frac{1}{2}$ inches. That is, all the animal from the tip of the nose to the root of the tail would be $39\frac{1}{2}$ inches long. Three inches off that would leave $36\frac{1}{2}$ inches."

Lembkey then admits that an accurate measurement of the 12,920 skins he took in 1910, declare the fact that 7,733 of them are only 34 inches long.

Mr. ELLIOTT. Mr. Lembkey having thus identified "7,733" of his 12,920 skins as "small pups" and "extra small pups," the committee then examined him as to the lengths of those "small pup" and "extra small pup" skins; he then testified as follows, page 441, Hearing No. 9:

"Mr. ELLIOTT. I am getting at the analysis of your catch which you have given here already. You have given in a statement here that 8,000 of them were "small" and "extra small."

"Mr. LEMBKEY. 7,700.

"Mr. ELLIOTT. 7,700?"

"Mr. LEMBKEY. 7,733 were small and extra small pups.

"Mr. ELLIOTT. Mr. Fraser tells us that those seals, none of them measured more than 34 inches nor less than 30 inches.

"Mr. LEMBKEY. The committee can see what Mr. Fraser states. Mr. Fraser states that small pups measured $33\frac{1}{4}$ inches in length."

The CHAIRMAN. What would that indicate as to age?"

Mr. ELLIOTT. I am coming to that—

"Mr. ELLIOTT. From there [indicating] to there [indicating] on that diagram—

"Mr. LEMBKEY. $33\frac{1}{4}$ inches in length, and extra small pups measured 30 inches in length.

"Mr. ELLIOTT. Then you have some extra small pups there which makes it 8,000?"

"Mr. LEMBKEY. Only 11 of those.

"Mr. ELLIOTT. It does not amount to anything.

"Mr. LEMBKEY. It just makes your 8,000 about 300 more than the actual number.

"Mr. ELLIOTT. That is the reason I used those round numbers. It does not amount to anything one way or the other.

"Mr. LEMBKEY. The actual number is 300 short of 8,000, Mr. Elliott."

Mr. Lembkey thus testifies that his own summary and official record of the measurements of "7,733 fur sealskins," which he took during the season of 1910 on the Pribilof Islands, declares the fact that no one of them exceeds in length 34 inches. That fact determines them—all of them—to have been the skins taken from yearling seals. (Hearing No. 14, pp. 903, 904, 905, July 25, 1912.)

In this distinct affirmation and statement, Mr. Lembkey tells the committee that a "yearling" fur-seal skin of his own identification and measurement is 36½ inches long. It then became, in order to understand what the lengths of those 12,920 fur-seal skins were, which he took during the season of 1910 on the Pribilof Islands, and then certified them into the record of his work as being—all of them—"taken from male seals not under 2 years of age." (See testimony Apr. 13, 1912, pp. 428, 429, Hearing No. 9.)

Lembkey declares that he can not distinguish the sex of yearling seals; that he does not kill them.

The CHAIRMAN. How many did you kill last year?

Mr. LEMBKEY. We killed 12,920.

Q. How many had the old fur company killed the year before?—A. They killed 14,000 and something.

Q. What was the youngest seal you killed; what age?—A. Two years old.

Q. The statement has been made that it is hardly possible to distinguish the male and the female at that age?—A. At 2 years old?

Q. Yes; what is your opinion?—A. There is considerable difficulty in distinguishing the young males and females. There is considerable difficulty in distinguishing the male and the female yearling. They are both of the same size and general formation. It is almost impossible for anybody not an expert to pick them out and distinguish between them, and it is rather difficult, even for an expert; but of the 2-year-olds the females are not on the hauling grounds; they are on the breeding rookeries for their initial impregnation. The 2-year-old males, on the other hand, are on the hauling out grounds.

Q. In the killing last year, did you kill any female seals?—A. Not to my knowledge, sir. I had general supervision, as I say, over the work on both islands, but, being back and forth from day to day, I was not present at every killing and could not, of course, be; but I carefully interrogated this morning Mr. Judge, who had charge of the killing on St. Paul, and Maj. Clark, who had charge on St. George, as to whether any female seals had been killed during the past season, to their knowledge, and they stated that none had been killed. (Dixon hearing, Feb. 4, 1911, p. 10, U. S. Senate Com. on Conservation Nat. Resources.)

But Lembkey is compelled to admit that he took 7,733 yearling skins in 1910.

Mr. Lembkey having thus identified "7,733" of his 12,920 skins as "small pups" and "extra small pups," the committee then examined him as to the lengths of those "small pup" and "extra small pup" skins; he then testified as follows, page 44½, Hearing No. 9:

"Mr. ELLIOTT. I am getting at the analysis of your catch which you have given here already. You have given in a statement here that 8,000 of them were 'small' and 'extra small.'

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"Mr. ELLIOTT. 7,700?

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"Mr. LEMBKEY. The committee can see what Mr. Fraser states. Mr. Fraser states that small pups measured 33½ inches in length."

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"Mr. LEMBKEY. It just makes your 8,000 about 300 more than the actual number.

"Mr. ELLIOTT. That is the reason I used those round numbers. It does not amount to anything one way or the other.

"Mr. LEMBKEY. The actual number is 300 short of 8,000, Mr. Elliott."

Mr. Lembkey thus testifies that his own summary and official record of the measurements of "7,733 fur sealskins," which he took during the season of 1910 on the

Lembkey swears that he had "reliable data" upon which the regulations were lowered to "5 pounds" minimum skin weight from a 5½-pound limit.

Mr. LEMBKEY. We have found on the islands that the most reliable way of gauging sealskins so as to classify them into different ages is that of weight, of weighing the skins. We have very reliable data showing that 2-year-olds seldom if ever weigh less than 5 pounds, and we also have data which give us the information that the skins of 3-year-olds weigh from 6½ to 8½ pounds. Upon that basis we have established our regulations. (Hearing No. 9, p. 398, Mar. 1, 1912; H. Com. Exp. Dept. Com. and Labor.)

Lembkey says that "perhaps" he has published a table of skin weights.

Mr. ELLIOTT. As much official as your work. Have you published any table of weights or measurements?

Mr. LEMBKEY. I do not know, Mr. Elliott. Have I?

Mr. ELLIOTT. Have you? I am asking you.

The CHAIRMAN. He has said he does not remember.

Mr. LEMBKEY. I perhaps have in one of my reports.

Mr. ELLIOTT. When?

Mr. LEMBKEY. I do not remember the exact date. I am not evading the point. I simply can not remember the exact date. Perhaps you have that data.

The CHAIRMAN. Did you publish a report?

Mr. LEMBKEY. I think in one of my reports—I think it was in 1907, I am not certain which year—appeared a statement of the classification of the skins in London for that year, with an approximation of the ages of the animals. I think it was in 1907. That is what you had in your mind, is it not?

Mr. ELLIOTT. That is not a table showing—

Mr. LEMBKEY. That is the only table.

Mr. ELLIOTT. Therefore you have never published any table?

Mr. LEMBKEY. If you wish to draw that conclusion—

Mr. ELLIOTT. You have been up there all these years, and now, to-day, you can

Pribilof Islands, declares the fact that no one of them exceeds in length 34 inches. That fact determines them—all of them—to have been the skins taken from yearling seals— (Hearing No. 14, p. 905, July 25, 1912, H. Com. Exp. Dept. Com. and Labor.)

But, under cross-examination, Lembkey admits he had no "reliable data" as warrant for changing the 5½ limit to 5 pounds—only his "opinion."

Mr. LEMBKEY. 1906 is when we reduced the weight from 5½ pounds to 5 pounds. Please get that correct.

Mr. ELLIOTT. But in 1904 you made that recommendation?

Mr. LEMBKEY. To Mr. Hitchcock.

Mr. ELLIOTT. Have you any table of weight measurement of your own making which warranted you in making that recommendation?

Mr. LEMBKEY. I had not. I expressed that as my opinion. (Hearing No. 9, p. 450, Apr. 13, 1912; H. Com. Exp. Dept. Com. and Labor.)

But, on examination, he admits that he never has prepared such a table.

Mr. LEMBKEY. What do you mean, that the weight of a 2-year-old is 5 pounds?

Mr. ELLIOTT. No; I say you say "from 5 to 6½ pounds."

Mr. LEMBKEY. Yes; but you have got to give us—

Mr. ELLIOTT. That is what I stated—5 to 6½ pounds.

The CHAIRMAN. That is the answer to your question. That is fair. You ought not to assume to know more about it than he does.

Mr. ELLIOTT. No; I can not find his statement about it before. I wanted to get it into the record.

The CHAIRMAN. Is his answer to your question?

Mr. ELLIOTT. Yes; that is there. You have no official record of the weights of a 3-year-old skin, have you? You have never published any?

Mr. LEMBKEY. Yes; I published the weights of a 2-year-old and 3-year-old skin. I made the statement in my reports to the effect—

Mr. ELLIOTT. You said it was an approximation.

Mr. LEMBKEY. I have made a statement in my reports giving an approximation of the weights of skins from seals of different ages. Now that I recollect, it was not in the form of a table. I have stated repeatedly in the text of my reports that a 2-year-old would weigh from

not tell from any official records of yours what the weight of a 2-year-old skin is?

Mr. LEMBKEY. What?

Mr. ELLIOTT. You can not tell from any official records of yours what the weight of a 2-year-old skin is. You say it is 5 pounds. Where is the official record? (Hearing No. 9, p. 436, Apr. 13, 1912.)

Lembkey swears that the data upon which he orders and directs the killing is "very reliable."

Mr. LEMBKEY. We have found on the islands that the most reliable way of gauging sealskins so as to classify them into different ages is that of weight, of weighing the skins. We have very reliable data showing that 2-year-olds seldom if ever weigh less than 5 pounds, and we also have data which give us the information that the skins of 3-year-olds weigh from 6½ to 8½ pounds. Upon that basis we have established our regulations. Now it is absolutely impossible for us to proceed to any classification with regard to age by means of measurements on the islands for the reason that the green skin is very pliable and flexible, and by a little pressure could be made a foot or a foot and a half longer than it really is, or wider, in whichever direction you wish to apply the pressure, so that on the islands the only standard we can fix is the standard of weight. (Hearing No. 9, p. 398, Mar. 1, 1912, H. Com. Exp. Dept. Com. and Labor.)

5 to 6½ pounds. (Hearing No. 9, p. 437, Apr. 13, 1912.)

Mr. LEMBKEY. 1906 is when we reduced the weight from 5½ pounds to 5 pounds. Please get that correct.

Mr. ELLIOTT. But in 1904 you made that recommendation?

Mr. LEMBKEY. To Mr. Hitchcock.

Mr. ELLIOTT. Have you any table of weight measurement of your own making which warranted you in making that recommendation?

Mr. LEMBKEY. I had not. I expressed that as my opinion. (Hearing No. 9, p. 450, Apr. 13, 1912.)

But he officially reports in 1907 that he has nothing but an "approximate" idea of the size and weights of the skins.

Mr. LEMBKEY. The average weight of these sizes has been determined by Lampson & Co., as well as by the agents on the islands. (See S. Doc. No. 98, 59th Cong., 1st sess., p. 88; also proceedings Fur-Seal Arbitration, vol. 8, pp. 916 et seq.) As certain of the sizes of skins do not occur at all in the islands catch, the weights as given by Lampson & Co. are here used, although they do not correspond in every respect with our idea of the average weights of seals of a given age. Opposite these weights I have placed the age of the animals from which they were taken, based on my judgment after having assisted in weighing thousands of skins:

	Weight.		Age.
	Lbs.	Oz.	Years
Large wigs.....	34	0	.....
Small wigs.....	23	0	.....
Middlings.....	14	6	6
Middlings and smalls.....	11	3	5
Smalls.....	9	8	4
Large pups.....	8	2	} 3
Middling pups.....	6	12	
Small pups.....	5	10	} 2
Extra small pups.....	4	11	
Extra extra small pups.....	3	13	1
Gray pups.....	3	0	(1)

¹ Four to five months.

The ages of seals of a given weight marked in the above table are based on an average and are necessarily only approximate. They are stated here solely for the purpose in hand and not as an effort on my part to fix the correct weight of the skins of seals of a certain age. As it is, however, it is close enough to construct an estimate such as we desire. (Appendix A, p. 498, June 11, 1911, H. Com. Exp. Dept. Com. and Labor.) (Rept. of W. I. Lembkey, Sept. 9, 1907, to Sec. Com. and Labor.)

Lembkey swears it is impossible to measure a "green" sealskin.

Mr. MADDEN. Would not a stretched skin show that it had been stretched?

Mr. LEMBKEY. No; the green skin, as a matter of fact, is as pliable as a piece of india rubber, and in throwing it down on the ground it may curl up or stretch lengthwise; it is so elusive in form it is impossible for us to measure it; that is the truth of the matter.

Mr. MCGILlicuddy. You say measurement would not be reliable because it might be stretched. Suppose you did not stretch it, suppose you take it honestly, then would it be, if honestly taken, would it be a test?

Mr. LEMBKEY. I tried to make that clear to the committee.

The CHAIRMAN. That is a direct question. Why do you not answer it?

Mr. LEMBKEY. I am attempting to. It is impossible; of course, all our actions up there are honestly—

Mr. MADDEN (interposing). Answer the question right straight. Do not try to explain it.

Mr. LEMBKEY. I have attempted to state that in measuring a green skin it is impossible to find out its exact length when you lay it on the ground, because it may curl up, or roll, or stretch, and it can only be measured after it has become hardened by salt.

Mr. MCGILlicuddy. Then it will not stretch?

Mr. LEMBKEY. Certainly not.

Mr. MCGILlicuddy. That is the proper time to measure it, after it has become rigid and stiff?

Mr. LEMBKEY. Certainly. (Hearing No. 9, p. 399, Mar. 1, 1912.)

But when under cross-examination he denies the statement.

Mr. ELLIOTT. Mr. Lembkey, you stated to the committee that it was impossible to measure a yearling skin, and therefore you have never done it.

Mr. LEMBKEY. I do not remember that.

Mr. ELLIOTT. Did you not say that?

Mr. LEMBKEY. I stated that it was not impossible to measure a green skin. I said that I have never done it.

Mr. ELLIOTT. I have not seen your testimony. Of course, I can not take you up on it.

Mr. LEMBKEY. You know you have seen my testimony, because I have seen your notations in the report of the committee's hearings.

The CHAIRMAN. Never mind about that. Ask the question.

Mr. ELLIOTT. I have not read your testimony; I only remember what you said. (Hearing No. 9, p. 439, Apr. 13, 1912.)

Lembkey swears that he saved the 3-year-olds from killing as food seals by a 6½-pound maximum skin weight limit, but—

But, it seems that that 6½-pound maximum was actually increased to 8½ pounds. So these "saved" 3-year-olds in June and July were all killed in the October-November following as "food seals."

Mr. LEMBKEY. Notwithstanding repeated allegations to the contrary, the regulations of the department fully protect the breeding herd, and these regulations are carefully and thoroughly observed. They require that no female or marked male should be killed, and no male seal having a pelt weighing less than 5 or more than 8½ pounds. During the food killing season of the fall and spring seals having skins weighing over 6½ pounds or under 5 pounds may not be taken, this extra limitation being enforced to prevent the killing of those males marked for breeding purposes after the new hair has grown in and obliterated the mark which is placed upon their hides at the beginning of the season.

Mr. MADDEN. Right there, let me ask a question.

Mr. LEMBKEY. Yes, sir.

Mr. MADDEN. I do not think it will interfere. You said that seals 2 or 3 years of age were killed?

Mr. LEMBKEY. Yes, sir.

Mr. MADDEN. And that no skin weighed less than 5 or more than 8 pounds?

Mr. LEMBKEY. More than 8½ pounds.

Mr. MADDEN. Except during a certain period of the season when the higher weight was reduced to 6½ pounds?

Mr. LEMBKEY. Yes, sir.

Mr. MADDEN. What becomes of the seals more than 3 years of age?

Mr. LEMBKEY. They are allowed to mature as breeders. (Hearing No. 9, p. 363; Feb. 29, 1912.)

Mr. LEMBKEY. Let me interrupt you a moment. The instructions for 1904, known as the Hitchcock rules, used this language: "No seal shall be taken that is over 4 years of age." That, of course, was intended to mean that no 4-year-olds were to be killed, but the company took it to mean that a seal was not over 4 years until it was at least 5 years of age, and that they could at least kill 4-year-olds. That was the controversy.

Mr. McGUIRE. Right there, Mr. Lembkey, did you prohibit their killing them?

Mr. LEMBKEY. I did.

Mr. McGUIRE. Over 4 years of age?

Mr. LEMBKEY. I did.

Mr. ELLIOTT. In 1904?

Mr. LEMBKEY. Yes.

Mr. ELLIOTT. Did you do it in 1905?

Mr. LEMBKEY. Yes.

Mr. ELLIOTT. How did you do it? You had no brand on them.

Mr. LEMBKEY. By fixing a limit of 8½ pounds on the skins to be taken. (Hearing No. 9, p. 458; Apr. 13, 1912.)

Dr. EVERMANN. I wish to call particular attention to these paragraphs of the instructions regarding reservations to be made:

[Instruction issued Mar. 9, 1906.]

SEC. 8. *Sizes of killable seals.*—No seals shall be killed having skins weighing less than 5 pounds nor more than 8½ pounds. Skins weighing more than 8½ pounds shall not be shipped from the islands, but shall be held there subject to such instructions as may be furnished you hereafter by the department. Skins weighing less than 5 pounds shall not be shipped from the islands unless, in your judgment, the number thereof is so small as to justify the belief that they have been taken only through unavoidable accident, mistake, or error in judgment.

SEC. 10. *Seals for food.*—The number of seals to be killed by the natives for food for the fiscal year beginning July 1, 1906, shall not exceed 1,700 on the island of St. Paul and 500 on the island of St. George, subject to the same limitations and restrictions as apply to the killing of seals by the company for the quota. Care should be taken that no branded seals be killed in the drives for food. (Hearing No. 10, pp. 483, 484; Apr. 19, 1912.)

The lessees suborn Lembkey and Bureau of Fisheries and then secure all of the "reserved" or "spared" seals, in violation of the sworn statements made by the latter.

THE DEADLY PARALLEL.

Lembkey declares that it is necessary to put a 6½-pound limit on food skins to save the "reserved" 3-year-olds from killing, and tells the Senate Committee that it is done.

Mr. ELLIOTT. Now, Mr. Chairman, in the matter of the nullification of the Hitchcock rules, with this evidence duly considered by your committee, of the illegal killing of those yearling seals in 1910 (and that evidence of this guilt applies to every season's work on the Pribilof Islands ever since 1890 down to May 1, 1910), I desire to present the following testimony, which declares that ever since May 1, 1904, when the "Hitchcock rules" were first ordered by the Department of Commerce and Labor, those rules have been systematically and flagrantly violated by the agents of this department who were specially sworn to obey and enforce them.

On February 4, 1911, Chief Special Agent Lembkey was introduced by Secretary Charles Nagel to the United States Senate Committee on Conservation of National Resources, and during his examination by that committee he made the following statement, to wit, on page 14 (hearings on Senate bill 9959, February 4, 1911, Committee on Conservation of National Resources):

"Dr. HORNADAY. How many 'short 2-year-olds' were killed last year?"

"Mr. LEMBKEY. I do not understand your term. No seals under 2 years old, to my knowledge, were killed.

"Dr. HORNADAY. What would be the age of the smallest yearlings taken?"

"Mr. LEMBKEY. Two-year-olds rarely, if any. I may state here, Dr. Hornaday, that a great difference of opinion exists between Mr. Elliott and the remaining people who understand this situation. There is a great gulf between their opinions, and it can never be reconciled on the question of the weights of skins of 2-year-olds.

"Prof. ELLIOTT. I will present my information in a moment.

"Dr. HORNADAY. The minimum weight is what?"

"Mr. LEMBKEY. Five pounds. During food drives made by the natives,

But the official instructions which the Bureau of Fisheries order, declare that that limit of 6½ pounds has been raised to 8½ pounds, and so all of the "reserved" 3-year-olds in June and July annually, are killed in October and November, following.

DR. EVERMANN * * *

"[Instructions issued Mar. 9, 1906.]

"SEC. 8. *Sizes of killable seals.*—No seals shall be killed having skins weighing less than 5 pounds nor more than 8½ pounds. Skins weighing more than 8½ pounds shall not be shipped from the islands, but shall be held there subject to such instructions as may be furnished you hereafter by the department. Skins weighing less than 5 pounds shall not be shipped from the islands unless, in your judgment, the number thereof is so small as to justify the belief that they have been taken only through unavoidable accident, mistake, or error in judgment.

"SEC. 10. *Seals for food.*—The number of seals to be killed by the natives for food for the fiscal year beginning July 1, 1906, shall not exceed 1,700 on the island of St. Paul and 500 on the island of St. George, subject to the same limitations and restrictions as apply to the killing of seals by the company for the quota. Care should be taken that no branded seals be killed in the drives for food.

"[Instructions issued Apr. 15, 1907.]

"Identical with instructions of 1906.

"[Instruction issued Apr. 1, 1908.]

"Identical with instructions of 1907.

"[Instructions issued Mar. 27, 1909.]

"SEC. 10. *Seals for food.*—Identical with instructions for 1906, 1907, and 1908, except in addition is added "The maximum weight for food skins shall not exceed 7 pounds.

"[Instructions issued May 9, 1910.]

"SEC. 11. *Seals for food.*—No female seal or seal having a skin weighing under 5 pounds or more than 7 pounds shall be killed during the so-called food-killing season.

when the seals killed are limited to 6½ pounds, in order to exclude all these 3-year-olds branded during the summer, you understand the natives do kill down a little more closely than our regulations allow, for the reason that they need the meat, and since they have to exclude all these fine, fat seals over 6½ pounds they go for the little fellows a little more closely.

"The CHAIRMAN. How many seals were killed last year for food by the natives?"

"Mr. LEMBKEY. The limit was 2,500. Speaking offhand, I think about 2,300 were killed.

"Q. Were any females killed?—A. No, sir; not to my knowledge, and, as I stated, I carefully interrogated these two gentlemen who had charge of this killing, and they stated that to their knowledge no female was killed.

"Q. What class of males were killed by the natives for food?—A. Under 6½ pounds." (Hearing No. 14, p. 907, July 25, 1912, H. Com. Exp. Dept. C. & L.)

Lembkey swears that he reserves from slaughter 1,000 3-year-old seals every year, before any killing begins for the season in June.

Mr. LEMBKEY. Before any killing was done this summer, as has been the practice for some years past following the bureau's instructions, 1,000 of the choicest 3-year-olds appearing in the first drives of the season were reserved for future breeders and marked by shearing their heads, so as to render their subsequent recognition during the season an easy matter. These seals, thus marked, were immune from clubbing and were not killed. These 3-year-old seals the following year became 4-year-olds, the killing of which class in general is prohibited. Only after the 1,000 3-year-olds, known as the breeding reserve, is secured and marked does the killing of seals for skins begin. The killing is confined only to the 2 and 3 year old immature males not required for purposes of reproduction. To obtain these, the breeding rookeries are not disturbed, but the bachelors' hauling grounds on either island were driven every fifth or sixth day if seals were found thereon in sufficient numbers to justify driving. The killing season begins on July 1 and ends July 31, but one drive is always made subsequently on August 10 to furnish the natives with fresh meat during a portion of the so-called "stagey" season (when the seals shed their hair), which begins August 10 and ends October 20, and during which no killing is done. (Hearing No. 9, pp.

"[Instructions issued Mar. 31, 1911.]

"Identical with instructions of 1910."

Mr. LEMBKEY. We have found on the island that the most reliable way of gauging seal skins so as to classify them into different ages is that of weight—of weighing the skins. We have very reliable data showing that 2-year-olds seldom if ever weigh less than 5 pounds, and we also have data which give us the information that the skins of 3-year-olds weigh from 6½ to 8½ pounds. Upon that basis we have established our regulations. (Hearing No. 9, p. 398; Hearing No. 10, pp. 483-486, Apr. 19, 1912, H. Com. Exp. Dept. C. & L.)

But Clark reports that these reserved seals in June are all subsequently killed, and tells how they are so taken.

3. *The reserve of bachelors.*—Beginning with the season of 1904, there has been set aside each spring a special breeding reserve of 2,000 young males of 2 and 3 years of age. These animals have been marked by clipping the head with sharp shears, giving them a whitish mark readily distinguishing them to the clubbers. They are carefully exempted on the killing field and released.

This method of creating a breeding reserve seems open to considerable criticism, and has apparently been only moderately successful. The mark put upon the animal is a temporary one. The fur is replaced during the fall and winter, and the following spring the marked seals can not be recognized. The animals being 2 and 3 years of age are still killable the next season, the 2-year-olds in fact the second season. A new lot of 2,000 is clipped the next season, and these are carefully exempted, but, except in so far as animals of the previous season's marking are re-clipped, they have no protection the second season, and without doubt are killed.

If such is not the case, it is difficult to understand what becomes of them. The annual reservation from 1904 to 1907, both seasons included, would aggregate 8,000 animals. These animals would be of ages ranging from 8 to 5 years this season. The only animals present in 1909 which could

362, 363, Feb. 29, 1912, Ho. Com. Exp. Dept. Com. and Labor.)

Dr. HORNADAY. The minimum weight is what?

Mr. LEMBKEY. Five pounds. During food drives made by the natives, when the seals killed are limited to 6½ pounds, in order to exclude all these 3-year-olds branded during the summer, you understand the natives do kill down a little more closely than our regulations allow, for the reason that they need the meat, and since they have to exclude all these fine, fat seals over 6½ pounds they go for the little fellows a little more closely. (Dixon Hearing, U. S. Sen. Com. Cons. Nat. Res., Feb. 4, 1911, pp. 14, 15.)

The seal contractor swears that the "good conscientious" Bureau of Fisheries' agents should have full swing and control on the islands.

The CHAIRMAN. I mean, in the present depleted condition of the herd, if there should be a short closed season, so that the seals can multiply and then do what you say. Would that be good policy, in your judgment?

Mr. LIEBES. Well, I said, leave it to the people on the islands; if they find they can not take any, let them not take any; there should be no compulsion to take any; but if the people on the islands may take any, then take the surplus.

The CHAIRMAN. But you see you assume that the people on the islands will do the right thing, and I do not mean to insinuate they would do anything but what is right; however, I am trying to get your real opinion of the thing in the record.

Mr. LIEBES. As you stated, there might be some danger in leaving it to the officers on the islands, but I do not think the danger would be as great as instructions given from Washington in the best of faith, because they might meet other conditions when they arrive there. I think the lesser evil, if there are any evils, is to allow the officer in charge to determine.

The CHAIRMAN. A great deal, of course, must be intrusted to the people in charge.

Mr. LIEBES. Well, not necessarily so. If they are allowed to recuperate, they will be all right. They will be able to take seals each year, and I certainly think that is the only way to do. This idea of shutting down for a number of years is unnecessary and absolute rot. You have got to run your seal herd like you would run a stock range; it has got to be left to people who understand the business, and in the discretion of the officers in charge, men of ability, if you have confidence in them, and from what I have seen of the

have resulted from this reservation were the 513 idle and half bulls. Even if we assume that they have in the meantime replaced the entire stock of breeding bulls this would account for only 1,900 of them, and the active bulls were for the most part of a distinctly older class. (Rept. G. A. Clark to Sec. Nagel, Sept. 30, 1909, p. 847, Appendix A, June 24, 1911, H. Com. Exp. Dept. Com. and Labor.)

But when they get up there, Liebes asks that they give him full swing, and they do.

ST. PAULS ISLAND, ALASKA.

(Journal of the chief special agent in charge of Seal Islands.)

Thursday, June 9, 1892.—Mr. J. Stanley-Brown arrived and took the place of Maj. Williams as United States agent in charge of the Seal Islands (p. 2).

Friday, July 8, 1892.—The entire control and management of the killing grounds and killing of the seals were given to Mr. Fowler, of the N. A. C. Co., by order of Mr. J. Stanley-Brown, agent in charge, and Assistant Agent Murray was ordered to count the seals.

The killing is entirely directed by the agent of the lessees who directs the grade of seal to be taken. (Report of Chief Spl. Agt. J. B. Crowley, Nov. 1, 1896.)

This season (1909) they (the drives) have been entirely in the hands of the lessees * * * the lessees have been free to take what they could get. (Report of G. A. Clark, Sept. 30, 1909, to Sec. Nagel, Dept. Com. and Labor, pp. 829-866, Appendix A, June 24, 1911, H. Com. Exp. Dept. Com. and Labor.)

Department of Fisheries they certainly have the ability, and the people around the islands certainly understand their business. They are good conscientious people. If such people run the thing and take the surplus males each year, it will be all right. (Hearing No. 13, pp. 877-879, June 20, 1912, Ho. Com. Exp. Dept. Com. and Labor.)

Hitchcock, learning that the lessees and Lembkey were trying to get a modification of his 5½-pound minimum limit to 5 pounds, had the following peremptory instruction added to the orders of May 1, 1905:

DEPARTMENT OF
COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, May 1, 1905.

Mr. W. I. LEMBKEY,
Agent in Charge of Seal Islands, Department of Commerce and Labor, St. Paul Island, Pribilof Group, Alaska.

SIR: With reference to the provision in your instructions prohibiting the lessees from killing any seals during the coming season that are under 2 years of age, you are directed in the enforcement of this requirement to fix upon the same minimum limit of weight for the skins to be taken as that prescribed for the season of 1904, namely, 5½ pounds.

It will be your duty to see that every possible precaution is exercised to prevent the killing of seals that yield skins under the weight mentioned.

Respectfully,

V. H. METCALF,
Secretary.

(Appendix A, p. 153, June 24, 1911, H. Com. Exp. Dept. Com. and Labor.)

Lembkey officially declares, in 1905, that no change should be made in the Hitchcock rules—it "would be wholly unwise."

PRESENT REGULATIONS SHOULD BE CONTINUED.

Since it appears that a scarcity of bulls is threatened on the islands, and, in fact, has occurred actually on several of the rookery spaces on St. Paul, any change in the present regulations looking to a lessening of the restrictions placed on killing on the islands would be wholly unwise.

The result of these regulations can not be felt before 1907, as has in effect been

Lembkey acknowledges this peremptory mandate, but he does not enter it on his official journal of the Government house, St. Paul Island.

OFFICE OF AGENT IN
CHARGE SEAL ISLANDS,
St. Paul Island, Alaska, June 17, 1905.
The honorable the SECRETARY OF
COMMERCE AND LABOR.

SIR: I have the honor to acknowledge the receipt of the department's letter of the 1st ultimo, prescribing, for the season of 1905, a minimum weight of sealskins to be taken of 5½ pounds, and to say that the necessary measures will be taken to have the regulations properly observed on the islands.

A copy of the letter referred to has been forwarded to the assistant agent in charge of St. George Island, for his guidance.

Respectfully,

W. I. LEMBKEY,
Agent in Charge Seal Islands.

(Appendix A, p. 153, June 24, 1911, H. Com. Exp. Dept. Com. and Labor.)

But when Hitchcock is out of the department, then Lembkey, without warrant, does unite with the lessees and secures a change for the worse in them.

Mr. ELLIOTT. When Mr. Hitchcock left the department who succeeded him?

Mr. LEMBKEY. As chief clerk? I think Mr. Bowen did.

Mr. ELLIOTT. Mr. Bowen. Did you again renew your recommendation?

Mr. LEMBKEY. I do not remember that I recommended that the weight be reduced to 5 pounds in 1905, Mr. Elliott.

Mr. ELLIOTT. That order of reduction was made in 1906?

Mr. LEMBKEY. In 1906.

stated. During the interval which must elapse before that time a steady decrease in bulls will be encountered. The closest killing on land occurred during the seasons of 1902 and 1903. In the latter season the lessees released from the drives on St. Paul only 983 small seals. This practical annihilation of bachelors for this year will be felt on the rookeries four years thereafter, or in 1907.

Since we are obliged to face in 1906 and 1907 this extra heavy decrease occurring from the closer killing in 1902 and 1903, no reduction in the number of bachelors now saved on the islands should be made until the rookeries themselves show an influx of male life sufficient to more than offset the yearly mortality. (Report W. I. Lembkey, Oct. 26, 1905, to Sec'y Com. and Labor; Appendix A, p. 175, H. Com. Exp. Dept. Com. and Labor, June 24, 1911.)

Lembkey's assistant, Judge, declares that the seal question was completely mastered and understood by Hitchcock when those "regulations" were prepared.

[The Secretary of Commerce and Labor, retransfer of the Alaskan seal service to the Bureau of Fisheries, by James Judge, assistant agent, Seal Islands.]

* . . *

It is to be observed that Hon. Frank H. Hitchcock, when connected with the Department of Commerce and Labor, had charge under the Secretary of the sealing business; that he made an exhaustive examination of all the questions affecting the seal life; that, as before stated herein, he prepared the regulations under which the business is now conducted.

* . . *

Mr. Hitchcock's knowledge of the seal life was so perfect and his mastery of the seal question was so complete that the President remitted the subject to his supervision and control even after he became First Assistant Postmaster General. It is earnestly recommended that if the reasons assigned in the foregoing statements are not deemed sufficient that Mr. Hitchcock's knowledge of the subject be availed of.

Respectfully submitted.

Mr. ELLIOTT. Who was the chief clerk then?

Mr. LEMBKEY. I presume Mr. Bowen was.

Mr. ELLIOTT. And you again made the recommendation?

Mr. LEMBKEY. Not to Mr. Bowen; no. The recommendation was made, I think, to the Secretary, but it was made through Mr. Sims, the solicitor of the department, who then had charge of the seal business.

Mr. ELLIOTT. Oh, he took charge of it? Had you in 1904 any table of length, weight, and measurement of fur seals to contradict the official tables that declared a fur seal 2 years of age, the skin of which weighed 5½ pounds? Had you any records to show Mr. Bowen or Mr. Hitchcock?

Mr. LEMBKEY. 1906 is when we reduced the weight from 5½ pounds to 5 pounds. Please get that correct.

Mr. ELLIOTT. But in 1904 you made that recommendation?

Mr. LEMBKEY. To Mr. Hitchcock.

Mr. ELLIOTT. Have you any table weight measurement of your own making which warranted you in making that recommendation?

Mr. LEMBKEY. I had not. I expressed that as my opinion. (Hearing No. 9, pp. 449-450, Apr. 13, 1912, H. Com. Exp. Dept. Com. and Labor.)

But Lembkey just changed them as best in his "opinion"—with no warrant for that opinion either. [The seal contractor's "opinion," too.]

Mr. ELLIOTT. Mr. Lembkey, when you made that statement in 1901, you went to Mr. Hitchcock and recommended a 5-pound limit. What did he tell you in 1904?

Mr. LEMBKEY. I do not remember just what he did tell me, Mr. Elliott.

Mr. ELLIOTT. Did he not tell you that you were taking yearling skins?

Mr. LEMBKEY. No, sir; he told me that you had made the charge that we were taking yearling skins.

Mr. ELLIOTT. Was he not impressed with the fact that you were taking yearling skins?

Mr. LEMBKEY. No; he was not.

Mr. ELLIOTT. Yet he fixed the limit 5½ pounds?

Mr. LEMBKEY. He did it solely as I have stated—to place the limit so high that you nor any other man could make any objection to the policy of the department.

Mr. ELLIOTT. That was very correct on his part, was it not?

* . . *

Mr. ELLIOTT. When Mr. Hitchcock left the department who succeeded him?

DECEMBER, 1908. (Appendix A, p. 666, June 24, 1911. H. Com. Exp. Dept. Com. and Labor.)

The company's protest regarding the department's decision to fix the minimum weight of skins at 5½ pounds was brought to our attention here at Washington before the sailing of the steamer and was filed for future reference. (F. H. Hitchcock to W. I. Lembkey, May 28, 1904. Appendix A, p. 47, June 24, 1911, H. Com. Exp. Dept. Com. and Labor.)

Lembkey says in his official report, 1906, that he made that change in the Hitchcock Rules because "the department found," etc., "of the fact," etc.

Mr. LEMBKEY. The reduction in 1906 of the limit of weight on small skins from 5½ to 5 pounds was made by the department because of the fact that the latter weight more nearly represented the dividing line between 1 and 2 year old seals. The young males between 5 and 5½ pounds undoubtedly are 2-year-olds, and the 5½-pound prohibition resulted in arbitrarily turning away from the killing fields several thousands of small 2-year-olds that otherwise would be killed for quota.

This reduction of the limit in weight resulted in the dismissal in 1906 of 3,980 small seals, as against 5,548 in 1905. These 3,980 dismissals in 1906 are shown elsewhere to represent approximately 3,300 animals.

In my opinion, this closer killing among the smaller 2-year-olds is advisable. Present safeguards against too close killing are ample. With their strict enforcement, it is the part of wisdom to allow the lessee to take all remaining young males not covered by prohibitory regulation, as in so doing it reduces to a minimum a class of seals upon which the pelagic sealers prey during the summer, and which, if saved, would offer no further benefit to the herd than that now assured under the regulations governing the killing on land. (Rept., Dec. 14, 1906, to Secretary Com. and Labor, W. I. Lemb-

Mr. LEMBKEY. As chief clerk? I think Mr. Bowen did.

Mr. ELLIOTT. Mr. Bowen. Did you again renew your recommendation?

Mr. LEMBKEY. I do not remember that I recommended that the weight be reduced to 5 pounds in 1905. Mr. Elliott.

Mr. ELLIOTT. That order of reduction was made in 1906?

Mr. LEMBKEY. In 1906.

Mr. ELLIOTT. Who was the chief clerk then?

Mr. LEMBKEY. I presume Mr. Bowen was.

Mr. ELLIOTT. You must have had something to present to Mr. Hitchcock and to Mr. Bowen as your reason for reducing that weight from 5½ pounds to 5 pounds. What was it?

Mr. LEMBKEY. I had not. I expressed that as my opinion. (Hearing No. 9, pp. 449, 450, Apr. 13, 1912. H. Com. Exp. Dept. Com. and Labor.)

But Lembkey, under cross-examination, admits that the change was made on his recommendation, and that he himself, had no warrant for making it—only his "opinion."

Mr. ELLIOTT. That order of reduction was made in 1906?

Mr. LEMBKEY. In 1906.

Mr. ELLIOTT. Who was the chief clerk then?

Mr. LEMBKEY. I presume Mr. Bowen was.

Mr. ELLIOTT. And you again made the recommendation?

Mr. LEMBKEY. Not to Mr. Bowen; no. The recommendation was made, I think, to the Secretary, but it was made through Mr. Sims, the solicitor of the department, who then had charge of the seal business.

Mr. ELLIOTT. Oh, he took charge of it? Had you in 1904 any table of length, weight, and measurement of fur seals to contradict the official tables that declared a fur seal 2 years of age, the skin of which weighed 5½ pounds? Had you any records to show Mr. Bowen or Mr. Hitchcock?

Mr. LEMBKEY. What year are you speaking of, and what records are you speaking of?

Mr. ELLIOTT. You must have had something to present to Mr. Hitchcock and to Mr. Bowen as your reason for reducing that weight from 5½ pounds to 5 pounds. What was it?

Mr. LEMBKEY. You must remember, now, that my statement was that that change occurred in 1906.

Mr. ELLIOTT. 1904, you said?

key, pp. 264, 265, Appendix A, June 24, 1911, H. Com. Exp. Dept. Com. and Labor.)

The lessees with help of Lembkey in 1906, "established" a "5-pound" minimum, so as to easier "load" the 4½-pound yearling skins.

Mr. LEMBKEY. We have found on the islands that the most reliable way of gauging sealskins so as to classify them into different ages is that of weight, of weighing the skins. We have very reliable data showing that 2-year-olds seldom if ever weigh less than 5 pounds, and we also have data which give us the information that the skins of 3-year-olds weigh from 6½ to 8½ pounds. Upon that basis we have established our regulations. (Hearing No. 9, p. 398, Mar. 1, 1912.)

Mr. LEMBKEY. 1906 is when we reduced the weight from 5½ pounds to 5 pounds. Please get that correct.

Mr. ELLIOTT. But in 1904 you made that recommendation?

Mr. LEMBKEY. To Mr. Hitchcock.

Mr. ELLIOTT. Have you any table of weight measurement of your own making which warranted you in making that recommendation?

Mr. LEMBKEY. I had not. I expressed that as my opinion. (Hearing No. 9, pp. 449,450, Apr. 13, 1912, H. Com. Exp. Dept. Com. and Labor.)

Lucas, under oath, and facing cross-examination, tells the truth and denies Lembkey.

Dr. LUCAS. In regard to the sizes and ages of killable seals, Dr. Evermann has pointed out in his admirable résumé that there is no law against the killing of male seals of any age. There have been regulations against it, but all I can say is that no yearlings have been systematically killed. I took Mr. Elliott's figures of 1873 as a good average. He cites the weight of 2-year-old skins as 5½ pounds. I agree with him there. I think that is a good average. (Hearing No. 12, p. 708, May 16, 1912.)

Mr. ELLIOTT. I will go further and submit as Exhibit J this paper. I won't read all of this in regard to the British authority on Alaskan fur-seal classification and what he says, as compared with our tables; but I will read one word from a chief British authority in an official letter written December 21, 1892, by Sir Curtis Lampson's sons to the British commissioners Sir George Baden-Powell and Dr. George M. Dawson. Sir Curtis Lampson says:

"We are unable to answer your inquiry as to in what class in the sales catalogue would be placed a skin classified on the islands as, say, a 7-pound skin, as we do not know whether the classification you mention refers to the skins as taken from the animals or after they have been cured and salted ready for shipment. The process of curing and salting must of necessity add to the weight." (See p. 916, Proceedings of the Tribunal of Arbitration, vol. 8, Paris, 1893.)

Now, let me tell you that the salt added in curing a 4½-pound "green" yearling skin will increase its weight to 5 pounds, or even to 5½ pounds, according to the amount of salt used.

Now, you will understand why a "5-pound" skin can not be taken on the islands and honestly, truthfully certified

Bowers swears that the skins are classified by weight as sent from the islands.

Mr. BOWERS. Do you have a report to that effect? Have you seen a report to that effect?

Dr. HORNADAY. Yes; and it has been published several times.

Mr. BOWERS. I have never seen it; neither have you. I think that is a matter of record. That is mentioned in the report manufactured by Mr. Elliott, based upon nothing.

Mr. PATTON. You mean it is a report that is sworn to by the people who do the selling in London?

Mr. BOWERS. No, sir; it is the classification of the London merchants who sell the skins for the United States Government.

Mr. PATTON. And they pay on that weight?

Mr. BOWERS. They sell on those weights. Their classification is made on those weights.

Mr. ELLIOTT. Right there I want to interpose the statement that they do not weigh those skins to classify them. They measure them. (Hearing No. 6, p. 291; July 27, 1911; H. Com. Exp. Dept. Com. and Labor.)

to Mr. Nagel's books as a skin "not under 2 years of age," because a 2-year-old skin weighs, with the same treatment that this skin has received, a minimum of 6 pounds. A small "runt" 2 years old may weigh 5½ pounds. I have seen "runts" that would not weigh 5 pounds, but we are not dealing with exceptions. We are dealing with broad, square averages. I am willing to admit that a few exceptions can be found. I am willing to admit that a man might knock down a "long" yearling here and there; but when he deliberately says to Mr. Nagel that a 5-pound skin is a 2-year-old seal I will take him to the seals themselves and they will confound him; and you gentlemen can easily go with me. I would like to submit this as an exhibit.

Mr. MCGILLICUDDY. Professor, these classifications here are before they are salted?

Mr. ELLIOTT. Yes, sir; they are "green" skins. (Hearing No. 1, p. 14. May 31, 1911.)

Lembkey, who takes the skins on the islands, denies his chief, Bowers.

Mr. YOUNG. Let me, before you pass from that, ask this: You weigh these green skins on the islands, and then measure them in the markets in London. What is your purpose in weighing, and what is their purpose in measuring?

Mr. LEMBKEY. Our purpose in weighing the skins on the island is to get them within the weights prescribed by the regulations. Our regulations prescribe maximum and minimum weights. Those weights are 5 pounds—

Mr. YOUNG. Does that relate to the question of age?

Mr. LEMBKEY. Five pounds and eight and one-half pounds.

Mr. YOUNG. Passing from the weight, in London what is the determining purpose in measuring?

Mr. LEMBKEY. They measure them I fancy—

Mr. YOUNG. Are they trying to arrive at the question of age, too?

Mr. LEMBKEY. They are trying to get the size of the skin or the amount of fur on the animal. (Hearing No. 9, pp. 448, 449, Apr. 13, 1912; H. Com. Exp. Dept. Com. and Labor.)

Lembkey asserts that the London classification of the sealskins is an accurate one—he does not tell how it is based.

Mr. LEMBKEY. These skins which were sent to London during the years 1909 and 1910 were weighed by the factors after their arrival in London and the weights found to correspond with those taken on the island. As this factor, Lampson & Co., is essentially a disinterested person, being concerned not the least with the question of weights or regulations, but wholly with the sale of the skins and the payments therefor, their verification of these weights may be taken as conclusive of their accuracy.

So far, therefore, as concerns compliance with the regulations and the law in the killing of male seals, no malfeasance can be proven, because not only the records of the department but the weights of the same skins in London, taken by an independent and responsible body of experts, prove that the limits of weight laid down by the instructions of the department have been complied with as closely as it is possible for human agency to do so. The weights of skins taken on the islands show this, and furthermore these weights have been verified in London by an independent and responsible body of men. (Hearing No. 9, p. 375, Mar. 1, 1912.)

Lembkey swears that Lampson's London classification of the sealskins taken on the seal islands is an accurate one, and by weight.

Mr. LEMBKEY. Lampson & Co. is a general broker, and I believe the only one in London.

Mr. ELLIOTT. They take anything from anybody in the United States.

Mr. LEMBKEY. Undoubtedly. Now, their reputation for veracity is unimpeachable, and has been jealously guarded by them since they first engaged in business many years ago. The fur trade has explicit confidence in their statements. The weights of skins which they have promulgated are as accurate as their classification of the skins which they publish to the trade. The fact that the island weights and the Lampson weights coincide is conclusive that the island weights were correctly taken. Surely the committee can conclude that

Then, under cross-examination, he admits that the London classification is on measurements, not weights, and based on the sizes of the skins.

Mr. LEMBKEY. Mr. Fraser, if I may inform the committee, makes a statement of the weight, breadth, and length of the skins—

Mr. ELLIOTT. Yes.

Mr. LEMBKEY. But states nothing whatever as to the number of skins in any catch.

Mr. ELLIOTT. That is all covered in other testimony.

Mr. LEMBKEY. Is it?

The CHAIRMAN. What is the question to this witness?

Mr. ELLIOTT. I asked if he does not know that the sizes are established by measurements?

The CHAIRMAN. Just answer that question. Do you know it?

Mr. LEMBKEY. I have been so informed.

Mr. ELLIOTT. Do you doubt it?

Mr. LEMBKEY. Oh, no.

Mr. ELLIOTT. Nor do I. (Hearing No. 9, p. 441, Apr. 13, 1912.)

Lembkey tells the committee that they classify sealskins by measurement of size, and not weight, in Lampson's sales.

Mr. YOUNG. Let me before you pass from that ask this: You weigh these green skins on the islands, and then measure them in the markets in London. What is your purpose in weighing, and what is their purpose in measuring?

Mr. LEMBKEY. Our purpose in weighing the skins on the island is to get them within the weights prescribed by the regulations. Our regulations prescribe maximum and minimum weights. Those weights are 5 pounds—

Mr. YOUNG. Does that relate to the question of age?

Mr. LEMBKEY. Five pounds and 8½ pounds.

Mr. YOUNG. Passing from the weight, in London what is the determining purpose in measuring?

the charge of malfeasance can not lie upon the practice of taking skins as it has been carried on during the years mentioned. (Hearing No. 9, p. 376, Mar. 1, 1912.)

Lembkey swears that 100 skins in 1904 were lighter after salting.

Mr. LEMBKEY. As a matter of fact, contrary to general belief, sealskins before salting weigh slightly more than afterwards. This is well known to practical taxidermists. The effect of salt on skins is to extract the animal juices in large measure and to deter the propagation of bacteria which would eventually destroy the skin. That the natural juices in the green pelt are extracted through the action of the salt is shown by the stiffer and harder texture of the skin after it has been in contact with the salt for a sufficient period. The loss of weight in a pelt due to salting is perhaps small, but nevertheless definite and appreciable.

In order to test this very matter, on July 26, 1904, 100 green sealskins nearly dry were weighed by me on St. Paul and then placed in salt. Their combined green weight was 644½ pounds. Five days thereafter they were taken out of salt and reweighed, when their combined weight was 643½ pounds, representing a net loss of 1 pound in the aggregate weight of 100 skins. (H. Doc. No. 93, 62d Cong., 1st sess., p. 79.) (Hearing No. 9, p. 416, Mar. 11, 1912.)

But Lembkey forgets it one month later.

Mr. ELLIOTT. Mr. Lembkey, you say you never have weighed these skins after you have salted them? You have never weighed them?

Mr. LEMBKEY. I have never weighed them after the salting on the islands; no, sir. (Hearing No. 9, p. 446, Apr. 13, 1912; H. Com. Exp. Dept. Com. and Labor.)

Mr. LEMBKEY. They measure them, I fancy—

Mr. YOUNG. Are they trying to arrive at the question of age, too?

Mr. LEMBKEY. They are trying to get the size of the skin or the amount of fur on the animal.

Mr. YOUNG. They care nothing about the question of age there?

Mr. LEMBKEY. Nothing at all.

Mr. Young. That is all I care to ask. (Hearing No. 9, p. 448, Apr. 13, 1912.)

But Lembkey's official record on the island, of 1904, shows that these skins were heavier.

[Official journal of the Government agent in charge of Seal Islands: St. Paul's Island, Alaska:

Saturday, July 23, 1904.—On July 18, 107 skins taken on Tolstoi were weighed and salted. To-day they were hauled out of the trench and reweighed. At the time of killing they weighed 705 pounds, and on being taken out they weighed 759½ pounds, a gain in salting of 54½ pounds, or one-half pound per skin (p. 149). (This entry was made by Lembkey himself, as above quoted, and copied July 22, 1913, by the agents H. Com. Exp. Dept. Commerce.)

Lembkey says the holluschickie are never driven from shelter on the breeding rookeries.

Chief Special Agent LEMBKEY: Furthermore, the 3-year-olds, having passed the age of puberty, are not found on the hauling grounds during the fall, but are hauled among the cows on the rookeries when they can not be driven. This is an additional safeguard against their killing, and of itself would disprove any allegation that these marked seals are subsequently killed. (Report, Dec. 14, 1906, p. 13; Sen. Doc. 376, 60th Cong., 1st sess.)

But his assistant says they are so driven—are “pulled out from among the cows.” The St. Paul native sealers confirm Judge in a signed statement, July 23, 1913:

Assistant Agent JAMES JUDGE. *Seals.*—Four hundred and fifty-eight seals of the quota of 500 allowed the natives of this island for food were obtained. The first drive was made on October 19, from Staraya Artel, and 220 seals were killed; 209 small, sixty-five 3-year-olds, five 4-year-olds, six 5-year-olds, two 6-year-olds, and 4 branded were turned away. Three other drives were made as follows: October 31, Staraya Artel rookery, 148 seals were killed, twelve 3-year-olds released; November 9, Staraya Artel and north, 44 seals killed; November 16, North rookery, 25 seals killed; October 20 to November 10, Zapadni Guardz, 21 seals killed.

The last three drives were made up entirely of seals pulled out from among the cows by the natives, and as very careful selection had taken place on the rookery very few were turned away from the killing field. (Report, June 3, 1907, Sen. Doc. 376, p. 105, 60th Cong., 1st sess.)

Question. Did you ever use whistles when you drove those young seals out from the shelter of the rookeries?

Answer. No. They used to use them, but do not use them now. They just run in and yell and clap their hands.

Question. Did you ever report that work to the Government agents?

Answer. Yes; it was always reported to the Government agents. (Statements of the native sealers, St. Paul's Island, July 23, 1913; made to agents, H. Com. Exp., Dept. Commerce, p. 98, rept. Aug. 31, 1913.)

Lembkey swears that the official publication of Elliott's 1874 report never reached the files of his office on the seal islands.

But it was on the official files, for in 1886 the chief special agent so reports to the Secretary of the United States Treasury.

SAN FRANCISCO, November 15, 1911.
Mr. W. I. LEMBKEY.

DEAR SIR: In compliance with your request, I have looked over the published account of the fur-seal investigation, and I can truthfully state that I consider the testimony of H. W. Elliott to be designedly false and misleading, especially that part referring to the season of 1890.

Referring to the scale of weights and measurements of sealskins, which he claims was introduced by himself and the late Dr. McIntyre, I have never heard of

OFFICE OF SPECIAL AGENT
TREASURY DEPARTMENT,
ST. PAUL ISLAND, ALASKA,
July 31, 1886.

SIR: I herewith transmit my report of the operations of the seal islands for the past year, and up to the close of this sealing season.

* * * *

Mr. Elliott embraced in his report of 1874 a measurement by him of the breeding rookeries on this island, made July 10-18, 1872, since which time no measure-

its existence, nor have I ever heard mention of it, during my long residence on the seal islands, where for many years I was immediately connected with the taking and curing of sealskins, dating from the spring of 1875 to the expiration of the Alaska Commercial Co.'s lease, in 1890.

Yours, respectfully,

J. C. REDPATH.

Mr. LEMBKEY. Mr. Redpath landed on the islands first in 1875, one year after the alleged promulgation of the Elliott table of weights and measurements.

I regret that Mr. Redpath is in San Francisco, and therefore is not able to attend these hearings. Upon my return from Alaska this fall, I obtained and forwarded to Mr. Redpath a series of hearings of this committee held last summer, with the request that, after reading, he inform me whether the list of weights and measurements which Mr. Elliott claims was promulgated in 1872-1874 on the islands was, in truth, so published. His reply bears out my belief that Mr. Elliott simply has attempted to foist upon this committee a piece of manufactured evidence bearing a date so far back in the history of the islands that no one living would be able to testify as to its truth or falsity. (Hearing No. 9, pp. 404, 426, Apr. 13, 1912.)

Lembkey (and Bureau of Fisheries) quotes Veniaminov and misquotes Elliott, to deceive.

Mr. LEMBKEY. The cause of this great decline of seal life during the Russian régime was due to the reckless killing on land not only of bachelor seals, such as are killed to-day, but to the killing of female seals wherever they could be found. And, strange to say, the very evidence of this wanton slaughter of females can be found in Mr. Elliott's reports, although he is very careful to keep such facts in abeyance when furnishing his deadly parallel of the destruction caused by land killing then and now. * * * Let us now make a few quotations from Elliott to show just what was the cause of the Russian scarcity of seals. * * * Let us quote Mr. Elliott:

A translation of Veniaminov, whom I have mentioned already, * * * occurs in Mr. Elliott's monograph, his first report on the seal islands. * * *

In that translation we find the following quotation from the Russian writer:

"From the time of the discovery of the Pribilof Islands until 1805 the taking of fur seals progressed. * * * Cows were taken in the drives and killed, and were also driven from the rookeries, where they were slaughtered * * *." (Hearing on H. R. 1671, Feb. 3, 1912, p. 114, H. Com. Foreign Affairs.)

ment has been made, as far as the records of this office show.

* * * * *

GEO. R. TINGLE,
Treasury Agent in Charge.

TO THE SECRETARY OF THE TREASURY,
Washington, D. C.

(H. Doc. 175, pp. 204, 205, 54th Cong.,
1st sess.)

Elliott's answer proves his attempt to deceive.

Mr. ELLIOTT. On page 143 of my monograph, from which those extracts were read (by Lembkey), I made this significant and fair statement of what I thought of the same, to wit:

"I translate this chapter of Veniaminov's without abridgment, although it is full of errors, to show that while the Russians gave this matter evidently much thought at headquarters, yet they failed to send some one onto the ground who, by first making himself acquainted with the habits of the seals, etc.

"Why did Mr. Lembkey fail to read the above? The idea of making me responsible for a series of loose statements that I literally credit to another man, and expressly define them as such, is, I submit to the committee, a suppression of the truth by Mr. Lembkey himself, and he, not I, is guilty of that offense." (Hearing on H. R. 1671, Feb. 4, 1912, pp. 146, 147, H. Com. Foreign Affairs.)

VII.

The statements in the official reports of Dr. David Starr Jordan, president of Advisory Board on Fur Seal Service, United States Bureau of Fisheries, who is one of the experts cited to the United States Senate Committee on Conservation of National Resources, January 14, 1911, and to the House Committee on Expenditures in Department of Commerce and Labor, June 9, 1911, by Secretary Charles Nagel as his authority for killing seals in violation of law and regulations:

Mr. BOWERS. The advisory board, fur-seal service, consists of the following:

Dr. David Starr Jordan, president of Stanford University, who was chairman of the International Fur-Seal Commissions of 1896 and 1897, appointed in pursuance of the treaty of February 29, 1892, and whose published report in four volumes is the most comprehensive, thorough, and valuable treatise that has ever been published on all matters pertaining to the fur seal and the seal islands. Dr. Jordan is the most distinguished and best known naturalist in the world. (Hearing No. 2, p. 109, June 9, 1911.)

THE DEADLY PARALLEL.

Dr. Jordan falsifies Yanovsky's official report to the Secretary of the Treasury to justify the untruth stated in re "Russian killing of male and female seals alike."

At once on assuming control of the islands the Russian-American Co. put a stop * * *. They still continued to kill males and females alike. The injury to the herd naturally continued. * * *

In 1820 Yanovsky, an agent of the Imperial Government, after an inspection of the fur-seal rookeries, called attention to the practice of killing the young animals, leaving only the adults as breeders. He writes: "If any of the young breeders are not killed by the autumn they are sure to be killed in the following spring." From this course of action he concludes that the industry decreases every year in volume, and may in the course of time be extinguished entirely. (Fur Seal Investigations, pt. 1, p. 25, 1898.)

Dr. Jordan declares that the Russians ruined the Pribilof fur-seal herd by an indiscriminate killing of female and male seals, 1800-1834.

They (the Russian-American Co.) still continued to kill males and females alike. The injury to the herd naturally continued. * * * (Fur-Seal Investigations, pt. 1, p. 25, 1898.)

The text of Yanovsky's report, 1820, which denies the statement of Dr. Jordan in re Russian killing of female seals. Jordan has used the word "breeders" for "bachelors" in Yanovsky's statement, and thus falsifies it.

In his report No. 41 of February 25, 1820, Mr. Yanovsky, in giving an account of his inspection of the operations on the islands of St. Paul and St. George, observes that "every year the young" bachelor seals are killed, and that only the cows, siekatchie, and half siekatchie are left to propagate the species. It follows that only the old seals are left, while if any of the bachelors are left alive in the autumn they are sure to be killed the next spring. The consequence is the number of seals obtained diminishes every year, and it is certain that the species will in time become extinct." (Appendix to Case of the United States, Fur Seal Arbitration (Letter No. 6, p. 58, Mar. 5, 1821), 1893.)

But Dr. Jordan published a translation of Bishop Veniaminov, who explicitly denies that killing by the Russians, 1800-1834, when the seal herd was destroyed.

The taking of fur seals commences in the latter days of September * * *. The siekatchie and the old females having been removed, the others divided into small squads, are carefully driven to the place where they are to be killed, sometimes more than 10 versts distant.

When brought to the killing grounds the seals are rested for an hour, or more, according to circumstances, and then killed with a club. * * *

Dr. Jordan denies the appearance on the hauling grounds of the yearlings, and in the killing drives before "the middle of July."

* * * In fact the records of the drives show that it is only after the middle of July that the yearlings begin to arrive in numbers, and by the time the killing season is over. * * * (Fur-Seal Investigations, pt. 1, 1898, p. 99.)

Jordan asserts and denies the fact that the yearling seals haul out, as a class, on the islands before the middle of July annually, and therefore are not killed.

From the killing during the present season (1896) 15,000 animals too small to kill were turned back. As in the case of the young bulls, some of these, perhaps many, were driven and redriven, several drives being made from each hauling ground during the season. The actual number represented by this total of rejected animals can not be exactly determined. From this it would seem necessary to suppose that by no means all the younger seals appear on the hauling grounds during the killing season. In fact, the records of the drives show that it is only after the middle of July that the yearlings begin to arrive in numbers, and by the time the killing season is over the great majority of the killable seals are secured, leaving the population of the hauling grounds almost exclusively year-

Of those 1 year old, the males are separated from the females and killed while the latter are driven carefully back to the beach. (Fur-Seal Investigations, pt. 3, 1898, p. 222; translation of Bishop Veniaminov by Leonhard Stejneger.)

But Chief Special Agent Goff asserts in an official entry that yearlings are in the drives as early as June 18.

[P. 229: Official Journal, Government Agent, St. Paul Island, 1890.]

Wednesday, June 18, 1890.—Made a drive from Tolstoi and Middle Hill; killed 274. Turned away 19 half grown bulls; as many yearlings as choice seals, killed (i. e., 274), and half as many 2-year-olds as yearlings were allowed to return to the sea. This is a fair average of the work so far this season. (Chas. J. Goff, U. S. Chief Sp'l Agent in charge Seal Islands.)

Monday, June 23, 1890.—(p. 231.) The N. A. C. Co. made a drive from Tolstoi and Middle Hill, killing 521 seals. Seventy-five per cent of the seals driven to the village were turned back into the sea, 10 per cent of these were 2-year-olds, balance yearlings. (C. J. Goff.)

Tuesday, June 24, 1890.—(p. 231.) N. A. C. Co., made a drive from Reef and Tolstoi, and killed 426 seals; about 65 per cent of this drive was turned back into the sea, about all of these were yearlings.

(C. J. Goff.)

But sworn proof is below that the yearlings do haul out as a class, and in the earliest June drives, and are never absent from them thereafter during the season.

Mr. ELLIOTT. Now as to yearlings on the islands. Here is an official report detailed day after day during the killing season of 1890, put on the files of the Treasury Department, and printed, and until the 1st of December, 1907, not a line had been issued from the Government officialism in charge of this business—not a line that says a single record of this work as to the killing on those islands in 1890 is improperly stated here. The only objection they make to it was that I officially assumed that driving these young and old seals hurt them. They claimed it did not hurt them, but that it did them good. We will leave that open. But the killing has hurt them; they admit that now officially. Let me read, on page 170: "Monday, June 23, 1890. * * * Eleven pods of 561 animals driven up;

lings and 2-year-olds. (Fur Seal Investigations, pt. 1, 1898, p. 99. Dr. D.-S. Jordan, Rept. Feb. 24, 1898.)

110 of them killed or one-fifth taken, or 80 per cent turned away. All under 7-pound skins, with the exception of a few wiggled 4-year-olds and a dozen or two old bulls. This gives a fair average of the whole drive to-day, some 2,500 animals, since 518 only were taken.

"* * * Those turned away (nearly 2,000) were 95 per cent at least 'long' and 'short' yearlings."

That has never been disputed to this hour.

"June 21, 1890. * * * At 7 a. m. I went down to the killing grounds and followed the podding and clubbing of the entire drive brought up from the Reef crest and Zoltoi bluffs this morning. The Zoltoi pod arrived on the ground long before the Reef pod—two hours sooner. It was made up largely of polseecatchie and yearlings.

"* * * Seventy-five per cent of this drive was rejected. Every 3 and smooth 4-year-old taken and every long 2-year-old. Nothing under or over that grade.

"The seals released this morning were exclusively yearlings, 'short' 2-year-olds, and the 5 and 6 year old half bulls or polseecatchie. No 'long' 2-year-old escaped, and so, therefore, many 5½ and 6 pound skins will appear in this catch.

"In the afternoon I took a survey of Lukannon Bay and its hauling grounds. * * * Thence over to Tolstoi sand dunes, where I saw about 600 or 700 yearlings, conspicuous by their white bellies.

* * * * *

"June 26, 1890 (on p. 174). I walked over to the Zapadnie killing grounds this morning, arriving there about 9 o'clock. The drivers had collected a squad of about 340 holluschickie, which were clubbed thus—total 344 number driven, and number taken, 97, or about 72 per cent unfit to take, being made up chiefly of yearlings, 'short' 2-year-olds, and 'wiggled' 4-year-olds, and 5-year up to 7-year old bulls."

I knew what I was talking about, and so did the lessees. They rejected the yearlings and the short 2-year-olds. (Hearing No. 2, pp. 40, 41, June 8, 1911, H. Com. Exp. Dept. C. and L.)

Jordan condemns the killing of yearlings by the old lessees in 1889:

For a time these more rigorous methods had the desired effect, but the scarcity of bachelors as a result of the decreasing birth rates made it necessary finally to lower the age for killable seals, so as to include, first, the 2-year-olds, and in the end many of the larger yearlings, in order to secure the requisite 100,000 skins. By

But he approves the killing of yearlings by the new lessees, 1896, in violation of the rules ordered May 14, 1896 (prohibiting that killing).

Last year (1896) the hauling grounds of the Pribilof Islands yielded 30,000 killable seals. During the present season a quota of only 20,890 could be taken. To get these it was necessary to drive more frequently and cull the animals more closely than has been done since 1889. The killing season was closed on July 27,

these methods it happened in 1889 that practically the whole bachelor herd of four years and under down to the yearlings was wiped out. The result was the abnormal drop to 21,000 in the quota of 1890. * * *

It is not the intention here to justify the methods of killing employed in the closing years of the Alaska Commercial Co. Such killing ought never to have been allowed. * * * (Fur Seal investigations, pt. 1, p. 124, 1898.)

For another part of the time this quota was too great, and this led to waste of another sort by involving the premature killing of the yearling and 2-year-old bachelors. (Fur Seal Investigations, pt. 1, p. 193.)

Dr. Jordan denies the appearance of female yearlings in the drives with male yearlings.

There remains to be recorded the arrival of the 1 and 2 year old females. Their brothers are found to arrive at the islands about the middle of July and spend their time on the hauling grounds. Whether the young females come with them to the vicinity of the islands or are associated with them on the migrations is not known. But they do not associate with them to any great extent on the islands. (Fur Seal Investigations, pt. 1, 1898, p. 66.)

Jordan makes denial of knowledge that the male and female yearling seals haul out together, or come together on the islands.

There remains to be recorded the arrival of the 1 and 2 year old females. Their brothers, we found, arrive at the islands about the middle of July and spend their time on the hauling grounds. Whether the young females come with them to the vicinity of the islands, or are associated with them on the migrations is not known. But they do not associate with them to any great extent on the islands. (Fur Seal Investigations, pt. 1, 1898, p. 66.)

1896. This year it was extended on St. Paul to the 7th of August, and on St. George to August 11. The quota to be taken was left to our discretion and every opportunity was given the lessees to take the full product of the hauling grounds. Notwithstanding all their efforts, the quota of 1897 shows a decrease of 30 per cent in the class of killable seals, and when we take into account the increased number of drives and the extension of the times of driving, the difference between the two seasons is even greater. (Fur Seal Investigations: Preliminary report of 1897: Treasury Doc. No. 1994, p. 18, Nov. 1, 1897.)

But Lembkey, with 13 years' experience, reports that the females do come out as yearlings with male yearlings.

On July 1 there were three yearling seals in the drives at North East Point. One of them, a typical specimen, was knocked down at my direction, to ascertain the weight of the skin. It was found to be a female.

Special attention was paid by me to the presence of yearlings in the drives. The first seen was on June 28 in a drive from Zapadni. It was so small that it was killed to determine its weight. It was a male. * * * (Rept. W. I. Lembkey, Sept. 1, 1904, p. 77, App. A, H. Com. Exp. Dept. Com. and Labor, June 24, 1911.)

But Dr. Jordan's men take a male and a female yearling seal out of a drive from the hauling grounds, and send them as specimens to Stanford University.

Sunday, September 27, 1896.—(P. 12.) A barren cow shot on reef; skin taken for Stanford University. (P. 13.) The skin of a yearling bull smothered in the food drive from Lukannon¹ taken for Stanford University. (P. 14.) A yearling cow shot for purposes of dissection out of the drive from Lukannon. Skin taken for Stanford University. (Official Journal of the U. S. Agent, St. Pauls Island, entered on p. 53, and copied, July 24, 1913, by A. F. Gallagher.)

¹ That drive "from Lukannon" was made on July 27, 1896, from which those yearling male and female seals were secured, as above entered.—H. W. E.

Jordan makes denial of the male and female yearlings hauling out together.

There remains yet to be recorded the arrival of the young 1 and 2 year old females. Their brothers, we found, arrive at the islands about the middle of July, and spend their time on the hauling grounds. Whether the young females come with them to the vicinity of the islands or are associated with them on the migrations is not known. But they do not associate with them to any great extent on the islands. (Fur Seal Investigations, pt. 1, 1898, p. 66.)

Lembkey, with 13 years' experience, swears that the male and female yearlings do haul out together.

Mr. LEMBKEY. This habit of annually migrating from the place of its birth to southerly waters can be explained in a few words. Probably 90 per cent of all female breeders give birth to their pups within a period of three weeks, from June 25 to July 15 of each year. These pups remain on the islands until about November 1 to 15 of each year, and then depart southward. These pups return to the islands the following year practically in a mass about the 25th of July, and then are known as yearlings. While a few individuals might arrive among the first bachelors of the season, the bulk of the yearlings arrive in a mass about the 25th of July, as stated.

If these yearling seals do not arrive until after nearly the whole catch of the skins is obtained, how is it possible to compose the bulk of that catch of the skins of these young animals, as alleged by Mr. Elliott? (Hearing No. 9, pp. 412, 413, 415, Mar. 1, 1912, H. Com. Exp. Dept. Com. and Labor.)

Lembkey swears that he can not tell them apart by looking at them only.

Mr. LEMBKEY. But the younger females, and especially the 2-year-olds, are almost exactly similar in appearance to the males of the same age, and it requires an expert to distinguish between them. I can state that with 13 years of experience, I can not by any means always determine the sex of these animals while they are alive and when they appear on the killing field. (Hearing No. 9, pp. 377, 378, Mar. 1, 1912: H. Com. Exp. Dept. Com. and Labor.)

Jordan denies seeing any yearling seals on the hauling grounds up to July 25, 1896.

July 25, 1906.—At the time of our first enumeration, on Ketavie, Tolstoi, and the Lagoon * * * no yearlings nor 2-year-olds had appeared. Nor am I sure that any have appeared since, unless yearling cows are among the bachelors. I have not seen one, and I am not sure that I have seen a 2-year-old (cow). (Fur Seal Investigations, pt. 2, 1898, p. 341.)

But ever since he landed, July 8, first on the islands, he has seen yearling seals on the hauling grounds, and notes that sight, as quoted below.

July 11.—Zapadnie Rookery, St. George Island: The yearling bachelors are to be seen in little pods of half a dozen or so. * * * Where the bachelor yearlings are at a distance from interference, they play among themselves like little dogs. * * * Similar comparisons might be made for the 2-year-olds, which are bigger than the yearlings, nearly as

Jordan's own associate will not vouch for his truthfulness.

Dr. EVERMANN. 4. The assumption that the rookeries are fullest between July 10 and 20 "every year, not a day earlier, not many days later," is not a safe assumption; in fact, it is not true.

Mr. ELLIOTT. Are you quoting Dr. Jordan?

Dr. EVERMANN. I am quoting some things that Dr. Jordan has said.

Mr. ELLIOTT. Is Dr. Jordan a man of truth?

The CHAIRMAN. You are quoting from Dr. Jordan?

Mr. ELLIOTT. I want to find if Dr. Jordan is a man of truth.

The CHAIRMAN. That is not for the witness to determine.

Mr. ELLIOTT. He is assailing me in that matter and quoting Dr. Jordan.

The CHAIRMAN. The witness can not say whether he is telling the truth or whether he is not.

Mr. ELLIOTT. I would like to have it go in the record whether he considers Dr. Jordan a man of truth.

The CHAIRMAN. The witness will proceed. (Hearing No. 10, p. 580, Apr. 20, 1912, H. Com. Exp. Dept. Com. & Labor.)

Jordan declares that up to July 25 he has not seen a virgin cow or nubile on the rookeries:

At the time of our first enumeration, on Keetavie, Tolstoi, and the Lagoon, the rookeries were at their height, with more cows present than at any one time since. But all were not in, and no yearlings nor 2-year-olds had appeared. * * * I have never seen one, and I am not sure that I have seen a 2-year-old. (D. S. Jordan, July 25, 1897.) (Fur Seal Investigations, pt. 2, pt. 341, 1898.)

large as the cows. (Fur Seal Investigations, pt. 2, 1898, p. 300.)

July 13.—Ketavie Rookery, St. Pauls Island: The cows are almost as cowardly as the yearling bachelors * * * (p. 302).

July 13.—Ardignen Rookery, St. Pauls Island: On Ardignen, one unlucky yearling male is seen to invade a harem, and get routed out by the hoarse and furious old bull * * * (p. 302).

July 15.—Lukannon Rookery, St. Pauls Island: On Lukannon was seen a little cow, apparently a 2-year-old, with features of a yearling, and slender * * * (p. 314).

July 16.—Northeast Point Rookery, St. Pauls Island: It appeared to be a large yearling, just getting its permanent teeth (p. 316).

July 16.—Reef Rookery, St. Pauls Island: These are apparently virgin 2-year-olds * * * small side of the big bull (p. 319).

But his associates, Clark and Lucas, have seen virgin cows or nubile ever since July 3 on the rookeries:

Lukannon, July 3, 1897.—A small animal already noted * * * a small 2-year-old is in a harem of 16 cows under the cliff. (F. A. Lucas, p. 544, pt. 2.)

Keetavie, July 5, 1897.—A little animal, probably a 2-year-old cow, is in a harem under the cliff. (G. A. Clark, p. 547, pt. 2.)

Lukannon, July 10, 1897.—Under the cliffs at Lukannon are five little animals. * * * They look exactly like 2-year-old virgin cows. (F. A. Lucas, p. 551, pt. 2.)

Zapadni, July 20, 1897.—It is evident that the 2-year-olds are present in considerable numbers. (G. A. Clark, p. 566, pt. 2.) (Fur Seal Investigations, pt. 2, pp. 544-566, 1898.)

Jordan declares that the yearlings can not be told apart as to sex. Two seasons' experience:

Near by were two small seals in charge of a young half bull. The smaller one was shot and proved to be a yearling bull. It had all the appearances of a female, and Jacob said it was. The sacrifice of this yearling was valuable in showing how easy it is to be deceived * * * there does not seem to be any characteristic which will surely determine the sex of the young animals other than those of the sexual organs themselves. (Fur Seal Investigation, pt. 2, p. 356, 1898.)

Lembkey says they can not be distinguished apart as to sex, 13 seasons' experience teaches him.

Mr. LEMBKEY. All the killable seals of those driven.

Q. But they were all yearlings?—A. They were all yearlings; no full-grown bulls. Those driven were immature seals.

Q. The statement has been made that it is hardly possible to distinguish the male and the female at that age?—A. At 2 years old?

Q. Yes; what is your opinion?—A. There is considerable difficulty in distinguishing the young males and females. There is considerable difficulty in distinguishing the male and the female yearling. They are both of the same size and general formation. It is almost impossible for anybody not an expert to pick them out and distinguish between them, and it is rather difficult, even for an expert; but of the 2-year-olds the females are not on the hauling grounds; they are on the breeding rookeries for their initial impregnation. The 2-year-old males, on the other hand, are on the hauling-out grounds. (Hearing on S. 9959, Feb. 4, 1911, Committee on Cons. National Resources, U. S. Senate, p. 10 ("Dixon hearing"), Rothermel reprint, May 20, 1911, H. Com. Exp. Dept. Com. and Labor.)

But Jordan says the female yearlings do not haul out with the males (yearlings). He knows because he examines them.

One by one the little yearlings had been drawn off until 17 had been examined. All were bachelors. * * * Therefore there is nothing so far to show that the yearling females associate with the males on the hauling grounds, at least at this season. (Lukannon rookery, Aug. 1, 1896, p. 365.)

While Lembkey says they do haul out together. He knows because he kills and examines them.

On July 1 (1904), there were three yearling seals in the drive at Northeast Point. One of them, a typical specimen, was knocked down at my direction to ascertain the weight of the skin. It was found to be a female. (Rept. Sept. 7, 1904, to Sec. Com. and Labor, Lembkey, p. 77, Appendix A, H. Com. Exp. Dept. Com. and Labor, June 24, 1911.)

Jordan denies the appearance of any bulls under 8 years old on the breeding grounds:

LELAND STANFORD
JUNIOR UNIVERSITY,
OFFICE OF THE PRESIDENT,
Stanford University, Cal.,
January 16, 1906.

HON. THEODORE ROOSEVELT,
The White House, Washington, D. C.

DEAR SIR: I beg leave to acknowledge the receipt of three documents, sent by Mr. Loeb, bearing on the fur-seal question, viz: (1) A memorandum to the President from Secretary Metcalf, (2) the printed report of the Secretary of the Department of Commerce and Labor, and (3) a letter addressed to Mr. Loeb by Mr. Henry W. Elliott.

I notice the notation of Mr. Elliott on the opening page of the report. He avers that the reduction of 58 per cent of male life on the breeding grounds is due alone to close killing on land since 1904. This is simply absurd. There could be no male life on the breeding grounds that was not 8 years old or over. * * *

DAVID STARR JORDAN.

(Appendix A, p. 332; June 24, 1911. H. Com. Exp. Dept. Com. and Labor.)

Jordan asserts that Elliott's date for the "height of the season" is not true.

4. The assumption that the rookeries are fullest between July 10 and 20 "every year, not a day earlier, not many days later," is not a safe assumption; in fact, it is not true.

Mr. ELLIOTT. Are you quoting Dr. Jordan?

Dr. EVERMANN. I am quoting some things that Dr. Jordan has said.

Mr. ELLIOTT. Is Dr. Jordan a man of truth?

The CHAIRMAN. You are quoting from Dr. Jordan?

Mr. ELLIOTT. I want to find if Dr. Jordan is a man of truth.

The CHAIRMAN. That is not for the witness to determine.

Mr. ELLIOTT. He is assailing me in that matter and quoting Dr. Jordan.

The CHAIRMAN. The witness can not say whether he is telling the truth or whether he is not.

Mr. ELLIOTT. I would like to have it go in the record whether he considers Dr. Jordan a man of truth.

The CHAIRMAN. The witness will proceed. (Hearing No. 9, p. 580, Apr. 20, 1912; H. Com. Exp. Dept. Com. and Labor.)

But his own men and trained naturalist finds many of them busy as breeding bulls.

July 17.—I walked to Zapadni rookery and made a count of harems with Mr. Chichester. The part of this rookery which in 1896-97 extended along the beach toward the watchhouse has entirely disappeared. The portion under the cliff has also shrunk.

Contrary to our usual experience with the young bull, a gray one not over 6 years old not only held a harem of three cows in a territory backed by idle bulls, but refused to yield ground to us in our efforts to reach a favorable observation point. In addition to his youth, the bull was handicapped by a stiff foreflipper.

Many young gray bulls are noted in the rookery and about it, and particularly in the larger harems are many of the 2-year-old cows. (Rept. Geo. A. Clark, Sept. 30, 1909, to Secretary Nagel; Appendix A, pp. 883, 892, June 24, 1911; H. Com. Exp. Dept. Com. and Labor.)

But Jordan's own "trained" expert says that Elliott's dates are correct, and he quotes them as such.

The breeding season, beginning about June 10 and extending to about August 10, reaches a climax, known as the "height of the season," about the 12th to the 18th of July. At this time the greatest number of cows are present, the harem discipline is rigid, and each family is definitely marked out. After this period the cows and pups scatter out and intermingle, the mother seals spend longer time at sea, the pups learn to swim, and the harem system breaks up.

Harem counts.—The counts of harems or breeding families were all made within the period of rookery life known as the "height of the season," between the dates of July 12 and 18, these dates corresponding in general to those on which the similar counts for 1897 were made. (Rept. Geo. A. Clark, Sept. 30, 1909, to Secretary Nagel; Appendix A, pp. 835, 838, June 24, 1911; H. Com. Exp. Dept. Com. and Labor.)

Jordan hopes that Elliott will approve "an effort" which will enable the pelagic sealers "to realize" on their "rights":

LELAND STANFORD
 JUNIOR UNIVERSITY,
 STANFORD UNIVERSITY, CAL.,
 November 6, 1909.

Mr. HENRY WOOD ELLIOTT,
 Cleveland, Ohio.

DEAR SIR: I have received from the Bureau of Fisheries a letter from you to Secretary Nagel, concerning the authorship of a chart which was inserted in my preliminary report on the fur seals in 1896.

* * * *

I take this opportunity to express the hope that you may approve of the effort to establish a modus vivendi for a time, without killing on land or sea, until the matter of pelagic sealing can be finally settled. To lease the islands again as things are would be a farce. I see some hope that an energetic discussion with Japan would be successful, and the Victoria people are anxious to realize on their rights.

Very truly, yours,
 DAVID STARR JORDAN.

To deceive Congress and influence pending legislation, Dr. Jordan sends the following false and defamatory telegram, which was used on the floor of the House of Representatives February 7, 1912; debate on H. R. 1671:

Hon. WM. SULZER,
 House of Representatives, Washington, D. C.:

To incorporate a clause establishing in fur-seal bill a close season prohibiting killing of superfluous males would do no good to herd, but would kill treaty. No one knows this better than the pelagic sealers' lobby, which for 20 years has been led by Henry W. Elliott.

DAVID STARR JORDAN.

THE DEADLY PARALLEL.

Jordan reports that the Russians killed males and females alike—no discrimination:

Russian management.— * * * Under the earlier years of its régime (Russian American Co.), however, the seals were indiscriminately slaughtered, females as well as males, * * *. (Fur Seal Investigations, Part 1, 1898, p. 102.)

Elliott denies the "rights" of the pelagic sealers, and hopes that they will never get a penny for them:

17 GRACE AVENUE,
 Lakewood, Ohio, November 3, 1909.
 Dr. DAVID STARR JORDAN,
 Stanford University, Cal.

DEAR SIR: Your letter of the 6th instant has been duly received. With regard to that appearance of my track chart in your report of 1896, you seem to be not quite clear in your mind as to how it got in there as it did. Perhaps the following statement of fact may help you to know its publication there without that credit given to me as its author which is indisputably mine.

* * * *

With regard for the "rights" of those Victorian sea wolves, I hope that they will never get a penny for their rotting vessels or their "good will." They have had far, far too much already at the expense of humanity and decency. Let their vessels rot, and let their owners rot with them.

Very truly, yours,
 HENRY W. ELLIOTT.

PALO ALTO, CAL., February 5, 1912.

But Bishop Veniaminov, who spent the season of 1825 on St. Paul Island, denies Jordan's report.

[Translated by Dr. Leonhard Stejneger of Dr. Jordan's party.]

The taking of fur seals commences in the latter days of September. * * *. The sikatchie and the females having been removed, the others are carefully driven to the place where they are to be killed, sometimes more than 10 versts distance * * *.

When brought to the killing grounds the seals are rested for an hour or more, according to circumstances, and then killed with a club.

Jordan declares that Lembkey is not able to see things correctly and report:

What I meant by the statement that "the need of trained supervision is forcibly shown by the present confusion and doubt as to present conditions of the rookeries" is well shown by reference to Mr. Lembkey's report for the past year. The one important subject brought out by this report is the fact of a remarkable diminution of adult male life. He finds the reserve of idle bulls small. He deduces from this a "scarcity" of bulls. The bulls are said to be "amiable" because "overtaxed." On certain rookeries they have "lost control of the breeding grounds," with the result that the bachelors are "hauling among the cows." He states that he is sure "all the cows were served," but he finds that the bulls "are not present in sufficient numbers to maintain a first-class rookery service."

If this is true, it is a serious matter and needs careful looking after. In our recommendations of 1896-97 we classed as first and most important among the subjects to be determined by the naturalist to be placed in charge of the herd a "determination of the proportion of males necessary to attend to the needs of the female breeding herd." Attention was called to the fact that this was a question that could not be "determined in a single season, nor in two, possibly not in five." It is a question that can only be settled by a trained naturalist and investigator. All that Mr. Lembkey has contributed to this are certain superficial facts and certain deductions which may or may not be of value. They are as a matter of fact merely a reecho of very similar deductions made by Mr. Henry W. Elliott in 1890. Mr. Lembkey's report settles nothing and leaves only "confusion and doubt" (D. S. Jordan to President Roosevelt, Jan. 16, 1906, Appendix A., pp. 328-332, June 24, 1911, H. Com. Exp., Dept. Com. and Labor.)

Of those 1 year old, the males are separated from the females and killed, while the latter are driven carefully back to the beach. (Veniaminov, Russian killing on St. Paul Island, 1825-1834; Fur Seal Investigations, Part 3, p. 222, 1898.)

Lembkey cites a long list of Jordan's errors of observation, and declares Jordan a failure:

Scientific supervision a failure.—In the light of these statements of the efforts of scientists to prevent the decrease of seals by the application of methods on land which have been demonstrated unmistakably faulty, Dr. Jordan's dictum that the present need of these rookeries is the "trained supervision" which these scientists afford is open to contradiction. As a matter of fact, every suggestion made by scientists who have visited the island, outside the scope of scientific research, and designed to change existing methods on the islands, has resulted in failure. (W. I. Lembkey to Secretary Commerce and Labor, Feb. 8, 1906, Appendix A., pp. 334-344, June 24, 1911, H. Com. Exp. Dept. Com. and Labor.)

Jordan again emphasizes the "need" of a trained naturalist to ascertain the real facts—

I wish to emphasize again that in recommending the transfer of the fur-seal matter to the Bureau of Fisheries I had in mind the fact that this bureau could provide the scientific inspection and control necessary. I do not wish to embarrass the Secretary with suggestions as to the details of administration of the bureau under his charge. This would not be pertinent. If expert knowledge and supervision could be brought to bear on the control of the herd through any other method of administration than the one proposed the essential point would be met. It will be noted that in my memorandum only two of the four agents need be naturalists or have any connection with the Bureau of Fisheries. The addition of a naturalist to the present staff would answer the purpose if he had power to carry out his plans. (Appendix A: Jordan to President Roosevelt, Jan. 16, 1906, pp. 328-332; H. Com. Exp. Dept. Com. and Labor, June 24, 1911.)

Jordan declares that the folly and injury of the "seal corral" were not his idea, or of his order.

The plans of fencing and branding the seals were suggestions of earlier investigators which the commission of 1896-97 merely tested as a part of its duty. They were expected to assist only in the discouraging of pelagic sealing should other means of prohibiting it fail. It is true that many suggestions have been barren of practical results, but others arising from scientific sources, as the control of the parasitic worm, might be made fruitful under competent direction. Other ways of improving conditions on the rookeries would suggest themselves to a trained investigator. (D. S. Jordan to President Roosevelt: Jan. 16, 1906, Appendix A; pp. 328-332: June 24, 1911, H. Com. Exp. Dept. Com. and Labor.)

But Lembkey puts a "trained" naturalist's finding of "fact" up against Jordan.

On one occasion a celebrated naturalist, walking on the rookeries at Northeast Point, discovered what he supposed to be a number of dead seal cows and reported it to the Treasury agent in charge of St. Paul Island. The Treasury agent telephoned to the watchman at Northeast Point and ordered an investigation, and was shortly after amused by a report from the watchman that the dead animals supposed to be seal cows were in fact sea-lion pups and not fur seals at all. The story is repeated here not with the intention of ridiculing anyone, but for the purpose of showing that in matters pertaining to seal life practical experience is often of greater importance than abstract biological knowledge.

The foregoing facts are not adduced for the purpose of attaching discredit to anyone. Their citation here is excusable only in showing that, instead of the seal herds suffering from any lack of practical direction by biologists, every possible suggestion that could be made by an eminent body of scientists as can be gathered in this country was adopted, fairly tried, and resulted in each case in the abandonment of the idea as impractical, if not positively dangerous. In the light of these facts the position assumed by Dr. Jordan that the need of such trained supervision of the herd is clearly shown is plainly untenable. (Appendix A: Lembkey to Secretary Commerce and Labor, Feb. 8, 1906, p. 339; H. Com. Exp. Dept. Com. and Labor, June 24, 1911.)

But Lembkey says that Jordan approved and directed this work of folly and injury.

Mr. LEMBKEY. 2. A method was sought by the commission for the prevention on land of the killing of seals at sea and the redriving of ineligible. The plan adopted was the erection by the natives, under direction of the agents, of about 4 miles of wire fencing around a salt lagoon and a fresh-water lake on St. Paul. Into these all bachelors rejected from the killing field were to be driven. After the 1st of August drives were to be made, also from the hauling grounds, and the animals obtained to be incarcerated in the inclosures without food for as long a period as possible, thereby reducing by thousands the available number of animals from which the pelagic sealers made their catches.

In evolving this theory, no account was taken by the scientists of the fact

that the fur seal is a creature wholly of instinct, and is not able to adjust itself to any new conditions which prevent it from following the course crystallized into habit by generations of reiterated action. The theory of herding these seals involved the necessity of confining them in places which, under normal conditions, they would never frequent, and for this reason could not be put into successful practice. The result of the inclosure of seals was disastrous. The animals were impounded by thousands. Once inside of the inclosure, finding their return to the rookeries impeded, the animals began following the inside line of fence, searching for egress. A path 20 feet wide inside the entire length of lagoon fence was worn bare of vegetation by these traveling seals. This movement was continued until many died of exhaustion. Over 20 carcasses were picked up in one day. They also fell into holes, from which they could not extricate themselves, and perished.

That greater numbers of these imprisoned animals did not die was due solely to the fact that they could not be confined in these inclosures over a day or two. Some climbed over the fence, displaying considerable agility in so doing; others, by main strength, tore holes in the stout wire netting and so escaped; others took advantage of depressions in the ground and forced their way out under the fence. I saw one great bull insert his nose among the wire meshes and by a magnificent display of the wonderful power of his neck muscles tear the wire as though it were rotten yarn. Emerging through the opening thus made, and catching sight of his comrades on the inside of the fence, he as readily tore another hole through the netting and stupidly rejoined his fellows on the inside. Had the wire netting been a tight board fence, the efforts of the imprisoned seals to escape would have resulted in the death, through exhaustion, of all confined.

These attempts at incarceration were carried on through several years, resulting in every case in the death of some animals imprisoned and the early escape of the remainder by their own efforts.

These facts outlined above have been reported to the department heretofore only by word of mouth, owing to a reluctance on the part of the agents to furnish any documentary evidence which could be used by Great Britain in any future arbitration proceedings that the death of seals was due in any way to methods practiced on land outside of the regular killing of bachelors. (Hearing No. 14 pp. 945, 946, July 27, 1912, H. Com. Exp. Dept. C. and L.)

Dr. Jordan denies his responsibility for the fencing and branding fiasco.

LELAND STANFORD JUNIOR
UNIVERSITY,
OFFICE OF THE PRESIDENT,
Stanford University, Cal.,
January 16, 1906.

HON. THEODORE ROOSEVELT,
The White House, Washington, D. C.

The plans of fencing and branding the seals were suggestions of earlier investigators which the commission of 1896-97 merely tested as a part of its duty. They were expected to assist only in the discouraging of pelagic sealing should other means of prohibiting it fail.

Very respectfully, yours,

DAVID STARR JORDAN.

Jordan declares that his "scourge" of the fur seal has been overlooked by incompetent men.

That the herd should be put in charge of a competent naturalist was the sole important recommendation of the commission of 1896-97, as will be seen by reference to Chapter XIX, pages 191-193, of the first volume of the commission's final report.

It may be that I have underestimated the completeness of the reports of the local agents. As I look over those of Mr. Lembkey for 1904 and 1905 I find that they are filled with important data. He has evidently done his work well. The figures he gives regarding the condition of the breeding herd as shown by the comparative counts of the rookeries are instructive and show the continued decline of the herd under pelagic sealing. As I look through the reports, however, I see no mention whatever of the effects of the parasitic worm *Uncinaria*, which we found in 1896-97 to be responsible for the death of upward 12,000 pups, or practically 10 per cent of the birth rate of that year. This was one of the most important discoveries made by our commission. It is a destructive agency which should be fought. (D. S. Jordan to President Roosevelt, Jan. 16, 1906. Appendix A, pp. 328-332, June 24, 1911. H. Com. Exp. Dept. Com. and Labor.)

But the official record declares that these twin follies were ordered by him.

ST. PAULS ISLAND, ALASKA.

Monday, August 2, 1897.—Dr. Jordan sent five of his men, under Mr. Murray's charge, to lay out and dig post holes for the fence around the lagoon.

Wednesday, August 4, 1897.—Mr. Murray's men who were digging post holes for the lagoon fence have almost completed the job. * * * From present indications Dr. Jordan and his able assistants will leave very little to be looked for in that direction in the future.

Wednesday, August 18, 1897.—Messrs. Warren and Farmer busy all day endeavoring to put the electrical branding machine in order. * * * Messrs. Farmer and Warren are hopeful of making it a grand success. (Official entries in the Journal of the Government Agent in charge of the seal islands, St. Pauls Village.)

But Lembkey has furnished abundant competent evidence that Jordan's "scourge" is a myth to-day.

Mr. ELLIOTT. The sandworm, *Uncinaria*, "scourge" discovered by Jordan in 1897 is like the "trampled pups" of his "discovery" in 1896, a sporadic trouble, which has never been noted on the islands prior to 1891 or seen there since 1898. This I declared to be the case in 1872-1874, and again in 1890.

The Bureau of Fisheries in 1906 tried to find it, as follows (p. 663, Appendix A):

"In order, however, to ascertain the latest developments in seal life, Mr. H. C. Marsh, an expert in the diseases of fishes in the Bureau of Fisheries, was sent by Secretary Metcalf to the islands in the summer of 1906. Mr. Marsh arrived on the islands early in June of that year and remained there until the middle of the following August. He was rendered every assistance by the resident agents in his investigation.

"Dr. Jordan, in commenting on the report of Mr. W. I. Lembkey, agent in charge of seal fisheries (S. Doc. No. 98, 59th Cong., 1st sess.), contended that the number of bulls reported did not comprise all the bulls present, and in his memorandum he referred to the fact that deaths among seal pups due to *Uncinaria*, an intestinal parasite, were not reported.

"Mr. Marsh had instructions to investigate these two points particularly.

"In the matter of bulls, Mr. Marsh carried maps of the rookeries, and on these he

depicted the positions of the bulls found, with the exact number present when the respective counts were made. The number found was fewer than reported the preceding year, and verified the counts of the agent at that time.

"In regard to *Uncinaria*, Mr. Marsh, although on the rookeries daily from June 6 until July 28, found not a single case. At the latter date the further disturbance of the rookeries was prohibited, by order of Mr. Sims, on account of the activity displayed by the Japanese sealers in the vicinity of the islands. No naturalist has since visited the Pribilofs."

The last search for this "scourge" of Jordan's invention was made by Assistant Agent James Judge, who, in his report for 1909, dated March 8, 1910, says (p. 1173, Appendix A):

"Early in October, assisted by the natives, I made the regular enumeration of dead pups, a detailed account of which was forwarded Mr. Lembkey October 8, 1909. Dr. Mills and I autopsied a number of the dead from each rookery, the total aggregating 23. In making these post-mortems, the stomachs, livers, hearts, and lungs were cut into, and about 1 foot of the large and from 3 to 5 feet of the small intestine carefully examined. The autopsies showed that death resulted in 20 cases from starvation, in 1 from pneumonia, and in 1 from some cause unknown. One of pups autopsied was killed because found suffering and nearly blind from a disease of the eyes. The only parasites discovered were small threadlike worms found in the trachea of a pup from the reef. These parasites, together with the diseased eyes above noted, were sent to Mr. Chester for further investigation. Dr. Stiles, to whom the worms were forwarded determined that they were a new species of the genus *Halarchne*." (Hearing No. 14, p. 945, July 27, 1912, H. Com. Exp. Dept. C. and L.)

Jordan asserts that the benefits of his work in 1896-97 "as a trained naturalist" have been lost by Lembkey.

The essential point is the expert study and inspection. After our exhaustive investigations of 1896-97, I made what I considered the one important recommendation—that the herd be placed in charge of a competent naturalist. Now, after eight years, during which much of the value of our work has been lost through failure to follow it up properly, I again make the earnest recommendation that the fur-seal herd be placed in charge of a trained naturalist. (D. S. Jordan to President Roosevelt, Jan. 16, 1906, Appendix A, pp. 328-334, June 24, 1911. H. Com. Exp. Dept. Com. and Labor.)

But Lembkey proves that nothing was lost, except for the gain of the public interests at stake.

3. The branding of female pups: As the catch of the pelagic sealers consists mainly of females, especially in Bering Sea, it was thought by the Jordan commission that any means adopted whereby the value of the skins so taken could be impaired would serve to deal the sealing industry a heavy blow.

From this idea the practice of branding female pups was evolved.

It consisted in herding the newborn pups on the several rookeries, segregating all females therein, and so searing their hides with red-hot irons that the hair follicles under the brand would be destroyed and the branded area be denuded of fur. During the year 1896 branding operations were carried on with vigor. Thousands of nurslings were branded with at least one brand, and a large number with two and sometimes three brands. They continued, but with less rigor, until 1903, when stopped by order of the department.

The main reason why branding females was not a success was that if the animal were seared so thoroughly as to destroy the commercial value of the pelt, the animal would die from the effects of the branding; if not branded in this wholesale manner, the value of the skin was not affected materially. In either case no appreciable injury to the pelagic catch resulted.

How many pups were permanently injured through branding, and thereby lost their lives in the water through inability to withstand the hardships of their first migration can never be known. The Indians along the Aleutian chain reported numbers of pups as being so injured by branding as to render their capture by bidarki hunters an easy matter. These reports, while creating a deep impression among outsiders that great injury to the herd through branding was being wrought, were not susceptible of confirmation. Complete statistics of the number of branded skins contained in the catches of the pelagic schooners are not obtainable. The number of such skins in the whole catches for 1899 and 1900 did not approximate over 75 skins each year. It was reported that the brands on these skins did not injure the value of the pelt over the amount of \$1. (W. J. Lembkey to Secretary Com. and Labor, Feb. 8, 1906, Appendix A, pp. 338, 339, June 24, 1911. H. Com. Exp. Dept. Com. and Labor.)

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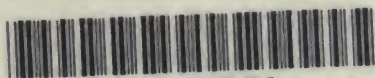
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