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U. S. House

Protection of Fish

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PROTECTION OF FISH

HEARINGS

HELD BEFORE

THE COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

U. S. Cong. HOUSE OF REPRESENTATIVES

ON

H. R. 7775

A BILL TO PROTECT FISH NOT REMAINING THE ENTIRE YEAR
WITHIN THE WATERS OF ANY STATE OR TERRITORY, AND
AUTHORIZING THE DEPARTMENT OF COMMERCE TO
DEFINE THE SEASONS AND REGULATE THE MAN-
NER AND CONDITIONS UNDER WHICH THEY
MAY BE TAKEN OR DESTROYED

HEARING OF FEBRUARY 19, 1914



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COMMITTEE ON THE MERCHANT MARINE AND FISHERIES.

HOUSE OF REPRESENTATIVES.

SIXTY-THIRD CONGRESS, SECOND SESSION.

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PROTECTION OF FISH.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., February 19, 1914.

The committee met at 10.45 o'clock a. m., Hon. Joshua W. Alexander (chairman) presiding.

Present: Representatives Hardy, Burke, Faison, Bowdle, Whaley, Smith, Bruckner, Lazaro, Brodbeck, Greene, Hinds, Curry, Manahan, and Parker.

The CHAIRMAN. The committee has set to-day for hearings on H. R. 7775, a bill to protect fish not remaining the entire year within the waters of any State or Territory, and authorizing the Department of Commerce to define the seasons and regulate the manner and conditions under which they may be taken or destroyed. That bill was introduced by Mr. Linthicum.

There appear to be a great many here to be heard and we can not anticipate what scope this hearing will take. We do not want too much repetition, and I would like those who make statements in support of the bill to be as brief as they can. We do not want to limit your time.

STATEMENT OF HON. J. CHARLES LINTHICUM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND.

MR. LINTHICUM. Mr. Chairman and gentlemen of the committee, this bill, H. R. 7775, is, as the chairman has well stated, to regulate the taking of fish which do not stay in the waters of one particular State, those that go into waters which flow through or into more than one State or whose sources are in more than one State. A river wholly within a State would not be affected by this bill. It is only those rivers which pass through more than one State or whose sources pass through more than one State.

The object of the bill is to protect the taking of the fish in such waters for the simple reason that experience has demonstrated that they can not be protected by any one State where the waters pass through to other States.

For instance, take our Chesapeake Bay that passes through the States of Virginia and Maryland, or the Susquehanna that goes on up into Pennsylvania. Now, if Virginia by her laws is permitted to extend nets so far into the bay as to prevent the free passage of fish up the bay, and if Maryland, at the head of the bay, is allowed to place nets so as to prevent them from passing up the Susquehanna River, then the States of Maryland and Pennsylvania are kept without fish. It would not make any difference how many laws Maryland might pass for the protection of fish on the Chesapeake Bay if

Virginia stopped the fish at the mouth of the bay, and it would make little difference how many laws Pennsylvania might pass to govern the Susquehanna River if Maryland stopped the fish before they reached the Susquehanna River. Therefore it is apparent that this is not a question which it is within the power of one State to regulate. It must be regulated, if regulated properly, by more than one State.

Now, this bill provides, in the first section, for the protection of fish in such interstate waters.

In the second section it provides that the Department of Commerce shall have the right to determine the seasons and conditions under which fish may be taken in the various waters. The second section also provides what fines may be imposed for the violation of the law.

The third section provides about the regulations.

Now, there seems to have spread abroad an opinion, in my State particularly, that we propose to close the season for the taking of certain fish beginning on the 1st day of May. The bill makes no such provision. Its language specifically provides that the Department of Commerce shall make the regulations, and that before such regulations are promulgated hearings shall be given, at which all those interested may submit their views. And it is obvious that it will be the intention of the department, in so far as they can possibly do so, to treat fairly those who earn their livelihood out of the fishing industry, and there is no doubt that abundant opportunity will be given them to be heard. Therefore the bill is not intended in anywise to bear with hardship upon the fishermen. It is intended for the protection of the fishermen themselves, because we know from past experience that unless there is some regulation as to the taking of these fish they will be taken at such times and under such conditions as will be destructive of the best interests of those engaged in that industry.

I do not propose to go into the many abuses that are now practiced by certain fishermen, but I do want to just mention one particular way in which many fish are destroyed. For instance, a gill net is extended in the bay for the catching of shad. If the shad comes up the bay and strikes the net fairly it is gilled and held. If it strikes it sideways then the tide coming up against him drowns the shad, and when the tide reverses the shad drifts on out of the bay dead, or, as happens to many of them, is eaten by the eels in the nets. And it is estimated that not one-fourth of the shad actually gilled are saved for food consumption. The consequence is that the shad of Maryland and Virginia have been reduced within 10 years from a catch of 12,000,000 to a catch of about 2,000,000.

I only state that as one instance. It applies to nearly all fish, and in this day, when the prices of food are so high, it certainly seems to me absolutely necessary to conserve the food products of this country, especially those of the water.

THE CHAIRMAN. Do the laws of Maryland prohibit the catching of fish in gill nets?

MR. LINTHICUM. They do not.

THE CHAIRMAN. Then how can you obviate that trouble?

MR. LINTHICUM. By regulations of the department to prohibit the destruction of fish in that way. There are other ways of catching fish without losing about 75 per cent of them.

As an illustration of what this wanton destruction of our remaining food fish will result in, I want to introduce into this hearing the history of the depopulation of our waters of the sturgeons.

THE STORY OF THE STURGEONS.

[By Hugh M. Smith, United States Commissioner of Fish and Fisheries.]

The story of the sturgeons is one of the most distressing in the whole history of the American fisheries. These large, inoffensive fishes of our seaboard, coast rivers, and interior waters were for years considered to be not only valueless, but nuisances, and whenever they became entangled in the fishermen's nets they were knocked in the head or otherwise mortally wounded and thrown back into the water. I have seen the shores of the Potomac River in the vicinity of Mount Vernon lined with the decomposing carcasses of these magnificent fishes, witnesses to the cruelty, stupidity, and profrigacy of man, and the same thing has been observed everywhere in our country.

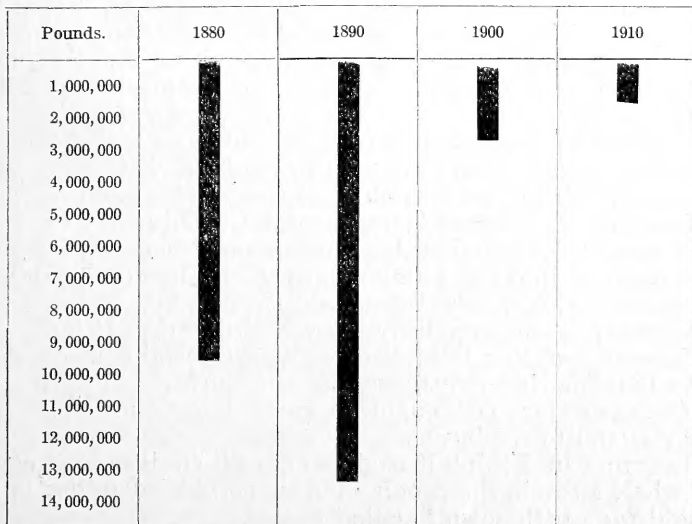
The next chapter in the story was the awakening of the fishermen to the fact that the eggs of the sturgeons had value as caviar and that the flesh had value as food. Then followed the most reckless, senseless fishing imaginable, with the result that in a comparatively few years the best and most productive waters were depleted, and what should have been made a permanent fishery of great profit was destroyed. Even after the great value of the sturgeon began to be appreciated by everyone no adequate steps were taken by the responsible authorities or insisted on by the fishermen, and the fish-eating public remained callous.

For a long time after the failure in the fishery had begun and was apparent to everyone the immature and unmarketable fish incidentally caught in seines, gill nets, and pound nets received no protection whatever in most waters, and were ruthlessly destroyed as nuisances, the decline thus being doubly accelerated.

On the Atlantic coast the catch of the sturgeon fell from 7,000,000 pounds to less than 1,000,000 in 15 years; on the Pacific coast the same meteoric history was enacted, a catch of over 3,000,000 pounds annually in the early nineties being followed by a few hundred thousand pounds in later years of the same decade, with no improvement since that time, while on the Great Lakes the yield declined more than 90 per cent in 18 years. In the American waters of the Lake of the Woods, one of the most recent grounds for the exploitation of the sturgeon, the catch decreased over 96 per cent in 10 years, notwithstanding a more active prosecution of the fishing.

The approximate sturgeon catch of the entire country at 10-year intervals, beginning in 1880, is shown in the following diagrams:

Approximate sturgeon catch of the United States.



Everywhere there is a steady downward trend in the catch. Some rivers that formerly supported a flourishing fishery are now absolutely depleted. The scarcity of the sturgeon and the demand for their flesh and eggs have run up the price to an extraordinary figure, never attained by any other fish, either in America or anywhere else. A mature female sturgeon often brings the fisherman more than a hundred and fifty dollars, and it is a poor fish that can not be sold for twenty to thirty dollars on the rivers of the east coast.

The most serious aspect of the sturgeon fishery is that, owing to the decimation of the schools of breeding fish and to peculiarities in spawning habits it has been impossible as yet to inaugurate sturgeon culture anywhere in America. Attempts at artificial propagation have proved utter failures on the Great Lakes, Lake of the Woods, Lake Champlain, Delaware River, and other waters, and the expenditure of considerable sums of money by the Federal Government has sometimes failed to yield a single batch of eggs suitable for incubation.

Everywhere in America under existing conditions the sturgeons are doomed to commercial extinction, and it requires no prophet to foresee that in a comparatively few years sturgeons will be as scarce as the dodo.

What is demanded in every State in which these fishes exist or have existed is absolute prohibition of capture or sale for a long term of years, certainly not less than 10. Any less radical treatment would be only trifling with the situation.

Now, Mr. Chairman, I want to ask Mr. Talbott Denmead, of our State, to speak a few words to the committee, and I also want to ask leave of the committee to extend the remarks I may make and those the witnesses may make, because I realize the committee do not have the time to go into the matter as fully as it would like at these hearings.

Mr. GREENE. Do you find any difficulty, or do the people of the States that are on Chesapeake Bay, from the dumping of their sewage into the bay?

Mr. LINTHICUM. I am very glad the gentleman has asked me that question. Up to this time Baltimore has not had a sewage system.

Mr. GREENE. Does it dump its sewage into the bay?

Mr. LINTHICUM. It dumps some little into the Patapsco River. Now, in the last few years we are building a sewerage system costing something like \$25,000,000, that takes all of the sewage from the city and pumps it down into the district of my colleague, Mr. Talbott, to the disposal plant, and there it is looked after. We have one of the best disposal plants, I think, that could be established. The law specifically provided, in creating the commission under which the loan was granted, that no sewage should be dumped into the Patapsco River and Chesapeake Bay so that the fishing industry might be injured.

Mr. GREENE. Is anything like that done to-day?

Mr. LINTHICUM. I should say very little of it.

Mr. GREENE. But it has been done in the past?

Mr. LINTHICUM. I do not know, because we had no sewage system. The law specifically provides that no sewage from this new system shall be dumped into the Patapsco River or Chesapeake Bay until it has gone into this splendid disposal plant.

Mr. GREENE. Is there anybody below you that does that?

Mr. LINTHICUM. No; I think not. I have certain information to the effect that the Naval Academy does some of it.

Mr. GREENE. Then you ought to get a law to make the Naval Academy attend to the business.

Mr. LINTHICUM. I think it ought to have been done long ago, and that is what, I think, the people of Annapolis tried to do; but it is a big fight for a little town like that to make.

Mr. SMITH. Mr. Chairman, I have a bill to provide for that. All of the sewage is dumped into the bay and a very serious situation exists; and I might say for your information, Mr. Greene, that I have been informed that the sewage from the Naval Academy empties right into the bay.

Mr. LINTHICUM. I might say to the gentleman from Massachusetts that he does not have to go as far as Annapolis. This city is dumping its sewage into the Potomac right here at Washington, and it ought to be stopped. We are spending \$25,000,000 in Baltimore to stop it, and it ought to be stopped in Washington.

Mr. HINDS. How about Richmond, Neport News, and Norfolk?

Mr. LINTHICUM. I think Richmond certainly dumps it right into the river. Norfolk does, and I reckon Congressman Jones, from Virginia, who is in the room, can tell something about what Virginia is doing. I am glad the gentleman from Massachusetts raised that question. Certainly something ought to be done to prevent the Naval Academy at Annapolis and the city of Washington from dumping into these waters, which we depend on for these fish and oysters.

Mr. GREENE. What I would like to inquire is if that has not more to do with destroying the fishing industry than anything else?

Mr. SMITH. The chemist of our Agricultural Department has told me it did not affect the fish as much as oysters. I had supposed it did affect them, but he said it was not so with the fish but absolutely so with oysters.

Mr. LINTHICUM. Now, I would like to have you hear Mr. Denmead.

STATEMENT OF MR. TALBOTT DENMEAD, OF BALTIMORE, MD., REPRESENTING THE MARYLAND STATE GAME AND FISH PROTECTIVE ASSOCIATION.

Mr. DENMEAD. Mr. Chairman and gentlemen, I am a member of the bar of Baltimore, and I am here to-day representing the Maryland State Game and Fish Protective Association, of which I have been an officer for about eight years, as their attorney, which position I now hold.

About two years ago I had the pleasure of appearing in this same building in regard to a bill like this, for the protection of migratory birds, and it then appealed to me that fish was the proper subject for the Federal Government to take up. In fact, I was interested in Federal control of migratory fish long before the Weeks bill was introduced. It seems to me that fish which go from State to State and which are generally governed by the local laws of the States were not properly protected by these local laws and would be a proper matter for the United States Government to take charge of.

Of course my experience, gentlemen, has been limited more or less to the Chesapeake Bay, which is in the States of Maryland and Virginia. I have fished in other States as a hook-and-line fisherman in Maine, Colorado, and several other places, but my remarks are going to be confined to Chesapeake Bay.

I want to state the difficulties that Maryland and Virginia seem to have in regard to this body of water. We do not seem to be able to get together. Virginia passes one set of laws and we pass another. In Maryland we pass laws for each river and each county. They do

not agree at all, and we can not get together. On the Potomac River, which divides the two States, for 100 years we have been scrapping about our fish and oyster question. Although the oyster question has to a certain extent been settled by the legislatures of Maryland and Virginia, it is still an open question, and as to fish the question is just where it was 50 years ago. And I respectfully suggest to this committee it is impossible for the States to handle the subject in a situation like the Chesapeake Bay, where the body of water is in two or more States.

Virginia practically gets the first shot at these fish as they come in from the sea—these migratory fish. We control the spawning grounds in the State of Maryland. The view of the fisherman is a narrow view, a local view. They are made with reference to the glut of fish in one small spot in Maryland or with the scarcity of fish in another small spot in Virginia. They do not look at it with the broad view that the United States Government does. The United States Government examines the question along the entire coast and does not look at it from the viewpoint of a local county. A great many of the people are familiar only with their county regulations. We have a law which prohibits a net going over 800 yards from shore. That is a local law applying to two counties at head of bay. The fisherman is familiar with the local laws, but he does not know anything about the State or Federal laws beyond his own locality, and I respectfully submit that the United States Government will take broader view than the men in their respective localities.

There is another thing in Maryland that causes a great deal of difficulty in regard to the protecting of fish which belong in the State of Maryland and the State of Virginia and the States interested in Chesapeake Bay. That is, the fishermen themselves have never been able to come to any agreement. There are always two factions of fishermen in the State of Maryland. One is known as the "Head of the bay fishermen" and the other is known as the "Fishermen farther down the bay." We as an association have tried to get these gentlemen together many times to improve our laws in Maryland, but we can not get them together. You can not mix oil and water, and you can not bring the fishermen at the head of the bay and fishermen lower down the bay to agree on any legislation. The situation is entirely different—the situation in our part of the bay and the situation on the Virginia part of the bay; and I respectfully submit, gentlemen, that the only way to handle this question where a body of water passes through two States or borders on two States is through the Federal Government. I do not want to go into the constitutional feature of it—I am not a constitutional lawyer—but I think if the Supreme Court of the United States will uphold the Mann Act it will uphold this bill.

If there are any questions I can answer in regard to Chesapeake Bay, I will be glad to do so.

Mr. MANAHAN. What is the importance of the legislation?

Mr. DENMEAD. I think this bill, by providing for Federal control of migratory fish, will be educational and protective. I think it will bring the local people in touch with other parts of the country, and I think they can, in a measure, use it as an educational chart for themselves in passing State laws, and I think they can thus pass reasonable local legislation which will not interfere with other com-

mercial fishermen. I think the Federal Government can provide regulations which will keep the fisherman from killing the goose that is laying the golden egg, which is the case in the State of Maryland to-day.

The CHAIRMAN. What kind of fish have you in Maryland?

Mr. DENMEAD. Shad, roe, trout, herring, rock or striped bass are the principal fish; also bluefish and perch.

Mr. BOWDLE. Has there been a general depletion of fish in addition to shad?

Mr. DENMEAD. I am not a practical fisherman, but in my experience there has been a decided depletion. I might state that in 1913—last year—we had the largest run of fish—trout, rock, menhaden, and herring—that we have had for quite awhile. But the general trend of all fish in the Chesapeake Bay is diminishing. They are positively decreasing. When I was a boy you could find plenty of rock and white perch in certain water, and they are not there now. And you can not blame it on the sewage. I know good waters that are now absolutely devoid of those fine fish. That has been my experience, and I have traveled around the bay quite a good deal. I think the decrease is due in most part to willful waste.

Mr. BOWDLE. May I ask you if the mere fact that the fish is swimming in navigable water places fish under Federal jurisdiction?

Mr. DENMEAD. We will take that up later. As I stated, I am not a constitutional lawyer, and I do not want to pass any opinion on that question.

Mr. BOWDLE. I thought perhaps it had been passed on in some decision.

Mr. SMITH. Would not the migratory-bird law come under the same category as a law in regard to fish?

The CHAIRMAN. I think we can take that question up later.

Mr. JONES. I would like to ask the witness if it is not true that the Federal Government, through the War Department, has not recently prescribed regulations affecting the placing of pound nets in the Chesapeake Bay and its tributaries?

Mr. DENMEAD. Yes, sir; the United States Government has formed such regulations, but I do not think there are a dozen people in Maryland that know it. I picked it up accidentally myself. Those regulations up to the present day have not been enforced, but I am informed they are now to be enforced. But I am certain the fishermen in Maryland are not familiar with those regulations which have lately been promulgated by the War Department.

Mr. JONES. I will state to the gentleman that the people in my State—Virginia—are somewhat familiar with those regulations and that many fishermen have appeared from time to time before the officials having charge of the subject and requested that certain changes and modifications be made in those regulations. They have been widely published in the lower Chesapeake Bay. And those regulations are supposed to correct the very evils of which the gentleman is complaining.

Mr. DENMEAD. I may not be speaking, Mr. Chairman, in regard to the same regulations Mr. Jones refers to. The ones I refer to have only been promulgated lately and require a pound net to have a light on one end and a bush on the other and the name of the owner on

them. But I am very confident the gentlemen of Virginia do not follow any such regulation. They may know them, but they do not obey them.

Mr. JONES of Virginia. Lines are laid down on the chart very distinctly beyond which fishermen can not put their nets in the navigable waters on the Chesapeake Bay.

Mr. DENMEAD. I do not know whether they are navigable waters, but I have run into them with a yacht miles out from the shore. The water is not very deep, but it is away out from the shore.

Mr. MANAHAN. I take it those regulations are to protect navigation rather than fish?

Mr. DENMEAD. Yes; as far as I am aware, they do not refer to fish.

Mr. MANAHAN. I mean the regulations of the War Department?

Mr. DENMEAD. Yes, sir.

Mr. MANAHAN. And they do not cover fish?

Mr. DENMEAD. Not at all, sir; they simply regulate the nets on account of interfering with navigation.

Mr. MANAHAN. They do not regulate the catching of fish, or anything like that?

Mr. DENMEAD. No, sir.

Mr. JONES of Virginia. The question I understand to be this: You say there is a perpetual warfare going on between the fishermen in the lower part of the bay and those in the upper bay; that the fishermen in the upper bay complain of those in the lower bay extending their nets so far out into the navigable waters that the fish can not get by and thus get up into the upper waters of the bay?

Mr. DENMEAD. Yes, sir.

Mr. JONES of Virginia. The regulations prescribed by the War Department will reach the trouble that the gentleman complains of.

Mr. DENMEAD. That may be so, sir; but they have not so far accomplished it.

Mr. JONES of Virginia. They have only been promulgated recently.

Mr. LINTHICUM. May I ask the Congressman one question, whether Assistant Secretary Breckenridge, about two weeks ago, did not suspend the regulations issued by the War Department, pending an investigation?

Mr. JONES of Virginia. Not that I know of. I have heard nothing about that. I do know the Federal Government is putting these regulations into effect along the shores of the Chesapeake Bay, and that United States officials have been at work establishing lines for months and months. There had been complaints at different times from fishermen that the lines as fixed unnecessarily restricted fishing, and in some instances these lines have been so modified as to give the fishermen more ground for their nets and still not interfere with navigation. I do not know whether or not there has been any recent suspension of the operation of any War Department regulation; but I do know the Federal Government has the authority and is proceeding to establish lines beyond which fishing nets can not be placed. And it will not be very long, if it has not already been done, before these lines will have been established in all of our navigable waters.

Mr. TALBOTT of Maryland. Do you know how long it takes the shad and herring to get to the spawning ground after they enter into the mouth of the Chesapeake Bay? Have you any idea?

Mr. DENMEAD. No, sir; I do not. I can tell you of one fish that has made the distance from Norfolk to Holland Straits in the upper part of Tangier Sound, a distance of about 100 miles, in 18 hours. He was released at Norfolk with a ring and tag in his tail and caught at Holland Straits, a distance of 100 miles, in about 18 hours afterwards.

Mr. TALBOTT. What kind of a fish was that?

Mr. DENMEAD. That was a sea trout. Now, as to the others I am not prepared to say.

Mr. TALBOTT. You do not know how long it takes a school of shad or a school of herring?

Mr. DENMEAD. No, sir.

Mr. JONES of Virginia. I wish to ask, Mr. Chairman, if I may be permitted to do so, since this is a constitutional question and the gentleman is an attorney, a question or two as to the legal phases of this proposition.

The CHAIRMAN. He disavowed any opinion on that question.

Mr. JONES of Virginia. If he has no opinion as to the constitutional questions involved, I do not care to question him; but for myself I seriously question the constitutionality of this proposed legislation.

Mr. DENMEAD. I heartily disagree with you, sir; but I do not care to argue it.

Mr. JONES of Virginia. If the gentleman disagrees with me he should be able to state some reason for that disagreement.

Mr. MANAHAN. Mr. Chairman, I do not think we ought to argue this matter now; we ought to hear these witnesses.

The CHAIRMAN. I would suggest, however, when a witness comes before the committee and says he is not a constitutional lawyer and does not care to submit his opinion in the hearing, we should not force him to do so.

Mr. JONES of Virginia. Of course, I do not care to ask any question if the witness puts his reason for not wishing to answer it on that ground. I hope the author of the bill, or some advocate of it, will show us wherein Congress has the right to enact this legislation.

Mr. LINTHICUM. I will ask you to hear Mr. Crawford next.

STATEMENT OF MR. JOSEPH CRAWFORD, OF NEWARK, N. J., WRITER FOR THE NEWARK EVENING STAR.

The CHAIRMAN. Do you represent any special interests in this matter?

Mr. CRAWFORD. I represent the Newark Star in this matter. I am simply a writer for the paper, not an attorney. Very few writers, as I understand the game, know much about talking or can talk; so that my business being a writer, if I should make any mistakes in this line, in my manner of speech, I would like to be corrected.

Mr. MANAHAN. You can revise your remarks the way we do.

Mr. CRAWFORD. I may say the Newark Star undertook a campaign to secure for the people of our vicinity, the State of New Jersey,

cheaper food fish. We had started this campaign before we learned of the Congressman's bill, on which I understand this hearing is held to-day. We were very glad, however, that such a bill had been introduced, and we have caused to be introduced in the State of New Jersey the following concurrent assembly resolution, which reads—

Whereas there is a very general sentiment in this State in favor of such protection [referring to Congress enacting a law], and an urgent request for the enactment of such a law has been made, because of the high cost of living; Now, therefore,

Be it resolved, That Congress be and is hereby requested to enact a law giving ample protection to migratory fishes;

Resolved, That the legislatures of all other States of the United States, now in session or when next convened, be and they are hereby respectfully requested to join in this request or any equivalent resolution.

I would like to file a copy of this with the committee. It was reported in our legislature Tuesday afternoon by the committee.

Now, Mr. Chairman and gentlemen, this is a subject in which I have taken quite an interest. I have had the honor to represent the State of New Jersey in an investigation of the marine fisheries, and would like also to file a copy of our report made in 1907.

Mr. MANAHAN. A report of the commission for the investigation of salt-water fishing, in 1907?

Mr. CRAWFORD. Yes, sir.

(The report referred to was filed with the committee.)

Now, there are several recommendations in the report which have been taken up by the State of New Jersey, but there are many they have not taken up. And I want to say at the start that, personally, I am a believer in State rights, but I also want to say that when little petty political influences, such as creep up in a State legislature, will prevent the enactment of any law that might or will make the food fish cheaper to the public, then I say it is time that a man lay aside his State thought and turn to something better.

I am going to try to show to you that the question of food fish, from an economic point of view, is one of the main features of daily life, and it is something that the Government should heed. I will go back to 1905 and I will quote to you a very short passage here, or part of it, in which your own fish and game commissioner asks for this fish legislation and gives his reasons for it. It is in one of your pamphlet books.

The CHAIRMAN. Give the title of the book and the page.

Mr. CRAWFORD. I refer to page 45 of the report of 1905 of the Commissioner of Fisheries.

Mr. MANAHAN. Of the United States?

Mr. CRAWFORD. Yes, sir. I will read this:

The attitude of indifference on the part of particular States to the preservation of valuable natural resources, like the fresh-water and anadromous fishes and the lack of appreciation of the beneficent work carried on by the Government through the Bureau of Fisheries, demand serious attention. It is respectfully recommended that consideration be accorded the proposition to discontinue all Government fishery work in those States that exhibit no healthy sentiment in favor of the preservation of their supply of food and game fishes. Congress being asked to grant such authority, if necessary.

Now, I will back that statement up by calling attention to the shad fisheries of the State of New Jersey. In 1907 there was a catch in the State of New Jersey, in Delaware Bay—and I am only referring to

Jersey fisheries—of 2,200,000 shad. During that time the United States maintained the steamer *Fish Hawk* in those waters, and a quarrel arose between the Legislature of the State of New Jersey and the Legislature of the State of Pennsylvania. They tried to get together on laws that would be uniform, but they could not do it and the United States Fish Commissioner withdrew the steamer *Fish Hawk*. The result is that from 1907 to 1913 the catch of shad in those rivers has dwindled from 2,200,000 to about 200,000.

When the catch was the enormous quantity of 2,000,000, we of the City of Newark were purchasing shad for 25 cents apiece. That is for the buck. For the roe shad we were paying from 35 to 40 cents apiece. Last spring the cheapest shad that could be bought in the City of Newark was 50 cents for the buck and as high as \$1.25 for the roe. In that way we claim the withdrawal of the steamer *Fish Hawk* from the waters of the Delaware Bay has caused the people of the State to pay an increase of from 50 to 75 cents in the cost of that food fish.

This question of migratory control is a big one with us, and we think that if the United States Government will take control of the migratory fishes it will stop the willful waste. The reports from your fisheries talk of the willful waste of food fish. I will give you a striking example. It is only one of many that occurs in the State of New Jersey. We claim that the fisheries of the State are controlled by about seven men. We have made that statement time and again in our paper. There is no question in my mind but what it can be proven that where there is a case in July of a catch of 30 tons of weak fish on our coast that only 5 ton of that weak fish was taken to the market. The method of handling that is this—and this is not hearsay, because, as I say, we have here reports from your own commissioner which say the very same thing—when that catch comes to the nets, word is telegraphed to the wholesale fish dealers, and they are asked how much they will pay for that fish. The answer is sent back to them, "We will pay so much, but we will only take so many pounds." The last statement to which I have reference was, "We will only take 5 tons," and the catch was 30 tons in about 82 pound nets. Now, the other 25 ton laid in the pound pockets. The fishermen had no place to put them. Many of them were brought ashore, but the bulk of that fish was dropped into the ocean.

I will endeavor to show you that that sort of work is costing us thousands of dollars.

In 1904 the United States Government reports state that there was 40,000,000 pound of food fish caught in the fisheries of New Jersey, the pound fisheries—40,000,000 pounds in 1904. That is the Government report. At that time the pound-net fisherman received 4 cents a pound for that fish. On 40,000,000 pounds, the price, as we could prove, to the consumer at that time was 10 cents. These figures refer to 1904, and they are set forth in the reports of the United States Government.

In 1910 the State of New Jersey adopted a law providing for a license of the pound fishers. That tax is \$50 on the sea pound and \$10 on the bay pounds. The report of the pound fishers made under affidavit to the State of New Jersey in 1912 was that 34,806,068 pounds of food fish were caught. Those figures show that there were

34,806,068 pounds of food fish caught in the pound nets in the State of New Jersey. That does not include the seines and gill nets, but just pounds which are licensed. That fish brought in the wholesale market $2\frac{1}{2}$ cents a pound, as against the catch in 1904 of 4 cents a pound. And in 1912 and 1913 we are paying 20 cents a pound for the very fish we paid 10 cents a pound for in 1904, against the figures of 4 cents a pound received by the fisherman of the State of New Jersey in 1904 and $2\frac{1}{2}$ cents to-day.

The CHAIRMAN. What do the fishermen get for their fish?

Mr. CRAWFORD. Two and one-half cents a pound was the price received in 1912. The 1913 report is not filed yet.

The CHAIRMAN. The same fish being sold from retail dealers at 20 cents?

Mr. CRAWFORD. The same fish being sold from retail dealers; yes, sir.

Mr. BURKE. What was the amount of the catch in 1913 and 1910?

Mr. CRAWFORD. We have no record of the catch in 1910, because the law did not go into effect compelling them to make an affidavit as to their catch until the early session of 1911. The law became effective in 1912.

Mr. BURKE. How do you account for the rise in the prices? Is it the scarcity of fish or a combination of dealers?

Mr. CRAWFORD. I account for it in a combination of dealers, and I base that statement on these facts. In 1904 there was—

Mr. BURKE. Then you are of opinion they are catching just as many as ever?

Mr. CRAWFORD. There is, of course, a 6,000,000 decrease in the catch, but I would not say that was a criterion. I would not make the positive statement that fish are becoming scarcer, but I will say if something is not done to stop the willful destruction of fish it is bound to become scarcer.

Mr. MANAHAN. Did I understand you to say there was this 34,000,000 pounds caught and a large quantity in addition to this was caught and thrown away?

Mr. CRAWFORD. Yes, sir.

Mr. MANAHAN. What became of it; did it die?

Mr. CRAWFORD. When you catch and fill a pound pocket full of fish, such as these phenomenal runs will fill, the fish struggle in the pocket and they struggle until they get the scales off and then they get a fungus growth and if they remain in there 24 hours they die. Then the pocket is opened and the fish are allowed to drop and they go to the bottom.

I can prove this by your own report right here, in the report of 1902 to the United States Senate by the Fish Commissioner, which states:

This is, however, less objectionable than cases that have often happened in the market food-fish fishery, where quantities of fish have been taken to sea from New York or other ports and thrown overboard by the crews of fishing vessels, because there was no demand for the fish. * * * It is a common feature of the market fishery in almost all large markets for tons of fish to be thrown away on frequent occasions, and in some places this is almost a daily occurrence.

That is a statement by your own commissioner.

The CHAIRMAN. But the trouble there is not that the food supply is being diminished, but that the dealers are controlling the supply to

the market; and if more fish means a smaller price, they are dumped out into the sea rather than given to the people at a reasonable price. Is not that true?

Mr. CRAWFORD. That is true; yes, sir.

The CHAIRMAN. What are you doing in New Jersey to break up that monopoly?

Mr. CRAWFORD. Proposing rules and regulations by the United States Government under this act.

The CHAIRMAN. But the State of New Jersey undoubtedly has the jurisdiction to deal with that form of monopoly?

Mr. CRAWFORD. It has it to-day, sir, but it will not do it.

The CHAIRMAN. Then you want Congress to relieve you from something you are not able or willing to relieve yourselves from?

Mr. CRAWFORD. We must always look to the United States Government to help out in those situations when it is an interstate affair.

Mr. MANAHAN. The people of the States are not efficient in matters of this kind?

Mr. CRAWFORD. Interstate rights are never efficient; and I will say this, that where you elect a man from a fishing county to represent that county he represents the fishermen.

The CHAIRMAN. He does not represent the mass of the people; he represents just the fishermen?

Mr. CRAWFORD. No, sir; he does not represent the mass in no State in the Nation in which I am familiar; and I have had 12 years experience in New Jersey legislation.

Mr. HINDS. Are the people of the other States interested in New Jersey fisheries? Do they not get their supplies from there?

Mr. CRAWFORD. Yes, sir. In answer to that I will say this, that it is impossible for the wholesale dealer in the city of Newark, Passaic, Jersey City, or Hoboken to purchase fish from the Jersey fishermen. I speak of those because I am more familiar with them than with other cities. It is impossible to buy fish from the fishers, because all the fish are shipped direct to New York City and then purchased in New York, you know, and brought back to the consumer.

Mr. BRUCKNER. In other words, do you mean to state that the New Jersey fisherman can not sell his fish in any other market than New York City?

Mr. CRAWFORD. "Cannot" is a big word.

Mr. BRUCKNER. Or does not?

Mr. CRAWFORD. No, sir; he does not.

Mr. BRUCKNER. Do you know why?

Mr. CRAWFORD. Yes, sir; I do know why.

Mr. BRUCKNER. Tell us why.

Mr. CRAWFORD. Yes, sir. It is because of the control of the fishers by a combination of men in New York City.

Mr. CURRY. Why does not the legislature pass laws to prevent that?

Mr. CRAWFORD. For the reason I told you a few moments ago, because we have one man representing 25,000 people and one man representing 400,000 people and the man representing the 25,000 has as much influence as the man representing 400,000.

Mr. CURRY. I thought the people ruled in New Jersey?

Mr. CRAWFORD. I believe that statement has been made before.

During the year 1907 I had occasion to spend five days at sea with the menhaden fishers, investigating the condition for the State of New Jersey. I came ashore at Newport, and at the pier I found a large fishing vessel with its well full of scups.

Mr. MANAHAN. What does that mean?

Mr. CRAWFORD. Large sea porgy. I went to the captain of the vessel and I asked him how much he was getting for them. He said "I am getting $2\frac{1}{2}$ cents a pound and paying for the barrel and paying for the ice." I watched the packing of that fish, and I took a heavy editorial pencil and marked 20 barrels of it in the presence of my wife. I traced that fish, which came down on the steamer with me, and the next morning in the Pennsylvania Railroad station at Jersey City there were 20 barrels bound for Newark. Those barrels were stopped by somebody's order and carried to New York and two days afterwards arrived at Newark. I went to the man to whom they were consigned and I bought 4 or 5 pounds, and he charged me 18 cents a pound, and he showed me the bill where he had paid $10\frac{1}{2}$ cents a pound and paid the freight.

Now, the man who got the difference between $2\frac{1}{2}$ and $10\frac{1}{2}$ cents a pound never touched that fish.

I have fished in New Jersey waters—I am speaking now of Sandy Hook Bay. I am a rod-and-line fisherman, and I spend, perhaps, too much of my time on the water. I have tried to catch bluefish when the bluefish would not take the bait and would not take the menhaden, and nothing my wife and I could do would get us a fish. We watched an enormous catch with purse nets. The fish went to New York, and I was there the next day and saw three vessels ordered out of Fulton Market, and the lowest catch on any one of those three vessels was 2,500 pounds, and they were dumped at sea because they did not want to overstock the market.

I find your own Fish Commissioner quotes a similar case in his reports. (1902 report United States Fish Commissioner.)

Now, what does the bluefish or any other fish mean to the people? It is far more expensive than the best beef. That may seem odd, but I will show you how. You take 3 pounds of bluefish and pay 20 cents a pound, as a concrete example, and cut the head and tail and fins off and scale it and remove the entrails, and you have about $1\frac{1}{2}$ pounds of fish, for which you have paid 60 cents or 40 cents a pound. Now, when you cook it that $1\frac{1}{2}$ pounds dwindles down to 1 pound and 2 ounces, for which you have paid 60 cents. Is it not higher, then, than the best beef? Is it surprising that the people must refuse to buy it when you take into consideration, which you must take into consideration, that Divine Providence was the best provider for our people? When He created fish, He created it in such forms and conditions that at any time of the year the State of New Jersey has fish. At this time of the year they have had the biggest run of whiting, ling, and cod that has been known along that coast for years, and there has not been a pound of it sent into the New York market. Why? Because it is fish that sells for 4 and 5 cents a pound and they will not handle it. I can quote you from the statement of a pound-net man, who told me he had caught 300 barrels of whiting and ling and they were refused in the New York

market, and he shipped them to Baltimore, where they were sold to the colored people at eight for a quarter. Yet we of New Jersey, taxpayers, citizens who love our State, could not get that fish.

Is not that sufficient cause for the adoption of such a resolution as this?

Mr. MANAHAN. How will this protect you?

Mr. CRAWFORD. In this way. I claim that this resolution will do just as you are doing with your migratory-bird law. I claim that this bill, protecting migratory fish of the country, if the handling of that matter is placed in the hands of this Congress, I claim that the pound-net men and fishermen will get more money. And I claim that the Government will then be able to stop the slaughter of fish. It will make them and compel them, if they are going to fish for 24 hours a day for seven days a week, to sell the fish and not destroy them. That is where this applies. You can not get away from this fact. I have illustrated to you how they have killed the shad industry. We pointed with pride to the shad industry of the State of New Jersey a few years ago, and I tell you it is a serious question. I remember in the report of the New Jersey fish and game commissioner for 1904, page 36, he states that "it is one of the best industries of the State of New Jersey," and to-day it is nothing. Why? Because the two States can not agree. It was for that reason you adopted the migratory-bird act.

Mr. HARDY. Don't you think that the fish business is a far more important business than the bird protection?

Mr. CRAWFORD. Oh, considerably so.

Mr. HARDY. Yes.

Mr. CRAWFORD. This is, in our economic view, food for the people and the other is sport. I am a hunter and sportsman, and I say to-day if you were to ask me which one will you take, the migratory-bird law or this, I will say give us this by all means. I am sure I could stand here and tell you, from data which I have brought with me, and which we stand ready to prove, of abuse of the fish supply. I could stand here for two hours and tell you instances to show the need of this law. And when I tell you these facts, gentlemen, I know that I will be held responsible for them.

The CHAIRMAN. Of course you have the privilege of revising your remarks, and I suggest that you do so and set out at length what you wish the committee to know, because, evidently, you have accurate information on the question, and that is what we want, and you can extend your remarks in the record.

Mr. CRAWFORD. I will do that.

Mr. HARDY. Let me ask the gentleman, for the sake of clarifying the record: You made a remark, in the beginning of your talk, to the effect that seven men had about secured control of that situation. Have you any definite information resulting in those differences between the price to the catcher of 2½ cents and 20 cents to the consumer? What concrete evidence have you of the fact that there is this combination and control dictating the prices to the catcher and also to the retailer?

Mr. CRAWFORD. Why, it is a question that I might answer this way: It is impossible for any individual with limited wealth—and

my own is very limited—to attempt to prove a combination of men. It has been difficult for States to prove that combinations exist, and I know that it has been difficult for the United States Government. But that is an information that might be drawn up afterwards.

Mr. HARDY. You were very definite in stating the number of men that constituted this combination.

Mr. CRAWFORD. I said about seven men; yes, sir. Now, I will answer that in this way: I know there is a combination; I know there is an influence—which might be a better way to put it—I know I would be perfectly willing to tell what I know to an authorized committee. I refer to that as an investigating committee. But I will say this, that New York City has stated openly to the public, through a resolution now before the board of aldermen, that Fulton Market, historical old Fulton Market, is to be abandoned because it no longer serves the interests of the common people, having fallen into the hands of a set of men or men who use their ill influence against the common people of the city of New York.

Mr. HARDY. Now, I would like to hear you along another line. You started in to develop as to how this bill, which simply is giving control of the destruction and regulations under which fish may be taken—how it would effect this combination and result in not having fish taken and afterwards dumped into the ocean.

Mr. CRAWFORD. If the United States Government controls the fisheries, it would certainly maintain a supervision over those fisheries.

Mr. HARDY. But would it have any supervision over these combinations?

Mr. CRAWFORD. Yes, sir; in this way: That the people would then have somebody to go to to show these conditions that they have not now. We have nobody. The people of the State of New Jersey have nobody they can go to and appeal for this reason: I can show you right here in the 1907 report of the fish and game commissioners where the fish and game commissioners of the State of New Jersey said, "We have no jurisdiction."

Mr. HARDY. Is not the fish and game commissioner of the State of New Jersey authorized to go to the United States authority, or somebody, and complain of any contravention of the Sherman anti-trust law, which is interfering with the trade in fish and, by combination, limiting the market for producers, and by combination raising the price to the consumer? Isn't there a remedy for that under the present law?

Mr. CRAWFORD. If they will appeal to the United States authorities, I suppose that would be the case. But I want to tell you that there are very few men who will put themselves to that trouble, as we have done, to come here and tell you these facts.

Mr. HARDY. Would not we have the same conditions if we passed this law? The real offense would be against the antitrust law.

Mr. CRAWFORD. My dear sir, you have a law here, and we have no law, and that is what we are calling for.

Mr. HARDY. And every citizen in the State of New Jersey is writing for?

Mr. CRAWFORD. That may be so, and I am telling you it is so.

Mr. GREENE. I thought the State of New Jersey was perfect on law?

Mr. CRAWFORD. I am telling you, though, the work ought not to fall on busy people.

Mr. HARDY. What I am getting at is how this bill will aid the situation?

Mr. CRAWFORD. I say I do not think the United States Government would stand for fish sold at the net for $2\frac{1}{2}$ cents a pound being sold to the consumer at 20 cents a pound unless there were some good reasons for it, and there are no good reasons.

Mr. HARDY. This law does not apply to the question of the price of fish.

Mr. CRAWFORD. It will lead to it.

Mr. MANAHAN. You mean by preventing the destruction of the fish?

Mr. CRAWFORD. Yes, sir.

Mr. MANAHAN. By control of the amount of the catch and what shall be done with it?

Mr. CRAWFORD. Yes, sir. In other words, that if there is actually sworn to 34,806,068 pounds of fish caught—and to my own knowledge I will say that catch was 50,000,000 pounds—I say to you, under this law, if that surplus was put on the market it would force down the price of fish.

Mr. BRUCKNER. Are the men who catch the fish independent fishermen or under the control of these combines?

Mr. CRAWFORD. I would rather not answer that question.

Mr. BRUCKNER. Why don't you inform us?

Mr. CRAWFORD. Because what I have said to you I can substantiate. To answer that question I could not do it and substantiate it.

Mr. LAZARO. Are they organized?

Mr. CRAWFORD. They have their fisheries' companies and associations.

Mr. LAZARO. And you say that the representatives represent the fishermen only?

Mr. CRAWFORD. I say in this way—to answer the Congressman's question I will tell you a remark that was made to me not long ago. There was a fish and game bill of vital importance before the New Jersey Legislature, and I asked a man to let it come out so that it could be debated on the floor, and he says, "If I do, it will cost me 300 votes." And he did not let it come out.

Mr. LAZARO. Are the fishermen benefited by this condition, when they get only $2\frac{1}{2}$ cents a pound and the consumers have to pay 20? Are they benefited?

Mr. CRAWFORD. I am glad you asked me that question. The fishermen only think they are benefited. There never has been a legislative act created yet that they did not oppose it, because they do not really understand what conservation means. You can talk your head off to tell them where they get the advantage and illustrate to them whereby it will be possible to make a living wage out of this matter and whereby if they sold the dealer direct they could get 5 cents a pound or 4 cents a pound instead of $2\frac{1}{2}$ —and you can not make them understand that. I have been among them for 20 years, and I know the constitution of a fisherman.

Mr. HARDY. Is not the fact simply that he likes to go to a place where he can sell his catch and get rid of it?

Mr. CRAWFORD. I did not understand your question.

Mr. HARDY. Isn't it a fact he simply likes this present system because when he catches the fish he can dispose of them without trouble and has nothing to do except turn them over to an agent of this machinery provided by these higher-up people for disposing of the catch?

Mr. CRAWFORD. Yes, sir; that is the condition.

Mr. HARDY. That is the easy way for him to get rid of his fish?

Mr. LINTHICUM. Mr. Chairman, I want to introduce a letter, to be incorporated in the hearings at this point, from Mr. Charles F. Holder, of Pasadena, Cal. Mr. Holder is a well known and widely read writer of the Pacific coast, author of many books, some of them in relation to fish of certain species. He fully recognizes the need of legislation of the character I am urging, and I submit his communication as the statement of an authority on this subject.

475 BELLEFONTAINE STREET,
Pasadena, Cal., February 9, 1914.

HON. CHARLES J. LINTHICUM,

House of Representatives, Washington, D. C.

MY DEAR Mr. LINTHICUM: It gives me a great deal of pleasure to send you a short statement embodying the actual facts relating to the fishes of southern California, which seem to me, bear on the question which you are considering in Congress and to be referred to in your report.

About 20 years ago I began to call the attention of the people of southern California to the fact that the great game and food fishes of this region, while they were extremely plentiful, were in great danger of being exterminated or exhausted unless some logical and scientific system of netting was adopted which should protect these fishes during their migratory and spawning period. I organized the Santa Catalina Island Tuna Club for this very purpose, and it had a remarkable effect so far as anglers were concerned. We began a system of education, trying to teach the people that it was absolutely necessary to conserve the fisheries if they were to be perpetuated. I took up the question from the standpoint of the market men and the anglers, and attempted to do something through the State legislature. A great many influential men joined the Tuna Club, as the Hon. Gifford Pinchot, ex-President Theodore Roosevelt, ex-President Harrison, ex-President Cleveland, Gov. Markham, of California; ex-Gov. Myron T. Herrick, Charles Hallock, Casper Whitney, ex-Senator George Edmunds, Dr. Van Dyke, Minister to The Hague, and many more. In 1913 we succeeded in getting a bill through the legislature, calling for the protection of the area three miles off shore, from the island of Santa Catalina, which Dr. David S. Jordan had pronounced a spawning ground for all the game and food fishes in southern California. I obtained the opinions from all the great American experts on this question, and the opinion of anglers as well, which I herewith append, and devoted myself to this work for many months.

SAVING THE FISHES FOR CONSUMER, MARKET FISHERMAN, AND ANGLER.

Letters from experts on the sea fisheries of America, bearing on bills 1459, assembly, introduced by Mr. Guill, and 1452, senate, introduced by Senator Hans. These bills ask that the spawning beds of the great game fishes of southern California at Santa Catalina Island, Cal.—the region 3 miles offshore—be made a fish refuge and all netting stopped. This will result in benefit to the market man and angler and will insure the return of the Leaping Tuna and other great fishes which have been driven away from this region, thus depriving California of one of its most valuable assets, and menacing the fish-food supply of southern California.

The following letters refer to this question and advocate the "Fish refuge" at Santa Catalina Island.

LETTER FROM DR. HENRY VAN DYKE OF PRINCETON UNIVERSITY, AUTHOR OF "LITTLE RIVERS," ETC.

PASADENA, March 4, 1913.

CHARLES F. HOLDER.

DEAR SIR: The efforts of the Tuna Club to secure protection for the great game fishes of the Pacific coast are worthy of the support of every patriotic Californian. Let the process of grabbing these fishes with nets on their spawning beds among the islands be continued a few years longer, and one of the big assets of the State will be absolutely destroyed. And for what? To increase the profits of a few private corporations dealing in fish.

When the fishes have been exterminated they can never be replaced. The occupation of the poor fishermen will be gone. A valuable source of food supply will be cut off. One of the attractions which draw visitors from all parts of the world to California will be lost forever.

No State is rich enough to allow such a waste of the property of all the people for the temporary advantage of a few.

The legislature will render a real public service by forbidding the capture of the great game fishes at such seasons and in such places and ways as seem to threaten the species with extinction. All honest men, whether they are anglers or not, would approve and commend this action of California in defending one of her magnificent natural resources.

Sincerely, yours,

HENRY VAN DYKE.

LETTER FROM DR. DAVID STARR JORDAN, PRESIDENT STANFORD UNIVERSITY, THE LEADING WORLD'S AUTHORITY ON FISHES.

DECEMBER 5, 1912.

DR. CHARLES F. HOLDER, Pasadena, Cal.

DEAR SIR: I trust that you may be successful in having Santa Catalina and San Clemente Islands set aside as game preserves. These two islands and the smooth waters off their shores are the spawning grounds, above all others, of the greatest game fish in the country. The white sea bass, the great jewfish, the spearfish, tuna, bonito, albacore, the Japanese tuna, all spawn on the rocky and other places about these islands, as well as a multitude of smaller fishes valuable to the angler or to the markets.

Many of these fish spawn in the kelp which surrounds these islands. The netting carried on inshore disturbs these fishes at spawning time, and it is said that there has been a very marked falling off of these species. As Avalon, on Santa Catalina, is the great center of big game fishing, the disappearance of any of these species makes a great loss to the people who have investments there, as well as to the visitors who come there for fishing purposes.

It is desired to prohibit the use of seines and all nets for market purposes within 3 miles of the shores of either of these islands. This allows the professional fisherman the entire Santa Barbara Channel, Santa Rosa, San Miguel, and the rest comprising the Santa Barbara group.

I trust that you and our friends will be successful in getting the statute passed which shall protect these islands and set them apart as spawning grounds for the great game fishes of Southern California.

Very truly, yours,

DAVID STARR JORDAN.

REPORT OF THE CALIFORNIA GAME AND FISH PROTECTIVE ASSOCIATION, 1910.

SAN FRANCISCO, October 14, 1910.

CALIFORNIA GAME AND FISH PROTECTIVE ASSOCIATION.

GENTLEMEN: Your committee on legislation to whom was referred the following resolution:

"Resolved, That the California Game and Fish Protective Association, in convention assembled, favors the enactment of additional legislation for the protection of the game fish of Santa Catalina waters; that the waters within

3 miles of the shore line of Santa Catalina Island be declared a feeding and spawning ground in the nature of a State fish or game refuge and that the taking of fish within that area, by any means whatsoever, except by rod and line, be prohibited—except as to the taking of fish for specimens for scientific purposes, for bait to be used in rod and line fishing only around the island, and for food for fish in the aquariums—for which purpose nets may be used of limited size and mesh under the supervision of some one thereto authorized by the State fish commission.

“Resolved further, That the California Game and Fish Protective Association will give its aid to the Tuna Club of Santa Catalina Island in obtaining such legislation.” Begs leave to report as follows:

It recommends the adoption of preceding resolutions.

Respectfully submitted.

HARRY A. GREEN,
I. L. KOPPELL,
GEO. H. T. JACKSON,
FRANK V. BELL,
G. W. ROOT.
Committee on Legislation.

On motion duly made and seconded the foregoing report was adopted.

LETTER FROM DR. GEORGE KUNZ, HEAD OF THE FIRM OF TIFFANY & CO., NEW YORK.
PRESIDENT OF THE AMERICAN SCENIC PRESERVATION SOCIETY.

Dr. CHAS. F. HOLDER.

DEAR SIR: During my recent visit to Santa Catalina Island, I was deeply impressed with the threatened danger to the commercial and valued sport-giving fisheries at the island.

I quite agree with the stand taken by Dr. David Starr Jordan and Mr. Gifford Pinchot and others, that this island for 3 or 4 miles off shore is the spawning ground of the valuable food fishes of South California, and particularly of Los Angeles, and that this region should be protected absolutely from all kinds of nets or lines handled for commercial or market purposes. In a word, the waters should not be disturbed by the market men within this limit, the spawning ground of tuna, white and black sea bass, whitefish, rock bass, sardines, and at least 50 more kinds of fish.

Another important feature is the kelp beds about the islands. These are the refuge and spawning beds of many valuable fishes and should remain inviolate. Santa Catalina Island should be as undisturbed as your water supply, as it is a great food fish supply of Southern California and Los Angeles.

Our society has saved the Palisades of the Hudson from vandals, and we hold that we can aid you in calling the attention of the whole people to this gross devastation of a source of supply of market fishermen, who are ignorant of the situation and of course look out only for the day.

Believe me,

Very, truly, yours,

GEORGE F. KUNZ,
President of the American Scenic and Protective Society.

LETTER FROM DR. JOSEPH GRINNELL, CURATOR OF THE MUSEUM, UNIVERSITY OF CALIFORNIA.

UNIVERSITY OF CALIFORNIA, MUSEUM OF VERTEBRATE ZOOLOGY,
BERKELEY, CAL., December 27, 1912.

Prof. CHAS. F. HOLDER.
Pasadena, Cal.

MY DEAR PROF. HOLDER: I am greatly pleased to learn that a movement is on foot to set apart Santa Catalina and San Clemente Islands as fish and game preserves. If consummated, this will mean the saving of not only the species of fishes peculiar to those waters and now threatened with extermination, but preservation of the land fauna as well. The latter, as you well know, includes many species of birds and a few of mammals, which are of great interest to

the naturalist, because they show differences from corresponding species on the mainland. In other words, the islands have been, and are, speciation centers.

It is of the greatest importance, therefore, from the scientific as well as the esthetic standpoint, that the fishes and other animals of the islands be conserved from any danger of extermination, or even undue disturbance.

I hereby assert my hearty approval of the plan to make Santa Catalina and San Clemente Islands fish and game refuges. Count on me to support the proposition in every practicable way.

Very truly, yours,

JOSEPH GRINNELL.

LETTER FROM GIFFORD PINCHOT, LL. D., WHO HAS STUDIED THE CONDITIONS AT SANTA CATALINA AND SAN CLEMENTE FOR SIX YEARS.

DECEMBER 27, 1912.

GAME COMMISSION OF THE STATE OF CALIFORNIA,
Sacramento, Cal.

GENTLEMEN: I understand that there is a movement on foot to set aside the waters within three miles of San Clemente and Santa Catalina Islands as a fishing refuge and to prevent all seining within it, with the object of furnishing undisturbed spawning grounds, and thus increasing the supply of food fishes. To me this plan seems admirable in every respect. For a number of years I have been fishing about these islands and may fairly be said to be familiar with the general conditions in their neighborhood. I am confident that this matter is of the greatest importance for the conservation of the sea fishes of California, but what is of vastly more account, Dr. David Starr Jordan, I learn, is of the same opinion.

I hope that the efforts of the anglers of southern California to protect the food fishes of their region will be successful, not merely because of the importance of the proposed action to angling for sport, but equally as to its importance to the professional fishermen in the future, many of whom, as you know, do not look beyond the present.

Very sincerely, yours,

GIFFORD PINCHOT.

LETTER FROM THE UNITED STATES FISH COMMISSION, WASHINGTON, THE HIGHEST OFFICIAL AUTHORITY.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF FISHERIES,
December 26, 1912.

Mr. CHAS. F. HOLDER,
Pasadena, Cal.

SIR: In reply to your letter of December 11, you are informed that in the opinion of the bureau it is a proper policy to preserve for angling any waters in which fishing for sport greatly predominates over the commercial fisheries, as the prosperity of the adjacent communities is more affected by the expenditures of sportsmen than by the revenue derived from the capture of a comparatively small quantity of fishes for food purposes only. It is also highly important to both the angling and commercial fishery interests that the fishes should not be disturbed on their spawning grounds. Although the bureau has no recent knowledge of the conditions obtaining on Santa Catalina and San Clemente Islands, it appears from the statements of Dr. Jordan that these two considerations would be subserved by the proposed measure to establish a fish refuge within territorial waters adjacent to the two islands, and with that understanding the bureau gives the proposition its indorsement.

Respectfully,

H. M. SMITH, *Acting Commissioner.*

LETTER FROM CHARLES F. HOLDER.

PASADENA, CAL., *March, 1910.*

The almost complete destruction of the leaping tuna fisheries of southern California by unrestrained and continued netting on the spawning ground of

the great game fishes of southern California was an act of vandalism without parallel in the history of America. The great game fishes of southern California can only be saved from extermination by stopping all market netting at Santa Catalina and Clemente.

CHAS. F. HOLDER.

The legislators of both houses were so convinced that the bill was unanimously passed and was very soon signed by Gov. Johnson and became a law in August of that year, 1913. This absolutely stops netting of all kinds in this area, and I am looking forward to the increase of the various fishes which are found here and to the return of the great leaping tuna, which in former years was most abundant in these waters, and which constitutes in other lands a most important item of food. Of course, the person interested in the conservation of fisheries or anything else, so far as that is concerned, immediately comes into contact with the market fishermen who are mostly aliens or extremely ignorant, so that it is a waste of time to argue with them. They go out to get a load of fish and they have not the slightest desire or inclination to protect them. In other words, they do not care what happens to posterity, and were it not for the efforts of anglers and laws which we have obtained the fish would be entirely wiped out of existence. As, for example, up to about 10 years ago the leaping tuna or horse mackerel, which is one of the most important fishes in Europe in the Mediterranean Sea, was so common during the summer months off Santa Catalina Island that they would be taken by the ton, not only in nets but on hand lines. These fishes are at the present time so rare that no attempt is made to catch them. They have simply been driven away by the nets. The system of overnetting here is well described in the copy of a letter from Dr. Henry Van Dyke, which I beg to inclose. The nets were fastened to the kelp or near the shore and extended out into the sea for some distance, and dozens of such nets were to be met with up and down the coast for miles every night during the migratory and spawning season, and for 20 years the spawning beds of these fishes, or the waters where they are known to have deposited their eggs, have been continually disturbed by netting.

I am prepared to state that the fisheries along this island have decreased nearly 75 per cent in the last 20 years, and the conditions there are very menacing to the fish-food supply of southern California. Within the last five or six years there has grown up an important canning industry of one of the tuna family, and I am glad to state that these gentlemen realize the importance of giving the fish some protection during the spawning season and are going to make an investigation of the fisheries themselves. This condition of affairs is not confined to California, but is the same all over the world wherever the population increases rapidly, as it has done here. The fish will soon be wiped out by the Italian, Greek, Chinese, and Japanese fishermen unless the fisheries everywhere are protected by law. To my mind, the only way to do this is for the United States Government to take charge of the matter. As an illustration of the present conditions, while we have a law protecting Santa Catalina Island from these netting vandals, the fish commission in southern California, so far as I know, has not even a rowboat to aid them in seeing that the law is carried out. I have, with a friend, Mr. H. O. Phillips, been giving, during the last two or three years, a number of free lectures to the schools, colleges, and clubs in southern California, trying to present the actual facts of the case to our people, and as our bill has passed the legislature, I believe we accomplished something, although I was told that a protesting petition, signed by 3,000 net and boatmen, mostly aliens, was presented to the legislature—the argument being that the so-called “millionaire sportsmen” of southern California were trying to starve out the honest, hard-working fishermen—the cry which has a familiar sound in every locality where ignorant aliens desire to override the law.

I shall be very glad to make you a careful report at any time on the exact conditions of the fisheries in southern California. It is almost useless to try to carry out any extreme protection as we have not the means to see that the laws are protected after the bill is passed. The bill regarding Santa Catalina Island will stand because the Santa Catalina Island Tuna Club will, at its own expense doubtless, see that the law is protected. I should add that the situation in southern California has a direct relation to the subject of migration of fishes which is coming up on February 19, at 10.30 a. m., before the Committee on the Merchant Marine and Fisheries, as nearly all of these fishes in southern California run in our waters during the months from March to December,

although some of them on exceptionally favorable years remain all the year, but all of them are migratory fish and they come to these islands according to Dr. David Starr Jordan, the greatest living expert on American fishes, to spawn or deposit their eggs in the smooth waters adjacent to the shores of Santa Catalina Island and the island of San Clemente, and they constitute the market supply.

Yours, very truly,

CHAS. F. HOLDER.

I have called attention to the letter of the gentleman from California regarding the importance of this legislation to that State. I now desire to submit a letter from Mr. J. A. Joullian, secretary of the Alabama Oyster Commission, at Mobile, Ala., transmitting a copy of the resolutions of that commission.

THE ALABAMA OYSTER COMMISSION,

Mobile, Ala., September 27, 1913.

HON. JOHN C. LINTHICUM,
Washington, D. C.

MY DEAR SIR: I am inclosing, herewith, resolutions adopted by the Alabama Oyster Commission at its last session on September 22.

In this section of the country the shrimp and crab industry particularly are sadly in need of protection, and we note the absence of specific mention in your bill of shellfish of migratory proclivities. The commission undertakes to call your attention to the matter and will thank you in the name of the people of Alabama for a provision in your bill to cover the protection of this order of fish.

Thanking you in advance for any courtesies extended the State of Alabama and its oyster commission, I am, with high regards,

Yours, very truly,

J. A. JOULLIAN, *Secretary.*

The next letter I offer is one from Mr. Francis E. Matthews, of Princess Anne, Md., who writes regarding conditions on the Pocomoke River. I would call attention also to his statement in which he despairs of our ever being able to secure remedial legislation sufficient to fully meet the situation through the different State legislatures.

PRINCESS ANNE, MD., 1914.

HON. CHARLES LINTHICUM,
Washington, D. C.

SIR: I have been much pleased with your efforts to protect the food-fish supply of Maryland. I notice in Thursday's (19) Sun the contention of the Virginia representation that the Maryland Legislature could supply the needed legislation. Probably it could help, but I agree with you that the only really effective relief must come from the Federal Government. Take the Pocomoke River for instance, this stream flows through a large and populous section of the Eastern Shore and was formerly noted for the quality and quantity of its food fish, especially the shad. This is almost a thing of the past, however, as the mouth of this river is entirely within the Virginia lines and both shores are lined with fish traps, the long lines of hedging extending on each side rendering it impossible for any quantity of fish to get by them, consequently the Marylanders are almost entirely deprived of their supply of fish.

Respectfully,

F. E. MATTHEWS.

I present herewith an extract from a letter I received from Mr. C. T. Sherwood, 222 High Street, Portsmouth, Va. This gentleman has a home on Mobjack Bay, Va., and testifies regarding conditions in those waters:

My greatest objection to the trap or pound net is its destruction of the very principle upon which the foundation of our country rests, i. e., the destruction of the equality of opportunity which is the heritage of every American citizen. I can refer you to an instance in which this fact is clearly and forcefully

set forth in citing you to a map made by the United States Government in 1908 in collecting information for the last census. In doing so it made a survey of the west shore of the Chesapeake in Virginia and mapped all the pound nets to be found in that territory. These of course are at your command. I have copies and blue prints of them, and one of them in particular illustrates the point suggested by me, and that is, the survey of the locality in the vicinity of Mobjack Bay. The observation of this locality will justify the truth of the statement made to me by the captain of the flagship of the Virginia Fish Commission squadron, to wit: That so thoroughly were the food fish kept out of the four rivers which have their mouths within Mobjack Bay—that is, the North, the East, the Ware, and the Severn, which, before the advent of the pound net, were among the finest fishing localities in Virginia, but to-day the people living in those localities have to go out to the pound nets to buy their food fish supplies. This perhaps illustrates more fully than any other instance that I could bring to you of the destruction of the rights of the people in this direction than almost anything else that might be said in reference to the subject.

The following letter from Mr. Isaac H. Ford, of North East, Cecil County, Md., is written by a gentleman who has been for years an eyewitness of the steady depletion of the fish in the Chesapeake Bay and knows at first hand to what causes that depletion may be attributed:

NORTH EAST, CECIL COUNTY, MD., *February, 1914.*

HON. J. CHARLES LINTHICUM.

DEAR SIR: Having lived many years at the head of the Chesapeake Bay in the midst of a people largely engaged in the fishing industry I have had opportunity to observe the serious decline of the supply of fish in that important source of food production. In my younger days, with hook and line, a fair catch of native fish could be secured in our creek and the coves and channels of North East River. Now a trip 20 miles down the bay to Betterton is the only assurance of a catch with the rod. Then there were many sturgeon; now there are none. Then in spring when sea fish appeared it was not unusual to catch in a hauling seine of shad and herring more than a crew of 25 men could land. The cork line was then lowered and thousands allowed to escape. Fifteen years ago the number of fish became too much reduced to justify the expense of the large force needed in this method of fishing, and the pound net was employed in its stead. Properly used the latter is not objectionable. Used with neglect and indifference as to the supply of fish in the future it may be very destructive. The pound and hedging are usually permanently fixed for the season and leave no interval, as did the hauling seine, during which the fish may pass on to the spawning grounds in fresh water. It is evident that if the mouth of the bay be seriously obstructed with hedging, or the channels of the bay and rivers, a vastly diminished number of the fish will reach the fresh water at the head of the bay where they spawn. The fish in coming follow the deep water. To hedge across the mouth of the bay, unrestricted, or entirely across its channels, or those of the rivers, threatens the destruction of the supply of sea fish, which annually seek the fresh waters flowing into the bay. The schools of herring and other fish pass up the hedged channel, with the result that the first pounds encountered are packed with fish so close that they die and sometimes lie in the water dead until unfit for food and are sold for fertilizer. Some of the fish thus disposed of are those which the United States Government has propagated for food. The hedge and pound ensnares all species. Annually, when there is a good supply, many thousands more herring are caught in a day than are or can be sold or cured, and the surplus is sold for fertilizer. In 1912 vessel loads were so disposed of. In 1913 there was a marked scarcity of fish. If the food supply of the great bay is to be preserved, it is obvious that methods must be regulated and fishing seasons established by law and the law enforced.

Neither the laws of Maryland nor those of Virginia have proven sufficiently effective to stop the destruction of the fish in the Chesapeake. Unfortunately the two States seem unable to agree upon joint action in this highly important public matter. The products of the bay go far and form a part of the food supply of many States. Not Maryland and Virginia alone are interested. The destruction of food fish as now practiced in the bay is a wrong to many people beyond their borders.

I believe that the two bills (H. R. 7774 and H. R. 7775) introduced by you in the House of Representatives, if enacted into Federal law, will stop this food waste, restore the fish supply, benefit the fisherman and the people of Maryland and Virginia, and many thousands in other States.

Very respectfully, yours,

ISAAC H. FORD.

This communication from Mr. J. Herman Spencer, of Havre de Grace, Md., is the statement of a man who has been fishing and hauling seine for 54 years:

HAVRE DE GRACE, MD., *February 19, 1914.*

HON. J. CHARLES LINTHICUM,

Washington, D. C.

DEAR SIR: I have been fishing a hauling seine for 54 years. I have been fishing a large seine since 1878, employing 100 men. The spring of 1878 I caught 19,000 shad; 1879 and 1880 I caught about the same amount. I made about the same catch of shad until the pound nets started in 1884. After that there was a steady decrease, until last spring, 1913, I did not catch 1,000.

The Fish Commission used to send a boat to my shore after ripe shad, but the boat no longer comes, as we seldom catch a ripe shad in the Susquehanna before the 10th of May.

We have a law prohibiting pounds over 800 yards long in Maryland. We should have a uniform law for Maryland and Virginia, with the season closing in Virginia the 1st day of May and Maryland the 21st of May.

We advocate a closed season for all net fishing in the Chesapeake Bay.

Yours, truly,

J. HERMAN SPENCER.

Effort was made in the Assembly of New Jersey to secure the passage of a concurrent resolution addressed to the other States in the Union urging the adoption of petitions to the Senate and House of Representatives of the United States, praying the passage by Congress of this and its companion measure now before the Committee on Interstate and Foreign Commerce. I do not believe this resolution was adopted, but I desire to insert it in the record of this hearing as evidence of the extent of the interest in New Jersey in this measure:

[Assembly concurrent resolution No. 6. State of New Jersey. Introduced January 19, 1914, by Mr. Byrne. Referred to Committee on Game and Fish. Concurrent resolution requesting Congress to enact a law giving ample protection to migratory fishes.]

Whereas there is a very general sentiment in this State in favor of such protection, and an urgent request for the enactment of such a law has been made, because of the high cost of living; Now, therefore be it

Resolved (if the senate concur), That Congress be, and is hereby, requested to enact a law giving ample protection to migratory fishes.

Resolved, That the legislatures of all other States of the United States now in session, or when next convened, be, and they are hereby, respectfully requested to join in this request by the adoption of this or any equivalent resolution.

Resolved further, That the secretary of state be, and he hereby is, directed to transmit copies of the resolution to the Senate and House of Representatives of the United States and to the several Members of said body representing this State therein; also to transmit copies hereof to the legislatures of all other States of the United States.

The Secretary of Commerce, on page 96 of his Annual Report for the year 1913, very briefly and admirably sums up the state of the fisheries in the Chesapeake Basin. In the following language he pictures conditions in these waters, tells what remedial legislation has done for North Carolina, and the serious menace of the present situation in the Chesapeake:

The take of shad eggs at the stations in the Chesapeake Basin was less than 40 per cent of that of the preceding year, and there is no doubt that this is in

large part due to the character of the fishery in the bay and its tributary streams. The number of the pound nets is excessive and they are set in strings which extend miles from shore and, together with the anchored gill nets, effectively obstruct the passage of the fish to their spawning grounds in the rivers. The conditions are similar to those formerly obtaining in Albemarle Sound and the upper part of Pamlico Sound, N. C., but which the enlightened policy of the State has corrected. As the result of the maintenance of a continuous open passage from the sea to the rivers, the catch of shad in North Carolina during the past season was as great as or greater than in any other year of the history of the fishery, and the take of eggs at Edenton station, N. C., reached 138,000,000, compared with the low-water mark of 6,000,000 the year before remedial legislation was enacted. The fishing industry and the fish food supply of the Virginia rivers are seriously menaced unless prompt and effective steps are taken to improve existing conditions.

I submit herewith for the consideration of the committee several editorials on this subject taken from Baltimore and Washington newspapers. I direct attention to them because they so accurately reflect the general sentiment on this question:

[Extracts from editorial in Baltimore Sun, May 19, 1913.]

Whatever the causes, the fact remains that the food-fish supply of the Chesapeake is in danger, and that the situation demands prompt and energetic action. The fishing in the Potomac River this year, says the commissioner, "was the poorest in a generation. Similar condition prevail in the Rappahannock and the James. The fresh waters of the Potomac have been practically barren the whole season. The largest catch of one of the biggest seines on the river, operating on one of the most famous shores, was 3,000 herring, whereas formerly 200,000 or more were frequently taken at one haul. The largest catch of shad this season was 100, and many hauls yielded only from 6 to 20 fish, and this with a seine 1,200 fathoms long." What has been accomplished by protective legislation is shown by the experience of North Carolina, where the recommendations of the Bureau of Fisheries were enacted into law. "The result is to-day that the North Carolina fisheries are in a flourishing state and continue to improve."

Maryland and Virginia, through commissioners appointed by the governors of the two States, should formulate a protective scheme of legislation for presentation at the next sessions of their general assemblies, and, by getting the advice of the Bureau of Fisheries, as was done in North Carolina, they would be sure of providing an effective and scientific plan.

But if petty State politics is to be permitted to protect the present reckless destruction of an important food supply, as it has done so long in Maryland in connection with oyster culture, it will be a subject for congratulation if legislation by the National Government can be worked out that will put a stop to the present wasteful and ruinous methods. Mr. Smith believes that fish can be protected along the same national legislative lines as migratory birds, and if we can not get our State authorities to consider the rights of the masses of the people to cheap food fish, the consumer will not quarrel if help comes from outside.

[Editorial from Baltimore Sun of May 30, 1913.]

Congressman Linthicum has taken hold of something really worth while in endeavoring to formulate a bill for Federal protection of food fish. It is a matter of common knowledge that the supply of food fish in the Chesapeake and its tributaries has been seriously diminished during the last few years; and the letter published in the Sun's correspondence column of late and the recent interview of the Commissioner of Fisheries make plain the necessity for prompt legislative intervention. Maryland and Virginia ought really to act on this subject themselves, and prevent the useless destruction of a commercial and food asset of the greatest value. But, as was the case with the oyster for so many years, politics has prevented adequate legislation in either State, and we have now arrived at a point where we must have legislation or see our valuable fisheries practically exterminated. If Virginia and Maryland will not protect the consumers and the true interests of the States, then Federal interference, if it be interference, will be welcome. And Federal action will probably force State cooperation.

The great masses of the people of Maryland and Virginia and of other States which may be helped by such legislation will wish Mr. Linthicum God-speed in his efforts to stop the devastation that has long been going on in our waters.

[Editorial from Baltimore Sun of June 10, 1913.]

Congressman Linthicum's efforts to answer the public demand for the protection of food fish by means of the legislation which he has prepared, with the assistance of the Bureau of Fisheries, are receiving the indorsement of thoughtful people everywhere. The special interests which have been engaged in the reckless and short-sighted policy of destruction are, of course, opposed to legislation and may be depended upon to use all their influence to prevent interference with their methods. The necessity for organization and active work on the part of the public is, therefore, all the greater if our waters are not to become as barren of fish as many of our oyster grounds have become of oysters.

It is obvious, however, that the Federal Government can not do all that is needed to meet the situation. There are constitutional limitations that prevent it from covering the whole case. The bills which Mr. Linthicum has introduced in Congress will go far toward providing a remedy, but they necessarily leave some points unprotected that ought to be guarded. It is, therefore, important that in addition to Federal legislation there should be legislation by Maryland and Virginia to restore the supply of food fish which is being rapidly destroyed by the present wasteful and unscrupulous fishing systems. Public sentiment can be arrayed behind such a movement in both States, we believe, and Gov. Goldsborough could scarcely render a greater material service to Maryland than to give it official sanction by the appointment of a commission to confer with the Federal Bureau of Fisheries and with the Virginia authorities to formulate a joint legislative program on this subject.

[Extract from editorial in Washington Star, October 20, 1913.]

This is a question of conservation in which the people of the District of Columbia and the Potomac and Patuxent Valleys are immediately concerned. These great rivers and the Rappahannock and the bay itself are naturally great fishing grounds. They are capable of perpetually furnishing many forms or marine food to countless millions of people. Within the memory of living men there were important and wonderfully productive fisheries on the Potomac within a few miles of Washington. One after another was abandoned. The fishing shores retreated to the lower reaches of the river, then to the mouth, then to the bay, and now these are beginning to fail. Men engaged in the fish industry, like most other men, will not weigh future against present profits. The goose that lays the golden egg must be protected.

With proper laws and their enforcement the Chesapeake and the rivers pouring into it may be restored and maintained as one of the great food-producing regions of the world.

STATEMENT OF DR. GEORGE W. FIELD, OF BOSTON, MASS., COMMISSIONER ON FISHERIES AND GAME.

Dr. FIELD. Mr. Chairman and gentlemen of the committee, it is, perhaps, unnecessary for me to impress upon you the fact that there is no single measure which may come before you for consideration that will so strongly benefit the fishermen and the fish consumers as this one act if properly carried out. The United States already, in its Bureau of Fisheries, has the necessary information and foundation for administering such a law.

It is a well-known fact that, apart from the fisheries of the great rivers of the Central and Western States and of the Great Lakes, the entire country from the Atlantic to the Pacific, must secure its food supply of sea fish from a territory, in general, less than 100 miles wide, bounding the coastal States from Maine through the Gulf of Mexico

to Alaska on the northwest. The vast stretches of ocean are relatively uninhabited by marketable fish. This coastal area, so located as to secure ready distribution of its products to all parts of the Nation and with a productive capacity for nitrogenous food exceeding per acre that of the richest corn, wheat, and grazing lands of the prairie States, is already, as the result of unwise practices, showing a marked decline in its annual yield of fish.

Since the entire Nation must depend upon the limited area of the coastal States for the supply of sea fish, fresh, canned, dried, salted, or otherwise prepared for distribution, every State in the Union is directly interested in the passage of wise legislation relative to this important source of food. And the unwise and unnecessary destruction brought about by the uneconomic and wasteful methods of capture and distribution are therefore of national concern.

So inconceivably boundless was the supply of fish at the time of the making of the Constitution that the present scarcity was not regarded as a possible contingency, and was not specifically covered. The complete extermination of certain species in certain localities is already calling attention to the necessity for Federal legislation and regulation. Among the types of unwise practices there are to be noted:

The capture of the adult-breeding individuals either on or near the spawning grounds, which obviously results in a diminution of that annual supply of eggs which is necessary to maintain a species. This is particularly true if no provision is made for artificially taking and hatching the eggs. As a local example of such wasteful methods we may instance the taking of scup, sea bass, bluefish, shad, and other migratory species off the entrances of the several bays on the Atlantic coast from the Chesapeake to Casco Bay. As an instance of uneconomic destruction may be cited the capture of enormous and unnecessary quantities of small bluefish, mackerel, herring, butterfish, and other species which grow so rapidly that, if their capture could be postponed, the increase in volume would be very large. Reference is here made, not to these small specimens which are taken inadvertently in pounds, traps, and seines, but to those instances where definite attempts are made to catch the small mackerel and herring which are of too small value to pay expenses of refrigeration in quantities greater than the market can absorb.

The ecology of fish is extremely complicated. To secure a continuous maximum yield of marketable fish, the large specimens should be captured for the reason that the large carnivorous fish prey upon the smaller, and consequently a large number of medium-sized fish will annually produce a greater number of pounds than a smaller number of large individuals. This is due to the fact that a larger number of medium-sized fish not only means less destruction of the smaller fish, but also the production of a far larger number of eggs annually.

An economic waste results from the failure to coordinate and regulate the supply. The spring migration brings an enormous addition to the normal quantity which comes to market with fair regularity during the entire year. Thus there results a glutted market during the spring migration and the fishermen suffer an added burden because the fish sent to market during this period often return them

insufficient cash to pay the expense of transportation. By the cooperation of the Bureau of Fisheries, in due time a system of capture and distribution of food fish could be worked out for the benefit of all the people, whereas in the absence of a Federal law, this end will doubtless be brought about by the initiative, energy, and capital of private individuals and trusts, with the attendant consequences. Under present conditions, with defective systems of transportation, insufficient storage, and canning facilities, the inland markets are not adequately supplied with sea fish.

Further, our methods of fishing provide only for the taking of certain species, while other destructive species which are taken incidentally to fishing operations are ordinarily turned back into the water alive instead of being utilized. There is evidence indicating that the quantity of dogfish, sharks, and other fish not at present used extensively as food, are taken in quantities almost equaling the combined total of cod and haddock. The great majority of these destructive fish are turned back alive into the ocean where they resume their ravages upon our food fish.

The fortieth annual report of the Massachusetts Commission on Fisheries and Game for the year ending December 31, 1905, says:

As summarized from the reports of interviews with 584 masters of fishing vessels, and of trap and weir crews (all except 3 reported damage to gear by dogfish), we found that the average total annual catch of edible and bait fish was 194,915,050 pounds. Similarly, the average total number of dogfish was found to be 27,668,150. The total annual damage to gear was \$160,817.50; unquestionably a burdensome tax upon a calling already poorly paid in proportion to its hazardous nature. But even more serious is the fact that these figures cover only the actual loss due to damage done to fishing apparatus. To this must be added more than \$250,000 for those edible fish taken on trawls and in nets which are so mutilated by dogfish as to be unmarketable—in many instances the bodies having been completely eaten and the heads left on the hooks. While the observable damage to Massachusetts interests can be conservatively estimated at not less than \$400,000 annually, the real cost of maintaining dogfish in excessive numbers is due to the fact that sharks in general, of which the dogfish is a typical and abundant example, eat incomputably vast quantities of commercially valuable fish. In fact, "every dogfish living to-day is being maintained at the public expense as an unprofitable boarder at nature's table," daily eating and destroying on an average not less than 1 to 5 pounds of commercially valuable food fish, worth at least, at a conservative figure, 1 cent per pound. Thus it may be properly inferred that the dogfish destroy more fish than are caught by the combined fishing fleets of the world. Public attention is awakening to the fact that many of our most valued sources of food are certainly becoming depleted, viz, lobster, bluefish, mackerel, etc., and that it is absolutely essential to assist nature in order to maintain the supply.

The proposed regulations by the Bureau of Fisheries should provide some system by which the fishermen of various States could cooperate in such a manner as to insure to factories a continuous supply of these species which could be profitably utilized for oil and fertilizer.

Many species of migratory fish, particularly those frequenting the tidal rivers and streams during their breeding seasons, are now commercially extinct in the waters of southern New England and, to a considerable extent locally, in Maine. Chief among these fish may be enumerated the Atlantic salmon (*Salmo salar*), shad (*Alosa sapidissima*), sturgeon, striped bass (*Roccus lineatus*), smelt, lamprey, eel, and alewife (*Pomolobus pseudoharengus*). This bill should make it possible for the Bureau of Fisheries, cooperating with the

authorities of each State, to set aside reservations adapted for breeding places for these migratory fish, and brood grounds where the young might grow to a suitable size before taken for market. In Massachusetts the decline in the river fisheries is strikingly manifest in the Connecticut, Housatonic, Merrimac, and Taunton River systems, and I will confine my remarks to these localities.

1. The Atlantic salmon (*Salmo salar*). Temple, in his History of Palmer, Mass., 1889, referring to the salmon fishery in Ware River, a branch of the Connecticut, states:

Indian salmon weirs were simply rude stone walls built from opposite sides of the river, pointing down stream until they nearly met each other. At this narrow opening a large cage was placed, formed of twigs fastened to hoops by strips of tough bark. The existence of such weirs in the Ware River was a matter of personal knowledge to men living 20 years ago.

In 1872 small salmon, from 2 to 3 pounds, were taken in abundance on the south side of Cape Cod and in Massachusetts Bay, whereas but few had been taken for the previous 28 years. This was the last abundant run of salmon, as the salmon in the Connecticut and Merrimac were practically all destroyed. Attempts at artificial hatching were continued in the Merrimac River until 1890 with some success, but few salmon were taken after this date. In the Connecticut, the last record of any quantity being taken was in 1878.

2. The sturgeon. Although formerly found in more or less abundance, this fish has been for years extinct in the Massachusetts rivers. The last records of any appreciable number being taken in the Connecticut River was in 1878. The fishery in the Merrimac River evidently lasted longer, as in 1882 an act was passed permitting the taking of sturgeon with seines not less than 12-inch mesh.

4. Striped bass. This excellent food fish, at present fairly abundant in southern waters, has almost entirely disappeared from the rivers of New England. Hubbard, referring to the Plymouth Colony, states that in 1623 the colonists, with one boat and a net, took a multitude of bass, which was their livelihood for all that year. "Few countries," he writes, "have this advantage. Sometimes 1,500 of them have been stopped in a creek and taken in a tide."

In the Connecticut River, after 1872, but few were taken, the last record of a catch being in 1881. Dr. S. F. Mixter, of Boston, states that at Holyoke in 1873 and 1874 he took several striped bass, and adds, "They were small, to be sure, but Windsor Locks, on the same river, was noted as being a place where good striped-bass-fishing might be had."

In 1880 this fish became extinct in the Merrimac River, and in the Taunton River few were taken after 1885. Occasionally a specimen is taken in the rivers or along the coasts. Between 1865 and 1871—a period of 7 years—the total catch in a weir at Waquoit was 489, while at the present time rarely is a single specimen caught at the same locality.

5. Smelt (*Osmerus mordax*). This fish is commercially extinct in Massachusetts, except in Fore and Back River, in the town of Weymouth, the Parker and the Rowley Rivers, in Essex County, although a few are still found in certain other rivers of the State. The smelt has been the subject of much protective legislation, but these restrictions have not sufficed to prevent the decline.

6. Shad (*Alosa sapidissima*). The shad ran in vast numbers up the rivers and streams along the Massachusetts coast. Such was their abundance that they were used for fertilizer on the planting ground, an important industry in those days. To-day no shad are taken in the Connecticut and in the Merrimac, and only a few in the Taunton.

The Connecticut River was at one time populated with shad during their spawning season. In 1879 the catch in the State of Connecticut was 436,981, whereas by 1889 it had fallen to 42,325. In the Massachusetts section the catch fell from 13,409 in 1879 to 577 in 1886 and to 58 in 1890, the last year any number of these fish were taken from this river. In 1871 at Hartford 900 were taken by one seine in one day. Dr. S. J. Mixter, of Boston, in a letter dated February 18, 1914, writes:

In 1873 and 1874 I took with a fly shad in the Connecticut River at Holyoke, Mass., one morning killing 14 fish before breakfast, some of them as large as 5 pounds. There were at the time great schools of shad in the river and many hundreds must have been taken during the season by men fishing with a fly from boats and bridges. Schools could be seen swimming about with their back fins out of the water on any still morning.

At Old Saybrook, Conn., a weir near the mouth of the Connecticut River gave the following statistics:

Between 1827 and 1836 an average of 10,376 a year.

Between 1837 and 1846 an average of 9,332 a year.

Between 1847 and 1854 an average of 19,490 a year.

Between 1854 and 1863 an average of 8,364 a year.

Between 1864 and 1869 an average of 4,482 a year.

Records of the annual catch in Massachusetts from fresh water streams show a decrease from 14,330 in 1882 to 2,056 in 1892.

In the Merrimack River the supply, in spite of the hatching operations carried on between 1869 and 1890 and the closed seasons, steadily declined until there was no commercial fishery after 1885, and very few shad were taken except at the hatchery at North Andover between 1885 and 1890.

The Taunton River fishery maintained its productivity for a greater length of time, and a few fish are obtained at the present time. The decline has been very gradual every period of 10 years in spite of variations in the run, showing a slight falling off.

7. Alewives. The most abundant fish in colonial days was the alewife or branch herring (*Pomolobus pseudoharengus*), which formerly frequented the numerous coastal streams on the Massachusetts coast.

Wood, in his "New England Prospect (1629-1634)," says:

Alewives be a kind of fish which is much like the herring, which in the latter end of April comes up to the fresh rivers to spawn in such multitudes as is almost incredible, pressing up in such shallow waters as will scarce permit them to swimme.

Gov. Winslow writes, referring to the Town Brook of Plymouth:

We set the last spring—1621—some 20 acres of Indian corne and sowed some six acres of barley and pease, and, according to the manner of the Indians, we manured our grounds with herring, or rather, shads, which we have in great abundance and take with ease at our doors.

Since 1875 few alewives have been taken from the Connecticut, a considerable but diminishing number from the Merrimack, and

large quantities from the Taunton River, where the decline has not been so marked, except in the fisheries of the upper part of the river which at the present time yield practically nothing. The great decrease in the alewife fishery is to be found in the small streams of Massachusetts—e. g., Palmer River—where the supply has declined at least 75 per cent, a most conservative estimate.

The alewife fisheries are of value, not alone to the locality to which the fish resort in enormous numbers to spawn, but the young as they descend the streams pass out into the ocean and there attract quantities of more valuable fish, such as bluefish, striped bass, weakfish, and other species which feed upon the young alewives (*Pomolobus pseudoharengus*) and young glut herring, commonly called "blue backs" or "Kyacks" (*Pomolobus aestivalis*).

Although less striking, the decline in the sea fish during the last half and even quarter of a century has been constantly brought to the attention of the public, chiefly through the increased prices.

The mackerel furnishes the most conspicuous example of decline, partly due to the capture of adult fish, but more particularly to the destruction of enormous numbers of "spikes" and "tinkers" in the autumn, which, if left to the following spring would have increased greatly in size and market value.

Lobsters. About 3 per cent of the Massachusetts lobster supply now comes from Massachusetts waters, though formerly Massachusetts supplied New York and other markets in addition to her own. The continued decrease of this species has resulted from destruction of adults, and a consequent diminution of the annual production of eggs, a condition made possible by a lack of uniform laws, which can only be remedied by Federal and treaty regulations.

Eels, though in the main doubtless a fish very destructive to other species, have much diminished locally. Recently the Massachusetts Department of Fisheries and Game had a call from California for a million pounds of eels, which was impossible to furnish, although it could have readily been done a few years ago. The supply of scup, bluefish, squeteague (*Cynoscion regalis*), butterfish, and sea bass in the waters of Rhode Island, Massachusetts, New Hampshire, and Maine is much diminished even to the point of complete local extirpation by the ill-advised methods of taking these species on the way to the spawning grounds.

The floating traps off Sakonnet and Newport extend at the present time nearly two-thirds the way across the entrance of Buzzards Bay. These traps are so placed that the leader of one trap practically runs from the bowl of the next trap, making an unbroken line 10 miles in extent on each side of the triangle.

The number of traps, especially the off-shore floating traps, has tremendously increased in the last 15 years.

Year.	Sakonnet Point.	Offshore.	Total number.
1898.....	34	25	119
1908.....	87	73	271
1911.....	93	66	277

The 1909 report of the Rhode Island Commission of Inland Fisheries states, "Especially noticeable is the continued increase in num-

ber in the Sakonnet River and offshore divisions where the cordon of traps is being extended and covers new territory each year. The fishermen are continuing to push their traps a surprisingly great distance offshore."

The percentage of offshore to total traps has increased from 21.5 per cent in 1900 to 31 per cent in 1910.

The average catch per trap has diminished with the increase in the number of traps. The only available figures are from Newport and the figures probably give a fair comparison, although the argument may be advanced that the shipment of fish from other points has increased.

Years.	Total number traps.	Offshore traps.	Total.	Barrels fish shipped from Newport.	
				Average catch per trap.	Average catch per trap May and June.
1896-1900.....	125	26.0	32,832.2	262.7	151.5
1901-1905.....	193	37.6	54,220.2	280.9	170.0
1906-1910.....	271	73.8	53,705.6	198.2	107.7

Over one-half the catch of fish are taken during the northern migration in May and June. From the census of 1888 and 1898 the per cent of fish by weight is as follows:

	Per cent.
Scup.....	47.0
Alewife.....	8.9
Flatfish.....	7.7
Sea bass.....	4.8
Butterfish.....	2.5

The floating traps are huge affairs, 270 feet long, 120 feet wide, 80 feet deep, with a leader 1,800 feet in length and valued between \$800 and \$1,000. In recent years there have been attempts to secure legislation to require a certain distance between traps, thus enabling fish to pass through, instead of having a practically complete barrier as at present. These attempts have always met with defeat.

It is possible for a few fish to enter Buzzards Bay through the openings of Vineyard Sound and by the waters outside the traps. It is also possible for some fish to evade the traps, but, considering the amount of scup taken on their eastern shore, these traps through their number and location are extremely detrimental to the Buzzards Bay fisheries.

There has been reported a similar increase in the number of traps off Cape Hatteras and the Jersey shore. These traps are taking the migratory fish in the same manner as our near-by Rhode Island traps.

Federal control of the migratory fishes and fisheries is the most practical means of correcting the existing conditions, which are not peculiar to the North Atlantic coast, but obtain to some degree in almost every State in the Union.

Mr. LINTHICUM. Mr. Chairman, speaking of this constitutional question I would like to relate an anecdote, especially as there seems to be so much stress laid by the opposition on that question. A

very eminent judge in my State once handed a bill to me to be introduced in the legislature and said, "I want you to introduce this bill and try to have it passed; I do not believe it is constitutional, but I believe it will prevent what we are after." I introduced the bill; it passed and was signed by the governor. It was contrary to what the judge expected. The bill was carried through court, and the court decided that the bill was constitutional; it was carried to the Court of Appeals of Maryland, and the Court of Appeals of Maryland decided that it was constitutional. It was brought to the United States Supreme Court, and the United States Supreme Court decided that it was constitutional.

I only cite that to show that the mere fact that somebody states a thing is not constitutional does not make it unconstitutional.

Mr. MANAHAN. They are getting over the habit of declaring bills unconstitutional.

Mr. LINTHICUM. Yes; the Supreme Court is getting over the habit of declaring bills unconstitutional.

Mr. GREENE. Dr. Field, I want to ask you a question as to how the Connecticut and Merrimac Rivers would be affected by this bill, in Massachusetts?

Mr. FIELD. The Merrimac River was formerly an important salmon river and, within relatively recent years, there was a great amount of alewife and shad and other migratory fish for the inhabitants in that section. But in recent years it has been depleted and, by the conditions in Massachusetts, the people of New Hampshire had been shut off from their supply. The same thing is true in the Connecticut River, where conditions in Connecticut have shut off the supply of Massachusetts.

The CHAIRMAN. What are those conditions?

Mr. FIELD. Extensive catching of fish when they are about to enter the river to spawn. The other conditions are connected with pollution, dams, and the absence of fishways.

Mr. GREENE. I would like to ask another question. I think I know something about it, but I will ask you for information in relation to Narragansett Bay, Mount Hope Bay, and Taunton River.

Mr. FIELD. The conditions there are practically the same as in the Connecticut and Merrimac Rivers. The alewife, the shad, striped bass, and white perch were very important fishes in those rivers, and they have been depleted by conditions at the mouth.

Mr. GREENE. I would like to ask you another question, and that is about this matter of the sewage, say, in Taunton River and Mount Hope Bay—whether or not the sewage from my own city has not affected the fish industry there, and also the oyster industry and clam industry?

Mr. FIELD. That has been one of the factors. Of course, we started soon after the settlement in 1862 to regard the streams, the estuaries, and the ocean as the natural sewers. Thereby we have done untold damage not alone to the fisheries, but have wasted a tremendous quantity of nitrogenous material that should go back on the land. And the condition is entirely comparable to that in the West, where, for example, about \$30 an acre is spent to irrigate the arid lands. But in our country, in the Eastern States, all this material which ought to go into the land, both the water itself and the sewage, has been dumped into the river.

Mr. GREENE. Which did, 40 years ago, go on the land?

Mr. FIELD. Yes.

Mr. GREENE. And did not injure the waters?

Mr. FIELD. And did not injure the waters.

Mr. GREENE. And has not that injured the fish supply of Mount Hope Bay, Narragansett Bay, and Taunton River?

Mr. FIELD. That has been one important factor. The older countries, Germany, for instance, have been much wiser, and they turn the sewage back on the land and lease this land and charge about \$30 an acre to the farmers, instead of putting it into the fish rivers.

Mr. GREENE. Does this bill in any way effect that situation?

Mr. FIELD. I think it should be extended to cover every question of national importance, so far as it relates to the fisheries.

Mr. GREENE. It does not cover it now, does it?

Mr. FIELD. I do not think it does cover it now, but I think probably you could make it cover it.

Mr. GREENE. Is not that more serious than the other troubles the bill relates to?

Mr. FIELD. I think they are both together involved. It is hard to say which does the more damage. Whether it is the sewage coming in mechanically destroying the breeding grounds of the fish, or whether it be the excessive, untimely destruction of the adult fish before they get a chance to get to the spawning grounds. Both of those factors enter in.

Mr. GREENE. I know as a boy I used to go and fish in the river and bathe, and there is no bathing there now.

Mr. CURRY. Information regarding the existence of a Fish Trust and the wanton destruction and throwing away of fish and the sending of good fish to glue and fertilizer factories by the trust to keep up the retail price of fish was filed with the legislature of my State a number of years ago, and a committee of the State senate made an investigation and report on which the State passed some remedial laws. We have a pretty good fish and game commission to-day and they are very strict in the exercise of their duties. At that time the fisherman used to get $2\frac{1}{2}$ cents a pound for salmon and they were retailed to the people for about 20 cents a pound. At the same time you could buy salt salmon about 3 pounds for a quarter. That condition has changed now, and they are sold for 4 cents a pound by the fisherman and 10 cents a pound to the consumer.

Mr. MANAHAN. Was that brought about by making laws?

Mr. CURRY. By the laws of the State. It stopped the combination. If the fisherman now destroys a fish or throws any of it away, the first time he is fined heavily and the next time he is thrown into jail. We sent a few of them to jail and they stopped it.

Now, the way we handle the migratory fish is that two days of the week during the time they are running up the river to spawn the fishing is absolutely prohibited, on Saturday and Sundays and some parts of the time on Wednesdays and Sundays, so we find enough fish going to spawn. Don't you think if the State should pass such a law as that it would control the situation?

Mr. FIELD. If the river was wholly within the State it might, but we have a situation in Massachusetts, Rhode Island, and Connecticut where we have made laws of that kind, allowing fishing only three

days in the week, but it is negatived by excessive fishing in an adjoining State through which the river runs.

Mr. GREENE. You could stop it in the territory of Massachusetts.

Mr. FIELD. Yes. We had a specific case of that kind.

Mr. CURRY. If those States would pass those laws—

Mr. MANAHAN. If they all would; but they do not.

Mr. FIELD. We seek no quarrel with our neighbors. This same condition obtains all over the United States and can be best met by impartial Federal regulation.

Mr. CURRY. I should think the good example of Massachusetts ought to have a little influence over the border.

Mr. LINTHICUM. I would like to say to the gentleman from California that the States of Maryland and Virginia have tried for 100 years to get together on the fish and oyster industry of the Potomac, and only last year we reached some agreement after 100 years of trial.

Mr. CURRY. Since we have had the present fish and game laws in California, Oregon and Washington have copied our system.

The CHAIRMAN. I hope our colleague from California will find those laws and put them in the record here.

STATEMENT OF DR. HUGH M. SMITH, COMMISSIONER OF FISHERIES, UNITED STATES DEPARTMENT OF COMMERCE.

Dr. SMITH. Mr. Chairman, I have no argument to make on this bill. I should like to read for the information of the committee and to have incorporated in the record a letter written by the Secretary of Commerce to the chairman of this committee showing the attitude of the Department of Commerce and the Bureau of Fisheries toward this bill. It is dated February 9, 1914, and reads:

I beg to acknowledge receipt of your letter of the 5th instant transmitting a copy of House bill 7775 for the protection of migratory fish.

At the hearing on this bill, which has been set for February 19, I have instructed the Commissioner of Fisheries to represent the department and furnish such information as the committee may desire in regard to conditions which seem to make Federal control over migratory fishes necessary.

The department has no desire to assume the responsible duties imposed by this bill and would be willing to undertake them only when directed by Congress and because of a keen sense of duty in regard to the preservation of the supply of migratory fishes.

I will be glad to answer questions, so far as I am able, in regard to conditions in various parts of the country which seem to make the passage of some such bill as this necessary.

The CHAIRMAN. We would like to have you state what necessity, if any, there is for this legislation or legislation along the lines proposed by this bill.

Dr. SMITH. In my opinion, Mr. Chairman and gentlemen, this bill is a last resort, and we so regard it. We have been laboring with the States for many years, calling attention to the matters which are obviously under their own control and which require radical attention in order that the supply of migratory fishes might be preserved for the fishermen and for the public; but I am free to say that we get very little encouragement from some States whose interests in the fisheries are large and in which the condition of the fishing industry is in a critical stage. In all parts of the country—

the Pacific coast, the Atlantic coast, throughout the Mississippi Valley, and on the Great Lakes—there is need for immediate and radical attention on the part of various State legislatures if the most valuable fishes in interstate waters are to be conserved.

Mr. HARDY. This legislation is somewhat on a parallel with the legislation protecting migratory birds. But let me ask you, as a relative proposition, which is of the greater importance to the people?

Dr. SMITH. I think there is no comparison between the importance of the fish as an economical product and birds.

Mr. HARDY. I mean the importance of the question of controlling their destruction?

Dr. SMITH. I would like to say that the matter of control of migratory fishes is a much more serious matter and involves greater difficulties.

Mr. HARDY. Are not the principles involved exactly the same?

Dr. SMITH. The principles are the same; but I have given some consideration to this bill with reference to its applicability, and I am free to say we do not yet know how we would be able to enforce its provisions if it should become a law. We would have to be given an opportunity to work it out gradually.

Mr. HARDY. How are the migratory bird provisions enforced?

Dr. SMITH. The situation is very much simpler there, sir, as I think you will see if you fully consider it. The Department of Agriculture has handled the subject admirably and has been able to take advantage of the machinery that was already provided by many of the States.

Mr. HARDY. Supposing there was no machinery already provided applicable to either question, would not it be as easy to provide for the enforcement of this migratory fish law as it would for the migratory bird law?

Dr. SMITH. The birds you are seeking to protect while in migration are visible; the fish are under the water. That is one point of difference.

Mr. HARDY. But they are visible after they are brought out.

Dr. SMITH. They are only visible after they are caught and when the protection for them is no longer in the power of the States or the United States. The damage has been done.

Mr. TALBOTT. You stated yesterday before the Interstate and Foreign Commerce Committee that if 10 per cent, for instance, of the fish could get to the spawning grounds that would be sufficient to keep up the supply.

Dr. SMITH. Some years ago I made a computation that was something like that. I estimated that if one-tenth of the shad caught in the salt water of the Chesapeake Bay region one season had been allowed to reach the headwaters of the streams, where alone they can spawn, the necessity for restrictive legislation would be very much reduced, and I did give the opinion that that quantity of escaped spawning fish would be sufficient to place the hatchery in position to keep up the supply.

Mr. BOWDLE. Mr. Commissioner, I was much impressed with the statement that the catch of 2,000,000 in the Delaware had dwindled to 200,000. To what extent, in your judgment, was that due to the

discharge of sewage into the Delaware by way of Camden and Philadelphia?

Dr. SMITH. There have been complaints made to us about the effect on the shad in the Delaware Bay of sewage and also oil. I am inclined to believe the presence of oil, due to the pumping of oily water ballast overboard, in the Delaware River has done damage. The shad come to the surface, as other fishes do at times, and whenever they do so, if there is any oil on the river, their gills become coated with oil and they are injured if not suffocated. However, I am inclined to believe the serious condition in the Delaware as regards shad, sturgeon, alewives, and other migratory fishes is due to fishing, or, I would say, to indiscriminate fishing. I believe it would be possible to regulate the fishing there so that the fisherman would not only be able to catch as many as they are now doing, but to catch a great deal more in a few years and still maintain the supply. The point is to secure the escape each season of a certain number of spawning fish. Unless that is done the supply is bound to dwindle.

Mr. BOWDLE. I take it you regard this sewage question as one of capital importance as bearing upon the fish question?

Dr. SMITH. Absolutely.

The CHAIRMAN. Have you any information as to these nets—how they are placed along the Chesapeake Bay and Hampton Roads and restrict a free passage of the fish in and out of the bay?

Dr. SMITH. The condition in Chesapeake Bay comes home to us more than in any other region, and we have made a number of investigations.

Mr. LINTHICUM. Here is a plat of this.

Dr. SMITH. If that map could be spread across the back of the room, perhaps it would be visible to most of you and would illustrate the condition existing there a few years ago.

(The map was placed on the wall.)

That represents the western shore of Chesapeake Bay from its entrance to the mouth of the Potomac, and those little signs represent individual pound nets that were set for shad in that particular season. This map has been made from coast survey charts, on which the nets were located with great accuracy. I may say that the map is four or five years old, and the conditions there portrayed are about 50 per cent worse now. There were in all about 2,500 nets in that year in the region between Washington and the Virginia Capes. I believe that the State of Virginia is now licensing about 4,000 of those same nets in that same territory.

I may say further that this map does not contain all of the nets. The headwaters of the streams are not shown at all, and some of the nets even in the lower courses are not represented. Some of these strings of nets off the mouth of the Rappahannock River extend for 8 miles from shore in an unbroken line, and the same condition exists along other parts of that coast. The shad entering Chesapeake Bay bound for the spawning grounds in Maryland, Virginia, and Pennsylvania are attracted by fresh water coming out of the rivers on the western shore. There is very little movement of shad toward the eastern shore of Chesapeake Bay because there are no large streams there. You can readily see how fish, coming in the

entrance of the bay and endeavoring to pass up the streams where the spawning grounds are located, are caught in enormous quantities in salt water. The wonder is that any fish are able to reach the spawning grounds.

Mr. LINTHICUM. Can you be more explicit about the habit of the fish fleeing toward shore.

Dr. SMITH. I endeavored to make that clear. The fish are attracted toward this particular shore by the large amount of fresh water coming down.

Mr. LINTHICUM. Mr. Chairman, with your permission, I would like to call attention to the fishing right here in Hampton Roads and the entrance to the bay. You will notice these nets are nearly all the way across Hampton Roads entrance.

Mr. JONES of Virginia. Does the gentleman mean to say Hampton Roads is the entrance to Chesapeake Bay?

Mr. LINTHICUM. No; Hampton Roads is not the entrance to Chesapeake Bay, but I mean to say this entrance here is practically covered with nets in the river, which keep them from getting up. It only shows how one State can set its nets to keep them out of another.

The CHAIRMAN. Is that the entrance to Hampton Roads?

Mr. LINTHICUM. Yes; this is the entrance to Hampton Roads [indicating on map].

The CHAIRMAN. What is this stream right down here in the corner?

Mr. LINTHICUM. That is York River.

The CHAIRMAN. I mean right opposite the gentleman at the end of the map. It is the James River, isn't it?

Mr. LINTHICUM. It is the Potomac.

The CHAIRMAN. Not down there—

Mr. LINTHICUM. This is Hampton Roads and the James River comes down here.

Mr. HARDY. Just name all those streams that run in there from one end of the map to the other.

Mr. LINTHICUM. Here is the entrance up here; here is Hampton Roads entrance and James River; and here we have the York River; Mobjack Bay; the Pocomoke River here; this is the Rappahannock River; and then up here we have the Potomac [indicating on map].

Mr. HARDY. Now, the shad and sea fish coming up to spawn come into the mouths of all these rivers?

Dr. SMITH. Yes, sir; they must run up the rivers for a considerable distance, because all the valuable migratory fishes spawn in fresh water. Some push their way to the headwaters of the smallest streams.

Mr. HARDY. And it is in their entry in the mouths of those rivers that the traps catch them?

Dr. SMITH. Yes, sir.

Mr. SMITH of Maryland. I want to ask the Doctor, in his opinion, what is the actual condition of the fish industry in Maryland and Virginia?

Dr. SMITH. I think it is in a precarious condition. The supply in recent years, that is the supply that is sent to the market, has been kept up solely by the setting of larger and larger quantities of apparatus.

Mr. SMITH of Maryland. You said to me the other day that one of the fish hatcheries, I think in Pennsylvania, was so hampered by your inability to secure a crop of fish that you had to practically close down?

Dr. SMITH. We have a hatchery for shad at the mouth of the Susquehanna River. That hatchery has been maintained for 35 or 40 years, and in early times, in the eighties, we frequently took 100,000,000 or 125,000,000 shad eggs. In recent years we have had exceedingly poor results at that hatchery, notwithstanding we were spending more money and covering a wider field for the collection of the eggs. We send out men in boats in all directions to visit the nets of the fishermen and strip the eggs from every ripe shad they can find. In recent years we have taken as few as 10,000,000 eggs in a season.

Mr. BRUCKNER. How do you reconcile the statement of the gentleman from New Jersey that there are too many fish?

Dr. SMITH. He did not state there were too many. He said in a catch of 30,000,000 pounds, or something like that, only 5,000,000 pounds went to the market.

The CHAIRMAN. I did not understand he said there were too many; he said they destroyed 25,000,000 because they did not want a big supply on the market.

Mr. BOWDLE. He spoke of 25,000,000 relating to pounds, and not fish, I presume.

Mr. CRAWFORD. I meant pounds of fish caught. That only referred to the State of New Jersey. I was talking of the fish coming there in the summer months.

Mr. BRUCKNER. It is trying to be shown here there are not enough fish for the market.

Mr. CRAWFORD. I have taken the stand there are enough for this market.

The CHAIRMAN. Doctor, you spoke about this hatchery in the State of Pennsylvania.

Dr. SMITH. It is in the State of Maryland, near the Pennsylvania line.

Mr. LINTHICUM. Doctor, have you any data before you which will tell the decrease in the shad catch in the States of Virginia and Maryland in the last 10 years?

Dr. SMITH. We have not taken a census of the shad catch for a number of years—since 1909, I believe—but we made some general inquiries in all parts of Chesapeake Bay last year, and developed the fact that, considered as a whole, the fishing industry of Chesapeake Bay, as far as migratory river species are concerned, was in a worse condition than it had been for 40 years. And the prospects for a continued run for many of the most valuable species are exceedingly bad. Of course, the effects of a poor season in 1913 are not shown in 1914 or 1915, but in 1916 or 1917, or after a sufficient time has elapsed for the progeny of the 1913 fish to come back as matured, spawning fish.

I should like to offer this statement, which has just been handed to me by a gentleman who gives it as a catch of a single net, a haul seine, at the head of Chesapeake Bay in the Susquehanna River, beginning

with 1878 and coming down to 1912. The catch in numbers of shad was as follows:

1878	-----	number	19, 500
1879	-----	do	19, 997
1880	-----	do	18, 000
1881	-----	do	18, 000
1882	-----	do	19, 000
1883	-----	do	17, 000
1912	-----	pounds	11, 200

Mr. SILVER. I would like to state there, Mr. Chairman—

The CHAIRMAN. Give your name to the stenographer and whom you represent.

Mr. SILVER. W. Scott Silver, of the firm of Silver, Spence & Co., haul seine fishermen. You will notice there it says "Bounds." Just at that time where the first data stop the pound nets had commenced to be set in Chesapeake Bay. That is the beginning of the pound industry.

The CHAIRMAN. What do you call the pound net?

Mr. SILVER. It is the stop net. I think the Doctor can explain that.

Dr. SMITH. The pound net is the latest thing in stationary fishing apparatus. It is to stationary apparatus what the purse seine is among movable appliances. It is the most effective net known. It consists of a line of stakes driven into the bottom and covered by a leader made of netting, so that when the fish migrate in either direction they strike this leader, are diverted from their course, and go into the net or pocket which is at one end. These nets are variously constructed. Most of them have long leaders extending from the shore and have an entrance of a heart-shape to hold the fish before they are led into the final compartment or pocket. Having once gotten in there they are secure and can be kept for an indefinite time. That is the principal feature of the pound net; the fish are kept alive and can be taken out when needed. Many times, however, these pockets become so congested that the fish become injured and die.

Mr. LINTHICUM. Doctor, will you take the official figures which I have given you there and give the committee the advantage of those figures, showing the fish industry in Maryland and Virginia?

Dr. SMITH. I should like to offer for the record, if there is no objection, a very short chapter on the condition of the shad and herring fisheries in Chesapeake Bay, which is contained in my annual report to the Secretary of Commerce for 1913, pages 65 and 66. There are some detailed figures of the catch in the Potomac River, showing that in 1913 there was the poorest fishing in the upper part of the river that probably was ever known.

(The statement is as follows:)

SHAD AND HERRING FISHERIES OF CHESAPEAKE BAY.

Inquiries conducted by the bureau show that the spring fishing season of 1913 was the poorest in many years in most parts of the Chesapeake Basin, and the aggregate catch of the principal spring fish—shad and herring—much less than in recent years. The effects of the diminished run of fish will be seen from three to five years hence, when the reduced progeny of the 1913 season's supply comes back to spawn.

The conditions in the Potomac River, which may be taken as typical for all the major streams, were in some respects the worst in 40 years. The upper

reaches of the river were almost barren of fish during the entire season, and nearly all the shad and herring fishermen failed to meet expenses. At Ferry Landing, Va., the largest seine on the river, 1,200 fathoms long, discontinued operations in the middle of the season owing to the scarcity of fish. In former years this celebrated fishing shore, with a smaller seine, sometimes yielded 200,000 or more herring at a haul, and up to 10 or 15 years ago took probably 15,000 to 30,000 fish at a haul on an average. Only a few years back from 1,000 to 1,500 shad were frequently taken at one set of the seine. In 1913 the largest haul was 3,000 herring and 100 shad, while many times only 6 to 20 shad were taken.

The shad hatcheries operated by the bureau on the Potomac and Susquehanna Rivers had a very unsuccessful season. Their operations afford a good criterion of the conditions of the fishery in the fresh waters, because the whole field is covered and nearly every ripe fish that is caught by the fishermen is stripped of its eggs by spawn takers sent out from the hatcheries.

Shad culture on a scale that is entirely feasible can, with minor protective legislation, maintain the shad fishery in almost any stream, but shad culture under existing conditions is deprived of one very essential requirement, namely, an adequate supply of ripe eggs for hatching purposes.

The immediate cause of the failure of the shad and herring fisheries in 1913 is the diminished run of spawning fish into Chesapeake Bay from the sea and the enormous quantity of apparatus among which a limited catch had to be divided. Inasmuch as the great bulk of the yield is taken in salt water, the remnant that was able to reach the spawning grounds in the streams was insignificant and wholly inadequate to maintain the supply.

The remote cause of the present condition is excessive fishing in former years and the lack of even the minimum amount of protection that is demanded by regard for the most elementary principles of fishery conservation. Fish entering Chesapeake Bay have to run through such a maze of nets that the wonder is that any are able to reach their spawning grounds and deposit their eggs. The mouth of every important shad and herring stream in the Chesapeake Basin is literally clogged with nets that are set for the special purpose of intercepting every fish, whereas a proper regard for the future welfare of the fisheries and for the needs of the migrating schools would cause the nets to be set so as to insure the escape of a certain proportion of the spawning fish.

Adequate protection of the fishes is compatible with great freedom of fishery and with a large and increasing yield. A very slight curtailment of the catch, perhaps as little as 10 per cent in any given year, may be sufficient to perpetuate the species and result in increased production in a few years. To disregard a requirement so small and to permit the continuance of an evil so serious simply invites and encourages the destruction of a most valuable food supply.

These conditions demand the immediate attention of the States and the application of a radical remedy. Their failure or inability to meet the situation by individual and cooperative action would seem to call for interference on the part of the Federal Government, a course which is being strongly urged by many thoughtful persons in the case of fishes which are migratory and can not be regarded as the property of any particular State.

MR. WHALEY. I would like to ask the Doctor a question. It is this: In the regulation of migratory birds, a man knows what he is shooting at when he shoots a duck or geese; but when he puts a line overboard or a net overboard, he can not tell what is going into it. How can you say you can catch shad on a certain day of the week, but do not catch bluefish?

DR. SMITH. The nets set for shad do not catch bluefish.

MR. WHALEY. Do they catch other fish?

DR. SMITH. Yes, sir. There is quite a lot of miscellaneous fish caught, especially in the salt water, and it would be difficult to regulate that. It is perfectly proper to catch those fish. But in making a weekly closed season, such as has been suggested and adopted in other regions for other fish, there would be ample provision made for the escape of a certain proportion of these spawning fish.

Mr. WHALEY. I know in my part there is a pound net, and sometimes they go out and find 500 bass in that net and another day they go out there and find bluefish and another day whittings and another day mullet.

The CHAIRMAN. Aren't they all migratory fish?

Dr. SMITH. Yes, sir.

The CHAIRMAN. And do they not all come within the provision of the law?

Dr. SMITH. Oh, you can regulate it. It is easily possible to fix a pound net so that it will not catch anything.

Mr. WHALEY. That is what I want to find out, how you can regulate what they catch?

Dr. SMITH. The only form of restriction for pound-net fishing which I would be willing to stand for is perhaps a closed season of probably not more than one day in seven, and a provision that not more than a certain number of nets shall be set in a line or along a given length of shore. I think if a net or line of nets goes two or three miles from the shore that ought to be all any reasonable fisherman should demand. But all over the country where pound nets are set, and especially in Chesapeake Bay and Lake Erie, these lines of nets go for almost interminable distances and there is nothing to prevent the setting of one net after another until the entire breadth of the stream, or half the width of Lake Erie, can be shut off in that way. There used to be one line of nets running out from Sandusky, in Lake Erie, for a distance of 10 miles from shore. That kind of fishing was permitted by the State of Ohio from very early times, and the result was the whitefish, the most valuable fish in Lake Erie, decreased over 80 per cent between 1885 and 1903.

Mr. WHALEY. This bill would cover fishing within the waters of the United States within the 3-mile limit?

Dr. SMITH. I judge it would cover all migratory fish coming in from the ocean.

Mr. WHALEY. That is beyond the 3-mile limit?

Dr. SMITH. No, sir.

Mr. WHALEY. It would cover within the 3 miles?

Dr. SMITH. The high-sea fishes, like mackerel and menhaden, are caught chiefly in seines; as for the bottom fishes, like cod and haddock, they are mostly deep-sea fish and are taken with lines.

Mr. WHALEY. The haddock would be covered by this bill, wouldn't it?

Mr. LINTHICUM. It would not be covered by this bill at all.

Mr. WHALEY. It says all fish, and the menhaden is a fish. It would be covered by this bill, although the menhaden is not fit for anything but fertilizer.

Dr. SMITH. It is used almost exclusively for conversion into fertilizer and oil.

Mr. MANAHAN. Can you give us the figures for shad and herring for Maryland and North Carolina and these States down here during the last 10 years or so?

Dr. SMITH. I could produce some figures, but I have not got them with me this morning.

Mr. MANAHAN. Generally speaking, has there been a great falling off in the production of shad and herring in those States?

Dr. SMITH. There has been an enormous falling off in the catch of shad in all of the major rivers of this coast—the Hudson, the Delaware, the tributaries of Chesapeake Bay, and also in the streams of the South. The most hopeful sign is afforded by the State of North Carolina, which has passed exceedingly sensible and effective laws and has placed the fishing industry on a substantial basis. A hatchery which we are maintaining in North Carolina, at the head of fishing grounds that are as actively fished as any in Chesapeake Bay, is able to take larger and larger quantities of shad eggs for hatching purposes every year. This is brought about by a provision of the North Carolina law which insures the leaving open of a certain proportion of the width of every stream and bay. A third and in some cases even a wider area is kept free. There are all kinds of nets, and the fish bound in from sea on their way to the spawning grounds have this open passage through which to pass. Furthermore, the number of pound nets set in a given line is very much restricted.

So that in that State, although the fishermen are not hurt at all in their occupation and in fact are getting larger returns than ever before, the fish are preserved. There is a rational system of protection in force which does not injuriously interfere with fishing operations, and which, I think, can be brought about in every region of the country.

Mr. MANAHAN. That is in North Carolina, where all of the waters are within that State?

Dr. SMITH. All of the fishing waters are within the State. There are no interstate waters of any consequence.

Mr. MANAHAN. Your idea is if we could get the same kind of a law by the Nation it would serve the same purpose and accomplish the same results?

Dr. SMITH. That is my belief.

Mr. MANAHAN. Will you incorporate in the record the statistics in shad and herring in regard to their falling off?

Dr. SMITH. I will do so.

Mr. JONES of Virginia. This bill, Mr. Commissioner, applies to migratory fish. I understood you to say that there would be a great deal of difficulty in making regulations to carry out the provisions of this proposed act. Now, will you be good enough to enumerate the fish that you regard as migratory fish?

Dr. SMITH. The fish which are strictly migratory are those which come in from the sea and run up the streams to spawn. Probably an extension of the meaning of this act or of the term "migratory" would make it apply to practically all of the marine and fresh-water fishes, even some of the fishes of the lakes.

Mr. JONES of Virginia. What I desire to find out is the names of the fish. It would apply to shad?

Dr. SMITH. It would apply to shad and the two kinds of herring in Chesapeake Bay.

Mr. JONES of Virginia. Yes; and it would apply to the menhaden, of course?

Dr. SMITH. To the menhaden, which is strictly a marine fish.

Mr. JONES of Virginia. Would it apply to rock?

Dr. SMITH. It would undoubtedly apply to rock, the striped bass—

Mr. JONES of Virginia. Would it apply to trout?

Dr. SMITH. That is a marine fish which would probably come under the provisions of the act. I have not looked at that aspect of the bill.

Mr. JONES of Virginia. It will be absolutely necessary to look at that aspect of it when you come to administer the law, because this law applies solely to migratory fish, and I am trying to have you state what are migratory fish. Are perch migratory fish?

Dr. SMITH. Both species, yellow and white perch.

Mr. JONES of Virginia. Either species—yellow or white perch?

Dr. SMITH. To the extent they come from the Chesapeake and other bays into the rivers to spawn.

Mr. JONES of Virginia. Are codfish and bass?

Dr. SMITH. Yes, sir.

Mr. JONES of Virginia. Are bluefish?

Dr. SMITH. Bluefish are highly migratory. They migrate to all parts of the world.

Mr. JONES of Virginia. Weakfish are not migratory; they would not be affected by this bill. Name some of those, will you?

Dr. SMITH. I am inclined to believe that practically all of the food fishes of this coast, at least, would be regarded as migratory. Perhaps the halibut of the New England banks would not come under this provision and some of the other bottom fishes, like the deep-water flounders.

Mr. JONES of Virginia. So that so far as the Chesapeake Bay is concerned, the State of Maryland and the State of Virginia would not be able to control any food fish at all. You would put all under the control of the Federal Government and under the control of your bureau; is that not so?

Dr. SMITH. I believe that would be a proper statement of the case.

Mr. JONES of Virginia. Then why does this bill say "migratory fish"? Why don't it say "all food fish"?

Dr. SMITH. They are various fishes that are not migratory.

Mr. JONES of Virginia. That is what I am trying to find out, which are they that are not migratory. I would like to refer you to the fishes of the Great Lakes: Do they not go from one lake to the other?

Dr. SMITH. So far as is known, some of them do not, but are peculiar to one lake or another.

Mr. JONES of Virginia. The Chesapeake Bay lies wholly within the territory of Virginia and Maryland, and there is merely an imaginary line across the bay. Now, the fish of Chesapeake Bay cross that line at some time, do they not? Also the fish that remain in the Potomac River cross the line which divides those States, do they not? Are not these fish therefore migratory?

Dr. SMITH. If you so interpret that term.

Mr. JONES of Virginia. As I understand, all the waters of the Potomac River belong to the State of Maryland to the low-water mark on the Virginia side, so that any fish passing out of any estuary or tributary of the Potomac River on the Virginia side would immediately become the subject of interstate commerce according to the theory upon which this bill is framed?

Dr. SMITH. If you could call that movement migration. There may be some question about that.

Mr. JONES of Virginia. There is a question about that?

Dr. SMITH. I think so.

Mr. JONES of Virginia. Then, I would be glad for you to state, for my benefit, what you regard as migratory fish. If it does not apply to fish that pass from one State to another, to what kind does it apply?

Dr. SMITH. The term "migration" as applied to fish is used in a rather restricted sense and implies the movements of bodies of fish for a definite purpose, at definite times, in definite directions.

Mr. JONES of Virginia. As this bill does not undertake to define what are migratory fish, that question would have to be determined by the United States Fish Commissioner if it becomes law.

Dr. SMITH. I would not like to have all of the responsibility of determining what this bill means, and I hope if there is any chance of its passage it will be cleared up.

Mr. JONES of Virginia. I hope so, too.

The CHAIRMAN. You mean to say the bill ought to name the fish?

Mr. JONES of Virginia. I think that the bill ought to define clearly, in some manner, what fish are intended to be affected, and not leave it to the discretion of the United States Fish Commissioner to determine which. Now, I wish to ask several other questions.

The CHAIRMAN. Proceed.

Mr. JONES of Virginia. Doctor, assuming that there are fish that are migratory and others that are not migratory, a pound net in the waters of the Chesapeake Bay, or in one of its tributaries, would be apt to catch, would it not, some that were migratory and some that were not migratory?

Dr. SMITH. Undoubtedly.

Mr. JONES of Virginia. Undoubtedly?

Dr. SMITH. Yes, sir.

Mr. JONES of Virginia. Now, if the State of Virginia should pass a law licensing, as it would have a right to do even if this bill is passed, persons engaged in catching nonmigratory fish, and the United States Government should license persons to catch migratory fish this condition of affairs would result, would it not: A fisherman licensed by Virginia to take nonmigratory fish only would find a certain proportion of his catch migratory fish. As his license came from his State and did not cover the taking of migratory fish, he could be arrested, fined, and imprisoned for violating a Federal regulation, could he not? And would not the attempt, under such circumstances, to carry into effect the Federal regulations lead to serious conflicts between State and Federal authorities? Did you not have something like this in your mind when you spoke of the difficulties in the way of enforcing the provisions of this bill?

Dr. SMITH. I can not conceive of any law which would prevent the catching of either migratory or nonmigratory fish. This bill, and any other bill for the conservation of the fish supply, would have to be reasonable.

Mr. JONES of Virginia. This bill gives the United States Government absolute control of the migratory fish—absolute control—so that if the State of Virginia or the State of Maryland issued a license to one of its citizens to catch such fish as, under this bill, are left under the control of the State, and that citizen happened to

find a few migratory fish in his nets, he would have to answer therefor to representatives of the Federal Government.

Mr. HARDY. Does this bill apply only to waters not exclusively within the jurisdiction of the States?

Mr. JONES of Virginia. Yes, sir; it applies only to waters not exclusively within the jurisdiction of the State.

Mr. HARDY. It would not apply to water that is?

Mr. JONES of Virginia. It would not apply to water that is. It would not apply, for instance, to the Rappahannock River in my State, which is wholly within the State of Virginia, but would apply to the Potomac and to the Susquehanna Rivers.

Now, I would like to ask you another question, Doctor. You have said, I think, that you could supply data showing the great falling off in the catch of shad. I suppose you mean white shad; you do not mean mud shad?

Dr. SMITH. Yes; the common shad.

Mr. JONES of Virginia. Is it not a fact that until recent years these fish were caught in the upper waters of the Potomac, for instance, chiefly in seines, that were hauled along the shore?

Dr. SMITH. There were large seines used in the Potomac and other rivers in early times, and there are limited numbers used in them to-day.

Mr. JONES of Virginia. The fish were caught in those seines in the early days, and the seine fisheries of the Potomac River were extremely valuable years ago, were they not?

Dr. SMITH. That is correct.

Mr. JONES of Virginia. And is it not true that that method of fishing has become almost entirely obsolete, and has been supplanted by the better method of pound-net fishing, and that that accounts for the fact that the seines do not catch the fish they used to catch?

Dr. SMITH. That would be true when you consider the total catch, but I do not see how the diminution of the number of seines would account for the smaller yield. If there are fewer seines in the Potomac than formerly, which is the case, their catch, according to this theory, should be larger, because there would be more fish to go around.

The fact is, Mr. Chairman, there is an actual shortage of fish in the rivers. Seines, gill nets, and pound nets are making much smaller catches than formerly.

Mr. JONES of Virginia. Is it not true that recently the Federal Government has undertaken through the War Department, to prevent pound nets being extended to such distances out into the navigable waters as to prevent the free passage of fish?

Dr. SMITH. The War Department has undertaken it, but its powers under the Constitution and under the law are exceedingly limited, and, in my opinion, whatever the War Department is able to do for this region will fall short of the requirements. The regulations provided by the War Department for the coming year run a line along the western shore of Chesapeake Bay beyond which pound nets shall not be set, but there is not a diminution of a single pound net provided for under those regulations. Nets in certain places will doubtless be eliminated, but there will not necessarily be any reduction in total number.

Mr. JONES of Virginia. Is it not true, too, that at least three bills have been introduced into the Virginia Legislature, now in session, at the instance of your department, looking to the lessening of the number of pound nets and to a closed season, etc.? I do not remember the provisions of the different bills, but have they not been prepared by your department and laid before the legislature?

Dr. SMITH. At the request of the Virginia authorities the deputy commissioner has suggested certain legislation in the interest of the fish of this region.

Mr. JONES of Virginia. Along the line of the legislation in North Carolina that you commended so much?

Dr. SMITH. Yes, sir.

Mr. JONES of Virginia. And are not those bills now being considered by the Legislature of Virginia?

Dr. SMITH. I so understand.

Mr. JONES of Virginia. If those bills are passed, would there be any necessity, so far as the streams within the State of Virginia are concerned, for any such legislation as this?

Dr. SMITH. If the State passes and enforces laws along the lines suggested, the situation will be greatly simplified and no Federal legislation will be necessary or desirable. That is our position with reference to Virginia and all the other States. If the Federal Government is to come in, it is only because the States are unable or unwilling to meet the situation.

Mr. JONES of Virginia. I think the gentlemen will admit there has never been any disposition upon the part of the State of Virginia to refuse to pass legislation to properly conserve our supply of food fish.

Now, Mr. Commissioner, I wish to ask you another question. The author of this bill, Mr. Linthicum, made the statement that it was absolutely impossible, and had been for years, for the States of Maryland and Virginia to agree upon legislation which would protect the fish in the Potomac River. Is not that due largely to the fact that while the State of Maryland owns every single foot of the Potomac River to low-water mark on the Virginia shore, yet, under a compact signed at Mount Vernon, in George Washington's time, it was agreed that the States of Virginia and Maryland should have a common fishery in the waters of the Potomac River? And is it not also due in a large measure to the further fact that the State of Virginia, under a decision of the Supreme Court of the United States, rendered in 1894, obtained the ownership and control of the whole of Pocomoke Sound, thus excluding citizens of Maryland from all fishing rights therein? Maryland citizens living on the shores of Pocomoke Sound feel that inasmuch as citizens of Virginia have the right to fish in the waters of the Potomac, although that stream is within the boundaries of Maryland, they should be permitted the same rights in Pocomoke Sound. Joint committees have from time to time agreed upon legislation that would protect the fisheries of the Potomac River, but the Legislature of Maryland has refused to ratify the agreements. This was because equal rights of fishery were not given to Marylanders in the waters of Pocomoke Sound. Is not this the real reason why no agreement as to legislation for the Potomac River has been reached?

Mr. LINTHICUM. Mr. Chairman, I want to say that the gentleman is absolutely incorrect.

The CHAIRMAN. It is a question that he is asking Dr. Smith. That is rather a long question, and I do not know whether Dr. Smith has digested it or not.

Mr. LINTHICUM. I want to state that is not true. I want to state that the gentleman is absolutely incorrect.

The CHAIRMAN. He is asking it as a question; he does not state it as a fact.

Mr. JONES of Virginia. Yes; I state it as a fact.

The CHAIRMAN. You want the Doctor to answer the question?

Mr. JONES of Virginia. Yes.

Mr. HARDY. I do not think we have anything to do with those questions at all.

Mr. JONES of Virginia. Mr. Chairman, I wish to ask the question because the author of this bill has made the statement that this proposed legislation was necessary because it has been heretofore impossible for the States to act together.

Mr. HARDY. Mr. Linthicum said you had not agreed. He did not say whose fault it was. Is it not a fact you have not agreed?

Mr. JONES of Virginia. I wished to explain why we had not agreed and to show that the reason why there has been no agreement was of a most exceptional nature.

The CHAIRMAN. Wait a moment. Do you want the Doctor to answer the question?

Mr. JONES of Virginia. I do not care particularly about the answer.

The CHAIRMAN. I should think you ought not, because the question is so long and many of the facts are not within the knowledge of the witness.

Mr. MANAHAN. I think we have had a very good illustration right here of the differences between Maryland and Virginia, showing the best argument in favor of the bill we have had to-day, showing that they can not agree between themselves, and the bill ought to be passed.

Mr. JONES of Virginia. In regard to that I am going to ask the committee to allow me the privilege of stating some constitutional grounds why Congress, in my opinion, has not the right to enact such legislation as this.

Mr. LINTHICUM. Mr. Chairman, I want to say I was on the commissions in 1906 and 1908, and on neither of those occasions was the question of Pocomoke Sound taken up. We did agree upon certain bills in the conference of 1906, and I went back to Maryland and they were enacted. Virginia—I do not know why she did not want to do it—did not enact them.

In 1908 we went back again and we had agreed upon other legislation and Virginia enacted those bills, and Maryland did not enact them. That is the situation. They can not agree. They have tried for a hundred years to agree. I tried myself for four years to get them to agree, and I suppose my colleague Mr. Jones has tried, and the States can not agree upon that matter.

Mr. JONES of Virginia. Mr. Chairman, permit me to say one word upon that subject. The disagreement has grown out of the fact that while the Potomac River belongs to Maryland we of Virginia have a common right of fishery therein. The committees of the various legislatures have agreed—I did not mean to convey the idea that

they had not, but the trouble has been that the Legislature of Maryland would not affirm the action of the committees. That was my statement.

Mr. LINTHICUM. You also said Virginia did and Maryland did not.

Mr. JONES of Virginia. Virginia always has, so far as the boundary line of the Potomac is concerned.

Mr. HARDY. Is it not true you have not agreed?

Mr. JONES of Virginia. We have not agreed in regard to legislation for the Potomac River.

Mr. MANAHAN. As I understand you, your advocacy of this bill is on the theory that if the States themselves will legislate properly to conserve the fish, the department, in the enforcement of this bill, can conform its own regulations in those waters to the State law and thereby avoid a conflict, and in all instances where waters are not protected by the State legislation, then the National Government can protect the fish.

Dr. SMITH. That is our position. And I would like to say that as bad as the conditions are in Chesapeake Bay, they are even worse in other waters. There is one body of water having fisheries formerly worth \$1,000,000 a year in which there are five different jurisdictions. It has been reported that whitefish swimming around the shores of that body of water come under seven different closed times.

Mr. MANAHAN. What body of water?

Mr. SMITH. Lake Erie. You can understand that the fish get no protection. A closed time of that nature is no closed time at all.

Mr. GREENE. I still come back to that question of sewage. I notice you failed to state it clearly. Has not that had a serious effect on the fishes in all parts of this country—the dumping of sewage into the rivers and bays?

Dr. SMITH. It has undoubtedly had a bad effect on the fishes.

Mr. GREENE. Has not that reduced the supply and killed the fish?

Dr. SMITH. In many cases of which I am aware it has impaired the spawning grounds of certain fish.

Mr. GREENE. In the Potomac River, hasn't it done so right under your very province?

Dr. SMITH. I would not say that sewage has done great damage here. There have been other forms of water pollution to which I called attention—the escape of gas tar, for instance. We have found large numbers of fishes that have been cultivated at Government expense destroyed by the escape of poisonous materials, like gas tar, waste from pulp mills, mines, etc.

Mr. GREENE. Ought not that to be remedied by legislation?

Dr. SMITH. Undoubtedly. Many of the States have enacted laws prohibiting the discharge of such pollutions in the streams containing fish. It is a rather difficult matter to reach, however, because in States like Pennsylvania, where much damage is done from the escape of waste from mines and factories, it is quite probable that as those industries are so much more valuable than the fishes they would have first consideration.

Mr. CURRY. Doctor, how much would the enactment of this law increase the expenses of your department?

Dr. SMITH. I have not been able to form any idea. This amount of \$30,000 carried by the bill is only an estimate.

Mr. CURRY. Just a start?

Mr. BOWDLE. Has the Government in any way endeavored to stop the spilling of oil in the Delaware which you said had had such a bad effect on the fish?

Dr. SMITH. The Government does not seem to have any jurisdiction. We recently made an investigation there and found that the river was receiving the discharge of oil from works at Wilmington as well as from oil steamers.

Mr. CURRY. Would the enactment of this law have a tendency to reduce the cost of fish to the consumer?

Dr. SMITH. I believe if some such law is enacted it will result in the preservation and increase of the fish supply; and that unless some such law is enacted, either by the States themselves or the Federal Government acting for them, there will be a still further falling off in the fish supply. I can take the case of the sturgeon, which, on account of its size, was one of the first fishes to go. It is almost extinct in many streams where it formerly supported large fisheries.

Mr. BOWDLE. How is that caught?

Dr. SMITH. In almost any kind of apparatus, such as pound nets, gill nets, and seines.

Mr. BOWDLE. And by hook and line?

Dr. SMITH. And also by hook and line in certain waters.

Mr. CURRY. If the United States Government would enact a law prohibiting the merchant ships from discharging their oil within the 3-mile limit, would that help any?

Dr. SMITH. That would help materially in certain waters. On the Hudson River there has been complaint of the same kind that Delaware made recently. We have examined the shad caught in those streams and have had some sampled with reference to their food qualities. The presence of oil was indicated by the taste, and the conclusion was that the fish had been taken out of water that was impregnated with oil or had oil upon the surface.

Mr. HINDS. Does not sewage affect the fish?

Dr. SMITH. This subject of the effects of sewage on fish and oysters has been taken up at great length by sewage commissions in New York City and New Jersey. The run of shad in the Hudson has been greatly reduced by the methods of fishing and by these conditions in the water, and there are very elaborate reports on this point. I will give you references, if you wish.

Mr. HARDY. Can you tell us briefly their conclusions?

Dr. SMITH. That is a big subject and I hardly feel competent to discuss it offhand.

The CHAIRMAN. Can you tell us in one word if they concluded that the sewage was injurious or not?

Dr. SMITH. The conclusion is that the amount of sewage going into the Hudson River and tributaries is interfering with the movements and spawning of migratory fishes, and conditions are becoming more aggravated each year. In parts of New York Harbor at times the sewage is so great in quantity that practically all the free oxygen is taken out of the water, and no fish could possibly exist there.

(The following letter was submitted by Mr. Linthicum:)

DEPARTMENT OF COMMERCE,
BUREAU OF FISHERIES,
Washington, March 16, 1914.

Hon. J. CHARLES LINTHICUM.

House of Representatives, Washington, D. C.

DEAR SIR: My attention has been called to an "extended statement" submitted by Mr. Elliott J. Smith on the hearing on House bill 7775 and sent by him to the members of the Committee on the Merchant Marine and Fisheries. In this statement reference is made to testimony given before the committee by a pound-net fisherman as to the planting by him "in 1900 of sick and dead fry in the Susquehanna"; and the conclusion drawn therefrom by Mr. Elliott J. Smith is that this "shows the inadvisability of allowing any bureau or commission to usurp the combined functions and powers of the House of Representatives, the United States Senate, and the President in making laws."

It is not apparent how the planting of sick and dead fry usurps any functions whatsoever, and I will not discuss this matter.

At the time the testimony in question was given by the pound-net fisherman I had been called out of the committee room, otherwise I might have made a reply if it had been regarded worth while or necessary.

It is, of course, well known to every one who is familiar with the operations of a fish hatchery that certain lots of eggs lack vitality and the fry resulting therefrom are weak and sickly. This results from various causes, among which are delay in obtaining the eggs after the fish have been caught for market, defective fertilization incident to delay, heating, or chilling of eggs on the way to the hatchery, and other physical conditons over which the fish culturist can have little control. Such lots of eggs are always kept separate and receive special attention, and the resulting fry, if any, are usually planted by themselves.

Shad hatching is extremely successful, and the average number of strong, healthy fry produced from sound eggs and planted is 90 to 95 per cent. It is manifestly unfair to take an isolated case and make it the basis for wholesale condemnation of artificial propagation. It would be equally appropriate to condemn tomato culture because frost killed some young plants or to point the finger of scorn at poultry raising because an incubator became overheated.

In the particular case in point it appears from the fisherman's testimony that on the occasion mentioned there was a heavy storm, which interfered with the fishing operations. His statement that he found a gill-net fisherman with 20,000,000 shad eggs, apparently dead, for which he was to be paid by the Government, is, of course, pure imagination. No such number of eggs was ever taken by one man or 20 men at one time; and payment is made only for good eggs, and on the basis of live eggs remaining after they have been in the hatchery jars two days.

The records of the bureau show that the fisherman in question was temporarily employed at the Susquehanna hatchery and that his services were unsatisfactory and were discontinued.

Respectfully, yours,

H. M. SMITH,
Commissioner.

The CHAIRMAN. It is now 1 o'clock, and we will take a recess until 2.30 o'clock p. m.

AFTER RECESS.

The committee reconvened pursuant to the taking of recess.

Mr. LINTHICUM. Mr. Matthews desires to say a few words now.

STATEMENT OF MR. JAMES MATTHEWS, OF PATERSON, N. J., REPRESENTING THE WORKING PEOPLE OF PATERSON, PASSAIC COUNTY, AND PRESIDENT OF THE FISH AND GAME PROTECTIVE ASSOCIATION OF PASSAIC COUNTY.

Mr. MATTHEWS. Mr. Crawford has covered practically all of the ground, and I won't go over that same ground again. I am only going to tell you some facts which I know. I was a member of the

Legislature in New Jersey last winter and I know that any law that was introduced there that interfered in any way, shape, or manner with the pound-net fishermen very seldom saw the light of day.

I took it upon myself to go down and get one of those men to take me out in his boat and demonstrate to me how these fish were caught and how they were disposed of. He informed me they got $2\frac{1}{4}$ and $2\frac{1}{2}$ cents for their fish.

I thought I could relieve my friends in my home town from the expensive prices which they were paying and that here was an opportunity for me to do so, and I asked him if he could sell me 6 barrels of fish. He said he would only be too glad to do it. I said, "Instead of giving you $2\frac{1}{2}$ cents a pound, I will give you 4 cents a pound and give you a guarantee you will receive your money." He grasped the idea right away. When I went back home, I called one of the leading merchants up and put the proposition right up to him. He said, "You should have ordered 20 or 25 barrels." I immediately wrote a letter asking the gentleman instead of sending me 6 barrels a week to send 20. Two days afterwards I received an answer he did not dare sell me one pound of fish. He had found out if he sold any direct to Paterson this clique of men that bought up all the fish would boycott him and practically put him out of business.

Now, the fish in New Jersey are controlled by men in New York, where they do not allow any pound-net fishing on the New York side in New York State, and yet New Jersey has to pay those exorbitant prices. Just as an illustration, last Friday I went around to some of the stores just to get the price, and common smelt, which we used to get 3 or 4 pounds for a quarter some years ago, ran from 18 to 35 cents a pound. The largest smelt reached up to 35 cents a pound; bluefish was 20 and 30. Common hake, which is more common than codfish, was 20 cents a pound. Now, I can not understand, when the poor fisherman only gets $2\frac{1}{2}$ cents, who gets the difference between $2\frac{1}{2}$ and 35.

The CHAIRMAN. I imagine those six or seven men in New York you are talking about get a lion's share of it.

Mr. MATTHEWS. In our State we have a hatchery second to none in this country, situated at Hackettstown. We had to make a contract with the State of New York, or with those fishermen that come over and buy up our fish, to supply our hatchery with food fish for the small fry they are hatching, and had a contract for 75 ton of fish at the rate of 10 cents a pound, caught on their own shores, and the fishermen who caught them only get $2\frac{1}{2}$.

The CHAIRMAN. Right at that point. I do not want you to give the names in the record, if it will cause embarrassment to you, but if you will give me the names of the men in New York who you think control this industry, I will see that they get to the Attorney General, and if there is any chance he will break up that trust.

Mr. MATTHEWS. It was a mighty hard job to find out who controlled the Poultry Trust until a few days ago, when some of them went to jail.

The CHAIRMAN. You say there are six or seven.

Mr. MATTHEWS. I would not want to say how many there are. There may be more than six or seven. but it is a fact, nevertheless, that the New York gentlemen control the New Jersey fish market.

You can not get a barrel of fish from your own State . You have to get them from New York—buy fish caught in New Jersey.

Now, here is another illustration of how they control things in our city—the little city of Passaic, which is 4 miles below Paterson. Last summer there was a boat came up there and they started to sell clams at 75 cents a hundred, and porgies at 3 for a quarter, which reminded us of some 15 or 20 years ago. He was selling them probably for about three or four weeks when up came two other boats, from where I do not know, and if he sold 3, they would sell 4; and if he sold 4, they would sell 5, and they undersold him on everything he offered. After the fifth week he had to give up, and as soon as he gave up they gave up, so you see they were sent there for a purpose. They came there practically to put that man out of business, and we are now paying anywhere from 20 to 35 cents a pound for our fish.

Mr. LINTHICUM. Are you and your association in favor of this bill?

Mr. MATTHEWS. We certainly are. We are like a drowning man, ready to grasp at any straw which we think will relieve us.

The CHAIRMAN. You do not think it will meet that condition, do you?

Mr. MATTHEWS. We think this, Mr. Chairman: If this bill was passed, then the individual States through the country will adopt laws that will conform with the Federal law. That is our idea. I know in our State that we have been after this for the last 10 or 12 years. But any time you mention pound nets they are up in arms, the fishermen themselves. I can not understand why they are against bettering their own condition. I think, in fact, if New Jersey can control their own markets that they would be better off; and I think if this bill were to go into effect it would relieve the consumer, in general, all over the country.

Mr. CURRY. How would the passage of this law stop the monopolizing of the fish by these New York dealers? How would this law stop your fishermen in New Jersey from continuing the present system of selling to the New York markets?

Mr. MATTHEWS. Well, it would be the same as the migratory game. Now, in our State they adopted laws similar to the Federal laws on migratory game, and I would judge they would adopt laws also similar to this.

I heard a remark this morning that game you could see and fish you could not see. That is not so. You can see fish. The practical fisherman knows where the school of fish is, because he is in a position to know. Now, purse net fisherman, he goes out to catch a school of bluefish, and he knows where they are and he casts his net and surrounds them.

Mr. CURRY. The idea of this bill is entirely different from the migratory bird bill. That is to prevent their being killed and sold.

Mr. MATTHEWS. Yes.

Mr. CURRY. Now, the purpose of this is to increase the food supply of the people so that they can get it cheaper. The purpose of the migratory bird bill did not have anything to do with a monopoly in the sale of birds. How will this bill have any effect on the market so you would get cheaper fish? How would it prevent your merchants selling as they do now, to the New York merchants?

Mr. MATTHEWS. I presume the State would then take up and adopt laws to give relief.

Mr. CURRY. Why don't you have them do it now? You could have it done now just as well as after the Government passes this law.

The CHAIRMAN. If this combination or trust is in New York, it could hardly be reached in New Jersey.

Mr. CURRY. I do not think this bill will reach that, Judge.

The CHAIRMAN. I do not myself think it will reach it.

Mr. CURRY. If you will supply the chairman of the committee with the names, the chairman will see that matter is taken up and that that is stopped.

The CHAIRMAN. They are certainly engaged in an interstate business, and it would be a violation of the Sherman Antitrust Act; and it is just a question of getting the Department of Justice after those people, just like after this Poultry Trust.

Mr. MATTHEWS. I know this, that the people in my county are certainly interested in this bill.

Mr. CURRY. They sometimes are interested in bills because they are asked to be.

Mr. MATTHEWS. Yes.

Mr. CURRY. Now, I would like to know how this bill would help you get cheaper fish, and how it is going to prevent your fishermen selling to New York as they do now?

Mr. MATTHEWS. I think that will work out; I think it will work out itself.

The CHAIRMAN. This bill will not work it out. I am entirely in sympathy with your contention and want to relieve the conditions as you claim there, but I will say very frankly that I do not see where the passage of this bill will do it.

Mr. HARDY. It seems to me that this bill will accomplish in waters between States what Mr. Curry says the California bill has accomplished in the waters of his State. It will increase the supply.

The CHAIRMAN. But it does not control the distribution.

Mr. HARDY. No; I do not think so.

Mr. MATTHEWS. That is about all, Mr. Chairman, I had to say.

STATEMENT OF MR. PHILLIP M. SPENCER, OF HAVRE DE GRACE, MD., A HAULING-SEINE FISHERMAN.

Mr. SPENCER. Mr. Chairman, I have a hauling-seine fishery and fish as our grandfathers fished, and in a way that a law never has affected or has given cause to affect, except a law which compels us to close fishing at the 10th of June.

The question has been asked, how has the fish decreased in the last few years. I just want to say that previous to 1900 in my hauling-seine business my annual catch was from twelve to fifteen thousand shad in about 25 days' fishing. Since 1900, from some cause—we attribute to excessive fishing, pound-net fishing down the bay—our catch has fallen off to from 800 to 1,000 shad a year. Last year, 1913, my catch was 1,025 in 20 days. In 1911 my pack of salt herring was 3,976 barrels.

The CHAIRMAN. How many did you say?

Mr. SPENCER. Three thousand nine hundred and seventy-six barrels, allowing 600 to a barrel. In that season, 1911, I made 82 hauls with my seine of 350 fathoms in length and about 600 yards of line at each end. I fished about 60 feet deep.

In 1912 my catch was two thousand nine hundred and seventy-some barrels, making 152 hauls in that season in 23 days.

In 1913 my catch was 1,700 barrels of herring, and I made 182 hauls in 23 days.

Now, before 1910, there, we caught herring that some days we could not make but one haul. Some days we would get a haul of herring that would last two days.

Now, in our hauling a seine we do not kill the fish. We could run around a school of 500,000 herring and bring the seine up in front of the boat and if we did not want them all, they can simply pull the lines away from them and they go out, and we do not kill the fish. I believe I heard stated to the Secretary, yesterday, before the other committee, that pound-net fishermen, when they caught a surplus, they threw them overboard and they dumped them out if they did not take them to the fish factories. Now, you gentlemen are all aware that our game through the country has been almost exterminated by trapping, and it was necessary that our States should pass laws against trapping. Now, that is what a pound net is generally termed—a trap.

The CHAIRMAN. That is what it is; isn't it?

Mr. SPENCER. That is what it is; yes, sir; that is right. And we claim that if you do not stop trapping fish they will be exterminated the same as the game.

The CHAIRMAN. Now, why is that? They catch more fish?

Mr. SPENCER. They fish all the time, night and day and Sunday—all the time.

The CHAIRMAN. But if it is necessary to supply the demand for that kind of food, isn't it all right?

Mr. SPENCER. Well, it looks all right if there is not any other way to catch them; but if they do catch a surplus and throw them overboard, then I do not think it is all right.

The CHAIRMAN. That is all. I wanted to get your reason in the record.

Mr. SPENCER. Now, I just want to say the difference in hauling-seine fishing and the pound net, the pound net is continually set and continually an obstruction. I lay my seine out, what we call "laying out," or putting it overboard, going around in a circle with this rope, and hauling ashore by the steam capstan. I lay my seine out, and in about 30 minutes my seine is closed up and both ends are pulled ashore—in about 30 or 40 minutes both ends are pulled ashore. Then the seine is in about one-third of the channel that I have gone over. There is about two-thirds of the channel for the fish to pass on up to the spawning rounds. Then it takes me about 2 hours to complete a haul in my seine, which is comparatively fishing only one-half an hour, and I make usually about 8 hauls a day—very rarely go over that. It depends on the size of the catch whether I make that many or not. Now, there are 8 hauls in a day and my seine is only fished 4 hours. In 20 days I have only fished 80 hours, on the same ratio right along.

The CHAIRMAN. Now, you get all kinds of fish in your net, don't you?

Mr. SPENCER. Well, at that season, when the herring and shad are in abundance, I have hauled my seine right along, one haul right after the other, and I would not catch a dozen perch in a day, and a

man taking a hook net or pike net and setting it in shallow water a hundred yards from me would catch them by the thousands. Now, we claim the herring push those ashore. We do not catch the herring when we catch the offal, as we call them, and as a usual thing we catch very few at that season of the year.

I employ about 75 or 80 men during the fishing season in cutting and packing and hauling the seine. It takes about 40 men to haul the seine, and about that many to pack the fish.

The CHAIRMAN. What months of the year do you fish?

Mr. SPENCER. Our season usually starts between the 15th and 30th of April and lasts until about the 10th of May. I believe that is the object of this bill, isn't it, for a closed season?

Mr. HARDY. You have about 20 days?

Mr. SPENCER. We average about 20 or 25 days. Now, our season varies considerably on account of the weather and river conditions. If there is a very high river it may keep the fish back for 2 or 3 days, and I remember one season, some years ago—quite a number of years back—that we did not commence fishing there until the 4th day of May. There was not a seine hauled until the 4th day of May, and we fished 15 days then. It only lasted 15 days. But, usually, we begin about the 15th of April and fish until the 10th of May.

The CHAIRMAN. When is the spawning season?

Mr. SPENCER. That is pretty nearly the spawning season. They are there to spawn. Now, I think that if we fish later than that we would then catch some shad and some herring that had turned back after spawning.

So I am in favor of a bill for a closed season for shad and herring. I do not think that it is just right that we should stop all kinds of fishing. I follow the business in the summer season of taking parties out fishing for striped black bass, hook-and-line fishing. We have great sport up in the Susquehanna with the hook and line. The fish commissioner stated this morning that striped bass or rock fish were migratory fish. I do not consider those are migratory fish. They are in Maryland, Virginia, and Massachusetts, and all along the coast all the year around. I do not consider those migratory fish. They are natural inhabitants of those waters. The striped bass or rock fish is a peculiar fish and adapts itself a whole season either in salt or fresh water. And the white perch, we have them with us the whole year. They catch them up in the headwaters of the Chesapeake. We do not get them up in our river all the year. Our river, you know, has terrible ice gorges—I suppose you gentlemen have all read of them—and very few fish stay in the Susquehanna at this season of the year. There are quite a good many bass and wall-eyed pike there now. They stay there all the year unless they are driven out by the ice gorges.

Mr. SMITH of Maryland. Mr. Spencer, what do you do with your surplus fish?

Mr. SPENCER. The surplus herring?

Mr. SMITH of Maryland. Yes.

Mr. SPENCER. I never allow myself to kill any surplus herring.

Mr. SMITH of Maryland. Don't you have any to sell to the fish steamers?

Mr. SPENCER. I never sell any. I have had times I could have loaded a boat, I guess. Last year, Mr. Davis, of the Davis Packing

Co. was at my float with his steamer and wanted fish. I told him if I had to go out and catch fish for the fish factories, edible fish, I would quit the business.

Mr. SMITH of Maryland. Steamers do come up and load, don't they?

Mr. SPENCER. That is the only one that ever came up in the Susquehanna, that came up to the head of the bay. That is the only one that ever came up to the head of the bay in the Susquehanna.

Mr. SMITH of Maryland. A party told me the other day he wanted some fish—I have forgotten just where it was now, but somewhere in the upper part of the bay—and he could not buy them. He went to some large pounds and found steamers lying right alongside of the pounds waiting for them to be taken out of the traps and put on the big steamers.

Mr. SPENCER. That is only hearsay with me. When they are fishing, I am fishing, and I have not any time to go around myself. I just stated what I know myself. I believe it was stated yesterday that Maryland and Virginia had a law against using fish as fertilizer—grinding them up as fertilizer.

Mr. LINTHICUM. Not Maryland; Virginia has.

Mr. SPENCER. I think if that law was looked into it just says as long as edible and when past the stage of eating they can be used as fertilizer.

Mr. JONES of Virginia. The gentleman is very much mistaken about that.

Mr. SPENCER. I think I am correct, sir.

Mr. LINTHICUM. What do those gentlemen who fish with the pound nets do with the surplus fish?

Mr. SPENCER. As I say, it is only hearsay with me. When I am fishing, they are fishing, and it is only hearsay with me. I do not know anything positively.

The CHAIRMAN. You have had a long experience in fishing. What do you suggest in the way of a closed season in order that the fish may have a chance to spawn and propagate? What time of the year and then for what length of time?

Mr. SPENCER. I would suggest the 1st day of June for the closed season to begin.

The CHAIRMAN. And then for a definite length of time?

Mr. SPENCER. Well, I think the spawning season is almost practically over in a couple of months. You might make a closed season for two months or three months.

The CHAIRMAN. Would that late in the season be all right for the spawning season, or is it too late—the 1st day of June?

Mr. SPENCER. Well, that is what they come here for, to spawn, and we have to catch them in the spawning season or there are not any here. I do not think we ought to catch them entirely. Now, our herring only stay here about 20 days, and they come right at once. But the shad do not. You take, I think, the 1st of June, and a man who would catch a hundred shad then, it would be about 60 of them, perhaps, used as food. The rest are all wasted.

Mr. BURKE. How long after the shad go up the Chesapeake Bay is it before they commence to return?

Mr. SPENCER. That depends on how ripe the shad is to spawn. I could not say that. There have been roe shad caught in July and August.

Mr. BURKE. In general terms, two or three weeks?

Mr. SPENCER. In general terms, I think all of June there might be some shad caught.

Mr. BURKE. How long does this run up the bay continue—during how many weeks—to the spawning grounds?

Mr. SPENCER. I could not tell you about shad. The herring only last about three weeks.

Mr. BURKE. Why can you not tell us about the run of the shad?

Mr. SPENCER. They are a longer run than the herring. They may last six weeks. They come a little earlier, a few days earlier, and remain later.

Mr. BURKE. What would you suggest for a closed season—to prevent the fishermen from setting their nets or fishing on certain days of the week?

Mr. SPENCER. Oh, no, sir. By closed season I mean for all times.

Mr. BURKE. Then when will you be able to catch your fish?

Mr. SPENCER. We would catch them in April and May.

Mr. BURKE. When they are coming up?

Mr. SPENCER. When they are going up and down; yes, sir. Now, we are right at the head of tidewater.

Mr. BURKE. You simply want to prevent fishing in the spawning ground, then?

Mr. SPENCER. Yes, sir.

Mr. BURKE. Not while coming up the bay or down the bay?

Mr. SPENCER. Oh, no. Shad are scattered all over, up and down the bay. We are right at the head of the tidewater. We are right at the end of the rapids and right at the head of tidewater. The rapids in the Susquehanna are a natural spawning ground for all fish. It is fresh water. It depends a good deal on the condition of the fish when it arrives there how long it stays, but they stay but a very short time after they have spawned.

Mr. BURKE. What good is it going to do to have the spawning grounds protected if the open waters and the Chesapeake Bay through which they must pass to reach the spawning grounds are filled with nets and fishermen?

Mr. SPENCER. That is a question that I can not answer, simply because the fish have all passed there when they come to us.

The CHAIRMAN. And you think the supply has been limited by those pound nets?

Mr. SPENCER. Yes, sir. We only get what is left. But we do think in the zigzag way the fish have to get to us that it takes them longer. They get there a little later, perhaps, and our fish are usually ripe, ready to spawn, when they get to us.

Mr. BURKE. Where are the pound nets employed—on the lower part of the Chesapeake Bay or all over the bay?

Mr. SPENCER. As I said before, I never run up and down the bay during the fishing season. For my use I just take the fish commissioner's map they had here this morning. That shows us. That is the only information I can give you.

Mr. BURKE. That map shows the entire west coast of Chesapeake Bay. Do you mean to say that is the entire fishing ground?

Mr. SPENCER. That is the way they have to come up. That is the only way they get up and get in the bay.

Mr. HARDY. You are above that?

Mr. SPENCER. We are away up at the head of the bay. A few years ago, when shad was plentiful, when we caught 12,000 or 15,000 shad a season, I sold those shad for \$8, \$10, \$15, and sometimes as high as \$25 a hundred. That is the run, roe and bucks. Last year, when I caught a thousand, I sold the buck for \$20 and \$25, and the roe for \$40 and \$50. A gentleman who spoke this morning said he paid \$1.25, I think, for roe shad in New York or New Jersey, and I am not surprised at it at all, when I was getting 50 cents for them right on my shores. I think it is exorbitant. I think the price is more than it should be if we could catch the fish. I made more money out of the 12,000 or 15,000 shad at \$12 to \$15 a hundred and \$25 than I do at the price I get now.

Mr. GREENE. You were speaking about a closed season, and you thought about the first of June would be a proper time for it.

Mr. SPENCER. Yes, sir.

Mr. GREENE. That would be for your section; that would not cover the coast, say of Long Island Sound, or the coast of Maine?

Mr. SPENCER. No. Our closed season would not hurt us, we hauling-seine fishermen; it would not hurt us after the 20th of May.

Mr. GREENE. You are speaking of yourselves in your section?

Mr. SPENCER. I am speaking of Chesapeake Bay. Of course in the Delaware River, their fishing does not commence until the 1st of May.

Mr. GREENE. According to the way you testified I think it is possible it would appear that it was fair to have that as a closed season, and that would close everybody else out of business.

Mr. SPENCER. Yes, sir; in the Chesapeake Bay and tributaries.

Mr. JONES of Virginia. You stated, I think, that the principal cause for the falling off in the catch of your seines was that the fish were caught in the pound nets. That was your principal reason?

Mr. SPENCER. I do not state that as a fact that they were caught.

Mr. JONES of Virginia. I thought you stated that as a fact?

Mr. SPENCER. Oh, no.

Mr. JONES of Virginia. As your belief?

Mr. SPENCER. That is our supposition, yes, sir.

Mr. JONES of Virginia. Your belief is that the reason you do not catch as many in your seines now as you formerly did, was because they are caught in the pound nets?

Mr. SPENCER. I have never believed and have never felt that way. I do not think that pound nets catch the fish as much as they prevent them from getting to the spawning ground, simply because they are a direct obstruction to the fish heading up the bay. And I believe that plenty of shad and herring are held back in the bay by those obstructions—that they spawn, and the spawn does not mature in the salt water before they get to us.

Mr. JONES of Virginia. Then your statement is this, that the diminution of the fish in the Susquehanna River, those that you catch, is due probably not so much to so many being caught by the pound nets as those that are caught and those that are also obstructed by the pound nets from coming up the bay. That is your idea?

Mr. SPENCER. I will tell you. A few years ago we went to the Maryland Legislature with a bill against pound nets. Our bill was to take the pound nets out of the bay. They could use them in their own rivers as they chose, but to leave an open bay.

Mr. JONES of Virginia. I understand. I have known of this controversy between the upper bay people and the lower bay people for many years, and this is what I want to get at: You attribute the small catches in recent years to the fact the fish can not get up the bay by reason of the obstruction furnished by the pound nets? That is your contention?

Mr. SPENCER. That is our contention; yes, sir.

Mr. JONES of Virginia. And it is not your contention that there has been any diminution in the supply of fish, but simply they could not get up the bay?

Mr. SPENCER. A diminution in our catch. They must be scarce or we would catch more.

Mr. JONES of Virginia. I understand there has been diminution in the catch, but is that attributable to the fact that the fish are not in the bay or that they could not get up?

Mr. SPENCER. I would not state as a fact they are not in the bay, but I simply state they do not come up the bay, because we can not get them.

Mr. JONES of Virginia. But you did state very clearly that the obstruction of the pound nets prevented your catching fish now as you used to catch them, and of course the nets could not obstruct the fish from coming up the bay unless the fish were in the bay to be obstructed.

Mr. SPENCER. Of course they could not.

Mr. JONES of Virginia. Of course they could not. So that in your estimation there is no diminution in the supply of fish, but these pound nets prevent their coming up to-day as they formerly did. Now, in your judgment, if these pound nets were removed, every one taken out of the bay, wouldn't you catch as many fish now in your seines as you did in former years, in your opinion?

Mr. SPENCER. I think we would.

Mr. JONES of Virginia. You think you would?

Mr. SPENCER. Yes, sir.

Mr. JONES of Virginia. So there is actually no diminution in the supply of fish in the bay, but the people in the lower part of the bay have the modern appliances and you have what you called your grandfather's appliances, and they catch them or obstruct them and they do not come up to you; that is a fact?

Mr. SPENCER. Yes, sir; as I said in the beginning, trapping will destroy anything.

Mr. JONES of Virginia. Another thing I want to ask you: I understand it is the contention of the Fish Commission that these obstructions prevent the fish coming up to fresh water where they would spawn if they would get there, and where, if one-tenth reached there, there would be sufficient spawning to keep up the supply of fish?

Mr. SPENCER. That is the Fish Commission's contention.

Mr. JONES of Virginia. That is their contention?

Mr. SPENCER. Yes, sir.

Mr. JONES of Virginia. Your contention is entirely different, I understand, from the Fish Commissioner. You want them to get up there so that you can catch them, and not in order that more of them will spawn. You want them to come up there so you can catch them?

Mr. SPENCER. No; I do not want to prevent any person catching

fish—it has always been my contention that I did not object to any one catching fish if they were caught legally.

Mr. JONES of Virginia. I understand you have your fishing shores right where they spawn?

Mr. SPENCER. Oh, no. They go on beyond us.

Mr. JONES of Virginia. You have your hauls in that neighborhood?

Mr. SPENCER. Yes.

Mr. JONES of Virginia. They can go beyond you?

Mr. SPENCER. Oh, yes. Before the dam was built there at McCalls ferry they went as far as Harrisburg, Pa.

Mr. JONES of Virginia. I understand. Your object in hauling the seine during this season of the year—this few weeks—is to catch the very fish that are coming up the bay for the purpose of spawning and cutting off the supply—is not that so? Is not that the reason you have your seine there, that you want to catch them; and is it not a fact that if you do not catch them they will proceed to the spawning grounds?

Mr. SPENCER. That is why the fish are there.

Mr. JONES of Virginia. And you understand the fish commissioner wants them to go up there to spawn?

Mr. SPENCER. What I explained to you, sir, was in our hauling the seine—in eight hauls, say, a day's fishing, of 80 men, our seine is only fishing 4 hours in 24 hours. Now, there are 20 hours for the fish to pass on by without any obstruction at all—20 hours; and we never fish Sundays.

Mr. JONES of Virginia. I understand that perfectly. But I understand also you to say you catch some few after they have spawned, coming back?

Mr. SPENCER. Oh, yes, a few; yes, sir.

Mr. JONES of Virginia. But the majority of those you catch are those that have not reached the spawning ground, and you catch them before spawning and sell them?

Mr. SPENCER. Of course.

Mr. BURKE. What depth of water do shad and these herring you speak of spawn in?

Mr. SPENCER. Well, the water up there where they seem to be headed for varies from 10 to 3 feet. The rapids there are all rocks, and the river is very swift and very rough, and it varies considerably in depth.

Mr. JONES of Virginia. Do the tides rise and fall where you fish?

Mr. SPENCER. Yes, sir; we have on an average 2½ or 3 feet tides.

Mr. JONES of Virginia. You fish on the flood tide?

Mr. SPENCER. Our tide never changes its course. It only swells up. The Susquehanna River always runs down. The tide is always still; it never runs upstream.

Mr. JONES of Virginia. Don't you fish when it swells?

Mr. SPENCER. We fish right along. We haul out in the morning as fast as we can.

Mr. JONES of Virginia. Don't you fish when it swells, when the fish are coming up?

Mr. SPENCER. That is not our best time; no.

Mr. JONES of Virginia. That is not your best time?

Mr. SPENCER. No, sir. I just want to state the amount of capital invested here or near by in the hauling-seine business.

Col. Murray Vandiver, \$10,000, employs 80 men, packs 3,000 barrels.

John M. Mitchell, \$15,000, employs 100 men, packs 3,000 barrels, cans roe.

Cooleshan & Hogan, \$25,000, employs 100 men, packs 6,000 barrels, cans roe.

Silver Spencer & Co., \$30,000, employs 150 men, packs 7,000 barrels.

P. M. Spencer & Co., \$10,000, employs 80 men, packs 4,000 barrels.

STATEMENT OF HON. ALLEN T. TREADWAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS.

Mr. TREADWAY. Mr. Chairman, I wish to supplement what Dr. Field said this morning in connection with conditions in Massachusetts as applied to the Merrimac and Connecticut Rivers.

My interest is more especially in connection with the Connecticut River, which flows through a portion of my district. As you know by geography, of the relation between Connecticut and Massachusetts, the Connecticut River does not reach the sea on the Massachusetts borders, so that we are entirely dependent on whatever our sister State does. Of course we have the friendliest relations, but nevertheless we are dependent in this instance on whatever regulation or method of procedure Connecticut may see fit to enforce.

So that the opportunity of securing Federal control for the migratory fish, such as shad, bass, and alewife, is of extreme importance to the western section of Massachusetts. And I think it is particularly pertinent at this time, in that it is hoped, in the very near future, a system of control for our developing power plants is to be an issue here with us in Congress. I am glad to see that the President and the members of this Cabinet are taking this matter up at the present time, showing the attitude of the Federal Government on this question.

There is a large power development that would fall to the Government there, so that Federal control of an opportunity for a fishway through any power dam that might be constructed would be of very great value to those interested in fish spawning, and be kept along the line of the Connecticut River.

I therefore want to add just this one word of the interest that the people of my district have in this matter, supplementing what our fish and game commissioner said this morning.

Mr. LINTHICUM. Capt. Mitchell wants to tell the committee how the catch of fish has dwindled in his section.

STATEMENT OF CAPT. G. L. MITCHELL, OF HAVRE DE GRACE, MD.

Mr. MITCHELL. Mr. Chairman, I have been a fishing ever since I was 15 years of age. For the last 15 years I have had control of the Coolihan & Hogan Fisheries at the head of the bay. In 1899 we had a good catch of shad. We caught 16,000 in the spring of 1899. From that time until last spring they have gone down to 3,000, and we fished harder than we did in prior years.

The CHAIRMAN. Are there any less shad caught in Chesapeake Bay now than there were then, or is the other fellow getting the fish?

Mr. MITCHELL. We have a seine of 1,000 fathoms.

The CHAIRMAN. But, then, it is possible that the men further down the bay are catching the fish before they come to you. It is a question of food supply.

Mr. MITCHELL. But at that time there were no pounds in the bay, or they put them in about that time. Now, if that is the case that the pounds in the bay catch the fish, they don't get up to us.

The CHAIRMAN. But are there any less fish now than there was then?

Mr. MITCHELL. There are with us.

The CHAIRMAN. As a matter of food supply. Are there not as many fish now as there were then?

Mr. MITCHELL. No, sir; not with us.

The CHAIRMAN. I know not with you—

Mr. MITCHELL. I can not tell down the bay. I hear of the catches they tell about.

Mr. HARDY. Has your decrease been gradual?

Mr. MITCHELL. Yes, sir; right along.

Mr. HARDY. That might throw some light on it. Those pound apparatuses were put in there about 1899?

Mr. MITCHELL. I think about that time; now, I am not positive.

Mr. HARDY. You say they have been increasing their nets, putting them in there in greater and greater numbers?

Mr. MITCHELL. I hear they have. I have never been down the bay since I have been in charge up here, and do not know anything except hearsay.

Mr. HARDY. But your catch has fallen off gradually a little each year?

Mr. MITCHELL. It has fallen off gradually; yes, sir.

Mr. HARDY. But you do not know whether the aggregate amount of fish caught is as much now as it was then?

Mr. MITCHELL. From what I hear, I think they are, but they must not be to a certain extent. If the fish can not get on the spawning ground to spawn we won't have them.

STATEMENT OF MR. GEORGE W. WILLIAMS, OF FORT DEPOSIT, MD., A FISHERMAN.

Mr. WILLIAMS. It seems to me it does not make any difference how the fish are caught, if the fish are caught. Now, I fish about 3 miles from Mr. Mitchell, there, and I commenced fishing there in 1884. At one time I was the biggest fisherman in Chesapeake Bay. The greatest quantity of fish I ever caught was 1,246 barrels. The most shad I ever caught in one season was 6,200. I fished practically a thousand pound of seine in pound nets. Mr. Spencer caught 25,000 pounds of shad and probably 3,000,000 herrings in the same length of time. It looks like if there is any destruction of the fish, breaking up and destroying the quantity of the fish, why certainly he was going toward the depletion of the fish more than the pound net was. Of course, his fish have all been utilized and sold as food fish.

The CHAIRMAN. Are you opposed to this new net—pound fishing?

Mr. WILLIAMS. I have fished them ever since 1876. I think every man ought to have a right to fish as he likes.

The CHAIRMAN. What per cent of those fish are wasted?

Mr. WILLIAMS. Practically none. We have had the same advantage he has. If our pound net gets full of fish, we cut the top part of it down and fish only with one end, whatever would supply our demands. We do not have to lose any fish, because we can simply take a knife and cut across the top of the net and the fish go down.

Mr. LINTHICUM. Mr. Chairman, I have a document here I want to read. We held a conference on the 23d of September last in the office of the Secretary of Commerce, at which my friend, the gentleman from Virginia, was present and knows just what took place. He knows just what the depletion in the catch of fish has been, not in the upper bay, but in the States of Virginia and Maryland. It is all in the hearings and printed, and I have no doubt he had a copy of it. Now, we find by the statement prepared by the Bureau of Fisheries and submitted to Secretary Redfield that the total catch in Virginia, in 1897, was 11,529,474 pounds.

The CHAIRMAN. Of what?

Mr. LINTHICUM. Of shad. In 1909, it was 7,421,864 pounds. In 1913, it was 2,752,321 pounds. Or, in other words, in the State of Virginia, about which the gentleman was cross-questioning Mr. Spencer and endeavoring to show there was just as many shad as there ever were, according to that statement, the shad have dwindled in his own State.

In my own State, Maryland, we had a catch, in 1890, of 7,127,486 pounds. In 1900, we had a catch of 3,111,181 pounds. In 1912, we had a catch of 1,912,249 pounds. In my State we had a falling off in the whole State of 5,000,000 pounds of shad.

In other words, the diminution of the catch of shad alone in those two States has gone down from 12,000,000 pounds to 2,000,000 pounds. And there must be some reason for it, and no doubt the shad are not there any longer, since they have had these traps or pound nets. These statements also refer to the herring, but I do not want to take up any more of the time of the committee, but merely to interpolate this statement here to show that it is known that the shad have been alarmingly depleted and that there were only about 2,000,000 pounds caught last year, as against 12,000,000 caught in 1887.

Mr. BOWDLE. And do you claim, Mr. Linthicum, that the depletion of shad is due to the modern apparatus of catching?

Mr. LINTHICUM. I claim that the depletion of shad is due to this, that the State of Virginia sets these pound nets, reaching away out into the bay, and, as Dr. Smith tells you, the shad keep along as near the shore as possible, trying to find fresh water in which to go to spawn.

Mr. BOWDLE. Exactly.

Mr. LINTHICUM. And the consequence is they are caught in those pound nets, and those that are not alive when caught are lost. They do not get up the bay to spawn, and the consequence is you can not propagate them.

Dr. Smith has told you that so few got up there that they had to close down the hatchery in the upper bay.

Mr. JONES of Virginia. Do you oppose pound nets?

Mr. LINTHICUM. I am not opposed to pound nets. I am in favor of the regulation of pound nets. I do not believe that pound nets should be permitted to extend way out into the bay, but should be restricted to close to the shore.

Mr. JONES of Virginia. That is what I wish to get at.

Mr. LINTHICUM. Let me answer your question first. I am opposed to the great number you are increasing—as, for instance, in the last two or three years—from 2,500 to upwards of 5,000. That is what I am opposed to. I am in favor of regulating the catch and letting some of them, at least, get up the bay to spawn.

Mr. JONES of Virginia. I understand, then, you are in favor of regulating; that is, not permitting the nets to be put as far out into the bay as they have been in the past. Why do you object to extending the nets out into the bay if the fish keep close to the shore? Why don't you object to placing them near the shore?

Mr. LINTHICUM. I do not say I do not object to having them near the shore. I think you have got to have some pound nets.

Mr. JONES of Virginia. Where would you have them?

Mr. LINTHICUM. I should have them along up the shore, of course, but I would not increase them from about 1,500 a few years ago, or 2,500 two years ago, to nearly 4,500 this year, permitting a condition in which almost the entire bay is covered with pound nets, and the shad are unable to get up the bay.

Mr. JONES of Maryland. What limit would you put on them?

Mr. LINTHICUM. I would leave that to the Department of Commerce. I am also opposed to catching the herring in these pound nets in our State and selling them to your State for fertilizer purposes.

Mr. JONES of Virginia. I have heard you say that before.

Mr. LINTHICUM. Yes; I have said it several times, and I am going to say it a great many more times.

(The statement last above referred to by Mr. Linthicum is as follows):

SECRETARY REDFIELD'S CONFERENCE.

Secretary Redfield, of the Department of Commerce, is fully alive to the importance of fish protection. His knowledge of the subject is not confined to the information he has secured through the official bulletins of the Bureau of Fisheries, which is under his department, but is also based upon his own personal knowledge. Exhibiting unusual activity as the head of a department which brings to him many burdens, he made a personal trip of inspection and investigation. The result of that trip was to make him a more ardent advocate of fish protection than he had ever been before. He called a conference to consider fish conditions in the Chesapeake Bay, to which he invited the governors of Maryland and Virginia and the officers of those two States whose work gave them special knowledge on the subject. That conference was held in the Secretary's private office on September 23, 1913. There was a free interchange of views, the result of which was to impress many of those present with the necessity for the National Government going forward with its protective measures.

At that conference there was submitted by Secretary Redfield a bulletin prepared by the Bureau of Fisheries. The information it contains throws so much light on the subject that I reproduce it here in full:

CONFERENCE IN RE FISHING IN CHESAPEAKE BAY AND TRIBUTARIES.

Of late it has become increasingly evident that radical legislation is imperative if the fish in Chesapeake Bay and its tributaries are to be saved and the great and valuable fishing industry is to be preserved. The past unsuccessful

season has brought the authorities of the States of Virginia and Maryland and the Federal Government face to face with this serious and vital issue. The situation in brief is as follows:

The catch of shad in Virginia has declined, as shown by the following table:

1897. 11,529,474 pounds, or 2,882,368 fish.

1909. 7,421,864 pounds, or 1,880,466 fish.

1913. 2,752,321 pounds, or 688,080 fish (unofficial).

Report of the catch of shad and herring by Neitzey Bros., of Washington, D. C.

SHAD.

1909 -----	9,000
1912 -----	900
1913 -----	700

HERRING.

1909 -----	1,400,000
1912 -----	145,000
1913 (unofficial) -----	60,000

The entire catch for the two seasons of 1912 and 1913 was not more than one day's catch in former years. We operate a seine 1,200 fathoms long (7,200 feet), requiring 45 men and two steam engines to operate it. The business was so poor that we did not pay expenses.

Statement of Mr. Haywood, of Gloucester County, Va., formerly agent for the Old Dominion Steamship Co., identified with steamship interests since 1901:

"The fish in Chesapeake Bay and tributaries is very much on the decrease. In 1901 I shipped 6,000 barrels, and from that year until the present time there has been a steady decrease. In 1912 we shipped only 1,700 barrels. I attribute this to three primary causes: First, that pound nets should not be set so close that fish can not get by to their spawning grounds; second, the mesh is too small; and, third, the fishermen around York Spit, Mobjack, and York Rivers are setting their nets in 40 feet of water, practically stopping up Mobjack Bay from S. E. Bar of Newport News to York Spit. No nets should be set at a greater depth than 25 feet."

THE YIELD OF SHAD IN MARYLAND.

1890. 7,127,486 pounds, or 1,781,872 fish.

1900. 3,111,181 pounds, or 777,770 fish.

1912. 1,912,249 pounds, or 478,062 fish (unofficial).

CATCH OF SHAD IN NORTH CAROLINA.

1908. 3,942,000 pounds, or 985,500 fish.

1910. 5,184,868 pounds, or 1,296,217 fish.

1912. 7,250,000 pounds, or 1,812,500 fish (unofficial).

In 1902 the amount of fish taken in North Carolina waters was 67,584,734 pounds of food fishes. Ten years later, 101,422,000 pounds.

Mr. LINTHICUM (continuing). Mr. Chairman, I ask permission to introduce a letter from Mr. Charles B. Silver upon this law, and also a letter from the Maryland Conservation Association, in which they indorse the bill.

(The letters above referred to by Mr. Linthicum are as follows:)

HAVRE DE GRACE, MD.,
February 17, 1914.

MR. J. CHARLES LINTHICUM, M. C.,
House of Representatives, Washington, D. C.

DEAR SIR: There is a particular kind of fishing that I would like to call to your attention that you may have overlooked in your fish bill now laid before Congress, and that is sinking gill nets on stakes in the bay below Poole's Island. The stakes are driven in all parts of the bay where it is possible to put them, to which are fastened gill nets sunk below the surface of the water and allowed to remain there constantly, except when they are lifted for the purpose

of taking out what fish may have gilled in them. These nets fish seven days and seven nights in every week.

These nets are remarkable for the number of fish they kill, which the owner of the net does not get. Should a shad strike the net head first and become gilled, it will stay there until taken out by the owner, many times dead, for the reason of having been left too long and drowned. More frequently the shad does not become gilled and is held by the tide with its side against the net and is drowned, whereby upon the turn of the tide it is carried away and lost. In this way great numbers of fish are destroyed.

This way of fishing, to my mind, comes second only to the pound nets, which are fast destroying the fish of our bay and rivers, and I trust Congress will pass your bill and give the fish the protection that they should have, for it seems that our State will not enforce what laws they have for the protection of the fish.

I would also like to call your attention to the great number of fike or hoop nets that are being fished in the upper bay contrary to our State law. These nets are to catch perch, pike, bass, etc. They not only catch great quantities of these fish for the market during the summer months, but they destroy enormous quantities of the little fish. A few years ago it was a common catch to have perch weighing a pound or more. Such a fish can not be found now in our waters.

To increase the number of fish I think it will be necessary to have a closed season, and would recommend that June, July, and August be a closed season against taking of all kinds of fish from our waters by nets and seines of all kinds.

Trusting this information may be of some value to you, I am,
Very truly, yours,

CHAS. B. SILVER.

THE MARYLAND CONSERVATION ASSOCIATION,
Baltimore, February 18, 1914.

HON. J. CHARLES LINTHICUM,
Washington, D. C.

DEAR SIR: I regret that business will prevent my attending the hearing in Washington to-morrow upon your bill for national protection to fish.

The Maryland Conservation Association approves of this legislation, and will be only too glad to assist you in any manner to secure it.

Very truly, yours,

W. McCULLOH BROWN.

STATEMENT OF MR. G. R. CALVER, OF HAVRE DE GRACE, MD., IN THE FISHING BUSINESS.

MR. CALVER. I am in the fishing business and have been in it for about 55 years. I would like to ask Mr. Spencer how many roe herrings he put up last year—how many barrels?

MR. SPENCER. I would like to state to the committee Mr. Calver had his say yesterday. Last year I packed nearly 600 barrels of roe herring, an average of 350 to the barrel.

MR. CALVER. I fish pound nets 10 miles below him, and I did not get a barrel.

MR. SPENCER. You did not get many of any kind, did you?

MR. CALVER. No; because the weather was such I could not get them. It was owing altogether to the weather. I have caught them.

Now, you were speaking about pound nets. I do not know the difference between a pound net being in the river and a float being put out from shore. Now, they do not haul from shore. These seines are taken right out in the river and anchored where the fish are, and they fish off that float and fish all the time.

THE CHAIRMAN. You think they need regulating, too?

Mr. CALVER. They need regulation just as much so as anybody else.

Mr. HARDY. Don't you all need a little regulation?

Mr. CALVER. If you will allow me, I want to say a little something about spawning. I heard the gentleman speak about fry. On one occasion, when I was not in pretty good health, they got me to go to a fish-hatching station to take charge of a tug down there. I have been in the fish business all of my life—all kinds. My business was to distribute the spawn—to go wherever they were taking the spawn and then to gather them up, after they were done fishing, and bring them into the hatching station. One night in particular there came a very heavy storm and I was away from the hatching station with some of them. When I arrived at the station some of the gillers had put up, and when I came back they had taken the nets up and taken the shad out of the nets, and, of course, as they put the shad down the nets went on top, and, as a matter of course, the shad were dead.

By the time I got back to the station we seen a light and went over and seen a man hauling his nets, taking that shad out and milking them—squeezing them. I said, "What are you doing that for?" He said, "I am taking them into the station." I said, "You are? What good are they?" He said, "It don't make any difference what good they are; I will get paid for them." I said, "How many have you got?" He said, "I have got about 20,000,000."

It was none of my business, and I have never spoken of this before; but he took them into the station and put them in there. Now, they were no good, but were taken account of by the Government employees.

Now, it was my business to go wherever I was ordered to go. Whatever I was to do was on a bulletin board, and I had to answer that. One morning I got up and it was stormy, and I was ordered to go to certain places. All right. I knew the fellow that was going with me, you know. We were living right in Havre de Grace. We took on I do not know how many cans of fish, and I was asked the question if I could go to Furnace Creek, if I knew the road. I told them I knew the road anywhere on the bay. We went up there and dumped it. I forget how many cans, but I think three big cans. And when they were dumped overboard I left the wheel and went back where they were dumping them, and was standing there talking and I said, "Why, that fish is dead; that fry is dead," and I looked out and they were dead, and they threw them overboard there.

Then I was ordered to Spring Creek, and I went down there and they threw over several cans there, and went to the mouth of the river and threw over several cans there, and they were charged up to the Susquehanna River as fry put in that river.

Now, how can you expect shad to accumulate when that kind of thing is done? I asked the question, "What is that for?" They said, "We have to make a showing before Congress. If we don't those inland men won't vote for an appropriation."

Mr. JONES of Virginia. Do you mean to say that was done under the United States Fish Commissioner?

Mr. CALVER. I was right aboard of the boat. You know that has got something to do with the decrease of fish.

Mr. MANAHAN. What year was that?

Mr. CALVER. I think, if I am not mistaken, it was in 1900.

Mr. MANAHAN. 1900?

Mr. CALVER. I think it was, because in 1901 I went into the pound net fishing.

Mr. MANAHAN. Are you in favor of this bill to put the control of the time of fishing and regulate the fishing and all that under the United States Government?

Mr. CALVER. I am to a certain extent.

Mr. MANAHAN. To what extent?

Mr. CALVER. Well, I am a fair man; I want to give every man a fair chance. I want to give every man a chance.

Mr. MANAHAN. You think there ought to be some regulation?

Mr. CALVER. Before I go any further, I just want to say something I could not help hearing about that man catching fish and the other man did not catch them. I was going to make mention of it yesterday.

Now, last year was 1913. In 1912 I heard of a certain man making a big haul of fish, and I think it was on a Friday night. Saturday went by, and Sunday, in the afternoon, I took my partner and we got in a power boat and I said, "Let us go up and see that gentleman." That was Mr. Michael. When we got up there he was there and his seine was anchored out in the river. They worked all day Saturday to get their fish clear, and Saturday night, and they worked on Sunday. And, by the way, he belongs to church, and he worked on Sunday. I went over to the station. I did not want him to see me, but he found I was there and he came down and asked my advice. He says, "You are an old fisherman, and I want to ask you some questions." I went around and I counted 47 tubs. Now, that tub is a barrel cut in two, you know. They were level full of herring roe.

They were operating there on a scow and had a lot of men in there cutting the shad, cutting the roe. That is what they are all talking about—propagating fish, you know—and he asked me what I thought about that seine anchored out there. I told him I did not like to pass an opinion, because I said, I had been on a seine boat myself. I said, "My advice to you now, Mr. Michael, is to stop hauling that small seine among your fish. You will get dead fish among your fish and spoil the whole of them." He said, "That is the last haul I am going to make." I said, "You won't be able to fish any more," because in going out to my power boat I took an oar and put down to the bottom of the seine, and they were about that deep [indicating] dead, you know. He made that little haul and then took his seine up that Sunday afternoon, and Monday he laid it out again, and he had so many dead fish he couldn't help them mixing with the others, and of course he could not cure dead fish. They were spoiled, and he knew it.

Now, I would like to ask the question, Why didn't Mr. Michael fish last year and why didn't Sam Brawner fish last year? The two shores are together. Overproduction; could not sell them. And those gentlemen said yesterday about Mr. Brawner selling his fish. I know what he sold it for, and I know the men he sold to, and they paid \$3.50 for them.

Mr. LINTHICUM. What kind of fish were they?

Mr. CALVER. Herring.

Mr. MANAHAN. And I want to ask you another question about that matter where you dumped the dead fish into the river?

Mr. CALVER. He didn't dump them; they were already in there.

Mr. MANAHAN. At the time you say the representative put the cans of spawn overboard?

Mr. CALVER. Yes; they were dead; they were no good as fry.

Mr. MANAHAN. That happened, you say, in 1900?

Mr. CALVER. I think it was 1900. I was only with them one year.

Mr. MANAHAN. Have you ever noticed that being done since?

Mr. CALVER. Oh, no. I have never been there.

Mr. MANAHAN. Do you know whether the department has reorganized its force?

Mr. CALVER. It may be.

Mr. MANAHAN. Did you tell anybody about that at that time?

Mr. CALVER. No; it was none of my business.

Mr. MANAHAN. Didn't you think it was your business, since you were in the fishing business?

Mr. CALVER. No; because I never expected to be in the business again, and they didn't pay me. I simply went down there because I was sick and needed a little recreation.

Mr. MANAHAN. As a matter of fact, as a citizen of the country, didn't you think that was your business?

Mr. CALVER. No; I had nothing to do with it.

Mr. MANAHAN. Don't you think that was wrong?

Mr. CALVER. No; I simply did what that man told me to do, and then I did it and did it well.

Mr. MANAHAN. You are willing to overlook anything you see that is done like that, anything crooked, by Government officials, are you?

Mr. CALVER. I can not do any other way?

Mr. MANAHAN. Why not?

Mr. CALVER. Because I could not. Why should I go to work and do that?

Mr. MANAHAN. Why not? It was a dishonest thing to do.

Mr. CALVER. I do not know whether it was dishonest or not.

Mr. MANAHAN. Don't you know it was dishonest?

Mr. CALVER. I do not know whether it was any more dishonest than it is for them to go out in Virginia when the ice is down on the river and to go down there and to try to spawn little sand perch which are of no use to anybody and never grow any bigger. We see them all the time, winter and summer. And then when the shad season comes on we have got to quit because we have not a sufficient appropriation to carry on the fish culture.

Now, here on the 15th day of last May we have a terrible frost. You know when you have a frost like that you do not have any very warm water. These fish won't spawn until the water gets a certain temperature. I used to know what it was, but I have forgotten. Your shad do not come on the bay until late, and unless they are allowed to remain there you lose all of that. That is more use than all the propagating of fish by all the hatcheries of the United States.

That is all I have to say.

STATEMENT OF MR. W. SCOTT SILVER, OF HAVRE DE GRACE,
MD., A FISHERMAN.

Mr. SILVER. I am a seine hauler; one of the few Mr. Jones says are left—one of the men that fishes the float that his grandfather fished. And I will say here that the old float I am fishing to-day has been in operation for 100 years, the same bunch of logs.

It was said here this morning about the contention between the lower bay fishermen and the seine haulers at the head of the bay. We are very greatly in the minority here to-day. Now, the position we occupy as seine haulers at the head of the bay—in fact, we are in the Susquehanna River—is not to put the pound-net men out of business. We are not contending for that. We want to live and we also want to let him live. All that we ask and all that we desire is that he does not close the bay all up. And let us have a closed season of June, July, and August, and, in the pound-net business, from 12 o'clock Saturday, until 6 o'clock Sunday afternoon.

It has been stated by Mr. Spencer here that the hauler when he makes his 120 or 130 hauls during the whole season—of course, we get just what we surround—his seine is really only open about one-half an hour. Now, I think you will find that all of the seine haulers at the upper part of the bay occupy that position.

Mr. CALVER. Mr. Spencer said he paid his men, if you remember, for 25 days and 20 days. I pay my men nearly for 3 months, and I pay them \$25 a month and find food, and some \$150 a season. It takes me nearly 3 months to accomplish what they can accomplish in a few days. They do not have to fish until they hear all us fellows down the bay, that we are catching them. They will make this inquiry: "What is So-and-so doing?" "He ain't doing much." They will quit, and they ain't paying their men a cent.

Now, when we go to catch fish, they know it is only a cat's jump before they get them. They put men on to-morrow and fish 20 days, and then they cut out. We pay our men for three months, and find food and find boots and coats besides, and feed them, and they want good grub. We pay them double the wages; that is what we pay them. My books will show it.

Now, you are talking about taking your net up. We would play smash taking our net up Saturday evening at 6 o'clock and they fishing until 12 o'clock and getting a haul of fish and holding them over until Monday morning. I fish the biggest seines at the head of the Chesapeake Bay.

Mr. HARDY. You understand that these fish come up the stream to spawn, don't you?

Mr. CALVER. Certainly.

Mr. HARDY. And by a process of netting if they are prevented from getting up the stream to spawn, don't that stop the supply?

Mr. CALVER. They go up and spawn and return.

Mr. HARDY. You have not any objections to a regulation that will leave part of that stream open for them to come up to fresh water?

Mr. COLVER. No; no objection to that.

Mr. HARDY. If the object of this bill is just simply to keep up the supply of fish, you are in favor of it; you do not want to cut off the whole supply?

Mr. CALVER. Of course I don't.

Mr. HARDY. Either by way of pound nets or anything else?

Mr. CALVER. Of course I don't.

Mr. HARDY. You want enough of the bay left open for the fish to come up.

Mr. CALVER. Yes, sir.

Mr. HARDY. Are you in favor of leaving part of the time or part of the space? If you do like it is stated North Carolina does, one-third of the space will be constantly open so the fish will come up there, or if you take your obstructions out part of the time, they could come up there; but if you have it obstructed there all of the time, all of the way, they can not get up.

Mr. CALVER. The whole bay up there is only 800 yards, and there is 300 yards of nets in there.

Mr. HARDY. Ought not the law take hold of that and say how far you could put the obstructions there and how long you could keep them there?

Mr. CALVER. I do not want to go in there 800 yards, because I can not hold the ends on account of the tide.

Mr. HARDY. Is it not best for all of you that the law regulate and make each one of you be just to the other?

Mr. CALVER. If they do that, I do not care what they do.

Now, we have a local law passed by the last legislature, for 800 yards. We can not go out any farther than that.

The CHAIRMAN. I think all of you gentlemen would agree it is important to propogate the specie, otherwise all of you will be put out of business. What we are materially interested in here is not which one gets the greatest catch, but what is going to become of the food supply of the country?

Now, who will be heard in opposition?

Mr. BROWN of New York. Mr. W. S. Downs, of Long Island, would like to be heard for a few moments in opposition.

STATEMENT OF MR. W. S. DOWNS, OF BAY SHORE, LONG ISLAND.

Mr. DOWNS. Mr. Chairman, you have heard here to-day a good deal about fishing. We heard some of it yesterday. The first thing I want to say, for fear you would think I would have no business talking on this bill because of the statement of the ex-representative of the assembly in New Jersey, that there were no pound nets set in New York, I am a little bit surprised at the representative of the State of New Jersey, who is in the back door yard of New York City, and who is so interested in fishing and ought to have a copy of the game laws of the city of New York, does not know that there is a pound net in New York.

The fact of the matter is, on Long Island alone there are 300 pound nets, and they are set there by permission of the city and also by the permission of the War Department.

You have heard a good deal about the high cost of living this summer. I have thought a good deal about the high cost of living myself, because it costs me more to live than it used to; but I think in the last analysis of the thing it is not so much the high cost of living as it is the cost of high living.

The CHAIRMAN. You do not call eating fish high living, do you?

Mr. DOWNS. Eating some fish is high living, Mr. Chairman. You have heard from our people in Jersey here that the fish cost so much, and you have heard that the New York markets control the fish of New Jersey. The fact of the matter is that the biggest part of the fish caught in New Jersey goes to Baltimore and Philadelphia markets, and the surplus then is sent up to New York. You heard the statement that the people in New York controlled the fisheries of New Jersey. There is not a man in Fulton Market that owns a pound that is set anywhere in the world.

Mr. MANAHAN. You know that, do you?

Mr. DOWNS. Yes, sir. Not one that owns any one of those pounds.

The CHAIRMAN. I did not understand what your business is?

Mr. DOWNS. I am a fisherman.

Mr. MANAHAN. How do you personally have knowledge of the ownership of those pounds? Have you a list, and are you acquainted with the people?

Mr. DOWNS. I am acquainted with all of the dealers on the Fulton Market, and they tell me they do not own a pound net anywhere in any of the waters.

Mr. MANAHAN. Who are the principal dealers there?

Mr. DOWNS. The principal dealer and the biggest dealer there is the firm of Chesbrough Bros.

Mr. MANAHAN. Now, the next largest?

Mr. DOWNS. Perhaps A. W. Half.

Mr. MANAHAN. The next?

Mr. DOWNS. Lynch & Co.

Mr. MANAHAN. And the next?

Mr. DOWNS. Wallace & Keane, and a whole lot of them.

Mr. MANAHAN. How many of them altogether? You know them all, do you?

Mr. DOWNS. A whole lot of them. S. L. Stirr is another one. I should say there were 17 or 18 large firms.

Mr. MANAHAN. You have talked with all of them as to the ownership of these pound nets?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. Every one of them?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. When did you do that?

Mr. DOWNS. I have done it off and on for a number of years.

Mr. MANAHAN. And they assure you they do not have any interest?

Mr. DOWNS. They do not own a pound in the water that is set anywhere.

Mr. MANAHAN. They do not own it either directly or indirectly?

Mr. DOWNS. No, sir.

Mr. MANAHAN. You believe them, do you?

Mr. DOWNS. I do.

Mr. MANAHAN. Who operates them?

Mr. DOWNS. The fishermen do.

The CHAIRMAN. Right at that point: It is said that the Standard Oil Co. did not own the wells, but they controlled the output. That is what you mean by "owning the pound nets"? But, if they control the market for fish, they control the men that operate the nets, don't they and have the fish for sale?

Mr. DOWNS. Mr. Chairman, I think there is a misconception of the way Fulton Market and the other large markets are conducted. They do not control the output of the fish. They are commission dealers. They do not buy these fish. The men who catch the fish send them to the markets on commission. The dealers do not buy the fish; the fishermen send them there on commission.

And you take a time when a lot of fish is caught. When one man catches a lot, the other man usually does, and when the run is right they get a large quantity of fish. They are put on the market the same as to-day. The retailer comes down, who thinks he wants to buy fish, and he sees a large stock of fish, and he says, "Now, we can get these fish cheap." And he won't pay a large price for them. They know they have got to be sold; and, as stated here, oftentimes they sell for a cent a pound. I have seen them sell for a cent a pound when there was a glut on the market.

Now, the retailer takes those fish. He is a small man, has not a great number of customers. Here is where comes in the cost of living. The people do not go there to buy fish. They won't even go to the retailer to buy them; they will telephone, and then the retailers have got to keep delivery wagons, and they have got to keep men, and, of course, they have got to charge pretty good prices for them or they do not make anything. Therefore, in the handling of them three or four times, it makes the consumer pay a considerable amount for fish.

Mr. MANAHAN. Did you hear the testimony about a lot of fish being occasionally destroyed?

Mr. DOWNS. By the market?

Mr. MANAHAN. Yes.

Mr. DOWNS. I never heard of it by the market. The only fish that comes there, come—

Mr. MANAHAN. You say there is no such thing takes place on the market?

Mr. DOWNS. Not that I know anything about.

Mr. MANAHAN. Whom do you deal with?

Mr. DOWNS. I deal with A. W. Half. I send all the fish I catch to that one firm.

Mr. MANAHAN. What do you sell for?

Mr. DOWNS. What do I sell for?

Mr. MANAHAN. Yes; what do you get for the fish, wholesale?

Mr. DOWNS. Whatever the market price is.

Mr. MANAHAN. What is it, as a rule?

Mr. DOWNS. Sometimes we get 2 cents, sometimes 4, sometimes 6, and occasionally as high as 10 cents a pound.

Mr. MANAHAN. Generally, what do you get?

Mr. DOWNS. On an average, perhaps 3 or 4 cents a pound.

Mr. MANAHAN. Do you know what that same fish sells for by the average retailer?

Mr. DOWNS. I presume weakfish would retail, on an average, from 8 to 10 cents; bluefish, from 15 to 20.

Mr. MANAHAN. On the average, the same fish you get 3 or 4 cents for sells for 15 and 20 cents?

Mr. DOWNS. On the average. It is not the fault of the man on Fulton Market; it is not my fault—

Mr. MANAHAN. Whose fault is it?

Mr. DOWNS. It is the fault of the plan of handling them three or four times.

Mr. MANAHAN. Do you recall that New Jersey passed a law three or four years ago prohibiting any man from owning a net in those pound fisheries in New Jersey?

Mr. DOWNS. I do not.

Mr. MANAHAN. Don't you know that?

Mr. DOWNS. Not prohibiting any man in New York.

Mr. MANAHAN. What was that law?

Mr. DOWNS. I do not know. I have not studied the law, myself.

Mr. MANAHAN. You are not familiar with the law prohibiting nonresidents from owning any of those pound nets?

Mr. DOWNS. No, sir.

Mr. MANAHAN. And you do not know of any necessity for that law that led the New Jersey Legislature to pass it?

Mr. DOWNS. No, sir.

Mr. MANAHAN. Do you know where all of the New York fish comes from to Fulton Market?

Mr. DOWNS. I am told by the men who handle the fish.

Mr. MANAHAN. You do not deal with all of the men—only with one man?

Mr. DOWNS. I ship my fish to them. I know them all.

Mr. MANAHAN. Do you have occasion to go around to all of them and talk?

Mr. DOWNS. I do.

Mr. MANAHAN. What is the occasion?

Mr. DOWNS. The occasion is just such an occasion as this. We have just such legislation to contend with.

Mr. MANAHAN. You say "contend with." What do you mean by that?

Mr. DOWNS. Every year since 1900 there has been a bill introduced in the New York Legislature to stop net fishing.

Mr. MANAHAN. And in what capacity do you represent those interests—as a sort of agent?

Mr. DOWNS. No, sir; I represent myself and the Long Island Fishermen's Association.

Mr. MANAHAN. You represent the Long Island Fishermen's Association?

Mr. DOWNS. I do.

Mr. MANAHAN. And in connection with the matter of appearing on behalf of that association before the legislature, you have had occasion to confer with some of the Fulton Market large dealers, have you?

Mr. DOWNS. I have.

Mr. MANAHAN. Have you worked in harmony and conjunction with them in making a lobby against adverse legislation?

Mr. DOWNS. I work in conjunction with the interests of the fishermen in general charge of the organization.

Mr. MANAHAN. Against what you consider adverse legislation?

Mr. DOWNS. Certainly; yes.

Mr. MANAHAN. And sought the cooperation and help of the dealers on that work?

Mr. DOWNS. Certainly.

Mr. MANAHAN. Have you sought or had funds from them for that purpose?

Mr. DOWNS. No, sir.

Mr. MANAHAN. Have any funds been raised for that purpose by your association or by them?

Mr. DOWNS. No, sir.

Mr. MANAHAN. You have just worked in conjunction with them?

Mr. DOWNS. Yes, sir.

The CHAIRMAN. Would it not be material to know the character of that legislation?

Mr. DOWNS. Yes, sir. And before I got through, I would have led up to that.

The CHAIRMAN. I suppose it is a contest between the different classes of fishermen?

Mr. DOWNS. No, sir. And I am surprised, and I want to pay my respects to it. It is not a contest between different classes of fishermen. This is the first meeting I was ever in, and I have been in a good many, that one class of fishermen were trying to put another class out of business, so that they could catch more fish—because that is practically what it means.

Mr. MANAHAN. How does this put one class out of business any more than the other—this bill?

The CHAIRMAN. He did not say the bill; he said the men.

Mr. DOWNS. I did not say the bill; I said the men. The legislature—the sporting element that I believe is largely in back of this bill—in New York.

Mr. MANAHAN. What is your justification for saying that?

Mr. DOWNS. Experience.

Mr. MANAHAN. That is your justification for saying that the sporting element is largely in back of this bill; what fact have you got?

Mr. DOWNS. The fact that those are the people—

Mr. MANAHAN. Who? How many people?

Mr. DOWNS. What men here to-day have been in favor of this bill but the angler?

Mr. MANAHAN. I am asking you now what facts you have that justify you in making the statement to this committee it is not for the purpose of conserving the fish? You saw the representative of Massachusetts; you would not call him a sporting man, would you?

Mr. DOWNS. I would not call him a sporting man?

Mr. MANAHAN. You would not call him a sporting man personally, would you?

Mr. DOWNS. I do not know whether he is a sporting man personally or not.

Mr. MANAHAN. How do you know that it is the sporting men behind this bill?

Mr. DOWNS. By experience in fighting legislation.

Mr. MANAHAN. How long has your experience been?

Mr. DOWNS. Ever since 1900.

Mr. MANAHAN. How many times have you been interested in fighting legislation?

Mr. DOWNS. Pretty near every winter.

Mr. MANAHAN. And have you had pay for that?

Mr. DOWNS. No, sir; only pay for expenses, by the fishermen.

Mr. MANAHAN. While fighting legislation?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. You said you fought every bill that has been put in that is adverse to you?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. Has there been any bill put in you did not fight?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. Some of them you introduced yourself?

Mr. DOWNS. No, sir. It was in the conservation appropriations that were in the conservation bill.

Mr. MANAHAN. Specifically, what are your objections to this bill?

Mr. DOWNS. Well, if you want it specific—and I would have made it so in the last analysis—it is simply this: This bill of itself appears to be innocent; there is nothing in the bill of itself that stops any kind of fishing—absolutely nothing.

Mr. MANAHAN. You say it “appears to be innocent.” Wherein is it guilty?

The CHAIRMAN. Let him have a chance to explain it.

Mr. MANAHAN. I want to keep him right to the point.

The CHAIRMAN. The witness ought to have some latitude. This is not a criminal trial.

Mr. MANAHAN. There are pretty serious charges made against the proponents of this bill.

The CHAIRMAN. This is a legislative hearing, and it ought to be conducted in a legislative way.

Mr. DOWNS. If this bill becomes a law, in itself, as it reads, it is not dangerous. Section 2, to me, is the danger, where Congress delegates to a single commission, almost—the Secretary of Commerce—the power to make rules and regulations. Rules and regulations mean the law that governs the fishing industry. I do not believe that any single-headed commission should have the power to make the laws and regulations for this Congress after it adjourns.

Mr. MANAHAN. Why?

Mr. DOWNS. Because I do not. I believe the law should be made here. Have in this bill what you want it to do. If we knew what the regulations were going to be, and what we would have to contend with, then we would know something about it. But what have we now? A man starts in in the fishing business. Maybe he wants to invest eight or ten thousand dollars. He invests it. The commission makes a rule that puts that \$10,000 out of business—and they have the power to do it.

Mr. MANAHAN. If they would save a hundred thousand or a million dollars' worth of fish, wouldn't it be right?

The CHAIRMAN. I understand your contention to be this, that if we are going to legislate on this question the bill itself should prescribe, in terms, what the law should be and not leave it to a bureau of the Government to prescribe the regulations?

Mr. DOWNS. That is just my contention, Mr. Chairman. That is the thing we have had to fight in the New York State Legislature, where they have wanted to put the power to make rules and regulations, after the legislature had adjourned, into the hands of the conservation commission. And there it is dangerous business.

Mr. MANAHAN. Don't you think that a conservation commission or a trained body of Government experts are much better qualified

to define the rules and regulations than a committee of Congress, most of whom know nothing whatever about fish?

Mr. DOWNS. I do not.

Mr. LINTHICUM. Don't you realize the impossibility of putting it all in a bill, from the fact as the Congressman from Massachusetts, Mr. Greene, suggested a little while ago when Mr. Spencer was testifying. Mr. Spencer suggested a closed season for this section. Mr. Greene said it would not do for his section. So you see what would do in one section would not do in another section, and what would do for one fish would not do for another; and you can not enumerate all of the fish and sections in the bill.

Mr. DOWNS. Exactly. Therefore, Mr. Linthicum, I believe the States are better able to cope with the situation than either Congress or a commission.

Mr. MANAHAN. But you object to the State of New York doing it by way of a commission?

Mr. DOWNS. I do.

Mr. MANAHAN. You would not trust a State commission of experts to do justice to your people?

Mr. DOWNS. No, sir. They are no more expert than you are.

Mr. MANAHAN. Who are the experts, then? You would not want to leave it for the fishermen themselves, would you?

Mr. DOWNS. The fishermen usually know what is best for them.

Mr. MANAHAN. For the fishermen, yes. But do you think the fishermen, in the light of the testimony here, have exercised judgment of the kind an efficient body of experts would, do you?

Mr. DOWNS. I do, as far as migratory fish go. Now, you have heard men here to-day say you could not get legislation through the State legislatures, haven't you?

Mr. MANAHAN. I think it would be difficult with men like you opposing it.

Mr. DOWNS. Why? Now, look here: I am holding office to-day, elected by the people in the community where I live, and it has been my experience that when the people of a State or a community—the people of a State, not a handful of men, but the people—have made a concentrated effort to get a bill through, and they wanted it, if those legislators did not give it to them, when their term of office expires their political head went off.

Mr. MANAHAN. You think New York has been successful along that line, do you?

Mr. DOWNS. Yes, sir; whenever the people want it they get it. And they will do it here in Maryland or any other State; do not worry about that.

Mr. BOWDLE. But while the States are fighting the fish are disappearing. The testimony seems to be that the sturgeon have already disappeared. Wouldn't you think, therefore, a single commission would be the best for the people under such circumstances?

Mr. DOWNS. I do not know anything about the sturgeon fishery.

Mr. HARDY. If there be one State which is on the ocean border, with a big inland river running through it and into another State, with the advantage in the border State to catch out all the fish as they come through its waters and the interest of another State being entirely destroyed thereby, isn't there a conflicting interest between

these two States that calls for some impartial authority that will regulate their respective rights?

Mr. DOWNS. There may be, but I believe they could be regulated by the States when they get together.

Mr. HARDY. But when you find two States like Virginia and Maryland, if the statements made here are true, that for 100 years have been trying to agree on legislation and at one time got together and agreed through their committees, and at one time one State adopts it and the other one won't; and the other time the first one won't adopt it and the next one would—when these States can not agree and when for these border streams the basis of regulation can not be agreed on by those States, is it not best to have some authority that would regulate it?

Mr. DOWNS. Perhaps it is.

Mr. HARDY. Let me ask you another question: Isn't it a fact that if you want to have these migratory fishes that live in the ocean and spawn in the fresh water—if you want to have them perpetuate themselves—you have got to protect them on the way from the ocean to the spawning ground? Haven't you got to protect them to some degree there; isn't that a fact?

Mr. DOWNS. If there is any depletion in the quantity of fish.

Mr. HARDY. You have got to protect the fish on the way to the spawning ground or into a bay?

Mr. DOWNS. I have never seen any necessity for it yet.

Mr. HARDY. You do not believe this testimony here about the gradual decrease of the fish being taken out of the waters of Virginia and Maryland in the last 12 or 15 years?

Mr. DOWNS. Yes, sir.

Mr. HARDY. And the statement that the catch has gone down from 12,000,000 to 2,000,000?

Mr. DOWNS. Yes; I do believe it.

Mr. HARDY. It does not imply a lessening of the fish supply?

Mr. DOWNS. It does not imply it in other places.

Mr. HARDY. It implies a lessening of the fish supply in those waters?

Mr. DOWNS. Yes, sir.

Mr. HARDY. Then you think they have stopped them here and turned them off somewhere else?

Mr. DOWNS. Maybe, Congressman.

Mr. HARDY. Don't you believe the interests of the fishermen themselves, fishing those waters, requires some means be taken to let them up to the spawning grounds, by some authority?

Mr. DOWNS. I do not know much about the Chesapeake Bay, but I heard the remark yesterday, I think, that there were 8 miles of water between those two points, from shore to shore, coming up, that was left open.

Mr. HARDY. Didn't you hear the remark that the fish-pound net ran out 8 miles there from the land?

Mr. DOWNS. Yes, sir; and I heard there was still 8 miles left between them.

Mr. HARDY. Didn't you understand that the fish coming into the fresh-water inlets came on by there and were caught in those pound nets as they were making their way to fresh water?

Mr. DOWNS. Yes, sir; I heard that statement. Then, why not stop them from putting the nets offshore? Why not take them up from offshore?

Mr. HARDY. I do not know but what your suggestion is a good one, to take them off next to the shore. But you seem to be opposed to all kinds of regulation?

Mr. DOWNS. Not where it is needed.

Mr. HARDY. If it is not needed, according to this statement here, in the statement Mr. Linthicum makes, what kind of a situation would need it, if the supply has decreased from 12,000,000 to 2,000,000 in 10 years?

Mr. DOWNS. Judge, it may be needed in the Chesapeake Bay, but this bill covers the section where I am.

Mr. HARDY. Suppose it is testified before this committee other waters are suffering under similar conditions to Chesapeake Bay?

Mr. DOWNS. Exactly; and they may need it.

Mr. HARDY. We have got to clothe somebody with power in the Chesapeake Bay case, and what power would you create for that?

Mr. DOWNS. The two States can handle it together.

Mr. HARDY. But they can not work together.

Mr. DOWNS. If they can not work together that is not my fault.

Mr. HARDY. How about the Connecticut case, where Connecticut has charge of the mouth of the river and Massachusetts is back here entirely dependent on the treatment of Connecticut. Who would you put in authority there?

Mr. DOWNS. Where is that—Connecticut?

Mr. HARDY. Yes. Take that river which flows up on through Connecticut and up into Massachusetts.

Mr. DOWNS. I think Connecticut can handle her own affairs.

Mr. HARDY. What about Massachusetts; they are cut off.

Mr. DOWNS. I think Massachusetts can handle hers.

The CHAIRMAN. The Legislatures of Virginia and Maryland are now in session. It would be a good idea for them to get busy if they do not want Congress to become interested in this bill.

Mr. DOWNS. I am not objecting to Congress passing a law to regulate fisheries; I am objecting to Congress putting the power in the hands of a department or commissioners, who perhaps we could not get in touch with as easily or could not get in touch with as we could with you people.

Mr. HARDY. There is some force in that argument.

The CHAIRMAN. I understand the gentleman's contention is this: That Congress ought to define the law and not simply place the power in a bureau of fishers or some commission to make the law. Of course, we know, as a matter of fact, that in our postal service most of the laws are made by the Post Office Department under the general powers given by Congress; and I think we all agree, too, as far as possible, Congress itself wants to lay down the rule of action for the citizens and not allow some bureau. But whether it is practicable in this case is a question we will have to consider later.

Mr. LAZARO. Isn't it a fact that every State that has passed a game law has left the regulations to a commission?

Mr. HARDY. They prescribed the time that applies to ducks and geese and everything else.

The CHAIRMAN. In my State they have closed seasons and open seasons, and I will say when we came to pass a law in Missouri the law is very specific. There is very little discretionary power put in any commission.

Mr. MANAHAN. In New York—has not New York prevented the putting of pound nets in New York Bay and Riordan Bay?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. On the New York side?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. Why was that done?

Mr. DOWNS. I do not know, except the fact that the Staten Island people wanted it, possibly—they wanted it and got it.

The CHAIRMAN. I did not catch you answer.

Mr. DOWNS. I say that law was passed, perhaps, because the people of Staten Island wanted the law. They demanded it and got it.

Mr. MANAHAN. Did you oppose that law?

Mr. DOWNS. I did.

Mr. MANAHAN. Wasn't that law passed for the very obvious purpose of protecting the Hudson River from being depleted by virtue of these pound nets?

Mr. DOWNS. No; forget the Hudson River. We haven't any fish in the Hudson River.

Mr. MANAHAN. Why not?

Mr. DOWNS. Because the Hudson River has every river dumping sewage in there—pollution.

Mr. MANAHAN. Wasn't that law made before then?

Mr. DOWNS. No.

Mr. MANAHAN. Do you know when the law was made?

Mr. DOWNS. It has not been so many years ago.

Mr. MANAHAN. When was it made?

Mr. DOWNS. It was made six or seven years ago.

Mr. MANAHAN. And you say there was no consideration of that kind to enable the fish to go up to spawn in the Hudson River?

Mr. DOWNS. No, sir.

Mr. MANAHAN. You are sure of that?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. Can you give us any reason why the people of Staten Island would want to stop the pound fishers?

Mr. DOWNS. I can.

Mr. MANAHAN. Why?

Mr. DOWNS. Because the sporting element wanted to catch them with the hook and line.

Mr. MANAHAN. You think that is the reason?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. You think the New York Legislature has yielded to that influence?

Mr. DOWNS. Yes, sir.

Mr. MANAHAN. Now, what objection would you have to this power being in the hands of a commission of the United States Government to make suitable and reasonable rules and regulations regarding fishing that would not apply against the Government adopting rules and regulations regarding the inspection of meat, for instance?

Mr. DOWNS. I have never seen any meat swimming around.

Mr. MANAHAN. I am talking about the principle of the Government inspecting meat. Can you understand that question, or have I got to make my meaning plain?

Mr. DOWNS. Yes.

Mr. MANAHAN. You know what meat inspection means by a body of Government experts?

Mr. DOWNS. Yes.

Mr. MANAHAN. You comprehend what I say now, do you?

Mr. DOWNS. Yes.

Mr. MANAHAN. Now, can you see any difference in principle in the United States Government having a well-organized body of experts charged with the duty of considering and justly making rules and regulations governing fishing in the waters over which they have jurisdiction—any reason why the Government can not with propriety do that, in principle, just as well as they can take charge of the inspection of meat for the protection of the producer and the consumer?

Mr. DOWNS. I can.

Mr. MANAHAN. What are the reasons that apply in one case and do not apply in the other?

Mr. DOWNS. Because I believe the conditions are absolutely different between meat and fish.

Mr. MANAHAN. They are both articles of food?

Mr. DOWNS. They are both articles of food.

Mr. MANAHAN. And both articles that it is important to protect in their production and handling?

Mr. DOWNS. Yes.

Mr. MANAHAN. Equally important?

Mr. DOWNS. Yes.

Mr. MANAHAN. Is there any higher degree of patriotism and intelligence on the part of the fishermen who properly conduct their business than there is among the butchers and farmers?

Mr. DOWNS. Here is my reason: I do not know anything in the meat business, where the people of the country are divided on wanting to eat pure food, but in this business there is a division among certain classes of people who want to put the commercial fishers entirely out of business for their selfish interests—to catch them on the end of a hook and line.

Mr. MANAHAN. Now, can you tell—I will ask my question again—any difference in principle between the Government controlling both the angler and commercial fisher—can you tell in principle any difference between the Government and an intelligent body of experts, trained in the business, charged with the duty, held responsible for what they do, making fair rules and regulations?

Mr. DOWNS. No.

Mr. MANAHAN. That would prevent the angler from putting the commercial man out of business, or vice versa?

Mr. DOWNS. No; not if they do it.

Mr. MANAHAN. In principle you can not see any difference, then?

Mr. DOWNS. No, sir.

Mr. MANAHAN. Then, you would be in favor of the Department of Commerce doing this if it would fairly administer the law and make only such rules and regulations as would conserve the production of fish, protect the fishermen in their alleged rights, and protect the market, and protect the consumer, would you?

Mr. DOWNS. I would not be in favor of Congress delegating the power to a single-headed commission to make laws on such an important question after this body adjourns.

Mr. MANAHAN. Is this more important than the control of the railroads by the Interstate Commerce Commission or the meat inspection by the meat department?

Mr. DOWNS. It is to me. It is the way I make my living.

Mr. MANAHAN. What experience have you had that justifies you in thinking that Congressmen, elected, as we are, from hither and yon, with no experience, most of us, in the matter of fisheries or anything of that kind—what justifies you in assuming we can go into the details and make as wise an order of law that will control the handling of fish, fishing, spawning, and all that, in all of the navigable waters of the United States, as well as an intelligent commission can do that. What makes you believe we can do that?

Mr. DOWNS. Because I believe you are trained legislators and you will do as your constituents want.

Mr. MANAHAN. Suppose our constituents—each of us represents a particular constituency, and, whether it be above the average, they have, incidentally, a narrow point of view or a selfish point of view. Do you think we would be justified in yielding to our constituents' narrow and selfish point of view in a matter of legislation?

Mr. DOWNS. You would do as your constituents instructed you.

Mr. MANAHAN. I say do you think we should, if the constituency we represent had a narrow and selfish point of view, for instance, the view of destroying the fish that come up the river and pass on to another State? Do you think as national legislators, we would be justified to yield to a constituency at the mouth of the river which wanted to hog the inland territory?

Mr. DOWNS. I do not believe the people would be narrow and want to hog it.

Mr. MANAHAN. Do you believe we would be justified, I say?

Mr. DOWNS. No; I do not think you would.

Mr. MANAHAN. Then you think the National Government should see to it, either in Congress or by a commission, by enacting laws fair both to the industry itself and whatever communities are affected by it, don't you?

Mr. DOWNS. I do.

Mr. MANAHAN. And your only point is that Congress is better equipped to go into the details and prescribe the limits?

The CHAIRMAN. Of course, we would be better able to decide that, I imagine.

Mr. MANAHAN. I know, but he is offering an objection to that. That is your only objection to this law?

Mr. DOWNS. I believe the law should specify what we could do, so that we would know what we have got to do.

Mr. MANAHAN. You think there should be some law regulating it?

Mr. DOWNS. No; not up our way; but if I did, I would know where to go, and I would go to the New York State Legislature, and we would get it.

Mr. MANAHAN. You would get it, would you?

Mr. DOWNS. Yes, sir; we would get it.

Mr. MANAHAN. How would you get it?

Mr. DOWNS. Because if the people needed it, the people would demand it and get it.

Mr. MANAHAN. You said you would get it?

Mr. DOWNS. I did not speak of myself personally.

Mr. MANAHAN. In what sense did you speak?

Mr. DOWNS. I spoke then of the people. If that was needed there, they would get it. Don't think I control the New York State Legislature.

Mr. MANAHAN. You are giving the impression. I am not giving the impression.

Mr. DOWNS. Oh, no; I am not.

Mr. MANAHAN. Now, Mr. Downs, do you think the New York Legislature, organized as it is and as it has been, is as well qualified to pass laws controlling in detail a matter of this kind as an expert commission would be?

Mr. DOWNS. Yes, sir.

The CHAIRMAN. Don't you think we have gumption enough to determine that question for ourselves, without regard to his opinion?

Mr. MANAHAN. I hope so.

The CHAIRMAN. I do not think it is worth while to waste time on this.

You spoke about this as a contest of the anglers against the commercial fishermen.

Mr. DOWNS. Yes.

The CHAIRMAN. Has there been a representative of the anglers before this committee to-day?

Mr. DOWNS. Yes, sir.

The CHAIRMAN. Who is it?

Mr. DOWNS. The president or the ex-president of the Protective Association of Maryland was here.

The CHAIRMAN. Who was that?

Mr. DOWNS. I do not remember what his name is. He was the ex-president of the association of Maryland.

Mr. LINTHICUM. I want to say to the committee that Mr. Denmead, nor any of these other gentlemen he calls the "sporting community," had not spoken to me about this bill until after the bill was introduced. My information was gathered entirely from the Bureau of Fisheries; and it was a statement they had issued that drew my attention to it. And I had been interested in the oyster question, as I say, in Maryland. This gentleman had nothing to do with the preparation of the bill. He came here afterwards, because I thought he had some knowledge of the subject.

Mr. HARDY. Let me supplement that statement by this: The fish commissioners of my State have been very anxious for this committee to report a bill to help out the commissioners at Galveston where the salt-water fish are being depleted by their destruction, not being in any way controlled down there; and that is the general complaint that comes before us.

The CHAIRMAN. I do not regard this as an anglers' complaint at all; and I do not see any evidence of it here to-day.

Mr. DOWNS. Mr. Chairman, I only made that statement because of my experience.

The CHAIRMAN. Oh, well, at Albany that may be true; but this is a broader question than that.

Mr. DOWNS. That is what we are up against.

Mr. SMITH of Maryland. Have you ever been able to get your fishermen to agree or any one in the fish industry now?

Mr. DOWNS. Yes, sir. And I want to say right here, if the fishing industry did not stand together as men they would be put out of business, and they do. You do not find one fishermen there trying to oppose what some other fisherman does. They haul seines, purse nets, and fly nets; and I could stand here and tell you a whole lot of things there—about those other appliances, where they have no pound nets. There is only one logical way to catch edible fish for the markets, and that is by the pound net.

Mr. SMITH of Maryland. They do not agree down here in Maryland and Virginia.

Mr. DOWNS. We have to agree up our way, and do. You have heard from the representative of the paper here. I have read some of the articles of the Evening Star of New Jersey stirring up, as that paper has tried to, strike between the different people of the State in regard to fisheries. And behind it I felt largely the same element was there. There is more fish talked of up our way than you could possibly imagine, unless you were there, because we do not hear anything else. It is a continual strife between the angler and the commercial fisherman. It is there all the time. And this paper picked this matter up. It made good reading and it increased its circulation, and it was good paper stuff, and that is all there is to that paper. It ought not to be given a whole lot of weight before this committee when you know what it is and what it is for.

Mr. MANAHAN. You represent a selfish interest, don't you, just the same as they do?

Mr. DOWNS. I am not being paid for it.

Mr. MANAHAN. You represent the fishermen's industry?

Mr. DOWNS. I represent the fishermen's industry.

Mr. HARDY. Suppose the sporting interest is concerned; I do not care much about that at all. I do not care whether a game sport kills a bird on the wing or catches a fish on a line; I am not disposed generally to give individuals excessive power, if we can go into the details by general provisions of the law. Now, can you suggest any such general rules or provisions of law we could incorporate into this law? What kind of rules or provisions could you devise that would prevent the ultimate destruction of the fish?

Mr. DOWNS. As I see the thing—and I have fished ever since I was 12 years of age—I would say nothing is needed in our section of the country, because there is no depletion.

Mr. HARDY. Another matter—of course, that may be your experience, but we can not ignore the sworn testimony of the many gentlemen here who have given us their experience. This Government went into the prevention of the destruction of seals. Each State went into the prevention of the destruction of birds, and we have recently passed a law. Now, are you in favor of doing that, if we can provide the terms of the law; and can you suggest the terms to cover the situation in regard to migratory fish, if the situation is as has been presented to us—a gradual destruction of those fish that come into interstate waters?

Mr. DOWNS. The only thing I could suggest would be to frame a law to meet those conditions where you find them, and let the people

thrash it out. That is, if it needs regulation in the Chesapeake or in Jersey, then say what that regulation is going to be, and the fishermen will know what they have got to come under; but do not leave it to a commission to make the regulations after this Congress has adjourned and leave us without any redress.

Mr. HARDY. Briefly, that is the position you occupy?

Mr. DOWNS. Briefly, that is the position we occupy, that it ought not to be in the hands of a single-headed commission.

Mr. MANAHAN. What experience have you had with the work of a national commission which justifies you in assuming it will not do exact and even justice in its work?

Mr. DOWNS. Take your migratory-duck bill.

Mr. MANAHAN. Wherein has the commission done anything wrong?

Mr. DOWNS. If you will let me, I will tell you.

The CHAIRMAN. I suggest you do not go into that. I think we have our own convictions on that subject.

Mr. DOWNS. I simply want to state, Mr. Chairman, what happened with the duck bill as far as we are concerned. I got behind the duck bill and helped the men to put it through and make it Federal control, because I believed it would be a good thing. The people of New York State were only kicking because other States had a longer time to shoot than they did. We were stopped the 1st of January, and other States were shooting as late as the 1st of May, and all we wanted was a fair deal. I helped to put that bill through (was before the committees and argued in favor of it) to make it Federal control. What was the result? When the rules came out New York was limited to the 15th day of January, and New Jersey, at her back door, practically the same city, allowed to shoot until the 1st of February. Fair, is it?

Mr. MANAHAN. I do not know.

Mr. DOWNS. No; I do not think you do.

Mr. JONES of Virginia. Mr. Chairman, I would like to ask a few questions: I feel a very deep interest in this subject and I would like to ask how long these hearings are to be continued. I see that the United States Commissioner of Fisheries, Dr. Smith, is here, and there is one question I would like to ask him.

The CHAIRMAN. Proceed.

Mr. JONES of Virginia. Doctor, it has been testified here that there was quite a falling off in the catch of shad in Chesapeake Bay in the waters of Maryland and the waters of Virginia during the last few years; that there has been a continual falling off in those fish. You stated in your testimony that most of the fish were migratory. Those are the fish that this bill applies to. Now, I wish to ask you whether or not there has been any diminution of the marine fish, of the fish in the ocean, in your judgment; these fish that are migratory and come and go? Has there been any diminution in your judgment?

Dr. SMITH. So far as my observation and studies of that question go, the strictly marine fishes which come to our shores from the high seas at certain times of the year, like the bluefish, the sea herring, and the menhaden, have undergone no impairment in quantity.

Mr. Chairman, I would like to make a statement, and perhaps this is as good a time as any, if you will kindly permit me. It is in connection with some testimony that has recently been given before the committee. I think it is only proper that I be allowed to make known to the committee, to incorporate in the record, the position of the Bureau of Fisheries with reference to a measure which will impose upon us duties and powers which we have never even asked. We are not seeking any such responsibility, and I do not recall the writing of a single letter urging support of this bill or any similar measure. We are deeply solicitous for the welfare of the fisheries, and we feel we have done our full duty in the premises when we place the facts before your committee and leave Congress to take such action as seems necessary and proper.

Mr. CURRY. Mr. Chairman, this morning Dr. Smith asked me to put into the record the California law regarding the migratory and other fishes. I find that the law was amended in 1911 and 1913, broadening the scope of the law. Not only are there two days in the week, from Saturday morning at sunrise until Sunday night at sunset, when there is a prohibition of fishing with nets, but there is also a closed season from September 20 to November 15, when fishing with nets is not permitted. The law of California is specific and speaks for itself. It does not leave it to the discretion and judgment of a commission, but vests the commission with authority to enforce the law; and the law is enforced in California.

I wish to state that the California Fish Commission has been in operation since 1870, and it is a pretty good commission and the laws have been enforced. We found that the sewage from the cities was not only detrimental to the fish, but also to the health of the people, and about 15 or 20 years ago the legislature passed a law prohibiting the cities from emptying sewage into the rivers and bays. Later on we found that the oil that was being used by the steamers was detrimental to the fish coming up the rivers to spawn. The legislature passed a law prohibiting the boats from discharging their oil in any of the waters or bays under the jurisdiction of the State, and the destruction of young salmon in the Sacramento River was made the subject of an investigation by the fish and game commission during 1911. Recommendations for such an investigation had been made in previous years, but the loss was not considered great enough to affect the run of fish that annually enter the Sacramento River and its tributaries on their way to the spawning ground at the headwaters of the streams forming the Sacramento River. The investigation disclosed the fact that much destruction was caused by the increasing number of irrigating canals and power plants.

To meet that condition, the commission established a hatchery at the city of Sacramento. Last year the fish batcheries of Sacramento turned loose into the streams between three and four hundred million salmon fry and about 40,000,000 trout.

To show that the law is being enforced, during the 10 years ending the first of January there were 4,728 violators of the fish and game laws arrested and from those convicted \$79,188.48 was collected in fines. The total amount of imprisonment served was 5,420 days.

The merchant fishermen of California are satisfied with the law, and cooperate with the authorities in its enforcement. They do not seem to make any less money. The fish are increasing. Some time

ago we had some difficulty with the fishermen who had an organization or combination in San Francisco to control the trade, and they were sending a lot of fish to the fertilizer and glue factory instead of selling them cheap to the people. We had an investigation by a committee of the State Senate, which reported its findings, and the Senate passed a stringent law. Afterwards, we sent two or three to jail and that stopped it. It has reduced the price of fish to the consumers.

Whether such a law as is before this committee is necessary for the United States to enact or not, I am not very much in favor of putting power in the hands of any one man: and if the States will not pass laws or do not meet the conditions, and it is necessary for Congress to pass laws, it seems to me the law ought to be specific, as it is dangerous to intrust any one individual with too much power.

(The California law referred to by Mr. Curry will be found at the end of this hearing.)

Mr. HARDY. I would suggest that the North Carolina be put into the record, too.

Mr. MANAHAN. Does this law place quite a large discretion with the commission in the matter of regulations?

Mr. CURRY. It does not; none whatever. The law is specific, and speaks for itself.

Mr. MANAHAN. Just the enforcement of the law is placed in the hands of the commission?

Mr. CURRY. Just the enforcement of the law: that is all. The law is a good law, I think.

The CHAIRMAN. Here is one trouble. I understand bills are pending before the Legislature of Virginia, framed by the Commissioner of the Bureau of Fisheries, which, if enacted into law, will remedy the conditions so far as Virginia is concerned. The Legislature of Maryland is not in session and this law is pending, and all those interested in this ought to have them introduced, considered, and passed through the Legislature of Maryland.

Now most of these people, I know from their environment, believe in State rights, but they can not help themselves and they seem to think it is necessary for Congress to take this matter up.

Mr. MANAHAN. How about States like Ohio?

The CHAIRMAN. I say this: They had better go right ahead and do what they can to help themselves.

Mr. LINTHICUM. Mr. Chairman, I dislike very much to be compelled to make this statement, but you may realize what control the fishing industries have in Maryland upon our legislature when I cite you an instance which has come to me in connection with the oyster bill which was placed on our statute books about 1906 or 1908, and in which the State government and the United States Government had invested nearly \$300,000. That law is very seriously in danger of being repealed, and I am informed that the house, by test vote, has practically decided it will be repealed as far as the house is concerned. The senate has not decided yet, nor the governor. But that only shows you what control the fish industry has in the Maryland Legislature.

When the law for the cultivation of oysters—and I want to say in deference to the gentleman from Virginia that they have a splendid law there and there has never been any such danger—in which the

National Government has invested \$75,000 and the State of Maryland \$200,000, is in danger of being repealed and the whole bay and everything being thrown open to the oyster men again and the money lost, I want to say there is need for some such legislation.

Mr. MANAHAN. Is it not true, Mr. Linthicum, that wherever a constituency, or a large proportion of a constituency, are interested in a particular industry, it sort of handicaps the legislature from legislating intelligently?

Mr. LINTHICUM. Absolutely. And, Mr. Chairman, I want to say further, to show you the conflict between the States, that when the gentleman from Virginia states Virginia has passed a law there prohibiting the use of herring for fertilizer purposes—Maryland has not any special law because she has not any fertilizer factories—they catch herring in our State and carry them down into Virginia and sell them for fertilizer, and we can not stop that, because I might say that the man catching them catches them in Maryland and goes into Virginia and sells them.

Mr. WHALEY. You say you have not any fertilizer factories in Maryland?

Mr. LINTHICUM. There is probably one in Maryland that uses a little fish.

Mr. WHALEY. Haven't you one of the largest ones outside of Baltimore?

Mr. LINTHICUM. I mean that use fish for fertilizer. Oh, its output of fertilizer is immense, but not fish fertilizer.

Mr. WHALEY. Don't you use fish scrap in fertilizer?

Mr. LINTHICUM. We do not use any food fish; we do not use any fish caught from the net.

Mr. JONES of Virginia. They are the largest purchasers.

Mr. LINTHICUM. From your people in Virginia, do you mean?

Mr. JONES of Virginia. From all the people.

Mr. LINTHICUM. Not the fish that is caught out of the net, Congressman, no.

Dr. SMITH. I would like to amplify a statement I made a moment ago in reply to a question from Congressman Jones. Dr. Field, the fish commissioner of Massachusetts, has very kindly reminded me of a very marked diminution in the abundance of one of our chief marine fishes. It is the case of the common mackerel, which is caught on the shores of the Middle Atlantic and New England States and the Canadian Provinces. This fish has undergone a great diminution in abundance and has never reestablished itself. In 1885 or 1886, after several years of unprecedented abundance, when 500,000 barrels were caught, the fish dropped off suddenly and the fishing has been a failure ever since.

Mr. JONES of Virginia. That was not due, Doctor, to any improvident State law?

Dr. SMITH. So far as we know, man had nothing to do with it. The purse seine has been blamed for it, but I am free to say the evidence is far from conclusive. The same diminution in abundance has occurred in other countries on the other side of the Atlantic where the purse seine is not used.

There may be other cases similar to that. My previous remarks were especially with reference to the strictly marine fishes of the Atlantic States and off the Virginia coast.

Mr. HARDY. Along that line, was it not shown somewhere that a certain class of fish belonging to the coast of Scotland had disappeared and turned up in a new habitat or outside of the ocean some years ago?

Dr. SMITH. I do not recall any disappearance of a fish from one side of the ocean and its reappearance on the other; but there have been various cases of fish suddenly disappearing, completely leaving a coast and then returning after a period of years. That is the history of some of the great herring fisheries on the coast of Europe and the menhaden on the coast of Maine. This fish was absolutely absent from the waters of Maine for a period of 10 years, but reestablished itself.

STATEMENT OF MR. ELLIOTT J. SMITH, OF ISLET, N. Y.

The CHAIRMAN. Give your name to the stenographer, and state in whose interest you appear.

Mr. SMITH. Elliott J. Smith, of Islet, New York, interested in pound fishing out on the Atlantic Ocean.

This bill, as I understand it, covers the entire country. There has been very little if any reason shown why this bill should be passed, except for the Chesapeake Bay. The conditions in my State—New York—do not require the passage of any bill like this, and for that reason we do not want the bill passed.

We do object, if it should be passed, as Mr. Downs has stated, to any commission or the clerks of any commission preparing laws. What we wish when a law is passed affecting our vital interests is to have our Representative attend the congressional hearing and also represent us on the Floor of Congress to oppose or favor the passage of any bill. We have our representatives. Every fisherman, every citizen of the country, has a Representative, and we should be represented by that man, and not to have a man who is responsible to no one except the President, or the person who appoints him, and whose tenure of office depends upon the term of the officer who appoints him.

Now, as to the Fulton Fish Market, we have shipped all of our fish into the Fulton Fish Market for a number of years—since we have been in the fish business. We have taken them there every time, and we ship for cash; and they have made fair returns every time. I do not know anything about it, but having to make cash returns for all the fish shipped to them I have not any idea that they had attempted to throw overboard any of those fish. And besides, the Fulton Fish Market is the only place we can dispose of our fish. If we have a barrel, or ten barrels, or 100 barrels, or 1,000 barrels the Fulton Fish Market can take care of them. That is the only place we have to take care of them.

Now, gentlemen, we say if any regulation or law affecting Chesapeake Bay is passed, cut out the rest of the country unless it is shown it is desirable in some of the other parts of the country. If it is desirable in Chesapeake Bay, pass such laws as may be necessary; but the rest of the country, and especially New York State, do not require any legislation, so far as I know.

I thank you, gentlemen.

(The following was submitted by Mr. Elliott J. Smith as a supplement to his statement:)

This bill affects practically the entire fishing interests of the country, comprising:

1. One of the chief sources of food supply.
2. The millions of capital invested (chiefly by the fishermen, who have put their all in this means of livelihood).
3. The hundreds of thousands dependent, directly or indirectly, on this industry for a living.

The pernicious feature of the bill is the delegation to the Secretary of Commerce of the power to make laws (rules and regulations) affecting this entire industry. It is unnecessary to call attention to this committee as to how these laws will be actually made—referred to Superintendent of Fisheries and by him referred to his subordinates, and after being prepared by subordinates, formally approved by the Secretary of Commerce.

The incident related at the hearing on February 19 by the Baltimore fishermen as to the distribution in 1900 of sick and dead fry in the Susquehanna shows the inadvisability of allowing any bureau or commission to usurp the combined functions and powers of the House of Representatives, the United States Senate, and the President in the making of laws.

The only necessity shown for the passage of any law is the troubles between two sets of fishermen in the Chesapeake Bay. If any legislation is deemed necessary to correct existing conditions there, it is perfectly proper for this bill to be so amended in exact terms as to remedy existing evils there.

Where necessity arises for legislation conserving the fishing interests, the several States can far better deal with the situation than the Federal Government. California and North Carolina have already adopted satisfactory laws. New York and other States will do likewise should the occasion ever arise requiring it.

We ask that the scope of this bill be limited to Chesapeake Bay.

Mr. JONES of Virginia. Mr. Chairman, before you adjourn, I do not recall whether I have before stated it or not, but I have the honor to represent a district which is very deeply interested in this question, probably more so than any district of the United States. Not one of my constituents is here, and I wish to ask the committee to give me an opportunity—I do not care when—before the hearings are closed to state my views as to this bill. I may desire to bring some of my fishermen constituents before the committee also.

And in this connection I wish to say that I propose to direct my remarks chiefly to the constitutionality of this proposed legislation. I have had occasion to give some consideration to this legal question. Some 20 years ago there was a bill before this committee which involved precisely the principles involved in this bill. The constitutional question was then discussed by some of the ablest lawyers in the country. If I may be permitted to say as much, and I do so with the utmost deference for this committee, it seems to me that the constitutional question involved should have first been considered, since if Congress has no power to enact this legislation, as I contend, the time occupied in hearings upon the merits of the bill would have been saved.

The CHAIRMAN. I agree with you that you ought to have a hearing, but I do not want this committee criticized because they have heard these people.

Mr. JONES of Virginia. Mr. Chairman, I expressly stated I did not mean to reflect in any way upon the action of the committee. In 1886 a bill involving precisely the same principles was before Congress. The committee to which it was referred asked to be discharged from its consideration on the ground that a grave constitutional question was involved which should be passed upon by the

Judiciary Committee. The bill was thereupon referred to the Judiciary Committee, and that committee held that Congress was without the power to enact the legislation proposed. The report was written by John Randolph Tucker, of my State.

The CHAIRMAN. I hope you won't think the committee will not consider that question. That is the very first question that the committee must consider when a bill is introduced in Congress, whether Congress has any jurisdiction to pass it. This bill was set down for hearing to-day before I came from Europe, and these parties all had notice of it. But I think it was entirely proper for the committee to hear this matter on its merits, and if this bill does not meet the situation, and a bill can be framed to meet the situation, and it is the judgment of the committee that the facts warrant it, why, of course, it will be their duty to prepare something else. I am like you. I think there is a serious question about the constitutional right of Congress to pass this bill; but we will consider that question whenever you are ready to be hard, and we will hear you.

Mr. JONES of Virginia. I want to ask the opportunity to be heard; that is all.

(Thereupon, at 5 o'clock p. m., the committee adjourned.)

ACT OF THE CALIFORNIA LEGISLATURE.

CHAPTER 576.—AN ACT TO AMEND SECTION 634 OF THE PENAL CODE OF THE STATE OF CALIFORNIA RELATING TO THE PROTECTION OF SALMON.

[Approved June 16, 1913. In effect from Aug. 10, 1913.]

The people of the State of California do enact as follows:

SECTION 1. Section 634 of the Penal Code of the State of California is hereby amended to read as follows:

634. Every person who, between the twentieth day of September and the fifteenth day of November of each year, except with spear or hook and line, said hook and line to be used in the manner known as angling, takes, catches, or kills any salmon, shad, or striped bass; every person who, between the twentieth day of September and the fifteenth day of November of each year, takes, catches, or kills or has in his possession more than three fresh salmon or more than ten striped bass or shad in any one calendar day; every person who buys, sells, offers, or exposes for sale any fresh salmon, shad, or striped bass between the twentieth day of September and the fifteenth day of November of each year; every person who buys, sells, or offers for sale any quinnat salmon of less than five pounds in weight; every person who shall cast, extend, or draw, or assist in casting, extending, or drawing any net or seine for the purpose of taking or catching salmon, shad, or striped bass in any of the waters in this State, at any time between sunrise of each Saturday and sunset of the following Sunday; every person who takes, catches, or kills salmon, shad, or striped bass in any of the waters of this State with any seine or net, dragnet, or paranzella any of the meshes of which are, when drawn closely together and measured inside the knots, less than six and one-half inches or more than nine and one-quarter inches in length; provided, that any person may take, catch, or kill striped bass in the bay of San Francisco and San Pablo Bay as far up as the Vellejo light, at the mouth of Napa Creek, with a net, dragnet, or paranzella, the meshes of which are, when drawn closely together and measured inside the knots, not less than five inches; provided, that until July 1st, 1914, it shall be lawful to take, catch, kill, or destroy striped bass or shad with nets the meshes of which are, when drawn closely together and measured inside the knots, five and one-half inches or more in length, subject to the seasons herein set forth; every person who takes, catches, or kills any salmon, shad, or striped bass with any seine or net the cork line of which shall be submerged below the surface of the water; every person who shall cast, extend, or draw, or assist in casting, extending, or drawing any net, seine, dragnet, or paranzella for the purpose of taking or catching salmon in the waters of Eel River above East's Ferry, in Humboldt County; every person who shall take,

catch, or kill any salmon except with hook and line within two miles of where a State or United States hatchery or egg-collecting station is located; every person who shall cast, extend, or draw, or assist in casting, extending, or drawing any net, seine, dragnet, or paranzella for the purpose of taking salmon in the waters of Mad River, above Carson's Bridge, in Humboldt County, or who shall take, catch, or kill any salmon in the waters of Mad River at any time except with spear, hook and line, or gill net the meshes of which gill net are, when drawn closely together and measured inside the knots, six and one-half inches or more in length, said gill nets to be used only as hereinafter provided for, is guilty of a misdemeanor; provided, that it shall be lawful to take, catch, or kill salmon in the waters of the Klamath River between the fifteenth day of June and the fifth day of September of each year with spear, hook and line, or gill net the meshes of which gill net are, when drawn closely together and measured inside the knots, six and one-half inches or more in length, and it shall be lawful to take, catch, or kill salmon in the waters of Klamath River between the twentieth day of September and the first day of November of each year with spear, hook and line, or gill net the meshes of which gill net are, when drawn closely together and measured inside the knots, six inches or more in length; and every person who takes, catches, or kills salmon in said Klamath River except with hook, line, or spear between the first day of November and the fifteenth day of June and the fifth day of September and the twentieth day of September is guilty of a misdemeanor; provided further, that it shall be lawful to take, catch, or kill salmon in Eel River in tide water between the twenty-third day of October and the first day of February of the following year, and to take, catch, or kill salmon in the waters of Eel River from East's Ferry down to its mouth in the ocean with gill nets the meshes of which are, when drawn closely together and measured inside the knots, six and one-half inches or more in length, between the fifteenth day of November and the first day of February of the year following; and every person who takes, catches, or kills any salmon in tidewater in Eel River except with spear or hook and line between the first day of February and the twenty-third day of October, and any person who at any time takes, catches, or kills any salmon above tidewater in Eel River except with spear or hook and line or gill nets, as herein provided for, is guilty of a misdemeanor; and provided further, that it shall be lawful to take, catch, or kill salmon in Mad River from its mouth in the ocean to Carson's Bridge with gill net the meshes thereof which are, when drawn close up together and measured inside the knots, six and one-half inches or more in length, between the twenty-third day of October and the first day of February of the year following; and provided further, that every person who takes, catches, or kills any salmon at any time in any stream, river, creek, or lagoon in fish and game districts number five or six, excluding the San Joaquin River, except with hook and line in the manner known as angling, is guilty of a misdemeanor.

The provisions of this section shall not prohibit the possession, purchase, sale, or offer or exposure for sale or shipment of any salmon lawfully taken in the waters of the State when the same shall be accompanied by an invoice in duplicate showing the name and address of the consignor and consignee and bearing, after inspection, such evidence of having been so caught or taken as shall be required by the fish and game commission; and the costs of such inspection and marking must be paid by the person or persons submitting such salmon for inspection and marking.

In the construction of this section, limits of tidewater in Eel River, in Humboldt County, shall be deemed to extend from its mouth to the county concrete bridge below Fortuna; and in the Klamath River to a point on the river north of the residence of James McGarvey; and in Smith River, in Del Norte County, from its mouth to Higgins Ferry.

Nothing in this section shall prevent the United States Bureau of Fisheries or the fish and game commission of this State from taking at all times such fish as they deem necessary for the purpose of artificial hatching.

Any violation of any of the provisions of this section shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail in the county in which the conviction shall be had of not more than six months, or by both such fine and imprisonment, and all fines and forfeitures imposed and collected for any violation of the provisions of this section shall be paid into the fish and game preservation fund.

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