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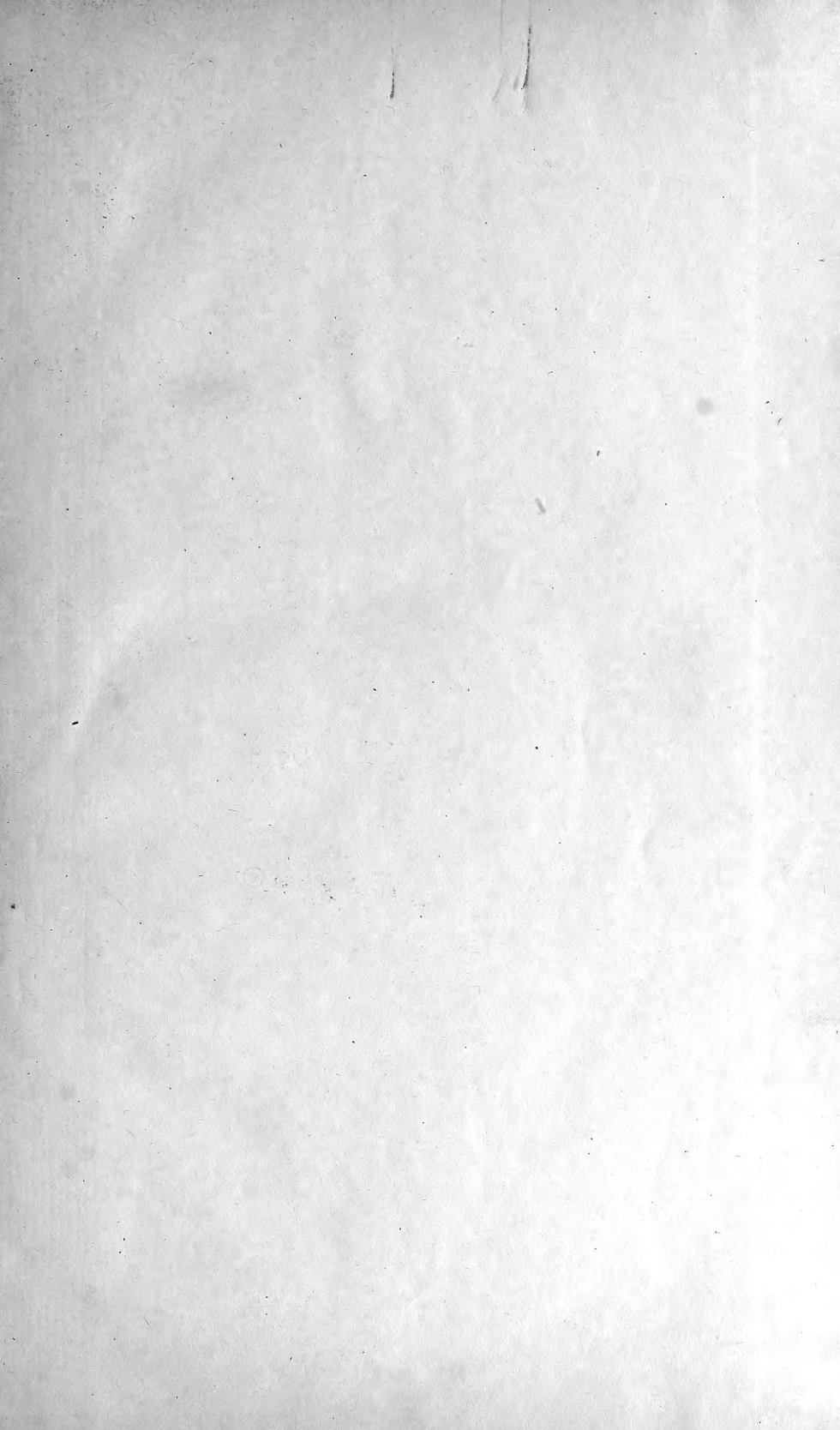
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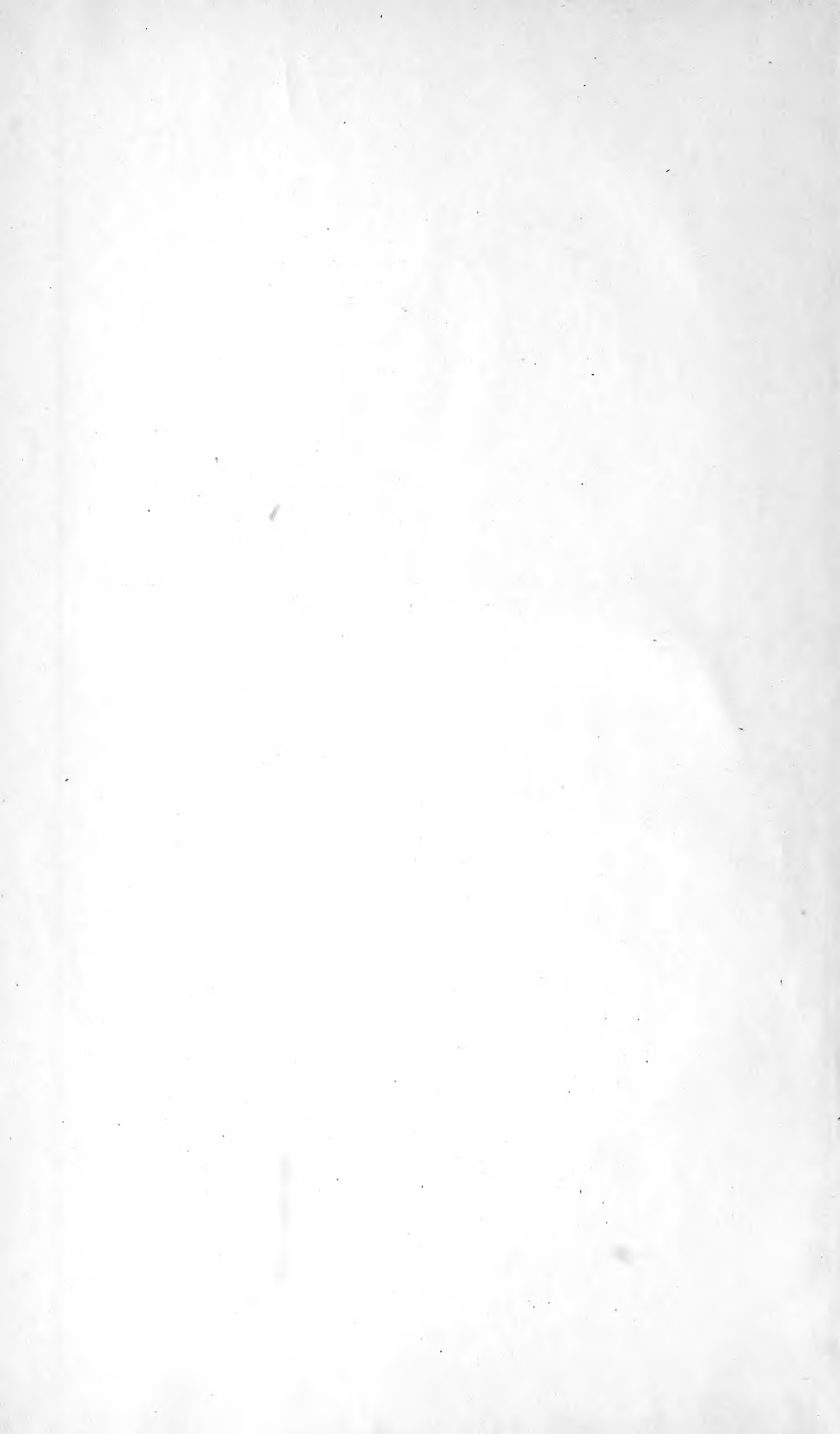
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PROTECTION OF FUR SEALS AND SEA OTTER

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS

OF THE

HOUSE OF REPRESENTATIVES

JANUARY 3 AND 4, 1912

ON

H. R. 16571

A BILL TO GIVE EFFECT TO THE CONVENTION BETWEEN THE GOVERNMENTS OF THE UNITED STATES, GREAT BRITAIN, JAPAN, AND RUSSIA FOR THE PRESERVATION AND PROTECTION OF THE FUR SEALS AND SEA OTTER WHICH FREQUENT THE WATERS OF THE NORTH PACIFIC OCEAN, CONCLUDED AT WASHINGTON, JULY 7, 1911

COMMITTEE ON FOREIGN AFFAIRS

[Committee room, gallery floor, west corridor. Telephone 230. Meets on call.]

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|---|--|
| 1. WILLIAM SULZER, <i>Chairman</i> , of New York. | 12. CHARLES M. STEDMAN, of North Carolina. |
| 2. HENRY D. FLOOD, of Virginia. | 13. EDWARD W. TOWNSEND, of New Jersey. |
| 3. JOHN N. GARNER, of Texas. | 14. B. P. HARRISON, of Mississippi. |
| 4. GEORGE S. LEGARE, of South Carolina. | 15. DAVID J. FOSTER, of Vermont. |
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| 9. JOHN CHARLES LINTHICUM, of Maryland. | 20. GEORGE W. FAIRCHILD, of New York. |
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JANUARY 3 AND 4, 1912

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H. R. 16571

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PROTECTION OF FUR SEALS AND SEA OTTER.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 3, 1912.

The committee met at 10 o'clock a. m., Hon. William Sulzer (chairman) presiding.

The CHAIRMAN. Gentlemen, we will take up for consideration this morning H. R. 16571, introduced by me, entitled "An act to give effect to the convention between the Governments of the United States, Great Britain, Japan, and Russia, for the preservation and protection of the fur seals and sea otter which frequent the waters of the north Pacific Ocean, concluded at Washington July 7, 1911."

The bill reads as follows:

[H. R. 16571, Sixty-second Congress, second session.]

A BILL To give effect to the convention between the Governments of the United States, Great Britain, Japan, and Russia for the preservation and protection of the fur seals and sea otter which frequent the waters of the north Pacific Ocean, concluded at Washington July seventh, nineteen hundred and eleven.

Whereas the plenipotentiaries of the United States, Great Britain, Japan, and Russia did, on the seventh day of July, anno Domini nineteen hundred and eleven, enter into a convention for the preservation and protection of the fur seals and sea otter which frequent the waters of the north Pacific Ocean, which convention was subsequently ratified by the Governments of the United States, Great Britain, Japan, and Russia and the exchange of ratifications thereof was effected on the twelfth day of December, nineteen hundred and eleven: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no citizen of the United States, nor person owing duty of obedience to the laws or the treaties of the United States, nor any of their vessels, nor any vessel of the United States, nor any person belonging to or on board of such vessel, shall kill, capture, or pursue, at any time or in any manner whatever, any fur seal in the waters of the north Pacific Ocean north of the thirtieth parallel of north latitude and including the seas of Bering, Kamchatka, Okhotsk, and Japan; nor shall any such person or vessel kill, capture, or pursue sea otter in any of the waters mentioned beyond the distance of three miles from the shore line of the territory of the United States.

SEC. 2. That no citizen of the United States, nor person above described in the first section, shall equip, use, or employ, or furnish aid in equipping, using, or employing, or furnish supplies to any vessel used or employed, or to be used or employed, in carrying on or taking part in pelagic sealing in said waters, nor shall any of their vessels nor any vessel of the United States be so used or employed; and no person or vessel shall use any of the ports or harbors of the United States, or any part of the territory of the United States, for any purposes whatsoever connected with the operations of pelagic sealing in the waters named in the first section of this act; and no vessel which is engaged or employed, or intended to be engaged or employed, for or in connection with pelagic sealing in such waters shall use any of the ports or harbors or any part of the territory of the United States for any purpose whatsoever.

SEC. 3. That the provisions of the first and second sections of this act shall not apply to Indians, Ainos, Aleuts, or other aborigines dwelling on the coast of the waters mentioned in the first section of this act who carry on pelagic sealing in canoes or undecked boats propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way hitherto practiced by the said Indians, Aleuts, or other aborigines, and without the use of firearms: *Provided, however,* That the exception made in this section shall not apply to Indians, Ainos, Aleuts, or other aborigines in the employment of other persons or who shall kill, capture, or pursue fur seals under contract to deliver the skins to any person.

SEC. 4. That the importation or bringing into territory of the United States, by any person whatsoever, of skins of fur seals taken in the waters mentioned in the first section of this act, or of skins identified as those of the species known as *Callorhinus alascanus*, *Callorhinus ursinus*, and *Callorhinus kurilensis*, or belonging to the American, Russian, or Japanese herds, whether raw, dressed, dyed, or manufactured, except such as have been taken under the authority of the respective parties to said convention, to which the breeding grounds of such herds belong, and have been officially marked and certified as having been so taken, is hereby prohibited; and all such articles imported or brought in after this act shall take effect shall not be permitted to be exported, but shall be seized and forfeited to the United States.

SEC. 5. That the President shall have power to make regulations to carry this act and the said convention into effect, and from time to time to add to, modify, amend, or revoke such regulations, as in his judgment may seem expedient. It shall be the duty of the Secretary of Commerce and Labor, under the direction of the President, to see that the said convention, the provisions of this act, and the regulations made thereunder are executed and enforced; and all officers of the United States engaged in the execution and enforcement of this act are authorized and directed to cooperate with the proper officers of any of the other parties to the said convention in taking such measures as may be appropriate and available under the said convention, this act, or the regulations made thereunder for the purpose of preventing pelagic sealing as in this act prohibited.

SEC. 6. That every person guilty of a violation of the provisions of said convention, or of this act, or of any regulations made thereunder, shall, for each offense, be fined not less than two hundred dollars or more than two thousand dollars, or imprisoned not more than six months, or both; and every vessel, its tackle, apparel, furniture, and cargo, at any time used or employed in violation of this act, or of the regulations made thereunder, shall be forfeited to the United States.

SEC. 7. That if any vessel shall be found within the waters to which this act applies, having on board fur-seal skins, or bodies of seals, or apparatus or implements for killing or taking seals, it shall be presumed that such vessel was used or employed in the killing of said seals, or that said apparatus or implements were used in violation of this act, until the contrary is proved to the satisfaction of the court, in so far as such vessel, apparatus, and implements are subject to the jurisdiction of the United States.

SEC. 8. That any violation of the said convention, or of this act, or of the regulations thereunder, may be prosecuted either in the district court of Alaska, or in any district court of the United States in California, Oregon, or Washington.

SEC. 9. That it shall be the duty of the President to cause a guard or patrol to be maintained in the waters frequented by the seal herd or herds and sea otter, in the protection of which the United States is especially interested, composed of naval or other public vessels of the United States designated by him for such service; and any officer of any such vessel engaged in such service and any other officers duly designated by the President may search any vessel of the United States, in port, or in territorial waters of the United States, or on the high seas, when suspected of having violated, or being about to violate, the provisions of said convention, or of this act, or of any regulations made thereunder, and may seize such vessel and the officers and crew thereof and bring them into the most accessible port of the Territory and States mentioned in the eighth section of this act for trial.

SEC. 10. That any vessel or person described in the first section of this act offending or being about to offend against the prohibitions of the said convention, or of this act, or of the regulations made thereunder, may be seized and detained by the naval or other duly commissioned officers of any of the parties to the said convention other than the United States, except within the

territorial jurisdiction of one of the other of said parties, on condition, however, that when such vessel or person is so seized and detained by officers of any party other than the United States such vessel or person shall be delivered as soon as practicable at the nearest point to the place of seizure, with the witnesses and proofs necessary to establish the offense so far as they are under the control of such party, to the proper official of the United States, whose courts alone shall have jurisdiction to try the offense and impose the penalties for the same: *Provided, however,* That the said officers of any party to said convention other than the United States shall arrest and detain vessels and persons, as in this section specified, only after such party, by appropriate legislation or otherwise, shall have authorized the naval or other officers of the United States duly commissioned and instructed by the President to that end to arrest, detain, and deliver to the proper officers of such party vessels and subjects under the jurisdiction of that Government offending against said convention or any statutes or regulations made by that Government to enforce said convention. The President of the United States shall determine by proclamation when such authority has been given by the other parties to said convention, and his determination shall be conclusive upon the question; and such proclamation may be modified, amended, or revoked by proclamation of the President whenever, in his judgment, it is deemed expedient.

SEC. 11. That the Secretary of Commerce and Labor, on his authorized agents, shall have authority to receive on behalf of the United States any fur-seal skins taken as provided in the thirteenth and fourteenth articles of said convention and tendered for delivery by the Governments of Japan and Great Britain in accordance with the terms of said articles; and all skins which are or shall become the property of the United States from any source whatsoever shall be sold by the Secretary of Commerce and Labor in such market, at such times, and in such manner as he may deem most advantageous; and the proceeds of such sale or sales shall be paid into the Treasury of the United States. And the Secretary of Commerce and Labor shall likewise have authority to determine the number of fur seals to be taken annually on the Pribilof Islands, or any other islands or shores of the waters mentioned in the first article of said convention and subject to the jurisdiction of the United States to which any seal herds hereafter resort; to direct the taking of the same; to deliver to the authorized agents of the Canadian Government and the Japanese Government the skins to which they are entitled under the provisions of the tenth article of said convention; to pay to Great Britain and Japan such sums as they are entitled to receive, respectively, under the provisions of the eleventh article of said convention; to retain such skins as the United States may be entitled to retain under the provisions of the eleventh article of said convention; and to do or perform, or cause to be done or performed, any and every act which the United States is authorized or obliged to do or perform by the provisions of the tenth, eleventh, thirteenth, and fourteenth articles of said convention; and to enable the Secretary of Commerce and Labor to carry out the provisions of the said eleventh article there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of four hundred thousand dollars.

SEC. 12. That the term "pelagic sealing" where used in this act shall be taken to mean the killing, capturing, or pursuing in any manner whatsoever of fur seals while the same are in the water. The word "person" where used in this act shall extend and be applied to partnerships and corporations.

SEC. 13. That this act shall take effect immediately, and shall continue in force until the termination of the said convention.

The CHAIRMAN. I understand the State Department is represented before the committee this morning by Mr. Anderson, and the committee will be very glad to hear Mr. Anderson in regard to this bill.

STATEMENT OF MR. CHANDLER P. ANDERSON, COUNSELOR FOR THE DEPARTMENT OF STATE.

MR. ANDERSON. Mr. Chairman and members of the committee, the treaty to which the chairman has referred requires congressional legislation to give it effect, so far as the United States is concerned, and also in order to meet some of the obligations undertaken by this

Government under it; and this bill is prepared for the purpose of accomplishing those results. Its preparation was the result of conferences between the Departments of State, Treasury, Justice, and Commerce and Labor. It is the result of the joint efforts of those departments, and a great deal of care and attention was given, not only to its relation to the treaty, but to its relation to existing legislation. I think nearly all the provisions of it are reflected in one way or another by previous legislation. If the committee would care to have me go through the different sections of the bill for the purpose of showing its relation to existing law, I have a memorandum here which would enable me to do so. I think the provisions are quite simple, and a comparison between the provisions of the treaty and the provisions of the bill will show the reasons for them, and I can leave with the committee a copy of this memorandum to which I refer.

(The memorandum here referred to will be found at the end of Mr. Anderson's statement.)

The CHAIRMAN. You can present the matter, Mr. Anderson, just as you desire.

Mr. ANDERSON. I desire only to meet the wishes of the committee. If the bill is not entirely clear, and if there are any questions which the committee wish to ask me, I would be glad to answer them.

Mr. BARTHOLDT. Mr. Anderson, is the phraseology of this bill identical with the terms of the convention?

Mr. ANDERSON. I could hardly say identical, but it is based altogether on the terms of the convention, and it is intended to carry into effect the terms of the treaty, and it does not deal, except in one particular, with the relation of our own officials to the seal herd—that is, on shore. The purpose of the treaty is to prohibit permanently pelagic sealing—that is, sealing at sea by all persons and vessels subject to the jurisdiction of the four countries who are parties to the convention—and as that method of sealing is carried on outside of the jurisdiction of any one of the countries it required joint action of them all to subject their citizens or subjects to the laws of any of the other countries. It is for that purpose that this treaty was made, and this bill is drawn to carry out those terms of the treaty which require legislation to make them effective. Of course, we do not need a treaty to enable us to regulate the killing of seals within our own jurisdiction.

Mr. GOODWIN. Mr. Anderson, if this legislation is enacted will the other parliaments of the other powers have to take similar action in order to make it effective?

Mr. ANDERSON. I understand that Great Britain has already under consideration in the British Parliament legislation to give effect to the treaty, so far as Great Britain is concerned. I understand that Japan will be able, by means of an executive order or some less formal measure than an act of Parliament, to put the treaty into effect, and Russia in the same way.

Mr. GOODWIN. The contracting parties are Great Britain, the United States, Russia, and Japan, are they not?

Mr. ANDERSON. Yes.

Mr. FOSTER. Has the treaty been promulgated yet?

Mr. ANDERSON. Yes; the ratifications were exchanged on the 12th of December, and the treaty by its own terms went into effect on the

15th. It was proclaimed on the 14th of December. Under the treaty the United States is obligated to pay a lump sum of money to Great Britain and to Japan in consideration of their prohibiting their subjects from engaging in pelagic sealing; and that is one of the reasons why it is important to have this legislation, because the terms of the treaty require that this sum shall be paid when the treaty goes into operation.

The CHAIRMAN. Mr. Anderson, have you a copy of the treaty?

Mr. ANDERSON. Not in the form in which it has been printed as a document.

The CHAIRMAN. Will you put the treaty as it exists to-day in the record?

Mr. ANDERSON. This is a copy in the form in which it was proclaimed by the President:

[Treaty series, No. 564.]

CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS PROVIDING FOR THE PRESERVATION AND PROTECTION OF FUR SEALS.

[Signed at Washington, July 7, 1911. Ratification advised by the Senate, July 24, 1911. Ratified by the President, November 24, 1911. Ratified by Great Britain, August 25, 1911. Ratified by Japan, November 6, 1911. Ratified by Russia, October 22, 1911 (November 4, 1911). Ratifications exchanged at Washington, December 12, 1911. Proclaimed, December 14, 1911.]

By the President of the United States of America—A proclamation.

Whereas a Convention between the United States of America, Great Britain, Japan and Russia providing for the preservation and protection of the fur seals which frequent the waters of the North Pacific Ocean, was concluded and signed by their respective Plenipotentiaries at Washington, on the 7th day of July, one thousand nine hundred and eleven, the original of which Convention, being in the English language, is word for word as follows:

The United States of America, His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, His Majesty the Emperor of Japan, and His Majesty the Emperor of all the Russias, being desirous of adopting effective means for the preservation and protection of the fur seals which frequent the waters of the North Pacific Ocean, have resolved to conclude a Convention for the purpose, and to that end have named as their Plenipotentiaries:

The President of the United States of America, the Honorable Charles Nagel, Secretary of Commerce and Labor of the United States, and the Honorable Chandler P. Anderson, Counselor of the Department of State of the United States;

His Britannic Majesty, the Right Honorable James Bryce, of the Order of Merit, his Ambassador Extraordinary and Plenipotentiary at Washington, and Joseph Pope, Esquire, Commander of the Royal Victorian Order and Companion of the Order of St. Michael and St. George, Under Secretary of State of Canada for External Affairs;

His Majesty the Emperor of Japan, Baron Yasuya Uchida, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, his Ambassador Extraordinary and Plenipotentiary at Washington; and the Honorable Hitoshi Dauké, Shoshii, Third Class of the Imperial Order of the Rising Sun, Director of the Bureau of Fisheries, Department of Agriculture and Commerce;

His Majesty the Emperor of all the Russias, the Honorable Pierre Botkine, Chamberlain of His Majesty's Court, Envoy Extraordinary and Minister Plenipotentiary to Morocco, and Baron Boris Nolde, of the Foreign Office;

Who, after having communicated to one another their respective full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

The High Contracting Parties mutually and reciprocally agree that their citizens and subjects respectively, and all persons subject to their laws and treaties, and their vessels, shall be prohibited, while this Convention remains

in force, from engaging in pelagic sealing in the waters of the North Pacific Ocean, north of the thirtieth parallel of north latitude and including the Seas of Bering, Kamchatka, Okhotsk and Japan, and that every such person and vessel offending against such prohibition may be seized, except within the territorial jurisdiction of one of the other Powers, and detained by the naval or other duly commissioned officers of any of the Parties to this Convention, to be delivered as soon as practicable to an authorized official of their own nation at the nearest point to the place of seizure, or elsewhere as may be mutually agreed upon; and that the authorities of the nation to which such person or vessel belongs alone shall have jurisdiction to try the offense and impose the penalties for the same; and that the witnesses and proofs necessary to establish the offense, so far as they are under the control of any of the Parties to this Convention, shall also be furnished with all reasonable promptitude to the proper authorities having jurisdiction to try the offense.

ARTICLE II.

Each of the High Contracting Parties further agrees that no person or vessel shall be permitted to use any of its ports or harbors or any part of its territory for any purposes whatsoever connected with the operations of pelagic sealing in the waters within the protected area mentioned in Article I.

ARTICLE III.

Each of the High Contracting Parties further agrees that no sealskins taken in the waters of the North Pacific Ocean within the protected area mentioned in Article I, and no sealskins identified as the species known as *Callorhinus alascanus*, *Callorhinus ursinus*, and *Callorhinus kurilensis*, and belonging to the American, Russian or Japanese herds, except such as are taken under the authority of the respective Powers to which the breeding grounds of such herds belong and have been officially marked and certified as having been so taken, shall be permitted to be imported or brought into the territory of any of the Parties to this Convention.

ARTICLE IV.

It is further agreed that the provisions of this Convention shall not apply to Indians, Ainos, Aleuts, or other aborigines dwelling on the coast of the waters mentioned in Article I, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced and without the use of firearms; provided that such aborigines are not in the employment of other persons or under contract to deliver the skins to any person.

ARTICLE V.

Each of the High Contracting Parties agrees that it will not permit its citizens or subjects or their vessels to kill, capture or pursue beyond the distance of three miles from the shore line of its territories sea otters in any part of the waters mentioned in Article I of this Convention.

ARTICLE VI.

Each of the High Contracting Parties agrees to enact and enforce such legislation as may be necessary to make effective the foregoing provisions with appropriate penalties for violations thereof.

ARTICLE VII.

It is agreed on the part of the United States, Japan, and Russia that each respectively will maintain a guard or patrol in the waters frequented by the seal herd in the protection of which it is especially interested, so far as may be necessary for the enforcement of the foregoing provisions.

ARTICLE VIII.

All of the High Contracting Parties agree to cooperate with each other in taking such measures as may be appropriate and available for the purpose of preventing pelagic sealing in the prohibited area mentioned in Article I.

ARTICLE IX.

The term pelagic sealing is hereby defined for the purposes of this Convention as meaning the killing, capturing or pursuing in any manner whatsoever of fur seals at sea.

ARTICLE X.

The United States agrees that of the total number of sealskins taken annually under the authority of the United States upon the Pribilof Islands or any other islands or shores of the waters mentioned in Article I subject to the jurisdiction of the United States to which any seal herds hereafter resort, there shall be delivered at the Pribilof Islands at the end of each season fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Canadian Government and fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Japanese Government; provided, however, that nothing herein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose such restrictions and regulations upon the total number of skins to be taken in any season and the manner and times and places of taking them as may seem necessary to protect and preserve the seal herd or to increase its number.

ARTICLE XI.

The United States further agrees to pay the sum of two hundred thousand dollars (\$200,000) to Great Britain and the sum of two hundred thousand dollars (\$200,000) to Japan when this Convention goes into effect, as an advance payment in each case in lieu of such number of fur-seal skins to which Great Britain and Japan respectively would be entitled under the provisions of this Convention as would be equivalent in each case to two hundred thousand dollars (\$200,000) reckoned at their market value at London at the date of their delivery before dressing and curing and less cost of transportation from the Pribilof Islands, such market value in case of dispute to be determined by an umpire to be agreed upon by the United States and Great Britain, or by the United States and Japan, as the case may be, which skins shall be retained by the United States in satisfaction of such payments.

The United States further agrees that the British and Japanese share respectively of the sealskins taken from the American herd under the terms of this Convention shall be not less than one thousand (1,000) each in any year even if such number is more than fifteen per cent (15%) of the number to which the authorized killing is restricted in such year, unless the killing of seals in such year or years shall have been absolutely prohibited by the United States for all purposes except to supply food, clothing, and boat skins for the natives on the islands, in which case the United States agrees to pay to Great Britain and to Japan each the sum of ten thousand dollars (\$10,000) annually in lieu of any share of skins during the years when no killing is allowed; and Great Britain agrees, and Japan agrees, that after deducting the skins of their respective shares, which are to be retained by the United States as above provided to reimburse itself for the advance payment aforesaid, the United States shall be entitled to reimburse itself for any annual payments made as herein required, by retaining an additional number of sealskins from the British and Japanese shares respectively over and above the specified minimum allowance of one thousand (1,000) skins in any subsequent year or years when killing is again resumed, until the whole number of skins retained shall equal, reckoned at their market value determined as above provided for, the entire amount so paid, with interest at the rate of four per cent (4%) per annum.

If, however, the total number of seals frequenting the United States islands in any year falls below one hundred thousand (100,000), enumerated by official count, then all killing, excepting the inconsiderable supply necessary for the

support of the natives as above noted, may be suspended without allowance of skins or payment of money equivalent until the number of such seals again exceeds one hundred thousand (100,000), enumerated in like manner.

ARTICLE XII.

It is agreed on the part of Russia that of the total number of sealskins taken annually upon the Commander Islands, or any other island or shores of the waters defined in Article I subject to the jurisdiction of Russia to which any seal herds hereafter resort, there shall be delivered at the Commander Islands at the end of each season fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Canadian Government, and fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Japanese Government; provided, however, that nothing herein contained shall restrict the right of Russia at any time and from time to time during the first five years of the term of this Convention to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose during the term of this Convention such restrictions and regulation upon the total number of skins to be taken in any season, and the manner and times and places of taking them as may seem necessary to preserve and protect the Russian seal herd, or to increase its number; but it is agreed, nevertheless, on the part of Russia that during the last ten years of the term of this Convention not less than five per cent (5%) of the total number of seals on the Russian rookeries and hauling grounds will be killed annually, provided that said five per cent (5%) does not exceed eighty-five per cent (85%) of the three-year-old male seals hauling in such year.

If, however, the total number of seals frequenting the Russian islands in any year falls below eighteen thousand (18,000) enumerated by official count, then the allowance of skins mentioned above and all killing of seals except such as may be necessary for the support of the natives on the islands may be suspended until the number of such seals again exceeds eighteen thousand (18,000) enumerated in like manner.

ARTICLE XIII.

It is agreed on the part of Japan that of the total number of sealskins taken annually upon Robben Island, or any other islands or shores of the waters defined in Article I subject to the jurisdiction of Japan to which any seal herds hereafter resort, there shall be delivered at Robben Island at the end of each season 10 per cent (10%) gross in number and value thereof to an authorized agent of the United States Government, ten per cent (10%) gross in number and value thereof to an authorized agent of the Canadian Government, and ten per cent (10%) gross in number and value thereof to an authorized agent of the Russian Government; provided, however, that nothing herein contained shall restrict the right of Japan at any time and from time to time during the first five years of the term of this Convention to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose during the term of this Convention such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them as may seem necessary to preserve and protect the Japanese herd, or to increase its number; but it is agreed, nevertheless, on the part of Japan that during the last ten years of the term of this Convention not less than five per cent (5%) of the total number of seals on the Japanese rookeries and hauling grounds will be killed annually, provided that said five per cent (5%) does not exceed eighty-five per cent (85%) of the three-year-old male seals hauling in such year.

If, however, the total number of seals frequenting the Japanese islands in any year falls below six thousand five hundred (6,500) enumerated by official count, then the allowance of skins mentioned above and all killing of seals except such as may be necessary for the support of the natives on the islands may be suspended until the number of such seals again exceeds six thousand five hundred (6,500) enumerated in like manner.

ARTICLE XIV.

It is agreed on the part of Great Britain that in case any seal herd hereafter resorts to any islands or shores of the waters defined in Article I subject to the jurisdiction of Great Britain, there shall be delivered at the end of each

season during the term of this Convention ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the United States Government, ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the Japanese Government, and ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the Russian Government.

ARTICLE XV.

It is further agreed between the United States and Great Britain that the provisions of this Convention shall supersede, in so far as they are inconsistent therewith or in duplication thereof, the provisions of the treaty relating to the fur seals, entered into between the United States and Great Britain on the 7th day of February, 1911.

ARTICLE XVI.

This Convention shall go into effect upon the 15th day of December, 1911, and shall continue in force for a period of fifteen (15) years from that date, and thereafter until terminated by twelve (12) months' written notice given by one or more of the Parties to all of the others, which notice may be given at the expiration of fourteen years or at any time afterwards, and it is agreed that at any time prior to the termination of this Convention, upon the request of any one of the High Contracting Parties, a conference shall be held forthwith between representatives of all the Parties hereto, to consider and if possible agree upon a further extension of this Convention with such additions and modifications, if any, as may be found desirable.

ARTICLE XVII.

This Convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, by His Britannic Majesty, by His Majesty the Emperor of Japan, and by His Majesty the Emperor of all the Russias; and ratifications shall be exchanged at Washington as soon as practicable.

In faith whereof, the respective Plenipotentiaries have signed this Convention in quadruplicate and have hereunto affixed their seals.

Done at Washington the 7th day of July, in the year one thousand nine hundred and eleven.

CHARLES NAGEL	[SEAL]
CHANDLER P. ANDERSON	[SEAL]
JAMES BRYCE	[SEAL]
JOSEPH POPE	[SEAL]
Y. UCHIDA	[SEAL]
H. DAUKE	[SEAL]
P. ROTKINE	[SEAL]
NOLDE	[SEAL]

And whereas the said Convention has been duly ratified on the part of each of the High Contracting Parties, and the ratifications of the four Governments were exchanged in the City of Washington, on the twelfth day of December, one thousand nine hundred and eleven;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled in good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this fourteenth day of December in the year of our Lord one thousand nine hundred and eleven, and of the [SEAL] Independence of the United States of America the one hundred and thirty-sixth.

WM H TAFT

By the President:
P C KNOX
Secretary of State.

The CHAIRMAN. I think it would be well, Mr. Anderson, for you to take the bill up section by section and explain it, in order to make it very clear, not only to the members of the committee, but also to the Members of the House.

Mr. ANDERSON. The first section of the bill is intended to give effect to the provisions of article 1 of the treaty, which prohibits the citizens or subjects of the parties to the treaty from engaging in pelagic sealing in the protected area. So far as the United States is concerned, the citizens of the United States have since 1897 been prohibited from engaging in the business of pelagic sealing anywhere in the waters of the Pacific Ocean, and this section follows closely the provisions of that act of December 29, 1897, with some slight changes which were necessary to make it conform to the provisions of the treaty.

Mr. KENDALL. Mr. Anderson, just what is comprehended by pelagic sealing?

Mr. ANDERSON. It is defined in the bill.

Mr. KENDALL. I notice it is, but I did not quite understand it. I apprehend it means the killing of females at sea.

Mr. ANDERSON. It is not limited to the killing of females, but it generally accomplishes that, because they are the ones who range in and out from the islands, and when the sealers are watching for them around the islands they are more apt to kill the females than the males, because the males stay on shore, as I understand, during the greater part of the season. Of course, when the males are traveling, they probably kill an equal number.

Mr. KENDALL. Was there already a regulation against killing on shore?

Mr. ANDERSON. There are restrictions against killing on shore, regulations promulgated each year and limitations fixed, under which the authorized agents of the Government now operate. The clause of the act of 1897, to which I refer, reads:

No citizen of the United States nor person owing duty of obedience to the laws or the treaties of the United States, nor any person belonging to or on board of a vessel of the United States, shall kill, capture, or hunt at any time or in any manner whatever, any fur seal in the waters of the Pacific Ocean, including Bering Sea and the Sea of Okhotsk, whether in the territorial waters of the United States or in the open sea.

In addition to that this act now under consideration prohibits the killing, capturing, or pursuing of sea otter in any of the waters mentioned which run down to the thirtieth parallel of north latitude in the Pacific; that is, the killing of sea otter beyond the distance of 3 miles from the shore line. That is all the treaty provided for—the killing of sea otter in the open sea. Of course, we can do what we please about regulating the killing of sea otter within our own territorial waters.

Mr. HARRISON. Have we a provision now prohibiting the killing of sea otter within the 3-mile limit?

Mr. ANDERSON. Yes.

The CHAIRMAN. Yes; there is a law prohibiting it absolutely.

Mr. KENDALL. What is the jurisdiction of our Government with reference to the border there?

Mr. ANDERSON. Our exclusive jurisdiction over the seals does not extend beyond the usual 3-mile limit. We failed to establish our

claim before the Paris Tribunal to exclusive jurisdiction over Bering Sea as a closed sea; and by the award of that arbitration in 1893 we were restricted to the usual jurisdiction which prevails over territorial waters along the coast.

Mr. KENDALL. Three miles?

Mr. ANDERSON. Yes.

Mr. KENDALL. We have done whatever we could by legislation to restrict the taking of seals, as I understand it?

Mr. ANDERSON. We have, among our own people.

Mr. SHARP. How effective have these laws been in reducing the killing of seals during the past two years?

Mr. ANDERSON. At sea?

Mr. SHARP. In other words, has there been quite a diminution in the killing of seals during the past 10 years, or has it gone right along?

Mr. ANDERSON. There has been quite a diminution, but not on account of any control we could exercise over the sealers. I think the diminution has been due to the decreased number of seals. We, of course, have been unable to restrain the Japanese sealers outside of the 3-mile limit.

Mr. SHARP. Would it be feasible, in your judgment, to have such an international agreement as would practically prohibit the killing of seals for a term of years, so as not to allow them to become extinct?

Mr. ANDERSON. Well, that has been done by this treaty, so far as the killing at sea is concerned. In treating with foreign countries with reference to sealing at sea we have not undertaken to limit ourselves in dealing with the seals on shore, because they are within our own jurisdiction, and the right is expressly reserved in this treaty to do what our Government pleases about regulating the killing on shore. That was not a matter which concerned the other Governments.

Mr. SHARP. From your investigation of this subject, do you think it would be a wise and proper thing to bring about to prevent the killing of seals, whether on land or sea, for a term of years, so as to prevent their extinction?

Mr. ANDERSON. We reserve the right to do that in the treaty, but if we do that then we shall, by way of compensation to Great Britain and Japan, be obliged to pay them each \$10,000 annually in lieu of the skins to which they would be entitled as their share of the killing, which payments are to be refunded, with interest, when the killing is resumed, out of any surplus number; provided, however, that if the total number of seals frequenting the United States islands in any year falls below 100,000 then the killing may be discontinued without making compensation or payment of any kind to either of those countries. There is no agreement in the treaty that we would discontinue killing, but it is contemplated that we may; I can not say what the views of Great Britain and Japan may be on the subject, but I think they would be a little disappointed if an attempt were not made—for a time, at least—to test the value of these regulations, without interfering with the present conditions on land, assuming that the herd is now over 100,000 in number.

The CHAIRMAN. We can, of course, take up the question of protecting the herd on land at any time?

Mr. ANDERSON. Yes.

The CHAIRMAN. The object of this act is, however, simply to carry the convention into effect?

Mr. ANDERSON. That is all.

Mr. BARTHOLDT. Would it not be well to have Mr. Anderson explain the bill section by section?

The CHAIRMAN. Yes.

Mr. ANDERSON. The bill requires very little explanation. I have already spoken of section 1. Section 2 is a very important feature of the arrangement. That also is intended to carry into effect the provisions of Article I of the treaty, and its purpose is to prevent the use of the ports of the United States or the territory of the United States by vessels or by individuals engaged in pelagic sealing. Of course, this treaty between the four powers controls only the action of those who are under the jurisdiction of those four powers, and this provision was inserted in order to discourage those who are not under the jurisdiction of those powers—that is, people using the flags of other countries—from engaging in this business.

When pelagic sealing becomes more profitable than it is at present, by reason of the increase of the herd, which will result from the abandonment of the business of pelagic sealing, it is important that these four powers should refuse the use of their ports or their territory for the purposes of pelagic sealing, and that they should not in any way give encouragement or assistance to those engaged in this business. This section applies not only to citizens of the United States and not only to those who are under the jurisdiction of the other parties to the treaty, but to all the world. It is expected that under that section we will be able to prevent any vessel from maintaining itself in the North Pacific long enough to engage in the business of pelagic sealing, because the ports of Great Britain—that is, Canada—Russia, Japan, and the United States will be closed to vessels of that kind.

The CHAIRMAN. In other words, Mr. Anderson, section 2 practically makes a pelagic sealer in the North Pacific a pirate.

Mr. ANDERSON. It outlaws him so far as the use of the shore surrounding that portion of the ocean is concerned. Section 3 merely makes an exception which has been carried through all legislation on this subject, and is in the interest of humanity to enable the aborigines to maintain themselves in the way in which they are accustomed; that is, by hunting seals. A similar exception is found in section 6, of the act of April 6, 1894.

The CHAIRMAN. And it is in the game laws of Alaska?

Mr. ANDERSON. Yes. Now, section 4 also has relation to the prevention of those who are not under the jurisdiction of either of the four powers from engaging in the business of pelagic sealing. It was deemed desirable to agree that no skins which were taken from any of these herds—that is, the herds of the United States, Russia, and Japan—should be permitted to be brought into any of the four countries unless they were taken under the authority of the authorized officials of the Government.

Mr. KENDALL. This is simply to make the clause contained in the treaty more effective?

Mr. ANDERSON. Yes. The reason we hope it will be effective is that nearly all of the work of preparing the skins for market is

carried on in London; they are dressed, dyed, and prepared there; in the old days it used to be quite a valuable business. It seems probable, therefore, that if the skins taken by pelagic sealers are excluded from the London market—and that is the market from which the skins are distributed all over the world—and if the skins so taken can not be brought into the other countries that are parties to this treaty it will become more difficult for anyone engaged in pelagic sealing to market his skins and make a profit out of his voyage.

Mr. SHARP. How general has been the violation of existing treaties or laws upon this subject? Has the violation been widespread or have the treaties and laws been pretty well observed?

Mr. ANDERSON. Well, we have only one treaty—that is, the Paris award regulations. Those regulations have resulted from a treaty, and I think they have been observed in good faith. They applied only to the Canadians and ourselves. I think there have been very few seizures because of the violation of those regulations. Of course, we have maintained a patrol up there and that has had a helpful influence.

Mr. KENDALL. Article III of the treaty is just about the same as section 4 in the bill, and I assume the other nations had to enact legislation similar to this?

Mr. ANDERSON. Yes. By Article VI of the treaty each of the high contracting parties agrees “to enact and enforce such legislation as may be necessary to make effective the foregoing provisions,” and so forth.

Mr. KENDALL. Article III provides—

That no sealskins taken in the waters of the North Pacific Ocean [and so on], except such as are taken under the authority of the respective powers to which the breeding grounds of such herds belong and have been officially marked and certified as having been so taken, shall be imported or brought into the territory of any of the parties to this convention—

and I take it that section 4 of the bill is intended to carry that out.

Mr. ANDERSON. Yes. I should have mentioned Article III of the treaty in connection with section 4 of the act. Section 5 is very important for the purpose of leaving a certain amount of leeway in making our arrangements with the other powers for carrying out the treaty. It provides—

That the President shall have power to make regulations to carry this act and the said convention into effect, and from time to time to add to, modify, amend, or revoke such regulations, as in his judgment may seem expedient.

Mr. GARNER. That is really giving the President the power to make laws and to repeal them, is it not?

Mr. ANDERSON. To give effect to laws, the treaty itself being the law.

Mr. GARNER. He could make such regulations; and under that law what is the penalty for a violation of them?

Mr. ELLIOTT. They are provided for by statute.

Mr. GARNER. Here is a statute that says that regulations made by the President shall be law, and Congress simply—

Mr. GOODWIN (interposing). It is to give effect to the law.

Mr. GARNER. He could make no regulation contrary to the statute?

Mr. ELLIOTT. Certainly not.

Mr. KENDALL. Did the law of 1897 have this same provision, Mr. Anderson?

Mr. ANDERSON. Yes; in section 10.

Mr. KENDALL. Well, the act of December 29, 1897, related, as I understand it, to the importation into the United States of fur-seal skins taken in the waters mentioned in that act.

Mr. ANDERSON. Yes.

Mr. KENDALL. Did it contain this provision?

Mr. ANDERSON. Yes; and the act of April 6, 1894, section 7, also contained a somewhat similar provision, as follows:

That the President shall have power to make regulations respecting the special license and the distinctive flag mentioned in this act and regulations otherwise suitable to secure the due execution of the provisions of this act, and from time to time to add to, modify, amend, or revoke such regulations as in his judgment he may deem expedient.

That is where the language of this section came from.

Mr. GARNER. I am not speaking about the statute passed in 1897. I am simply calling attention to the advisability of passing a statute that puts in the hands of the President the right to make and unmake laws.

Mr. KENDALL. I think that suggestion is a little too broad.

Mr. ANDERSON. The basis of the regulations—

Mr. GARNER (interposing). That is what I want to know, what the basis is.

Mr. ANDERSON (continuing). Is existing laws; that is, the treaty, which is itself a law, and this act when it goes into effect.

Mr. GOODWIN. The treaty itself can not go into infinite detail as to the enforcement of every regulation, but gives to the President plenary power to enforce the law, but not to make law.

Mr. ANDERSON. Exactly.

Mr. GOODWIN. And for the violation of any orders that the President may make the statute now in force would apply, as I understand it?

Mr. ANDERSON. Yes.

Mr. GARDNER. Here is the point about it: Congress can make these rules and regulations if it will take the time and trouble to do so; that is, in this bill make rules and regulations such as it is contemplated the President would make under section 5 of this act.

Mr. ANDERSON. Yes.

Mr. GARNER. If Congress would take the trouble and time to do so, and had the knowledge.

Mr. FOSTER. Is it not a fact that Congress, after making a law, is repeatedly leaving it to this department and to that department to make the necessary rules and regulations for its administration?

Mr. GARNER. Yes. It has been the custom to do that, but I have never acquiesced in it, and I have never thought it was good legislation, just as I have never acquiesced or thought it was good legislation to make bulk appropriations and turn them over to the head of some bureau to fix salaries and regulate the expenditure of the money as he might deem best. If this committee would take the time, and had the same knowledge about it, it could formulate rules and regulations to govern this matter just as well as the President of the United States. We are simply shifting our duties to the shoulders of the President of the United States.

Mr. GOODWIN. Suppose some exigency should arise when Congress was not in session, or when it was in session, requiring the issuance

of an Executive order to meet that exigency, do you not think the Executive should be clothed with that authority—the right to make certain rules and regulations for the violation of which the statutes now provide a penalty?

The CHAIRMAN. As I understand it, section 5 simply provides that the President shall have power to make rules and regulations to carry this act, and also the convention, into effect. Now, all the departments have the right, under the general laws, to make rules and regulations to carry those laws into effect, and this simply follows the usual practice.

Mr. KENDALL. If Congress passes a law with reference to this treaty in order to give effect to the convention, is it not implied in the very power of the President that he has the authority to make rules and regulations for the enforcement of that law?

Mr. GARNER. But a violation of those regulations would not subject one to punishment.

The CHAIRMAN. Well, a violation of the regulations would be a violation of the act.

Mr. GARNER. I can not see how you can make regulations under the act and make men liable for prosecution for the violation of the regulations if they do not violate the act. We are simply shifting to the President's shoulders rules and regulations that we ought to make to govern or carry this treaty into effect.

The CHAIRMAN. To explain that I want to say this, and I am somewhat familiar with the matter: Congress passed an act regarding the protection and preservation of wild animals in Alaska. Now, in that act it was provided that the governor of Alaska should make rules and regulations to carry the act into effect, and the governor has made those rules and regulations.

Mr. FOSTER. And those rules and regulations are binding on the officers of the Government, but no penalty is attached to a citizen; they have no binding effect upon the citizens; it is simply to aid in the administration of the law; that is all.

Mr. GARNER. That is all right, but if we did not pass section 5 he could still make whatever rules and regulations he wanted to make in order to govern his officers.

Mr. FOSTER. I think that is right.

Mr. GARNER. And if that is so, what is the necessity of putting in here a palpable admission on our part that we are not capable of making these rules and regulations?

Mr. FOSTER. I do not think we should admit that. We are not administering the law, and the people who have the administration of the law must have rules and regulations. I think you are probably right, that there is no great necessity for it, but I think it is wise to put it in.

The CHAIRMAN. If it were not in there, it would be very doubtful whether the administrative officers could make any rules and regulations.

Mr. KENDALL. Is not that inherent in the officers?

Mr. GARNER. There are hundreds and hundreds of rules and regulations governing the various departments of this Government, and Congress did not authorize those rules and regulations; but they only apply to the officers in that bureau or in that department.

Mr. KENDALL. The Department of Justice has a little book relating to the administration of the revenue laws.

The CHAIRMAN. Well, we will take that up later on. Please take up section 6.

Mr. ANDERSON. The question has been asked whether rules and regulations were made applicable to others than officials in the act of 1897. It is evident from the provisions of that act that rules and regulations made under it were not limited to officers of the Government, because a penalty is imposed for the violation of the rules and regulations made under it, and for the same reason a penalty is imposed by section 6 of this act for the violation of the rules and regulations to be made under it.

Mr. GARNER. Now you go still farther. You propose to confer upon the President the power to make rules and regulations, and then you propose that if anyone violates any one of those rules and regulations he shall be subject to a penalty. That is putting the right to make law in the hands of the President.

Mr. ANDERSON. The rules and regulations would not be of much importance without penalties.

Mr. GARNER. I agree with you entirely. I contend that we are shifting to the President's shoulders the burden which the Constitution places upon Congress. It is our duty to make criminal laws, and I do not want to place in the President's hands the right to make criminal laws.

Mr. GOODWIN. As I interpret this bill there are certain inhibitions contained in it. This administrative authority that is vouchsafed to the President only clothes him with authority to make rules and regulations that may be essential from time to time for the enforcement of the law generally and to meet any emergency that may arise, because Congress is not always in session.

Mr. GARNER. Now, just a moment in that connection: You first confer on the President the right to make rules and regulations, and from time to time to add to, modify, amend, or revoke such regulations, or do as he pleases?

Mr. GOODWIN. No; not in conflict with the tenor of the bill.

Mr. GARNER. Not in conflict, but anything not in conflict with it. Suppose he should provide that a man should wear a woollen sock on one foot and a cotton one on the other, and that if he violated one of those regulations he would be punished by a fine of \$200. Now, that is, of course, nonsensical; but I am simply using it to illustrate the power we are placing in the hands of the President.

Mr. ANDERSON. The rules and regulations must be for the purpose of carrying the treaty into effect.

Mr. FOSTER. I agree with Mr. Garner as to section 6. I think section 5 is proper and right, but when it comes to section 6, which makes it an offense to violate one of those regulations, I agree with Mr. Garner.

Mr. SHARP. As applying to every person, not merely the officials who are a part of the administration, but applying to any person.

Mr. FOSTER. Yes; that should be cut out.

Mr. GARNER. Well, let us pass that.

Mr. FOSTER. I think in section 6, lines 2 and 3, the words "or of any regulations made thereunder," should be omitted. I agree with Mr. Garner that even if it has been done in the past we should not

impose a penalty in advance upon any rule or regulation that the President may make. Section 5, in my judgment, is entirely proper; we should give some department the authority to make the necessary regulations for the administration of this law and its enforcement, but these regulations should apply to officials, and if they failed the Government could take them in hand. But the things that are prohibited and the things that are permitted are included in the statute itself and the penalty should be for the violation of those things.

Mr. SHARP. Would you not also strike out, in lines 7 and 8, the words "or of the regulations made thereunder?"

Mr. FOSTER. Yes.

Mr. GOODWIN. If you will pardon me, section 5 says, "That the President shall have power to make regulations to carry this act and the said convention into effect." Now, those are only administrative acts; he is not sitting as an executive and making laws himself, but he is only enforcing this act and the convention; he is not clothed with any plenary power outside of the tenor of the act or of the convention; he is not to do anything but enforce this act as well as the convention.

Mr. FOSTER. You refer to section 6, do you not?

Mr. GOODWIN. I was going back to the word "regulations," in section 6, as predicated upon section 5, which has reference to the act as well as to the convention. Now, for the carrying out of the law the President is clothed with certain power to enforce the convention.

Mr. GARNER. He has power under this act to make certain rules and regulations and the violation of one of those rules or regulations subjects the person to a penalty under section 6.

Mr. FOSTER. It should not do that.

Mr. BARTHOLDT. Is not that true with reference to the postal regulations? There are postal regulations made under the laws of Congress, but really promulgated and made by the department, and if you violate them you are subject to punishment.

Mr. KENDALL. But that does not exist in any other department than the Post Office Department?

Mr. BARTHOLDT. No.

Mr. ANDERSON. May I say this to you, that these rules and regulations concern the Department of Commerce and Labor more particularly than the State Department, and Mr. Earl, the Solicitor for the Department of Commerce and Labor, is here and he is prepared to answer the question that has been raised as to the importance of the proposed regulations.

The CHAIRMAN. We are going to hear Mr. Earl when you finish.

Mr. ANDERSON. I have nothing more to say about the act. I think the other provisions speak for themselves. Section 7 follows very closely the provisions of section 4 of the act of 1897 and of the provisions of section 10 of the act of 1894, and is a provision which is usually found in legislation of this character.

The CHAIRMAN. Mr. Anderson, I wish to ask you a question: This bill, as it is now, meets with the approval of the State Department, does it not?

Mr. ANDERSON. Yes; it does.

The CHAIRMAN. And if it were enacted into law it would carry out the provisions of the convention?

Mr. ANDERSON. It would.

The CHAIRMAN. And that is the purpose of this act?

Mr. ANDERSON. It is.

The CHAIRMAN. In your opinion it is advisable, in order that we may show our good faith, to enact this legislation as early as possible so it will be an example to the other contracting parties?

Mr. ANDERSON. Yes; not only an example, but we have an obligation; we have assumed an obligation to pay \$200,000 to Great Britain and to Japan when the treaty goes into effect, and that time has already arrived.

Mr. GARNER. Does it take this act to put that treaty into effect and to make the appropriation available?

Mr. ANDERSON. Of course, the appropriation must come from Congress. The treaty obligates this Government to pay the money, but the money is not available until it is appropriated by Congress.

Mr. GARNER. So that if Congress did not appropriate \$200,000, which is due to England and Japan, the treaty would not become effective?

Mr. ANDERSON. Well, we would have failed to fulfill our treaty obligation in that respect. I do not mean, of course, that the State Department thinks no changes should be made in the act, but they should not be made without careful consideration, for this act represents the joint word of the Departments of State, Treasury, Justice, and Commerce and Labor, all of which departments will be concerned in carrying out the provisions of this treaty.

Mr. GARNER. If this committee should undertake to make rules and regulations to put the convention into effect, it would not meet with the disapproval of the State Department?

Mr. ANDERSON. The State Department would have no complaint to make.

Mr. LINTHICUM. Have you any idea how many seals are killed yearly?

Mr. ANDERSON. On land or at sea?

Mr. LINTHICUM. I would like to know about both.

Mr. ANDERSON. I think at sea between nine and twelve thousand; I do not think it is more or less than that.

Mr. LINTHICUM. What does that industry mean to our people?

Mr. ANDERSON. The greater part are taken by the Japanese; our people do not engage in it at all; the Canadians get about three or four thousand, and the Japanese the balance.

(Memorandum hereinbefore referred to by Mr. Anderson follows.)

[A BILL To give effect to the convention between the Governments of the United States, Great Britain, Japan, and Russia for the preservation and protection of the fur seals and sea otter which frequent the waters of the north Pacific Ocean, concluded at Washington July seventh, nineteen hundred and eleven.]

Whereas the plenipotentiaries of the United States, Great Britain, Japan, and Russia did, on the seventh day of July, anno Domini nineteen hundred and eleven, enter into a convention for the preservation and protection of the fur seals and sea otter which frequent the waters of the north Pacific Ocean, which convention was subsequently ratified by the Governments of the United States, Great Britain, Japan, and Russia and the exchange of ratifications thereof was effected on the twelfth day of December, nineteen hundred and eleven: Now, therefore,

Act of February 21, 1893 (27 Stats., 472).—That whenever the Government of the United States shall conclude an effective international arrangement for the protection of fur seals in the north Pacific Ocean by agreement with any power, or as a result of the decision of the tribunal of arbitration under the convention concluded between the United States and Great Britain, February 29, 1892, and

so long as such arrangement shall continue, the provisions of section 1956 of the Revised Statutes and all other provisions of the statutes of the United States, so far as the same may be applicable, relative to the protection of fur seals and other fur-bearing animals within the limits of Alaska or in the waters thereof, shall be extended to and over all that portion of the Pacific Ocean included in such international arrangement. Whenever an effective international agreement is concluded as aforesaid, it shall be the duty of the President to declare that fact by proclamation, and to designate the portion of the Pacific Ocean to which it is applicable, and that this act has become operative; and likewise when such arrangement ceases to declare that fact, and that this act has become inoperative and his proclamation with respect thereto shall be conclusive. During the extension as aforesaid of said laws for the protection of fur seals and other fur-bearing animals all violations thereof in said designated portion of the Pacific Ocean shall be held to be the same as if committed within the limits of Alaska or the waters thereof, but they may be prosecuted either in the district court of Alaska or in any district court of the United States in California, Oregon, or Washington.

NOTE.—Revised Statutes, section 1956, referred to above, amended by act of April 21, 1910, and Revised Statutes, section 1962 to section 1972 repealed by same act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no citizen of the United States, nor person owing duty of obedience to the laws or the treaties of the United States, nor any of their vessels, nor any vessel of the United States, nor any person belonging to or on board of such vessel, shall kill, capture, or pursue, at any time or in any manner whatever, any fur seal in the waters of the north Pacific Ocean north of the thirtieth parallel of north latitude and including the seas of Bering, Kamchatka, Okhotsk, and Japan; nor shall any such person or vessel kill, capture, or pursue sea otter in any of the waters mentioned beyond the distance of three miles from the shore line of the territory of the United States.

Act April 21, 1910, section 8 (36 Stats., 326) amending act December 29, 1897, section 1 (30 Stats., 226).—No citizen of the United States, nor person owing duty of obedience to the laws or the treaties of the United States, nor any person belonging to or on board of a vessel of the United States, shall kill, capture, or hunt, at any time or in any manner whatever, any fur seal in the waters of the Pacific Ocean, including Bering Sea and the Sea of Okhotsk, whether in the territorial waters of the United States or in the open sea.

Compare act April 6, 1894, section 1 (28 Stats., 53) (amended by act Apr. 24, 1894, 28 Stats., 64), sealing within 60 miles of the Pribilof Islands forbidden.

Act April 6, 1894, section 2 (28 Stats., 53), sealing between May 1 and July 31 prohibited.

Act June 5, 1894 (28 Stats., 85), making act of April 6, 1894, applicable to any past or future treaty for protection of fur-bearing animals.

Act April 21, 1910, section 4 (36 Stats., 326), amending Revised Statutes, 1956, and act of March 3, 1899, section 173 (30 Stats., 1279), sealing in Alaskan Territory or waters prohibited.

Act April 21, 1910, section 7 (36 Stats., 326), amending Revised Statutes, 1961, and act March 3, 1899, section 178 (30 Stats., 1279); Revised Statutes, 1960; act March 3, 1899, section 177, sealing on beaches and waters surrounding Pribilof Islands prohibited.

NOTE.—Act April 21, 1910, section 10 (36 Stats., 326); Revised Statutes, section 1962 to section 1972. "and all acts and parts of acts inconsistent with this act are hereby repealed."

SEC. 2. That no citizen of the United States, nor person above described in the first section, shall equip, use, or employ, or furnish aid in equipping, using, or employing, or furnish supplies to any vessel used or employed, or to be used or employed, in carrying on or taking part in pelagic sealing in said waters, nor shall any of their vessels nor any vessel of the United States be so used or employed; and no person or vessel shall use any of the ports or harbors of the United States, or any part of the territory of the United States, for any purposes whatsoever connected with the operations of pelagic sealing in the waters named in the first section of this act; and no vessel which is engaged or employed, or intended to be engaged or employed, for or in connection with pelagic sealing in such waters shall use any of the ports or harbors or any part of the territory of the United States for any purpose whatsoever.

Act December 29, 1897, section 2 (30 Stats., 226).—That no citizen of the United States, nor person above described in section 1, shall equip, use, or employ, or furnish aid in equipping, using, or employing, or furnish supplies to any vessel used or employed, or to be used or employed, in carrying on or taking part in said killing, capturing, or hunting of fur seals in said waters, nor shall any vessel of the United States be so used or employed.

SEC. 3. That the provisions of the first and second sections of this act shall not apply to Indians, Ainos, Aleuts, or other aborigines dwelling on the coast of the waters mentioned in the first section of this act who carry on pelagic sealing in canoes or undecked boats propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way hitherto practiced by the said Indians, Aleuts, or other aborigines, and without the use of firearms: *Provided, however,* That the exception made in this section shall not apply to Indians, Ainos, Aleuts, or other aborigines in the employment of other persons or who shall kill, capture, or pursue fur seals under contract to deliver the skins to any person.

Act April 6, 1894, section 6 (28 Stats., 53).—That the foregoing sections of this act shall not apply to Indians, dwelling on the coast of the United States, and taking fur seals in canoes or undecked vessels propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, or manned by more than five persons, in the manner heretofore practiced by the said Indians: *Provided, however,* That the exception made in this section shall not apply to Indians in the employment of other persons, or who shall kill, capture, or pursue fur seals outside of the territorial waters under a contract to deliver the skins to other persons, nor to the waters of Bering Sea or of the passes between the Aleutian Islands.

Act December 29, 1897, section 6 (30 Stats., 226).—That this act shall not interfere with the privileges accorded to Indians dwelling on the coast of the United States under section 6 of the act of April 6, 1894, but the limitations prescribed in said act shall remain in full force.

Act April 21, 1910, section 3 (36 Stats., 326).—That whenever seals are killed and sealskins taken on any of the Pribilof Islands the native inhabitants of said islands shall be employed in such killing and in curing the skins taken, and shall receive for their labor fair compensation, to be fixed from time to time by the Secretary of Commerce and Labor, who shall have the authority to prescribe by regulation the manner in which such compensation shall be paid to the said natives or expended or otherwise used in their behalf and for their benefit.

Act April 21, 1910, section 6 (36 Stats., 326), amending Revised Statutes 1960 and act March 3, 1899, section 177 (30 Stats., 1279).— * * * but the natives of the islands (Pribilof) shall have the privilege of killing such young seals as may be necessary for their food and clothing, and also such old seals as may be required for their clothing and for the manufacture of boats for their own use; and the killing in such cases shall be limited and controlled by such regulations as may be prescribed by the Secretary of Commerce and Labor.

Compare act April 6, 1894, section 3 (28 Stats., 53), sealing restricted to certain kinds of vessels.

SEC. 4. That the importation or bringing into territory of the United States, by any person whatsoever, of skins of fur seals taken in the waters mentioned in the first section of this act, or of skins identified as those of the species known as *Callorhinus alascanus*, *Callorhinus ursinus*, and *Callorhinus kurilensis*, or belonging to the American, Russian, or Japanese herds, whether raw, dressed, dyed, or manufactured, except such as have been taken under the authority of the respective parties to said convention, to which the breeding grounds of such herds belong, and have been officially marked and certified as having been so taken, is hereby prohibited; and all such articles imported or brought in after this act shall take effect shall not be permitted to be exported, but shall be seized and forfeited to the United States.

Act December 29, 1897, section 9 (30 Stats., 226).—That the importation into the United States by any person whatsoever of fur-seal skins taken in the waters mentioned in this act, whether raw, dressed, dyed, or manufactured, is hereby prohibited, and all such articles imported after this act shall take effect shall not be permitted to be exported, but shall be seized and destroyed by the proper officers of the United States.

SEC. 5. That the President shall have power to make regulations to carry this act and the said convention into effect, and from time to time to add to,

modify, amend, or revoke such regulations as in his judgment may seem expedient. It shall be the duty of the Secretary of Commerce and Labor, under the direction of the President, to see that the said convention, the provisions of this act, and the regulations made thereunder are executed and enforced; and all officers of the United States engaged in the execution and enforcement of this act are authorized and directed to cooperate with the proper officers of any of the other parties to the said convention in taking such measures as may be appropriate and available under the said convention, this act, or the regulations made thereunder for the purpose of preventing pelagic sealing as in this act prohibited.

Act April 6, 1894, section 7 (28 Stats., 53).—That the President shall have power to make regulations respecting the special license and the distinctive flag mentioned in this act and regulations otherwise suitable to secure the due execution of the provisions of this act, and from time to time to add to, modify, amend, or revoke such regulations as in his judgment may seem expedient.

Act March 3, 1899, section 173 (30 Stats., 1279), as amended by act April 21, 1910, section 4 (36 Stats., 326).—* * * but the Secretary of Commerce and Labor shall have power to authorize the killing of any such mink, martin, sable, fur seal, or other fur-bearing animals under such regulations as he may prescribe; and it shall be the duty of the Secretary of Commerce and Labor to prevent the killing of any fur seal, except as authorized by law, and to provide for the execution of the provisions of this section until it is otherwise provided by law.

Compare.—Act April 21, 1910, section 1 (36 Stats., 326), Secretary of Commerce and Labor empowered to make regulations for killing seals, etc.

Act April 21, 1910, section 9 (36 Stats., 326), Secretary of Commerce and Labor authorized to appoint additional officers and agents to carry out the laws relating to seal fisheries in Alaska, etc.

Act December 29, 1897, section 10 (30 Stats., 226).—That the President shall have power to make all necessary regulations to carry this act into effect.

SEC. 6. That every person guilty of a violation of the provisions of said convention, or of this act, or of any regulations made thereunder, shall, for each offense, be fined not less than two hundred dollars or more than two thousand dollars, or imprisoned not more than six months, or both; and every vessel, its tackle, apparel, furniture, and cargo, at any time used or employed in violation of this act, or of the regulations made thereunder, shall be forfeited to the United States.

Act December 29, 1897, section 3 (30 Stats., 226).—That every person guilty of a violation of the provisions of this act, or of any regulations made thereunder, shall, for each offense, be fined not less than \$200 or more than \$2,000, or imprisoned not more than six months, or both; and every vessel, its tackle, apparel, furniture, and cargo, at any time used or employed in violation of this act, or of the regulations made thereunder, shall be forfeited to the United States.

Act April 21, 1910, section 4 (36 Stats., 326), amending Revised Statutes 1956, and act March 3, 1899, section 173 (30 Stats., 1279).—No person shall kill any otter, mink, martin, sable, or fur seal or other fur-bearing animal within the limits of Alaska Territory or in the waters thereof; and every person guilty thereof, for each offense, shall be fined not less than \$200 or more than \$1,000, or imprisoned not more than six months, or both; and all vessels, tackle, apparel, furniture, and cargo found engaged in violation of this section shall be forfeited: * * * (similar penalty for killing female seals, etc., provided in section 7 of this act amending Revised Statutes 1961 and act March 3, 1899, section 178 (30 Stats., 1279); see also act March 3, 1899, section 183 (30 Stats., 1279)).

Compare.—Revised Statutes 1958 and 5293 and act March 3, 1899, section 175 (30 Stats., 1279), remission of fines imposed without cause.

SEC. 7. That if any vessel shall be found within the waters to which this act applies, having on board fur-seal skins, or bodies of seals, or apparatus or implements for killing or taking seals, it shall be presumed that such vessel was used or employed in the killing of said seals, or that said apparatus or implements were used in violation of this act, until the contrary is proved to the satisfaction of the court, in so far as such vessel, apparatus, and implements are subject to the jurisdiction of the United States.

Act December 29, 1897, section 4 (30 Stats., 226).—That if any vessel of the United States shall be found within the waters to which this act applies, having on board fur-seal skins, or bodies of seals, or apparatus or implements suitable for killing or taking seals, it shall be presumed that such vessel was used or

employed in the killing of said seals, or that said apparatus or implements were used in violation of this act until the contrary is proved to the satisfaction of the court.

Act April 6, 1894, section 10 (28 Stats., 53).—That if any unlicensed vessel of the United States shall be found within the waters to which this act applies, and at a time when the killing of fur seals is by this act there prohibited, having on board sealskins, or bodies of seals, or apparatus or implements suitable for killing or taking seals, or if any licensed vessel shall be found in the waters to which this act applies having on board apparatus or implements suitable for taking seals, but forbidden then and there to be used, it shall be presumed that the vessel in the one case and the apparatus or implements in the other was or were used in violation of this act until it is otherwise sufficiently proved.

SEC. 8. That any violation of the said convention, or of this act, or of the regulations thereunder, may be prosecuted either in the district court of Alaska or in any district court of the United States in California, Oregon, or Washington.

Act December 29, 1897, section 5 (30 Stats., 226).—That any violation of this act or of the regulations thereunder may be prosecuted either in the district court of Alaska or in any district court of the United States in California, Oregon, or Washington.

Act April 6, 1894, section 9 (28 Stats., 53).—(Same as above.) See also Revised Statutes 1957.

SEC. 9. That it shall be the duty of the President to cause a guard or patrol to be maintained in the waters frequented by the seal herd or herds and sea otter, in the protection of which the United States is especially interested, composed of naval or other public vessels of the United States designated by him for such service; and any officer of any such vessel engaged in such service and any other officers duly designated by the President may search any vessel of the United States, in port, or in territorial waters of the United States, or on the high seas, when suspected of having violated, or being about to violate, the provisions of said convention, or of this act, or of any regulations made thereunder, and may seize such vessel and the officers and crew thereof and bring them into the most accessible port of the Territory and States mentioned in the eighth section of this act for trial.

Act December 29, 1897, section 8 (30 Stats., 226), repealed by act June 9, 1896 (29 Stats. 316).—That any officer of the Navy or Revenue-Cutter Service of the United States and any other officers duly designated by the President may search any vessel of the United States, in port or on the high seas, suspected of having violated or having an intention to violate the provisions of this act, and may seize such vessel and the offending officers or crew and bring them into the most accessible port of the United States or Territory mentioned in section 5 of this act for trial.

Act of April 6, 1894, section 11 (28 Stats., 53).—That it shall be the duty of the President to cause a sufficient naval force to cruise in the waters in which this act is applicable to enforce its provisions, and it shall be the duty of the commanding officer of any vessel belonging to the naval or revenue service of the United States, when so instructed by the President, to seize and arrest all vessels of the United States found by him to be engaged, used, or employed in the waters last aforesaid in violation of any of the prohibitions of this act, or of any regulations made thereunder, and to take the same, with all persons on board thereof, to the most convenient port in any district in the United States mentioned in this act, there to be dealt with according to law.

Act March 2, 1889, section 3 (25 Stats., 1099).— * * * and he (the President) shall also cause one or more vessels of the United States to diligently cruise said waters and arrest all persons and seize all vessels found to be or to have been engaged in any violation of the laws of the United States therein. (Refers to killing fur-bearing animals in the dominion of the United States in Bering Sea.)

SEC. 10. That any vessel or person described in the first section of this act offending or being about to offend against the prohibitions of the said convention or of this act, or of the regulations made thereunder, may be seized and detained by the naval or other duly commissioned officers of any of the parties to the said convention other than the United States, except within the Territorial jurisdiction of one or the other of said parties, on condition, however, that when such vessel or person is so seized and detained by officers of any party other than the United States such vessel or person shall be delivered as

soon as practicable at the nearest point to the place of seizure, with the witnesses and proofs necessary to establish the offense so far as they are under the control of such party, to the proper official of the United States, whose courts alone shall have jurisdiction to try the offense and impose the penalties for the same: *Provided, however,* That the said officers of any party to said convention other than the United States shall arrest and detain vessels and persons, as in this section specified, only after such party, by appropriate legislation or otherwise, shall have authorized the naval or other officers of the United States duly commissioned and instructed by the President to that end to arrest, detain, and deliver to the proper officers of such party vessels and subjects under the jurisdiction of that Government offending against said convention or any statutes or regulations made by that Government to enforce said convention. The President of the United States shall determine by proclamation when such authority has been given by the other parties to said convention, and his determination shall be conclusive upon the question; and such proclamation may be modified, amended, or revoked by proclamation of the President whenever in his judgment it is deemed expedient.

Act April 6, 1894, section 12 (28 Stats., 53).—That any vessel or citizen of the United States or person described in the first section of this act offending against the prohibitions of this act or the regulations thereunder may be seized and detained by the naval or other duly commissioned officers of Her Majesty the Queen of Great Britain, but when so seized and detained they shall be delivered as soon as practicable, with any witnesses and proofs on board, to any naval or revenue officer or other authority of the United States, whose courts alone shall have jurisdiction to try the offense and impose the penalties for the same: *Provided, however,* That British officers shall arrest and detain the vessels and persons as in this section specified only after, by appropriate legislation, Great Britain shall have authorized officers of the United States, duly commissioned and instructed by the President to that end, to arrest, detain, and to deliver to the authorities of Great Britain vessels and subjects of that Government offending against any statutes or regulations of Great Britain enacted or made to enforce the award of the treaty mentioned in the title of this act.

Compare.—Act March 3, 1899, section 174 (30 Stats., 1279), collectors of customs in Alaska empowered to arrest persons and seize vessels violating the laws extended over the Territory.

Revised Statutes 1957 to same effect.

Sec. 11. That the Secretary of Commerce and Labor, or his authorized agents, shall have authority to receive on behalf of the United States any fur-seal skins taken as provided in the thirteenth and fourteenth articles of said convention and tendered for delivery by the Governments of Japan and Great Britain in accordance with the terms of said articles; and all skins which are or shall become the property of the United States from any source whatsoever shall be sold by the Secretary of Commerce and Labor in such market, at such times, and in such manner as he may deem most advantageous; and the proceeds of such sale or sales shall be paid into the Treasury of the United States.¹ And the Secretary of Commerce and Labor shall likewise have authority to determine the number of fur seals to be taken annually on the Pribilof Islands, or any other islands or shores of the waters mentioned in the first article of said convention and subject to the jurisdiction of the United States to which any seal herds hereafter resort; to direct the taking of the same;² to deliver to the authorized agents of the Canadian Government and the Japanese Government the skins to which they are entitled under the provisions of the tenth article of said convention; to pay to Great Britain and Japan such sums as they are entitled to receive respectively, under the provisions of the eleventh article of said convention; to retain such skins as the United States may be entitled to retain under the provisions of the eleventh article of said convention; and

¹*Act April 21, 1910, section 2 (36 Stats., 326).*—That any and all sealskins taken under the authority conferred by the preceding section shall be sold by the Secretary of Commerce and Labor in such market, at such times, and in such manner as he may deem most advantageous; and the proceeds of such sale or sales shall be paid into the Treasury of the United States: *Provided,* That the directions of this section relating to the disposition of sealskins and the proceeds thereof shall be subject to the provisions of any treaty hereafter made by the United States for the protection of seal life.

²*Compare.*—Act of April 6, 1894, section 3 and section 4 (28 Stats., 53), licenses and log books required on board sealing vessels.

to do or perform, or cause to be done or performed, any and every act which the United States is authorized or obliged to do or perform by the provisions of the tenth, eleventh, thirteenth, and fourteenth articles of said convention: and to enable the Secretary of Commerce and Labor to carry out the provisions of the said eleventh article there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of four hundred thousand dollars.¹

SEC. 12. That the term "pelagic sealing" where used in this Act, shall be taken to mean the killing, capturing, or pursuing in any manner whatsoever of fur seals while the same are in the water. The word "person" where used in this Act shall extend and be applied to partnerships and corporations.

SEC. 13. That this Act shall take effect immediately, and shall continue in force until the termination of the said convention.

STATEMENT OF MR. CHARLES EARL, SOLICITOR OF THE DEPARTMENT OF COMMERCE AND LABOR.

MR. EARL. Mr. Chairman and gentlemen, I have really very little to say. Mr. Anderson has gone over the proposed legislation very carefully. I can only say that the Department of Commerce and Labor is very much interested in the legislation inasmuch as it will have the administration of the law if it is passed, and that a great deal of care has been taken in our department, as well as in the other departments consulted, in the framing of the bill. It occurs to me, however, that it might be well to state, in a word, just what the existing legislation is with respect to the killing of seals. As a result of the Paris award, so far as Great Britain and the United States are concerned, the killing of fur seals at sea by subjects of either of those countries was prohibited within a zone of 60 miles around the Pribilof Islands during certain seasons of the year, but so far as the award was concerned either party was at liberty to engage in pelagic sealing anywhere in the open sea outside of the 60-mile zone.

The United States, however, enacted legislation which absolutely prohibited its citizens and all persons owing allegiance to the United States from killing fur seals, either at sea or on land. Great Britain did not pass any such legislation as that, so that the subjects of Great Britain—Canadians—were permitted to engage in pelagic sealing outside of the 60-mile zone. So far as all other nations were concerned, they were at liberty to kill seals in the sea outside of the ordinary territorial waters, the 3-mile limit. So far as the United States citizens were concerned, however, they were absolutely prohibited from killing seals, with one exception. Under legislation which went back, I think, about 40 years, a little over 40 years, the exclusive privilege to take seals on the Pribilof Islands was leased, and the lessee of that privilege for the past 20 years was the North American Commercial Co.

In 1910 this lease expired, and the law which provided for the leasing of this exclusive privilege contemplated that a new lease should be entered into. At the instance of the Department of Commerce and Labor and at the instance of the President that law was repealed and a new act was passed which prohibited the leasing of the privilege but placed within the discretion of the Secretary of the

¹Act April 21, 1910, section 10, (36 Stats., 326).—* * * and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$150,000 for carrying into effect the provisions of this act.

Department of Commerce and Labor the question whether any seals should be taken or not, and limited his right to take seals to male seals only, and provided that a certain reservation of male seals should always be made. The result is that at the present time all persons are forbidden to kill seals in the United States, except such killing as may be permitted or authorized by the Secretary of the Department of Commerce and Labor, and that killing is done under the supervision of Government agents. The Secretary of the Department of Commerce and Labor also has the authority to prevent any killing of seals whatever if in his judgment it is desirable for the preservation of the herd.

The CHAIRMAN. In your judgment, do you think the Government of the United States should kill any of the surplus male seals when this law takes effect?

Mr. EARL. Well, I can only say, Mr. Chairman, that the question whether the surplus male seals should be killed or not was very, very earnestly considered by the department after the passage of this law vesting the Secretary with discretion whether to kill surplus male seals or not, and acting on the best advice that he could obtain, and from the highest authorities that he could consult, it was concluded by him that it was desirable to kill off the surplus males for two reasons: First, that there would be less of a catch for the pelagic sealers, and, second, that the surplus males were not needed for the better growth and development of the herd. In the Secretary's annual report he says that if that discretion continues to reside with him that he will probably pursue the same policy, of course, guarding the number of seals to be taken.

Mr. SHARP. Does he lease that right at present?

Mr. EARL. No; the law prohibits the making of any lease. The only killing permitted under the law at the present time is a killing of male seals. Females and young seals are not to be killed, but male seals over a year old may be killed, provided that the preservation of the herd will not be damaged thereby.

Mr. GARNER. Killed by whom?

Mr. EARL. Under the direction of the Secretary of the Department of Commerce and Labor. They are actually killed by the natives, but under the supervision of Government agents.

Mr. SHARP. What becomes of the seals that are killed, and how extensive has that been during the past few years?

Mr. EARL. For the past two years, under the regulations of the Secretary, what per cent was reserved, Mr. Lembkey?

Mr. LEMBKEY. From 16 to 20 per cent.

Mr. EARL. From 16 to 20 per cent was reserved of the male seals.

Mr. GARNER. What number of seals was killed?

Mr. EARL. About 12,000 last year.

Mr. GARNER. Mr. Bowers has just returned from Europe, after selling the sealskins?

Mr. EARL. Yes.

Mr. GARNER. And the money derived from the sale of seals this year was a great deal more than heretofore?

Mr. EARL. Very much more. Under the lease made 20 years ago the Government got about \$150,000 a year from sealskins taken. For the past two years, since the killing has been done under the super-

vision of the department, the Government has received nearly \$400,000 a year.

Mr. GARNER. And this year he received for the Government a larger price than the pelagic sealers, did he not?

Mr. EARL. I believe so; yes, sir.

The CHAIRMAN. Can you give statistics as to about the number of seals now in the herd on the Pribilof Islands?

Mr. EARL. Well, Mr. Lembkey is here; he is the Government agent in charge of the islands and he can give you accurate figures in that regard.

The CHAIRMAN. I am glad to know that. Have you any statistics with you, or have you statistics in your department showing the number in the herd on the Commander Islands?

Mr. EARL. The department has the figures, but I do not have them.

The CHAIRMAN. Will you be good enough to send those figures here so we can put them in the record?

Mr. EARL. Yes.

The CHAIRMAN. The Commander Islands belong to the Russian Government and the Pribilof Islands belong to the United States Government?

Mr. EARL. Yes.

The CHAIRMAN. We would like to have for the record the number of seals in the herd on the Pribilof Islands and also the number of seals in the herd on the Commander Islands.

Mr. EARL. Would you also like the number in the herd on the Japanese Islands?

The CHAIRMAN. Yes.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SOLICITOR,
Washington, January 4, 1912.

NOTE.—It is understood that the number of seals resorting to the Commander Islands at the present time, constituting the Russian herd, and the number of seals resorting to Robben Island at the present time, constituting the Japanese herd, are approximately the numbers stated in articles 12 and 13 of the treaty, as indicating the size of the herds below which killing may be suspended by the respective governments without rendering them liable to make any allowance of shares of skins to other nations, namely, 18,000 for the Russian herd and 6,500 for the Japanese herd.

C. E.

Mr. SHARP. I suppose those seals are sold through competitive bidding?

Mr. EARL. Yes; sold at public auction. They are sold in London. London is the world's market for sealskins.

Mr. BARTHOLDT. Right in this connection: Has not a proposition been made to the department to sell those seals in the United States; that is, at St. Louis, New York, or some other place?

Mr. EARL. Yes; the department has had that proposition under consideration.

Mr. BARTHOLDT. Would it not be just as desirable to dispose of them in this country as to take them to London?

Mr. EARL. I know that matter was very carefully considered by the Secretary, and he decided, for the present at least, that the sale should be made in London. London is the seal market of the world, and firms there that deal in sealskins have been in existence for hundreds of years; for generations. They are very expert in the handling of the skins and drying of the skins before the sale.

Mr. GARNER. Is it not a fact that there are only two firms in the world that have knowledge of the process by which the sealskins can be properly taken care of?

Mr. EARL. I understand so, but about that I can not speak with authority.

Mr. GARNER. I happened to have a conversation with Mr. Bowers, who has just returned from London, and that was the information I got from him, that the reason you can not sell them in this country is because nobody knows the process.

Mr. BARTHOLDT. I have constituents in St. Louis who are interested in this matter, and they tell me that this secret is known now, and besides that I noticed in the newspaper reports to the effect that a Leipzig firm purchased the majority of the seals, and those people could come here as well as have the sale there.

Mr. EARL. Of course, under the law the Secretary may sell the skins in such market as he deems advisable, and he is at any time at liberty to conduct the sale in an American market if the American market seems to offer the best advantages.

The CHAIRMAN. Now, Mr. Earl, just a question or two: If this convention is carried out in good faith by the high contracting parties and this act becomes a law, pelagic sealing in the north Pacific would practically cease?

Mr. EARL. That is the belief.

The CHAIRMAN. And they are killing surplus male seals on the Pribilof Islands to-day because they are unnecessary for breeding purposes?

Mr. EARL. Yes; because they are unnecessary for breeding purposes; and it is believed, or it is said by those naturalists who have made a study of seal life, that too many males do not bring about the best development of the herd. Of course, I am not competent to speak of the scientific side of it.

The CHAIRMAN. But the whole matter under the law is in the hands of the Secretary of the Department of Commerce and Labor to do in that connection what he deems advisable?

Mr. EARL. Yes; and he, as I have said, has taken the advice of all the naturalists and biologists who have been on the islands and who have studied seal life there; he has taken the most expert advice to be had in the United States.

Mr. GARNER. All of the scientists are not agreed as to the policy to be pursued?

Mr. EARL. I think Prof. Elliott is the principal opponent that the Secretary had.

Mr. GARNER. But it is a fact that all the scientists do not agree as to the best policy to be pursued?

Mr. EARL. That is true in a qualified sense.

The CHAIRMAN. In this connection I desire to read and have put in the record this telegram just received by myself. It says:

Hon. WILLIAM SULZER, Chairman,
Washington, D. C.:

Unable to be present. Camp Fire Club earnestly urges 15-year closed season for seal. Hope and trust bill to that end will be favorably reported by your committee.

A. S. HOUGHTON, Vice Chairman,
Committee on Game Protective Legislation and Preserves,
Camp Fire Club of America.

Mr. GARNER. Where is that located, in New York?

The CHAIRMAN. Yes. The Camp Fire Club of America is doing a great work for the preservation of game of the country, and in connection with this telegram I would like to ask you whether the department would have any objection to Congress making a closed season on seals on the Pribilof Islands for 15 years?

Mr. EARL. Well, Mr. Chairman, on that question I do not think I could answer for the department.

Mr. GARNER. May I ask you just in that connection whether the department would have any objection to Congress legislating rather than turning it over to the Secretary of the Department of Commerce and Labor to determine what ought to be done?

Mr. EARL. No, Mr. Congressman, it would not. I would like to say a word on the question of those rules and regulations. The rules and regulations which the President is authorized to make under this act, I may say, could under no possibility be regarded as legislation, in my opinion.

Mr. GARNER. He can determine whether one seal shall be killed or 80 per cent of the males?

Mr. EARL. Yes; but that is not legislation.

Mr. GARNER. He can determine that much?

Mr. EARL. Yes.

Mr. GARNER. Well, I think that is the point at issue, or at least it might be the point of issue. Congress might determine that there ought not to be a single seal killed for 15 years.

Mr. EARL. I ought to say that this act that is now before the committee has nothing to do with the Secretary's discretion to kill any number.

Mr. GARNER. I agree with you there; it is a different law entirely; I understand that.

Mr. EARL. The power of regulation conferred by this act is entirely with the President, and relates only to the provisions of this act. It gives the President authority to make rules and regulations to carry the act into effect. The President can not add anything to the law nor can he take anything from the law; he can not make anything unlawful which the law does not make unlawful; he can simply make rules and regulations which, as Chief Justice Marshall said, refer to matters of detail that can not be anticipated ordinarily by the Legislature and are necessary to give practical effect to what the Legislature has enacted. And I may say that authority to make rules and regulations has been conferred upon the executive departments of the Government ever since the beginning of the Government, but very rarely, however, is it coupled with the provision imposing a penalty for violation, although recently I have read a decision, or one or two decisions, in which the courts have sustained an act of that kind.

Mr. LEVY. You say the skins brought \$400,000 this year?

Mr. EARL. Nearly that.

Mr. LEVY. Why was it that the year before there were so many pelts brought here that were nearly worthless?

Mr. EARL. I do not think there were.

Mr. LEVY. They said they killed a great many young seals, I think the year before, was it not?

Mr. EARL. I know that assertion has been made, but it has been disproved.

Mr. LEVY. It has?

Mr. EARL. Yes.

Mr. LEVY. I was so informed by a lot of furriers who said they were at the sale.

Mr. EARL. None of the seals taken last year were under a year old and none of them, I believe, under 2 years, practically.

Mr. LEVY. Was it not the year before?

Mr. EARL. Well, the same is true of the year before.

The CHAIRMAN. Have you concluded?

Mr. EARL. Yes.

Mr. HARRISON. Let me ask you about section 8, which provides that suit may be brought in the district court of Alaska or in any district court of the United States in California, Oregon, or Washington. Is it your construction that if a party violates any of the provisions of this act and lives 4 miles out of Alaska, he could be prosecuted in the courts of California?

Mr. EARL. Yes; I think so.

Mr. HARRISON. That is optional with the United States?

Mr. EARL. Yes. You see, the crime is committed on the high seas, and then it is a matter of legislation to fix the jurisdiction of the courts—that is, where the offense may be tried; I think that is all right. Moreover, that provision was taken from the act of December 29, 1897, and quite a number of convictions have been had under it.

Mr. GOODWIN. The reason the act grants jurisdiction to Alaska or the seaboard States on the Pacific side, I suppose, is that the crime would be committed nearer to those States than to the Atlantic Coast States or interior States?

Mr. EARL. Yes.

Mr. GOODWIN. And this provision is made for the sake of convenience?

Mr. EARL. Yes; the crimes would be committed at sea and these places would be—

Mr. GOODWIN (interposing). The nearest points?

Mr. EARL. Yes; the nearest points where the offenders might be tried.

Mr. GARNER. You seem to be familiar with this bill. I notice section 13 provides—

That this act shall take effect immediately, and shall continue in force until the termination of the said convention.

Would that foreclose a future Congress from repealing this act?

Mr. EARL. No.

Mr. GARNER. Then what is the object of putting it in there?

Mr. EARL. It is simply to limit the life of the act; it is not to deprive Congress of any power of repeal; it is merely to limit the life of the act.

Mr. KENDALL. It is the same principle that was involved in the Niagara Falls statute.

Mr. GARNER. I understand that. We simply say by this act: We will give to the Senate and President the right to repeal it at any time they see proper. We are simply declaring that when the treaty comes to an end this act shall come to an end; but as it is now it

gives the President and the Senate the right to repeal an act of Congress.

Mr. KENDALL. In the absence of the convention the statute would not be effective in any event.

Mr. GARNER. I understand that. The mere repeal of the treaty, by abrogation or otherwise, would repeal this.

Mr. EARL. I think the treaty is limited to 15 years.

Mr. SHARP. From what date?

Mr. EARL. From the 15th of December; and this being special legislation necessary to carry out the provisions of a special treaty, it was deemed proper to insert that language in the act, but, of course, we are not at all concerned with that feature of it.

(Thereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

The committee reassembled pursuant to taking a recess.

The CHAIRMAN. Mr. Earl, have you finished your statement?

Mr. EARL. Unless you wish to ask me some questions.

The CHAIRMAN. We will now hear from Mr. Lembkey. Will you please give your name and official position to the reporter.

STATEMENT OF MR. W. I. LEMBKEY.

Mr. LEMBKEY. My official position is that of agent in charge of the seal fisheries of Alaska, under the Department of Commerce and Labor.

Mr. Chairman, in 1867—

Mr. GARNER (interposing). Just before you start, is your residence, your office, in Washington?

Mr. LEMBKEY. My office is in the Fish Commission during the time that I am in Washington. However, I am on the seal islands every summer during the sealing season. I have spent six winters there. I have been on the seal islands every summer since 1899.

Mr. Chairman, in 1867 Alaska was ceded to the United States by treaty, and its effectiveness depended upon an appropriation of money by Congress, and therefore virtually required ratification by the House of Representatives as well as by the Senate. In 1870 Congress passed a law which required the Secretary of the Treasury should lease to the highest bidder at intervals of 20 years the right to take the surplus male seals in the Pribilof herd. After competitive bidding that lease was granted to the Alaska Commercial Co., which held the franchise during the entire 20-year period.

In 1890, in pursuance of the law already mentioned, the Secretary of the Treasury again leased to the highest bidder the same privilege for a further period of 20 years, and the successful bidder in that case was the North American Commercial Co. That lease expired in 1910. In 1910 Congress passed another law which repealed the former law which required bids to be advertised for for the sealing privilege, and required that any seals taken from the seal islands should be taken under the authority of the Secretary of Commerce and Labor, through agents or officers of the department. The Government therefore, during the years 1910 and 1911, has been taking

the surplus young males from the Pribilof herd and marketing their skins in London in the same manner, virtually, as had been done by both of the previous lessees. During the 40 years of the leases from those two little islands alone the Government had received as revenue from the taking of the sealskins nearly \$11,000,000, which is some millions in excess of the \$7,200,000 which this Government paid in 1867 for the entire Territory of Alaska.

I wish to say an explanatory word with regard to pelagic sealing. Pelagic sealing means the killing of the fur seals in the water by means of small boats operating from a schooner as a base. The practice was almost unknown until the year 1881, when some adventurous spirit fitted out a schooner on the Pacific coast and went into the Bering Sea for the purpose of seeing how many seals he could capture in the water. His success was more even than he anticipated, and in the following year his vessel was accompanied by a number of other schooners bent upon the same errand. The industry of pelagic sealing increased from 1881 until 1894 when, if I remember correctly, 65 schooners operated in taking seals from the Pribilof herd as well as the Commander or Russian herd on the opposite side of the Pacific Ocean. These schooners secured a catch of over 60,000 Pribilof Islands skins, as contrasted with a land catch on the islands of only 16,000. This pelagic killing was especially disastrous to the herd, for the reason that it was composed of from 60 to 85 per cent of breeding females—females with milk.

The killing of a female seal, which, by the way, when in the Bering Sea Islands is pregnant, involves the loss of the life not only of the mother seal, but of the unborn seal which she will deliver the following year and her nursing pup on shore—which dies of starvation, because a female seal will not nurse the pup of any other cow. The loss of a breeding female entails the loss of three lives, and it should require no further explanation from me to show the committee how destructive the practice of pelagic sealing is to the seal herd.

The land catch, on the other hand, is composed entirely of young males between the ages of 2 and 3 years at the present time and 2 and 4 years during the periods of the two leases which I have already mentioned.

It is not necessary to state to the committee that the fur seal is a highly polygamous animal. The sexes are demonstrated to be born in equal numbers, and it has also been shown that not more than 1 male in every 30 is necessary for the purposes of propagation. The remaining 29 can therefore be killed, although our killing has never included twenty-nine thirtieths, by any means. Speaking, however, from the biological standpoint, the killing of twenty-nine thirtieths of all the surplus males would not result in any depletion of the birth rate, for the reason that sufficient males would have survived from the killing to properly impregnate all females.

We therefore contend, and it has been conclusively demonstrated, that such killing as has been carried on during the American occupation of the Pribilof Islands has never had any effect upon the birth rate, and therefore has never injured the future increase of the species.

The practice of pelagic sealing was soon realized to be destructive to the herd and to its increase, and the officers of the Government took measures to abolish the practice which resulted in the Paris

agreement of 1892, which afforded a measure of protection to the seal herd, but did not provide sufficient protection to prevent the females from being killed in such number as to cause an increase in the herd. The Paris tribunal, by the way, bound, as you know, only the Governments of Great Britain and the United States. All other Governments were not bound, and therefore did not need to observe any of the provisions of the Paris award. The Japanese Government, or, rather, the citizens of Japan, began to engage in the practice of pelagic sealing, coming very close to the islands for their seals. While the Canadians more or less relinquished the practice, the fleet of Japan began to increase, until last year there were no Canadian sealers in the sea, so far as I know, whereas there was a Japanese fleet of, possibly, 35.

I have made this preliminary statement, Mr. Chairman, with the idea that the committee may understand some of the previous facts in connection with the seal herd. That is the only statement I wish to make, and I would be perfectly willing to have the gentlemen of the committee, the chairman, or others, ask me questions if they wish to.

Mr. GARNER. There is one question which occurs to me at this point. This present treaty is between what nations?

The CHAIRMAN. Between Russia, Japan, Great Britain, and the United States.

Mr. GARNER. His statement was that the treaty of 1892 was only binding on Great Britain and the United States. Would this treaty bind any other nation except those who participated in it—Russia, Japan, Great Britain, and the United States?

Mr. LEMBKEY. It would not seem to.

Mr. GARNER. Then, suppose some enterprising gentleman living in the Republic of Mexico should undertake to secure schooners and to continue that practice?

The CHAIRMAN. He would be a pirate.

Mr. GARNER. That is what I wanted to know.

The CHAIRMAN. Absolutely.

Mr. LEMBKEY. From my little knowledge of international law I should say that the enterprising gentleman from Mexico would have a perfect right to kill seals.

Mr. GARNER. I do not know that he would be a pirate in this instance when the treaty only applied to Great Britain, Japan, Russia, and the United States.

Mr. LEMBKEY. The only deterrent point in that connection would be that the adhesion of those four great nations to the principle of the nonkilling of the seals in the water would establish so strong a precedent, in my opinion, that a nation the size of Mexico, for instance, would hesitate greatly before she allowed an industry of that character to exist under her flag.

The CHAIRMAN. When this bill becomes a law it will be impossible, will it not, for a ship engaged in pelagic sealing in the North Pacific to make port?

Mr. LEMBKEY. There is no port on the Pacific coast south of the thirtieth degree of latitude to which a sealing schooner could go for supplies or shelter if this treaty becomes effective.

The CHAIRMAN. If the ship goes into any port north of that, she would be seized?

Mr. LEMBKEY. I would not say that she could be seized, because I believe that common humanity would allow her to seek refuge in a port if she were in stress.

The CHAIRMAN. The bill says so.

Mr. LEMBKEY. Then I withdraw that statement.

The CHAIRMAN. Under the bill she would not be allowed to go there for supplies.

Mr. KENDALL. A shipwrecked vessel would not be excluded from any port if that were necessary in order to save life?

Mr. SULZER. But the ship would be seized.

Mr. LEMBKEY. For the purposes of pelagic sealing the Pacific coast north of the thirtieth degree of latitude is absolutely closed to vessels of any nation engaged in sealing.

Mr. KENDALL. What was the numerical strength of the herd at the expiration of the lease in 1910?

Mr. LEMBKEY. In 1910 the herd numbered approximately 130,000 seals.

Mr. KENDALL. What was it in 1870?

Mr. LEMBKEY. In 1870 it was estimated at anywhere from 2,000,000 to 4,500,000. It had probably reached the point of the greatest expansion, where there was no more room for additional animals to maintain themselves.

Mr. KENDALL. Under the lease system the herd was very rapidly approaching extinction?

Mr. LEMBKEY. It was. Of course this diminution occurred during the leasing system, but it occurred from causes absolutely disconnected from the leasing system. The killing of the seals on land did not cause the diminution which did occur during that period.

Mr. KENDALL. Your theory would be that it was almost entirely due to the pelagic sealing becoming general?

Mr. LEMBKEY. Yes, sir; the killing of the females in the water was the cause of the decrease.

Mr. COOPER. Can you tell a male from a female by its head when they are swimming?

Mr. LEMBKEY. That is almost impossible, except that you can always tell a very old male seal. He is so much larger than the female that you can distinguish him readily in the water, but it is impossible to distinguish a 3-year-old male and female in the water.

Mr. COOPER. How can you tell a 3-year-old male from a 3-year-old female on the land?

Mr. LEMBKEY. There are certain points which may not be apparent to the casual observer, but which, however, are sufficiently plain to those who are engaged in the killing of seals commercially.

Mr. COOPER. After you get the skin off? If you see them in the water can you tell by the head a 3-year-old male from a 3-year-old female?

Mr. LEMBKEY. We can not tell at a distance. Let me explain the practice of killing the seals on the islands. It will take but a minute, and probably will give you a pretty clear idea: In driving or killing seals on the islands for their skins breeding seals are never disturbed; that is to say, breeding males and females are never visited by those men who drive up seals to be killed for commercial purposes.

An old bull, as described this morning, maintains a family and exercises a very great amount of vigilance in seeing that no other seal interferes with his family. For that reason the younger male seals, those from which the skins are taken, are not allowed to "haul," as it is called, among the breeding seals. They therefore come on land at spots entirely separate from the breeding area, and it is only from these hauling grounds that drives are made. Therefore in driving the bachelors from the hauling ground we feel morally certain, until a certain date in the year, that the drive which comes from that ground has no females in it. After the 20th of July—the killing season closes on the 1st of August—the rookery formation breaks up, the families disintegrate, the females have all been served, and they wander at will over the breeding grounds as well as the hauling grounds. After that date, therefore, the bachelor hauling grounds contain a gradually increasing percentage of female seals, and at that time greater and greater vigilance must be exercised in the killing to prevent the clubbing of a female seal through accident because of her close resemblance to an eligible young male. It is almost impossible to distinguish in every instance a 3-year-old male from a 3-year-old female, and the greatest care has to be exercised that the females are not killed. This occurs during only five days of the season, however, and the remaining portion of the season contains no menace to the fur-seal females.

Mr. SHARP. What is the average or normal age of the seals; what length of years do they live?

Mr. LEMBKEY. So far as we have been able to determine, and we have studied the question very thoroughly, a male seal lives to the age of 12 years and the maximum age of a female seal, so far as we have been able to determine, is about the same, 12 to 13 years.

Mr. SHARP. Are they rather prolific?

Mr. LEMBKEY. The female bears one young annually, after the second year. She comes into heat in the second year and bears her first young in the third year, and annually thereafter the females bring forth one young. The instances of twins are so rare as to be negligible.

Mr. LEVY. How is the killing of the seals managed, under your supervision, or in what way?

Mr. LEMBKEY. It is under my general supervision; yes, sir. During the period of the leases the representatives of the department occupied virtually the status of inspectors; that is to say, they were present at every killing, actively present, and carefully scrutinized those seals that were being killed and also saw to it that the regulations of the department were thoroughly enforced. But they did not participate in the active management. Since the leasing system the management of killing has been actively in the hands of the Government agents.

The CHAIRMAN. How many fur seals did you kill last season?

Mr. LEMBKEY. Twelve thousand and six.

The CHAIRMAN. Out of a herd of what number?

Mr. LEMBKEY. At the end of the killing season of 1911 there were 127,745?

The CHAIRMAN. In your judgment, you believe that there are over 100,000 seals now in the Pribilof herd?

Mr. LEMBKEY. There are over 100,000 seals in the Pribilof herd.

The CHAIRMAN. How many seals, in your estimation, if you know, are there in the Commander herd?

Mr. LEMBKEY. I have no exact data on that subject, but I can give it not more than 8,000 to 10,000.

The CHAIRMAN. And how many in the so-called Japanese herd?

Mr. LEMBKEY. They have never given out any information as to the size of the herd, but I do not believe that they have over a couple of thousand. That is just my individual opinion, however.

Mr. SHARP. What would be the effect on this herd as to increasing or diminishing the number if you did not kill any of the males for a number of years?

Mr. LEMBKEY. There would be absolutely no effect as regards increase or decrease, for the reason that there are only so many cows, no matter how many males you have. If you are raising poultry and have 20 hens you can not get any more eggs if you have one cock for every hen than if you have one cock for the entire flock.

Mr. GARNER. You do not mean that statement in its broad sense, that there would not be any difference in the number if you did not kill any of the seals for five years, because you would have the males on hand that you had not killed?

Mr. LEMBKEY. I mean this, that the number of females in the herd measures the producing capacity of the herd.

Mr. GARNER. If you did not kill the males you would have that number of males at the end of the five years?

Mr. LEMBKEY. To the extent of the increased number of males, of course; but you would not have a single additional pup born. That is the point I am making—that the herd would not increase any faster.

Mr. SHARP. Then there is an error in the law of nature as to producing the seals?

Mr. LEMBKEY. I would not go so far as to criticize nature, but I believe it has been demonstrated in certain classes of animals that a greater increase occurs with a judicious selection of the males than if they run promiscuously without selection.

Mr. KENDALL. There was no judicious selection prior to 1870, when the herd had accumulated a number over 2,000,000?

Mr. LEMBKEY. The Russians from the time of the discovery of these islands in 1786 down to the relinquishment of the territory by Russia in 1867 took seals annually.

Mr. KENDALL. Without distinction as to sex?

Mr. LEMBKEY. Until 1847 there was no distinction as to sex, and the lack of regulation forbidding the killing of females during the Russian period brought about the same result of a decrease in the herd as has now been brought about by the killing of these females in the water.

The CHAIRMAN. Last year the Government of the United States killed about one-tenth of the entire herd; is not that so?

Mr. LEMBKEY. Yes, sir.

The CHAIRMAN. And you think the Government should devastate them to that extent every year?

Mr. LEMBKEY. Mr. Chairman, I would say that the close killing of 1910 was predicated upon the fact that every seal that could be killed under the law that was not killed on land went into the water,

and increased the catch of the pelagic seal fleet to that extent. We therefore felt that it was the better policy to kill as many seals on land as could be properly killed with due regard to the law and regulations.

The CHAIRMAN. The pelagic sealers kill the males and the females; that is the devilry of it all.

Mr. LEMBKEY. Yes, sir; they are both subject to it.

The CHAIRMAN. We will stop pelagic sealing entirely by this law. I want your opinion, on account of your knowledge and experience, whether we should now go on in the future killing every year a part of the surplus males in the herd?

Mr. LEMBKEY. I will state in advance that I do not believe in the absolute cessation of land killing, but I will state that since pelagic sealing will be abolished under this treaty and since, of course, the herd will increase, that an additional number of young males should be spared to provide for this increase in females. I do not believe that the killing under this treaty should be as rigorous as it was previous to the treaty, but I am personally strongly opposed to the absolute cessation of the land killing of young males.

Mr. SHARP. Why? I ask purely for information. You are unquestionably well informed on this subject. Why are you opposed to that; what harm would result from it?

Mr. LEMBKEY. Well, in the first place, no advantage would accrue, and, as I have already said, it would not result in the birth of an additional pup if you should allow 100 per cent of all the males to mature and die. No advantage, therefore, would accrue and harm would come to the herd, in my opinion, through the presence of this greater disproportionate number of males. There would be as many males as females, and thousands of bulls would have no cows. That would constitute a serious menace alike to man and to the seals.

Mr. SHARP. What is the ratio of the births between the males and females?

Mr. LEMBKEY. The normal ratio would be about one to thirty. That is to say, 1 male to 30 females is considered a rational allotment.

Mr. SHARP. You do not quite understand my question.

Mr. GARNER. They are about equal. He made that statement before you came in.

Mr. LEMBKEY. And they are born in equal numbers.

Mr. SHARP. About the same as human beings?

Mr. LEMBKEY. Yes, sir.

Mr. SHARP. In some respects, they greatly resemble human beings in their affections toward each other. Is there anything in that?

Mr. LEMBKEY. No, sir. A great many stories have been circulated as to certain human attributes in the fur seals. As a matter of fact, they are creatures absolutely devoid of intelligence and absolutely devoid of all affection.

Mr. SHARP. They are not the kind of seals that we see exhibited which show a wonderful degree of intelligence?

Mr. LEMBKEY. No, sir. These seals have absolutely no intelligence from our standpoint, and they are governed by an overwhelming instinct and that alone. They have no intelligence and, of course, are not guided by that. I have seen a fur seal attempting for 10 minutes

to get past a wheelbarrow by climbing over it, whereas, as a matter of fact, if it had gone a few feet on either side it could have passed it without trouble. It had no intelligence, however, and continued for a matter of several minutes to attempt to crawl over this obstacle and practically wore itself out in attempting to do that.

Mr. GARNER. How many employees have you looking after this seal herd?

Mr. LEMBKEY. There are four agents, one in charge and three assistants. That comprised the entire force during the period of the leases. Since the Government has taken practical charge of all affairs up there, the administrative force has not been increased, but the employees include the doctors and school-teachers, which the lessee provided, under the lease, for the natives.

The CHAIRMAN. How many natives live on the Pribilof Islands?

Mr. LEMBKEY. The population of both islands equals about 300.

The CHAIRMAN. And how many white people?

Mr. LEMBKEY. There are no white residents. The only white people who live there are the employees of the Government.

The CHAIRMAN. How many employees of the Government are white people?

Mr. LEMBKEY. On St. Paul Island there is an agent—I think I can give you the number—there are seven white people in addition to the four agents.

The CHAIRMAN. What is the cost to the Government of the maintenance of those stations?

Mr. LEMBKEY. The 1910 salaries paid by the Government, including, of course, the salaries of the agents, amounted to \$14,430. The total expenditures on account of operations for 1910 were \$100,903. There was a total gross income from revenue derived from the sale of sealskins of \$436,155.19, in the same year. The expense incident to the sale of these sealskins was \$32,208.25, making a net income of \$403,946.94, and deducting the cost of supervision—over \$100,000, previously stated—makes a net revenue to the Government in 1910 of \$303,043.37 from the islands.

Mr. GARNER. If I understand you correctly the salary list of these agents on the islands amounted to fourteen thousand and some dollars, and the expense of looking after this matter was about \$100,000. Where does the \$84,000 come in? Where are the people who got that money.

Mr. LEMBKEY. I have not the detailed expenditures of 1910 showing the particular items covered by those expenditures, but I can give them to you approximately. There was about \$30,000 expended for supplies, which were taken to the islands from San Francisco for use in supporting the native population. There was also about \$17,000 or \$18,000 expended for the charter of a steamer to take up the supplies to the islands and to bring down the sealskins and the cost of furnishing the vessel with coal. Those comprised the main expenditures. Of course there were some smaller items, which brought the total up to that figure.

The CHAIRMAN. Could not the revenue cutters take up the supplies and bring down the pelts?

Mr. LEMBKEY. No, sir.

The CHAIRMAN. Why not?

Mr. LEMBKEY. A supply vessel is required to be specially fitted for that purpose. No vessel of the United States, except the few employed as freight transports, are so fitted. There is no room in a revenue cutter for the storage of supplies and there are no facilities, if there were room, for getting those supplies into the ship or out of it again, because she has not the necessary hoisting apparatus nor the hatchways which will allow supplies to be put into the hold and to be taken out. If you were to attempt to use revenue cutters or other vessels of the United States you would virtually have to take your supplies in your vest pocket and run down a stairway with them, and take them out the same way. There is no provision made for the expeditious loading and discharging of vessels of the United States, because they are not fitted as freight carriers or intended to be such.

Mr. GARNER. As I understand you, \$30,000 was spent for supplies and \$18,000 to fit out a ship. Did it cost \$32,000 to market the skins?

Mr. LEMBKEY. The \$32,000 is made up principally of the commission which was paid to the factor in London, the auctioneer, Lampson & Co., who sold those skins, and who, of course, charged the usual commission for the sale. There was also freight and insurance upon those skins—freight, of course, from San Francisco to London, and insurance from that point.

Mr. GARNER. Would it not be advisable to put into the hearing that statement as to the items of expense?

Mr. LEMBKEY. I am sure that the Fish Commission will be extremely glad to furnish that data.

The CHAIRMAN. Will you be good enough to hand that data to the reporter to be included in the hearings?

Mr. LEMBKEY. I will be glad to do so.

The CHAIRMAN. Assuming, Mr. Lembkey, that there was a closed season on the Pribilof herd for a period of 10 years, what, in your opinion, would be the number in the herd at the expiration of that time?

Mr. LEMBKEY. I regret to state that the increase would not be as phenomenal as has been held out before this and other committees. As nearly as I can approximate it, the increase in seal life which would result from an absolute cessation of pelagic sealing would equal 100 per cent every nine years. That is to say, the herd would double itself every nine years. I am willing to say eight years. We will say the herd will double itself every eight years. Now, if we should start in 1911 with approximately 50,000 breeding females, in 1919 we would have 100,000 breeding females, representing an increase of 100 per cent within a period of eight years. During the next eight years, however, the 100,000 breeding females would increase to 200,000, representing a net increase in the period of 16 years of 150,000 breeding females, and, of course, the next eight years would see 400,000 breeding females in the herd. While they would increase at the same ratio, the numerical increase would be much greater as the herd became larger.

The CHAIRMAN. We will assume that there are 50,000 breeding females in the herd at the present time?

Mr. LEMBKEY. There are, including the 2-year-old females.

The CHAIRMAN. And by the operation of natural law there will be 25,000 breeding females born the following year?

Mr. LEMBKEY. Yes, sir.

The CHAIRMAN. In 4 years there would be about 175,000 breeding females, at that ratio, would there not?

Mr. LEMBKEY. At that ratio; yes, sir.

The CHAIRMAN. You have told us from your investigations that a cow seal has one pup every year?

Mr. LEMBKEY. Yes, sir.

The CHAIRMAN. And that the sexes are about equal?

Mr. LEMBKEY. Yes, sir.

The CHAIRMAN. So your proportion of annual increase is entirely out of the way?

Mr. GARNER. There is a disproportion as to the figures?

Mr. SULZER. Yes.

Mr. LEMBKEY. According to the chairman's statement the increase will be much larger than the increase stated by me, but we must provide for a certain death rate from natural causes. That death rate is in the neighborhood of 50 per cent among pups and 10 per cent among the others, and in figuring the increase you must provide for the death rate from natural causes alone by at least the percentages stated.

The CHAIRMAN. That applies to both the males and females?

Mr. LEMBKEY. Yes, sir. The increase will be in the nature of about 100 per cent every 8 years.

Mr. LEVY. As to the increase under the present system, when was the low ebb?

Mr. LEMBKEY. At the present time there are fewer animals than ever before, but the decrease this last year was in the neighborhood of 5 per cent in the whole herd.

Mr. LEVY. There is no truth in the report that the seals were ruthlessly killed in 1910 when they first came under your supervision?

Mr. LEMBKEY. Absolutely none.

Mr. LEVY. There have been statements made that very small seals were ruthlessly killed and that the skins were sold in London for a very small price. I think that was last year.

Mr. LEMBKEY. A great many statements have been made aspersing the management by the seal agents since this matter was put under the Government's control, and I think those statements can be traced to one source only, and I think the gentleman is in the room who is responsible for all those statements. However, any statement to the effect that these seals have been ruthlessly killed during any period of time covered by the supervision of the Government officers there is entirely untrue.

Mr. LEVY. That is what I wanted to know.

Mr. KENDALL. Why is it that such a large proportion of the seals taken in pelagic sealing is females?

Mr. LEMBKEY. For the reason that the female who nurses her young must constantly leave the rookery and go to the feeding ground for food, and that after visiting the feeding ground, which may be 150 miles off the island, away beyond the 60-mile zone prescribed by the Paris tribunal, she sleeps during the process of digestion, and when asleep is an easy prey for the hunter.

The CHAIRMAN. Have you wintered in the Pribilof Islands?

Mr. LEMBKEY. I have spent five or six winters there. I do not remember which.

The CHAIRMAN. Do any of the seals remain on the islands during the winter?

Mr. LEMBKEY. None remain during the entire winter. During the period from the 1st to the 15th of November, all the seals leave the islands, and the rookeries are entirely devoid of seal life.

Mr. GARNER. What date?

Mr. LEMBKEY. From the 1st to the 15th of November. There is no exact date, but they leave within that period.

Mr. GARNER. How long do they remain away?

Mr. LEMBKEY. They do not return to the islands until the following May, when we look for the first bull.

The CHAIRMAN. Please explain to the committee your knowledge of the migration of the seal herds.

Mr. LEMBKEY. That has been pretty definitely mapped out. The seals leave the islands in a body about the time stated—about November 15—and appear off the coast of southern California in the following January or even in December, so that they make a migration described by a straight line running from the Aleutian passes to the latitude of San Diego or thereabouts. After December they gradually work their way along the coast of the Pacific through the Gulf of Alaska and arrive back on the islands—the bulls are the first to arrive—about the 1st of May.

Mr. KENDALL. Why do they return to the islands?

Mr. LEMBKEY. Solely because of the approach of the breeding season—to breed only.

The CHAIRMAN. It is the rookery?

Mr. LEMBKEY. That is the place for breeding, and they come back to it every year.

Mr. KENDALL. There is no other place where this breeding may go forward?

Mr. LEMBKEY. There is no other place selected by the seals for their breeding. They do not stop at any other land on the coast of America for the purpose of breeding.

Mr. GARNER. Are the young delivered on this island?

Mr. LEMBKEY. Yes.

Mr. FAIRCHILD. Is any considerable number of seals taken during this migration?

Mr. LEMBKEY. During this migration the herd is followed up by pelagic vessels belonging both to the Canadians and to the Japanese, and they take their toll, of course, on all those seals coming in contact with them. These pelagic vessels follow the herd up until the 1st of May, I believe it is, when, according to the provisions of the Paris tribunal, the closed season begins and obtains until the following 1st of August among the Canadians engaged in pelagic sealing.

Mr. COOPER. How far do the seals go away from the Pribilof Islands?

Mr. LEMBKEY. From 200 to 250 miles—about 200 miles, as a rule—to feed.

Mr. COOPER. And how long do they stay out of the water?

Mr. LEMBKEY. From three to five days. I am speaking of the females who go out in search of food. They go out varying distances up to 200 miles for food. After obtaining this food and digesting it they return and suckle their young, and when they again feel impelled by hunger to look for more food they desert the pup and seek food again.

Mr. FAIRCHILD. What is their food, chiefly?

Mr. LEMBKEY. Principally fish, I should say, although they do eat squid and a few other things. I believe their food consists mainly of a certain small fish which has not been classified or known heretofore, if I understand it correctly, except through the presence of its bones in the stomach of the seal. However, Dr. Evermann is here and is thoroughly competent to testify on that point.

Mr. COOPER. Do they dive after it?

Mr. LEMBKEY. They do, of course, dive, but they can not go beyond a certain depth for food. For instance, they can not seek the halibut or cod, which are down at least 10 fathoms.

Mr. LEVY. You spoke about 10 per cent. Suppose for the next five years it was reduced to 5 per cent, would not that be a good idea?

Mr. LEMBKEY. I must adhere to my original statement. If you abolished killing altogether, you would not have an extra pup born on the islands because of that stoppage. If you stopped the killing, it is going to cost just as much money as it takes now to run the business, without any income whatever. Whereas, if you were to allow a reasonable number to be killed, it would not cost the Government a cent during this period to maintain these islands and this entire service, because the expense of maintenance would be more than equaled by the revenue which we could bring in from the sale of sealskins.

Mr. GARNER. You say it would not cost the Government anything less?

Mr. LEMBKEY. It would not cost the Government a cent less if seal killing were stopped. We derive a revenue from the taking of these skins which is much more than sufficient to meet all expenses of maintaining the seal fisheries.

Mr. GARNER. But suppose we established a closed season, would the expense of looking after this herd as it is now be the same?

Mr. LEMBKEY. I should say that it would. I see no reason for decreasing the expense.

Mr. FOSTER. You think the islands have got to be policed just the same?

Mr. LEMBKEY. Yes; your laws have to be enforced, otherwise you would have poachers and pirates there, and the Government must exercise supervision over the rookeries, necessarily, and take care of the inhabitants on the islands.

Mr. FOSTER. You mean to take care of the 300 inhabitants there?

Mr. LEMBKEY. We provide food for those inhabitants, but in return they do work, and whatever we give to them goes to them not in the nature of a gratuity, but as pay for services rendered; but, of course, we have to provide them with all the necessaries of life, and the supplies are kept in the storehouses and sold to the native inhabitants.

Mr. COOPER. Suppose you had a statute punishing as a felony anybody found with sealskins in their possession, would that require us to keep a strict watch up there?

Mr. LEMBKEY. I do not see how the skins could be found in the boats without police supervision.

Mr. COOPER. They would be discovered when they came to land.

Mr. LEMBKEY. Of course, that is true; but the point is they could take them to any other port in the world.

Mr. COOPER. Does this convention make any provision for the punishment of poachers, or anything of that kind?

Mr. LEMBKEY. It certainly provides a penalty for the violation of this law, but it does not, so far as I know, cover the situation which you mentioned. A citizen of some country, perhaps, might take seals and go to a port in China or the South Seas or somewhere else and land those skins and sell them. So far as I know, he could not be punished, unless his Government should go after him. The point is, you must have supervision over this area, otherwise there will be no deterrent influence there.

Mr. SHARP. Your economic theory is, you must kill a certain number of these seals to defray the expense of protecting the others?

Mr. LEMBKEY. Yes, sir; I make that statement in answer to that feature of the case.

The CHAIRMAN. Have you any knowledge as to the length of time a seal can remain under water without coming up to breathe?

Mr. LEMBKEY. No, sir; I have not. I believe they can stay under water for several minutes, but that is simply a belief which I have. I have noticed them stay under the water for a period of several minutes, and perhaps they may stay under longer.

The CHAIRMAN. I have observed that the seals can stay under water for several hours.

Mr. LEMBKEY. Indeed!

Mr. FOSTER. Who determines as to the sale of these sealskins in London?

Mr. LEMBKEY. The skins are shipped from San Francisco to the firm of Lampson & Co.

Mr. FOSTER. Whose determination is that?

Mr. LEMBKEY. Under the law, the Secretary of Commerce and Labor has the authority to market these seals.

Mr. COOPER. Do you know of any reason why this country could not easily negotiate a treaty with China, or with any other country which has ports like the ones mentioned, to prohibit the landing of vessels containing skins in the hands of poachers in violation of this convention and the statutes passed to carry out the convention?

Mr. LEMBKEY. Well, I can only give my opinion on that subject. Judging from the great difficulty which has been encountered in arriving at any international settlement of this question, I should say that any further international concessions could only be gained by great effort and consumption of considerable time. I have found out from observing the course of events that nations, as a rule, do not give away privileges without some compensation. You could not very well ask a nation to close her ports to commerce without showing her some reason why.

Mr. FOSTER. Mr. Lembkey, I have not studied this problem, and some of my questions may seem academic, but I would like to know

whether there is anything in the law of the land, or in the treaty, or in this proposed statute which would prevent, for instance, a lot of Americans chartering a boat and going up there next summer and engaging in this pelagic sealing and taking the skins, we will say, to some port in Mexico?

The CHAIRMAN. Sections 7 and 10 of the bill cover that very fully, Mr. Foster.

Mr. GARNER. But, in that connection, if I may make a suggestion, Mr. Foster, the question I asked this morning it seems to me is quite pertinent, that this is a convention between four nations; and let us assume, as you say, some gentlemen from France or some gentlemen from Germany decide they want to engage in this pelagic sealing, and they should take their schooners up there and should kill a thousand seals and take them to a port in Mexico, is there any way to reach that situation in this bill?

Mr. FOSTER. That is something that comes up further on. What I was getting at was the question which our friend here raises as to the necessity of police supervision of that territory, and it seems to me that that is absolutely necessary if we want to enforce these laws; that while this provision might meet the situation if those ships are caught, but if there is no one up there on the lookout, it would seem to me that many would take chances of going up there and then taking the skins to Mexico.

The CHAIRMAN. I understand the Government of the United States and other Governments maintain gunboats or revenue cutters in the north Pacific and Bering Sea for the purpose of enforcing the laws.

Mr. GARNER. I would like to ask one other question in this connection. If the entire enforcement of this act was changed from the Department of Commerce and Labor to the Treasury Department, would there be any difference with reference to the economy in the enforcement of the act with reference to utilizing revenue cutters and vessels in the service of the Treasury Department?

Mr. LEMBKEY. No, sir; I do not see how there would.

Mr. SHARP. Mr. Chairman, may I ask you a question? You have been up there a number of times. Do you think the revenue cutters that are supported by the joint action of all these powers would be sufficient for the protection contemplated under this statute?

The CHAIRMAN. I think so. They do most effective service.

Mr. Lembkey, is there anything else you would like to say?

Mr. LEMBKEY. There is nothing more I have to state.

The CHAIRMAN. If you have any data you desire to incorporate in your remarks, we will be very glad to have you do so.

Mr. LEMBKEY. I thank you, sir.

STATEMENT OF DR. BARTON W. EVERMANN, CHIEF DIVISION OF ALASKA FISHERIES, DEPARTMENT OF COMMERCE AND LABOR.

The CHAIRMAN. Doctor, will you be good enough to give the reporter your full name and official connection with the Government?

Dr. EVERMANN. My name is Barton W. Evermann, and I have charge of the Alaskan Fisheries Service in the Bureau of Fisheries.

I do not know, Mr. Chairman, that there is anything of any special importance that I should say, except I would like to emphasize this

one point: That the stopping of all killing on the islands would serve no useful purpose whatever, no more than to stop the killing of all roosters on a chicken ranch or all rams on a sheep ranch would serve a useful purpose. There is no more necessity for saving for breeding purposes all the male seals that are born than for saving all the roosters you might have on a chicken ranch or all the rams or boar pigs you might have on a farm for breeding purposes.

Any farmer or any poultry man would kill off the surplus males to whatever extent he might wish to increase his flock or his herd, and he would kill them off for just the same reasons that we kill the surplus male seals. Those reasons are these: In the first place the saving of all of them would not add one pup to the herd. You need to save only enough males to insure each female becoming impregnated. That is all that is necessary. A reserve of that number will answer all purposes so far as breeding is concerned. Now, the others can be killed and should be killed for this reason, leaving all of the males to come upon the rookeries would be like leaving all the stallions on a horse ranch and turning them loose in the fields with the mares. If you have 100 mares and turn loose with them 100 stallions, if you have had any experience in stock raising, you know what the result would be. It would be disastrous; and the same thing is true regarding the fur seals. The surplus males should be killed because of the damage they would do, through fighting and otherwise, on the breeding grounds. Second, the surplus males should be killed because their skins are of value and can be marketed at a good figure and will bring a return to the Government which will go toward defraying the expense of maintaining and looking after the herd.

The number that was killed last year and this year brought a money return far in excess of the expenses incident to the care of the herd. The number which can be killed next year, of course, will be greatly in excess of the expense; I mean, of course, the number which can be killed without any danger whatever to the herd. Now, one of the members of the committee called attention at this point to the fact that if you refrained altogether from killing that the herd would actually be somewhat larger than it would if you killed the surplus males and saved all the females. That is true. There would be more males on the islands, but they will become useless and valueless. If you do not gather your apples or your eggs, periodically, you can see that the time soon comes when even eggs become of little value, and that apples rot. The same thing is true with reference to these male seals. If you refrain from killing the 2 and 3 and 4 year old surplus males, they pass over the next year into seals of 3, 4, and 5 years, and the next year to seals of 4, 5, and 6 years, and so on, increasing a year in age with each passing year, and when they have passed the age of 4 years, then their skins depreciate in value, and by the time they are 5 or 6 or 7 years old, their skins are scarcely of any value at all.

So if you saved the male seals for 15 years, as has been suggested, you will simply have on hand, barring those which would die a natural death, a considerable number of old males which are not needed for breeding purposes, and the skins of which are of relatively no value at all. So that the reason the surplus males should be killed is because they are a surplus and because they bring a reve-

nue to the Government which will defray the expense, and because if you save them they depreciate in value and very soon become of no value at all.

The point which Mr. Lembkey made regarding the possibilities of the increase of the herd is one that might be dwelt upon. A great many extravagant, wild statements have been made regarding the possibility of the rehabilitation of the fur-seal herd, just as such statements are made regarding almost everything else you want to build up. But the rebuilding of any depleted species is a slow process necessarily. In the beginning the results do not begin to show, but in a few years they will, and in the course of a decade or two there is no reason why we should not have a large herd of Pribilof seals; but you can not expect anything like two or five or seven millions in 15 years, as our friend has contended, but you can be sure of this fact, that the size of the herd at the end of 15 years, with the stopping of all killing on the islands will differ only in an infinitesimal degree from what it will be if the surplus males are killed off every year.

The natives of the islands are in a sense wards of the Government, and it costs something to keep them. There are about 300 of them, and we are under obligations to look after them. They are maintained by the Government, but they give value received for what the Government does for them. They are employed to do all kinds of work connected with the fur-seal industry on the islands. Now, if all killing on the islands should stop, those natives will remain and will have to be provided for. There will be little or no work for them to do, but that will not decrease the expense of taking care of them. They will eat just as much as before.

Mr. FOSTER. Are the islands barren?

Dr. EVERMANN. Absolutely barren. The resources of the islands are fur seals and blue foxes and nothing else.

Mr. SHARP. Did the natives come there originally for this employment?

Dr. EVERMANN. Yes, sir. When the islands were discovered they were uninhabited by man, and the Russians took natives from the Aleutian Islands for the purpose of employing them or using them in the taking of the seals.

Mr. COOPER. How far are these islands from the Aleutian Islands?

Dr. EVERMANN. About 200 miles.

Mr. COOPER. In what direction?

Dr. EVERMANN. They are north half west from Unalaska, which is the important point in the Aleutian Islands.

Mr. SHARP. Are they much nearer our coast or the Asiatic coast?

Dr. EVERMANN. They are much nearer our coast.

Mr. LEVY. Doctor, has the sea otter been exterminated entirely?

Dr. EVERMANN. No, sir; but it is near extermination. I think the entire kill of sea otter last year of which we have record was about 37, and I believe we have records of about 35 this year.

Mr. LEVY. Do we have any sea otter?

Dr. EVERMANN. This sea otter is our sea otter. It is the American species.

Mr. LEVY. Do we restrict the killing of sea otter in any way?

Dr. EVERMANN. Yes, sir; this treaty restricts it, and before this treaty was enacted the law of April 21, 1910, authorized the Secre-

tary of Commerce and Labor to promulgate regulations for the protection of the sea otter and other fur-bearing animals in Alaska.

Mr. LEVY. Does this bill apply to them, also?

Dr. EVERMANN. Yes, sir.

Mr. LEVY. The sea otter is worth a great deal of money?

Dr. EVERMANN. Yes, sir.

Mr. LEVY. About what is the pelt of a sea otter worth?

Dr. EVERMANN. I suppose all the way from \$200 to \$1,000.

Mr. SHARP. From what place do these trained seals come?

Dr. EVERMANN. They are harbor seals and hair seals, which come from various points, from the coast of Maine, principally. The only fur seals in the world in captivity, or that have ever been kept in captivity, are the two down at the Bureau of Fisheries, and eight which came down from the islands last fall. Ten were brought down, but two of them have died, and the other eight, I believe, are still living. The two at the Bureau of Fisheries were brought down by the revenue cutter *Bear*, two years ago, and they are doing splendidly: and a rather astonishing statement can be made regarding those two fur seals: They are the only fur seals that have ever lived of which you can say, absolutely, "These are 2-year-old seals."

Mr. COOPER. Have they propagated?

Dr. EVERMANN. No, sir; the male is not old enough. Any statement regarding the age of any seal on the islands is simply a matter of opinion. No one knows and no one ever has known the age of any seal on the seal islands, barring, of course, the pups of the year that have not yet left. When a pup is born on the islands, so long as it stays there you can know its age, but when it leaves in the fall and comes back again the next season you do not know absolutely, whether it is the pup born in the preceding summer or one born two or three summers preceding. We can have an opinion, but we do not know. So these two are the only 2-year-old seals of which we can say absolutely that they are 2-year-old seals.

Mr. KENDALL. Do you expect them to propagate?

Dr. EVERMANN. We do not know what to expect. We are simply experimenting to find out. It has never been tried before, and there is no way of finding out except by waiting and seeing what the result will be.

Mr. LEVY. How many sea otter did we catch last year?

Dr. EVERMANN. We did not catch any. The regulations of the Department of Commerce and Labor prohibit the killing of sea otter within territorial waters. Those that were killed were killed outside of the 3-mile limit. I should modify my first statement that we did not kill any. That is not quite true. I should say none was killed legally within territorial waters, but in the neighborhood of 35 were killed outside of territorial waters.

Mr. LEVY. The sea otter, so far as the pelt is concerned, is one of the most valuable furs, you may say, in existence?

Dr. EVERMANN. Yes, sir. As I was going to say, this treaty provides for the protection of the sea otter outside of territorial waters.

The CHAIRMAN. The natives catch a sea otter now and then along the coast of Alaska, because there is no law prohibiting that?

Dr. EVERMANN. That is true.

The CHAIRMAN. Doctor, have you studied the migration of the seals from the Pribilof Islands?

Dr. EVERMANN. I spent six months in 1892 on the fisheries steamer *Albatross* studying that very question.

The CHAIRMAN. Will you be good enough to tell us about that?

Dr. EVERMANN. The migration route has been pretty well worked out. When the seals leave the islands in November they pass through the passes of the Aleutian Islands and down in the Pacific, and then in the middle of the winter swing toward the California coast, and then turn back northward, and just about this time they will be passing off Cape Flattery and on north back to Bering Sea, following up the Alaska coast and reaching the islands again next spring. A chart has been published showing the approximate position of the herd in each month in the year.

Mr. KENDALL. Doctor, what is your theory of the purpose of that excursion which they make annually?

Dr. EVERMANN. I do not know that I have a theory that is worth anything, but we suppose they leave the islands for feeding purposes. They do not remain there during the winter. Then there is the further reason that the islands are rather undesirable climatically during the winter.

Mr. KENDALL. But they take this same direction each year?

Dr. EVERMANN. Yes. Of course, the primary cause of the migration of any animal is a large question. Every species of bird has a rather definite migration route.

Mr. KENDALL. They are governed entirely by climatic conditions, are they not?

Dr. EVERMANN. It is still a question as to what causes birds to migrate. Why do they go South in the fall?

The CHAIRMAN. Food and weather have a great deal to do with it.

Dr. EVERMANN. Food has something to do with it and climate has something to do with it.

Mr. KENDALL. Of course, in the southern latitudes there is food for them in our winter period, and that is a matter of climate so far as the birds are concerned.

Dr. EVERMANN. Of course, there are a good many birds which migrate, but which are not necessarily compelled to do so by the absence of food. That is a question the ornithologists discuss from time to time, and they are not all agreed. They are pretty well agreed upon this one thing, however, that primarily the original cause of migration was the invasion of unusual cold during the glacial period, driving them from their permanent home to the South, and the spring migration back northward is an effort to return to the original home.

The CHAIRMAN. Doctor, have you ever been to the Commander Islands?

Dr. EVERMANN. Yes, sir.

The CHAIRMAN. In your opinion, how many fur seals are in the herd there?

Dr. EVERMANN. I believe that the Russian representatives at the fur-seal conferences in Washington last summer stated that they had not to exceed 18,000 in 1910.

The CHAIRMAN. In your opinion, how many are in the Japanese herd on Robben Island?

Dr. EVERMANN. I understand that the Japanese at the fur-seal conference in Washington put the number for Robben Island at 6,557 in 1910, and a few on the Kurils.

The CHAIRMAN. And these three herds practically constitute all the fur seals of the world?

Dr. EVERMANN. They are all the fur seals of the Northern Hemisphere. There are seals in the Southern Hemisphere of a different genus, not as valuable. These three herds represent three different species, of which our species (the Alaskan fur seal) is the most valuable.

Mr. COOPER. Has Great Britain any herd?

Dr. EVERMANN. No, sir.

Mr. COOPER. Then why is Great Britain made a party to this convention?

The CHAIRMAN. On account of Canada.

Mr. KENDALL. And on account of the pelagic sealing which she agrees to surrender?

The CHAIRMAN. That is correct.

Mr. COOPER. The speaker who preceded Dr. Evermann stated that he thought it would be a difficult matter to get one of the nations to surrender that right.

Mr. KENDALL. But in this case we are paying her for it.

Mr. FOSTER. Doctor, when they are on this migration, do the seals go upon the shore much, if any?

Dr. EVERMANN. Never. So far as known, they never haul out on land anywhere except on the islands of St. George and St. Paul.

Mr. GARNER. Doctor, in what way do these other countries get a 15 per cent interest in our herd?

Dr. EVERMANN. According to the terms of the treaty we agreed to give Great Britain 15 per cent of the skins which are taken annually on the islands and to give Japan also 15 per cent. That is in return for their giving up their right to kill seals in the open sea.

Mr. GARNER. Doctor, you are superintendent of seal fisheries in the Bureau of Fisheries. What number of employees do you have there connected with your department in the Bureau of Fisheries?

Dr. EVERMANN. The division of which I have charge has charge of all of the fisheries of Alaska, not only the fur seals, but the salmon and all other fisheries and fur-bearing animals. The division was established by Congress last winter as a separate division, and it includes the seal agents, of whom there are four, and the other employees connected with the seal service, of whom there are six; and the salmon agents, of whom there are four; and the fur-bearing animal wardens, of whom there are five; each of whom receives the munificent salary of \$600 a year.

The CHAIRMAN. And I want to say these men are doing good work and they ought to get more pay for what they are doing.

Dr. EVERMANN. I am very glad to hear you say that, Mr. Chairman. I would like to say for the fur-bearing animal wardens of Alaska that they are all men of ability. I think every one of them is a university graduate except one. They are all men who have nerve, who have had experience in the woods, and who are ambitious to become authorities on the question of fur-bearing animals, and that is the reason why they were willing to go to Alaska. They are there this winter camping in the forest with the trappers, watching the operations of the hunters and trappers and studying the habits of the animals; not for the \$600 which they are getting, but

for the opportunity of becoming authorities upon these questions in which they have this special interest. Men could not be gotten to go up there for the small salary paid.

Mr. HARRISON. How far is St. George Island from St. Paul Island?

Dr. EVERMANN. About 36 or 40 miles.

Mr. HARRISON. Which is the larger of the two islands?

Dr. EVERMANN. St. Paul.

Mr. KENDALL. What is the area of St. Paul?

Dr. EVERMANN. Well, Mr. Lembkey can tell you that much more accurately than I can.

Mr. LEMBKEY. About 50 square miles.

Dr. EVERMANN. It is about 13 miles long and half as wide, but a part of it is very narrow.

The CHAIRMAN. Doctor, if there is any other data you desire to incorporate in your remarks, the committee would be very glad to have you do so.

Dr. EVERMANN. Thank you.

STATEMENT OF CAPT. ELLSWORTH P. BERTHOLF, COMMANDANT, REVENUE-CUTTER SERVICE, TREASURY DEPARTMENT.

The CHAIRMAN. Captain, will you be good enough to give the reporter your full name and your official connection with the Government?

Capt. BERTHOLF. Capt. Ellsworth P. Bertholf, captain commandant of the Revenue-Cutter Service.

There is nothing particular I desire to say, Mr. Chairman, but possibly I might know something, if any one desires to ask me any questions. Of course, the interest of the Revenue-Cutter Service in this sealing matter is that we do most of the work; in fact, we do all the work at sea. The patrol has been in the years past maintained by the Revenue-Cutter Service and that is where we come in, as bearing on this question.

Mr. SHARP. Are Great Britain and Japan doing their part of this service?

Capt. BERTHOLF. Japan never had any part to perform.

Mr. SHARP. But under this treaty they will come in for a part of it?

Capt. BERTHOLF. They are supposed to do so. If they do only as well as Great Britain has in the past under the Bering Sea Tribunal, they will not do much.

The CHAIRMAN. How many revenue cutters has the Government of the United States in the North Pacific?

Capt. BERTHOLF. On the Bering-Sea patrol?

The CHAIRMAN. Yes; and in the North Pacific.

Capt. BERTHOLF. It has 12 altogether, but that is counting vessels of all classes—there are only 6 of the larger cruising vessels. Of those we sent to the North Pacific and Bering Sea last year, only 3 were on the seal patrol. We did not have any more vessels to send on this duty. The *Manning*, *Tahoma*, and *Rush* were on seal patrol. The *Bear* was detailed for the Arctic cruise, the *Thetis* for the Department of Justice cruise along the coast of Alaska, and the *McCulloch* remained in southern Californian waters.

Mr. LEVY. Are there any new ones there?

Capt. BERTHOLF. Not yet.

Mr. LEVY. The ones you have at present are out of date, are they not?

Capt. BERTHOLF. We think so—that is, all except one. There is a new one building now—the *Unalga*. She will be finished in June. She will be out on the west coast next fall. We have one that is comparatively new, the *Tahoma*. She went out two years ago. She is a new vessel yet. While the *McCulloch* and the *Manning* are 14 years old, they are still fairly good vessels. The *Bear* is 39 years and the *Thetis* 30 years old. Both are wooden vessels in fair condition, but used for special cruising north. We need at least three vessels for the Bering Sea patrol alone, and four would be better. If the Revenue-Cutter Service has to patrol the entire North Pacific north of the parallel of 30° and west to the 180th meridian, it would need a great many revenue cutters.

Mr. COOPER. What size are those ships?

Capt. BERTHOLF. Anywhere from 550 to 1,280 tons.

Mr. COOPER. And how long?

Capt. BERTHOLF. Two hundred feet, usually. From 170 feet to 219 feet. Our largest vessel on the west coast is 219 feet.

Mr. SHARP. Captain, do you encounter many attempts to violate the treaty?

Capt. BERTHOLF. You are speaking of this treaty?

Mr. SHARP. Yes.

Capt. BERTHOLF. Of course, this treaty is not in effect yet.

Mr. SHARP. I mean attempts to illegally take the seals.

Capt. BERTHOLF. Oh, yes; we encounter that. That is what we are up there for.

Mr. SHARP. But I asked you if you encountered many attempts to do that. What I want to know is how your vigilance is taxed.

Capt. BERTHOLF. Well, under the agreement between England and America, the United States did not permit any vessels to seal at all. In fact, it has been against the law for any United States citizen to fit out a vessel for sealing, and consequently none have fitted out for many years that we know of. But there was no such law passed by England, and she allowed Canada to fit out her vessels and to seal at such times as the law did not prevent. For instance, they could follow up the herd until the 1st of May. After the 1st of May they had to keep out of the North Pacific, north of latitude 35 and out of the Bering Sea. After the 1st of August they could then go into the Bering Sea and seal to within a zone of 60 miles around the Pribilof Islands. It was a part of our business to see they did not get inside of that 60 miles, and, of course, that 60-mile zone is a rather long stretch.

Mr. SHARP. Do you have many seizures?

Capt. BERTHOLF. Of Englishmen?

Mr. SHARP. Yes.

Capt. BERTHOLF. Not of late. We used to have quite a number. We have not seized any Englishmen of late because they have only had three or four vessels each year engaged in sealing.

Mr. SHARP. Or anyone else besides Englishmen?

Capt. BERTHOLF. Yes; the Japanese have given us the most trouble during the past four or five years. Two Japanese sealers were seized by revenue cutters in 1907, two in 1908, and two in 1909. It was not

against the law for the Japanese to seal outside territorial waters. Any vessels except English and American could seal in the open seas, and outside of the 3-mile limit we have no jurisdiction over the vessels of other nations. Up to the present time the laws of the United States prevented the United States citizens from sealing anywhere. The convention between England and America prevented the Englishmen from sealing to within 60 miles of the islands, but the Japanese or anyone else could seal within 3 miles of the islands.

Mr. SHARP. So this treaty and this law will be a great step in advance, you think?

Capt. BERTHOLF. Decidedly so, for four nations have joined the convention instead of two, as formerly.

The CHAIRMAN. In your opinion, Captain, when this law becomes effective, will there be to any extent pelagic sealing on the Pacific?

Capt. BERTHOLF. While it is only a guess, I should say there will still be pelagic sealing. There is nothing to prevent citizens of any country not a party to this treaty from fitting out any vessels they please. But a vessel must have food and water in order to seal. Of course, under this treaty the whole of our coast is forbidden to any vessel for sealing purposes, and while a Mexican vessel, for instance, might fit out and go sealing, she could not go into any of our ports for water, which she must have. But there are innumerable harbors and bays on the Alaskan coast that are not regular ports, and where there are no people to prevent such vessels from obtaining water supply. The Alaskan coast line is immense, and we would have to have a great many vessels along this Alaskan coast to keep all foreign vessels from entering out-of-the-way places and getting water. They can carry all the provisions they need. Another thing, if a Mexican vessel fitted out, or some American citizens fitted out a vessel not under the American flag—and that is not at all unlikely since some of these Japanese vessels in the last four or five years were manned by Canadians, ex-Americans, and Scandinavians—and they, by the way, were the ones that got the greatest number of seals—they could fit out the vessel, put it under a foreign flag, and we could not touch that vessel unless it was within the 3-mile limit.

The CHAIRMAN. Have you read section 7 and section 10 of this act?

Capt. BERTHOLF. Yes, sir; possibly I have not digested them.

The CHAIRMAN. I think you will find, Captain, that under those two sections the vessel can be seized.

Capt. BERTHOLF. Yes, sir; we can seize any vessel beyond the 3-mile limit, but we would probably have to give it up. We have no jurisdiction over foreign vessels on the high seas.

The CHAIRMAN. That would have to be determined by one of our Federal courts.

Capt. BERTHOLF. Is it the meaning of this law that it is supposed to stop all pelagic sealing?

The CHAIRMAN. That is the object of the law and the purpose of the convention.

Mr. GARNER. I hardly anticipate, if you should seize a German vessel over there flying the German flag, that the jurisdiction of the Federal court would have much to do with the arrangement here in the State Department, and you would have to turn it loose. You

are not going to have any law passed by Congress that would take that power away from Germany.

Capt. BERTHOLF. I should like to say this, Mr. Chairman, as a suggestion: In section 7 there is no mention of sea otters. It provides for presumptive evidence, which will convict in the case of seals but not in the case of sea otters, and without the words "sea otters" in the section there is no penalty for taking sea otters unless you prove they actually kill them. That has been the difficulty heretofore.

Mr. LEVY. Do you not think that if we protected the sea otters they would increase?

Capt. BERTHOLF. I would suppose so. The difficulty we have had in the past with our work in Alaska is this: In seizing Japanese vessels, for instance, we have had to prove they killed the seals inside of the 3-mile limit, and that is difficult to do.

Mr. GARNER. In other words, Captain, a vessel could go seeking sea otter, and unless you actually caught them in the act of taking the seal you would not be able to seize them?

Capt. BERTHOLF. Precisely so. Here is an instance in point. Up to the present time it has been against the Canadian laws, as well as our own, for a Canadian vessel to seal north of 35° of latitude until the 1st of August. Three years ago I was in command of a revenue cutter, and we boarded two or three Canadian sealers inside the restricted zone during the forbidden time. They were fitted for sealing. We could not seize them because they had a sealing license. They said they were catching sea otters. They had no seals on board, but they could easily catch the seals. The only difference between the two outfits is the salt. They salt the seal-skins and dry the sea-otter skins. If there is no penalty for vessels engaged in sea-otter hunting they could fit out for sea otters, it seems to me, and kill fur seals if no one happened to be around.

Mr. FOSTER. Captain, if you do not mind, I would like to ask the representative of the Department of Commerce and Labor what he has to say on that point.

Mr. EARL. I think Capt. Bertholf's suggestion is a good one. Of course, under the law the hunting and pursuing of sea otters is prohibited under a penalty, but this particular section he refers to makes the presence of hunting implements and skins on board presumptive evidence of being engaged in that occupation. I think the fact of the matter is that the reason why sea otters and sea-otter skins were not mentioned in that section was because it was merely an oversight. I think that mention should be made of sea-otter skins.

The CHAIRMAN. Capt. Bertholf, is there anything else you desire to say?

Capt. BERTHOLF. No, sir.

The CHAIRMAN. We will be glad to have you incorporate in your remarks anything further you desire to submit.

Capt. BERTHOLF. I thank you, sir, and submit the following statement as to the operations of the Revenue-Cutter Service in this connection:

Since pelagic sealing was first practiced revenue cutters have been employed every season in the patrol of the Bering Sea. Hundreds of thousands of miles have been covered in the ceaseless work of cruising around the Pribilof Islands, thousands of vessels boarded and many seized in the enforcement of

the various regulations which from time to time have been promulgated for the protection of seal life in the waters of the Bering Sea and the North Pacific Ocean. At various times the fleet employed has consisted of from three to six vessels, according to the activities of the poachers and the necessities of the service to be rendered. It can be said without fear of contradiction that were it not for the vigilance of the revenue cutters during the years since the patrol was inaugurated there would to-day be practically no seal herd on the Pribilofs with which to start this proposed rehabilitation. Besides patrolling the seas to prevent pelagic sealing, the presence of the cutters has prevented actual raids on the rookeries. As the herd has grown smaller the price of the pelts has naturally increased, and this has emboldened the poachers which infest the Bering Sea during the sealing season, with the result that during the last few years the greatest vigilance has been necessary to prevent dashes at the shore breeding grounds. The crews of these sealing schooners are, as a rule, reckless and daring men, and in two or three hours' time could kill and get away with as many seals from one of the rookeries as they would ordinarily catch at sea during an entire season. The incentive, therefore, to make a raid, even at the risk of losing their lives, has been very great. Under the conditions which will prevail during the operation of the treaty sealskins will be of greater value than ever, so that the protection of the islands will have to be even more rigid than heretofore to prevent marauders from making raids on the rookeries.

This patrolling of the waters surrounding the Pribilofs is one of the most severe duties which befalls any branch of the public service. The weather conditions are uniformly bad, and a dense pall of fog surrounds the islands for about half the time during the months of July and August. There are no lights nor fog signals in these waters, and the only warnings of the near approach to the land are the roar of the breakers and the bellowing of the seals on the rookeries. As fog conditions are naturally the best for making raids, the worry and anxiety of the officers in charge of the cutters can well be imagined.

There are no harbors in which to seek shelter, so that from 15 to 20 days at a time the cutters must continually cruise about, the monotony being varied only by the occasional visits to the headquarters at Unalaska, 225 miles away, for coal, water, and other supplies. To the credit of the service it can be stated that notwithstanding the constant dangers of these surroundings, there has been but one vessel lost in the 40 and more years in which revenue cutters have cruised Alaskan waters. This occurred when the revenue cutter *Perry* struck a reef off St. Paul Island during a dense fog in July, 1910. The loss of this vessel has proven a serious drawback in the patrol of the Bering Sea, as there is no available vessel to take her place. Attention, however, is called to the fact that a bill is now pending before Congress to replace the *Perry* with a new vessel, better fitted for this duty. The enforcement of the treaty conditions on the part of the United States will require the service of every available revenue cutter on the Pacific coast from the time that the seals start northward in the spring until they return in the fall, as it must not be supposed, with such valuable prizes at stake, that the existence of this treaty will prevent lawless men from making the attempt to capture seals both on land and at sea. The value of any law depends on the rigidity with which it is enforced, and I can only say that with its record of the past as a guide for the future the Revenue-Cutter Service will be able to cope with the situation, and thus, so far as the United States Government is concerned, at least the intent of the treaty will be carried out to the letter.

STATEMENT OF PROF. HENRY W. ELLIOTT, OF CLEVELAND, OHIO.

The CHAIRMAN. Professor, will you give the reporter your full name and official capacity with the Government?

Mr. ELLIOTT. Henry W. Elliott; citizen; residence, 17 Grace Avenue, Lakewood, near Cleveland, Ohio.

Mr. Chairman, I came here to make a statement with regard to the merits and demerits of a bill which would properly safeguard the terms of this treaty. I have listened to a great deal of biological data, which I intended to take up after I addressed the committee on the merits of this bill.

MR. KENDALL. Mr. Chairman, as this is likely to be quite an extended hearing, I would suggest that we adjourn until to-morrow morning.

MR. ELLIOTT. I would like to take up at this moment and answer briefly the biological statements which have just been made by Dr. Evermann.

The CHAIRMAN. Proceed.

MR. ELLIOTT. Dr. Evermann has told you that from his standpoint the natural laws which govern this wild life up there are a mistake, and he can improve upon them. I belong to a school of naturalists who have studied a great deal in the open and have come to recognize the fact that God Almighty knows a great deal more about the care and conservation of any wild life than any human being has as yet ascertained. Dr. Evermann assumes that he has control of this life up there and that he is selecting the breeders. He has no more control over that life up there than he has of the listing of these winds. He has control over his domesticated roosters and he has control over his domesticated bull calves from the time they are born until he puts them to the stud. He has them fed, ordered, and selected and confined by himself. Has he that control over these wild bull-seal pups on the seal islands? No, sir; not in the slightest. Then who is to select the best sires for this herd? If we can not select the best every year and rear them, what do we do if we interfere with that law of natural selection which has made this species the most dominant life in the whole marine list of highly organized animals? Who has done that? God Almighty. Who has interfered with that selection and cut it down and said: "I know more than the Creator"? These naturalists, headed by Dr. Jordan. What is the result? They do this by killing the very finest and the choicest every year. They save nothing but the runts and the weaklings, that get away with their permission and which they will not kill because they are not worth it. They say they "save" them, but they do not save them. They say they "save" two or three or four hundred 2-year-olds, but they do not do that.

MR. KENDALL. Professor, is that literally true, that the only male seals preserved annually are those which are worthless?

MR. ELLIOTT. I am going to show how there can not be any others saved. They do not know what they have saved. They say they have "saved" seals, but do they know what they have saved? These seals come up and get out in the spring before they kill for the annual catch. They say they mark by clipping the hair on the tops of their heads two or three or four hundred young male seals as "reserved" or "saved." Those seals are released, and during that subsequent killing in June and July they are not killed if they are driven up again. They go out to sea, when first released, beyond the ken of these men, who never know from that hour to this hour what has become of them.

They can not trace them back. Why? Because when they haul out again in the fall that clipped mark of reservation has disappeared. If they do haul out, they have got to run the gantlet during the summer of pelagic hunters and of their natural enemies at sea, and when they come back in the fall, after they have run that gantlet, these men do not know anything about it. They can not tell whether a seal so "saved" has been killed by a pelagic hunter or caught by a killer whale. They do not know. But if the seal does live to that

period and does get back in October, that mark has disappeared from its head. Why? Because it has shed the hair and a new coat has come on, uniform all over the body. Then what do they do? They want to kill some seals for natives' food. There are some nice large fellows hauled out in October and November; their skins are valuable, and they get them. So next year when they kill again they go through this idle motion of "saving" two or three or four hundred, but have they saved these seals they let go? Do they know they have saved them?

Do they recognize them when they come back? No. Where is the parallel between your calves, and your lambs, and your rams? You save them from birth up, and keep them in your stalls and in your fields, always in your view. Where is the parallel? Now, what is the result? The killing off of these male seals, as Evermann advises, prevents that struggle for existence between them when they mature, which eliminates the weaklings, and the runts, and the cowards; because, even if they are big, they are sometimes cowardly; even if they are strong, they may not have the nerve of a little fellow, and then what happens? By that natural selection only the very finest of them get on to the breeding ground, and they propagate a race which is virile and which comes back to us with compound interest, if we let them alone; and only by letting them alone, gentlemen, will they ever come back to us, unless somebody whose head is greater than any man's whom I have ever seen, can devise an improvement on the natural law which the Creator has established for the reproduction of any wild life. I have lived among naturalists all my life. These men do not represent all the naturalists. Of course, we disagree. Lawyers disagree, doctors disagree, but that is natural. But go into any tribunal of naturalists and endeavor to find a man who will in-dorse Dr. Evermann's argument here, that this wild life can be treated, and he is treating it, as he did his boars, and his rams, and his calves.

Mr. FOSTER. Mr. Chairman, I do not think there is any need of reflecting on Dr. Evermann.

Mr. COOPER. I do not think he is reflecting on Dr. Evermann.

Mr. ELLIOTT. I am not. I am only presenting an argument in opposition to his.

Mr. COOPER. I do not think it is the slightest reflection on anybody.

Mr. ELLIOTT. It is not meant as a reflection. He has his opinion and his view, I have mine. I am giving my reasons for it. And I have prepared a full history of the killing of seals on these islands when there was no pelagic sealing, which I will read to-morrow. A full history of the killing on these islands from start to finish which ruined that herd, when there was no pelagic sealing, and when they were killing just as these gentlemen are killing to-day on the islands—and I am going to lay that proof before you as I did before John Hay seven years ago, and leave it with you. This gentleman, Mr. Lembkey, has said I am responsible for statements that he is killing small seals up there, which statements are not true. He pointed to me when he made that statement. I will ask him to wait until this committee and another committee of this House makes its report of finding of facts, and then, perhaps, there will be another statement coming from him.

(The committee thereupon proceeded to the consideration of executive business, after which it adjourned.)

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 4, 1912.

The committee met at 11 o'clock a. m., Hon. William Sulzer (chairman) presiding.

**STATEMENT OF PROF. HENRY W. ELLIOTT, OF CLEVELAND,
OHIO—Resumed.**

The CHAIRMAN. Prof. Elliott, you may proceed.

Mr. ELLIOTT. The accident of my life put me on the seal islands of Alaska 40 years ago next April, and that accident made me the first trained observer and artist that ever landed there. The biological notes, the life drawings, field surveys, and studies in color of this anomalous and wonderful marine life made by me then, constitute the only record indisputable and complete which it is in the power of any man, or any government, to present to you at this hour. Those studies exhibit truthfully the immense numbers and fine form of that herd, when at its best; and, when at its maximum number, and in a state of nature, as ordered by those natural laws which govern its existence, and regulate its increase, to that limit.

This record which I made then, declared that 4,700,000 fur seals were in existence on the Pribilof Islands during the season of 1874.

Mr. KENDALL. Is that number confined to the American herd?

Mr. ELLIOTT. Yes, sir. There have been no Russian seals there since 1867.

Mr. KENDALL. But, as I understand it, there are three distinct herds there now.

Mr. ELLIOTT. No; not of our seals.

Mr. KENDALL. I am speaking of the Russian and Japanese herds.

Mr. ELLIOTT. They are in existence at this time, of course.

Mr. KENDALL. But they are not included in your figures?

Mr. ELLIOTT. Certainly not. I knew no more of them then than you do now.

Mr. GOODWIN. How do you differentiate between our herd and the herds of other nations?

Mr. ELLIOTT. Our herd confines its breeding solely on our islands, known as the Pribilof Islands. The Russian herd confines its breeding solely to the Commander Islands, right off the coast of Kamchatka, 700 miles west of our islands. They never, so far as we know, interbreed or commingle.

Mr. DIFENDERFER. And they never migrate?

Mr. ELLIOTT. They all migrate.

Mr. DIFENDERFER. I mean, what distance?

Mr. ELLIOTT. They migrate over a watery circuit of 5,000 miles every year.

Mr. GOODWIN. I was about to ask the extent of their migration, but that was covered by the question of Mr. Difenderfer. When they migrate from these islands they always at stated periods return to their haunts, do they not?

Mr. ELLIOTT. They return to the same place whence they left the previous season; and, so far as we know, they never commingle. The Japanese herd has its route; the Russian herd has its route, entirely different to theirs; and our herd has its route, without any admixture from these other herds.

Mr. KENDALL. Can our seals, in species, be distinguished from the Russian seals?

Mr. ELLIOTT. No, sir.

Mr. KENDALL. They are all of one family?

Mr. ELLIOTT. They are one species. I have spread hundreds of skins before different men, and they could never separate the Commander skins from the Pribilof or Alaskan skins. It is all popycock about there being three species. They are simply three varieties.

Mr. SHARP. Mr. Elliott, what is the policy or practice of the Russian Government and Japanese Government with reference to slaughtering any of their males?

Mr. ELLIOTT. I am going to touch upon that. That is one of the main points I am to notice here.

This record which I made then declared that 4,700,000 fur seals were in existence on the rookeries and the hauling grounds of the Pribilof Islands during the season of 1874; and my conclusions of fact were first reported November 20, 1874, to the Secretary of the Treasury, and that was published by the Secretary of the Treasury that same year in a document of the Treasury Department. To-day the last report from those islands shows that it is extremely doubtful whether more than 100,000 seals have really survived up to the 1st of last August.

What has caused this wreck and ruin of that fine herd, in the preservation and protection of which the whole civilized world is concerned? You know. Why has this destruction not been prevented by the several governments interested in its solution? Simply because certain powerful private interests have been greedily engaged in its profitable slaughter, for them, and busy in steering that officialism which should protect it.

Mr. KENDALL. Are you connected with the Government service now, Professor?

Mr. ELLIOTT. No, sir; and this is of my own volition.

I will not, unless requested by this committee, further specify those interests and their work as they wrought this destruction to the herd on land and in the sea. I will simply say that I have never been, and am not now, linked with them or with that officialism which they have ordered, for now, to me, it is only water that has passed over the sluice; but I am proud and happy to be able to stand before you to-day and tell you that fur-seal plan of "mutual concession and joint control," which John Hay; Sir Mortimer Durand, the British ambassador; and the senatorial committee, Gov. Dillingham, chairman, approved, after I had framed it, March 7-17, 1905, at last is ratified, July 24, 1911, and is now before you for your final action, which will safeguard its terms, and make them serve the purpose for which John Hay and his associates devised them.

I wish to submit Exhibits A, B, C, and D in further proof of that statement:

EXHIBIT A.

The Elliott draft of mutual concession and joint control for fur-seal treaty settlement, as first submitted February 28, 1905, and approved by John Hay March 7, 1905, and then signed up by the senatorial committee March 17, 1905.

[This is the origin and completion of the fur-seal treaty as ratified July 24 last by the United States Senate.]

[Memorandum No. 1.]

FROM THE AMERICAN POINT OF VIEW.—AS TO AN ANGLO-AMERICAN JOINT CONTROL OF THE KILLING OF THE PRIBILOF FUR-SEAL HERD, WITH SPECIAL REGARD FOR ITS RESTORATION AND PRESERVATION.

I. Under existing law and regulations, the Pribilof fur-seal herd will be so diminished by 1906 that its care and maintenance thereafter will constitute an annual charge and burden upon the Public Treasury, and also include the support of some 300 natives of the said Pribilof Islands.

II. Without the cooperation of Canada this fur-seal herd can not be restored to its natural full form and number. Unless it is so restored it is of no value to us. The seal islands of Alaska are barren of all agriculture, and of mineral lands, with no fish or fisheries, and are far out of the path of commerce.

III. We can not reasonably expect the Canadian Government to unite with us unless we make certain concessions. These concessions must be of a character which the Canadian Government can accept as a positive gain to it over existing conditions, and so publish that fact to its own people.

IV. We can not buy the rights of British subjects vested in pelagic sealing, but we can share our rights with their rights in a joint control of the killing of this fur-seal life on the land and in the sea.

V. We can have this joint control without a waiver of our sovereignty on the Pribilof Islands. We can arrange it as specified in Articles II and III of the following memorandum (No. 2).

[Memorandum No. 2.]

FROM THE BRITISH POINT OF VIEW.—AS TO AN ANGLO-AMERICAN JOINT CONTROL OF THE KILLING OF THE PRIBILOF FUR-SEAL HERD, WITH SPECIAL REGARD FOR ITS RESTORATION AND PRESERVATION.

I. Under existing rules and regulations the Pribilof fur-seal herd will be so diminished in numbers that the pelagic hunting of that herd in 1906 will cease to be profitable for the fleet now engaged in its prosecution, and its importance as an industry will cease. Four or five vessels will continue to hang on the flanks of the remnant of the herd annually and secure only a small annual catch of a few thousand seals into the indefinite future.

II. If the Canadian Government will unite with that of the United States in a joint control of the killing of this Pribilof fur-seal herd on the land and in the sea, then the small nucleus of it now existing can be restored to its natural fine form and number in 10 or 12 years from date, if all killing on the islands and in the sea is suspended by the joint agreement to that end by the two Governments aforesaid. Then, when the killing of the surplus male life is resumed, as it can be in 10 or 12 years, it should be done entirely on the islands, and only by agents of the Government of the United States. A Canadian inspector should be resident on the islands, and his certificate as to the work done and of the number of skins taken shall go with those of the American agents from the islands annually and be of equal official warrant and record value. The skins shall be sold at public auction, in the best market of the world, and in strict accordance with the established usage of the fur trade.

III. The Canadian Government should bear, say, 25 per cent of the annual cost of maintenance of the care and conservation of the herd, including support

of the natives, etc., and it should receive, say, 25 per cent of the net proceeds annually from the sale of the skins taken on the islands.

This cost of maintenance will not exceed \$50,000 annually; the entire cost of the transshipment of the skins to London from the islands will not exceed \$2.50 per skin.

When the herd is restored, between 75,000 and 80,000 young male seals can be annually taken without any injury to its full natural birth rate on the islands; these skins will be worth at the lowest figures \$1,500,000, and at the figures of prosperous trade \$2,500,000 to \$3,000,000, as they are to-day.

Therefore the Canadian treasury would receive at least \$300,000 annually in seasons of dull trade and some \$600,000 in the seasons of prosperity.

IV. Unless the Canadian Government unites in this manner with the United States Government it will never receive anything from this industry; it never has derived a single cent from it for its public treasury up to date.

NOTE.—This memorandum was printed and appended, as above, to the treaty as sent in to the Senate February 8, 1911, by the Secretary of State and ratified by the Senate February 15, 1911, these terms of mutual concession and joint control being kept secret until Japan and Russia came into agreement with Canada and the United States on the terms as above stated.

The original Elliott draft of the fur-seal treaty terms of mutual concession and joint control, dated February 28, 1905.

[Approved by John Hay March 7, 1905. Approved by Sir Mortimer Durand March 7, 1905. Approved by senatorial committee March 17, 1905, and ratified by Canada February 8, 1905—July 7, 1905, and by United States Senate July 24, 1905.]

I.

UNITED STATES SENATE.
Washington, D. C., March 17, 1905

HON. V. H. METCALF,
Secretary Department Commerce and Labor.

DEAR SIR: After a careful survey and study of the condition of affairs on the seal islands of Alaska during the past two years we have come to the conclusion that any steps which we may take to restore the Pribilof fur-seal herd so as to be of any economic value to our Government will fail unless we have the cooperation of the Canadian Government.

With that cooperation we can succeed, to the great mutual advantage of both Governments. To secure this cooperation it is evident to us now that we must make certain concessions to the Canadian Government in return for certain concessions to be made on its part to us.

We respectfully submit a memorandum which embodies our ideas with regard to these neutral concessions which should be made in the premises, and which we believe will receive favorable attention at Ottawa if placed in the hands of the British ambassador by the President, with a full descriptive text illustrating the great natural power of recuperation possessed by the fur-seal herd if properly managed by man.

Very respectfully, yours,

W. P. DILLINGHAM.
KNUTE NELSON.
HENRY E. BURNHAM.

WASHINGTON, D. C., March 17, 1905.

Memoranda as to certain concessions which the Government of the United States and that of Canada might mutually make, to their great mutual advantage, with regard to a settlement of the pending fur-seal negotiations, and inclosed in letter to the Secretary of Commerce and Labor, dated March 17, 1905. Submitted to the Secretary of Commerce and Labor by the special committee of the United States Senate charged with the duty of investigating into the needs of the public interests of Alaska, pursuant to Senate resolution No. 16, adopted March 19, 1903.

EXHIBIT B.

The President informed of the fact that the Hay-Elliott plan of mutual concession and joint control can be speedily ratified.

1228 FOURTEENTH STREET NW.,
Washington, D. C., March 17, 1905.

DEAR MR. LOEB: I acknowledge, with thanks, your note of the 16th instant and hasten to say that it was the wish expressed to me by Secretary Hay on the 7th instant that I take this particular matter up with the President, as it was a matter of primary interest to him. I did not at once come to you, because the crowds in your anteroom of Senators, Members, and everybody during the week after adjournment declared to me that I had best delay my business until that pressure on the President's time was removed.

I have been informed by a gentleman in the State Department that since the 7th instant Mr. Hay has not been well and is, indeed, a very sick man, and he tells me that unless Mr. Hay gets into far better physical trim he will never resume his work in the State Department. On this account I feel very solicitous about the outcome of the pending fur-seal negotiations, because it will all stand or fall upon those items of concession which I allude to in my note of yesterday, and which I desire to submit to the President before I return to Cleveland.

Very truly, your friend,

HENRY W. ELLIOTT.

THE WHITE HOUSE,
Washington, March 18, 1905.

MY DEAR MR. ELLIOTT: Replying to your letter of the 17th instant, I would state that the President can see you briefly on Monday morning, March 20, at 11 o'clock.

Very truly, yours,

WM LOEB, Jr.,
Secretary to the President.

MR. HENRY W. ELLIOTT,
1228 14th Street NW., Washington, D. C.

WASHINGTON, D. C., March 18, 1905.

DEAR MR. LOEB: I hasten to acknowledge the receipt of your note of this day and date, and thank you sincerely for your kind attention.

I shall be prompt in keeping the appointment, and I shall have my points for the President's consideration so arranged, prepared, and authenticated as to consume very little of his time.

Very truly, yours,

HENRY W. ELLIOTT.

WILLIAM LOEB, Jr.,
Secretary to the President.

1228 FOURTEENTH STREET NW.,
Washington, March 20, 1905.

DEAR MR. LOEB: I lived up to my promise—I did not consume more than a few moments of the President's time. I had the papers all prepared and placed them in his hands, so that he can instantly find what has been done and needs to be done in the premises, and why and how it was done.

There was one important point upon which I did not touch, because I did not feel at liberty to ask the President for a private interview, and too many were in hearing when I spoke to him. It is this: In the British Ambassador we have a warm and zealous supporter of our desire to settle the fur-seal question so as to restore the Alaskan herd. I know this to be the fact, because, with the knowledge and consent of Secretary Hay, I have been in close personal touch with Sir Mortimer during the last season (1904) and up to date, having been frankly and warmly received by him at the British Embassy.

He is going to Ottawa in a week or ten days, in response to an invitation of the Governor General, Earl Gray. If we put the right tools into his hands he

can and will do effective service to aid our cause in the pending fur-seal negotiations. If he receives from the hands of the President the offer of mutual concessions which the senatorial committee have asked Secretary Metcalf to approve and give to the President on the 17th instant, Sir Mortimer can use the proposition to good effect at Ottawa while there.

The success of our cause depends entirely upon these concessions. We have got to make them or we can not secure the cooperation of Canada; without that cooperation we lose the power to restore the herd, which will cease to yield any return to our Government after this season's work of 1905 ends; then, thereafter, the Public Treasury will have to bear the annual charge and burden of maintenance of the official and civil life stationed on the islands.

Sir Mortimer ought to have all of those expert papers and illustrations upon the period of great decline and full restoration of the Pribilof herd under Russian management, 1817-1867, inclusive, and of our finding of it in 1872-1874, which the senatorial committee transmitted to Secretary Hay on January 26, 1905, for this special object. They are subject to the President's order.

These records have never been published, and they throw a clear light upon the past history of the business, which shows us to-day how this Pribilof herd was reduced by excessive killing, in 1834, to less than 50,000 seals; then, by res'ing it from all killing for commercial gain, from 1835 to 1846, it was so restored by natural agencies that a killing of 30,000 young male seals was safely done and annually increased, until 75,000 to 80,000 were taken in 1857, and thereafter, annually, up to the date of our ownership, in 1867, the herd steadily existing at its natural form and number of some 4,500,000 seals.

The time is at hand now when this evidence of that great decline and full restoration of this Pribilof herd can be used with good effect by Sir Mortimer, if the President gives it to him before he leaves on his trip to Ottawa.

Will you kindly lay this idea of mine upon the President's table, so that he may consider it, since I did not feel at liberty to speak of it in particular, under the circumstances above cited, this morning?

Very sincerely, your friend,

HENRY W. ELLIOTT.

WM. LOEB, JR.,
Secretary to the President.

DEPARTMENT OF STATE,
Washington, March 28, 1905.

HENRY W. ELLIOTT, Esq.,
1232 Fourteenth Street NW., Washington, D. C.

SIR: I have to acknowledge the receipt of the letter in regard to fur-seal negotiations which you addressed to the President's secretary on the 20th instant.

Your letter and its inclosures have been referred to the Secretary of Commerce and Labor, in accordance with the statement made in this department's letter to you of the 14th instant.

I am, sir, your obedient servant,

ALVEY A. ADEE,
Acting Secretary.

EXHIBIT C.

Letter to President Roosevelt, dated August 22, 1906, detailing the official record of the relations of Henry W. Elliott with John Hay in framing up the fur-seal treaty plan of mutual concession and joint control, which is now before Congress for that proper legislation which will put its terms into effect.

OYSTER BAY, N. Y., *August 13, 1906.*

MY DEAR MR. ELLIOTT: Your letter of the 11th instant and inclosures he been received, and their contents have been noted.

Very truly, yours,

WM. LOEB,
Secretary to the President

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

LAKESWOOD, OHIO, August 22, 1906.

DEAR MR. LOEB: On reflection, I deem it my duty to submit the following statement for the information of the President. I do so now on account of the precipitation of this fur-seal business by that recent Japanese raid and incidents thereto. As my relations with Mr. Hay from April 2, 1900, up to the day of his death were, on my part, confidential and strictly observed as such by myself, I have never spoken a word or written a line about that business between us to the President, up to this hour, save in that single instance of March 20, 1905, when I did so at Mr. Hay's request and you kindly arranged the meeting.

The business between Mr. Hay and myself began, was conducted, and ended by his death, as follows:

On April 2, 1900, I prepared a memorandum setting forth the fact that unless the Department of State abandoned the ground officially placed under its feet by the "joint agreement" of the Jordan-Thompson Commission, the fur-seal herd of Alaska will soon be exterminated under and by the official sanction of our Government. I proposed a plan of procedure which would enable Mr. Hay to set aside the erroneous findings of this official information that bound him to the Canadian wheel. I asked him to approve it and let me do the expert work required. I gave this memorandum to my Representative, Hon. T. E. Burton, and he submitted it in person to Mr. Hay on the 6th April, 1900. On the 30th April Mr. Hay wrote me, saying that if Congress would, on its own initiation, order and provide for this plan of expert work which I had outlined to him he would gladly cooperate with me and carry it into effect. On the 1st May, 1900, I accepted this condition and offer of Mr. Hay, i. e., that Congress should provide for this new deal without suggestion from Mr. Hay. I came to Washington from Cleveland on May 3 and quietly went to work among the leaders in both branches of Congress.

1900 to 1904: At every session of Congress I appeared, and secured this legislation desired by Mr. Hay in one branch, only to find myself defeated in the other by the lessees of the seal islands, who insisted that nothing needed reform on the islands, and that no danger of extermination to the herd was in sight.

At last, after patient, tiresome perseverance, on April 3, 1904, I succeeded in getting the warrant for my work passed by Congress, and it was approved April 8 in spite of the bitter opposition in both Chambers, led by Elkins and Fairbanks in the Senate and by McCall (Boston) and Metcalf (California) in the House.

On the 16th April Mr. Hay took up with Sir Mortimer the first plan of fur-seal settlement, which I drew up for him, and which calls for a joint suspension of all killing on land and in the sea for a period of 10 years. In the meantime the two Governments are to agree upon a proper plan for resumption of the killing when that period of its suspension expired. At Mr. Hay's request, I secured, on April 12, 1904, the written approval of this plan from the select Alaskan Senatorial Committee (Messrs. Dillingham, Nelson, and Burnham) and included Senator Foraker, as a member of the Foreign Relations Committee, at Gov. Dillingham's request.

I wanted to define the terms in this draft upon which that resumption of killing should be conducted, but the Senators were not ready to agree upon them at the time (April 12, 1904), yet were desirous of having it go in just as I had drawn it, without terms prescribed in advance.

I knew that this plan would be rejected by Canada, and said so when discussing it; nevertheless, it would serve as an entering wedge, and perhaps draw a counterproposal from Canada, which would enable us to know better what that party really wanted; so we let it go.

In July it was simply denied by the Canadian Government, with the very natural comment that it offered no gain to that Government over existing conditions, and that our claim of injury to the herd under the rules and regulations of the Paris award was denied by our own official reports, etc.

As Mr. Hay would do nothing further without the cooperation of the Senators, I did nothing until Congress met again in December following. Then I laid this status before these gentlemen. They were satisfied now that I was right in my idea that we must give the Canadians some share in the business or we would never secure their cooperation; but Senator Platt (Connecticut) suggested that before we make this proposal we should first put the Canadians on record of refusing to agree to any merciful and proper amendment of the Bering Sea rules.

Accordingly, on January 14, 1905, I drew up for Mr. Hay and the Senators an instrument which would amend those rules so as to close August, September,

and October, now open to the pelagic sealer, and open to him May, June, and July, now closed, in lieu thereof. This would eliminate that torture of slow starvation to death on the islands of the newly born and helpless young of those fur-seal mothers, which are now killed at sea during August, September, and October.

I knew, and fully explained, why this plan, too, would be rejected at Ottawa; but, as a matter of record, the Senators desired that this offer and its rejection should go onto the files of the Department of State; then they were ready to agree to my plan of mutual concession and joint control.

Therefore I gave this second instrument, opening May, June, and July and closing August, September, and October, duly signed up by the Senators in February, to Mr. Hay. He officially transmitted it to Sir Mortimer on the 2d of March. It was rejected in due time, as I knew it would be, and for the same reasons which I had given. It was refused at Ottawa in June or July, 1905.

In the meantime, on February 28, 1905, and after I had been all over its details with the Senators, I laid before Mr. Hay my plan of mutual concession and joint control. Thereupon Mr. Hay assured me that he fully indorsed the idea—that unless we offered some political as well as financial gain to Canada, nothing could or would be done; but he then told me that as these points of mutual concession and joint control were largely matters of business detail, that he desired me first to have them clearly defined by the Senators in a letter addressed to the Department of Commerce and Labor, which had all of these matters of administrative detail and charge in its keeping; that it should be approved by that department, and come so approved by that department to the President first; then he could and would act to the best advantage in the premises.

I went into consultation with the Senators, including Senator Platt (Connecticut), who gave the question a very critical study, at my request. On the 7th of March, 1905, with the instrument all perfected, I tried to see Mr. Hay, but the Santo Domingo business shut me out. I was unable to see him again before he left the department on the 15th of March.

Thereupon, acting in perfect accord with his oral direction of February 28, I took the senatorial letter, duly addressed, to Secretary Metcalf, dated March 17, 1905, inclosing this plan of mutual concession and joint control, and asking the department to approve it and give it so approved to the President. Mr. Metcalf received it from me, and then asked me to discuss it with Mr. F. H. Hitchcock, who had made a study of the case, and whatever he approved would be approved by the Secretary, etc. I did so, without delay.

On October 20, 1905, I had my first interview with Mr. Root, and he took this business from my hands just as it had been laid down by Mr. Hay's sickness and death.

I have had no word or communication with Mr. Root since about it.

In conclusion, I have this to say: That international settlement at Ottawa which will preserve our fur-seal herd of Alaska from swift impending extermination can not be successfully handled by any officialism, no matter how exalted or amiable, which is ignorant of the peculiar private interests that have been and are now preying upon it, or of its anomalous and wonderful life and habit.

I am, very sincerely, yours,

HENRY W. ELLIOTT.

WM. LOEB, JR.,
Secretary to the President.

EXHIBIT D.

Letter to President, dated March 9, 1907, telling him that the Hay-Elliott plan of mutual concession and joint control in settlement of the fur-seal question can be promptly ratified, if intelligently managed, etc.

WASHINGTON, D. C., March 9, 1907.

DEAR MR. PRESIDENT: Before leaving for my home this evening it was my intention to have asked Senator Dillingham to go up to the White House with me and lay the following points in re the pending fur-seal negotiations before you. In my opinion, they are of the utmost importance with regard to their successful ending.

The Senator, however, is out of the city, and I must leave to-night. There are several items which I can not properly reduce to writing. I regret it, since you should be in possession of them; but the following statement I can make and easily substantiate.

I. The only settlement which can be made with Canada and which is of real sense and value to us is that plan of "mutual concession and joint control" which was jointly prepared by John Hay, the senatorial committee, the British ambassador, and myself, upon my initiative, February 22-28, 1905. This plan of settlement was duly itemized in a letter addressed to the Secretary of Commerce and Labor by the senatorial committee, dated March 17, 1905, and given to that gentleman on March 18, 1905, by myself. This letter was so addressed at the request of Secretary Hay, who desired this plan to come into your hands approved by the Department of Commerce and Labor first, and before he should formally place it in the hands of Sir Mortimer.

II. Had Mr. Hay lived, and had this plan been placed in his hands with your approval, I know that it would have been ratified at Ottawa before the middle or end of June, 1905.

III. As far as I know to-day, nothing has been done in the premises on this order of proceeding for a full, final, and satisfactory settlement of the fur-seal question.

IV. Unless this plan is taken up and pressed intelligently and honestly by us, first at Ottawa, without delay, in the next two or three months, we will never secure a satisfactory settlement of this fur-seal question.

V. We will not, because the pleasant relations which we enjoy with Japan to-day may not endure longer than the close of this year, 1907. We must have the modified adhesion of Japan and Russia to the plan of settlement above cited in order to make it effective. We can easily gain that adherence to-day, but not until we first secure an agreement with Canada.

VI. We can not treat with Canada, Japan, and Russia simultaneously; it can not be done successfully. I have positive proof to my own mind of this statement, but I can not fairly reduce it to writing. I have made it a rule ever since 1872 never to put anything into writing on this fur-seal question which I was not able, willing, and ready to substantiate before any intelligent tribunal of naturalists or jurists living; and I can say without egotism that up to date no man has ever been able to successfully deny the entire accuracy of my published and written statements on this fur-seal life and questions as to its management and control.

VII. If you will order the submission of that plan of mutual concession in and joint control of the fur-seal business of Alaska as specified in Article I, ante, I assure you that it can be successfully negotiated before the middle or end of June, 1907, at Ottawa. It can if it is honestly, intelligently, and properly pressed by competent agents of our Government.

I am, with great regard, your obedient servant,

HENRY W. ELLIOTT.

TO THE PRESIDENT,
White House.

When Mr. Hay and I agreed upon the terms of this treaty-settlement plan of mutual concession and joint control, and after full consultation with the Senators I have mentioned, and Messrs. John A. Kasson, special commissioner plenipotentiary, State Department, and Hon. R. R. Hitt, then chairman of this committee—whom I now have the honor of addressing—when we drew them up, the best agreement at that time, March 17, 1905, was that not more than 150,000 seals were in existence on the Pribilof Islands up to August 1, 1904. This was the official agreement we then had with Mr. F. H. Hitchcock, the chief clerk, Department of Commerce and Labor, and who then was in charge of the herd. [He is now Postmaster General.]

With that understanding, which is a matter of official record, eight years ago, then Mr. Hay turned to the history of the Russian killing of this life between 1807 and 1834, which had reduced this same herd of 4,700,000 seals to a scant 60,000 breeding seals and

young, by the end of that season's killing in 1834. This decimation was solely due to the killing of male seals alone, on the islands.

Mr. KENDALL. You are referring to the Pribilof herd?

Mr. ELLIOTT. I am referring to the Pribilof herd continually through this statement, and never to any other.

Mr. KENDALL. Is that authenticated by some Russian publication?

Mr. ELLIOTT. I have all the proofs here, and I am going to submit them, and put them in the record.

This decimation, as I said, was solely due to the killing of male seals alone, on the islands—that is, to the killing of all the choice, large young male seals that could be culled out of the driven herds, were killed annually, prior to that date, since 1804, by the local island agents of the old Russian-American Co. Not the least hint even of this complete destruction to that herd then can be laid to the work of sea killing or pelagic sealing, as I first termed it in my letter to Secretary Bayard in December, 1887.

Mr. KENDALL. When did you term that "pelagic sealing"?

Mr. ELLIOTT. I originated that word. I used it for the first time in this letter to Mr. Bayard.

Mr. KENDALL. When?

Mr. ELLIOTT. In December, 1887.

Mr. KENDALL. You originated that word to describe a condition which manifested itself then for the first time?

Mr. ELLIOTT. I used it then unconsciously, and I never thought much about it, but I see that the Century Dictionary has credited me with the authorship of it.

Mr. GOODWIN. Why did you use that term?

Mr. ELLIOTT. Because it was the best brief word of expression I could give this work to Mr. Bayard of the killing in the open sea.

That letter was the first specific notice that our Government ever received of the danger ahead for this life from that industry. Profoundly impressed by this indisputable and evil record of the Russian work, Mr. Hay agreed without any reservation whatever to my suggestion that this work of our lessees of the islands or contractors—which was conducted exactly as the Russians had hitherto managed its order, and which could end in no other way—that these lessees should be eliminated from any further consideration in the premises, and that a rest from all killing for commercial purposes for at least 10 years on these islands should be ordered in any treaty that we might be able to make then (in 1905) with Great Britain first, and Japan and Russia subsequently. We had to deal with Great Britain first, and we did so last February, just as John Hay and I had planned seven years ago.

Mr. KENDALL. What was your official relation with the Government then?

Mr. ELLIOTT. I was then the expert called in by John Hay to aid in this work of reopening and getting a treaty made between these Governments to set aside the erroneous and worthless findings of the Jordan-Thompson Commission, and get a preservation of the herd really ordered. Of course, this plan of Mr. Hay and myself was bitterly opposed by the lessees; but before we could do anything with the Government of Great Britain we had to get rid of our own butchers. They said that their butchers at sea were just as decent as our butchers on the land. They said they were more sportsman-

like; that they were hunters, while our men were regular butchers, and we must get rid of our own butchers as well as theirs. That was a plain, square, stand-up proposition from the British Government, and it was right. Then I drew up the terms of "mutual concession and joint control" which, in brief and in chief, eliminated all private interests at once and forever from killing fur seals on the islands and in the sea, and which granted Canada an equity in our herd when we resumed killing for the surrender or prohibition of her right to kill seals in the high seas, and other minor details which need no particular note at this time. These terms, submitted to Mr. Hay on the 22d of February, 1905, and my original memorandum is hereinbefore submitted as Exhibit A.

He went over it; he made no change and approved it; he then asked me to get the approval of the British ambassador, Sir Mortimer Durand, and the senatorial committee, Gov. Dillingham, chairman, and Senator O. H. Platt, chairman of the Senate Judiciary Committee. I had, prior to submitting this memorandum aforesaid, conferred freely with Messrs. Kasson and Hitt about its terms, and had their full approval, which Mr. Hay knew of at the time I came to him with it. On the 7th of March, 1905, I was able to inform him that these gentlemen had all given this plan of settlement their approval. He then said that he wished to have this memorandum signed up in a written approval by Gov. Dillingham's committee, and referred by them, so approved, in a letter addressed to the Secretary of Commerce and Labor, asking Mr. Metcalf to approve this memorandum in turn, and then transmit the same to the President, etc.

Naturally, he wanted the cooperation of that department. He knew what was holding up that department, and he did not want any back fire.

On the 17th of March, 1905, the Senators addressed and signed this letter to the Secretary of Commerce and Labor, and they inclosed this memorandum, so approved, and as desired by Mr. Hay, through my mediation. But, unfortunately for the good of those public interests involved, Mr. Hay fell mortally ill March 15, 1905, two days before I could get that written action on the part of these Senators, as aforesaid, and so stricken Mr. Hay left the department on that day, never to return and resume his duties there.

What took place thereafter officially in the Department of State, by which this unfinished work of fur-seal settlement was held up, from October 20, 1905, and denied, until the logic of events compelled its adoption with Great Britain on February 8, 1911, and secured its ratification by the United States Senate, February 15, 1911, is best expressed in the following authentic brief résumé of the case, in so far as my relation to it from start to finish goes, and is established, to wit:

ANALYSIS OF THE WORK DONE BY HENRY W. ELLIOTT IN FRAMING THE TERMS OF THE FUR-SEAL TREATY DRAFT OF "MUTUAL CONCESSION AND JOINT CONTROL" BETWEEN GREAT BRITAIN AND THE UNITED STATES, DECEMBER 30, 1904—MARCH 17, 1905, AND AS RATIFIED BY THE SENATE OF THE UNITED STATES FEBRUARY 15, 1911, ONE WEEK AFTER ITS SUBMISSION, FEBRUARY 8, 1911, BY THE SECRETARY OF STATE AND THE PRESIDENT.

November 30, 1904: Secretary Hay informs Mr. Elliott that he fears that it is useless to attempt any change in the existing fur-seal rules and regulations as ordered by the Bering Sea Tribunal, in so far as Canada is concerned, unless

certain concessions are made to the Canadian ministry at Ottawa. He doubts whether these concessions would be approved by the United States Senate, and asks Mr. Elliott to draft a treaty covering them.

January 5, 1905: Mr. Elliott outlines a treaty settlement, in which certain concessions are made, for a fur-seal settlement between Canada and the United States. Mr. Hay authorizes Mr. Elliott to confer with the British ambassador, Sir Mortimer Durand, over its terms. He also asks Mr. Elliott to get the approval of Senator O. H. Platt, chairman Senate Judiciary Committee, and that of the Senate subcommittee in charge of Alaskan affairs (Gov. Dillingham, chairman), for this treaty draft aforesaid.

February 28, 1905: A full, final, and complete agreement between Secretary Hay, Sir Mortimer Durand (the British ambassador), the Senate subcommittee (Gov. Dillingham, chairman), and Senator O. H. Platt on the terms of the Elliott fur-seal treaty draft of "mutual cession and joint control," was effected to-day.

March 7, 1905: Secretary asks Mr. Elliott to have this plan of mutual cession and joint control approved in writing by the Senate subcommittee aforesaid, and transmitted by that committee, so approved, to Secretary Metcalf, with its request that Mr. Metcalf approve it in turn and then transmit it directly to the President, for transmission by him in turn to the British ambassador, and its official formal submission to the Government of Great Britain.

March 15, 1905: Secretary Hay is smitten by a severe illness, which causes him to leave the Department of State (never to return).

March 17, 1905: The Senate subcommittee aforesaid, at the request of Mr. Hay, approve the Elliott treaty draft by mutual cession and joint control and unite in a letter so approving it to Secretary V. H. Metcalf (this letter is given to Mr. Metcalf to-day by Mr. Elliott, who informs him fully of its purport and Mr. Hay's wishes).

March 20, 1905: Agreeably to Mr. Hay's instructions, Mr. Elliott meets the President to-day by appointment. He informs the President of the status of this treaty draft, aforesaid. The President assures Mr. Elliott that as soon as it comes to him from Secretary Metcalf he will act as Mr. Hay desires—send it at once to Sir Mortimer Durand.

March 27, 1905: Mr. Elliott is informed by Mr. F. H. Hitchcock that Secretary Metcalf will wait for the return of Secretary Hay to the Department of State before he acts, as Mr. Hay desired him.

July 1, 1905: Secretary John Hay dies at Sunbury, N. H. He had not resumed any official duties since his departure, March 15, 1905, as stated above.

October 20, 1905: Henry W. Elliott, properly accredited, places this unfinished fur-seal treaty work in the hands of Secretary Elihu Root. He urges Mr. Root to let him finish it at Ottawa, telling him that it can be ratified promptly there and here.

February 8, 1911: The President sends to the United States Senate this fur-seal treaty draft, aforesaid, duly signed up by the Canadian Government.

February 15, 1911: The Senate ratifies it, its terms being kept secret until Japan and Russia come into general agreement on the prohibition of pelagic sealing in the north Pacific and Bering Sea.

[NOTE.—The original letters, notes, memoranda, and papers which bear out the statements as made above, are in the possession of Henry W. Elliott, and can be produced at a moment's notice.]

On the 11th of March, 1905, and while busy getting the senatorial letter approving this plan, aforesaid, signed up, I called at the State Department with the following memorandum for Mr. Hay. I was unable to see him, as he was preoccupied, and I did not have a chance to see him then. I therefore addressed him a letter telling him that in my opinion he need not wait on the Secretary of Commerce and Labor in the premises, but that he could go right over to Ottawa and succeed.

I knew we could. The British ambassador told me that he did not want to wait any longer for anybody.

I inclosed this memorandum as explanatory, to wit:

MEMORANDUM FOR SECRETARY HAY IN RE FUR-SEAL NEGOTIATIONS.

If the fact that positive gain financially and politically will accrue to Canada by a revision of the articles of the Bering Sea Tribunal is fairly placed before Sir Wilfrid and his cabinet, these gentlemen will consent to such revision.

If this fact of positive gain is not made plain to them they will not consent to any revision which will result in a complete suspension of improper killing, and that full restoration of the Pribilof fur-seal herd which can alone be secured by that suspension.

How, then, shall this fact of positive good and gain to Canada be impressed upon the officialism of that country?

It may, and can, be done as follows:

I. By a tentative and informal submission to the Canadian premier and his cabinet of the particular concessions which the Government of the United States might make in the premises toward a joint control of the business of killing the seals, if Canada would unite in an agreement for such joint control.

II. The nature of these concessions and the details of the same to be personally and informally outlined to the Canadian premier and his associates at Ottawa by one who is recognized as an authority on this subject of the life and habit of the Pribilof fur-seal herd, not only in the United States, but in Great Britain.

III. Such a personal and informal exposition of this question bearing wholly upon the subject of great gain to Canada made at Ottawa if she will unite in an agreement of joint control will not fail to arouse the interest of the Canadian premier and his associates. They will be free to inquire, talk, and argue all points without reserve, since it will not be a conference of record, and nothing will be published. When they are ready to announce what they may desire to do, it will be done by them, and in their own way.

The Canadian premier and his cabinet will undoubtedly be most particular with regard to the following points of inquiry:

(a) What evidence is in existence that this Pribilof fur-seal herd ever numbered between four and five millions of seals in 1857-1872, and before it was reduced to its small number of to-day?

(b) What evidence is in existence that this herd was reduced in 1834 to less than 50,000 seals by killing at the hands of man, and then fully restored by rest from this excessive killing to its full natural form and number of between four and five millions by 1857-1860?

When this evidence so demanded is submitted to these officials and personally detailed to them in ready, accurate response to any and all items of inquiry as to the past and present history of the herd, then these gentlemen will be impressed by the facts so declared; they then can and will fully understand how the small nucleus of that herd as it exists to-day can be easily restored to the immense proportion of its natural form and number.

Thus impressed, then the details of a joint control for suspension and resumption of killing by man will become intelligible and interesting to them; and, with this light on the subject, they will approach it in a very different spirit from what would be characteristic of their reception of the plan if that evidence of the past declination and restoration of the Pribilof herd had not been first exhibited to this informal yet authoritative manner to them.

HENRY W. ELLIOTT.

MARCH 11, 1905.

On the morning of March 15, and it was the day on which Mr. Hay left the department, as hitherto stated, I received from him the following letter, which told me that he did not want to move in this matter any further until the Secretary of Commerce and Labor had approved our treaty plans.

He was right, because that was proper. I admit that. I print his letter, as follows:

DEPARTMENT OF STATE,
Washington, March 14, 1905.

DEAR MR. ELLIOTT: I have received your letter of the 11th of March, and, as I have already taken the only action I feel authorized to take and expect to be

absent for a little while from the State Department, I beg you will communicate to the Secretary of Commerce and Labor any further suggestions you have to make on the subject. I have submitted your last memorandum to him.

Yours, very truly,

JOHN HAY.

HENRY W. ELLIOTT, Esq.,
1228 Fourteenth Street NW., Washington, D. C.

Immediately on receipt of that note I obeyed this injunction of Mr. Hay, and had that Senators' letter and approval of the treaty plan aforesaid written by them and then placed it, March 17, 1905, in Mr. Metcalf's hands.

This treaty plan of "mutual concession and joint control" would have been closed at Ottawa, Tokio, and St. Petersburg during the summer of 1905 had Mr. Hay returned and resumed the duties of his high office. Unless asked by the committee for a detailed statement why it was held up from the date of Mr. Hay's illness and departure from the State Department, March 15, 1905, until sent into the United States Senate February 8, 1911, with this original memorandum of mine, dated March 17, 1905, duly printed and appended to it, I will pass directly to the subject of a proper bill which Congress must enact to safeguard its terms, so that this ruined fur-seal herd of Alaska can be and will be actually restored to its natural fine form and numbers.

MR. GOODWIN. Would the committee like to hear the reasons why this matter was held up from 1905 to 1911?

MR. ELLIOTT. I will submit a written statement if they want it. It would take too much time and there is too much personal matter in the thing, gentlemen. As far as I am concerned, you can let it go. It is water over the sluice, and let us come to the treaty. History will do me justice, and these other men, too.

The first and sole object in view of this treaty is to so protect and guard that small nucleus of 50,000 breeding seals now surviving of the Pribilof herd as to enable it to regain its normal magnitude and immense value and keep it for all time.

Do the terms of this treaty now before you, Mr. Chairman, enable us to so put them into effect that that desired result can be surely attained? Yes, sir; this treaty does contain those terms.

MR. GARNER. I did not catch your remarks.

MR. ELLIOTT. I say do the terms of this treaty now before you enable you to so put them into effect that that desired result can surely be attained? Yes, sir; it does.

The CHAIRMAN. I am glad to hear you say that, Mr. Elliott.

MR. ELLIOTT. The treaty is all right.

The CHAIRMAN. If the treaty is carried out in good faith by the high contracting parties it will practically prevent pelagic sealing, will it not?

MR. ELLIOTT. If some of us are alive 15 years from now, and some of us will be—I may not, and you may not, and we all may be—I hope we will. If this treaty to-day is properly safeguarded by you, I tell you from my full knowledge of this life, and all the business surrounding and connected with it, that you will find a herd of 1,200,000 breeding cows on that island 15 years hence, and a safe surplus of from sixty to eighty thousand choice, 2, 3, and 4 year old males that we can kill thereafter and forever without interfering with its birthrate; and I am going to submit the table to you.

The CHAIRMAN. Mr. KNOX, the present Secretary of State, has carried out the views of former Secretary of State HAY, has he not?

Mr. ELLIOTT. Yes, sir.

The CHAIRMAN. Mr. KNOX succeeded in negotiating this treaty?

Mr. ELLIOTT. Yes, sir.

The CHAIRMAN. And he deserves much credit, does he not?

Mr. ELLIOTT. Certainly. I have not reflected on him, and I do not like to praise anybody about it, because I hardly know whom to praise.

The CHAIRMAN. We should give credit to whom credit is due.

Mr. ELLIOTT. Yes.

Mr. SHARP. You hold that carrying out faithfully the terms of this treaty and this law that is back of it to sustain it that that in itself will prevent the slaughter of these male seals that has been going on?

Mr. ELLIOTT. This treaty enables us to stop it.

Mr. SHARP. Just as it is now?

Mr. ELLIOTT. Yes; just as it is now, perfectly. We can shut them up for 15 years. The treaty is all right. I am coming to the bill now.

Do the terms of this bill, H. R. 16571, now before you properly interpret and carry out those terms necessary for that restoration? No, sir; they do not. They are not equal to it; they are ambiguous and lack a concise, correct, and clear order to that officialism of ours which we are to intrust this business to for the next 15 years. Nowhere in this bill is there a single item, or word even, which puts a distinct and positive check to all commercial killing on these Provilof Islands for any length of time. Why is this vital and all-important omission made? Why, when the records of the past land killing declare to us the indisputable fact that unless this commercial killing on the islands is now totally suspended for at least during the life of this treaty the full and complete restoration of this herd can not be even sensibly hoped for, much less brought about.

Mr. GARNER. Mr. Elliott, may I interrupt you to ask you a question?

Mr. ELLIOTT. Cheerfully.

Mr. GARNER. Let us suppose that Congress did pass a law prohibiting the slaughter of any male seals there for 15 years, and at the end of the 15 years Great Britain and Japan and Russia should refuse to enter into another treaty of a similar nature, but should turn their huntsmen loose, and in the course of 5 or 10 years destroy the entire herd again. What would have been accomplished?

Mr. SHARP. Would not this be accomplished—proof of the contention that if you leave the herd alone, without slaughtering these males—would it not be shown beyond all doubt that that was true, and would it not be an encouragement to go on and preserve the herd?

Mr. GARNER. That is true, if we presume a treaty can be negotiated whereby we can continue this magnificent herd as anticipated; but they might demand a little more than the 15 per cent.

Mr. ELLIOTT. They won't demand it, because 15 years from now we will kill from sixty to eighty thousand choice seals, worth at least \$3,000,000—more likely \$4,000,000—and then their equity is more

than they have ever hoped to get, and they get rid of all this annoyance and bother forever. They are the great gainers by this combination with us; and being the great gainers, they will stay with us. If the sentiment is evidently with us, and if the money is with them, they will stay, surely.

MR. KENDALL. Would not these foreign powers be deterred from the course Mr. Garner suggests by the fact that there is now an aroused sense against the extermination of these herds?

MR. ELLIOTT. Yes; and they would still be glad to unite with us, when it is so profitable for them to do it.

The reason for this rest from slaughter at our hands on the islands is due to the fact that this fur-seal life is absolutely and wholly the wildest of all wild animal life, save that of the sea otter, which is also brought into this treaty.

Capt. Bertholf made a very sensible suggestion yesterday, and I hope that suggestion will be carried through, and sea-otter skins should be included with these contraband fur-seal skins, so, just add the words "sea-otter to "fur-seal skins." I think Capt. Bertholf has covered the matter very well.

The CHAIRMAN. I think that is a good suggestion.

MR. ELLIOTT. Yes; just put the words "sea-otter" with "fur-seal skins."

The CHAIRMAN. I shall put that in the bill. I understand from the Solicitor of the Department of Commerce and Labor that this was left out by an oversight.

MR. EARL. Yes; it was in one of the drafts.

MR. ELLIOTT. It does not need to go in the bill except at that one particular place, and that covers the matter perfectly.

When man interferes with the natural laws which govern the reproduction of all or any highly organized wild animal life over which he has no control, he destroys that life.

MR. FAIRCHILD. PROFESSOR, I would like to ask you a question. I have a dairy of cows, for instance. I have 20 cows and 1 bull, and I have as many heifer calves born as bull calves.

MR. ELLIOTT. Yes, sir.

MR. FAIRCHILD. Of course, I am killing my bull calves off all the while. If I had more than one bull it would injure my herd, and of course, if I did not kill the bull calves off I would ruin my herd of cows.

MR. ELLIOTT. Yes, sir.

MR. FAIRCHILD. Is there any relation between that situation and the one on the seal islands?

MR. ELLIOTT. Not the slightest, because you have control over that bull calf, and you select, and rear him up to the stud. Year after year you feed, protect, and direct its existence. You have no—not the least—such control over that fur-seal bull pup or young male. It passes from your control the moment it is born. You never know whether you see it as the same seal year after year again or not. You are making no selection when you kill off these young male seals, because you can not save them, and identify and study their good points as you rear them up to the stud.

MR. FAIRCHILD. Would not a surplusage of bull calves or bulls in this herd be a detriment to the herd?

Mr. ELLIOTT. Not at all. I will bring that all out later. I will bring the details and everything in here. However, I will answer you right now, because I think you might get clouded, perhaps, with other talk. To perpetuate this race as you perpetuate your race of fine cattle, you select and breed only the best. If you can not select and breed only the best in wild life—and you know that if the best do not get on to breed as sires, then that life is destroyed; if you interfere with the natural selection you do that very destruction; and it is only a question of time, and a pretty short time, too. Now, we make no selection of these breeding fur-seal bulls. We can not control their coming or going. We know nothing about them from year to year. As I said yesterday, if we have taken up two or three or four hundred young males and snipped some hair off their heads, we can not say we have saved them, because we have not killed them in June or July; why, we have simply turned them out to sea, and they are gone forever from our knowledge hereafter. We do not know whether they live to come back again or not. We do not know whether we have saved them or not.

Mr. FAIRCHILD. There is a natural law of survival of the fittest.

Mr. ELLIOTT. And that comes by letting these bulls alone and letting them get together and whip one another out.

Mr. FAIRCHILD. And fight for the females?

Mr. ELLIOTT. Yes, sir; that is what we want to fix here for the next 15 years, so that this life can come back through the only channel which the Creator orders it to go through so as to get the best sires of the race, and the only sires that can perpetuate it.

Mr. SHARP. With this system in vogue in the past, is not the temptation very great to select the bulls for the value of their coats rather than for their propagating powers?

Mr. ELLIOTT. Yes; they always do that. The history of the whole business is rotten to the bottom, as is also the official attempt to cover it up.

That fur-seal life covered by the terms of this treaty is one which we have not the least control over. From its very beginning, to the end of this life, we have not the slightest order of its coming or of its going, as we see it hauled out on and annually depart from the seal islands of Alaska. We can not select its best breeding males and rear them on the islands, as we select and rear our best breeding calves, foals, or lambs on our farms. A method of barnyard selection can not be put into the wild seal herd of Alaska. A farmer in Indiana can select the sires for his foals, but no man in Alaska can select the sires for the breeding grounds of the fur seal. Therefore, when we steadily kill, year after year, as we have done, all of the finest and best developed young 2, 3, 4, and even 5 year old bulls, we are interfering with that natural selection of the fittest sires which must be made; we are nullifying the fundamental natural law of its reproduction of a survival of the fittest, which absolutely governs the best and continued existence of this life. When we interfere to do that, we at once begin to work its destruction as a dominant species, and prevent any complete, healthy, virile restoration of this herd.

I submit now Exhibit E, as follows:

EXHIBIT E.

The exposure of the Jordan commission's mischievous and improper report on the condition of the fur-seal herd of Alaska, which caused John Hay to unite with Henry W. Elliott in framing the fur-seal treaty plan of mutual concession and joint control, etc.

[Note for Mr. Loeb.]

It was this publication as below which opened the eyes of Secretary John Hay and caused him to agree with my proposal made to him April 2, 1900, per Hon. Theodore E. Burton (my Representative), and which led to my engagement with him of April 30–May 3, 1900, by which the act of April 8, 1904, was secured by my initiation, and by which authority he reopened this fur-seal case with Great Britain April 16, 1904, with me as his advisor and expert in the premises.

HENRY W. ELLIOTT.

JULY 11, 1907.

[Cleveland Plain Dealer, Sept. 25, 1899.]

THE ALASKA SEAL QUESTION.

PROF. ELLIOTT DECLARES THAT THE CASE OF THE UNITED STATES HAS BEEN GIVEN AWAY BY THE JORDAN COMMISSION.

The final report of Dr. Jordan on the fur seals of the Pribilof Islands has been recently issued. The preliminary reports of this gentleman in 1896 and 1897 have been variously commented on in the press as they appeared during the last two years, and the public generally were led to believe that some practical good was to accrue from the investigation which he was conducting; but our people now know that Dr. Jordan's "perfect agreement" with the British agents was a simple delusion which he so joyfully announced to the United States Senate, through Senator Perkins, in these words: "England shows every indication of a desire to do the fair thing. This intention is especially clear in the fact that she has sent an honorable commission which is familiar with all the facts ascertained by us, the head of the commission having been with me every day throughout the summer, and he and I being in agreement on all questions of policy, as well as on all matters of fact, so far as was developed by our conversation during the expedition." (Congressional Record, Feb. 28, 1897, p. 2619.)

How badly Dr. Jordan failed to understand his British colleague was made plain by that gentleman's report to his Government, issued May 10, 1897, in which Dr. Jordan was taught the sober lesson that Prof. Thompson did not subscribe to him in any question of policy respecting the management of the fur-seal herd and to no essential details of fact. (Report of Prof. D'Arcy Thompson on his mission to Bering Sea in 1896 dated Mar. 4, 1897; U. S., Nov. 3, 1897.)

Now, that Dr. Jordan has given public evidence of his utter inability to understand what his own field associate on the seal grounds in 1896 intended to say or do, I believe I have a good right to show that Dr. Jordan has made an equally grave blunder in regard to what I did on the seal islands in 1872–1874, and is equally incompetent to understand what I have said. In the final report of his investigation above mentioned he devotes a large space to the subject of my work on the census of the fur-seal herds in 1872–1874, and in this space endeavors to show that I was "merely guessing," and making "Mr. Elliott wholly devoid of mathematical sense, or else must have failed to appreciate what his figures really meant."

In Dr. Jordan's preliminary report of 1896 (Treasury Department Doc. No. 1913) he alludes to this census work of mine in no such language, and mildly doubts the probability of my figures being right. He does not in this report

give me the warrant to handle him without gloves which appears in this, his final report, and to handle him at once on this question is both my pleasure and a public duty.

Let me describe my early mission and its auspices. I first set out in April, 1872, for the seal islands to gather information and collect for the Smithsonian Institution. When I arrived on the islands April 22, 1872, I landed there without the slightest pressure from anyone or instructions to work out a case for lawyers and diplomats to tinker over and botch. I was to get the data as to the life history of the fur seal by observing that life on the ground, and to make as full a collection of the skins, skeletons, etc., as the circumstances of my living on the islands would permit.

I was received in the most cordial manner on the islands by both Government and lessee agents; every facility given me to work, and everything that I questioned or inquired into was answered and opened in perfect good faith and to the best of the ability of those men. I quickly made myself acquainted with enough of the Russian language so that I could freely get the personal ideas and facts possessed by the Aleuts or natives bearing on the seals, thus checking my inquires from one person to another. I never was misinformed by design, and by so doing never permitted myself to be deceived on that score. I devoted three consecutive seasons, 1872, 1873, and 1874, to close biological study of the fur-seal life, spending the winter of 1872-73 on the islands so that I could see with my own eyes the entire routine of arrival and departure of the seals from their haunts on the islands. The result of these studies was first briefly epitomized and published by the Treasury Department in 1874, and finally, when I found that I could not so arrange my private affairs as to permit of a two years' absence from home in order to study the Russian herd, I gave my elaborated work of 1872-1874 to the late Gen. Francis A. Walker, at his solicitation, with the sanction of the Smithsonian Institution, for publication as one of the initial monographs of the Tenth Census, United States of America.

In this monograph it became imperative to omit much detail in the line of my record of daily observations on the rookeries, because if it were all incorporated the volume would be too bulky, compared with the other monographs ahead, for the funds of the Census Office to print; therefore my original colored rookery maps and hundreds of notes and illustrations carefully drawn from life were excluded very reluctantly by the authorities, and only then because they believed that I had covered the ground fully, even in their abridged form. When I suggested to Prof. Baird that all of the details of my chapter on the census of the seals, pictures, maps, and all should be incorporated, he replied, saying that I had made it clear enough and easily understood in the abridged version.

Repeatedly, since the publication of that monograph in 1882, has this question of the population of the fur-seal rookeries on the Pribilof Islands been raised in my presence by naturalists of far greater ability than Dr. Jordan, and I have never failed to satisfy them of the substantial soundness of my views and figures. Now that Dr. Jordan at this late hour attempts to impeach their integrity I propose to impale his sophisms, assumptions, and misstatements on a few pointed facts.

Dr. Jordan says (p. 77): "The next attempt at enumeration was made in 1872-1874 by Henry W. Elliott, special agent sent by the United States Treasury Department to investigate the condition of the herd. He followed the same general method inaugurated by Capt. Bryant, finding the shore extent and width of the rookeries and allotting a certain space to each individual animal. He, however, worked out the plans in much greater detail." This is a deliberate misstatement of fact. Capt. Bryant made an estimate in 1870 of the area and extent of the breeding grounds of the Pribilof Islands, when, at the time, he had never laid his eyes on a single rookery on St. George Island and had seen but three of the seven breeding grounds on St. Paul, and these he saw through a telescope from the deck of a steamer. He then made the assertion that "there are at least 12 miles of shore line on the Island of St. Paul, occupied by the seals as breeding grounds, with the average width of 15 rods. There being about 20 seals to the square rod, gives 1,152,000 as the whole number of breeding males and females. Deducting one-tenth for males leaves 1,037,800 breeding females." He then proceeded to estimate the St. George seals at "about one-half the number of St. Paul."

By the very nature of things this estimate was a mere guess—the author of it never saw one-hundredth part of the area he figured on, and he did not know enough of the animals, and, for that matter, never knew enough to understand

that placing 20 of them on a square rod of superficial area was a ludicrous expansion of their real method of hauling on the breeding grounds. It was the frank and good-natured personal admission of the old man, Bryant, to me, when I went up with him on the same steamer to the islands, in April, 1872, that he did not know anything definite about the subject—that he was merely guessing, as any old whaler might calculate "dead reckoning" in a fog, that caused me to set so promptly to work when I arrived, on a preliminary topographical survey of the area and position of each breeding ground on the islands, as well as making surveys of the entire shore lines of both. But I had no idea as I began the work and completed it, in so far as the landed area went, of making a census of the seals upon the line of Capt. Bryant's speculation, because I early saw that there were so many variations in the sizes of the seals, the irregular massing and unmassing of the harems, that the plan of locating just so many adult seals to a given area was impracticable.

But as I hung over these rookeries day after day I became impressed with the fact that no matter whether the mother seals were present on the ground, or absent on their food excursions, their pups, or young ones, never left the immediate area of their birthplace on the rookery up to a time in the season not later than the 10th or 20th of each July; that if I counted them in a given area during that period I should then know just how many cows belonged to it, and only by taking the pups as my guide could I get at the real number of females; the males were steadfastly on the ground all the time, and then a general estimate for the number of virgin females could be made upon the ratio of this pup count, as it was a basis of the birth rate of the entire herd.

While this subject grew upon me, I called the attention of my associates on the island (St. Paul, 1872-1873) to it. One of these gentlemen, Mr. William Kapus, was an unusually well-educated man (the company's general manager), and a man of affairs as well. He took deep interest in the solution of this seal-space problem as I presented it to him in the following form; also Dr. Kramer, the surgeon, another cultivated, scholarly man, aided me in the inquiry:

1. The seals haul out on these breeding grounds with great evenness of massing—never crowded unduly here, or scattered there—so evenly that if suddenly every mother were to appear at the height of the season there would be just room enough for all, without suffocating or inconveniencing their lives on the rocks.

2. That in estimating the number of seals in the breeding grounds we must make the number of pups present at the height of the season the unit of calculation, because their mothers are never all present at any one time, not half, and at many times not one-third of them are; that the height of the breeding season is between July 16 and 20 annually.

Upon these two fundamental propositions I stirred up a vigorous discussion and examination as to their truth or untruth among the white men then on the islands, or South Island especially, late in 1872, and until the close of the season of 1873 the settlement of this question was left open. Then each and every white man on the islands at that time (there were nine of them) subscribed heartily to the truth of these, my assumptions, as a true working hypothesis.

Now, what does Jordan say about this particular law of even distribution on the rookeries which I formulated in 1872? Before I quote him I want to say that Jordan, when he landed on the Pribilof Islands for the first time in his life, July 8, 1896, saw nothing but a ghostly remnant of the life I was observing and studying in 1872-1874; the few seals that have in declining generations survived and were wandering about over the edges of those immense areas of deserted hauling grounds of 1872, and had ranged themselves in widely scattered and irregularly massed harems on fringes of the abandoned rookery slopes of 1872, became to his inexperienced eye "a great many thousands" and "a strong nucleus." Never having seen what I saw, he became deeply impressed with the form of what only aroused my pity in 1890, as it had stimulated my wonder and admiration in 1872-1874. With this wretched understanding and loaded to the gunwale with it, Jordan says in regard to my basic proportions as above cited:

"One who is familiar with the nature of the breeding grounds can not help feeling that in the foundation of this law Mr. Elliott did not have the picture of the rookeries before him. Had he traveled over the length and breadth of the rookeries, as was done in 1896 and 1897, he never would have proposed such a law; that there should be as many seals to the square rod on the jagged and broken lava rocks of Kitovi or on the broken slopes of Gorbach, where the animals are now, and must have then been, separated by bowlders weighing tons,

should be the same as on the smooth sand flat of Tolstoi or the level slope of Hutchinson Hill is, on the face of it, impossible."

Just because I had traveled over these rookeries day in and day out, when seals were there and when absent, was why I recognized this law of distribution, and I will safely venture to say that I have taken two steps to Jordan's one in this work on the rookery grounds; with every fissure and imbedded lava rock (these loose "boulders weighing tons", on Kitovi and only few such "boulders" on Gorbatch), I am familiar, and I found to my surprise, at first, that Kitovi was an ideal massing ground for the breeding seals, and Gorbatch also; that these jagged rocks, nearly all deeply imbedded in the detritus of the cinder and lava slopes, actually carried more seals than if they were perfect plane surfaces. Wherever I found a miniature lava butte on these breeding grounds (they are all of volcanic superstructure) that the seals could not scale or otherwise occupy, the area of the same was deducted from the sum of square feet belonging to the ground, and I never made the "blunder of assuming the same distribution everywhere," by taking this precaution, and in the following way: First, I carefully located the herds as they lay on the several breeding grounds during the height of the season—i. e., between July 10 and 20, which I discovered to be the time in 1872 this location was rapidly and accurately made on a land chart of the rookery ground, prepared early in the season and before the seals had hauled out. By having these charts all ready, with the stations from which my base lines and angles were taken, all plainly in my view when the seals hauled out, it was a simple thing to place the bearings of the massed herds on the chart; the reef and Gorbatch grounds made a busy day's work, and no more, for me, because thus prepared; the same of Zapadnié; Tolstoi easily finished in half a day; same of Lukannon; same of Kitovi; Polavina a short day's work; while Novastoshals, or the large Northeast Point breeding ground, took the best part of two days. The St. George rookeries were handled in even shorter time by this method.

Not content with assuming that I had not traveled over the rookeries as he had, Jordan proceeds to ignore the written record of my work in regard to counting the pups. On page 79 of his report he makes the gratuitous assertion that I did not know that all the breeding seals were not present on the rookeries at any one time during the height of the season. Mark his language, which my published work in 1880 disproves every word of: "But of these things Mr. Elliott was not aware. He was content to assume that all the cows were there."

What do I say about these cows, published 16 years before Jordan ever saw a cow seal, and then for the first time on the Pribilof rookeries? "The females appear to go and to come from the water to feed and bathe quite frequently after bearing their young, and usually return to the spot or its immediate neighborhood where they leave their pups." * * * Again I say, "A mother comes up from the sea, whether she has been to wash and, perhaps, to feed for the last day or two." * * * (Monograph, Seal Islands of Alaska, p. 39; Washington, 1880.) And till worse for Dr. Jordan, on pages 104 and 105 of the same monograph, Fish Commission edition, 1882, appears the still more explicit proof of his deliberate inability to give credit to truth. What better impalement of Jordan can be devised than these words of mine: "The umbilicus of the pup rapidly sloughs off, and the little fellow grows apace, nursing to-day heartily, in order that he may perhaps go the next two, three, or four days without another drop from the maternal fount; for it is the habit of the mother seal to regularly and frequently leave her young on this, the spot of its birth, to repair for food in the sea. She is absent by these excursions (on account of the fish not coming in-shore within a radius of, at the least, 100 miles of the breeding grounds), through intervals varying, as I have said, from a single day to three or four, as the case may be."

And with this published record of my thorough understanding of the truth that the cows are not present all the time, as early as 1872-1874, in his hands, Dr. Jordan deliberately attempts to rob me of that credit which naturalists all over this world have given to me and still give for my accurate work on these islands. I say, "he attempts," and I say it advisedly, for that is all it amounts to.

From this unjustifiable misrepresentation Dr. Jordan proceeds to make an analysis of my figures of the population of the seal rookeries, as published in 1872-1874 and enlarged upon by me again in 1880. Now he steps upon ground of legitimate criticism, and I am more than ready to meet it. With reference to my figures (Monograph, Seal Islands, p. 61), he says: "Waiving for the mo-

ment the method of obtaining these figures, we may remark that they are not easy to understand. Of this total 'of breeding seals and young,' Mr. Elliott in the same connection tells us that 1,000,000 'are young.' There must then be an equal of mothers, or 2,000,000 adult breeding females and their pups. To this must be added the young 2-year-old cows that are included, though not present. Mr. Elliott has himself given us an estimate of these. Considering of the 1,000,000 pups born 500,000 are females, he says, 'that at least 225,000 of them safely return in the second season after birth.' This, therefore, gives us a total of 2,225,000 females and young in the complete estimate of 3,193,420, leaving 868,428 animals which can only be accounted for as breeding bulls. This is impossible, and yet no other explanation of the discrepancy is at hand."

This is exactly quoted as it stands in Dr. Jordan's final report, page 79, and if it were not for the deliberate misstatement that "Mr. Elliott in the same connection tells us that 1,000,000 'are young'" there might indeed be "no other explanation of the discrepancy" at hand. But "in the same connection" I do not say anything of the kind about only 1,000,000 pups being born out of this grand total on the Pribilof Islands; on the contrary, on page 61 (Monograph, Seal Islands), I present a carefully tabulated statement of the exact ratio of seal life on the several breeding grounds of the Pribilof Islands, summing it up by the square feet of sea margin, multiplied by the average depth as "grand sum total for the Pribilof Islands (season of 1873), breeding seals and young, 3,193,420," saying, as I do so, that these figures as above show this total. Then I proposed to open another and distinctly separate enumeration of the non-breeding or bachelor seals, which I clearly declare entirely outside of any basic calculation, having no initial point, like the breeding seals; and I close this summary of the seal life on the seal islands on the following page.

Then I take up under an entirely different caption an entirely different question. I take up then the question of "The increase or diminution of the seal life, past, present, and prospective." I enter upon a purely speculative theme, and do not attempt to speak except in broad, general terms. Taking up that subject in this connection, and not in conjunction with the statement of facts preceding it, I enter upon a hypothetical expression of what I believe the loss of life sustained by the young seals amounts to. I use the broad, general assertion that "1,000,000 pups, or young seals, in round numbers," are every year born upon these islands of the Pribilof group." Naturally to point my speculation in figures of loss, which follows, it is better and easier to say "1,000,000" than 1,296,710, which would be the exact line of figures if the speculation was treated as a matter based upon fact. But I merely assume that half of the pups get back as yearlings next year, and that assumption is as well or better illustrated by a general figure than a specific one. The result is precisely the same anyway, and really has in either case of exact or general figures the same value. In my own mind at the time I was inclined to think that fully one-half of these pups did not get back, and so I preferred the general or indefinite figure rather than to strain an exact division of the pups into a vague theory. Jordan himself is guilty of this fusion of fact and theory repeatedly in this report. But I never have permitted it in my work.

Dr. Jordan proceeds to make himself still more erroneous in assumption. He says: "But if these figures were in themselves reasonable we must still take exception to the method by which they were obtained. * * * On his method of surveying the rookeries, Mr. Elliott has given us practically no data."

The stupidity, or else the effrontery, of this statement as to my giving him no data can be well understood by reference to the elaborate charts of these breeding grounds which are published in my report of 1890. (H. Doc. No. 175, 54th Cong., 1st sess.) These surveys were so elaborate and so full of detail that Gen. Walker in 1880 was unable to publish them in the Census Monograph, owing to lack of funds for their preparation, and I reluctantly inserted a small series of indeterminate pen-and-ink sketch maps to illustrate the general idea, but in 1890 I took them up to the islands with me and placed my work of that season on them in turn, making in this way the very best contrast of the condition of 1872-1874 with that of 1890 that could have been devised.

Unlike Dr. Jordan, I am not a barber's apprentice in topographical work. I served three summers under the best of topographers in the field, 1869-1871, inclusive, doing exactly such work as this on the seal islands; i. e., making original surveys of unmapped districts in the Rocky Mountain region. Until I made my surveys of the seal islands, in 1872-1874, there was nothing on the maps that faintly resembled the area, the contour, or the topography of the Pribilof group. The Russian charts of them were perfect caricatures and the American copies no better.

So good were my charts of St. Pauls Island that a surveying party of the United States Coast Survey, when it landed there in July, 1874, asked for and received from me copies of it, which they did not alter in the slightest noteworthy degree after spending a week on the ground, and it was shortly after published by the Coast Survey Office, with scant credit to me, its author. However, I care nothing for that, and I only mention it because Dr. Jordan calls in one of his subordinates to appear as a swift witness against me as a surveyor. Jordan says: "Of these maps Capt. Moser, in his hydrographic report on the islands, made certain tests. Of Mr. Elliott's shore line he says: 'It was a bad misfit and rarely stood the test of an instrumental angle.' He further says of the topography of the maps that 'it is so vague and indefinite that it is next to impossible to do anything with them. I should call them sketches.'"

It will do Jordan good and take the conceit out of this Capt. Moser to know that these charts of mine stood the test of instrumental angles to the entire satisfaction of Capt. J. G. Baker, United States Revenue Marine, and Lieut. (now Capt.) Washburn Maynard, United States Navy, in 1874, and Capt. Colson, United States Revenue Marine, in 1890. Each and every one of those trained hydrographers expressed their approval of these charts and their surprise at the accuracy with which I had plotted the shore lines. Capt. Maynard, in 1874, went all over the rookeries with my detailed charts of the same, made in 1872-73, and between us there we verified and corrected every one of them, so that these records which I made in those years can not be whistled down the wind by any inexperienced or jealous man or men.

Following this attempt to destroy the sense of my chart work (on p. 80), Jordan raises a question, and then answers it, as usual, wrong. He says: "To each one of the 7 of the 10 rookeries of St. Paul Island Mr. Elliott ascribes an average width of 150 feet. Two of the remaining breeding grounds have an average width of 100 feet each and the third 40 feet. * * * Whatever the average width of each rookery may have been, it was certain it was not the same for all. Neither now nor at the past times Tolstoi, Polovina, Vostochin, the Reef, Kitovi, Lukannin, and Zapadin had the same average width. The 150 feet is a guess, and that only."

A guess, and that only! Indeed. The utter ignorance of the method of my work which Dr. Jordan assumes, or really is afflicted with, can be well understood when I take up, for instance, the case of Tolstoi, to show how easy it is for certain people, like Jordan, who, having ears, hear not; and eyes, see not. On page 38 of my 1890 report, which was in Jordan's hands when he first started for the seal islands, appears the following detailed explanation of each and every step taken by me in surveying each and every rookery as well as Tolstoi.

Detailed analysis of the survey of Tolstoi rookery, July 10, 1890.

[Sea margin beginning at A and ending at D.]

	Square feet.
800 feet sea margin between A and B, with 80 feet average depth, massed -----	64,000
400 feet sea margin between B and C, with 60 feet average depth, massed -----	24,000
1,600 feet sea margin between C and D, with 10 feet average depth, massed -----	16,000
Jag E has 300 feet of depth, with 40 feet average width, massed -----	12,000
Jag F has 100 feet of depth, with 40 feet average width, massed -----	4,000
Jag G has 120 feet of depth, with 40 feet of average width, massed -----	4,800
Total square feet -----	124,800

The annexed colored chart¹ that this legend illustrates carries all these stations and base-line points in detail. Every topographical feature is faithfully indicated on it, and these specialized lines of average depth were drawn over these sections of the herd as it lay upon the ground on that day and date—the proper time of the season.

Now, in order that this detailed analysis of Tolstoi can be summed up in one compact sensible expression I take the entire length of its sea margin, 2,800 feet, and divide the entire sum of its square feet of massed area, 124,800 feet,

¹ Not printed.

by it; that enables me to say, "July 11, 1890, Tolstoi has 2,800 feet of sea margin with 44½ feet of average depth—124,800 square feet of superficial area, making ground for 62,400 breeding seals and young."

Here is the result in detail of my survey of Tolstoi in 1872, which was verified by myself and Capt. Washburn Maynard, United States Navy, in 1874:

Detailed analysis of the survey of Tolstoi rookery, July 15, 1872.

[Sea margin beginning at A and ending at D.]

	Square feet.
1,000 feet sea margin between A and B, with 350 feet average depth, massed -----	350,000
400 feet sea margin between B and C, with 150 feet average depth, massed -----	60,000
1,600 feet sea margin between C and D, with 30 feet average depth, massed -----	48,000

Three thousand feet sea margin on Tolstoi breeding ground, and 458,000 square feet in it, making ground, in round numbers, for 225,000 seals.

It will be noted that in this Tolstoi summary for 1872 I ignore the real presence of 8,000 square feet, and deliberately reduce that estimate of seals from 229,500 to 225,000, because I never ran the risk in my work of 1872 and 1890 of being a foot or two ahead of the real average. I carried this cautious reservation all through my surveys of each and every rookery, and this is the reason why Capt. Maynard, my associate in the work of 1874, makes his estimate, based upon this survey, of the sum total of Pribilof seal life so much higher than mine. He declared that he was satisfied from close personal supervision of taking all our land angles in 1874 that I was safely inside of the real limit of supervision and that the figures of the survey were conservative and right. He was then, as he is now, a skilled mathematician and hydrographer, and he had the right to his opinion based upon the figures of that careful work. Yet Jordan has the sublime impertinence in 1898 to sneer at this unbiased, careful survey of 1872-1874, by saying "the 150 feet is a guess, and that only." (Page 80, note.)

I used these figures of 1890 in detail for Tolstoi because I do not give the detailed analysis or figures of 1872-1874 (only the summary) in my 1890 report of its sea margin and square feet, viz, "3,000 feet of sea margin, making ground for 225,000 breeding seals and their young," not deeming it necessary to produce so many detailed figures when my charts for both seasons were in full evidence in the published work of 1890.

As with Tolstoi, so with every other rookery on the Pribilof Islands. But Jordan, holding all this incontestible proof of careful survey in his hands, can not "verify Mr. Elliott's surveys of the rookeries."

Jordan, also, in this connection, has been careful not to quote the reason why I made these elaborate charts in 1872-1874. If he did, he would render his method of counting the seals, or rather guessing at the exact count of individual bulls, cows, and pups, idle and abortive. I said in 1874, speaking of my law of uniform distribution of breeding seals on the rookeries: "This fact being determined, it is evident that just in proportion as the breeding grounds of the fur seal on these islands expand or contract in area from their present dimensions, the seals will increase or diminish in number." How well my charts of 1890, laid upon those of 1872-1874, tell that story. How futile the rambling and self-contradicting seal-counting work of Jordan to express the truth. Listen to Jordan himself, on page 101. He unwittingly trips himself there on this very point: "The only reliable basis of enumeration has been found and determined. This is a count of live pups." (This is what I published in 1872-1874.) Then on page 341, part 2, Jordan bamstrings himself in the following language: "It is evidently impossible to make an accurate census of the seals on St. Paul Island, because on the great rookeries, as the Reef Torbatch, Tolstoi, and Zapadin, no one can either estimate or count the cows (sic); nor can one do it at Polovina, because there is no one point of view where the whole rookery is visible; even the bulls can be only roughly estimated." Very true, Dr. Jordan; but why does Dr. Jordan, on page 83, part 1, call in this remarkable witness to his own inability to reason on his own lines of argument? "In the same year (1879) Mr. Beaman records, under date of June 10, that 'there were a couple of thousand bulls' on Polovina rookeries, when Mr. Elliott estimates fully 10,000 in 1874."

I never made the blunder of attempting to count all the bulls, all the cows, or all the pups on any rookery in 1872-1874. The utter stupidity of such a step never entered my head. It never did in 1890, even when the ragged remnant of the great life of 1872 was before me. It has only remained for Jordan and his job lot of assistants to race up and down these desolated breeding areas, in their idle attempts to do so, and the record of the self-contradiction of their own work bristles with the folly of it on a score of pages in his report.

I can not ask for space here to express the rapid succession of erroneous assumptions and studied misstatements which are strung on the wire of this report—that I shall gain later—but I will pick Dr. Jordan up on one more point, in conclusion. On page 80, Dr. Jordan says: "But aside from the question of accuracy in the surveys themselves, Mr. Elliott has assigned an impossible space to each individual seal. His unit of space is 2 square feet to each animal, young or old, or 4 square feet for the cow, ignoring the pups. * * * In a standing position she (the cow) would need at least 3 square feet, but as the cows are constantly moving about, and coming and going to and from the sea, it is impossible to limit one to such space."

At this point, and in this connection, Jordan may be pardoned for his inability to understand the massing of the breeding seals in 1872-1874, when there were seven to ten times as many of them as contrasted with their number when he first saw them in 1896. In 1890, when I landed on the seal islands, after a continuous absence from them for 16 years, the sight of their abandoned and shrunken grounds impressed me instantly—not so were the newcomers, the Treasury agents who traveled up with me; they, like Jordan, only saw "thousands of seals—many thousands," and it was really hard to get them to appreciate the gravity of the condition of the herd. I told them on the 1st of June, 1890, that they would not get the quota of 60,000, and not a man, agent of company or Treasury, or a native for that matter, then agreed with me on the islands. But by the end of the month they saw the truth as I had declared it.

Here is what I published in 1872-1874, relative to the seal unit of space, and it is clear enough to men who have reasoned to the line with me on the ground itself; to men like Capt. Maynard, United States Navy, 1874, and William Kapus, general manager of the lessees in 1872-73, and all of their official associates who were with them at that time:

Rookery space occupied by single seals.—When the adult males and females, 15 or 20 of the latter to every one of the former, have arrived upon the rookery, I think an area a little less than 2 feet square for each female may be considered as the superficial space required by each animal with regard to its size and in obedience to its habits; and this limit may safely be said to be over the mark. Now, every female or cow on this 2 feet square of space doubles herself by bringing forth her young, and in a few days, or a week, perhaps, after its birth the cow takes to the water to wash and feed and is not back on this allotted space one-half of the time again during the season. In this way is it not clear that the females almost double their number on the rookery grounds without causing the expansion of the same beyond the limits that would be actually required did they not bear any young at all? For every 100,000 breeding seals there will be found more than 85,000 females and less than 15,000 males; and in a few weeks after the landing of these females they will show for themselves—that is, for this 100,000—fully 180,000 males, females, and young, instead, on the same area of ground occupied previously to the birth of the pups.

"It must be borne in mind that perhaps 10 or 12 per cent of the entire number of females were yearlings last season and come up onto these breeding grounds as nubile for the first time during this season—as 2-year-old cows. They, of course, bear no young. The males, being treble and quadruple the physical bulk of the females, require about 4 feet square for their use of this same rookery ground; but as they are less than one-fifteenth the number of the females—much less, in fact—they therefore occupy only one-eighth of the space over the breeding ground, where we have located the supposed 100,000. This surplus area of the males is also more than balanced and equalized by the 15,000 or 20,000 2-year-old females which come onto this ground for the first time to meet the males. They come, rest a few days or a week, and retire, leaving no young to show their presence on the ground.

"The breeding bulls average 10 feet apart by 7 feet on the rookery ground; have each a space, therefore, of about 70 square feet for an average family of 15 cows, 15 pups, and 5 virgin females, or 35 animals for the 70 feet—2 square

feet for each seal, big or little. The virgin females do not lay out long, and the cows come and go at intervals, never all being on this ground at one time, so the bull has plenty of room in his space of 70 square feet for himself and harem.

"Taking all these points into consideration, and they are features of fact, I quite safely calculate upon an average of 2 square feet to every animal, big or little, on the breeding grounds at the initial point upon which to base an intelligent computation of the entire number of seals before us. Without following this system of enumeration a person may look over these swarming myriads between Southwest Point and Novastoshnah, guessing vaguely and wildly at any figure from 1,000,000 up to 10,000,000 or 12,000,000, as has been done repeatedly. How few people know what a million really is! It is very easy to talk of a million, but it is a tedious task to count it off, and makes one's statements as to 'millions' decidedly more conservative after the labor has been accomplished." (Transcript from the author's field notes of 1874. Nah Speelkie, St. Paul Island, July 12.)

I am satisfied to-day that the pups are the sure guide to the whole number of seals on the rookeries. The mother seals are constantly coming and going, while the pups never leave the spot upon which they are dropped more than a few feet in any direction until the rutting season ends; then they are allowed, with their mothers, by the old bulls to scatter over all the ground they want to. At this date the compact system of organization and massing on the breeding grounds is solidly maintained by the bulls; it is not relaxed in the least until on and after July 20.

Now, with this life study before him, proportioned to the exact attitudes, sizes, and disposition of a harem of fur seals, what does Jordan say? Hear him: "It is true that Mr. Elliott justifies in part his small unit of space by certain references to the coming and going of the animals. He asserts that after the pups are born the 'individual cows are' not on their allotted space one-fourth of the time, and that the females 'almost double their number on the rookery ground without expanding its original limits.' But Mr. Elliott failed to grasp what this really meant. He sees in it only justification for the unit of space, which he has assigned to the individual animals. It should have called his attention to the fact that the breeding seals which he saw before him, and which he was attempting to enumerate, were but a part and not the whole of the rookery population."

It seems utterly incredible that any man with the least regard for the express command of written directions like these which I have published, as above quoted, could make such a ridiculous and senseless reduction of them. Dr. Jordan has, however, done so, and here we have the evidence of his weakness in cold type.

In closing I can fitly say that the shame and ruin which overtook our cause of the fur seals at Paris in 1893 was no sin of mine, and the continuance of that shame and mummery of shallow experts on the rookeries in the Treasury and in the State Department up to the close of Jordan's work in 1898 was also against my protest. Now that the curtain has rung down on this last seal commission farce of our Government with its harlequin show of branding baby fur seals on the islands, "perfect agreement" with England, and searching the seal sacks of our returning women from Canada and Europe in New York, all to the utter indifference of the pelagic sealer, whom the business was to hurt, it is to be hoped that a further confession of this impotence of our people to meet the Canadians in open argument for some method of saving our fur-seal herd from indecent and cruel slaughter may be avoided.

The responsibility for the ruin of the Pribilof herds primarily belongs to Benjamin Harrison, James G. Blaine, and the two Fosters—"ex-Gov." Charles and the "Hon." John W. We had an admirable case and abundant information at our command, but the two Fosters (*par nobile fratrum!*) ignored it, and put the whole question into the hands of vaporing lawyers and ridiculous experts. They gave us the absurd Paris "regulations" in 1893.

The steady continuation of this scandalous order on the seal islands since has been made by the indifference of Grover Cleveland and the wretched egotism of Richard Olney (had Gresham lived the tables would have been turned), ably supplemented by the present administration.

The whole business since 1890 has been a scandal in our departments and an imposition upon the taxpayers of the United States.

HENRY W. ELLIOTT.

Gentlemen, I want to take up the proof of what I have said, and publish it without comment, as to the Russian records.

Mr. SHARP. You mean you are going to consider that now?

Mr. ELLIOTT. No; I will simply put that in the record here.

Mr. SHARP. I would like some information as to the practice of Russia and Japan.

Mr. ELLIOTT. I am coming to that. That statement I have just made, Mr. Chairman and gentlemen of the committee, I am sure is one that appeals to your immediate understanding and full appreciation. Think for a moment of the puerility of a claim that because during the last seven or eight years a so-called "selection" and a so-called "reservation" of a few hundred male seals has been made every June, before killing in July, and that these young males so "saved" and turned loose into the sea—all beyond our ken—that they have safely run the gantlet of the pelagic hunters and the food drives on these islands made every October and November following. No living man knows how many of those "saved," "reserved," and "spared" seals of last June will, after running this gantlet at sea of natural and unnatural enemies around the islands, and again the food drives on the islands in the autumn, and then going off and out, not to return until after a circuit made of 5,000 miles of migration in the north Pacific Ocean, between November last and next June—no man living knows how many of them so saved haul out again, if any, when they reappear in the following year. No man can identify a single one of them, and this is the "selection" which they are talking about in the scientific (?) Bureau of Fisheries!

The assertion made that those seals are selected and actually spared and reserved to grow up for service on the breeding grounds is an empty assertion, without the basis of any fact, and is wholly denied by common sense. That Russian record of 1817-1834 proves it. I take pleasure in submitting a brief epitome of that past Slavonic record which warrants me in appealing to it and asking you to weigh it well. Please observe that I quote from authoritative records in writing to you as follows:

At the close of the season of 1818 the Russian agent in charge of the Pribilof Islands—Kazean Shaishinkov—sent an earnest report to the governor of the Russian-American Co., at Sitka, telling him that in spite of the utmost effort on his part it was impossible for him to secure the number of choice male skins which he had been ordered to take.

(The committee thereupon took a recess until 1.30 o'clock p. m.)

AFTER RECESS.

The committee met, pursuant to the taking of a recess, at 1.30 o'clock p. m.

STATEMENT OF PROF. HENRY W. ELLIOTT, OF CLEVELAND, OHIO—Resumed.

Mr. ELLIOTT. At the close of the season of 1818 the Russian agent in charge of the Pribilof Islands—Kazean Shaishinkov—sent an earnest report to the governor of the Russian-American Co., at Sitka, telling him that, in spite of the utmost effort on his part, it

was impossible for him to secure the number of choice male skins which he had been ordered to take. He urged a rest from that killing for a term of years, saying that he feared if it was not so ordered that the seal herds would be destroyed—would “sofftsem ooshall,” or depart entirely.

Mr. Chairman, I want to submit here an inside light on that Russian work, taken from the letters of this man, exhibited to me in the house of his son, at Unalaska, September 2, 1874. I will not read all these excerpts which I made. I ask that this be put in the record, because they are the first exhibits of this inside work on those islands that have ever been made, and they throw a flood of light on the subject. I was on the *Reliance*, United States revenue marine, which was under my orders, Capt. Baker commanding, that summer. I submit this as Exhibit G, because it bears out entirely what I am saying here to-day. These are my original transcripts, and they are not copied, but submitted exactly as I made them, as stated, nearly 38 years ago:

EXHIBIT G.

The Russian methods of killing and shipping—Fur-seal islands, 1786–1867.

FATHER SHAISHINKON HOUSE.

Unalaska, September 2, 1874.

Yes, Mr. Elliott, I can tell you much, because my father was a bidarshik on St. Paul Island from 1804 until he died there in 1856. I was born there on St. Paul Island at Zapadind in 1808, and I was educated at Sitka for the priesthood, leaving the island when I was 15 years old.

My father, Mazean Shaishinkon, was born at Kodiak in 1786; he was instructed there in the church school so well that when he was 20 years old he was sent up to St. Paul Island by the governor of the company to serve as a “bidarshik” (foreman) and as a subpriest or lay deacon in the new church just established there. He remained there serving in this capacity until his death in 1856; he was so highly thought of by the company that they always paid all of the expenses of his visits to Sitka and Unalaska and all my school charges and costs. It was my father's protest in 1824 that stopped the killing on St. Paul Island. If it had not been for him and the respect which they had for him at Sitka, I truly aver that not one fur seal would have been left alive on those islands—yes—I will tell you, be patient—I can not talk any English, and you can not understand me unless I am slow and careful in speech. Yes, you may set it all down; it is my word and of which I know, and of which, also, I have the writings.

It is true that Pribilov discovered the islands, sailing out from this harbor in 1786, but he was only a ship's mate, in the employ of the merchant, Simeon Layheder; he never did any work on the islands; he was a navigator, and died at Sitka in 1826 on his ship, the *Three Saints*. At least twelve or thirteen different companies began to work on the islands in 1787–88. They took up to the islands nearly every Aleutian sea-otter hunter that was alive there on this island, and many from the other islands around us. They lived in skin tents or shelter during the sealing season, and then most of them came back in November to their homes for the winter, leaving only a few men, women, and children on the seal islands to await their return in the following spring. In this fashion, you understand, a large number of Aleuts lived on the islands every sealing season then, and yet built few houses. That accounts for the absence of ruined habitations which you have asked me about. I should say that on an average there were at least 400 engaged on these islands every season from the beginning of this work in 1787 with the old company, and Baranov put them off in 1799–1800.

Then the company resolved to colonize the islands and have the workmen's families live up there with them, so as to avoid this constant uncertainty of the shipment of hunters to the islands every year. So in 1800 the first permanent habitations were made by the natives for homes and by the company for agents' dwellings, and the first churches were consecrated on both islands. Most of these early people were on St. Paul Island just as you see them now.

Taking sealskins in those days was very different work from what you have been watching. Every hunter had to daily stretch and air-dry all the skins he took. This process made the work very slow then compared to what it is now. No one used salt, and no one could have used salt even had they known how in those days, since the Chinese market was the only one then open for sealskins, and then buyers wanted the parchment skins, which they tanned and wore without plucking.

When all of these men rushed into the work after Pribilov's discovery, they quickly saw and as quickly agreed among themselves that they must not and would not destroy the breeding seals. They saw that they could get vast numbers of holloachickie and many young females without disturbing the rookeries. This satisfied them and they kept the agreement among themselves faithfully. It was the only thing that they did agree upon, for a more quarrelsome, greedy set of managers never got together.

Every energy was put out in getting the skins, and immense numbers were taken. There is no count or record made of what the number was annually taken by them. They did not tell one another, and each trader's only concern was to get his season's catch safely off from the islands, and as safely laid down at Petropavlovsk, when the skins met the Siberian buyers for the Chinese market at Kiachu. I have heard my father say that it is a good day's work for a man to prepare 30 parchment sealskins, for the stretching and placing of the frames involve much time and frequently stripping. You can get some idea of what 400 men might do on this basis. They could make between 1,000 and 1,200 skins a day. Take June, July, August, September, and October, into about 20th November, you will have about 120 to 130 working-days at the most, and that would give a result of some 130,000 to 150,000 skins for their season's work. I am inclined to believe that this is all that they could handle or did get at best, and very likely they did not get so many, or if they did, many hundreds if not thousands of skins were spoiled in preparation. In spite of this immense annual catch of seals, no legend comes down to me of any scarcity of the supply while these hunters worked the islands from 1787 up to 1799, which was the last season they had this opportunity. Baranov lost no time in getting rid of them as soon as the imperial authority from St. Petersburg came to him as governor of the Russia-America Co.

As to the manner of driving seals for the killing on these islands, I assure you that the breeding seals were never disturbed seriously on any of the rookeries and never have been in the slightest degree worked by the old company. They all drove in the past as you have seen them drive on the islands this summer, but with this marked difference: Now 100,000 skins can be at once cured within a week or 10 days from the knife. Then it required the labor of 400 men to cure such a catch in "parchment" or "laptek" shape, all through June, July, August, September, and October annually. Now it is all done between the 14th of June and the 1st of August in the salt kenches.

This necessity of getting only a few skins daily in the past, so as to properly cure them, made it imperative to continue the daily work all through the season of four or five months. In this manner a great many cows would be swept into the drives every August, September, and October, since the breeding season on the rookeries ends by the middle of August, and then the cows often stray over into the path of the drivers. Of course a good many cows were taken in this way, but you will clearly perceive that it was unavoidable, and that the breeding grounds were never disturbed.

You call it "enlightened selfishness"? Well, I hardly understand it that way. It was fear of one another that caused them to live up to this agreement of theirs not to disturb the breeding grounds in their time, and it was fairly forced upon the old company by the evidence of swift diminution of this life as early as 1804, 1805, or soon after it took sole charge.

As to the number of seals in the past and earliest working of the islands, have you asked the old natives on St. Paul about it? (I then read my notes of the conferences of July, 1872, to him.)

You have done direct what I was going to tell you to do. Those men are the only ones now living who know anything at all about the subject. No one survives here.

When my father first went up there in 1804 he was assured by the natives that the seals were becoming less and less every season, and that there were not then near so many as at some time previous. He at first was not much aroused by the complaint, because he saw a vast concourse of seals, and it was not until 1808 that he became himself fully aware of the significance of the lament of the natives. He saw a great falling off from 1804 to 1808, and made

it the subject of a long letter to the church at Sitka and united with the agent on the islands to stop the killing for awhile. It was held up on St. Paul two years and resumed in 1810, but no great good came of the "zapoooska" or rest. By 1818 the loss of life was so apparent that a still more urgent letter of remonstrance was sent down to Sitka from my father. The governor at Sitka sent it to the directors of the company at St. Petersburg, and in the spring of 1819 Capt. Yanovsky came up from Sitka charged by the directors to make a full examination into my father's complaint. He passed the entire summer on St. Paul Island, and when he went down with his report in November he left my father a letter telling him that in every respect was he in full accord with the remonstrance and that he was going to ask that my father's wish to suspend all killing on the island for a few years be met by the board. Yanovsky did so report, but the directors were not willing to let up even for one season, even though they did not question the truth of Yanovsky's report and the sense of his recommendations.

Well, you know the result. In 1834 my father again was compelled to make a third protest. He showed them at Sitka that there were only a few thousands of seals left alive, and that if the order to kill was not suspended at once and indefinitely their complete extinction was close at hand. He had in this third attempt the powerful friendship of Bishop Veniaminov, who was then at Sitka, and he succeeded in getting the killing stopped. It was just in time.

I have here copies of all the letters which my father wrote, both to the head office at Sitka and to the bishop, which tell the whole story of this business from 1808 down to the death of father in 1856. There are also some letters of Veniaminov, in reply and in question, to my father in that box.

I can not let you take them to Washington—no; something might happen; for not only the seals are written about, but church affairs are also discussed in confidence between them. You may read them all through here and copy the fur-seal matters. You know I am head priest of this Unalaskan district, and it might hurt me were these letters to be published. There are very jealous and envious men in our church, and I do not want to give them any cause to complain of me.

I am sorry that I am unable to part with these letters; yet I can tell you all that they contain about the seals, because I have read them many times, and what they show is well known to me; ask—ask me; what I know I am glad to tell.

Oh, they did not care much about the seals then, when the company first came in. It was all sea otter. "Get otters, get otters," was the order of Baronov, and nothing was said about seals then. Why? Because a sea-otter skin was worth 50 to 100 roubles, and a fur seal not over 6 or 7 roubles. There were a great many sea otters then; thousands of them then where we have none to-day. So you see there was little attention given by the company to the numbers or the condition of the fur seals on the islands; indeed, Baronov was so indifferent to them that he never went up to the islands, although he was politely urged to go by my father in 1808, when he saw that the seals were growing less and less. Baronov was the best governor the company ever had, and only on account of his age and high temper was he removed in 1814.

No; it is not known how many seals, at any time, there were on these islands; you have given the first figures I have ever known. The Russians did not even estimate their numbers; they just said "extraordinary number—plenty, plenty." That's all I have ever heard when there were all that they wanted for their requisition, and "very few—very, very little" when they order a "zapoooska" (rest). If it had been sea-otter life, they would have known; yes, indeed; they would have known it all. Why, the sea-lion and walrus skins and guts and throats were as important—even more important—to the old company than as were the seals—more so, I verily believe, because we could not go sea-otter hunting without sea-lion or walrus "laftak" to make the lidarkas with, and Baronov had every Aleut driven into that work 'way down to Sitka by 1810.

In 1800, when the company began, the requisition never was greater than 40,000 to 50,000 skins on St. Paul and 20,000 on St. George, so the Starechs say—not half so many as carried away every season. There was no trouble about getting this quota every year until 1807; then, instead of "making this quota," only about half that number was gathered. My father was alarmed, and he, as I told you, wrote a long letter to the church at Kodiak and to the governor, Baronov, at Sitka, and told them that such "hard toiling

had had at last its effect; the seals must have a rest (zapooska)." Baronov ordered the killing on St. Paul to stop in 1808, and he let more than half of the Aleuts go down to visit their relatives in Unalaska,—just kept up the sea-lion and walrus work of that year and the next (1809). Then, in 1810, the killing was resumed, but the seals of the old time were missing. I have told you before how my father complained again, and how, in 1819, Capt. Yahnovsky came up to the islands. He was the guest of my father, who gave his house up to him and his servants. He was deeply moved by what he saw. He was up there from June until late in October, watching the work. I told you that he saw things just as my father said they were, and he tried hard in his report to get the directors to agree with him for a zapooska, for, he said, if they continued to drive all of the choice young male seals to slaughter, as they had been doing there, that the species would become extinct.

Why was his advice ignored? Ah, Mr. Elliott, Capt. Yahnovsky was high in the court circles of St. Petersburg. He did not have so much influence, however, as others who were there, too. The times were getting hard for the company; it was failing to make money by reason of the failure of the sea-otter chase; it needed money badly to meet the demands of the investors in its stock who were also members of the Imperial Government. That is the cause of Yahnovsky's failure to have his way. Baronov was getting old and worried over the loss of money to the company, so he was removed. His successors were also worried about money; so instead of resting these seals, in 1820, they resumed the killing, and continued to get everything that they could secure up to the close of 1821.

Then my father saw that the natives would not have anything to do or live upon in 1822, as the sealing and walrus work was gone, too, if the company determined to continue the killing. He resolved even at the risk of the displeasure of the authorities to tell the truth and insist upon a zapooska for the small number of seals that were left. He also wrote to Bishop Veniamin at the same time, telling him the sad condition of the rookeries, and urged him to see the governor (Moorayres) and give orders to have a zapooska made at once, and to let about half of the natives return to Unalaska, where they could live easier, since there was always an abundance of fish there, and that food supply is very uncertain to get in the Seal Islands all through the year.

Moorayres was a merciful and enlightened man, and in spite of the fact that the treasury of the company was empty, he gave the order to stop all killing in St. Paul Island above 10,000 and on St. George above 600 until the directors should be finally heard from. This relief for the seals, the first real relief that had been given them since a short zapooska of 1808-1810, was due entirely to the prayers of the good bishop and my father's letter.

Capt. Yahnovsky and Bishop Veniamin are the only high officials who ever visited the Seal Islands. Gen. Resanov was there in 1804 for a few hours only. He came ashore at Bay Zapadni and looked at the seals, and the natives told him then that the seals were surely getting fewer and fewer every year. He was our minister to Japan and charged with the examination into the affairs of the company by the Imperial Government. Baranov was making a great many jealous at court by his energy and zeal, and Russia was to see if their charges were well placed. Among other charges was the one that Baranov was regulating the Seal Islands and not getting as many seals as he ought, thus losing money for the stockholders of the company. Gen. Resanov promptly acquitted Baranov of that charge and nearly everything else of that sort. Resanov reported that too many seals were being killed, and urged a diminution of the killing.

It was a great event in the lives of those natives, that visit of Gen. Resanov in a warship. He was a fine-looking man, and the old natives used to tell my father that the smell of the carcasses on the killing ground made him sick soon after he stood there, and that made his visit a short one, to their exceeding regret. My father never saw him, for the general came in July and father came up in the November following.

From that time until Capt. Yahnovsky came to the islands nothing was done in the way of sending a commissioner to the islands. Resanov did manage by great effort at St. Petersburg to get a rest for the seals in St. Paul in 1808-1810—two years—too short a time, but the directors again demanded skins, and Baranov did not care, so the killing was resumed, but they never could get as many as he wanted, and he had to so report. Then the directors at St. Petersburg resolved to send some one up there whom they could all trust in

the court. As Capt. Yahnoosky was chosen, he arrived at Sitka the autumn of 1818, and presented his letter to the governor. Moorayres was glad he came, because he knew that my father was telling him the truth about the seals, and that his (Moorayres) word was doubted in St. Petersburg.

Capt. Yahnoosky came up to St. Paul in the May month, 1819. He was a very quiet man, and asked questions all the time. He was on the seal grounds every working day, and made notes, notes, notes, which my father says he wrote down every day. He spent the whole season in St. Paul, only going over to St. George once, and not remaining there long. He said that the business over there was just the same as at St. Paul, only not so many seals, and—no, my father did not go over there with him. Why? Because the St. George work was always kept by itself—had its own books without any connection with the business on St. Paul. This was so ordered at the start by the old company and never departed from until your people took the islands. Why? Because Baranov thought it best to stimulate rivalry between the work on the islands by making each one strive to do better every year than the other. It may have been good business management, if such rivalry did not hurt the seals, but it did hurt them—it destroyed them.

When Capt. Yahnoosky finished and left the islands in November he gave my father a handsome letter, assuring him of his regard and praising him for the truthful and intelligent information which he had secured from him. At Sitka, in February, Yahnoosky prepared his report and sent it to the directors. He did not go home with it, unfortunately for the seals, because he had other investigations of the company's work to make.

Well, the directors did not comply with Yakowsky's recommendation that the killing be stopped altogether—they complimented him, but made no change in their requisitions. Then Mooragners, who was very much stirred up at Sitka by the condition of affairs on the island because he himself went up in 1820, after Yakowsky's wish was made known to him, and there saw for himself the truth; he decided to rest the seals in 1823, and ordered that no attempt to get more than 10,000 be made then (1823), and for the next year's catch the result of the sealing in 1823 would determine; in spite of all they hoped for the seals grew fewer, and the small catch of 8,000 or 10,000 was again ordered for 1824, 1825, and 1826; then an attempt in 1827 was made to get 40,000, and though all possible effort was made, not quite 28,000 seals were secured.

The same close killing was made in 1828, and continued to the close of 1834, when barely 12,000 small seals could be secured. My father saw that the end of this work was close at hand unless the seals had a chance to live and naturally increase. So, when he sent his report down to the chief manager at Sitka, together with the season's catch, November 12, he said that in spite of his utmost efforts he had been able to get only 12,000 skins instead of the 32,000 asked for. He closed this letter by saying that, in his best judgment, it was not safe to kill any more seals for several years to come, since the male life was on the near approach to complete extinction; he had to do this in humble and respectful language; you know that the management was—what you call it? Irresponsible? No, "autocratic"? Yes, that is it. It was always obedience to orders and no questions about them; that was the style of the management, and my father was trained to it.

No copy of Yakowsky's report was ever filed in Sitka, or with the papers of that office; it was a special report and for the directors at St. Petersburg. No, you will not find anything about it in Techmann's big book which I have here, and all that appears relative to that work of Yakowsky is a short letter of the directors [showing it], dated St. Petersburg, March 15, 1821, which denies Capt. Yakowsky's recommendation, and is addressed to Gen. Mooraynen at Sitka. No, it is not strange that Yakowsky's report was not filed with other papers at Sitka. It was a secret report for the information of the board, and which the board had secretly ordered. Your report that you are making is a public report, and it can not be hidden or suppressed. You see, the old company was in difficulty for money, and the Imperial Government was being pressed by the stockholders for money which was due and not paid for years back. Yakowsky's report, which showed the danger ahead to the value of that industry, was not the sort of a paper to make public under the circumstances, because it was none of the public's business and would only have made more trouble for the board.

For this same reason my father's letters, always telling of loss and danger to the seals, were not allowed to be published by the secretary of the com-

pany, and you will not find one of them in this big history of the company (Techmann's). Yes, Techmann is the only man who had access to the company's papers, and the only one who has written anything about the company based upon facts.

Yes, Venamann got his facts and figures all from my father. You know my father had a dual office; he was the "bidarship," and also the deacon or lay priest on St. Paul; every year or other year sometimes, a full ordained priest would visit the islands and marry the people and perform other functions which the deacon could not do. But as a lay priest my father had to make an annual report to the bishop at Kodiak or Sitka, and in that way he became well known to the church authorities. The condition of the church on St. Paul depended for good or bad upon the condition of the sealing business; if plenty of seals, then the church was self-supporting; if seals were scarce, then the church needed help. So my father's letters always told about the seals, and Bishop Venamann got deeply interested in them and encouraged my father to continue his notes and observations. This good man became so interested in the seals that he came up to St. Paul one June (1825) and stayed there until September, all the time engrossed with watching the seals. And since then, up to the day of my father's death, in 1856, every year a letter about the island affairs and the seals was sent to the bishop by him. The work of Venamann closed in 1837, and was published at St. Petersburg in 1842. Bishop Venamann is now the metropolitan at Moscow (i. e., the primate of the Greek Catholic Church in all Russia).

That counting of the seals was done. I know that it seems positively incredible to-day, and does not appear right, but I have heard the story so often, and I myself saw the well-nigh destroyed "laasbustchie" (rookeries) in 1837, two seasons after the zapooska began. I could have counted them all then, one by one, myself. Yes, it is a true story as published by Veniamin.

I then told him about the ice story, and asked him how he reconciled this account of the natives with Veniamin's silence on that score and his figures of the killing for 1835, et seq.

"Did they tell you that? Are you sure you understood or they understood you? It is laughable. I never heard it that way before—my father never said so. No; there is some mistake. We have had several seasons when the summers were late and ice floes hung around the islands to July, but this never interfered with the bulls coming; only delayed the early landing of the holloachickie; and as to Veniamin's figures of killing, I don't know—I can not say. I do know that no skins were taken on these islands in 1835, for none came down to Sitka. I was there then and I know it well. My father's letters also said so. They took several thousand pups (male pups) for food in November, 1835—that's all. Their skins are not salable. It was this way for eight or nine years.

"It is a great pity, and it makes me unhappy when I think of it, that my father's daily journal was destroyed by my brother. It was a distressing affair to me then and it distresses me now. To have such a loss inflicted in such a manner was horrible. It was this way: Paul was very drunk and he did not realize the sin and the shame of what he was doing. * * * That is a good reason, certainly, for my willingness to let these papers which I possess go out of my hands, alone to say naught of the reasons which I have given to you. But I have heard so much of this zapooska on the seal islands, and know myself so much, that you need not doubt the fact. The killing of the holloachickie upon St. Paul was entirely stopped in 1835—none were killed.

Little by little the killing was increased from 1835 until, in 1845, 9,000 holloachickie were taken, and in 1855 35,000 were safely taken, gradually increased, and carefully watching the rookeries as it was done. By 1857 45,000 were easily secured on St. Paul and 15,000 or 20,000 on St. George—all the company wanted—and since then there has been taken annually up to the coming of your people in 1868, about 70,000 or 75,000 holloachickie. The rookeries have since 1857 been just so large and no larger than you see them now, and the old natives say there never were any more seals on these islands than there are now.

The old company has never taken 100,000 skins in any one year of its operations; it was satisfied in getting 60,000 to 75,000 skins a year at the most; in 1867 the church records on both islands show that 40,000 were taken on St. Paul and 20,000 on St. George; of these 10,000 or 15,000 of the smaller ones were used in the colony (i. e., Alaska); the "colonial skins" were all made into parchment and used for clothing and bedding in the settlements. The

salted skins were for London and New York. The Chinese fur-seal trade since 1846 has been supplied from the Kannodn Islands and the Kuril. I don't think I know anything worth talking on about those islands.

As to the manner in which the natives drive now and skin seals, I do not see any difference between it and the methods of the old time, only this: Now you get all of these skins at once—in a few weeks; then we could not, as I have explained why; during the last part of the old company's time, i. e., from 1846 to 1867, most of the catch was then taken and cured in salt, just as you do now, and it was all done in June and July, with a few thousand always left over to make in October, so that the natives could have the carcasses for winter food. It was then just about the same in every respect of management of the work in 1846 as it is now (1872), only you are taking more skins than the old company took. You pay the natives more and more, and they are better housed; they are much better off than ever before. Yes; in every respect the natives are better off. But as for the seals, the change is no better for them. Is it worse? Time, and time alone, can tell; we shall see.

The old company in making parchment skins was never able to ship all of its catch in any one season from the islands as the catch is shipped now. It found that waiting in a ship around the islands after October was dangerous, and severe loss had attended the practice. So in this way there were always many thousands of skins "made" and making on the islands, stored in the serais. Yes; I know that Techmann, in his history of the company, says that between 1801 and 1804 the old company had accumulated 800,000, many of which were spoiled, cut, and thrown into the sea, and all that. But my father has said that no skins were ever wasted in this way. He had repeatedly heard the full story of the work done by the employees prior to his arrival on the island in 1804; the most that they could take with the men they had was not to exceed 40,000 parchment skins on St. Paul; four such seasons would only show 160,000 skins, even if they were all allowed to lay in the serais at Kodiak. That is a mistake—a big one—and I do not understand where he gets the facts; he does not print them. In all the time of their occupation (about 14 years) with 400 workmen between them against the 45 or 50 which the company retained, even then the employees never could get more than 120,000 to 150,000 skins made up in any one season, and they never left anything behind them.

There were usually 25,000 to 30,000 skins holdings over on the islands in the serais there and perhaps as many more in the serais at Kodiak or Sutwik. It was not possible to have any more in stock at any one time on account of the bulk of such a number of bales for safe stowage, to guard against injury. But 800,000 skins accumulated at Sitka or Kodiak! Why, it would take six or eight big warehouses. No; it's an error—a great one—and it is a strange one to get in such a book, but Techmann was only a hired man. He wrote the book for the company's use to help them to renew their charter at St. Petersburg; it is full of mistakes.

13.

"Oh, yes; I know that Veniaminov has first said this, but see he also says that 'up to 1817 I have no knowledge to rely upon'" (showing the page in the *Zapierkie*). I myself think that this statement, qualified as it is here by Veniaminov, must have been one of those legends of the wanton waste and excessive slaughter which had been more or less impressed by repetition as the truth, and so used by the bishop. Technamov unquestionably took it from the *Zapierkie*, for he never found any such evidence in the company's lists or books.

Baron Nikolai Resanov, the Emperor Paul's great friend and ambassador to Japan. He married Shelikov's daughter in 1793, and always took a deep interest in the business of the company after that, naturally. Shelikov died in 1796. Resanov died young, on his way back overland from the colony at Krasnoyarsk, Siberia, in August, 1806. He was the man who got the charter for the Russian American Co. from the Government; nobody else could have done it.

Lieut. Vassilie Yahnovsky, imperial navy; a young man about 28 or 30 years old. When in the colony the directors and Hagemeister and Moorayviev thought very highly of him. He acted as governor from 1818 until 1820 by appointment of Hagemeister, pending the action of the directors, who sent Capt. Michael Nicolai Moorayviev, of the imperial navy, over in 1820 to be

chief manager. This man was very intelligent, and in his desire to save the seals and other business of the company he often disobeyed the directors' instructions. For that reason the directors removed him in 1828 and sent Capt. Chestyakhov out to take the place.

Father Ioann Veniaminov, "a priest here at Oonalashka, just as I am now, from 1814 until 1829, when he was made the bishop of all Russian America, including the Ochostk and Kamchatka districts. In 1842 he was called by the Holy Synod to the head of our church, where he now is. He was born in 1792 near Kiev, and so you observe that he is an old man now. He was beloved by everyone—the natives, the company men, and the high officers all revered him. He was a large, fine-looking man, with a smooth, sweet voice like the low notes of an organ. He was the wisest and the best man in all these colonies, and he stood between the seals and the company so firmly that the Zapierkie of 1835-1845 was made. It never would have been made or continued but for him. I have his picture here, which he sent to my father from Sitka. See, and these our letters."

Note, September 2, 1874.

U. S. MARINE CUTTER "RELIANCE,"
Oonalashka Harbor.

I have passed all of this day with Father Innokenti Shaishnikov, who was courtesy and willingness personified in his desire to aid me in getting full information as to the past condition of the fur-seal herd on the Pribilof Islands. With his permission and in his presence, at his house, I have made the inclosed longhand notes of his answers to my questions.

I want to record here the fact that the package or bundle of letters which he refers to are written in Russian script, and very clearly and legibly, so that indifferent as my ability is to read written Russian I had no difficulty in perusing them, but to go all through them and select only that which touches on the fur-seal business would certainly take two or three weeks of my time, and I have only one day from date to spend in this place. There must be at least 100 of these letters; some of them are 14 and 15 pages of neatly and closely written script. Shaishnikov's letters, as far as I looked into them, are devoted, first, in chief to the church business and the personal details of the natives' association with it; second, to the sealing work, coming and going of the vessels, losses of cargoes, spoiling of skins (in parchment); and, third, least though most important, he gives in some of these letters accounts of the seal life and its ebb and flow.

These letters prior to 1825 inspired Bishop Veniaminov to spend one whole summer on St. Pauls Island as the guest of Shaishnikov, and undoubtedly caused the bishop to use his great office in helping stop all killing by the Russian Co. in 1835 for a period of nearly or quite 10 years upon Shaishnikov's urgent recommendation sent down from St. Paul in November, 1834.

HENRY O. ELLIOTT.

Japoorka, 1835—Shaishnikov's letter.

[Addressed to "His Excellency Gov. Wrangell." (Baron Ferdinand P. Wrangell.) "Thos. Arkengelsk" (R. A.), (or "Sitka.") (Chief manager R. A. Co.)]

ISLAND OF ST. PAUL, *November 2, 1834.*

Announce the arrival of the *Yealena* with the supplies, on the 20th October, and acknowledge receipt of the same in detail.

"I am very sorry to say that with all possible exertion I have been able to secure only 12,000 skins as against the 32,000 required of me. The people have been diligent and faithful, and they have taken every one as it landed this season, with the exception of 8,000 "molodets," which I have spared for seed on the breeding grounds. I have made this saving because I know by actual counting that only 7,000 cows and bulls are now left alive on the 'laasbuschie;' such is the unhappy condition of this business at the end of this season. In view of this great extremity of the seals, I most humbly and obediently advise that your excellency prohibit the killing of seals on this island next season,

because I assure you that it is not safe to kill any more young male seals for several seasons to come; and also, another good reason for this rest from killing is that even if you do order the work, I can not get more than 5,000 or perhaps 7,000 small seals in 1835, and getting them will, I am sure, result in complete ruin and destruction of the rookeries; nothing will be left to propagate the species.

"The people are in great distress of mind over the disappearance of the seals, which they say is due to the excessive killing, and in which opinion I am agreed. But this order must prevail next season, no matter whether your excellency orders us to kill seals or not—we must have the same supplies of food and clothing; but it is better yet that most of the people go to Unalaska, where they can get plenty of fish and engage in the chase of the sea otter while resting the seals from slaughter, because with a zaportha we do not need many workmen in this settlement, for there are only a few walrus and sea lions left, and they afford but little work."

He then recites the requisition of supplies which will be needed for 1835, to come up in the spring of 1835, chiefly cloth, tea, sugar, pickles, flour, hard bread, and "salt butter," a package of red paint for the church, and "2 accadems," "120 gallons vodka," "10 poods tobacco" (no salt meat or anything of the sort asked for, but "20 poods 'eukai'"—dried salmon).

KAZWAH MIPMHNKOB.

NOTE.—This letter is a copy in Shaishinkov's manuscript that I have seen to-day and made these extracts.

H. W. E.

UNALASKA, *September 2, 1874.*

This report, sent to St. Petersburg, caused the directors of the Russian-American Co. to select one of their ablest and best associates, and one in whom they had great confidence, a lieutenant (later general), Yanovksy, for the mission of investigation; they sent him out, and he landed on the Pribilof Islands in June, 1820. He passed that entire summer and early autumn on the islands, chiefly on St. Paul Island.

Mr. KENDALL. This man was sent there in response to the statement that the herd was about to be depleted?

Mr. ELLIOTT. Yes, sir; he was sent there to see what it meant and to report back to his associates, because he was one of the directors himself; but his mission was confidential, and they wanted to know what this trouble on the islands really meant. They did not want to stop the killing. He passed that entire summer and early autumn on the islands, chiefly on St. Paul Island. In December he sent his report to St. Petersburg. That was December, 1819. He not only confirmed Shaishinkov's report, but placed the blame in clear and explicit terms on the very same method of land killing which our officialism to-day is practicing, and as it has been doing during the last 20 years, and then declaring it best for the reproduction of that life! Think of it! I will now submit a résumé which will appear in this statement, as follows, to wit:

Way back as far as 1820 the Russians themselves recognized the fact that they were culling the herds too closely—that they were ruining the business by the land killing of all the choice males; they knew that they alone on the islands were to blame, because no such thing as hunting fur seals in the water by white men then was dreamed of, much less done.

Here is this evil of overdriving and culling the herd presented and defined 50 years before I saw it, and nearly 70 years before Jordan denies its existence in 1898. Think of it—we have sent two investigating commissions since 1890 up to our ruined fur-seal preserves on the Pribilof Islands, one in 1891 and the other in 1896-97, and yet in spite of this plain Russian record, and my detailed and unanswerable indictment of that particular abuse in 1890, these commissioners blindly and stupidly deny it. They attempt to set aside the Russian

record by saying that the Russians then killed females as well as males and drove them up to the shambles in equal numbers.

The Russians did nothing of the sort. They began the season early in June by driving from the hauling grounds precisely as we do to-day and continued so to drive all through the rest of the season; they never went upon the rookeries and drove off the females; they never have done so since 1799. How, then, did the females get into their drives?

The females fell into these drives of the Russians because that work was protracted through the whole season—from June 1 to December 1. In this way the drivers picked up many cows after August 1 to 10, to the end of November following, since some of these animals during that period leave their places on the breeding grounds and scatter out over large sections of the adjacent hauling grounds, so as to get mixed in here and there with the young males. Thus the Russians in driving across the flanks of the breeding grounds, going from the hauling grounds, during every August, September, October, and November, would sweep up into their drives a certain proportion of female seals which are then scattered out from the rookery organization and are ranging at will over those sections of the hauling grounds driven from. What that proportion of this female life so driven was, in Russian time, no man to-day can precisely determine. From the best analysis I can make of it I should say that the Russian female catch in their drives never exceeded 30 per cent of the total number driven at any time, and such times were rare, and that it ranged as low as 5 per cent of female life up to the end of August annually.

Now, what does Jordan say to-day about this work which the Russians condemned 70 years ago, and I in 1890?

"As land killing has always been confined to the males, and as its operations are to-day what they have been since the herd came into the American control, except in so far as they have been improved, this means that land killing is not and has not been a factor in the decline of the herd."

I went up in 1890 prejudiced against the pelagic sealer. I am yet; but prejudice can not make answer to the following facts:

In 1890 I found, in the place of 3,193,670 breeding fur seals and their young, only 959,455.

In the place of a round million of nonbreeding young male seals on the hauling grounds in 1872-1874, I found a scant 100,000.

It is and was easy to account for the heavy shrinkage of life on the rookeries, for the pelagic sealer has been hard at work on the female life since 1855-56; he has killed in the water 75 to 80 females to every 20 males, and this proportion in killing ought to be shown on the breeding grounds. It was.

But what about that infinitely greater loss among the young males on the hauling grounds? If the pelagic sealer was all to blame (as Jordan says he is) for this ruin of the herd, why should this class of seals of which he kills the fewest be the one class most fearfully decimated.

I began on the ground in 1890 to review every season's work on the islands since 1874. I found that in 1883 the supply of surplus male seals had so dwindled on the islands that the driving was then extended to all of the hauling fields; that extension declared increased difficulty in getting the supply long before the pelagic sealer had entered Bering Sea or had really begun destructive work in the north Pacific Ocean.

If the pelagic sealer had not caused this trouble on the islands in 1883-1887, of getting the full supply of killable young male seals, what had? An epidemic or disease? No; not a trace of it. Then there remained but two reasonable answers; either too many seals were annually killed by the lessees, or the method of driving to cull the herds so driven was at fault.

The effect of killing annually 100,000 young male seals of a single high grade upon the whole herd as begun in 1870 was an experiment. It went far beyond the Russian limit and method, for it added a much greater danger. It called for the systematic culling out of all the seals driven under 3 years of age and over 4 years.

This act of steadily killing every fine 3-year-old and 4-year-old male that comes up annually in the drives began in a few years to create a serious interference with that law of natural selection in the life of the herd which enables the fur seal to be so dominant a pinniped. This interference is at once seen by a thoughtful naturalist when the continued culling out of the very finest young male seals from the herd takes place annually. How long would any stock breeder keep up the standard of his herd in this State if he annually slaugh-

tered all of the very finest young males that were born into it or brought into it?

Yet Dr. Jordan comes forward in his final report with this plain confession of his inability to grasp a well-established truth in regard to the life of wild animals. Listen to him (Chap. IX, p. 128):

"The whole matter (theory of overdriving) is too absurd for serious consideration, and might be passed by with the silent contempt which it deserves were it not for the fact that it was accepted by the British commissioners in 1891 and made the chief foundation of the British contention before the Paris tribunal of arbitration."

Yet, curiously enough, Dr. Jordan, on page 120, immediately preceding this dogmatic deduction, cuts all the ground out from under his own feet in the following statement:

"But suppose the killing was continued through a series of years, every 3-year-old being killed, the reserve would in time be cut off and the stock of breeding bulls die out. It is impossible to say how long it would take to produce this effect, because we do not know the length of the life of a bull. We may infer, however, that it is not less than 15 years, and therefore the injurious effects of this excessive killing, begun in any given year and continued indefinitely, would not be seen within 10 years at least."

This he publishes under the caption of "A hypothetical case."

It is not hypothetical. It is the real story of the driving and killing on the islands from 1880 up to 1890. During all those years I know, from the records of the work and the direct personal testimony of the men who did the work, that they never allowed a 3-year-old seal to escape that they could get. That in 1883 they first began to fall behind in their run of 3-year-old seals from the hunting grounds of 1872-1874, which had so abundantly supplied them. Then they began to extend their driving to the hitherto untouched hauling grounds of the islands, until by 1896 they were driving from every nook and corner on the islands where a young male seal hauled out, and by 1899, in spite of the frantic exertions that they made, they got less than one-quarter of their quota of 3-year-old skins. They had to make it up in yearlings and "short" 2-year-olds for that year.

In the face of this positive truth about the work of 1899, which appears in my report of 1890, Dr. Jordan, in 1898, makes the following strange blunder of statement: "To destroy this class (3-year-olds) or any considerable number of them would at once weaken the herd. But there would be no object in such killing, and it has never been thought of" (p. 120).

Never been thought of! Why, it was the sole aim and thought of the land butchers to get every fine 3-year-old and 4-year-old seal that could be secured in the seal drives from 1872 to 1890. When the supply of this grade dwindled on the original sources of supply, then the work of driving from the hitherto untouched reservoirs was regularly increased with vigor and tireless persistency.

But Dr. Jordan makes his case still worse, for he goes on to say that this overkilling is not practicable. On page 121 he declares: "In the hypothetical case above cited we have supposed that every male of a given age could be taken. While in theory this is possible, in practice it could probably never be done. There are certain hauling grounds, such as Lagoon, Zapadni Head, Otter Island, Silvitah Rock, and Southwest Point, from which the seals have not and never have been driven. The young males frequenting there were left undisturbed."

This emphatic statement by Dr. Jordan is wholly and completely untrue. I have the record and the proof that each and every one of these places of retreat which he names above have been annually visited by the sealing gangs on St. Paul Island since 1884; and these "undisturbed" seals have been regularly driven off from those particular places, so that they would haul out on other places where they could be taken more advantageously, or they were killed, thousands and tens of thousands of them, right on the ground itself, notably on Southwest Point in 1884-1886. They were entirely hunted off from other islands because the law and the lease does not allow the lessees to kill seals there. And this particular secret work was in progress right up to the hour when I stopped it, July 20, 1890.

Now, who has imposed upon Dr. Jordan with this bald untruth? Who has so completely and shamefully misled him? What avails his high personal character or his deserved reputation as a naturalist when he makes a gross and a

monumental blunder like this? A blunder upon which he bases his whole defense of an abuse which I condemn.

I know better. I know that the Russians themselves knew better than that in 1820, 79 years ago, and that they then aroused themselves to the truth of injurious effect of overdriving and killing on land; and when, too, at that time, there was no such thing dreamed of even as the work of pelagic sealing, much less done.

When, in 1890, I stopped the work on the Pribilof Islands of land driving and killing, because it was ruinous to the well-being of the herd, a concerted attempt was instantly made in Canada and in Washington to deny my reason for that action, and that attempt has continued to this day. Naturally it does; it will continue just as long as there is a seal to kill on the islands. With the pelagic sealer in the field the dust can be raised over his cruel, wasteful work which will shield and obscure the equally cruel and wasteful work on the islands. It will conceal most of it from the attention of those who know but little of the business.

Therefore, I desire in this connection, and pending the action of Congress, which must pass sooner or later on the question, to throw some light on that particular section of Dr. Jordan's final report, which relates to the subject of killing seals on the islands, and wherein he denies the fact that any injury has been done—denies it because he knows himself nothing of it, and has been obliged to rely upon other authorities. Who? Well, let him answer for himself. I know.

Dr. Jordan has made two basic blunders in the foundation for his statement that no land driving or killing of the young male seals on the Pribilof Islands has ever injured the herd, or ever will. His first great mistake is his utter failure to understand the Russian method of driving and killing. He refers to it frequently, and incorrectly.

To be brief and explicit. The Russian method of work was radically different from the American system, with special regard to the period of seal driving, sizes of seals taken, and method of curing the green pelts on the islands.

Under the Russian régime the seals were driven in small daily drives all through the season, opening early in June and closing late in November, annually. All the seals driven in these drives were taken with very few exceptions; or, in other words, all the 1, 2, 3, and 4 year old males and all of the females that might be swept up into these drives, after August 10 and 20, to the end of the work in November. The Russians rejected in these drives only the very "short" or small yearlings, and the "patched" or "wigged" bulls, or 5 and 6 year olds. The percentage of this rejection up to August 10 never was more than 2 per cent, and after that not to exceed 5 per cent.

They (the Russians) were compelled to make these small drives on account of their method of curing the pelts before shipment. This they did by air drying them, and not salting them down, as we do, in keuches. So they were able to handle only a few hundred skins daily, where salting would permit the same number of men to handle thousands daily. Air drying green skins in a damp, foggy atmosphere like that of the Pribilof Islands is a slow and tedious process, because each of these pelts must be "hoop stretched" and "pegged out"; as much time spent on an air-dried pelt as on the curing of 10 in salt.

Under the American order, beginning in 1868, the use of salt was at once made, and the difficult question of time in which to cure the skins on the islands was solved. Then the object became to so drive, at the beginning of the season in June, as to be able to take the skins of 100,000 prime animals before the middle or end of July, and then ship the whole catch early in August, so as to have it laid down in London by the middle of October, in good time for the annual Hudson Bay auction sales, which buyers from the entire world attended.

Therefore the Americans drove up in four weeks, killed and cured as many seals as the Russians would have or could have handled in five months. Also they were enabled to make by this driving and curing and selection of a particular size or weight of skin that they might determine to take.

With a vast superabundance of seals in 1872-1874 the Americans naturally determined to take nothing out of the driven herds but the very finest animals, and these fine skins were then, as they now are, the hides of the 3 and 4 year old males. The lessees were obliged to pay the same tax on small low-priced skin as on a large fine skin, so they naturally aimed at nothing but the large fine animals and rejected the small ones, letting them go back from the killing grounds to the sea. Thus began at once, in 1870, the practice of culling all

the fine animals out of the driven herds on the killing grounds, which is a practice of infinite harm and sure ruin to the good form and service of the breeding grounds.

The effect of this culling of the driven herds was not more than faintly shadowed out to me in 1872-1874. I saw it then; I made note of it and left word with the Treasury Department to guard against it in my report of 1874. (Condition of Affairs in Alaska, 1875, pp. 75-777.)

Those are the details of a statement which I have made up from these letters of Shaishnikov, which for the first time now come to light. They are quaint and queer in their phraseology and I could not employ them very well for this occasion.

While the Russian company did not dispute the claims of Yanovsky's report, yet their commercial greed was so great that they attempted instead several halfway measures to check up this destructive work of land killing. Just as these men of Mr. Nagel's officialism now propose to stop for two, three, four, or five years. Just the same arguments and just the same interests behind them. The Russians ordered partial "rests," or "zapooskas," of two and three years only; but no good results came of them. The seals continually diminished on the breeding grounds, steadily year after year, until the crash came in 1834, when there were less than "some 60,000" seals alive on the islands then.

Thereupon, Mr. Chairman, those Russians reluctantly recognized this fact which I have just previously stated—that those natural laws which govern the reproduction of any wild animal life that is wholly out of our control must not be interfered with by man, provided we wish to preserve and restore a threatened species from extermination at our hands, and restore it to its full natural form and number, we must let that life wholly alone.

A rest, or "zapooska," for 10 years from all commercial slaughter on the Pribilof Islands was then ordered in 1834 and carried out—not exactly, but practically. I have the details of this restoration so ordered and carried out, given to me by the son of Kazean Shaishnikov, who was in charge of St. Paul's Island, and who kept a daily journal during the whole period. The first evidence of recuperation was not well seen on the rookeries until 1840. By 1844 a killing of 20,000 young males, surplus males, was easily and safely made. This killing was slightly increased annually thereafter, so that by 1857 a killing of 60,000 to 72,000 was easily and safely made, and then held at those figures and continued annually up to 1867, when this herd of some 4,700,000 (or 5,000,000 at the most) seals passed into our hands.

When we took possession this Pribilof herd numbered most likely 5,000,000, at least 4,700,000, seals of all ages—cows, bulls, young males and females and pups.

Mr. FAIRCHILD. Who made that Russian enumeration and how can that be verified?

Mr. ELLIOTT. That appears from Shaishnikov's own statement, and can only be verified by what appears officially.

Mr. FAIRCHILD. Was it a guess or was it accurately made?

Mr. ELLIOTT. I do not know how he did it; no more than I know how these men of our own officialism do it up there now. I can not tell from their record, any better than I can from the Russian.

I know that there were 4,700,000 of those seals in existence there during the summer by reason of a special mathematical survey

which I made then. To-day, Mr. Chairman, there are less than 100,000 of those seals surviving, certainly, not more.

Therefore, I am fully warranted in the clear light of those facts, which account for the ruin of this herd under Russian killing on the islands, and which killing has been and is being exactly repeated by our own officialism from 1890 to date, in urging this committee to adopt a proper substitute for this bill H. R. 16571 and now pending.

If that bill aforesaid is not amended by striking out section 11 entirely, every word of it, and substituting a better section, which shall absolutely prevent killing for 15 years, then the very object for which this treaty is drawn, and made, will surely be nullified. Let us now frame an act which will really give effect to the terms of Articles X and XI of this convention, and thus effect a full restoration, preservation, and protection of the fur-seal herd of Alaska, and keep it there, so restored, into the indefinite future, as a joint possession of wonderful interest and the greatest value. Let us frame this bill so that agreeably to the terms of Article X we can give this sorely driven and pitiful nucleus now surviving on the Pribilof Islands, a complete rest from commercial killing at our hands during the next 15 years from date.

I will now show you a table, Exhibit F, which will surprise you. Yesterday, the representative of the Bureau of Fisheries, and the scientists behind them, told you it will take eight years to double the 50,000 females now surviving. You heard that statement that it would take eight years, and then another eight years would ensue before we had 200,000 cows. Why; the assumption was so transparently foolish that even the chairman, who had never given it a thought, at once began to pick it to pieces. Let me submit to you a statement of annual increase from a nucleus of 50,000 breeding female seals on the Pribilof rookeries, which will follow a complete cessation of killing male seals thereon, provided that that rest dates from February 1, 1912, or from and after the passage of this act, and is not broken until the 1st of February, 1928, being a close time of 15 years. This suspension of all such killing as above cited will enable the only power to operate, which is the natural law governing this life; and, which alone can effect that restoration, and full restoration, to a safe annual rate of increase which will permit an annual killing indefinitely into the future of from 60,000 to 80,000 choice surplus male seals on and after the opening of the season of 1928; and this killing then done without the slightest injury to its annual birth rate thereafter on the breeding grounds.

In making this calculation—and I am going to take this up now and I want these gentlemen to listen to it, and if they can pick a flaw in it to get up here and tell you about it. In making this calculation an annual death rate of 30 per cent is deducted from the sum of increase to the "pups" during the first 12 months of their lives and then thereafter 10 per cent death rate, etc., is deducted steadily annually from the sum of increase to every other class enumerated below.

This average of 30 per cent is not high enough for the pups in the last years of great increase, but it is too high for the first five or seven years of its beginning in 1912, while the 10 per cent checked annually

against all the other grades is really higher than it should be, but it makes this table below a very conservative statement of fact in estimation.

Year.	Breeding cows.	Nubiles.	Pups (males).	Pups (females).	Yearlings (male and females).	2-year olds (males).	3-year olds (males).	4-year olds (males).
1911..	50,000	10,000	25,000	25,000				
1912..	54,000	10,000	27,000	27,000	35,000			
1913..	57,600	15,750	28,800	28,800	37,800	15,750		
1914..	66,870	24,300	33,435	33,435	40,320	24,300	14,180	
1915..	74,358	26,000	37,179	37,179	46,808	26,000	21,870	12,762
1916..	88,793	30,092	44,396	44,396	52,052	30,002	23,600	19,683
1917..	103,314	33,462	56,657	56,657	62,156	33,462	27,000	21,240
1918..	120,066	42,163	65,033	65,033	72,983	42,163	30,000	25,000
1919..	145,997	46,496	77,998	77,998	92,830	46,496	38,000	28,000
1920..	192,000	57,100	96,000	96,000	104,000	50,100	40,000	35,000
1921..	225,000	58,000	112,000	112,000	135,000	58,000	46,000	36,000
1922..	260,000	61,000	130,000	130,000	165,000	61,000	52,000	40,000
1923..	321,000	74,000	165,000	165,000	200,000	74,000	57,000	45,000
1924..	395,000	100,000	197,000	197,000	231,000	100,000	68,000	50,000
1925..	450,000	162,000	275,000	225,000	350,000	162,000	85,000	57,000
1926..	612,000	209,000	306,000	306,000	400,000	200,000	140,000	65,000
1927..	800,000	200,000	400,000	400,000	450,000	200,000	165,000	80,000

I am going now to discuss this table and explain it to the committee. Mr. Lembkey told you yesterday that there were 50,000 breeding cows in the herd. Now, I will take his figures. We have got to start somewhere, and it is just as easy to start with 50,000 as 100,000. He said that last summer, or the 1st of August, there were 50,000 breeding cows. I do not dispute that. Now, if his figures are correct, to that 50,000 breeding cows must have come 50,000 nubiles, or cows 2 years old, and, for the first time in their lives, in heat.

Mr. LEMBKEY. That 50,000 includes those.

Mr. ELLIOTT. No; it does not include those.

Mr. LEMBKEY. In my statement it did.

Mr. ELLIOTT. Then I am glad to hear you say that. I did not understand that. I thought you said they were breeding cows; in other words, that 50,000 pups were born last year. Did you mean that?

Mr. LEMBKEY. No, sir.

Mr. ELLIOTT. Then no matter. That is clear now, but it does not make any difference in this table, for we are assuming these figures are correct. It seems there are not quite so many. So the table is even more important than it was before. Therefore we will bring to these 50,000 breeding cows the 10,000 nubiles; but before we do that we will allow for 50,000 pups to be born; half of them are females and half of them are males. Then the next year we take 30 per cent away from those 50,000 pups born and they appear as 35,000 yearlings.

Mr. KENDALL. That 30 per cent is allowed for death?

Mr. ELLIOTT. Yes; and because their natural enemies destroy them. I am satisfied that the pups suffer the largest ratio of loss of life that any one class suffers after they leave the islands. They are poor swimmers compared with the older ones, and they lag about more. I was impressed with that fact in 1872 and 1874, when the yearlings returned. They are easily distinguished. A fool might mistake a yearling from all the other classes. Only a fool can do that. They have silver-gray backs and porcelain white stomachs and chests and they are little fellows.

Mr. HARRISON. What do you call a yearling?

Mr. ELLIOTT. Anything from 12 months up to 2 years.

Mr. DIFENDERFER. Is it not a fact also that the younger male seals kill the old ones?

Mr. ELLIOTT. No; I never heard of such a thing.

Mr. DIFENDERFER. Well, I did hear of such a thing, not among the fur seals, but among the seals on the seal islands just off of San Francisco.

Mr. ELLIOTT. Those are different animals altogether.

Mr. DIFENDERFER. But they are of the same family, are they not?

Mr. ELLIOTT. Yes; the same family, *Pinnipedia*, but they are a different genus.

Mr. DIFENDERFER. I remember there was one there they called Ben Butler, and his hide is now on exhibition. The other seals destroyed him.

Mr. ELLIOTT. I have heard of him.

Mr. DIFENDERFER. I was just wondering whether the same thing prevailed among the fur seals.

Mr. ELLIOTT. No; not a bit of it. There are all classes of seals, and no class injures another.

The CHAIRMAN. Mr. Difenderfer refers to hair seals.

Mr. ELLIOTT. Right at this point let me say to you that there is no animal life that displays the absolute absence of all jealousy, meanness, teasing, or bickering that the fur seal does until he reaches his fifth or sixth year of age. The females never display any temper. They never show any jealousy. The young males play with each other up to their four or fifth year just as little puppies do, and they never snarl or snap or quarrel. Their living together is lovely, but when the change comes to the male and the reproductive fires burn in the bull this amiable nature is changed. Then this order I have called attention to of natural selection is asserted, and the male comes out to the rookery ground determined to lick anything that he can and take his station as a sire. From that hour on he is ugly and is morose and is surly. He is fierce and untractable. But as to every other class, they never injure one another and they never quarrel, and their living together is always lovely.

Now let me get back to this table. We have born this last summer of breeding cows 50,000 and nubles 10,000, not breeding now. We have 50,000 pups born. Next year what do we have? We add the nubles to the 50,000 breeding cows and that brings on to the rookery 54,000 breeding cows, less 10 per cent loss, and 10,000 more nubles from the year preceding, or 1910; so, 27,000 male pups and 27,000 female pups are born in 1912 and 35,000 yearlings come out in 1912, a loss of 30 per cent from the pups born in 1912. Now, I carry that right down through this table, 30 per cent loss to the pups, the regular increment of nubles, 10 per cent taken from them every year, and what do we find? That in 1916, or in just five years instead of eight years, these 50,000 female seals are doubled. Then we find that by 1927, the end of this period, we have 800,000 breeding cows, we have 200,000 nubles, and we have some 400,000 male pups and we have some 400,000 female pups. We have 450,000 yearlings, we have 20,000 2-year-olds, we have 165,000 3-year-olds, and 80,000 4-year-olds.

Mr. GOODWIN. Making a total of about 2,750,000?

MR. ELLIOTT. Yes; pretty near that. That is the way it will stand in the summer of 1927 if we will leave them alone now and to that date. There are the figures, and I am going to let these official "scientists" work on them and tease them if they can, because I have allowed a bigger death rate than they themselves talked about yesterday, but they must do it now and in your presence.

Just as sure as fate, gentlemen of the committee, if you do not put that specific limitation to such killing for the coming 15 years, and which is warranted and suggested clearly to you by the terms of Article X, then I assure you nothing ahead is in sight except a repetition on the islands of those futile, halfway measures which the Russians vainly put into effect, one after another, trying to get around the objections of Yanovsky's report in 1814. All of those halfway measures utterly failed, and they ended by the total collapse of this herd in 1834. You see, they could not put the barnyard selection of Dr. Evermann and Jordan on this wild life, although they thought they could then.

THE CHAIRMAN. Mr. Elliott, have you the law before you passed by Congress in 1910?

MR. ELLIOTT. In 1897?

THE CHAIRMAN. No; the law of 1910, passed by Congress regarding the seal herds.

MR. ELLIOTT. That simply reaffirms the existing law and only cancels the lease. It made no change at all in the existing law, but just canceled the lease.

THE CHAIRMAN. Does not that law provide for the killing of surplus male fur seals by the Government?

MR. ELLIOTT. Oh, yes; and we want to prevent that. That is at the discretion of the department. We want to stop that. We want no more of this monkey business up there.

MR. KENDALL. All that that law of 1910 did after canceling this lease you speak of was to simply transfer the killing from this company to the department, in the discretion of the Secretary of Commerce and Labor?

MR. ELLIOTT. Yes; the butchery went right on, and the injury continued just the same. It was no relief at all.

THE CHAIRMAN. I suggest that you put that law in the record.

MR. ELLIOTT. This treaty does away with it completely, and we do not need it at all. It is pleasant to forget it so easily.

Why, gentlemen, just think for a moment of a continuation, by your order, of that mischievous and injurious, yes, evil, work of land killing which section 11 in this pending bill (H. R. 16571) provides for. Why, indeed, should we continue to do that very injury to this herd which that Russian officialism wrought in its short-sighted, greedy work of 1820-1834?

There is another significant and important omission made in the pending bill. Why are those treaty articles of this convention of July 7 last not printed as they should be—as the preamble to this bill? So printed, then this act becomes both dignified and the more intelligible to all of the customs agents and other interested officials of the high contracting parties. This act which you are considering today should be illuminated by these treaty articles, which should precede it as a preamble. Then every customhouse officer in every port, Japan, Russia, Great Britain, and our own country, will know

in a moment what the law of Congress means. There would be no writing to Washington and getting some ignorant official here to pass on its meaning. They are just as competent—everyone of our custom agents and revenue marine captains as is the Secretary of Commerce and Labor to pass on it; and they will, too, if it is put before them right. There is not a captain of a revenue marine cutter that can not construe customs law as well as they can anywhere in the departments, instantly, on the deck of his vessel. Let him have this act with a preamble to it covering all these articles in this convention and he will make no mistake.

Mr. GARNER. Mr. Elliott, I do not really see the importance of your argument with reference to how the bill should be drawn, except as to the provisions. A mere question of a point of order would strike out everything you suggest under the rules of the House.

Mr. ELLIOTT. Oh, no. Allow me to call your attention to the precedent established by the act of April 6, 1894, just like this one, which carries this preamble which I am asking you to put in. It was drawn by a great lawyer, Benjamin Harrison, aided by a number of other great lawyers—E. I. Phelps and I. C. Carter—and I think it is a very happy suggestion, because if we have that in the bill our revenue marine officers without the slightest difficulty will know what right action to take on the high seas, and they will know just what they are doing.

Mr. GARNER. That would be a mere matter of convenience. If they have the two in separate pamphlets, it would be the same thing.

Mr. ELLIOTT. The two pamphlets would hardly go together.

Mr. KENDALL. Let me make the suggestion that it is scarcely worth while to discuss that proposition, Mr. Elliott.

Mr. ELLIOTT. I merely make the suggestion, because if I were a customs officer and had this act to construe I would like to know what it related to. The customs officers would otherwise have difficulty in getting at it, perhaps. This act will be posted in every customhouse and every port in Japan, Russia, Great Britain, and our own country. Of course, I would not mention this except it has been done by the authority of men of the highest legal talent, and has worked so well with our revenue marine officers and customs officers in the case of the act of April 6, 1894.

Mr. COOPER. Whom did you say drew that?

Mr. ELLIOTT. Benjamin Harrison, who was one of our ablest lawyers.

Mr. COOPER. We never had a more able man as President.

Mr. ELLIOTT. I agree with you heartily. I have been in consultation with good lawyers over in the Senate, and I do not want to appear as masquerading in abler men's clothes. They asked me to make this suggestion here, and they believe in having it done, because I have been over this bill, I may say, with two of the ablest lawyers of the Foreign Relations Committee before I came over here to make this address.

When we make that loan of \$200,000 to Great Britain, and a similar sum to Japan, this treaty expressly provides that it is to be repaid at once to us, out of the equity which we give those Governments in the proceeds of the killing for commercial purposes, when that killing is resumed on the islands, and this equity is then available. This

loan or advance payment of \$200,000 to Great Britain and \$200,000 to Japan is taken by those Governments with that express understanding; hence they are bound by self-interests to continue the life of this treaty when we resume killing 15 years hence, and they will be the great gainers by so doing, as well as ourselves. This understanding, which these Governments have themselves invited, is one which should be distinctly defined in this act in making those advanced payments.

It binds them as our partners to us in continuing the life of this treaty into the future, indefinitely. In making these advance payments, when we refer to the payments in this act, let us call them "advance" payments, as the treaty does. At once, we take a mortgage on the good will of these Governments and bind them closely to us. I like this idea. This was not my idea, but it is a good one. This was done in the State Department. I do not know what would have happened if we had gone into the negotiations and Mr. Hay had lived, but nothing could have been happier. I want to say right here that this suggestion of making an advance payment which they are to repay to us when we resume killing is a good one. Japan and Great Britain receive an equity of 30 per cent in our herd when we resume killing. In 1928 we will kill sixty or eighty thousand 2, 3, and 4 year old males. They will be worth not less than \$2,500,000, and probably \$3,500,000, yes, \$4,000,000, because they will all be fine skins. They will not be the pup skins or "eyeplaster" skins that are being brought down here now by these latter-day saints. They will be "prime" skins and worth \$55 to \$60 apiece, instead of these little "eyeplaster" skins which sold the other day for \$32 or \$33 apiece, because they were so small.

Mr. FAIRCHILD. What is the best skin?

Mr. ELLIOTT. The best skin is the 3-year-old male. That is considered the high notch, and then, as it works either way, it retrogrades.

Then for each year of total suspension of all commercial killing on the islands, these Governments are satisfied with the small, nominal cash payment to them, at the close of each season, of \$10,000 each. That is a mere nominal consideration, like taking a dollar in consideration of some valuable property. That agreement enables us to give this herd a complete opportunity to regain its natural immense number and value, and it also enables us to recoup all these advance payments and small outlays annually for the next 15 years at once from the proceeds of the first killing, which shall take place after this restoration 15 years hence.

Now, they come along with this plea—about the expense and the cost; that we must go in there and kill and kill and quibble and piddle around here in little butchering jobs for the next 15 years instead of letting that life lay quiet and let its Creator restore it to our hands, as He will, if we leave it alone. That killing then will not be less than sixty-five or seventy thousand choice surplus young male seals, taken safely, and thereafter annually, into the indefinite future, worth as the market runs to-day at least \$2,500,000, and more likely \$4,000,000. They say that we will lose \$15,000,000 if we hold up killing 15 years—well, what of it, when it enables us to gain a herd then worth \$100,000,000 to us?

All these things will come back to us with compound interest, and we will be most happily rid of all this miserable officialism, and all this miserable meddling with the life which we all want saved and restored; we are all way above the miserable idea of immediate revenue only in the premises; that's the butcher's argument. We have a higher sentiment. If it was merely a matter of revenue, we would be nothing more than a band of butchers sitting here, and counting up the cost and the profit of killing this life to the verge of its extermination every year.

Think of all this outlay for the coming 15 years thus actually returned to us the very first year after that rest expires, in this way, and three times over; and we, too, having a long rest from any mismanagement whatever in the premises, which is quite as pleasant to contemplate also.

Then, too, by ordering this necessary rest, we get rid of an idle, mischievous, costly, and worthless officialism, which now is fastened on that unhappy life—and to our discredit in the premises—simply because we are killing a few thousand pup seals, mostly in violation of law, up there to-day; and actually, by so doing, we are hastening the extinction of that life. It will be a good thing for the Public Treasury and the public property involved to be rid of these officials for the next 15 years at least, and forever, perhaps.

The present cost of officialism on those seal islands is now involved by the employment of four special agents of the Department of Commerce and Labor at a cost of some \$15,000 per annum, salaries and expenses, and a civil list as follows:

Name.	Annual salary.	Position.	Period.
<i>On St. Paul, season of 1910-11.</i>			
A. H. Proctor.....	\$1,800	Store and book keeper.....	Indefinitely.
S. Melovidof.....	1,200	School-teacher.....	Do.
H. C. Mills.....	1,200	Physician.....	(?)
— (Chinese).....	720	Cook.....	Indefinitely.
N. Bogadanof.....	300	Stockman.....	Do.
Selected natives.....	240	Janitor Government house.....	Do.
Do.....	180	Janitor company house.....	Do.
<i>On St. George, season of 1910-11.</i>			
James Murtha.....	1,200	Storekeeper.....	Until fall.
C. M. Cunningham.....	1,200	Physician.....	Do.
— (Chinese).....	720	Cook.....	Do.
M. Lestenkof.....	300	Stockman.....	Indefinitely.
Selected natives.....	240	Janitor Government house.....	Do.
Do.....	180	Janitor company house.....	Do.

The above makes a total of \$9,460, or some \$25,000 annually, which is an absurd pay roll for so small and perfunctory a service, thus rendered, at best.

We need a few officials up there during the next 15 years of rest from slaughter for those seals, but nothing more than the services of a storekeeper and bookkeeper, who can also be the school-teacher, and a physician on each island, respectively.

We have had to pay annually, ever since 1890, \$20,000 for the support, subsistence, clothes and fuel for those natives on these islands. Under the terms of this treaty, we can kill a few hundred

or a thousand small male seals annually on each island, for natives' food. The skins of those seals, sold to the best advantage by the Government, will meet this annual cost of maintenance of those natives, and the two caretakers aforesaid on each island—the whole cost will not exceed \$50,000 annually.

Now, I am coming to a point which I want to emphasize, and I take pleasure in doing so. The revenue cutter which will go on patrol duty to enforce the provisions of this act can carry up from Unalaska all the supplies annually needed, and bring down the skins, etc. The captain of this revenue-marine cutter will be the proper representative, and he is the only efficient one, in fact, of our Government in the premises, and during the whole period of rest for the next 15 years he will have nothing else to do, and he and his men will welcome this service, which should be expected of them, and so ordered.

Any other officialism stationed up there during the next 15 years on those islands will be a useless one. If there, it will find nothing but mischief for its idle hands to do; so, the public good is served best by discontinuing those departmental agents and half-baked naturalists, who have been making bad matters worse steadily on these islands ever since 1890. It will be a public imposition if that service is continued; if abated and abolished, it will be a public benefit. They have never made a suggestion which led to this treaty in settlement of the matter. I had to come in here, over their heads, and force an act through which enabled me to take it from their hands in 1904; and I had the opposition of the whole officialism; but we have got this treaty in spite of them. Now, let us get rid of them.

In conclusion, Mr. Chairman and gentlemen of the committee, when you have safeguarded this treaty of "mutual concession and joint control," whereby four great powers have thus bound themselves most willingly into a pact that declares a common interest and mutual pride in protecting and restoring this wonderful and anomalous marine life for the benefit of all mankind, I, as the author of this plan, now say to you, with all the sincerity of my life, that if any or all of us live into the season of 1927, we will find, if we chance to visit those seal islands of Alaska, this small nucleus of to-day augmented then, by the operation of its own natural laws, to that vast and dignified form in which I saw it 40 years ago next July.

The buffalo had to go. It was in the way of the settlement by our people of a vast domain, but the fur-seal hosts of Alaska were not and never will be.

Mr. SHARP. How many seals did you estimate were there 40 years ago?

Mr. ELLIOTT. 4,700,000. My associate, Rear Admiral Maynard, living to-day, who was with me and made an independent survey, said there were nearer 6,000,000; but I was very conservative. He made his report, and in it said that there were nearer 6,000,000 there.

There are no mines or mining in their territory. No agriculture, no commerce, and no fish or fisheries of the least economic value to us are despoiled by them, so we can gladly welcome this restoration of that twice-ruined herd of Pribilof's discovery, and speed the day.

Gentlemen, I am through.

Mr. GARNER. Let me ask you a question in line with your calculations. If I understood you, your statement was that in 1834 they ceased killing the seals for 10 years?

Mr. ELLIOTT. Yes.

Mr. GARNER. But you did not state how many seals were on the islands in 1844 as the result of that suspension.

Mr. ELLIOTT. I have all those details in the documents which I have put in the record.

Mr. GARNER. Do you remember now, offhand, what the increase was in the 10 years from 1834 to 1844?

Mr. ELLIOTT. It was very large. It was very much like what I submitted in my table to you.

Mr. GARNER. In other words, the experience of the Russian Government from 1834 to 1844 would justify the figures you have offered in this table to the committee?

Mr. ELLIOTT. Yes, sir; and, moreover, my own study of it, and taking any analysis of that life which any competent man can make who knows it as I know it, and there are plenty who know it as I know it, but their mouths have been closed or their eyes have been blinded—I do not know why—and they say nothing and sit still and allow these men to go on and kill every year “for the benefit of the herd”—for the benefit of the butchers.

Mr. SHARP. May I ask you in this connection whether from your own personal study up there you are able to say whether the slaughtering of these seals is left largely to the judgment of these natives whom we support there?

Mr. ELLIOTT. Oh, no; they have really nothing to say about it. And really, gentlemen, when you come to know them as I know them, and nobody knows them better than I do, you will find they are amiable, kindly, gentle people. They try to agree with you, if you are there in authority, and do anything you want them to do.

Mr. SHARP. But they do the actual slaughtering?

Mr. ELLIOTT. Yes; under orders.

STATEMENT OF MR. HUGH M. SMITH, DEPUTY COMMISSIONER, BUREAU OF FISHERIES.

The CHAIRMAN. Mr. Smith, will you give the reporter your full name and your official connection with the Government?

Mr. SMITH. Hugh M. Smith; Deputy Commissioner of Fisheries.

The CHAIRMAN. Mr. Smith, we will be glad to hear from you.

Mr. SMITH. Mr. Chairman, I did not come here expecting to make any statement, but I will be glad to give you any information I may have. I have been interested in the remarks of Mr. Elliott, and would like to correct any impression he may have created in the minds of the committee as to the effect of the suspension of all land killing on the seal islands during the existence of this treaty.

The CHAIRMAN. We will be glad to hear you, Mr. Smith.

Mr. SMITH. I would like to call attention, Mr. Chairman, and gentlemen, to the expense that this Government will have to assume, and the losses it will have to sustain, if there is no killing of surplus male seals on the seal islands during the next 15 years. In the first place, we are obliged to make this payment of \$400,000, whether we kill any seals or not, and that money will not come back to us at the

expiration of this treaty, as Mr. Elliott suggests. It is a payment which can only be liquidated during the existence of the treaty. There will also be an annual charge of \$20,000, or a total of \$300,000, that will have to be paid to Great Britain and Japan. Estimating that the seal herd will increase, as Mr. Elliott says it will, and we have every reason to believe it will, we shall lose a revenue of about \$15,000,000 if we forego all land killing.

Mr. KENDALL. Mr. Smith, do you think the estimate of increase as submitted by Prof. Elliott is substantially correct?

Mr. SMITH. I should think it would be as good an estimate as can be made under the circumstances.

Mr. KENDALL. In the event there was an entire cessation of killing?

Mr. SMITH. Well, the increase of the herd is not contingent on land killing in any respect.

Mr. KENDALL. As I understood Prof. Elliott, he bottomed his calculation upon the cessation of all killing for 15 years. Now, you take that into account and you say his figures are substantially correct?

Mr. SMITH. Yes; as to the increase of breeding seals.

Mr. COOPER. Have you ever been up on the islands?

Mr. SMITH. No; I have never been there.

Mr. GOODWIN. As Prof. Elliott called off those figures I added them up in my mind and made an estimate of about two and three-quarter million seals. It totals about 2,695,000 seals.

Mr. SMITH. There is no reason why at the end of this 15-year period we should not be killing 150,000 or more surplus male seals.

Mr. GARNER. Mr. Smith, if you are familiar with the history of the Russian killing and the statements made by Mr. Elliott, are they substantially correct with reference to the cessation of killing from 1834 to 1844?

Mr. SMITH. Yes. Whenever indiscriminate killing of fur seals has happened, there has been an immediate response on the part of the herd. By indiscriminate killing I mean such killing as the Russians have done of the females and young males, pups, and old males. There was no discrimination.

There is one other item of loss which the Government will sustain in the event of a total suspension of killing on the islands, and that is in customs duties. About 85 per cent of the fur-seal skins returned to this country after being dyed and otherwise prepared, and they would pay a duty of 20 per cent, or, as estimated, \$2,550,000.

The CHAIRMAN. During the period of 15 years?

Mr. SMITH. Yes; during this period of 15 years.

Mr. SHARP. But, in that connection, would not the American people be paying that duty?

Mr. SMITH. The American people are paying the duty anyway, sir.

Mr. SHARP. And, further than that, are you in a position to answer whether it would not be a pretty good thing for us to keep the hides in this country and market them here rather than abroad?

Mr. SMITH. That is another question, sir. There is a tendency or desire to bring the sealskins to this country for sale. The only reason they have been sold in London heretofore is that London is the recognized world seal market, and there was fear on the part of the Government and on the part of furriers that we could not handle the business in this country at this time.

Mr. DIFENDERFER. Is it not a fact also that it is claimed the English are the best dyers of sealskins in the world? Is not that one of the reasons?

Mr. SMITH. They are the only people who can handle so large a number of seals properly. If we bring this consignment of sealskins to this country there is a possibility that the English dyers will come over and start business here. That has been suggested.

There is just one more item, Mr. Chairman and gentlemen. The loss to the Government in actual revenue, if there was a total cessation of land killing on the islands during the next 15 years, would be in the neighborhood of \$18,250,000, and as against that I do not see we get any benefit. The expenses at the islands, the administration of the islands, the feeding of the natives, the care of the seal herd, and the patrol will have to go on just the same.

This was the single thought I had to convey, Mr. Chairman, but I would be glad to answer any questions I can, with the understanding that I have never been at the islands, but have been interested in this matter officially and personally for many years.

Mr. GOODWIN. As to this cessation of killing, do you not think the loss of revenue and the matter of expense would be a mere bagatelle as compared with the benefit that would accrue by virtue of the increase of seals, if Prof. Elliott's theory be correct?

Mr. SMITH. Mr. Chairman, in a statement I have just published, I have ventured the opinion that if not a single surplus or other male seal is killed on the seal islands in the next 15 years, there will not result a single addition to the herd in consequence thereof.

Mr. GOODWIN. But I thought you said, just now, you had no reason to doubt the estimates made by Prof. Elliott and his conclusions as to the number of seals that would be on the islands at the end of this period.

Mr. SMITH. That would result from the protection of the female life. The destruction of females is recognized by everyone now as the sole cause of the decline of the seal herds.

Mr. FOSTER. That is, you say we could continue this killing of the extra or superfluous males, and this increase which Prof. Elliott has spoken of would not be an exaggerated estimate?

Mr. SMITH. Yes, sir. Mr. Chairman, there is another phase of this matter I would like to bring to your attention. If we do not kill any surplus male seals on the seal islands during the next 15 years, during the existence of this treaty, it seems to me it will be an evidence of very bad faith on the part of our Government with reference to the other Governments who have gone into this treaty, and two of which, having fur-seal herds of their own, expect to kill their surplus male seals, and if at the expiration of this 15-year period we have killed no seals on land, there is every reason to believe that those Governments will allow this treaty to lapse, and there will be a great carnival of pelagic sealing. The other Governments will reap the benefit and we will have gotten nothing whatever therefrom.

Mr. SHARP. In what respect is that true? I ask for information, because I want to get your idea of it.

Mr. SMITH. The nations which have gone into this treaty have done so with the understanding that it is pelagic sealing which has caused the decrease of the seal herd, plus indiscriminate raiding by Americans and Japanese and British on the land. But it may be said that

pelagic sealing is the recognized cause of the present condition of the herd. Now, there is no reason why, pelagic sealing having been stopped, the females being absolutely protected both at sea and on land, the surplus males should not be killed, and the other Governments who are parties to this treaty have gone into the agreement with that understanding.

Mr. COOPER. Is there anything in the treaty to that effect?

The CHAIRMAN. Yes. And they also get part of the revenue?

Mr. SMITH. The mere fact they have gone into the treaty is evidence of that.

The CHAIRMAN. The point is, Mr. Smith, that under the terms of the treaty some of these other Governments expect to get part of the pelts or a part of the revenue from the sale of the pelts?

Mr. SMITH. Just as we expect to get part of the revenue from the surplus male seals killed on the Russian and Japanese islands.

Mr. GARNER. But they leave the matter entirely with the United States as to the number they shall take, if any?

Mr. SMITH. Naturally, because no one knows what the increase will be.

Mr. GARNER. Really, the only issue, if I may term it so, between you and Prof. Elliott is the question whether or not this herd will be as well preserved by a continuation of the killing of superfluous males, as contended by you, or whether we shall let nature work its own law by the survival of the fittest, as contended by Prof. Elliott. That is about the only issue between you, outside of the criticism of the official action made by Prof. Elliott and the question of additional expense?

Mr. SMITH. Well, I think that is a very crucial point of difference.

Mr. GARNER. Yes; I think so myself.

Mr. GOODWIN. Do you not think nature would work its own redemption better than any artificiality of man, if I may use that term?

Mr. SMITH. I think if there are no male seals killed on the islands there will be just as many breeding cows at the end of the 15-year period, and no more, as there would be if judicious killing on land were continued.

Mr. DIFENDERFER. If we should take three-fourths of the male seals, would the result be the same?

Mr. SMITH. More than that; if we should take 90 per cent of the male seals it would be the same.

Mr. SHARP. Then, there is nothing in the argument of Prof. Elliott that natural selection has a decided advantage?

Mr. SMITH. There is not anything to sustain that argument. In fact, when a large number of breeding bulls are allowed to harass the bulls which have secured harems, the others having none, and are continuously attacking him from all sides, during a long season, I should be inclined to suspect it would be the survival of the unfittest that would result. No bull, however fit, can for a period of three or four months, during which time he takes no food whatever, sustain himself against the attacks of rival bulls.

Mr. SHARP. But after all, is not that the way that it has gone on for ages before man came on the scene to regulate the number of seals?

Mr. SMITH. Undoubtedly.

Mr. SHARP. Is not that the way ordained in the first place?

Mr. SMITH. Undoubtedly that fighting has gone on.

Mr. SHARP. And produced millions of them?

Mr. SMITH. But we are dealing with a condition that is not natural now.

Mr. SHARP. Who has made it unnatural?

Mr. SMITH. The presence of man on the scene, and the necessity for protecting these herds, and the desirability of utilizing the herds to the best advantage of mankind.

Mr. COOPER. How do you account for the increase in the herds after the cessation of killing by the Russians?

Mr. SMITH. The Russians were killing female seals.

Mr. ELLIOTT. Mr. Chairman, that is not true.

Mr. COOPER. What authority have you for that statement?

Mr. SMITH. The statement of the authorities themselves, which I can easily bring to the attention of the committee.

Mr. COOPER. You have not those statements with you now?

Mr. SMITH. No; I have not.

Mr. COOPER. I would like to see them, because we want to get at the facts. Your idea is, then, that if these seals were left alone for 15 years—supposing there are 50,000 of them now—at the end of that time there would be no more seals on the islands?

Mr. SMITH. There would be no more seals produced on the islands for the reason that there is now, and has been for all time, sufficient male seals for all the females that are there. For 50, 40, or 30 male seals born, 49 or 39 or 29 are surplus. To be on the safe side, you can say that 29 out of every 30 are unnecessary for reproductive purposes.

Mr. ELLIOTT. Then why are they born?

Mr. FOSTER. That is not a question for us to consider.

The CHAIRMAN. Mr. Smith, you have read over the bill now before the committee?

Mr. SMITH. Yes, sir; I know the provisions of the bill.

The CHAIRMAN. In your opinion, do you think this bill will carry into effect the terms of the treaty?

Mr. SMITH. I think it will carry out to an admirable degree the intentions and provisions of the treaty.

The CHAIRMAN. If the Congress should determine at some time in the future to cease killing the surplus male seals on the seal islands, would it not be better to do that by an amendment to the law than to do it in this bill, which is simply for the purpose of carrying the terms of the treaty into effect?

Mr. SMITH. If under the operations of this treaty and the authority vested in the Department of Commerce and Labor by existing law it is found that the seal herd is being abused—not administered in a proper way—then it will be eminently proper for Congress to enact legislation which will correct those abuses.

The CHAIRMAN. Which should be enacted as an amendment to the existing law?

Mr. SMITH. Precisely.

The CHAIRMAN. And would not come before this committee at all, but would go before another committee of the House of Representatives?

Mr. SMITH. This matter of stopping land killing altogether is something this treaty has nothing to do with.

Mr. FOSTER. That is purely a domestic question, and the question we are trying to deal with here is an international question.

Mr. SMITH. Yes, sir.

Mr. SULZER. Quite so.

Mr. GARNER. Now, Mr. Smith, the Treasury Department, through its revenue cutters, has something to do toward patrolling the water and otherwise enforcing the navigation laws in regard to fur sealing, has it not?

Mr. SMITH. The Secretary of the Treasury has detailed revenue cutters every year for a long time to patrol these waters.

Mr. GARNER. And to look out in that section for violations of the treaty and the laws under the treaty?

Mr. SMITH. Yes, sir.

Mr. GARNER. Would it be any more expensive or would it be as expensive for the Treasury Department to carry out the provisions of this bill rather than the Department of Commerce and Labor, in as much as they necessarily have to assign revenue cutters and enforce navigation laws and to protect the enforcement of the laws in that territory?

Mr. SMITH. I do not see how the Treasury Department is qualified, with its present personnel, to deal with the economic question involved in the administration of the seal herd. One claim made in past years, and a claim that was evidently well founded, was that the Treasury Department was not able to cope with the situation; and it was under the Treasury Department that this tremendous decline in the herd occurred.

Mr. COOPER. Was that owing to the bad administration of the Treasury Department or because there was not a statute to stop pelagic sealing?

Mr. SMITH. The cause of the decrease has already been set forth; but the Treasury Department, so far as I am aware, never claimed to exercise a consecutive, scientific supervision of the herd, such as recent events have shown to be necessary.

In further answer to your question, Mr. Garner, I would say that the Navy will undoubtedly take part in the patrol to carry out the provisions of this treaty, and a naval officer will be in command of the patrol fleet. Why not put the control of the seal islands under the Navy?

Capt. BERTHOLF. You can rest assured that that will not happen. The Navy Department will not have control of the Revenue Cutter fleet.

Mr. SMITH. But it would have control of a patrolling fleet.

Capt. BERTHOLF. I doubt it.

Mr. GARNER. Mr. Smith, I will state very candidly the reason I ask you this question. I have had occasion recently to look into the enforcement of the navigation laws. It is now the actual practice for reports as to violations of the navigation laws to be made by the Treasury Department, and then the Department of Commerce and Labor takes that evidence and assesses a fine and undertakes to enforce the law. In other words, after one department has assumed the duty of reporting a violation of the law, another department of the Government comes along and enforces the law. It does not seem to me that is good administration. One department or the other ought to have entire control of it, and it did strike me that, so far as

the enforcement of the navigation laws is concerned, the Treasury Department ought to have that entirely in its charge. And I may add here that I am inclined to believe the reason why it was transferred to the Department of Labor at the time was the fact that when that Cabinet office was created they did not have very much to do, and in an effort to get something for them to do this work was transferred to them.

Mr. SMITH. I would like to say, Mr. Chairman, that the transfer of the fur-seal service to the Bureau of Fisheries was over the protest of the commissioner. So that we have not come into this trouble voluntarily. It has been forced on us.

Mr. GARNER. I do not know that my theory of transferring the enforcement of the navigation laws would apply to the seal fisheries. I am simply drawing attention to it to see if it could not be done more economically and quite as efficiently in the Treasury Department as in the Department of Commerce and Labor.

Mr. SMITH. The patrol of the North Pacific Ocean and Bering Sea does not involve any relations whatever with the seal islands. The land work and the patrol work in the interests of the life while at sea are entirely different questions.

The CHAIRMAN. Is that all you desire to say, Mr. Smith?

Mr. SMITH. That is all I have to say, sir.

ADDITIONAL STATEMENT OF MR. W. I. LEMBKEY.

Mr. LEMBKEY. Mr. Chairman, may I ask the privilege of a few minutes of the committee's time to make a brief statement?

The CHAIRMAN. Certainly, Mr. Lembkey.

Mr. LEMBKEY. I desire to submit a very brief statement in connection with the question of the diminution of these seals under the Russian régime.

A great deal has been said by Mr. Elliott before this committee and elsewhere upon the subject of the diminution of the Alaskan seals during the Russian occupation, and references have repeatedly been made to the diminution to show that as land killing was the cause of the herd's decline in the period around 1835, so also must the decline in recent years be charged to the same cause. Just what effect these statements have had upon this committee I am unable to state, but as the matter already has been brought before the committee, it would seem wise that it should be reverted to for the purpose of putting the committee in possession of facts which it has not been furnished with heretofore showing accurately the cause of the Russian decline.

The committee will know that the Pribilof or seal islands were discovered in 1786 by a navigator named Pribilof, in the employ of one of the rival trading companies then in Alaska. In the following year, 1787, not only his company but several others landed killing parties of natives on the islands, made settlements, and strove with each other in efforts to get the greatest number of sealskins.

The seal islands were not then a reservation or under any government supervision, so that no restriction whatever was placed upon the activity of any company in killing what seals it pleased or any number it desired. Their slaughter of seals was heedless and reckless, and limited only by the ability of the various companies to preserve

the skins taken. For 13 years this destruction of seal life by rival companies continued, until in 1799 the companies consolidated into the Russian-American Co., which expelled from the islands all rivals not included in the merger. But even then the reckless killing of seals did not cease, but continued as before without regard to sex, age, or number.

It was not till 1805, or after 19 years of unlicensed and unrestricted killing, that the first action by the Russian Government was taken to curtail or in any way regulate this slaughter. In 1805 Rezanof, a Russian ambassador to Japan, returning from that country landed upon the seal islands, and he was struck at once with the evidence of great waste in seal killing, which seems to have been perpetrated upon the herd previous to his arrival. He stated that he found the skins of seals were scattered about over the beaches in various stages of decomposition. The storehouses were full of skins, but only a small portion of the contents were in a marketable state.

He found that at least 30,000 had recently been killed for their flesh alone, the skins having been left on the spot or thrown into the sea. In his report on the subject, which may be found in H. H. Bancroft's *Alaska*, pages 445-446, he stated that as "over a million seals already had been killed" he gave orders to stop the slaughter and to employ the natives in gathering walrus ivory instead. In Bancroft's *Alaska*, page 447, we find that the Russian-American Co., between 1801-1805, had accumulated 800,000 sealskins, of which Venianinof, in Elliott's translation (*Seal and Salmon Fisheries*, III, p. 244), states that 700,000 had to be thrown into the sea or otherwise destroyed.

This killing which was suspended in 1805 was resumed in 1808 in a more moderate degree, and various expedients tried to guard against the entire disappearance of seal life, which by that time was threatening a wrong, which was the one which Mr. Elliott is now urging, namely, the suspension of killing for intervals of years. These measures, however, being ineffective, in 1835 all killing was suspended except that of pups for natives' food, and what was vastly more of importance the principle that females should be exempt from slaughter was first recognized and steps taken to prevent their being killed on land. With the enforcement of these measures the herd gradually increased, so that in 1867 the Russians were able to take the skins of 75,000 bachelors or immature males.

Mr. GARNER. Mr. Lembkey, in that connection there seems to be a difference between you and Prof. Elliott with reference to the policy pursued, we might say, from 1854 to 1867 with reference to killing the male and female seals.

Mr. LEMBKEY. Yes, sir.

Mr. GARNER. What proof have you to submit with reference to that policy?

Mr. LEMBKEY. I am just about to get to that point, sir.

Afterwards, during the American occupation, for 20 years, from 1870 to 1889, 100,000 bachelor seals annually were killed, until the herd had again become so greatly lessened through the killing at sea of females that the catch receded from 100,000 in 1889 to 12,000 in 1911.

The cause of this great decline of seal life during the Russian régime was due to the reckless killing on land not only of bachelor

seals such as are killed to-day, but to the killing of female seals as well wherever they could be found and without regard to the future of the herd. And strange to say the very evidence of this wanton slaughter of females can be found in Mr. Elliott's reports, although he is very careful to keep such facts in abeyance when furnishing his deadly parallel of the destruction caused by land killing then and now. He would have the committee believe that only bachelors were killed then as now and that the continued killing of bachelors in the Russian times caused the seals to decrease, just as he would have it believe the killing of bachelors to be the cause of the recent decrease. Let us, however, make a few quotations from Elliott to show just what was the cause of the Russian scarcity of seals.

We have already called attention to the great waste and ruthless slaughter of seals by the Russians. From the early reports there is every reason to believe that over 3,000,000 seals were killed on land during the 19-year period of 1786-1805. What kind of seals were these? Let us quote Mr. Elliott:

A translation of Venianinof, whom I have mentioned already, and who was a Russian priest who wrote of the seal islands in about 1840, if I remember correctly, occurs in Mr. Elliott's monograph, his first report on the seal islands.

Mr. HARRISON. When was that report submitted?

Mr. LEMBKEY. That report was made or published first as a monograph in the Thirteenth Census, I believe, was it not, Mr. Elliott?

Mr. ELLIOTT. In the Tenth Census.

Mr. LEMBKEY. But the data were gathered in his observations—at least I take it they were gathered in his observations—between 1872 and 1874. This translation, as I state, occurs in this monograph which was prepared as the result of Mr. Elliott's investigation in 1872 and 1874.

In that translation we find the following quotation from the Russian writer:

From the time of the discovery of the Pribilof Islands until 1805 the taking of fur seals progressed without count or lists, because there were a number of companies, and all of them vied with each other in taking as many as they could.

Then follows the account of the cessation of killing, from 1805 to 1808. The quotation continues:

From this time up to 1822 taking fur seals progressed on both islands without economy, as if there was a race in killing for the most skins. Cows were faken in the drive and killed, and were also driven from the rookeries to places where they were slaughtered.

The committee will find that monograph reprinted in a Government publication called Seal and Salmon Fisheries and General Resources of Alaska, page 232, et seq.

On page 78 of the publication cited Mr. Elliott states:

Again, in this connection the natives say that until 1847 the practice on these islands was to kill indiscriminately both females and males for skins, but after this year, 1847, the strict respect now paid to the breeding seals and exemption of all females was enforced for the first time and has continued up to date.

From the same report of Mr. Elliott is a quotation from Sir George Simpson's Overland Journey Around the World in 1841-42, by Sir George Simpson, who was the governor in chief of the Hudson Bay

Co.'s territories, who, in that journey, landed upon St. Paul Island. Mr. Elliott quotes Sir George as follows:

Some 20 or 30 years ago there was a most wasteful destruction of the seal, when young and old, male and female, were indiscriminately knocked on the head. This imprudence, as anyone might have expected, proved detrimental in two ways. The race was almost extirpated, and the market was glutted to such a degree—at the rate for some time of 200,000 skins a year—that the prices did not even pay the expense of carriage.

Mr. Elliott's comment upon this, in part, follows:

Also, that though the tardy recognition of the fact that females should not be slaughtered was made on the Pribilof Islands shortly prior to 1841-42, yet suitable management of the business had not been made, inasmuch as all classes "as a whole" were driven to the killing grounds. This harassed and distressed the females quite as badly as if killed outright. In 1845, the present order of explicit nontrespass upon the breeding rookeries was first established, and I am sorry that I can not find the name of the intelligent Russian who promulgated it, so that it might be known and respected, as it so well deserves.

The may be found in the publication already cited, volume 3, page 131.

Mr. Elliott gives a quotation from a manuscript letter of a Creole, Shismkof, detailing the number of sealskins shipped in 1847, and states:

This is interesting, because it is the record of the first killing on the seal islands when the females were entirely exempted from slaughter.

On page 272 of the same publication Elliott states:

The perpetual saving of the females was done in 1847 for the first time.

I might make further quotations from Mr. Elliott's own reports, and I could multiply them—

Mr. SHARP (interposing). Is there anything inconsistent in what you have read and what Mr. Elliott has said, namely, that he is in favor of protecting females?

Mr. LEMBKEY. But the main point he has urged before this committee and other committees is this deadly parallel between the diminution in the Russian times and the diminution during the American times; and he has argued, and argued very ingenuously, that if the land killing in the Russian times effected a great decrease in seal life, so also must the land killing during the American occupation have caused a diminution in seal life. But he is very careful to suppress the most vital fact that the killing during the Russian times up to 1847—

Mr. GOODWIN (interposing). Land killing or pelagic killing?

Mr. LEMBKEY. The land killing in Russian times on the islands up to 1847 included females, and that the killing of females on land, I will admit, of course, because there was no pelagic sealing at that time, was the cause of the herd's decline, just as the pelagic or sea killing of females has been the cause of the herd's decline during the American occupation.

Mr. Elliott suppresses that fact, and I wish to call the committee's attention to the fact that at other places, and previous to the time when Mr. Elliott had gotten to be a professional witness before committees, he has stated this true cause and has given it proper effect in his reports.

Mr. GARNER. Before it passes out of my mind, I did not have the opportunity to ask Prof. Elliott at the time, or at least it did not occur to me, but I would like to know how long Prof. Elliott was in the Government service, with reference to seal matters.

Mr. LEMBKEY. Mr. Elliott would perhaps be the most competent witness, but I have the fact here.

Mr. GARNER. The question did not occur to me at the time Mr. Elliott was making his statement.

Mr. ELLIOTT. I was there for five consecutive seasons.

Mr. GARNER. In the employ of the Government?

Mr. ELLIOTT. In the employ of the Government for four seasons.

Mr. GARNER. Has that been the extent of your service with the Government, with reference to these seals?

Mr. ELLIOTT. Yes; 1890 was the last season I was there.

Mr. LEMBKEY. I am afraid I am involving the committee in a discussion that perhaps you might not wish to listen to, but, perhaps, since Mr. Elliott has taken the committee's time to make his statement, I might claim a few minutes more indulgence.

Further quotations from Mr. Elliott's own reports could be multiplied to show that the killing of the Russians from 1786 until 1835 included seals of both sexes indiscriminately, that the principle that females should be entirely exempt from slaughter was not promulgated until 1835, and that this principle of noninterference with breeding seals was not put into effective operation until 1847. However, enough has been extracted from Elliott's own reports to show the character of the Russian killings.

We have seen from the quotations given that the Russians, in the first 20 years of their tenure of these islands, killed at least over 3,000,000 seals, male and female, young and old, that the breeding seals were driven from the rookeries and slaughtered, and that this slaughter continued until the seals were almost extirpated. But what is of greater significance, we can see from the citations that the very same cause then operated to decrease seal life as has operated to decrease seals during the American occupation. That cause, however, is entirely different from the one urged by Mr. Elliott. That cause was and is the killing of breeding females. The records show that breeding females were slaughtered on land during Russian occupation just as they are now being slaughtered in the water, and that the seals did not increase in numbers until the Russians began to protect the females. Neither will they increase for us until we can bring about this same protection to females in the water, the full measure of which, in my opinion, is embodied in the bill under discussion.

Mr. COOPER. Why has not that protection been brought about long ago, if they knew the killing of the females was the cause of this diminution?

Mr. LEMBKEY. Simply because the protection could not be brought about except through international agreement, and that the efforts of the Government since 1889 have not been successful in accomplishing an international agreement until the 12th of July, 1911.

Mr. SHARP. Mr. Lembkey, if the Russians believed as you do that the killing off of a considerable number of the bull or male seals would not have anything to do with diminishing the number, why did

they prevent the slaughter of any seals, male or female, during the 10 years?

Mr. LEMBKEY. As a matter of fact, they did not prevent the slaughtering of any seals. During the year 1835, which Mr. Elliott mentioned, while they did kill only 100 bachelor seals for skins, they still killed some thousands of pups for food.

Mr. SHARP. But that was exceptional, as I understand it, and there was no killing of male seals the way our Government kills them. Why did they not continue to kill a portion of the male seals?

Mr. LEMBKEY. I believe the reason why they did not continue to kill bachelors was because in 1835 they had not recognized the vital principle that the females should be exempted from slaughter; and, if they were, a reasonable number of bachelor seals could be killed without injury to the herd. That seems to be apparent from the record, for not until 1847 were the females entirely excluded from slaughter, according to Mr. Elliott's own figures.

Mr. SHARP. What is the policy now of the Russian Government and Japanese Government toward the male seals? Are you familiar with that?

Mr. LEMBKEY. I am not; except within the last 18 months I have seen the reports which have just come from the Commander Islands from a Russian scientist, I believe he is, or at least some one interested in seal life who had been there during the summer, and his statement was to the effect that bachelor seals were being killed, as they are on the American side, and that females are exempted from slaughter. I believe, however, there is an important, or has been an important, variation from that principle; that is, at least on certain rookeries on the Russian Islands. In order to get bachelor seals they drove an entire breeding rookery, and culled out from this mass of cows, bulls, and everything such bachelors as they could find therein, releasing, of course, the breeding seals to go back to their rookery, and skinning the bachelors after the cows had gone. Such a practice does not obtain on our islands. I remember another thing. They were considerably concerned with the decrease in cows, and did not know just exactly what to do to remedy that evil, and the remedy they finally arrived at was the killing off of a large number of adult bulls, in order to make the number of bulls conform, in a proportionate degree, with the number of cows that were left. I am just quoting that from memory and from a report which I read over rather hastily about 18 months ago.

Mr. SHARP. Mr. Lembkey, have you ever entertained the idea or thought that possibly during these years of slaughter, continuing over more than a century, many of these seals may have permanently left the grounds and gone somewhere else? I think I read in a magazine or paper some time ago that there was in existence an undiscovered herd—that is, some one had run across such a herd—and I wondered whether it would be possible that, in the face of all this continuous slaughter, these animals would keep returning in full numbers to the same place or whether some of them may not have wandered away.

Mr. LEMBKEY. I do not believe. Mr. Chairman, it would be possible for a large herd of fur seals to be in existence without in a very short while demonstrating their existence to the navigators who might be passing through the waters in which they feed. They would have to

show sooner or later in the water, and, of course, would be discovered. From my own personal observation I believe there is absolutely nothing in these various stories which have been printed quite recently to the effect that there are mythical seal herds and mythical seal islands and rookeries that are unknown, except perhaps to one man, who will disclose that information if he is given a good job, or something of that kind; I do not know just exactly what he does want. I do not believe there is any hidden seal herd in existence.

Mr. LEVY. You surprised me yesterday by the statement that you thought the seals were not intelligent. I was always under the impression they were very intelligent animals.

Mr. LEMBKEY. The fur seal, the one under discussion at the present time, is not an intelligent creature. The seals, however, which you are accustomed to seeing in the various zoological gardens, and perhaps on the stage, if you ever went to see a vaudeville performance, is an entirely different seal. That is the harbor seal, or hair seal, and has no relation whatever to the fur seal.

Mr. LEVY. The reason I have always had that belief is because my father was one of the first ones to bring seals from the South Seas, and he used to say they were very intelligent, and I was brought up to that belief. That is the reason you surprised me when you made that statement yesterday.

Mr. LEMBKEY. The killing of seals on their breeding rookeries might well be termed slaughter. So far as all the animals are concerned, except the old bulls, little or no resistance would be offered to any attempt to kill them. The old bulls, of course, are interested in their particular harem space and would fight anybody who came onto that space, but would go no further.

Mr. LEVY. I would like to ask you the method employed in killing the seals. Can that be in any way improved upon?

Mr. LEMBKEY. I do not think so.

Mr. LEVY. How do you kill them?

Mr. LEMBKEY. As I stated yesterday, the hauling grounds are visited by adept natives, and these seals are driven back from the water's edge and inland toward the killing grounds. After they arrive there and are given a sufficient time to rest from their journey they are separated into small pods or bunches of seals, from 30 to 60, we will say. This small pod is driven away from the main drive over to the place where they desire to kill the seals. That pod is then surrounded by a gang of six men, expert clubbers, armed with heavy hickory clubs about 5 feet long and having a rather bulbous end about $3\frac{1}{2}$ inches thick.

Mr. GOODWIN. Of the big-stick variety like we see in the cartoons?

Mr. LEMBKEY. Not exactly like that; the bulb is not quite so accentuated. The seal which it is desired to kill is struck on the head by a single blow and is rendered either immediately unconscious or is killed at once and is dragged away from the place where it is killed back a few feet and spread out in a position where it may be flipped or stuck by another gang of men. As soon as it is dead it is again taken hold of by another gang of men, who are the most expert in the bunch, called the skimmers, and the pelt is removed. I do not see how that operation could be improved upon. It has been suggested on several occasions that the seals might be shot instead of clubbed.

If that is done, it would not be healthy either for seals or men to be anywhere near the place where this killing is going on.

The CHAIRMAN. Mr. Lembkey, tell us what they do with the carcass.

Mr. LEMBKEY. The carcasses, of course, form the only fresh-meat supply of the natives, and at the present time there are very many in excess of the food wants of the native inhabitants. Last year, however, through the cooperation of the Interior Department, which furnished us a small fund to buy 85 barrels, and through the kindness of the Revenue-Cutter Service, which transported those barrels to the native villages around the Aleutian chain, we preserved in salt over 2,000 carcasses of seals; put them into the barrels and into about 100 other barrels we had of our own, and sent them around to the destitute natives on the Aleutian chain. Now, if we can get enough money to buy about 100 more barrels, we feel we can dispose of the entire surplus supply of meat without having any of it go to waste. At the present time we would not have enough meat to fill more than 100 barrels in addition to what we already have.

Mr. HARRISON. Do storms or unusual disturbances in the water ever cause the death of these seals?

Mr. LEMBKEY. I do not believe any storm could raise a sea of sufficient violence to kill a fur seal, because a fur seal is such an expert swimmer it can handle itself in almost any condition of rough water. It may be possible when the seal is quite young it might venture into the surf and be dashed up against a cliff. However, I have never seen a seal killed by that means, and therefore do not believe that any rough weather in the sea, either about the islands or elsewhere, would cause the death of any of these animals.

Mr. GOODWIN. Is the whale destructive to the seals at any age?

Mr. LEMBKEY. Yes, sir; the killerwhale is. In the spring and in the fall a few killerwhales—I say a few because I have seen only a few during my 13 years' experience—visit the islands and feed for a period of a week or perhaps more upon seals which are swimming about in front of their respective rookeries. The killerwhale comes along close to shore, swimming through a bunch of seals and snatching impartially at any seal that happens to be close to him, and continues his course until he is either tired or full, I do not know which. They cause a decrease in seals, of course, to the extent of those which they kill.

The CHAIRMAN. But a very few of them are killed in that way?

Mr. LEMBKEY. I do not believe a great many are killed in that way.

Mr. HARRISON. Mr. Lembkey, what do you say about this estimate Mr. Elliott has submitted here?

Mr. LEMBKEY. I have not seen the estimate. I will state that the death rate submitted by Mr. Elliott for the young seals, or those between puppyhood and 1 year of age, is nearly correct, 30 per cent. I have estimated it at between 30 and 50 per cent. I believe 50 per cent is a little too large, and I believe 30 per cent is a little too small, but the correct death rate, in my opinion, lies between those two figures, whatever it may be. The 10 per cent death rate which he allows to all classes of seals over 1 year of age is correct. However, I can not state as to the correctness of his figures, because I have not looked at the table. Of course it would require a careful scru-

tiny to tell you whether the computations are correct or not. I do not believe, however, we can kill in 15 years—I forget how many seals he stated; but at any rate it was a much larger number than I believe we can kill.

Mr. HARRISON. I understood you were killing about 10 per cent. Is that the number of bulls the department is killing?

Mr. LEMBKEY. No; the department is reserving about 14 per cent of the class of 3-year-old males, and is killing all others of the ages of 2 and 3 years that may haul on the islands. Of course, not all do come to the islands. But such as do come, after this reservation, which is equal to about 14 per cent of the 3-year-old class, would be killed.

Mr. SHARP. How do you tell a 3-year-old seal from a 4-year-old seal?

Mr. LEMBKEY. A 4-year-old is a little larger and is beginning to look more like a bull, and develops a little more hair on his back, and his teeth are bigger.

Mr. GOODWIN. And he begins to show a certain degree of whiteness?

Mr. LEMBKEY. No; he begins to get darker and lose the infantile coat of hair which he had when he was immature.

Mr. GARNER. What is your observation with reference to Prof. Elliott's statement about the viciousness of these seals according to their age, the bull seals and the pups and the females, and so forth.

Mr. LEMBKEY. Well, the rutting bull is a terrific animal. It is the fiercest animal I have ever come in contact with. It would tear a man to pieces. The other seals are vicious enough when they come in contact with you, but they will not attack you, nor are they aggressive. If you go among a crowd of female seals, for instance, you would probably get your leg torn to pieces, notwithstanding the fact that Mr. Elliott says they are docile. They are docile among themselves and do not do much fighting among themselves, but, of course, would seriously injure anybody who went down into the rookeries. The pups, of course, do not fight very much. But if you happened to pick up a pup by the tail he would be very apt to bite a piece off your hand.

Mr. SHARP. Mr. Lembkey, if this bill sustaining this treaty becomes a law, what effect will it probably have upon the number of seals that may be killed or slaughtered by the Government, using the same proportion that is now employed? Have I made my question clear?

Mr. LEMBKEY. I do not just exactly gather what you mean.

Mr. SHARP. Suppose this law becomes effective, will it have any effect whatever upon the number of bull seals that the Government may slaughter, if it keeps up its present rate—that is, you are slaughtering a certain class of seals—will you have more seals there for slaughter if they are protected under this bill?

Mr. GOODWIN. You mean, would it rehabilitate the herd?

Mr. SHARP. Yes; so you would have so many more seals to kill.

Mr. LEMBKEY. Certainly. Of course, as has been stated a number of times, the increase would result from the cessation of pelagic sealing.

Mr. SHARP. And it would give the Government all the more male seals to slaughter, still saving a certain proportion of them?

Mr. LEMBKEY. Yes.

Mr. SHARP. So the natural tendency would be to increase this killing?

Mr. LEMBKEY. Yes. Of course, if we continue killing at the same rate we do, the catch would be larger each year. That is all I have to submit, gentlemen.

ADDITIONAL STATEMENT OF PROF. HENRY W. ELLIOTT, OF CLEVELAND, OHIO.

Mr ELLIOTT. Mr. Chairman, I would like to say just a few words. Mr. Lembkey says I have suppressed certain matters here in regard to these Russian translations. I introduced Veniaminov in my monograph as the only authority that I can find. I quote him literally, but I say that his figures and his conclusions are altogether erroneous. I give him credit for being sincere and earnest, but I say, in this review of his work, that these figures and statements of Bishop Veniaminov are absolutely valueless.

I went into this matter of the 700,000 waste skins which I quote from the translations, and which George Simpson went into. I could not find any count or list of them. It was probably some figure of speech passed down which got into the record, but there is no backing for it and no record about it. Therefore, I have brought into the record to-day the Shaishnikof story of this killing from the day his forefathers landed with Pribilof. I have got one of the old men's stories right from his lips, the father of whom crawled up the cliffs with Pribilof in June, 1786. I put that in to-day.

Now, in regard to this killing of females, upon which so much stress is laid, I have quoted all these statements and have commented on them. They did not go into the rookeries, even in the early days, but when the breeding system broke up the seals scattered. The mother seals that had no pups, the nubile, ran back over the uplands. It is true that in August and September they were driven and killed. That is true. But they never went onto the breeding rookeries from start to finish. From 1800 until we took possession they were superstitiously careful to avoid that. They even put certain shoes on when they walked around them and they did not light fires when the smoke blew toward them. They were almost absurd in their regard for those rookeries. I have explained to-day just how they killed the females. They did not kill the primapares and multipares. They only killed the nubile that ran over. Why did they not kill the others? Because the pups and their mothers never went into the open uplands, but down along by the water's edge, where they were safe and not disturbed.

Do you suppose that the driving of the mother seals and the saving of their pups would not have been noticed and made a matter of record if they had done that? I have brought out to-day the largest killing of female seals. I have stripped the whole thing bare in my record to-day. The largest killing of females was perhaps 30 per cent of females during August and September, but they never killed a great many at any one time. They could not. They air dried these skins, and they could not take, when they were at work, 1,000 skins, where we can now take 10,000 skins, and that made the work slow and dragged it all through the year. That is the reason they

were working all through the year to get a catch of fifty or sixty thousand skins, commencing early in June and not closing until August. We do it now in two weeks and salt them. They had no salt. I have explained all that.

I have suppressed nothing in that monograph. I have brought everything into it I could except these letters, which I did not have in shape to put in the monograph. When my monograph was printed a great deal was cut out of it which I would gladly have put in, but the censor of the Printing Office cut me down to so many pages, and I was compelled to eliminate a great deal of this detail.

Mr. GARNER. Professor, if I understood you, you investigated this matter in 1872?

Mr. ELLIOTT. Yes.

Mr. GARNER. And as I understood you, it was in 1890 when you ceased your observations?

Mr. ELLIOTT. Yes. There was an interval there. I went up in 1872 at the request of the Smithsonian Institution, with the joint agreement of the Treasury Department. I wanted to go up there to study that life and not to conflict with the officialism up there, and that made it necessary for me to go up as a Government officer. Therefore an appointment was secured for me as an assistant agent, so I could go up there and be an official and yet not be interfered with in making my collections; so I could have my own time and be my own master and be subjected to no officialism which would embarrass me. I served in that way during 1872 and 1873. Then I came down and surrendered my commission to Secretary Baird and told him I did not want to work any more on the islands, but that I would like to have a revenue cutter and make a tour of these islands to see if there was any ground where seals had heretofore been. There were rumors and talk about other islands, and I wanted to have an examination made of those islands to see if there was any trace of any rookeries.

That was put through in April, 1874, and I was sent up there as a special agent and a revenue cutter was put under my orders. I went up from Fort Townsend in the United States Revenue-Marine cutter *Reliance*, Capt. Baker, commander. I had an associate with me, now Rear Admiral Maynard, who was to make an independent report of these seal islands. We spent the summer there. We went to the seal islands and then visited St. Matthew and St. Lawrence, and settled this question in our own minds as to outlying seal islands. I then surrendered my commission and resumed my other business. Then, in 1890, there was great competition and fierce stress among the bidders here for the new lease. There were eight or nine different companies, the company which had the old lease and seven or eight or nine others; and in the stress of that competition it appeared that the agent in charge of the seal islands, a Mr. Goff, had reported to Secretary Windom he did not believe under a new lease 100,000 seals should be allowed, because he had noticed in the summer of 1889 that the lessees, the last year they worked, had been put to great effort to get their 100,000 which they were allowed. He said if they were to do the same thing over in 1890 they could not get them, and he fixed a maximum for the new lease of 60,000.

When Mr. Windom got out his bids in December, 1889, there was a great outcry raised by the competing bidders saying that Goff

was a tool in the employ of the old company and engaged in depreciating the value of that property so that the new bidders would not have a chance. They loudly denounced his statement, and wanted Mr. Windom to relet it on a basis of 100,000. Mr. Windom was driven and pushed and hauled about over the matter, and finally sent for me and asked me what I thought of it. I had not anything more to do with that thing than you had. I told him if that agent had reported there were only 60,000 seals available for the new lease that something very wrong was at work up there, but what it was I did not know; that I had not been there for 16 years. He said: "I would like to have you go up there." I said: "I will not go up there as a Treasury agent, because you have got four men up there, and if I take the place of one of them it will look like a reflection on them." He said: "If I can get a bill through, I will send you up;" and I said that I would go, and I went up then as I went up in 1874. I started in three weeks after that and finished my report and came down in 1890 and laid it before him. I recommended the elimination of the lessees and a suspension of the killing for seven years, and then, when we resumed the killing, to have an agreement with Great Britain for proper killing in the future. It was all with Great Britain at that time. In other words, 20 years ago I drew a bill which was passed here in March, 1910, almost exactly similar, getting rid of the lessees.

Mr. COOPER. In March, 1910?

Mr. GARNER. He says he drew it in 1890.

Mr. ELLIOTT. Yes, sir.

Mr. GARNER. Virtually the same bill as passed in 1910?

Mr. ELLIOTT. Yes. But the minute this thing was brought out the lessees and all hands combined, and they jumped on me and suppressed me. I was willing to be suppressed. I did not pretend to know it all. I was willing Mr. Blaine should go on to Paris and try these cases. But good lawyers thought they were entirely mistaken and would fail, but I washed my hands of it. I retired from it. I said, "All right, gentlemen, you may succeed; but my best advice to you is to drop it and drop all these claims of jurisdiction; all this claim that you have a property right there. Drop your absurd proposition of a 60-mile zone around there, and go in for a closed time with these powers." Logical events have justified me. I did not know it then. I made them no trouble. They went over to their defeat without any edging on by me.

The CHAIRMAN. Mr. Elliott, is there a bill pending in Congress to prohibit the killing of all seals on the Pribilof Islands?

Mr. ELLIOTT. Oh, I do not know of anything like that.

The CHAIRMAN. You do not know of such a bill?

Mr. ELLIOTT. If there is, I do not know of it.

The CHAIRMAN. Under the present law the Secretary of the Department of Commerce and Labor has discretion as to just how many surplus male seals can be killed each year?

Mr. ELLIOTT. Yes. That bill was brought into the Senate, not at the instance of Secretary Nagel; that bill was brought in over the opposition of his assistants here, who tried to defeat the Dixon resolution, upon which it was based, which prevented them from killing for 10 years and prevented the renewal of the lease. When we found out that the Bureau of Fisheries was doing all it could to pre-

vent the Dixon resolution from being brought up in the Senate, we came down here. We had a meeting called of the Senate Committee on Conversation of Natural Resources on February 20, the day we learned that Mr. Nagel had the papers all ready and was going to renew that lease to some other parties or to these parties.

The CHAIRMAN. The leasing has been done away with, and there is now a law upon the statute books which gives the Secretary of the Department of Commerce and Labor discretion—

Mr. ELLIOTT (interposing). Anything he has a mind to.

The CHAIRMAN (continuing). To kill only the surplus male seals.

Mr. ELLIOTT. He is the judge, too.

The CHAIRMAN. Now, I want to know if there is not a resolution or bill pending in the Senate or House to prohibit all killing of seals on the Pribilof Islands?

Mr. ELLIOTT. If there is, I do not know of it. I consider this bill meets the situation. I have not thought of anything else. I do not see why we should have anything else. This bill covers the ground completely, and in the only way it can be covered.

Mr. GARNER. In other words, Congress passed a law leaving it entirely discretionary with the Secretary of the Department of Commerce and Labor how many of these male seals he would kill each year?

Mr. ELLIOTT. Yes.

Mr. GARNER. He exercised his own judgment as to how many ought to be killed?

Mr. ELLIOTT. And that is what I object to.

Mr. GARNER. That is one more instance of bureaucratic government.

Mr. ELLIOTT. I object to it, and now is the time for you to settle the question as to the future of this life. What you do here will mean either its reestablishment or its everlasting extinction.

Mr. FAIRCHILD. Professor, will you pardon this question, which I am asking you for information, and is not meant to imply any reflection upon you: I would like to know whom you represent here?

Mr. ELLIOTT. Nobody but my knowledge and understanding and interest in this life which I have studied so thoroughly.

Mr. FAIRCHILD. And you have no ulterior motive in coming here?

Mr. ELLIOTT. Not the slightest. I want no office and no job.

Mr. FAIRCHILD. Who defrays all of your expenses?

Mr. ELLIOTT. My own self. I pay every dollar of my expenses.

Mr. FAIRCHILD. And this is purely an individual matter which you are considering in a philanthropic way?

Mr. ELLIOTT. Yes. Certain officialism here in the Bureau of Fisheries says I am associated with the Campfire Club of America, and that they have put me up to this. They have acted on their own initiative and in their own way. I want to give Dr. Hornaday and his men credit for moving entirely independent, but we have moved along the same lines because we agree, and there are a great many big men in scientific circles who agree with us and who do not belong to this officialism.

Mr. HARRISON. You are not a member of the Campfire Club?

Mr. ELLIOTT. No, sir; I have never seen the building or its office or met but three of its members in my life that I know of.

ADDITIONAL STATEMENT OF DR. BARTON W. EVERMANN.

Dr. EVERMANN. Mr. Chairman and gentlemen of the committee, after I made a few remarks yesterday regarding the killing of the surplus males on the islands Mr. Elliott made a reply, and I feel that it is worth while for me to extend these remarks and to go a little more fully into that proposition than I had an opportunity to do yesterday; and in doing that I wish to call attention to the opinions of practically all—I may say all—of the naturalists of America and of England who have ever visited our seal islands and have expressed an opinion upon this question of land killing.

Before doing that I wish to touch briefly upon a few points independently. In the first place, as to the futility of the method which the Government agents have employed in reserving breeding males upon the islands. Mr. Elliott would have you believe that that reservation of breeding seals results in no good; that it is of no value whatever; that it does not tend in any way to supply virile breeding males for the herd. Now, the method is this: In the first place, female seals are never killed on the islands and have never been under Government administration, knowingly. Now and then a female may be killed accidentally. In the second place, pups are not killed.

During the last several years the seals which have been killed have been exclusively confined to these classes, seals whose pelts when removed from the body were not less than 5 pounds and not more than 8½ pounds. That was believed to cover the seals whose ages are 2 or 3 years. The minimum weight excludes those less than 2 years old, and the maximum weight excludes those which have reached the age of 4 years. Now, before the killing begins, when the bachelor seals, as these young males are called, begin to arrive, it is the custom of the agents to select out from these early arriving bachelors 2,000 of the finest, largest, best, and strongest which they can find. And I submit it to you, if we can not trust to the judgment of the four agents on the islands and to the natives, who are vitally interested in this question, to select them with judgment. They have all had some experience in stock breeding. They have dealt with this herd of fur seals for many years, and I think we should admit that they have some skill and some capacity for selecting out from the young seals those which would make good breeding males when they reach the breeding age a few years later. Now, these 2,000 which they select they mark by clipping the hair from the crown of the head, and to an extent which enables those seals to be distinguished throughout the killing season, June and July. Whenever any of those marked seals appear in any of the drives, those seals are turned out and allowed to escape.

So that up to the 1st of August there is no question about the fact of the escape of those marked seals, which have been marked for reservation for breeding purposes. Now, it is true that in the fall some few seals are killed for food for the natives, but the regulations and practices are such that those marked seals escape. They run no more danger than during the regular killing season of June and July, because the killing for food purposes is limited to seals whose skins would weigh less than 6½ pounds. That will allow to escape certainly all of those which are 3 years old, and those which have been marked as 3-year-old seals. There is no danger of

any of them being killed, and the mark on most of them will continue to show, which will be an additional safeguard or indication that they should be preserved. Now, while 2,000 young, strong, vigorous males are reserved for breeding purposes, that number is greatly in excess of the actual needs of the herd. For the last several years the total number of males needed to pass over into the breeding age each year was less than 800, but we reserved 2,000.

Now, I submit to you if that number, 2,000, is not sufficient, when selected as they have been selected, because of their larger size, and all that; if that is not a sufficient indication that something is done in the way of selective breeding on the seal islands. Is it not true that the first fur seals to arrive in the spring are those which are strongest and the most vigorous? They are the ones that get there first. They are the ones, the 1, 2, and 3 year old seals, which have the most strength, and are the best developed for their ages, and they are the ones which will be the strongest finally and which will be the best ones to preserve, and those are the ones which are preserved. Now, I can not see a particle of difference between that method of reservation and the method which would be employed by a stockman on a ranch. He selects out a sufficient number of males for breeding purposes. Of course, if he is conducting his stock ranch on a large scale, some of those males will die within the following two or three years, but nevertheless he has selected them as wisely as he can. He has reserved the best animals he can for breeding purposes, and we are doing exactly the same thing. There will be some loss in either case; but suppose you reserve 2,000 and, say, 500 or even 1,000 of them die or are killed before they reach the breeding stage, the 1,500 or the 1,000 that do reach the breeding stage are seals which have been selected because of their specially strong points.

So I can not see a whit's difference between that method and the method to be employed by a stockman anywhere on a ranch. It is particularly like the method which would be employed by a cattleman on the plains in the West. During a large part of the year the cattle are not under his control, any more than the fur seals are under our control, and he pays little attention to them. In a sense, they are wild, but they are in his hands when he selects his breeders, just as these seals are in our hands when we select the breeders.

Now, as to whether the killing of male seals on land has been the cause of the decrease of the herd or the killing of males and females, and eight females for every one male in the water, has been the cause of the decrease of the herd, let me call attention to these figures, contrasting the pelagic kill and the land kill. Starting with 1890 and from that year up to 1896, for which I have the figures, the pelagic catch was 587,088 seals, of which at least 85 per cent were females. The land catch for the same years was 116,776, all of which were males, an excess of pelagic killing over land killing for those six years of 470,312. Is there any question as to which of those factors is the one which has caused the decrease of the seal herd?

Mr. Elliott stated that the herd was depleted in 1834 and the Russians then instituted a close season when they did no killing whatever. That is true, but he forgets that up to 1847 they killed females just as they killed males, and as shown by his own quotations and his own translations of Russian records.

Mr. COOPER. Where did you get those figures about the pelagic killing?

Dr. EVERMANN. They are compiled and published in the reports of the department.

Mr. COOPER. When these seals were all sold in London, were those that were killed by pelagic sealing able to be distinguished?

Dr. EVERMANN. The London markets distinguished them. They keep what is called the northwest coast catch or pelagic catch separate from the shipment which it receives from the islands. They classify them by the localities from which they come, whether they are Alaskan or northwest-coast seals.

Now, so low had the herd become in 1834 that all killing was stopped, so Mr. Elliott has told you. I believe he stated the herd was about 60,000 in 1834; but, by stopping all killing, by 1844, he tells you, the herd had increased so they could kill 20,000 surplus male seals in 1844—that is to say, 10 years after the cessation of all killing. Now, notice what that means. There were 60,000 seals in 1834, and the herd had doubled, as he said, by 1844; and then the size of the herd in 1844 was still smaller than the herd is to-day. Our herd is in the neighborhood of 135,000 to-day. It would have been only 120,000 in 1844. Yet, with a herd smaller than our herd to-day, he approves a killing of 20,000 surplus males. But we are not killing 20,000 surplus males; we are killing only 12,000 surplus males, and next year perhaps that same number, and the next year about the same, and a year or two later a few more, and then go on increasing until the kill will be what it was in the years past. But the vital point about this is that with a herd smaller than the herd to-day the Russians killed surplus males to the extent of 20,000, and they then went on increasing. If it was proper and right for them to kill the surplus males when they had a herd of 120,000 what objection is there to our killing the surplus males when we have a herd of 135,000?

Now, Mr. Elliott has occupied all sides of all phases of the fur-seal question in the last 20 years. He has occupied at one time one side of the question and at other times the opposite side of this question. Let me quote from a hearing held on September 17, 1888. This question was asked of Mr. Elliott:

Under the system adopted by the Government and the company, do you think the full-breeding capacity of the entire herd can be preserved indefinitely?

That is the vital question before this committee, whether the regulations and rules and practices of the Government in years past and during the past year are such as will secure the full-breeding capacity of the herd.

Mr. Elliott replied:

Yes, sir. So far as we are concerned, I do not think we are able to cause an increase by anything that we can do on the island, because we can not cause a greater number of females to be impregnated than are there, and as long as that is done, as it has been done and is done now, everything is done that can possibly be done. When they leave the island they are the prey of certain natural marine enemies, which we can not shield them from.

Mr. KENDALL. What were the years for which you gave the difference between pelagic and land killing?

Dr. EVERMANN. From 1890 to 1896.

Mr. KENDALL. Have you any statistics for any other period?

Dr. EVERMANN. Yes; I can give you statistics for other years, but not as complete as those.

Now, it is claimed by Mr. Elliott that all of the males for the next 15 years should be preserved in order that there may be that fighting and contest and effort among all of those males which will be necessary to weed out the inferior males and result in the survival of the strongest and most fit males for breeding purposes. If that condition is required for 5 years or 10 years or 15 years, when can you or anyone say that it will not be required? If it is necessary for all the males to fight in order to weed out all except the most virile ones to-day and to-morrow, will it not be forever so?

When can you say, "Now, it is not necessary for all to fight; we will let only a portion of them fight"? The fact is this: That enough males have always been preserved or reserved for breeding purposes. Every cow on the islands which has reached breeding age has, so far as anybody knows, been impregnated and brought forth a pup every year. Is there any more evidence necessary to show that there are enough breeding bulls on the islands to meet all requirements of the situation? There is not a particle of evidence that the herd is deteriorating as to individual strength or fineness. The fur seals of to-day, so the London firm says, are just as fine fur seals as they ever handled. The skins which go to them this year are better than those which they received last year, and those last year were better than those received the year before, and so on. So that the fur seal as a species is not becoming a weak, small, furless animal.

Mr. GOODWIN. How do they account for that superiority from year to year?

Dr. EVERMANN. The reason the skins this year are better than those of last year, and last year perhaps better than those the year before, is because the herd is smaller than it ever was before and the agents are able to select with greater care than they ever were before and kill with better results. This year they did not kill quite as many as they did the year before, and they killed seals of a little better grade, after having reserved the finest ones for breeding purposes.

The CHAIRMAN. Doctor, if it will not interrupt you, I would like to call your attention to page 8 of the bill, line 11, after the words "the number of," to insert "surplus male fur seals," so that it would read "And the Secretary of Commerce and Labor shall likewise have authority to determine the number of surplus male fur seals."

Dr. EVERMANN. There would be no objection to that, Mr. Chairman; but I do not know whether it would be necessary or not, because the existing law says you shall kill nothing but surplus males. However, that would not do any harm.

The CHAIRMAN. I understand that that is the existing law, but as this is a sort of international law, and in order that the Japanese and the Russians and the English will have no doubt as to what we are doing I think we had better put that in this bill.

Dr. EVERMANN. I can see no objection to that whatever.

Mr. KENDALL. How many cow seals have you on the islands now?

Dr. EVERMANN. I will have to get the census of the herd as taken at the close of the season of 1911. I have not got it complete. But for the year 1910, as I have made some argument or discussion upon those figures, I will use them if you think that will meet your question.

Mr. KENDALL. I think so.

Dr. EVERMANN. At the end of the killing season of 1910—that is, after the 12,922 surplus male seals were killed—this was the census of the herd: Bulls, active with harem, 1,381; bulls, idle and quitters, 303 (those are surplus bulls); half bulls, 2,336; 3-year-old bachelors, 1,200.

Mr. COOPER. What is a half bull?

Dr. EVERMANN. If he had a chance he would be a full bull. He has all of the inclination.

Mr. COOPER. I wanted to know the difference between quitters and half bulls.

Dr. EVERMANN. There is a few years difference.

Two-year-old bachelors, 4,500; yearling bachelors, 11,441; male pups, 21,725; breeding cows, 43,450; 2-year-old cows, 12,124 (those which have received the bull for the first time); yearling females, 11,441; female pups, 21,725; making a total of 131,626.

The total number of cows capable of bearing pups in 1911 was 55,574. To simplify the computation we will allow a mortality of 5,574 during the year, which leaves us 50,000 productive cows for the present season. These will produce 50,000 pups, of which one-half, or 25,000, will be females and 25,000 will be males. We will, of course, save all those female pups for breeders. If every one of them should live to be 2 years old there would be needed not to exceed 800 bulls to render them efficient service. When only 800 bulls are needed to meet the requirements of the increased herd, shall we save all of the 25,000 young males? Why save 25,000 when 800 are ample? There is nothing that would justify such a course. It would be short-sighted and wasteful in the extreme. No sane man who understood the problem would think of such a course. Evidently the only proper course to pursue would be this:

Save all the females.

Save enough males to insure proper service for all the females.

Kill and market all the rest of the young males just as soon as they have reached the age of highest commercial value.

To do otherwise would be unwise for the following reasons:

(1) Every surplus male that you refrained from killing would in five years become a seal possessing no value whatever; he would not be needed on the rookeries and his skin would be of no value.

(2) There would be turned loose on the rookeries thousands of bull seals that are not needed in the least, but whose presence on the rookeries would result in a great deal of fighting which would result in many cows being torn to pieces and hundreds of pups trampled to death.

For the Government to establish now a close season for 15 years would be a stupendous blunder which would hamper intelligent and scientific study and management of the herd and would cost the Government \$15,000,000 to \$25,000,000, with not a single compensating advantage or gain even of trivial importance.

But permit me to quote the words of several distinguished zoologists who have studied the fur-seal herd on the land and in the sea.

First, I want to quote from Dr. David Starr Jordan, president of Stanford University, who was chairman of the Fur-Seal Commission of 1896 and 1897, and who has spent many years in studying the fur

seal, and who, in my judgment, is the greatest authority upon that question. He says:

Owing to the polygamous habit of the fur seals, the greater part of the male life born is superfluous for breeding purposes. For the 130,000 breeding cows found on the rookeries of St. Paul and St. George Islands in the season of 1897, 4,418 bulls were adequate, or at least out of fully 10,000 adult bulls ready and willing to serve harems, only this number were able to obtain them. Therefore, only 1 bull in 30 is absolutely necessary under present conditions. That this limit could be materially lowered without positive danger to the herd is conclusively shown by the history of the Russian herd on Bering Island, where the observations of the past three years, as detailed by Dr. Stejneger, show that a male fur seal is capable of attending to the wants of between 100 and 200 cows.

Moreover, the removal of this superfluous male life is not only possible but is really beneficial to the herd. As already indicated, the only deaths among adult bulls and cows discovered upon the rookeries of the islands resulted from the struggles of the bulls among themselves to obtain possession of the cows. In the death of young pups also this fighting and struggling of the bulls is a small but by no means insignificant cause of loss. In 1896 the great early mortality among nursing pups was wrongly ascribed to the trampling of the fighting bulls. But while the more complete and satisfactory investigation of 1897 shows another and more important cause, there still remains a considerable loss from this source. This loss is now insignificant compared with what it was in the wild state of the herd. When the number of adult males and females was practically equal, the destruction both among the cows and among the pups must have been enormous. It undoubtedly rivaled the ravages of the worm *Uncinaria* in its destructive work and combined with it to offset the natural increase of the herd.

POSSIBILITY OF OVERKILLING.

While as a general principal the removal of these superfluous males is beneficial to the herd, excessive removal would undoubtedly lead to disastrous results. The percentage of males required for the needs of propagation is small, but it is essential, and if reduced too low or cut off entirely the effect must be injurious.

Mr. COOPER. Does he say that if you kill off all the males——

Dr. EVERMANN (interposing). If there should be an excessive killing of males or a killing of all the males, the results would be disastrous.

Mr. COOPER. I should think so; that is profound.

Dr. EVERMANN (reading):

Such excessive killing would be felt in the scarcity of bulls, from which cause, through inadequate service, the usual increase of pups would not be born and the herd must ultimately begin to fail.

I might explain that just a little. Not all of the males ever haul out upon the islands, so it would be impossible for you to kill all of the male seals in existence even by killing all of those which you could possibly get hold of on the land.

Mr. COOPER. I referred to the observation of that scientist, if you killed all the bulls it would be disastrous to the herd.

Dr. EVERMANN. You did not listen to the rest of the context. [Continues reading:]

It is on this ground that land killing becomes a possible source of danger to the herd.

A HYPOTHETICAL CASE.

To understand how such killing would act, let us take a hypothetical case. If in any given year absolutely every 3-year-old male was killed to fill the quota, this would involve the absence of representatives of this class of seals

from the reserve of bulls for the replenishment of the rookeries in subsequent years. It would not affect the breeding bulls, nor the reserve of 4, 5, and 6 years. These latter would supply the deficiency in the breeding stock caused by old age for at least 10 years, and it would take that period at least to show the effect of the close killing. If it was not repeated, no influence would be felt. The 7-year-old bull of the following year would simply enter the rookeries as a 6-year-old.

But suppose the killing was continued through a series of years, every 3-year-old being killed, the reserve in time would be cut off and the stock of breeding bulls would die out. It is impossible to say how long it would take to produce this effect, because we do not know the length of the life of the bull. We may infer, however, that it is not less than 15 years, and therefore the injurious effects of this excessive killing begun in any given year and continued indefinitely would not be seen within 10 years at least.

This is only a hypothetical case, but it shows what is meant by too close killing of males in filling the quota. The killing of males, which would produce immediate and disastrous results, must strike at the adult males. To destroy this class or any considerable number of them would at once weaken the herd. But there would be no object in such killing, and it has never been thought of.

SUCH KILLING NOT PRACTICABLE.

In the hypothetical case above cited we have supposed that every male of a given age could be taken. While in theory this is possible, in practice it could probably never be done. There are certain hauling grounds, such as Lagoon, Zapadni Head, Otter Island, Sivutch Rook, and Southwest Point, from which the seals are not and have never been driven.

Mr. COOPER. Doctor, will you please explain just what you mean by a hauling ground?

Dr. EVERMANN. The portion of the land upon which the young male seals come out, separate and distinct from the breeding grounds, where the breeding males and breeding females go.

Mr. GOODWIN. Did you not say it was your opinion that one bull was sufficient for about 100 to 200 cows?

Dr. EVERMANN. Dr. Stejneger has made that statement in his observations of the Russian fur-seal herd, where he spent a number of years of study.

Mr. GOODWIN. Is it not a fact that the cows drop their pups from about the 10th to the 20th of July; that all the cows drop their pups then?

Dr. EVERMANN. Yes, sir; in a very short period of time.

Mr. GOODWIN. How is it possible for one bull to serve 100 to 200 cows within that short period, because this propagation goes on and the cows bear pups, say, the 10th of July of this year and another pup about the same time next year; how could one bull serve so many cows in just a few days?

Dr. EVERMANN. I think Mr. Lembkey can give you some figures, the result of certain observations which were made on the islands, as to the rapidity with which the bulls can serve the cows.

Mr. DIFENDERFER. At what age would a bull be considered old—5 or 6 years?

Dr. EVERMANN. As I said yesterday, no one has ever known absolutely the age of any seal that was ever on the islands, but ordinarily it is supposed that the male seals which begin to breed are about 7 years old.

Mr. DIFENDERFER. They would not be considered old, then, at 7 years?

Dr. EVERMANN. No, sir; they have just reached maturity then.

Mr. GOODWIN. I understood Prof. Elliott to say yesterday that one bull could not serve more than 25 or 30 cows, and I wanted to get a reconciliation of those two different opinions, if possible—from 25 to 30 as against 100 to 200.

Dr. EVERMANN. This quotation from Dr. Stejneger is simply a quotation from him as to the possibilities. He does not recommend you should kill the male life down to 1 male for 200 cows. One male to about 25 or 30 cows is proper. [Continues reading:]

The young males frequenting those are left undisturbed, and it is safe to suppose that the majority of them pass killable age before the sexual instinct draws them to the vicinity of the rookeries from which seals are driven. Furthermore, there are always little pods of bachelors in the turns and corners of the rookeries which either can not be reached or are too insignificant in number to be followed up.

KILLING OF MALES NOT A FACTOR IN DECLINE.

When we consider all these things in connection with the difficulties which we have shown to stand in the way even of a deliberate attempt to kill too closely, we believe ourselves fully justified in asserting that land killing has not, through too close killing of the males, been a factor in the decline of the herd.

Speaking of the impossibility of killing all the seals of any given class, Dr. Jordan says:

Many 3-year-olds at Zapadni evidently escaped killing. They haul in small bunches at various inaccessible points. Many are on the headland.

Without doubt more 3-year-olds escape each year and grow wigs than there is needed for purposes of reproduction. These are by no means the smallest or weakest. They are at least average animals. Sometimes they escape because located in outlying positions; sometimes because they are late arrivals.

The killing closed this year on July 27 and is never continued later than the 1st of August. Those arriving after that time are exempt from driving, and as killable seals are found to the last it is not reasonable to suppose that some arrive after August 1 for the first time.

There was no land killing (except for natives' food) in 1891, 1892, and 1893. The result was very detrimental to the herd, as Dr. Jordan points out in the following words.

This is the result of a closed season of three years when there was no killing:

There is an enormous number of idle bulls and half bulls. The interests of the herd demand that their number be reduced. The idle bulls simply tear each other, steal females, and trample on the pups. Those nearest the rookeries crowd upon them and are in turn crowded upon by those behind.

The greatest trouble occurred at the sand flat where the gully connects with the beach. Only half of this space was occupied by harems, which were crowded in a dense mass. The other half was covered with idle bulls, which were constantly making inroads upon the harems. When a cow was stolen all the bulls were at once in an uproar and began fighting.

This was one of the evil results of the *modus vivendi* for which Mr. Elliott claims responsibility. Let us hope that the Government may never again make the sad mistake of following the recommendations of such an unsafe adviser.

Dr. Frederic A. Lucas, who is now the director of the American Museum of Natural History, and who studied the fur-seal herd quite carefully as a member of the fur-seal commission of 1896 and 1897, has this to say upon this question:

There is no evidence that killing of males (seals) on land has at any time been responsible for the decrease of the fur-seal herd. There should be no

cessation of killing on land so long as pelagic sealing is being prosecuted by British subjects.

Mr. COOPER. Doctor, allow me to ask you a question right in this connection. Dr. Jordan I know, and he is a very able man. But is it not a fact that before man had anything to do with those herds there were millions of those seals, notwithstanding this awful fighting and trampling which he depicts?

Dr. EVERMANN. Certainly.

Mr. COOPER. If they were left alone now would they not do the same thing?

Dr. EVERMANN. It is also true that before man came in, sweet potatoes grew in Peru and wild corn in America, and it reached a certain maximum development. But man has come in and the corn crop is just a little bigger than it was before man interfered, and the potato crop is a little better than it was before, because man has taken charge of it.

Mr. COOPER. Is this your argument, then—that the control by man has improved the quality of the individual seal on an average, just as it has the potato crop?

Dr. EVERMANN. I can not say that the control which man has exerted has markedly improved the quality of the individual seal, because we have not experimented or worked along that line sufficiently to know.

Mr. COOPER. If it has not improved the quality, it has diminished the quantity?

Mr. FOSTER. But you do not admit it has decreased the quantity, do you?

Dr. EVERMANN. You must distinguish between man on the seal islands and man killing seals on the open sea. We admit fully and frankly that the killing of seals by man in the open sea has been detrimental to the herd, but we deny positively, also, that the killing of male seals on land by man has had any influence whatever on it.

Mr. COOPER. Is it your contention that under the plan proposed by the bill before the committee, if enacted into law, there will be an increase in the size of the herd?

Dr. EVERMANN. There certainly will be, because pelagic sealing will have ceased.

Mr. FOSTER. Isn't this really the effect of your statement—that in the old days there was this great increase in the flock or the herd in spite of this killing by the superfluous males, and that if man had been there he might have had the benefit of those superfluous males, and the increase would have gone on just the same?

Dr. EVERMANN. Certainly. If the Victorian sailing fleet had not come in in the late eighties and begun to kill seals in the open sea, there is no reason for believing we could not have continued to take 100,000 surplus male seals on the islands from that day down to this.

Dr. Lucas, continuing, says:

If, however, the restriction of land killing will open the way to negotiations for the preservation of the seals, such restriction is advisable, provided that there is a complete cessation of killing at sea.

That is not necessary now, because a treaty has been negotiated and is now a reality.

The decrease in the number of rookery bulls while great, need give no cause for immediate alarm. The average number of cows to a harem is now about 40.

while from 1895 to 1899, when, as a result of cessation of killing during the *modus vivendi*, the rookeries were overrun with bulls, the average number of cows in a harem was 35.

Mr. Elliott's statements must be received with caution, but he says that in 1873 there were from 15 to 20 cows in a harem, which means actually from 30 to 40, since his figures mean those cows counted at one time.

Mr. COOPER. As to these harems, do you mean 1 bull to 40 cows?

Dr. EVERMANN. Yes.

Mr. COOPER. Where are all these other bulls?

Dr. EVERMANN. The surplus bulls?

Mr. COOPER. Yes.

Dr. EVERMANN. They are on a line just back of the harem and doing the best they can to steal some of the cows from these more fortunate bulls.

Mr. COOPER. What I want to know is whether they are isolated, the 30 or 40 cows and the 1 bull?

Dr. EVERMANN. Yes; they are pretty well rounded up.

Mr. DIFENDERFER. Those are what you call the bachelor bulls that herd in certain sections and are segregated?

Dr. EVERMANN. No, sir; the bachelor bulls herd together, but they have no harems; and the half bulls and some bulls that are not quite as strong as some others are always trying to get on to the rookeries.

Mr. COOPER. What are the rookeries?

Dr. EVERMANN. I have tried to make this distinction: The hauling ground is the place where the nonbreeding seals are and the rookery is the place where the breeding seals are.

Mr. FOSTER. And this bull with his harem protects the pups when the females are at sea?

Dr. EVERMANN. No, sir; he does not give them any protection whatever. All he cares for is to keep the females in his possession until they have been served.

Mr. FOSTER. Do the pups belonging to one harem herd together?

Dr. EVERMANN. They will stay approximately in their own locality for a time, but as they get a little older they scatter about.

Mr. COOPER. Doctor, I am hardly able to reconcile that isolation of the one bull with his harem with the statement that there are a lot of other anxious bulls looking around, and the one bull keeps track of 40 cows without any trouble and keeps the other bulls out.

Dr. EVERMANN. No; not without any trouble. There is a great deal of trouble, and he sometimes loses.

Mr. GOODWIN. Is one bull strong enough and big enough and potential enough to keep out all the other bulls that are hanging around?

Dr. EVERMANN. No, sir; the integrity of the family gets broken up every now and then; that is, a bull back of the regular rookery line watches his chance, and sneaks a cow from the harem, and after he gets her he would probably be able to retain her and maybe get another and another, and that is the way the harems farther back are filled up. [Continues reading:]

It is to be remembered that for many years there was a superabundance of bulls and half-bulls owing to the pernicious effects of the restricted killing during the *modus vivendi*, which not only caused a loss in the number of skins taken, but an undesirable increase in the number of bulls about the breeding grounds.

The positive increase in the number of female seals in spite of the continuance of pelagic sealing is conclusive evidence that there has been no dearth of male seals. It is even possible that a year or two may show an increase in the number of bulls, for while the females appear on the rookery grounds at the age of 3 years to bring forth their first young, the males, under ordinary circumstances, would not appear until three to five years later.

The presence of idle, seemingly inactive bulls on the breeding grounds is not alarming. If these bulls had no business there, they would not haul out. A great deal was said about close killing "somolent bulls" and "barren cows" in 1890, but the seal herd did not die out on that account. On the contrary, since closer killing has been carried on there has been an increase in the seals, while from 1893 to 1899, when the males were most abundant, the seal herd steadily decreased from pelagic sealing.

Should the department feel that it is preferable to avoid even the least appearance of not having taken proper measures for the preservation of the seal herd, it is only necessary to order the release for one season of all the large seals that make their appearance in the drives, as the effects of such action would be felt in two or three years. Releasing the smaller seals would not effect the desired result, since they would have to run the gantlet of the drives and of the natural death rate for several years before reaching maturity.

Attention is called to the frequent statements that the animals selected for killing are those most likely to develop into good rookery bulls, when quite the reverse is true, the animals most likely to be rejected being the large seals.

It is also to be noted that while some bachelors appear several times in the drives there are many others which do not appear at all.

Now Dr. Stejneger, who is head curator of biology, United States National Museum, and who has spent a number of years on the Russian seal islands continuously, and who was a member of the Fur Seal Commission of 1896 and 1897, and who is one of the most distinguished naturalists in the world, says this:

It was the unanimous opinion of the American-British Commission (Dr. D. S. Jordan, F. A. Lucas, L. Stejneger, Prof. d'Arcy W. Thompson, J. M. Macoun, and G. E. H. Barrett-Hamilton) that the proportion of 1 bull to 30 cows was so excessive that a number of bulls were ordered killed off. The islands are at present (1897) grossly overstocked with bulls, and yet the average size of the harem is about 30 cows. (Treasury Doc. 1894, p. 22.)

The present ratio of 1 to 40 is consequently a great improvement and, even if it should fall as low as 1 to 50, or even 1 to 60, as it may in 1905, no alarm need be felt, as 1 bull to 50 cows is probably the most satisfactory ratio to be had.

That close killing of males on land may have had an influence is utterly denied. The whole reasoning involved in such an explanation rests upon the fallacy of the assumption that all the male seals "haul out" on land each year. If all the seals "hauled out" and the killing were as close as alleged, there would be nothing but yearlings the next year, and we know, of course, that such is not the case. I need not enlarge upon this theme here, but will only quote the expert commission of 1896-97 to the following effect: "It is, indeed, to be doubted whether at any time the killing on the islands could by any possibility be made close enough to endanger the supply of bulls, etc."

One of the British commissioners, Mr. Barrett-Hamilton, who in his report for 1896 held similar views with regard to the scarcity of bulls on North Rookery, Bering Island, abandoned them later after his additional experience of 1897.

From what I have stated above it will be seen that I regard the status of the fur-seal herd on the Pribilof Islands to be as satisfactory as under the present circumstances (i. e., continued, though diminishing, pelagic sealing) it could possibly be. My own policy, therefore, would be to let well enough alone.

I realize, however, that the department may wish to be "on the safe side," and in that case I can see no special reason why the general agent of the islands should not be instructed to see to it that of the older bachelor seals a number satisfactory to him be exempt from being killed in the drives.

On the other hand there should be no restriction as to the killing of the smaller bachelor seals. Only a minor proportion of these "haul out," and the only result of their killing is that the company anticipates part of next year's

catch and gets smaller skins than it otherwise would. It should, therefore, be left entirely to the company to decide how small skins they want to take, as the company itself will be the only sufferer.

That has been done.

The taking of these young bachelors can not, by any possibility, affect the status of the herd, and from the standpoint of the Government must be regarded as desirable, in so much as there will be that many seals less for the pelagic sealers to prey upon. The company therefore might properly be encouraged to take as many yearling males as they can. * * * From what I have explained in the two foregoing chapters, it may be inferred that I am opposed to any stoppage of the killing of seals on land.

The company has now been eliminated, and the Government will kill those skins which possess the highest commercial value at that particular time.

Dr. F. W. True, who is Assistant Secretary of the Smithsonian Institute, and who was a special investigator on the seal islands in 1895, has written a number of pages here to the same effect, but I will not bother to read them.

The CHAIRMAN. Doctor, I wish you would put all of those statements in the record.

Dr. EVERMANN. I thank you, sir. There are still some other authorities here regarding the same question.

Mr. BARTHOLDT. Doctor, may I ask you a question? In this pelagic killing, what was the percentage of females and males?

Dr. EVERMANN. Mr. George Rice, who handles all the fur-seal skins in London, furnished an affidavit to this country some little time ago to the effect that his observation and examination of the sealskins which passed through his hands led him to the positive belief that at least 85 per cent of the seals killed in the open sea were females. And bear in mind that that means not only 85 per cent, but suppose 100,000 seals were killed, that means not only 85,000 females, but 85,000 unborn pups, and 85,000 pups on the islands to starve to death. Now, can you bring any land killing of males that will for a moment be comparable in disastrous effects with such a course as that?

Mr. BARTHOLDT. Do you think that the passage of this bill will stop the killing of the females altogether?

Dr. EVERMANN. The treaty will do that. The treaty will stop all pelagic sealing so far as possible under the control of these four great nations; and the Government will never, as it never has, kill females on the island. So all the females will be saved from now on, and there will always be a sufficient number of males from now on, in my judgment.

I will not read the opinions of these other gentlemen, but I will simply read their names and submit their statements for the record.

Mr. COOPER. Doctor, how many cows are there now?

Dr. EVERMANN. The census of 1910 gave about 50,000.

Mr. COOPER. How many bulls?

Dr. EVERMANN. There were 43,450 breeding cows and there were 12,124 three-year-old cows; that is, seals who for the first time would receive the bull that summer, 1910, and whose first pup will be born this year, 1911.

Mr. COOPER. There were in the neighborhood of 50,000 cows, and how many bulls?

Dr. EVERMANN. There were 1,381 active bulls with harems; 303 idle bulls and quitters; 2,336 half bulls; and so on.

Mr. COOPER. If they have been killing 85 per cent of the females at sea in this pelagic sealing, how is it there still remains such a very large proportion of cows as compared with bulls?

Dr. EVERMANN. You will have to suppose, as Mr. Elliott has stated, a herd of several million seals a good many years ago.

Mr. COOPER. As I understood it, the cows and bulls then were about 1 to 1 or about 25 to 25, and if they have been killing 85 per cent of the cows, how is it that the cows still are largely in excess of the bulls?

Dr. EVERMANN. The killing of the cows has gone on only in the water, and the killing of males has gone on in the water and on land both.

Mr. COOPER. If half of those in the water are bulls and half of them cows, why should they kill the cows?

Dr. EVERMANN. There are a great many more cows in the water than bulls.

Mr. KENDALL. The bulls are not in the water at all from May to November?

Dr. EVERMANN. That is true. The killing of the female takes place very largely during the season when the females have gone out from the islands to feed, and, of course, the percentage of seals in the water at that time is largely female rather than male. You understand that the old males do not leave the islands at all.

Mr. GOODWIN. Still the estimates that are made of the number of seals still alive show a great percentage of the females over the males both on land and sea. How does it happen that there is such a greater number of females than males when 85 per cent of pelagic sealing consists of killing females?

Dr. EVERMANN. This statement by Mr. Rice was made, I think, in about 1896. I am not sure of the year, but it was in the nineties, when pelagic sealing was at its height, and when there was a larger number of cows, doubtless, than there is at the present time.

Mr. HARRISON. Doctor, how far do the cows go out to sea?

Dr. EVERMANN. I understand from 60 to 150 or even 200 miles.

Mr. DIFENDERFER. And during the mating season the bulls do not feed at all?

Dr. EVERMANN. No, sir.

Mr. DIFENDERFER. And that is a period of three or four months?

Dr. EVERMANN. Several months; from early spring until late in the fall.

Additional opinions along the same line and the same tenor I might read from Mr. Joseph Stanley Brown, who was the Treasury agent on the islands and later an agent for the North American Commercial Co.

The CHAIRMAN. That all appears in the memorandum which you have there?

Dr. EVERMANN. Yes, sir.

The CHAIRMAN. If you will give the memorandum to the reporter he will put it in the record.

Dr. EVERMANN. Very well, sir. I simply want to say that this memorandum contains opinions by Barrett-Hamilton, British mem-

ber of the Fur-Seal Commission of 1896 and 1897, and Dr. Charles H. Townsend, who has been on the island many times and has spent many years in the study of fur seals, and one or two others.

The only critics of the Government's policy regarding the administration of the fur-seal service are our friend, Mr. Elliott, and one or two others who have received their data from him. Mr. Elliott is the only one of them who has been on the seal islands, and he has not been there since 1890. Mr. Lembkey has been there 13 years; all of several of those years and every season for the last 13 years; and every naturalist who has been on the seal islands subscribes to the Government's policy, without exception.

Mr. GOODWIN. Just before Prof. Elliott concluded this afternoon he said that his opinion was also entertained by other scientists and other naturalists, but he did not give us the names of those men. Mr. Elliott, could you give us the names of those other naturalists and scientists who entertain opinions the same as yours?

Mr. ELLIOTT. Do you want me to prepare a list and submit it?

Mr. GOODWIN. Yes; and put it in the record.

Mr. ELLIOTT. Yes; that would be the best plan.

Dr. EVERMANN. The statements referred to above which I desire to embody as a part of the hearing are as follows:

Dr. F. W. True, for many years head curator of biology, United States National Museum, now Assistant Secretary of the Smithsonian Institution, and special investigator on the seal islands in 1895, says:

It does not appear to me that any serious concern need be felt as regards the condition of the herd in 1903 and the prospects for the immediate future. It appears that in the breeding herd in 1903 there was approximately 1 bull to 42 cows. Should the increase in bulls and increase in cows continue in the same ratio in 1904 as in 1903, there would be approximately 1 bull to 54 cows. I think that the decrease in bulls might proceed until there was only 1 bull to 100 cows without menacing the welfare of the herd. If this view is correct, there is time for many years' observations before it would be imperatively necessary to take steps for the preservation of the herd from extinction. This is exactly what is needed most—carefully prepared statistics and data for a longer term of years than is now available. To obtain such information it is absolutely necessary, in my opinion, that a thoroughly competent naturalist should be located on the islands for a term of years. Indeed, I am strongly of the opinion that the department should consider the regular employment of a naturalist in connection with the fur-seal industry as indispensable. Time is an important element in the investigation of all such matters as the one in question, and in my opinion a commission which visits the islands for one season or two seasons can not get to the bottom of the subject from a practical point of view.

I appreciate, of course, that a decrease in the actual number of breeding bulls for five consecutive years, as shown in the statistics of the agents, whatever it may signify, is a proper subject for administrative consideration. It seems to the department that something should be done for the purpose of increasing the number of bulls, or at least to cause the number to remain stationary. I recommend that the experiment be tried of compelling the lessees to reject a certain portion of "killable" seals, or those of three or four years, from every "pod" driven up, in addition to the old and young rejected; the number of each age rejected should be carefully recorded. I call this an experiment, because it might have no effect in increasing the number of breeding bulls. If it did not cause an increase, it would at least form a point of departure for other experiments. Not until after several such experiments were made, and the number of bulls had decreased much below the present proportion, would I recommend the entire cessation of killing young males on land. (True, in letter to Hitchcock, Mar. 6, 1904.)

The following extracts are taken from the report of the Bering Sea fur-seal investigations by David Starr Jordan, assisted by Leonard Stejneger, Frederic Augustus Lucas, and George Archibald Clark, 1897. (Second Preliminary Report, Treasury Doc, 1994.)

LAND KILLING AND THE DECLINE.

No connection with the decline of the herd.

The investigations of the present season have only served to confirm the conclusion reached last year, that killing, as practiced on land, has no connection whatever with the decline of the herd. Such killing is, and has been for half a century, confined to superfluous males, whose removal is a benefit rather than an injury. It would have been better for the herd if land killing had not been limited by the *modus vivendi*. The rookeries to-day are overstocked with adult bulls, which in their struggles to gain possession of the females tear them to pieces and trample their offspring.

The only way in which land killing could injuriously affect the herd is through a reduction of the male life to a point below that required for propagation. The records of the islands show that there was never anything approaching a dearth of breeding bulls on the rookeries. The mere fact that 14 years after the islands came into the possession of the United States approximately 100,000 seals were taken each year without difficulty shows that the usual birth rate was maintained. That the land killing was not connected with the decline of the herd at its beginning—about the years 1882-1885—may reasonably be inferred from the fact that in the years 1876-77 only 175,000 males were killed, whereas the total for 1875 and 1878 was 215,000, and for the five years preceding and succeeding a like proportionate number was taken. (This included pups taken for food in the fall.) The 40,000 males thus saved out in 1876-77 were of breeding age in 1882 and were still in their prime in 1885 and the subsequent years of decline.

NUMBERS OF MALES SPARED.

Again, it is impossible to connect the land killing with the greatest intensity of the decline in the years 1888-89 and subsequent years. In the years 1882-83 25,000 less males were killed than in 1881 and 1884, or for five years before and after. These males, 3 years old in 1883, were ready to enter the rookeries in 1887 and were still in their prime in 1890. These were voluntary contractions of the quota for commercial reasons and would have abundantly stocked the rookeries had no males been reserved from year to year, as was the case. It is, indeed, to be doubted whether at any time the killing on the islands could by any possibility be made close enough to endanger the supply of bulls. There are certain inaccessible hauling grounds, as Sivutch Rock, Otter Island, Zapadni Head, and Lagoon, from which bachelors are never driven, and which are in themselves probably sufficient to supply the necessary increment of bulls from year to year. There are, moreover, beyond doubt, many bachelors whose arrival is so late or whose stay is so short that they would escape from any danger of a drive. It is in fact by no means certain that all the bachelors actually visit the islands each year.

CONTRAST BETWEEN BERING ISLAND AND THE PRIBILOFS.

It is, furthermore, only necessary to contrast the conditions on Bering Island as described by Dr. Stejneger, in Appendix II on this report, with the history of the rookeries of the Pribilof Islands to see the absurdity of any claim that land killing could have affected the latter herd. The islands are at present grossly overstocked with bulls, and yet the average size of the harem is about 30 cows. There is no reason to believe that a bull can not take care of 200 cows, and the actual condition of south rookery of Bering Island shows that such is the case.

THE CAUSE OF THE DECLINE—PELAGIC SEALING THE SOLE CAUSE.

The sole cause of the decline of the fur-seal herd is found in pelagic sealing. This conclusion was reached last year, and a reconsideration of all the questions involved gives no occasion to alter or modify it. The investigations of

the season of 1897 only strengthen it. Pelagic sealing involves the indiscriminate killing of males and females, the latter forming at all times the greater part of the pelagic catch.

When we take into account the loss of the herd through old age and the small percentage of young which survive to breeding age, we find the margin of increase in the herd to be very small. The killing of females to any degree in excess of the annual increment of 3-year-old breeders must cause decline. Under pelagic sealing this increment has at all times since 1886 been vastly exceeded.

Joseph Stanley-Brown, for many years resident on the seal islands as Treasury agent and later as agent for the North American Commercial Co., says:

Can anyone successfully maintain that in case of polygamous animals the taking of the surplus male life and reserving the females can destroy the herd? If this can be demonstrated, then our stock raisers are at fault and the evidence derived from Russian management goes for naught. (Stanley-Brown, Bull. U. S. Fish Commission for 1893, p. 364.)

Gerald E. H. Barrett-Hamilton, of Dublin, Ireland, British member of the Fur-Seal Commission of 1896 and 1897, says:

The fact that five bulls (possibly assisted by some large bachelors) could have between them 530 pups, or an average of 106 pups each, at the south rookery; that a single animal could copulate no less than six times in six hours; and finally that even the young bachelors should have in them such strong sexual instincts as to (disregarding for the moment the value to be attached to their services) be able to assist the bulls on the rookeries; all these clearly show the wonderful breeding power of the fur-seal bull and the attempts of the species to adapt itself to and overcome new and adverse conditions of existence. (Barrett-Hamilton, report on his mission to the Russian seal islands in 1897, p. 33.)

Dr. Charles H. Townsend, director of the New York Aquarium, for many years naturalist on the Fisheries steamer *Albatross*, member of the Fur-Seal Commission of 1896 and 1897, and for nine seasons special investigator on the seal islands, says:

My last visit to the islands was in the year 1900, when the number of surplus of nonbreeding males was much larger than it is now. At that time and for years before the number of large nonbreeding males in the rear of the breeding grounds was so large that I advised a closer degree of killing by the lessees than had been the custom. The slaughter of females by pelagic sealers had been for years very heavy and the relative number of breeding males was on the increase. The lessees were then taking only the skins of what we were accustomed to regard as 3-year-olds, weighing perhaps 9 pounds or over. As the younger class of males, unlike the breeding males, wander away from the islands at times to feed, I advised that the lessees be permitted to take the smaller 4-year-olds. This was for the double purpose of increasing the catch by the lessees and decreasing the sea catch. This has naturally resulted in lessening the relative number of nonbreeding males.

I am well acquainted with the present Government agents on the islands, having had them associated with me for several seasons, while making the annual counts of both male and female seals present. I accept the figures which they furnish, knowing that they come from conscientious and careful observers.

Your statistics show that there is still a margin of over 500 young idle bulls. This surplus has occurred naturally, and shows that the policy of close killing of males has been a safe one.

As this surplus is decreasing from year to year, the time has evidently come to make provision for the saving of more breeding males. I would advise that the number taken by the lessees annually be curtailed and that the catch on land consist, as in former years, of practically 3-year-olds; it may be possible to add to this number a few of the larger 2-year-olds; certainly none of the larger size, i. e., those whose skins weigh over 9 pounds, should be taken.

Your statistics do not show what proportion of the land catch consisted of seals over 3 years old. Your agents can furnish you that information.

Indeed, if you wish to secure an immediate increase in the number of surplus males, you might restrict the catch absolutely to 3-year-olds. This will cover the number required for food, and will give the lessees a chance to continue operations for two or three years on a small scale.

I am not willing to admit that the danger point is reached until all idle bulls adjacent to the rookeries disappear.

A complete cessation of killing would remedy such a condition very rapidly, but in order that your department may be provided against criticism, I would counsel an immediate curtailment in about the manner above described. A total cessation of killing would increase the number of males more rapidly than is necessary, and would simply add an important number of valuable male skins to the pelagic catch.

As above stated, as long as there is a surplus of any kind the breeding grounds are safe. If there were any lack of adult males in the rookeries the so-called half bulls adjacent to the breeding grounds would at once be absorbed by the rookeries.

This subject has received the most thorough study at different times during the last dozen years at the hands of the foremost biologists of this country, spending months on the islands. I don't believe that the natural history of any wild animal of commercial importance is as well known as that of the fur seal.

The diminution of the fur seal is due to pelagic sealing. It is worse than idle to attribute it in any way to our management of the islands.

I am not in sympathy with the measures set forth in the "Senate bill" referred to. It is not necessary to entirely cease killing males on land, for the reasons stated above. I would not for a single instant be party to any proposed killing of females. It would be an utterly immoral proceeding. We have no right to destroy the source of supply of anything useful to man simply because we can not control all the output.

Negotiations looking toward the cessation of pelagic sealing is the only logical and moral cure for the decrease of the seal herd. The killing of females on the islands must never be permitted. (Townsend, in letter to F. H. Hitchcock, Mar. 7, 1904.)

Edwin W. Sims, United States attorney for northern district of Illinois, Solicitor Department of Commerce and Labor, and special investigator on the seal islands in 1906, says:

DECREASE IN SEAL LIFE DUE SOLELY TO PELAGIC SEALING.

That the decrease in seal life on the Pribilof Islands is due solely to pelagic sealing can not be seriously questioned. "Owing to the polygamous habit of fur seals," states the report of the Jordan Commission, "the greater part of the male life born is superfluous for breeding purposes. For the 130,000 breeding cows found on the rookeries of St. Paul and St. George Islands in the season of 1897, 4,418 bulls were adequate, or at least out of fully 10,000 bulls ready and willing to serve harems only this number were able to obtain them. Therefore, only one bull in thirty is absolutely necessary under present conditions. That this limit could be materially lowered without positive danger to the herd, is conclusively shown by the history of the Russian herd on Bering Island, where the observations of the past three years, as detailed by Dr. Stejneger, show that a male fur seal is capable of attending to the wants of between 100 and 200 cows." (Report of Fur Seal Investigations, 1896-97, pt. 1, p. 119.)

There never has been a time since this Government came into control of the herd when there were no idle bulls on the islands. It is manifest, therefore, that the decrease in the herd is due to the killing of females, which are taken only by pelagic sealers. The number of idle bulls present on the islands is a matter which has already been carefully watched. Three years ago, when it became apparent that there was a decrease in idle bulls, the department established regulations whereby 2,000 choice 2 and 3 year old males were selected, branded, and dismissed from the herd for breeding purposes before the company commenced taking its quota for commercial purposes. This action was not due to an entire absence of idle bulls, but was taken solely because they were decreasing in numbers. Furthermore, the result of the

regulation is already apparent, and as soon as the seals thus reserved reach the breeding age the number of idle bulls on the island will have again reached a safe margin.

UNNECESSARY AND INEXPEDIENT TO STOP LAND KILLING.

Regardless of whether the Government concludes to again lease the sealing privilege or to itself conduct the sealing industry, it is manifest that the land killing of seals should not be stopped. It is neither necessary nor expedient. It is unnecessary, for the reason that there is no abnormal shortage in male seals which are killed on land, and it is not expedient for the reason that if no Alaskan fur-seal skins are secured it will result in the substitution of something else. The two companies which have operated on the islands under lease from the Government have spent thousands of dollars in building up the seal fur trade. The first company which secured this right was for some years unable to profitably dispose of its annual catch because there was no demand for fur-seal skins. Fur-seal skins are now, and have been for a number of years past, in demand because it is now and has been the fashion to wear them. The fashion controls the demand.

REDUCTION OF HERD TO A BREEDING NUCLEUS UNDESIRABLE.

The suggestion not infrequently made in recent years that this Government authorized the killing of all save a breeding nucleus of a few hundred seals as a means of stopping pelagic sealing is neither sensible nor humane. In the first place, if left alone the pelagic sealers will accomplish this result in a very short time; and, in the second place, it would not settle the question. Just as soon as the herd increased to a size sufficient to make land killing permissible and profitable, pelagic sealing would be profitable, and the question would again be an open one. (Sims's Report on the Alaska Fur-Seal Fisheries, 1906, pp. 27-29.)

George A. Clark, secretary, Stanford University; secretary fur-seal commissions of 1896 and 1897; special investigator (for the Government), on the seal islands in 1909, says:

I do not see that Mr. Elliott's contention that the land killing has yet endangered the breeding herd, or is likely to in the near future, is worthy of serious consideration. The very fact that the herd has supplied a quota of from 20,000 to 15,000 skins each year since 1896 is in itself proof that there has been no lack of breeding males for the rookeries. That there should be a decline in the quota must be conceded, but the cause of this is naturally to be sought in the killing of breeding females, with the attendant loss of young through starvation and otherwise due to pelagic sealing. (Clark in letter to Hitchcock, Dec. 30, 1903.)

No naturalist has enjoyed better opportunities for studying fur-seal problems than has Dr. Leonhard Stejneger, head curator of biology in the United States National Museum. After living for several years on the Commander Islands, where he carefully studied the Russian seal rookeries, he again returned to those islands in 1897 as a member of the fur-seal commission and made very exhaustive investigations on the rookeries and hauling grounds. He also visited and carefully studied the Japanese seal rookeries and our own seal islands. No one is better qualified by ability as a biologist or by experience to speak authoritatively on the various fur-seal questions.

From Dr. Stejneger's official report on the rookeries of the Commander Islands, season of 1897, page 16, I quote the following:

IS A TEMPORARY STOPPAGE OF LAND KILLING ADVISABLE?

The propriety of prohibiting the killing of fur seals on land for a period of five years, as a means of building up the seal herd, has of late been discussed by the Russian authorities. The success in former years of such a cessation of killing on land, or "zapuska," as it is called, as well as its advantage in the management of the fox and sea otter hunt, have undoubtedly influenced them; but they have plainly failed to see the difference between these old zapuskas,

which protected the females as well as the males, and the zapuska of the present, the employment of which would only mean the protection of the males alone when on land. When at sea they would be subjected to the same danger from the pelagic hunter of the females. It shows that they have utterly failed to grasp the two essential points of the seal question as it stands to-day, viz, that the decline of the seal herd is solely due to pelagic sealing, and that the increase and consequent rehabilitation of the herd depends solely upon the preservation of the male seals. It pelagic sealing be stopped no zapuska is necessary, or, as I shall show, it will be directly hurtful. If pelagic sealing be continued a zapuska will not only not protect the herd on shore, but it will directly result in increased catches for the pelagic sealers as long as the zapuska lasts, since they will have the additional males to pray upon, which will have to be spared on land.

Now, the future prosperity of the seal herd depends upon the number of females it contains; the number of bachelors is irrelevant in this connection. Suppose pelagic sealing be suppressed and a five years' zapuska instituted on the Commander Islands; what would result? At the end of the five years there would be exactly as many females as if no zapuska had been, not one more (possibly some less), because no female seals would have been killed even if the zapuska had not been kept. But there certainly would be a great many more killable seals at the beginning of the sixth year than during any one of the preceding years. A little reflection, however, will show that their total number must be less than the total sum of killed ones during these preceding years, inasmuch as the 2 to 4 years' old bachelors of these years would have escaped the killing and become sikatchi—that is, available rookery bulls, and consequently unfit for killing during the zapuska. And how would it look on the rookeries? Copper Island is already overstocked with bulls to such an extent that it would greatly benefit the herd to decimate them now; with a five years' zapuska the conditions would be infinitely worse. On Bering Island there is no overstocking of males now, but there is nothing to indicate that there are now enough bulls, and five years' prohibition would bring about the same deplorable condition as on Copper Island; in fact, the result would be more disastrous, for the nature of the rookery beach on Bering Island is much less favorable to the pups in protecting them from being trampled to death.

To sum up, a zapuska as contemplated would result in (1) no addition of a single female to the herd; (2) loss in the total number of killables; (3) highly injurious overstocking of the rookeries with fighting males; and (4) a consequent heavy loss of young pups killed shortly after birth. A zapuska without total stoppage of pelagic sealing would be even more senseless, as the females would continue to decrease at a much greater rate than the males, more females than males being killed at sea, and the resultant overstocking of the rookeries with bulls would be even more disproportionate and more disastrous.

That these conditions are not mere fanciful theories is plainly shown by our experience on the Pribilof Islands. As soon as the falling off in the catch of the bachelors called attention to the decrease of the seal herd a halt was called; the killing on land was reduced to a minimum. The temporary officials were then under the same erroneous impression as the Russian authorities now, viz, that the calamity consisted in the decrease of the bachelors, and they overlooked that it was the females, and they only, that needed being looked after. For several years only a fraction of the killable seals was allowed to be taken. What was the result? A single additional female on the rookeries? No; loss to the lessees and the Government of the bachelors spared; a corresponding gain to the pelagic sealers; a deplorable superabundance of bulls on the Pribilof rookeries, and numerous pups trampled to death soon after their birth. America has thus paid very dearly for her blunder. Are the Russians going to repeat it?

The following article was written by Mr. George A. Clark and was published in the Popular Science Monthly for November, 1910.

Mr. Clark is thoroughly familiar with the fur-seal question in all its ramifications. This article, written by Mr. Clark soon after his return from a season's careful study on the islands, covers all the essential questions so fully and fairly that I desire to incorporate it in my statement.

The article is as follows:

THE MUCH MISUNDERSTOOD FUR SEALS OF BERING SEA.

The public press has recently engaged in a spirited discussion of the affairs of the fur seals of Bering Sea which is remarkable for the popular misapprehension it discloses of the real facts of this problem, which has been before the public as a national and international issue for a quarter of a century. The recent discussion was precipitated by certain criticisms, by the Camp Fire Club of New York, made against an order of the Secretary of Commerce and Labor for the killing of the annual quota of young male seals during the current season. The order of the Secretary was not a new or unusual one. A similar order has been given each season for the 40 years in which the herd of the Pribilof Islands has been in the control of the United States, and was in vogue for the half century or more of Russian control.

This order called for the killing of 8,000 of the superfluous young males to secure their skins. It is the way in which the Government harvests the product of its fur-seal herd. The order is exactly analogous to one which the owner of a herd of 100,000 cattle might give to his agents to drive up and slaughter for market 8,000 young steers. Other analogies might be found in the methods of handling sheep, poultry, or any other of our domestic animals from which we derive food or raw material of value and utility.

The fur seal is a polygamous animal, a fact which the Camp Fire Club seems to overlook. Actual enumeration shows that 29 out of every 30 males born are superfluous for breeding purposes. A reasonable proportion of these 29 may be killed for commercial uses without injury to the herd, and their withdrawal will have no more effect on the life of the herd than the killing of a like number of steers would have on a herd of cattle.

Moreover, it is not merely feasible and safe to take these animals, but it is beneficial to the herd that they should be removed. To let these young males grow up to adult age would precipitate a condition of fighting and struggle on the rookeries which would be injurious in a high degree to the welfare of the herd. To illustrate by another analogy, the condition which their exemption from killing would produce on the fur-seal rookeries would be exactly like that which would exist on the cattle range if all the young male calves and colts were allowed to grow up as bulls and stallions to contest with one another the supremacy of the herd.

The adult male fur seal is five times the size of the adult female and forty times the size of the young pup of a week old. In the struggles of the bull to defend his harem from other bulls, the young are trampled under foot and the mothers torn to pieces. This condition was very conspicuous on the rookeries in 1896-97, when 5,000 haremless idle bulls fought throughout the season with the 5,000 active bulls in charge of harems. This unfortunate condition in 1896-97 was due to exactly what the Camp Fire Club would have repeated at the present time. In 1891, 1892, and 1893 there was a *modus vivendi*, pending the action of the Paris Tribunal of Arbitration, which restricted the killing on land to a few thousand seals for natives' food. The majority of the young males were allowed to escape and grow up as idle bulls, a source of injury and loss to the herd until eliminated by death in contests with one another or by old age. It is in the light of this experience and with a view to obviating its repetition that the order of the Secretary for the killing of the superfluous young males becomes not merely good business policy but beneficial to the herd.

The criticism of the Camp Fire Club calls attention to the precarious condition of the herd, which is an admitted fact and one of grave concern. The mistake is in the implication that the order of the department has anything to do with this condition. As a matter of fact the greatly depleted condition of the herd of fur seals is due to an entirely different cause, fully demonstrated and easily understood.

The fur seal gets all its food in the open sea at great distances from land. It resorts to the land only to bring forth and nourish its young to self-dependence. It is resident for this purpose on certain islands in Bering Sea from May to November. The mother seal goes 150 to 200 miles from the rookery to find her food, leaving her young behind, returning to nurse it and again go away to feed. With the storms of winter all classes of animals leave the islands and make a long migration down through the Pacific Ocean to the latitude of southern California, returning slowly along the coast.

It had been the custom of the Indians of the northwest coast of America from the earliest times to go out in their canoes a day's journey to hunt with the spear stragglers from the migrating herd on its northward journey. It was a precarious business and the number of animals taken was unimportant. In 1879, however, sailing vessels began to be used to take the Indians and their canoes out to the main body of the herd and to enable them to follow its course. This new form of sealing was very successful. The fleet grew in numbers and the catch multiplied until it reached the total of 140,000 skins in a single season. The operations of the fleet gradually extended over the entire migration route of the seals and included their summer feeding grounds in Bering Sea.

The males being reduced in numbers by land killing, the females predominated in the herd as found at sea. On land the young males are forced to herd by themselves through fear of the adult males. They can be readily distinguished and handled without disturbance to the breeding herd. At sea the sexes can not be distinguished. On the spring migration the mother seal is heavy with young and hence less swift in her movements. On the summer feeding grounds she must feed regularly and heavily through necessity of nourishing her young. As a result the pelagic catch is made up chiefly of the breeding females. Investigations of the pelagic catches of 1895 and 1896 disclosed the fact that 65 to 85 per cent of its skins were taken from gravid and nursing females. The young of these mother seals died unborn or of starvation on the rookeries. The writer counted 16,000 young fur-seal pups which died of starvation on the rookeries of the Pribilof Islands in the fall of 1896 as a result of pelagic sealing for that season. In 1909 he found by actual count that 13.5 per cent of the birth rate for that season were dead or dying of starvation in August of that year. From 1879 to the present time this hunting of gravid and nursing females has gone steadily on, with the consequence that the herd of fur seals belonging to the United States has been reduced from 2,500,000 animals to less than 150,000 animals.

No other result could be expected from this wasteful and indiscriminate slaughter. It is not necessary to look for other causes, this cause is more than sufficient. To return to our analogy, suppose the owner of a cattle range should allow the slaughter of 65 to 85 per cent of his breeding cows with the consequent loss of their offspring. It would simply mean the ruin of the herd of cattle, and pelagic sealing has in like manner brought ruin on the fur-seal herd.

This cause of decline was established for the Government in 1898 by a commission of scientific experts. It was pointed out that only by the establishment of an international game law for the high seas which should protect the female fur seal—in other words, the abolition of pelagic sealing—could the herd be preserved and restored. The property involved is a very important one. The fur-seal herd during the first 20 years of its ownership by the United States yielded to the Government a revenue of \$13,500,000, almost twice the sum paid for the Territory of Alaska. If the conditions of these 20 years held true for to-day—and they would remain true were it not for pelagic sealing—the herd would now be bringing to the Government an annual income of \$1,000,000.

In the period of 14 years since the exact relation of pelagic sealing to the reduced condition of the herd was demonstrated to our Government this wasteful and inhuman form of hunting has gone on season by season without interruption. A total of 200,000 gravid and nursing females have been taken from the breeding stock of the herd. The skins of these animals have been marketed by the pelagic sealers at an average price of \$15 per skin, a total loss in cash to the Government of \$3,000,000, with an actual loss through breeding possibilities of 10 times this amount, as the breeding life of the female fur seal is at least 10 seasons.

There is abundant ground here for legitimate criticism of our governmental policy in dealing with this valuable industry. There is no occasion to invent grounds of criticism such as those urged against the Secretary of Commerce and Labor for a harmless detail of administration. The responsibility does not, however, rest entirely with the United States. The fur-seal question is an international issue. The flags of Japan and Great Britain protect the destructive and suicidal industry of pelagic sealing—an industry which is also on the verge of bankruptcy as a result of the failure of the herd, for it preys on its own capital. Russia also owns an important fur-seal herd, which has

suffered and is suffering in exactly the same way that the herd of the United States has suffered and is suffering. It is the business of these two nations—owners of fur-seal herds—to effect an understanding with the two nations which stand sponsor for the pelagic industry, to the end that the wasteful slaughter may cease.

Surely the abolition of pelagic sealing, which means the hunting of gravid and nursing female fur seals—exactly analogous to the hunting of the gravid doe or the brooding quail—is a cause which should appeal to and enlist the support of the sportsmen of the Camp Fire Club and all lovers of animals the world over. Every influence of criticism and assistance that can be brought to bear should be directed toward the four great nations—the United States, Great Britain, Russia, and Japan—having responsibility for this matter, to the end that this valuable race of animals, the fur seals of Bering Sea, shall be saved to the world.

ADDITIONAL STATEMENT OF PROF. HENRY W. ELLIOTT.

Mr. ELLIOTT. Mr. Chairman and gentlemen of the committee, Dr. Evermann has read to you an extract from my testimony, given to a House committee in 1888, which declares that I then had no objection to the land killing as it was then conducted and is to-day.

That is a statement which I made in good faith, as I had stated it in my report of 1874, and 14 years after I had surveyed the work officially.

But when I again visited the islands in 1890 my studies then opened my eyes to the fact that I had been mistaken in my opinion of 1874, and, as quoted by Dr. Evermann, I called attention to this fact in my report of 1890 to the Secretary of the Treasury; that I was wrong in my theory of 1874; that the work done during the 16 years which had elapsed between 1874 and 1890 had satisfied me of my error. So, Mr. Chairman, I myself called attention to my own error and corrected it in this report. (See Report on Present Condition of the Fur Seal Rookeries of Alaska. H. Doc. No. 175, 54th Cong., 1st sess., pp. 5-15.)

I was on the wrong side then, and I am one of those who do not believe it is more creditable to stay consistently wrong than to admit an error and publish the same. I surely am on both sides, but that only shows to you that I have left the wrong side in 1874, and taken the right position in 1890, and since then, Mr. Chairman, I have remained there. Why does Dr. Evermann not do the same? It would be far more creditable for him.

Then, too, reading those garbled extracts of my translations of Bishop Veniaminov as Mr. Lembkey has done, without reading my review of these literal translations in which, on page 143 of my monograph, from which those extracts were read, I made this significant and fair statement of what I thought of the same, to wit:

I translate this chapter of Veniaminov's without abridgment, *although it is full of errors*, to show that while the Russians gave this matter, evidently, much thought at headquarters yet they failed to send some one onto the ground who by first making himself acquainted with the habits of the seals from close observation of their lives, etc.

Why did Mr. Lembkey fail to read the above? The idea of making me responsible for a series of loose statements that I literally credit to another man, and expressly define them as such, is, I submit to

the committee, a suppression of the truth by Mr. Lembkey himself, and he, not I, is guilty of that offense.

One word more. It has been said over and over again that I am practically alone in my contention, and that all naturalists save myself approve of this position taken by Dr. Jordan and his associates. To thus prove the contrary, I will prepare and give to the committee a list of better men who as naturalists do not agree with Dr. Evermann and his Jordan commission associates, whom he has just enumerated to you, with a florid introduction of each as to his accomplishments.

Directly to the contrary, the overwhelming sentiment of all naturalists at home and abroad is against this idle theory of Dr. Jordan, who assumes that he knows enough to improve upon the natural law which the Creator has established for the reproduction and the best life of the fur seal of Alaska.

Mr. BARTHOLDT. Mr. Chairman, I desire to submit a statement prepared by an expert in the employ of Funston Bros., which I would like to have incorporated in the record. The scientific opinions expressed in this statement coincide exactly with those presented by Mr. Lembkey and Dr. Evermann:

Among all of the national resources which the Government is doing its best to conserve, one of the most important is the conservation of the fur-seal herd.

It has been contended by some who are not familiar with seal life that it was necessary to maintain a closed season for five years by discontinuing the annual kill of surplus male seals by the Government. Any one who would make such a contention either is not familiar with seal life, or is making the contention from a selfish standpoint.

The seal is polygamous by nature. One bull usually takes care of from 20 to 80 cows in his harem. The male seal herd usually hauls up on the Pribilof Islands about the first or second week of May each year, and always comes to the islands three or four days ahead of the female herd.

As soon as the males arrive there commences a battle between them for supremacy and the best location for their respective harems. The younger and weaker male seals are therefore driven back on the islands, temporarily at least, with the old strong bulls in possession of the coast front, where the female herd is shortly to land.

As soon as the female herd comes in sight there is a terrific barking and roaring of the male seal herd on the islands. The females come up and find their mates; and the strange part of their life is that the females seem to recognize the call of their mates and go direct to their lord and master.

The younger females that come to the islands to breed for the first time select their mates of their own free will and choosing—whichever male is the best looking to her she selects, and thereafter that mate is hers and she is a member of his harem.

Though the seal is polygamous by nature, it is a peculiar fact that the females recognize their mates each year at breeding time. It is seldom that they select any other mate as long as their mate lives. But should one male be displaced by another in the fighting that goes on continually during the breeding season, the victor is acknowledged king of that particular harem. It seems that nature has wisely provided that the sire should be the survival of the fittest.

Within three to five days after the female herd arrives on the islands the pup seals are born, and from five to ten days thereafter they are again bred. Shortly after, the females start out periodically to their feeding grounds, which are some 160 miles distant from the islands. It is then that the pelagic sealer, or poacher, commits his awful depredations on the female herd.

It is seldom, if ever, that the pelagic sealer gets the opportunity of killing the male seals, but they lie in wait for the female herd on the way to their feeding grounds and slaughter in the open sea as many as they can. In killing these female seals, which have just been bred, they are practically killing two

seals. They are also doing worse than that, for a certain percentage of the young seals that the mothers have left on the islands die from want of proper attention of the mother, which has been killed by the pelagic sealer.

It is absolutely necessary to kill each year a certain percentage of the male or bachelor herd, as it is termed, because the continuous battles among the males for supremacy disturbs the breeding and kills many of the young. On account of the polygamous nature of the seal it is only necessary to have a small percentage of males, and if the male herd is allowed to accumulate to an equal quantity of the females it would only mean that the males would be killing each other, and in the battles kill a large percentage of the young.

It is furthermore desirable that the 2 and 3 year old bachelor seals be killed, because skins taken from the bull seals after they are 4 or 5 years old are worthless for seal-skin purposes. They can not be dressed and dyed successfully on account of the coarse, undesirable quality of the fur.

It is also equally important not to kill a male seal until after it is past 1 year old. Skins taken from seals before they are a year old have no value for commercial purposes as fur seals, because they do not take the dye and have not the quality necessary for that purpose. They are known as "gray pups." A certain percentage of yearling seals are allowed to the natives on the islands each year for food purposes, and they can do what they please with the skins. They usually use these "gray-pup" skins to make their parkies and other articles of wearing apparel. So that the claim recently made that the Government was killing seals before they were a year old is absolutely without foundation.

In view of the above facts, it can be seen that it is necessary to kill the 2 and 3 year old bachelor seals. If a closed season were instituted, in five years time it would mean that these 2 and 3 year old seals would be worthless for commercial purposes. It would mean a loss of millions of dollars to the Government, besides doing more to deplete the herd on account of constant warfare going on among the males at breeding time, and the slaughter of the young as a result.

The thing that will do more to conserve the seal herd than anything that has ever been done, or ever will be done in the history of seal life, is the passage of the treaty between Russia, Japan, England, and America, which prohibits and prevents pelagic sealing entirely for a period of 15 years. This is something that this Government has been striving for for many years and during many administrations, but its accomplishment is due more directly to the splendid work of Secretary Nagel.

Secretary Nagel has made a personal study of seal life, and great credit is due him and his department for the intelligent, fearless, and correct work that has been done in handling the killing of the seals, as well as the negotiations of the seal treaty.

It is stated by every reliable authority on seal life that the killing of a certain percentage of the bachelor herd, as the Government is doing and doing wisely, should be continued.

Under the new treaty, pelagic sealing will be stopped for a period of 15 years after December, 1911. With this accomplished, it is stated by experts on seal life that within 10 years time it will be absolutely necessary for the Government to kill at least 50,000 2 and 3 year old male seals every year, and many thousand more each year thereafter.

The discontinuance of pelagic sealing is the only thing that will conserve the seal herd. A closed season for five years, which has been advocated by some who are not familiar with seal life, would be the very worst thing that could happen to the seal herd, besides a loss to the Government of millions of dollars as a result of not killing and marketing a percentage of the bachelor seals, as it is now doing.

It is only last year that the Government has had complete control of the seal herd and the disposition of the sealskins. For the past 40 years the islands have been under lease to a commercial company, which has disposed of the sealskins during that time in London through an English house. Last year was the first time the Government had the authority of disposing of the seal catch in the open market. And the skins were sent to London as usual, to be sold for account of this Government, by the same English house that had handled the seals for many years for the private company.

But, with pelagic sealing stopped entirely, the Government is considering having the seals sold at auction in an American fur market, on the theory that

all American people indorse—"America for Americans." It ought to be the policy of the American Government to foster American industry and not deliberately ship an American product all the way across the United States to be exported to a foreign country, to be sold by a foreign house in a foreign market for account of the American Government, when the seals could be sold in an American market by an American house for account of the Government to just as good, or better, advantage.

Secretary Nagel himself is a great believer in protecting American commerce, and it is known that his views are favorable to a policy of having the sealskins sold in an American market by an American house, in preference to consigning them to an English house in an English market.

As soon as the Government announces its policy that it will have its sealskins sold in an American market by an American house for account of the Government, it will bring to this country the best seal-dyeing houses that are now located in Europe. In fact, the most successful sealskin dyer and dresser in the world has already announced his intention of coming to this country to locate should the Government decide to sell the seals in this country.

The pelagic seals, known in the London market as the northwest coast seals, but which come from Alaska, have always supplied the European markets, while 90 per cent of the Alaska sealskins taken by the Government are consumed in the United States; and when they are brought back to this country it is necessary for the American people to pay 20 per cent duty on the dressed and dyed sealskin, which is unfair to the American people.

If the sealskins are sold in an American market, with the dressing and dyeing plant located in America, it will mean that sealskins can be had for less money by the consumer, and at as much net money to the Government.

The Government's policy of selling the sealskins in an American market means that on account of the Alaska seal herd being the largest herd of seals in the world, as well as the most valuable, it will transfer the sealskin market of the world from London, England, to the United States, besides bringing to this country the new industry of sealskin dressing and dyeing.

Furthermore, the Government will be showing great wisdom and foresight in having the sealskins sold in an American market, because within 10 years' time it will be selling upwards of 50,000 sealskins annually, instead of about 10,000 to 12,000, as it is now; within 15 years it will be selling 100,000 sealskins annually. This will mean that the American market will be the sealskin market of the world and will attract to it all of the other seals from different parts of the world, such as the Copper Island, the Cape Horn, the Lobos Island, and Shetland Island seals.

It is simply an opportunity of changing the seal market of the world from England to America. This is a fact generally conceded in the fur trade of America and by experts who know. It is also conceded by those best posted in the American fur trade that the seals will sell at as high prices in an American market as in a foreign market—at less expense to the Government, and therefore with a better net result. It also will mean that the American people, who are the largest consumers of Alaska seals, will not have to pay a 20 per cent ad valorem duty on the dressed skin which is a product of their own country, and which is signally unfair to them.

It is to be hoped that the Government will see the wisdom and foresight of selling the Alaska seals in this country in the future continuously. Such an act would be conserving American commerce, which would undoubtedly redound to the credit of the Government, and an act which would be applauded by the whole American people.

The loss to the Government of the United States would be not less than \$10,000,000 and it might reach fifteen million if the Rothermel resolution, prohibiting the killing of fur seals in Alaskan waters for a period of 15 years, were adopted by Congress. This statement is predicated on the assumption that the fur-seal convention, to become effective December 15, will be ratified.

What is more, the adoption of the Rothermel resolution would not result in a conservation of the fur-seal herd—the object sought to be accomplished. Experience abundantly proves that it is not only wise but absolutely necessary to kill the superfluous young males every year if the herd is to be preserved. During the years of 1896 and 1897, when the superfluous males were not killed, thousands of young seals were trampled under foot and their mothers were torn to pieces in the mad struggles that took place for control of the harems.

The loss to the Government of between \$10,000,000 and \$15,000,000 that would result from the adoption of the Rothermel resolution is based upon the following estimates:

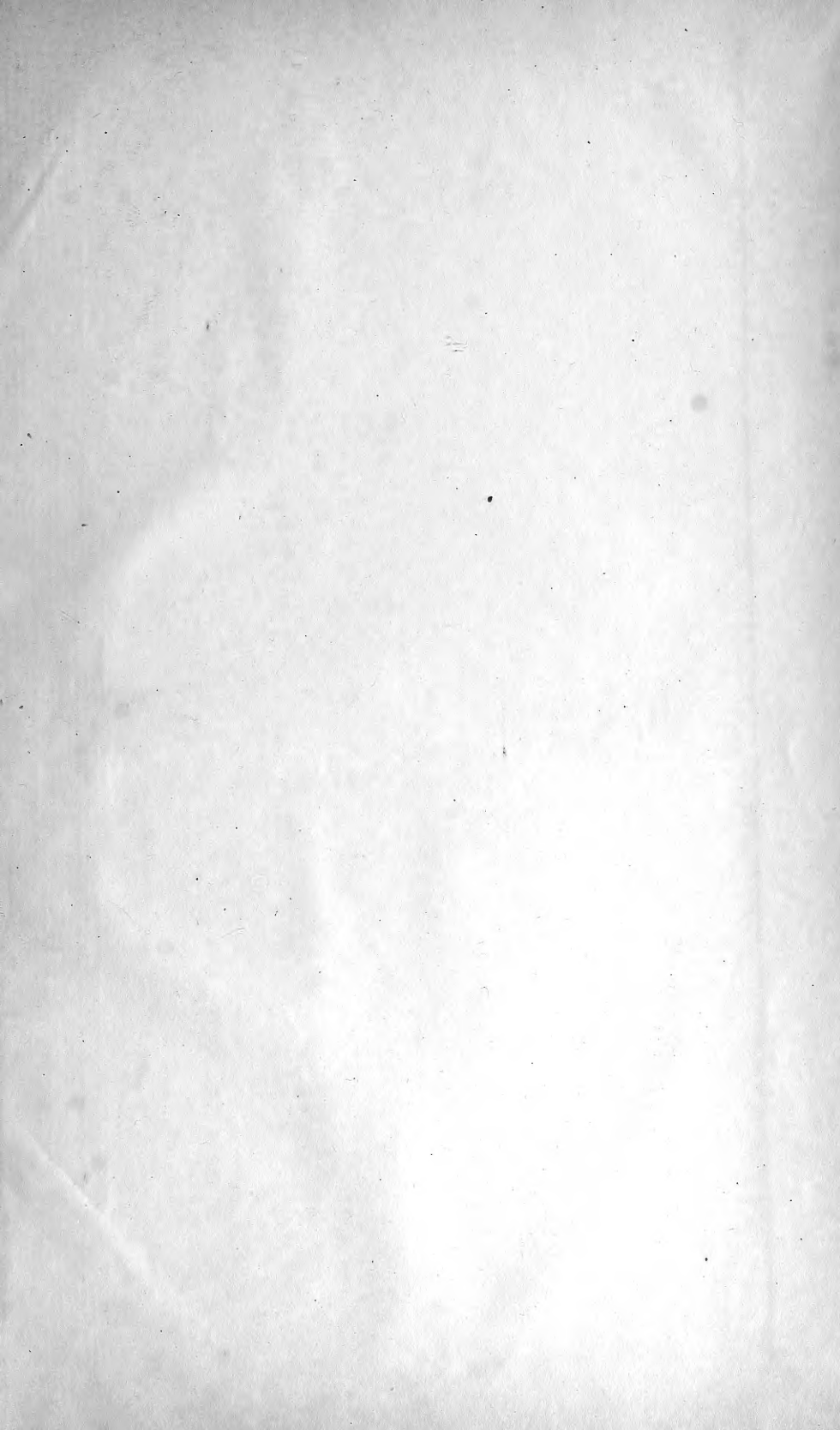
Revenue from the sale of 13,000 seals annually for 15 years.....	\$7,290,000
Twenty per cent ad valorem duty.....	1,458,000
Maintenance of notices, etc., on Pribilof Islands annually for 15 years.....	918,450
Advance payments to Great Britain and Japan.....	400,000
Payments to Great Britain and Japan in 15 years with killing suspended.....	300,000
Total	10,366,450

The foregoing estimate of \$7,290,000, as stated, represented the revenue that would be derived by the Government if the annual sale were 13,000 skins for a period of 15 years. As a matter of fact, with pelagic sealing stopped, as it will be if the fur-seal convention is ratified and goes into effect December 15, the increase in the seal herd will be so rapid that the number of superfluous males available for commercial purposes will be doubled before many years have passed, and, of course, the revenue will increase in proportion.









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