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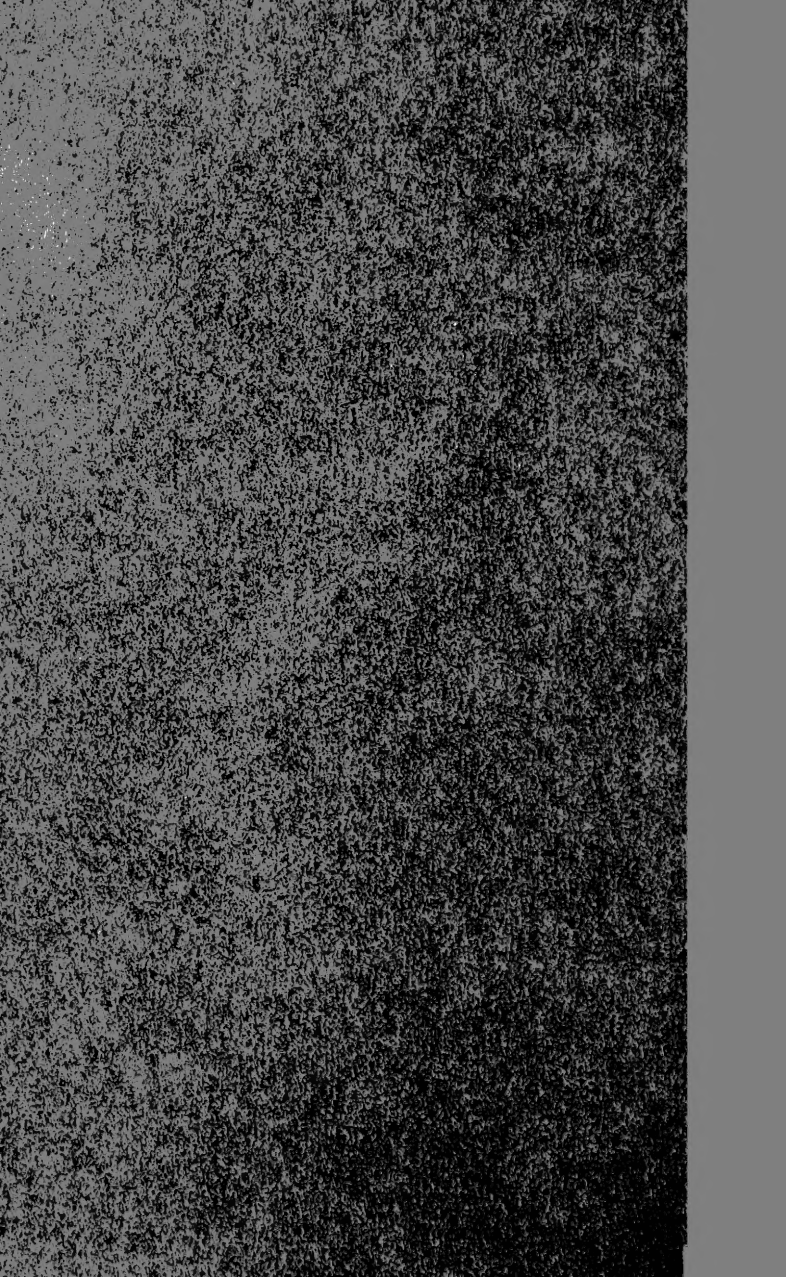
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UNITED STATES-CANADA FISHERIES

HEARINGS

BEFORE THE

U.S. Congress, House,

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-THIRD CONGRESS

SECOND SESSION

ON

H. R. 13005

FEBRUARY 26, 1914

STATEMENTS OF

DR. H. M. SMITH AND
HON. JOSEPH W. FORDNEY

WASHINGTON
GOVERNMENT PRINTING OFFICE

1914

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COMMITTEE ON FOREIGN AFFAIRS.

HOUSE OF REPRESENTATIVES.

SIXTY-THIRD CONGRESS.

(Committee room, gallery floor, west corridor. Telephone 230.)

HENRY D. FLOOD, Virginia, *Chairman.*

WILLIAM G. SHARP, Ohio.	CHARLES B. SMITH, New York.
CYRUS CLINE, Indiana.	JOHN R. WALKER, Georgia.
JEFFERSON M. LEVY, New York.	HORACE W. VAUGHAN, Texas.
JAMES M. CURLEY, Massachusetts.	HENRY A. COOPER, Wisconsin.
J. CHARLES LINTHICUM, Maryland.	RICHARD BARTHOLDT, Missouri.
ROBERT E. DIFENDERFER, Pennsylvania.	GEORGE W. FAIRCHILD, New York.
WILLIAM S. GOODWIN, Arkansas.	STEPHEN G. PORTER, Pennsylvania.
CHARLES M. STEDMAN, North Carolina.	W. D. B. AINEY, Pennsylvania.
EDWARD W. TOWNSEND, New Jersey.	JOHN J. ROGERS, Massachusetts.
B. P. HARRISON, Mississippi.	HENRY W. TEMPLE, Pennsylvania.

ROBERT CATLETT, *Clerk.*

B. F. ODEN, *Assistant Clerk.*

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UNITED STATES-CANADA FISHERIES.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Thursday, February 26, 1914.

The committee met at 10.30 o'clock a. m., Hon. Henry D. Flood (chairman) presiding.

There were present before the committee Hon. Joseph W. Fordney, representing the eighth district of Michigan; Hon. Halvor Steener-son, representing the ninth district of Minnesota; Dr. H. M. Smith, Commissioner of Fisheries; and Mr. John S. Webb, of Washington, D. C.

The CHAIRMAN. Gentlemen, Mr. Ainey has a resolution upon which he wishes to speak, but before we take that up I have a letter which I have received from the President, and which I will read:

THE WHITE HOUSE,
Washington, February 24, 1914.

MY DEAR MR. FLOOD: I trust that no effort may be spared to secure the immediate passage of the bill now pending in the House to give effect to the treaty between the United States and Great Britain of April 11, 1908, for the preservation of the food fishes in the waters contiguous to the United States and Canada. In reality, I believe there are two bills pending in the House, namely, H. R. 13005, introduced by yourself on the 5th instant, and H. R. 13300, introduced by Mr. Woodruff on the 12th instant, but I am advised that these bills are the same, except that H. R. 13300 exempts Saginaw Bay from the operation of the present international regulations under the treaty—an exemption to which the commissioners on both sides have agreed.

The commissioner on the part of the United States is Dr. Hugh M. Smith, our Commissioner of Fisheries. He stands ready to furnish to you or to your committee any information which may be desired. I may say, however, that the pending bills embody only what has been agreed on between the two Governments and that there does not appear now to exist any objection on either side to their enactment. Similar legislation was adopted and was put into effect on the part of Canada three years ago, and we are informed that unless this Government shall be in a position on the 1st of March reciprocally to perform its obligations, the object of the treaty, which is of manifest importance to the permanent interests of both countries, will be defeated.

Sincerely, yours,

WOODROW WILSON.

HON. HENRY D. FLOOD,
*Chairman Committee on Foreign Affairs,
House of Representatives.*

I will also read this letter, which I have received from the Secretary of State:

DEPARTMENT OF STATE,
Washington, February 9, 1914.

MY DEAR MR. FLOOD: I am advised that you introduced into the House on the 5th instant a bill to carry into effect the treaty between the United States and Great Britain of April 11, 1908, for the preservation of food fishes in the waters contiguous to the United States and Canada. The matter is very urgent, as only a brief time remains in which to adopt the legislation necessary to carry the treaty into effect. I therefore hope that early hearings may be held on the bill in order to hasten the bringing of it before the House for passage.

Very sincerely, yours,

W. J. BRYAN.

HON. HENRY D. FLOOD,
House of Representatives.

Now, Dr. Smith, Commissioner of Fisheries, is here to explain the bill, and we will be glad to hear from him now.

STATEMENT OF DR. H. M. SMITH, COMMISSIONER OF FISHERIES.

Dr. SMITH. I have been brought into this at the eleventh hour, Mr. Chairman, for the purpose of trying to save this treaty, which we regard as of very great importance to the fishery interests, along the whole northern boundary of the United States. These fisheries are worth on our side perhaps \$30,000,000 annually and on the Canadian side nearly as much. This treaty was negotiated and ratified in 1908, and under it commissioners were appointed on behalf of the United States and Canada for the purpose of investigating conditions in the boundary waters and deciding on a uniform and common system of fishery regulation. The commissioners made their report with regulations attached, and this report with the regulations was transmitted to the Congress of the United States in 1910 and to the Canadian Parliament in the same year. The Canadian Parliament immediately adopted the regulations. In 1911, one year after, the matter came up in the Senate and a bill was passed accepting the regulations as stated in the Senate bills, but with the two most important fishing regions along our whole border entirely stricken out, namely, Puget Sound and a large part of the Great Lakes.

The CHAIRMAN. Have you a copy of that treaty with you, the treaty of 1908?

Dr. SMITH. No; I have no copy of it with me.

The CHAIRMAN. I incorporate it in the hearings at this point:

TREATY CONCERNING FISHERIES IN UNITED STATES AND CANADIAN WATERS.

Concluded Apr. 11, 1908; ratification advised by the Senate Apr. 17, 1908; ratified by the President May 11, 1908; ratifications exchanged June 4, 1908; proclaimed July 1, 1908.]

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British dominions beyond the seas, King, and Emperor of India, equally recognizing the desirability of uniform and effective measures for the protection, preservation, and propagation of the food fishes in the waters contiguous to the United States and the Dominion of Canada, have resolved to conclude a convention for these purposes, and have named as their plenipotentiaries:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

His Britannic Majesty, the Right Hon. James Bryce, O. M., His Majesty's ambassador extraordinary and plenipotentiary at Washington;

Who, having exchanged their full powers, found in due form, have agreed to and signed the following articles:

ARTICLE I.

The times, season, and methods of fishing in the waters contiguous to the United States and Canada as specified in Article IV of this convention, and the nets, engines, gear apparatus, and appliances which may be used therein shall be fixed and determined by uniform and common international regulations, restrictions, and provisions; and to that end the high contracting parties agree to appoint, within three months after this convention is proclaimed, a commission to be known as the International Fisheries Commission, consisting of one person named by each Government.

ARTICLE II.

It shall be the duty of this International Fisheries Commission, within six months after being named, to prepare a system of uniform and common international regulations for the protection and preservation of the food fishes in each of the waters prescribed in Article IV of this convention, which regulations shall embrace close seasons, limitations as to the character, size, and manner of use of nets, engines, gear, apparatus, and other appliances; a uniform system of registry by each Government in waters where required for the more convenient regulation of commercial fishing by its own citizens or subjects within its own territorial waters or any part of such waters; an arrangement for concurrent measures for the propagation of fish; and such other provisions and measures as the commission shall deem necessary.

ARTICLE III.

The two Governments engage to put into operation and to enforce by legislation and executive action, with as little delay as possible, the regulations, restrictions, and provisions with appropriate penalties for all breaches thereof; and the date when they shall be put into operation shall be fixed by the concurrent proclamations of the President of the United States and the Governor General of the Dominion of Canada in council.

And it is further agreed that jurisdiction shall be exercised by either Government, as well over citizens or subjects of either party apprehended for violation of the regulations in any of its own waters to which said regulations apply, as over its own citizens or subjects found within its own jurisdiction who shall have violated said regulations within the waters of the other party.

ARTICLE IV.

It is agreed that the waters within which the aforementioned regulations are to be applied shall be as follows: (1) The territorial waters of the Passamaquoddy Bay; (2) the St. John and St. Croix Rivers; (3) Lake Memphremagog; (4) Lake Champlain; (5) the St. Lawrence River, where the said river constitutes the international boundary; (6) Lake Ontario; (7) the Niagara River; (8) Lake Erie; (9) the waters connecting Lake Erie and Lake Huron, including Lake St. Clair; (10) Lake Huron, excluding Georgian Bay but including North Channel; (11) St. Marys River and Lake Superior; (12) Rainy River and Rainy Lake; (13) Lake of the Woods; (14) the Strait of San Juan de Fuca, those parts of Washington Sound, the Gulf of Georgia, and Puget Sound lying between the parallels of $48^{\circ} 10'$ and $49^{\circ} 20'$; (15) and such other contiguous waters as may be recommended by the International Fisheries Commission and approved by the two Governments. It is agreed on the part of Great Britain that the Canadian Government will protect by adequate regulations the food fishes frequenting the Fraser River.

The two Governments engaged to have prepared as soon as practicable charts of the waters described in this article, with the international boundary line indicated thereon; and to establish such additional boundary monuments, buoys, and marks as may be recommended by the commission.

ARTICLE V.

The International Fisheries Commission shall continue in existence so long as this convention shall be in force, and each Government shall have the power to fill, and shall fill from time to time, any vacancy which may occur in its representation on the commission. Each Government shall pay its own commissioner, and any joint expenses shall be paid by the two Governments in equal moieties.

ARTICLE VI.

The regulations, restrictions, and provisions provided for in this convention shall remain in force for a period of four years from the date of their executive promulgation, and thereafter until one year from the date when either the Government of the United States or of Great Britain shall give notice to the other of its desire for their revision, and immediately upon such notice being given the commission shall proceed to make a revision thereof, which revised regulations, if adopted and promulgated by the President of the United States and the Governor General of Canada in council, shall remain in force for another period of four years and thereafter until

one year from the date when a further notice of revision is given as above provided in this article. It shall, however, be in the power of the two Governments, by joint or concurrent action upon the recommendation of the commission, to make modifications at any time in the regulations.

ARTICLE VII.

The present convention shall be duly ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof the respective plenipotentiaries have signed the present convention in duplicate, and have hereunto affixed their seals.

Done at Washington the 11th day of April, in the year of our Lord 1908.

ELIHU ROOT. [SEAL.]
JAMES BRYCE. [SEAL.]

Dr. SMITH. The matter appears to have been dropped at that point, and so far as I am aware no further consideration of the treaty or the regulations made under the treaty have been given in Congress. The British Government—or the Canadian Government—have repeatedly brought the matter to the attention of our State Department—at least I am so informed—and a few months ago the British ambassador communicated with our State Department and notified us that Canada was getting very anxious in regard to these regulations, and Great Britain would be inclined to withdraw from the treaty and let the treaty lapse unless our Government did something, and March 1 was named as the date when Canada would take this action.

The CHAIRMAN. Well, Dr. Smith, the situation here is that if the committee decides to report this bill it can not be taken up in the House before Monday, and if the House passed it, it will be on the 2d of March. Do you think that will be early enough?

Mr. HARRISON. You mean, under unanimous consent?

The CHAIRMAN. Suspension of the rules. The Speaker has agreed to recognize me for this purpose if the committee reports the bill.

Dr. SMITH. I have understood from Mr. Moore, of the State Department, that he has communicated with the ambassador, and has notified him that the matter is under way, and I am inclined to believe that any reasonable extension of time would be granted by the British Government.

Mr. TOWNSEND. This will practically carry into effect the provisions of the law which you have advocated before; it places under Federal control for the first time in the history of the country fisheries which have heretofore been administered by the States. The ground for it is that these are international waters and that the States are unable to treat with the Canadian Provinces or any alien government on the other side of the boundary.

The CHAIRMAN. I notice that this bill carries an appropriation of \$30,000—it authorizes the appropriation of \$30,000 for this work.

Dr. SMITH. That is a mere estimate and is about one-sixth of the amount carried by the bill when it was presented to the Senate in 1910.

The CHAIRMAN. What I was going to ask you is this: The Diplomatic and Consular appropriation bill carries \$2,000 for International Fisheries Commission. If this bill becomes a law, you would not need that appropriation, would you?

Dr. SMITH. I know nothing about the \$2,000 appropriation in the Diplomatic and Consular bill, but I judge that that was put in to cover miscellaneous expenses in connection with the investigations, and if

this bill passes and the amount carried by it is appropriated there will be no other appropriation necessary.

The CHAIRMAN. Is there any opposition to this bill from the States in which these international waters are located?

Dr. SMITH. There was considerable opposition to the bill as originally presented to the Senate. The opposition was localized, however, in Puget Sound and in Saginaw Bay on Lake Huron. The basis for the opposition was the belief that—in Puget Sound—the American interests have not been properly safeguarded, and that the investigation has not been conducted with reference to the American industries.

In Saginaw it was a comparatively trivial opposition, based on the provision of the regulations in regard to size of mesh, which the fishing interests said was too large to permit the capture of the fish, the peculiar kind of white fish of Lake Huron that are found in Saginaw Bay.

The CHAIRMAN. Were such changes made as would remedy the objections of the Puget Sound people?

Dr. SMITH. No changes have been made in the regulations whatever. The Canadian Government has ratified these regulations and the point that is insisted on now is that we must do likewise or else throw the whole business open again. But there is a provision in this bill for an immediate investigation of the fisheries along the whole border and a report to Congress at this next session, which shall embody any necessary modifications of the regulations.

The CHAIRMAN. That satisfies the Puget Sound people, does it?

Dr. SMITH. I have been in conference with a large number of people from Puget Sound who were strongly opposing this bill a few years ago, and with the exception of possibly one organization the people there seem willing for this bill or a similar bill to pass, with the understanding that the commissioners of the two sides will investigate and determine what the present conditions are and draw new regulations in accordance with present-day conditions. I may say that in my opinion many of these regulations are unsatisfactory and obsolete.

The CHAIRMAN. And will be changed?

Dr. SMITH. They will be changed.

Mr. TOWNSEND. Is there not a provision against changing them contained in the bill itself?

The CHAIRMAN. No; there is a provision for changing them, and that satisfies a large majority of the Puget Sound people who objected to the regulations originally.

Dr. SMITH. So I have been informed.

Mr. HARRISON. Do they claim that it is a matter of State jurisdiction over these waters?

Dr. SMITH. That was one of their claims a few years ago when they were opposing the passage of a similar bill in the Senate.

Mr. HARRISON. This applies merely to fish in boundary waters?

Dr. SMITH. Absolutely.

Mr. HARRISON. And no other waters?

Dr. SMITH. Yes. We are dealing with the Canadian Government on one side and the States are entirely unable to cope with the situation. They have been trying to do so for many years.

Mr. HARRISON. Why are they unable to cope with the situation?

Dr. SMITH. Because no regulations which they may decide on between themselves, or between themselves on one side and the Canadian Government on the other, or between one State on one side and the Canadian Government on the other, have any binding effect. There have been tentative agreements between the State of Washington and British Columbia, and those agreements entered into as solemnly as such things can be were violated within one week on the Washington side.

Mr. HARRISON. Are they powerless to enforce the law, or are they powerless to make any laws?

Mr. TOWNSEND. They are powerless to agree upon anything.

Dr. SMITH. They are powerless to enter into any agreement that will hold them.

Mr. TOWNSEND. That very same question was discussed in another bill, upon which Dr. Smith gave testimony here. Virginia and Maryland have been trying for 100 years to get to some agreement and have not done so yet, because the two States make different regulations, and there is no way of harmonizing them.

Mr. AINEY. Is that because they can not agree, or because they have not been able to enforce the agreement?

Mr. TOWNSEND. Because they can not agree.

Mr. HARRISON. The same thing exists in my State in respect to oysters. They could not agree on the boundaries and they have had a big lawsuit about it.

The CHAIRMAN. Has the Federal Government ever exercised jurisdiction in these waters before?

Dr. SMITH. No, sir.

The CHAIRMAN. It will be the first law giving the Federal Government jurisdiction of the fish in these waters?

Dr. SMITH. So I understand. Now, while the situation is critical in Puget Sound, it is much more so in the Lake regions where there are four States on one side and the Canadian Government on the other exercising jurisdiction over some of the water.

Mr. C. B. SMITH. We have a condition up there where if the fishermen pass beyond a certain point they are in danger of being fired on by a Canadian gunboat. The Canadian Government keeps a gunboat there to protect its fishing grounds.

Dr. SMITH. In view of the international aspects, which have been carefully gone into, I believe the Government is safe in going ahead.

Mr. HARRISON. May I ask if Mr. Moore gave an opinion favorable to this legislation?

Dr. SMITH. John Bassett Moore is exceedingly anxious for the ratification. I have been in conference with him repeatedly for a number of months.

The CHAIRMAN. Have you got the opinion of any Attorney General who has investigated this question?

Dr. SMITH. No; I have not.

The CHAIRMAN. Do you know where we could get that?

Dr. SMITH. This treaty was negotiated when Mr. Root was Secretary of State.

The CHAIRMAN. I suppose we could get it at the State Department. The State Department, as I understand it, called on the Attorney General for an opinion about it?

Dr. SMITH. That is my understanding.

I would like to say, Mr. Chairman, that the most important fish in all the Great Lakes is the white fish, and a white fish swimming in the Lakes comes under seven different jurisdictions. There is absolute lack of any protection that is worth while for these white fish in Lake Erie and other waters, and the catch of white fish in Lake Erie has decreased 80 per cent, and in Lake Ontario over 90 per cent—I think it is 98 per cent.

Mr. WALKER. In how long?

Dr. SMITH. In about 15 years.

The CHAIRMAN. What is the situation with reference to Saginaw Bay now, with regard to the opposition?

Dr. SMITH. Saginaw Bay, according to a uniform agreement which we have had with the Canadian commissioner, will be entirely eliminated from the operation of this treaty owing to local objection and to the fact that Saginaw Bay is not strictly a boundary water.

The CHAIRMAN. That will be satisfactory to the Canadian Government?

Dr. SMITH. Entirely so. I have assurances in letters and telegrams that it will be entirely satisfactory.

— Mr. HARRISON. Now, these regulations, attached to this bill, would be really a part of the law if passed—are they along the same lines with respect to the tentative understanding between the various States and those Provinces in Canada, or is there much difference between these rules and the regulations that the States have tried to put in force?

Dr. SMITH. The laws of the different States were adopted by the internal commissioners, and are incorporated in this section. There is no radical departure from existing legislation on behalf of the States. In some cases the States were unable to act, but as far as they do, these regulations have really been strongly indorsed by the States. I have letters from the proper officials of all the boundary States, with perhaps one exception, strongly advocating this bill, or a similar bill that will give effect to the treaty.

Mr. HARRISON. Is there much opposition from parties fishing in these waters to this legislation?

Dr. SMITH. No more than there would be on the part of interests affected by legislation generally. There is always some opposition on the part of the fishermen to any kind of legislation, but I am not advised that it is particularly strong in these waters.

Mr. HARRISON. Are some of the fishermen in favor of the legislation?

Dr. SMITH. I think that the vast majority of independent fishermen, who have large interests at stake, would like to see something of this kind done.

The CHAIRMAN. Have you anything else to say on this subject?

Dr. SMITH. I have nothing else to say, but will be very glad to answer any questions, so far as I am able to do so.

Mr. AINEY. I would like to ask one question. In reference to the difficulty of enforcing the law in the waters between Washington and British Columbia, is it because of jurisdiction being brought into the question or because of failure to make an agreement between them?

Dr. SMITH. There was an agreement between the fishermen on the Canadian side and the fishermen on the Washington side with regard to the closed season and the use of certain kinds of apparatus.

Mr. AINEY. But that was never attempted to be worked into law? I am not at all familiar with the matter and am merely trying to develop the facts. Was there any such law attempted to be passed by the State of Washington?

Dr. SMITH. Covering this particular point, you mean?

Mr. AINEY. Yes.

Dr. SMITH. I could not say about that. I am reasonably familiar with the fisheries along those boundaries, but I have not been in those regions for some years and some of those details have escaped me.

Mr. HARRISON. This bill does not create a commission, does it?

Dr. SMITH. It creates a commission, of which I am the American head, serving without pay.

Mr. HARRISON. The members of the commission will not receive any pay?

Dr. SMITH. There is no salary passed on our side, but you will observe that provision is made for the creation of a division of international fisheries in the Bureau of Fisheries.

Mr. HARRISON. Where is that in the bill?

Dr. SMITH. Page 3, section 3, beginning with line 22.

Mr. TOWNSEND. Which bill is that?

The CHAIRMAN. H. R. 13005 is the bill.

Dr. SMITH. Up to this time the commissioners have been salaried.

The CHAIRMAN. You succeeded Dr. Jordan as commissioner on the part of the United States, did you not?

Dr. SMITH. I succeeded Joe Hedges. He succeeded Dr. Jordan.

Mr. TOWNSEND. This division provided for in this bill is merely to facilitate the work of the Bureau of Fisheries?

Dr. SMITH. The treaty provides for the administration of any regulations made under the treaty by the Bureau of Fisheries, and this section in the pending bill is to organize a division to look after this.

Mr. TOWNSEND. Page 3 of the Flood bill, lines 21 and 23. I see you have \$30,000 appropriated here on page 4.

Dr. SMITH. That amount suggested in the bill is absolutely an estimate, you know.

The CHAIRMAN. Line 22, page 3, of the bill creates the division of international fisheries in the Bureau of Fisheries.

Mr. HARRISON. Have we not been carrying an appropriation in the appropriation bill for a commission of fisheries?

The CHAIRMAN. We did up to last year. We did not carry it last year, and they have asked it again this year. That was the \$2,000 for the commissioners, the position that I asked Dr. Smith about just now. That was the position held by Joe Hedges up in New York, and formerly held by Dr. David Starr Jordan, and which the Commissioner of Fisheries now is holding.

Dr. SMITH. These regulations which were drawn up as long ago as 1909 and 1910 are no longer applicable to certain fishes in certain sections, and it is the expectation that a very thorough revision will be necessary, and it is our plan to report at the next session of Congress a new set of regulations for adoption. These regulations will meet present-day conditions and will be decided upon only after very full conference with all the interests represented.

Mr. HARRISON. Has Canada passed a law like this already?

Dr. SMITH. They passed a law in 1910.

Mr. HARRISON. Exactly like this?

Dr. SMITH. They adopted every one of these regulations as originally proposed by the commission appointed for the purpose.

Mr. HARRISON. Are their penalties for violations about the same as in this bill?

Dr. SMITH. The body of this bill is about the same as the Canadian law. Canada has adopted that schedule, which has been made a part of the bill.

Mr. HARRISON. You have pretty drastic penalties attached in this bill. Are they about as drastic as those in Canada?

Dr. SMITH. I believe they are less so.

Mr. HARRISON. Less drastic?

Dr. SMITH. Yes. I may say this, Mr. Chairman, that the provisions of the bill proper are subject to any modifications that the committee may deem proper. These introductory sections do not affect the treaty or the regulations.

The CHAIRMAN. This appropriation of \$30,000 will pay the expenses of reexamining into this schedule and making such changes as you propose to make, and also the expense of the division of international fisheries of the Bureau of Fisheries and the compensation of wardens, deputy wardens, inspectors and so forth, I presume, for the six months beginning January 1, 1915, and running to July 1, 1915?

Dr. SMITH. Yes, sir.

The CHAIRMAN. Then, of course, afterwards there will have to be an annual appropriation to maintain that division in the Bureau of Fisheries, to pay the expenses of wardens, inspectors, and so forth?

Dr. SMITH. It would be easily possible to make this service self-supporting if Congress so desired, by the adoption of a like system, under which all fishermen and all fishing apparatus within these boundary waters should be licensed and pay a small fee.

Mr. TOWNSEND. As they do now in several of the States.

Dr. SMITH. In nearly all the States. This might interfere with the revenues of some of the States—their revenues from the fishing industry—and I do not suggest it or advocate it, but I merely mention it for your consideration.

Mr. FAIRCHILD. What is your personal opinion as to the desirability of such a thing?

Dr. SMITH. It would run counter to the interests of some of the States which are now deriving quite a revenue from fisheries which are probably taxed now as much as they should be. There are taxes of several hundreds of dollars per annum on certain kinds of apparatus and minor taxing on other apparatus all the way down the line. It would be entirely proper, however, constitutionally, to impose a light tax on the fisheries in these international waters. I think, however, that the good to the whole country from the regulation of these fisheries will vastly outweigh any little revenue that we might obtain from licensing them.

The CHAIRMAN. Your opinion of this schedule is that it will have to be changed in a good many particulars?

Dr. SMITH. It is quite unsatisfactory to me and also to the Canadians.

The CHAIRMAN. You will proceed within the next year to agree upon the changes?

Dr. SMITH. Within the present year.

Mr. HARRISON. Who was the person who made these schedules?

Dr. SMITH. David Starr Jordan, commissioner on behalf of the United States, and Prof. Prince, the Canadian commissioner of fisheries, on behalf of the Canadian Government.

Mr. AINEY. Should this bill be adopted, it might make it difficult for you to rearrange your schedule until after you were authorized by further legislation by Congress.

Mr. TOWNSEND. It does not take until 1915.

Mr. HARRISON. This goes right to the point. The commissioner can not make a report at once, and if we should not adopt it now and wait for a revised schedule, it would be several years before anything would happen, and Canada has been waiting four years now.

Dr. SMITH. Yes.

Mr. TOWNSEND. And there is some danger that Canada would revoke the agreement.

Dr. SMITH. I am satisfied, from talk I have had with the Canadian minister, and the former minister of marine and fisheries, that unless we do something promptly, this treaty will be allowed to lapse.

The CHAIRMAN. I read a letter from the President which goes into that subject, Mr. Townsend.

Mr. TOWNSEND. Oh, I guess that was before I came in.

Dr. SMITH. These regulations, once agreed upon, must be adopted in toto. Personally I would prefer to have Congress approve any regulations that are drawn up. This is a very large and important subject; we are assuming jurisdiction for the first time in a matter that has heretofore concerned the State alone.

The CHAIRMAN. You mean, that you would like to have Congress go into the details of this schedule?

Dr. SMITH. I would like Congress to retain the powers to approve any regulations that are made.

The CHAIRMAN. To approve or disapprove the entire schedule?

Dr. SMITH. Yes, sir.

The CHAIRMAN. Do you think it would be wise for Congress to undertake to legislate in detail on these various items?

Dr. SMITH. I hardly see how it could be possible for Congress to inform itself in regard to the details of these regulations.

Mr. STEENERSON. Have you had any correspondence with any fishermen in the Lake of the Woods district?

Dr. SMITH. Not lately. Personally, I have not had any correspondence with them at all, but I know of correspondence that has come to the bureau.

Mr. STEENERSON. Do you know whether they are opposed to these regulations?

Dr. SMITH. There was a very remarkable petition against these regulations from fishermen on the Lake of the Woods.

Mr. STEENERSON. To your office?

Dr. SMITH. It came to our office—perhaps not addressed to us officially, but to members of our staff who had been cooperating with the International Fisheries Commission in the investigation of fisheries along the boundaries. They made the claim that there was no necessity for regulation of fisheries in the Lake of the Woods, as the supply had been maintained. As a matter of fact, the supply has dropped off 90 per cent in the case of some species, like sturgeon, one of the most valuable fishes there. Sturgeon have been practically

wiped out in the Lake of the Woods through the lack of any protection.

Mr. STEENERSON. I notice you provide a five-year closed season in the Lake of the Woods.

Dr. SMITH. The sturgeon is doomed in all these boundary waters unless some radical action is taken.

Mr. STEENERSON. Are you familiar with the hearings that were held on the Lake of the Woods fisheries some years ago?

Dr. SMITH. No, sir.

Mr. STEENERSON. This matter was very extensively discussed there, and I believe it was shown that the sturgeon, of all other fish, that he was a spawn eater and went around and consumed all the spawn of the white fish, pike, and trout, and that since the sturgeon decreased the other food fish had immensely increased. It is a matter that I know personally, that the food fishes in the Lake of the Woods have greatly increased in the last few years and those were the sentiments of persons from Chicago, St. Paul, and Minneapolis, that the pike and trout and white fish had increased as the sturgeon decreased.

Dr. SMITH. Well, the most valuable fish in any of these international waters is the sturgeon, and they were always very abundant until the fishermen went after them without regard to the preservation of the supply.

Mr. STEENERSON. Well, I have been familiar—in fact, I was interested in fisheries in Lake of the Woods many years ago, when sturgeon was supposed to be plentiful, and it was then only about 5 or 10 per cent of the total catch. Of course, it is valuable on account of the caviar. Caviar sold then for 65 cents, and it is now \$2 a pound.

Dr. SMITH. Almost any kind of sturgeon caught in our large rivers and lakes will bring a fisherman \$100 apiece, and sometimes much more.

Mr. STEENERSON. How big a sturgeon would that be? How old would such a sturgeon as that be?

Dr. SMITH. Well, the sturgeon is a fish of very slow growth.

Mr. STEENERSON. He would be at least 100 years old to be such a size as that, would he not?

Dr. SMITH. I should not think he would be as old as that.

Mr. STEENERSON. That is what they claim up there.

Dr. SMITH. A closed term of 5 years would be absolutely insignificant on sturgeon.

Mr. STEENERSON. A 5 years' closed season on sturgeon would be absolutely insignificant?

Dr. SMITH. Yes. The State of Virginia has put in a 10-year closed season on sturgeon.

Mr. STEENERSON. You are not familiar with the discussion of this sturgeon question in the Lake of the Woods?

Dr. SMITH. No, sir.

Mr. STEENERSON. Has your office got the record of that hearing, Doctor?

Dr. SMITH. I believe the papers are in the custody of the bureau now, but I have not been over them.

Mr. TOWNSEND. Those hearings were not held at your instigation— at the instigation of the Bureau of Fisheries?

Dr. SMITH. No; they were under the State Department.

Mr. STEENERSON. Do you know whether or not the regulations in regard to the Lake of the Woods, as to the nets and size of mesh, and all that, corresponds with the laws of Minnesota?

Dr. SMITH. They correspond very closely with the laws of Minnesota and the Canadian laws along the same body of water. I have been in rather active correspondence with the fishing interests along the border for the last two or three months and have heard something in the way of complaints from the Lake of the Woods.

Mr. STEENERSON. I do not think they know about the pendency of the bill up there, or I think we would have heard something about the closed season for sturgeon.

Dr. SMITH. It may be that they will indorse the view that the sturgeon is a very destructive fish, but it has been regarded as very harmless.

Mr. STEENERSON. Harmless, except for consuming the spawn of other fishes.

Dr. SMITH. But all fishes consume the spawn of other fish, and the pike, which you mention as being injured by the sturgeon, is one of the most destructive of all fishes.

Mr. STEENERSON. Yes; but the sturgeon is equipped better for that work than any other fish.

Dr. SMITH. On account of his size?

Mr. STEENERSON. On account of having the mouth under its head.

Dr. SMITH. All of these waters abound in suckers, which have that habit of spawn eating very largely.

Mr. STEENERSON. He is better equipped than the sucker, because he has his mouth right under his head, and he can take up spawn anywhere. I was anxious to know whether they had made any protest on that question of closed season.

Dr. SMITH. I have heard nothing whatever from the Lake of the Woods.

Mr. STEENERSON. I sent this bill up there three or four days ago, but I have not had time to hear from it.

The CHAIRMAN. We have heard from people as far away as Puget Sound since the bill was introduced.

Mr. STEENERSON. I did not know that the bill had been introduced until recently. Mr. Fordney told me about it, and I immediately sent it up there for information. All this matter was discussed four or five years ago, was it, Doctor?

Dr. SMITH. Beginning in 1908.

Mr. STEENERSON. When the first bill was introduced?

Dr. SMITH. As soon as the treaty was ratified.

Mr. STEENERSON. I believe that is all I care to ask.

STATEMENT OF HON. JOSEPH W. FORDNEY, A REPRESENTATIVE IN CONGRESS FROM THE EIGHTH DISTRICT OF MICHIGAN.

The CHAIRMAN. Mr. Fordney, would you like to be heard?

Mr. FORDNEY. Yes, just a few minutes, if you please. I will be brief in what I have to say to-day.

Four years ago this bill was before the committee in the Senate—my recollection is it was the Committee on Commerce at that time. The then Commissioner of Fisheries, Mr. Bowers, was opposed to any change in the regulations of the size of the mesh of the nets, etc.,

and Senator Lodge took a prominent part in the matter at that time and insisted that the treaty should not be ratified until those changes were made. Consequently it has lain just that way ever since, and I only learned last week that the matter had been brought up again.

Now, the way we had to fix the thing on Lake Huron is this: We have a State law, over which we have had a great deal of controversy and argument, because this is a matter of very important legislation in our State, and finally we have agreed upon regulations for fishing in waters, lakes, and rivers there, which are very satisfactory to everybody, and we would like to have those regulations retained so far as we can, especially with reference to certain of the Lake Huron waters. When this matter was up in the Senate four years ago, the fishermen came down here with samples of herring and various kinds of fish caught in the waters of Lake Huron, and they showed conclusively, from the net and size of mesh provided for in these regulations, that the oldest fish of the special family of fish would go through that net head first or tail first without touching it at all, showing that those regulations would absolutely destroy fishing on Lake Huron and on Saginaw Bay. At that time it was suggested that they be so changed that they would not include the waters from Sand Beach, above Port Huron, up to and including Thunder Bay. If you will notice, the waters of Georgian Bay are excluded from the provisions of this bill. Now, Georgian Bay is just as much in the waters of Lake Huron as Saginaw Bay is or Thunder Bay. It only excludes a portion of Georgian Bay, not all of it.

Mr. TOWNSEND. What is that North Channel spoken of, here?

Mr. FORDNEY. That is the St. Marys River to Lake Superior. It is a portion of the St. Marys River called the North Channel, between Lake Huron and Lake Superior. It does not cut so much figure there, but the fishing on Saginaw Bay is a very important industry, especially as to herring.

The CHAIRMAN. You understand that the commissioners on the part of both Governments have agreed to exclude Saginaw Bay?

Mr. FORDNEY. Yes; and I want to say that wherever "Georgian Bay" appears you should put in "Saginaw Bay." But I believe that the regulations under our State law should prevail from Sand Beach up to and including Thunder Bay. I am more particularly interested in Saginaw Bay.

Mr. TOWNSEND. What is the distance between Saginaw Bay and Thunder Bay?

Mr. FORDNEY. There is a space between Saginaw Bay and Thunder Bay of 50 miles.

Mr. TOWNSEND. Toward the Port Huron side?

Mr. FORDNEY. No; the other way.

Mr. TOWNSEND. Toward Mackinac?

Mr. FORDNEY. Yes.

Mr. TOWNSEND. Where do you get Mackinac in there?

Mr. FORDNEY. Under this further provision for trout. The Mackinac trout is really an overgrown specimen of the speckled trout. The same sized mesh and net, and so on, prevails from Sand Beach on up there that prevails in Saginaw Bay, but if you exclude Saginaw Bay and still include in the regulations the same size mesh that you do elsewhere, you will destroy the fishing industry from Sand Beach to

Saginaw Bay. That matter was gone into very thoroughly by the fishermen before the committee at that time, and, as I say, they brought these fish here, and their nets, and turned them over to me, and I kept them at the hotel for quite a while.

Mr. HARRISON. The commissioners on the part of the United States and Great Britain have come together and formed a treaty. The object of this bill is to be put that treaty into effect. Now, what do you think about the proposition of either not reporting out the bill or changing these schedules in the bill? The Canadian Government has already passed a law putting into effect these particular regulations.

Mr. FORDNEY. They have had the law, but changed the regulations so that they do not destroy the fishing industry in these particular waters. If you pass this law with the regulations as written in here, and without excluding these waters, you have absolutely destroyed them.

Mr. HARRISON. If we should change these schedules, thereby changing the treaty, and pass the law with changed schedules with respect to that, and so forth, then you think the Canadian Government would come along and ratify their law, do you? You think that it would not have the effect of destroying the treaty entered into?

Mr. FORDNEY. Now, understand me—for instance, the herring at different points on the Great Lakes is of different sizes from those at other points. For instance, Lake Superior herring will be caught by the mesh provided for by these regulations, but in Saginaw water the herring are of a different size. They are the same fish, the same species, but they are a smaller fish, and they will go through the net backward and forward, although that same mesh will catch the Lake Superior herring and perhaps the Georgian Bay herring.

The CHAIRMAN. But the point is, will the Canadian Government feel that they are bound by a treaty which we have violated in not adopting the regulations agreed on by our joint commission?

Mr. FORDNEY. I think the Canadian Government will not make any objection—at least I see no reason why they should—to your excluding these waters that have different sizes of fish than are found anywhere else that those regulations will cover.

The CHAIRMAN. Could that not be done by the commission in their consideration of the changes which they are going to make between now and the next session of Congress.

Mr. FORDNEY. But suppose the Canadian Government should object to that? I think here is the place to do it. I think by all means here is the place to exclude these waters. They are not international waters at all.

Mr. HARRISON. You say these are not international waters?

Mr. FORDNEY. They are not international waters; of course not. I really believe it would be wise if you could make this exception. I am fully familiar with the territory from Sand Beach up to Saginaw Bay and from Saginaw Bay up to and including Thunder Bay. Fishing is carried on very extensively in these waters, and certainly they are the same kind of fish, they belong to the same family, but they are a smaller variety.

The CHAIRMAN. Which of these waters is adjacent to the district represented by Mr. Woodruff?

Mr. FORDNEY. Saginaw Bay, and Thunder Bay also.

The CHAIRMAN. He has introduced a bill practically the same as this bill except that he excludes Saginaw Bay.

Mr. FORDNEY. Yes. Thunder Bay is in his district; Sand Beach is not.

I do not think there would be any objection to the signing of the treaty excluding the waters of Saginaw Bay because there is no doubt about its not being international water. It is landlocked almost entirely.

Mr. HARRISON. In this schedule are there any other waters that are absolutely State waters included in here?

Mr. FORDNEY. I think not.

Mr. FAIRCHILD. I think Dr. Smith can throw a little light on this subject.

Dr. SMITH. There is a great deal in what Mr. Fordney says, and this subject ought to be made the basis of a special investigation. There is a great deal in the claims of these fishermen. I am satisfied that the fish which they catch in such large quantities in Saginaw Bay is a very small species that never attains any considerable size and could not be caught in the size of mesh prescribed here.

The CHAIRMAN. Well, if Saginaw Bay is excluded from the operation of the law it would not be effective.

Mr. FORDNEY. That will meet my objections. I would like to see the others included, but perhaps that can not be done, because those waters may be considered international waters, but Saginaw Bay is in off the main land and is divided by the Cherites Island right at the outer end of the bay.

Dr. SMITH. It is a rather interesting commentary on the claims of the fishermen, that they are catching these small herring and putting them on the market as whitefish. If they are whitefish, then they are undersize and are sold in violation of State laws. We have had occasion to examine a great many of these fish coming out of Saginaw Bay, and have placed the matter before the Food and Drugs Board. The fishermen are willing to catch them as herring, but they want to sell them as whitefish.

Mr. FORDNEY. Yes; the fishermen admitted that, because the whitefish is the most delicious that grows, excepting the speckled trout, and by labeling them "whitefish" they could get a better price for them. Now, they catch suckers in the Saginaw Bay waters and in the inlets and bays, and those fish are all sold for trout. There are two kinds of suckers in our waters, one is the mud sucker and the other is not, and the flesh of the fish that is not the so-called mud sucker is as white as the meat of a whitefish. They resemble very much the flesh of the red snapper.

Mr. DIFENDERFER. The bones are tied up in bundles?

Mr. FORDNEY. Yes. They sell them in carloads, but they sell them under the name of other fishes. All I want excluded there is Saginaw Bay.

Now, Mr. Webb, representing the firm of Winston, Payne & Shaw, of Chicago, is here. They represent very large fishing interests, the Booth interests, and they wanted to be heard.

The CHAIRMAN. Are they here?

Mr. FORDNEY. No; they are in Chicago.

The CHAIRMAN. The bill is going to be acted on one way or the other to-day. We must act on it to-day because our time is so limited.

Mr. HARRISON. Do you know what their objection is?

Mr. FORDNEY. I do not know anything about that except that they are very strongly opposed to it. I have received a telegram from them about it. They have extensive fisheries in the Great Lakes.

Mr. AINEY. They might be permitted to file a brief.

Mr. TOWNSEND. We must get this bill out to-day if we get it out in time to keep faith with Canada, must we not, Mr. Chairman?

The CHAIRMAN. Yes, we have to do whatever we are going to do to-day.

Mr. FORDNEY. Here is a telegram from one of the largest concerns in Saginaw Bay, which I would like to read to you [reading:]

Wherever the words "Georgian Bay" appear in the bill they should be followed or preceded by the words "Saginaw Bay." Both Saginaw Bay and Georgian Bay should be exempt from the bill. This is very important.

I will leave the telegram with you.

Mr. WEBB. Of course, if you have got to report this bill right away, there is no help for it, but I fear that people like these are going to be very much opposed to this closed season for sturgeon.

Mr. STEENERSON. That was gone over in the hearings, and I think we had the facts to show that it was not necessary to have a closed season for sturgeon. I have sent this bill up there, but I have not yet received any information. There has not been time yet, but if it were possible to postpone the consideration of this bill for two or three days I may have the information.

The CHAIRMAN. I wish it were possible to postpone it, but if we are going to act on it in accordance with the request of the British Government there will be no time left.

Mr. TOWNSEND. You will have time to appear before this commission on these regulations before they go into operation. It does not become effective until the 1st of January, 1915.

The CHAIRMAN. Yes; the commission is going to meet for the purpose of changing these regulations.

Mr. HARRISON. And report to the next session of Congress.

Mr. STEENERSON. I think the general scope of the bill is all right, but I think it is useless to tack a closed season on to sturgeon up there.

The CHAIRMAN. We will have to take up this other bill, because I understand there is going to be a roll call pretty soon—No. 13005.

Mr. TOWNSEND. I move that the bill be favorably reported. I have studied this question of the decreasing supply of food fishes a good deal, and the Commissioner of Fisheries has now an extensive program of education of the people, to give them an understanding of the value of saving their food fishes, and I think that this bill is along the line of the economic movement, and that we ought to report it out and let the Commissioner of Fisheries go ahead with this work.

The CHAIRMAN. Before that is done, we ought to amend it as to Saginaw Bay.

Mr. COOPER. I think we ought to have some understanding as to why they put out Saginaw Bay.

The CHAIRMAN. Because it is not an international water.

Mr. COOPER. Well, why did they include it?

The CHAIRMAN. There must have been some mistake about it. The commissioner has agreed that it should be excluded.

Mr. COOPER. I did not know that.

Mr. FAIRCHILD. The language of this bill is that these regulations shall apply to Lake Huron, excluding Georgian Bay. Georgian Bay was excluded because the Canadians agreed to it, and since Saginaw Bay has been mentioned, the Canadians are willing to exclude that also. Now, the bill that I have here is Mr. Woodruff's bill. I find that Mr. Woodruff has excluded Saginaw Bay at one place in the bill and not in the other. He has excluded it on page 5, the first page of the schedule, "excluding Saginaw Bay and Georgian Bay," and I move that it be also excluded on page 10, in the paragraph on the Great Lakes system, the last line but one of that paragraph, after the word "excluding" and before the word "Georgian," insert the words "Saginaw Bay and," between "excluding" and "Georgian."

Wherever "Georgian Bay" occurs in the bill also include "Saginaw Bay."

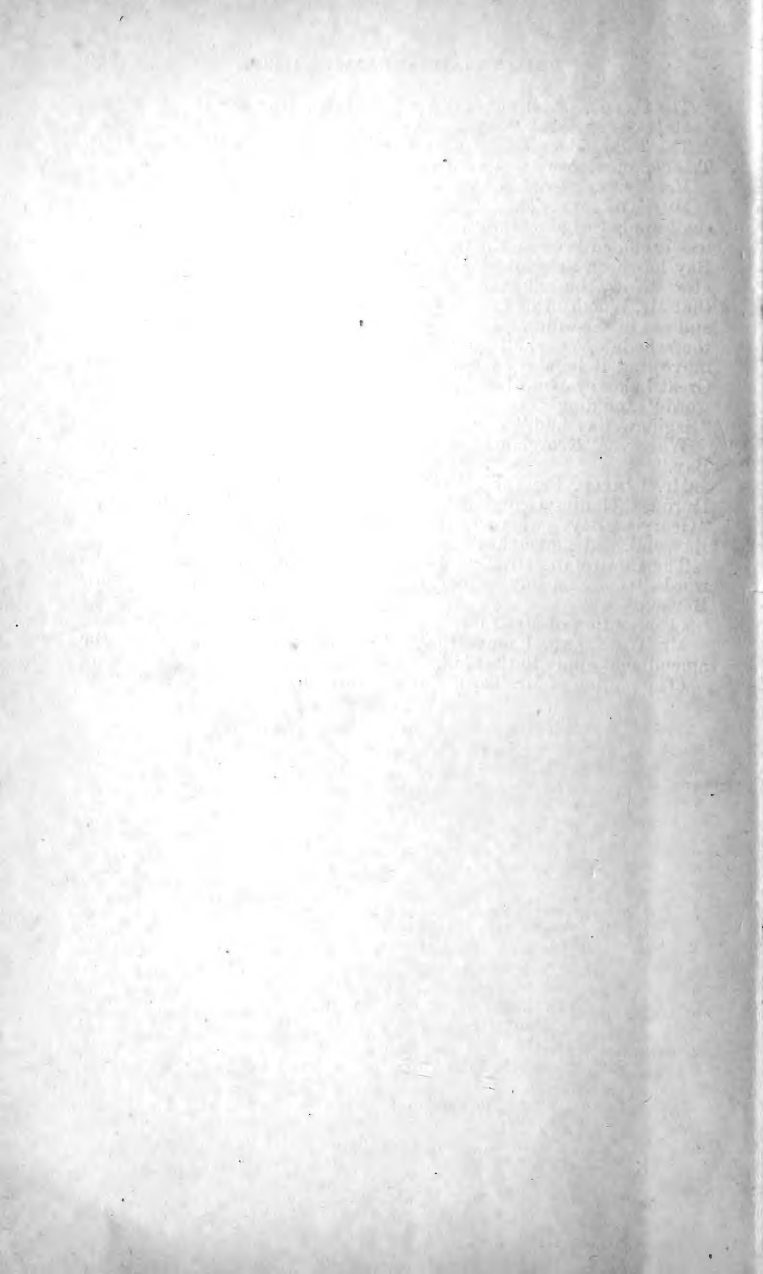
Mr. TEMPLE. Preceding "Georgian Bay" in that phrase, "Lake Huron, excluding Georgian Bay." Insert between "excluding" and "Georgian Bay," wherever that phrase occurs, the words "Saginaw Bay and." I move that those words be inserted in the bill.

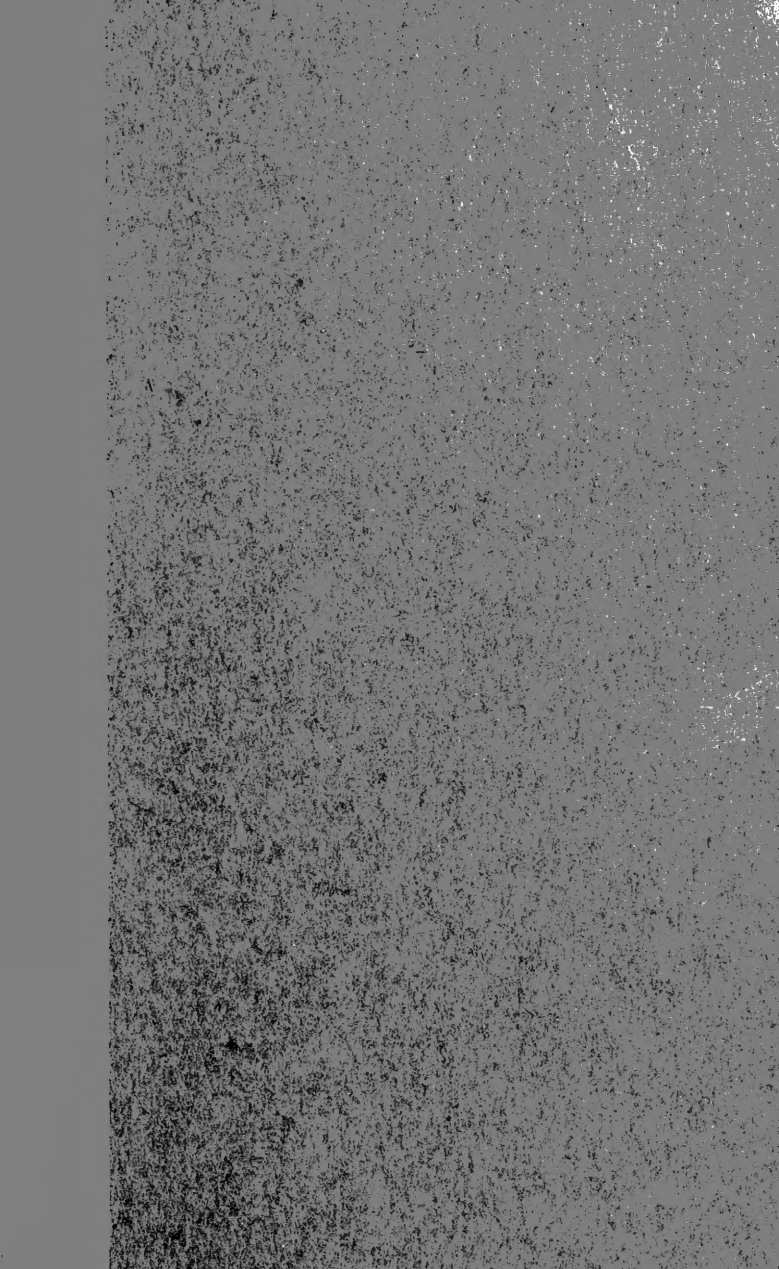
The CHAIRMAN. Mr. Temple moves that we insert, wherever the words "Georgian Bay" occur, just preceding it the words "Saginaw Bay and"

(The motion of Mr. Temple was carried.)

Mr. TOWNSEND. I move that we report the full bill, making the amendment apply to that bill.

(The motion of Mr. Townsend was carried.)





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