

AND YOUR MEMORIALISTS WILL EVER PRAY.

Passed by the House February 27, 1951.

Passed by the Senate March 13, 1951.

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### HOUSE JOINT MEMORIAL NO. 13

TO THE HONORABLE OSCAR CHAPMAN, SECRETARY OF THE INTERIOR; AND THE HONORABLE E. L. BARTLETT, DELEGATE FROM ALASKA TO CONGRESS:

Your Memorialist, the Legislature of the Territory of Alaska, in Twentieth Session assembled, respectfully represents:

WHEREAS, the fisheries of Alaska constitute the principal natural resource of the Territory, both with respect to employment and taxable income; and

WHEREAS, all persons, firms or corporations engaged in the business of commercial fishing are obliged to conform to regulations promulgated by the Secretary of the Interior who performs this duty by and through the medium of a bureau known as the Fish and Wildlife Service; and

WHEREAS, these regulations vitally affect the businesses and lives of more than 25,000 persons in Alaska, and a business that is vital to the First and Third Divisions of the Territory; and

WHEREAS, no person feeling himself aggrieved can appeal for redress to any authority except to the very Service responsible for the grievance with the result that the said Service never fails to sustain the wrongs complained of, all contrary to the spirit and tenor of our American institutions; and

WHEREAS, other departments of government having comparable powers of government with the Fish and Wildlife Service are required to conform to the Federal Administrative Procedure Act

(Title 5, Sec. 1001, 1011), which is an Act that requires public hearings wherein all interested parties have an opportunity to be heard, to hear and to cross-examine witnesses, to have the evidence adduced therein published, to promulgate only those regulations that can be sustained by such evidence; and

WHEREAS, Congress has required that every regulation of departments and bureaus coming under this Act must be justified and conform to the evidence adduced in the said public hearings and that if any interested party feels aggrieved by the conclusions of the said department or bureau, such person has the right to appeal to the Federal Courts for determination as in other cases, whereupon the said bureau must justify its regulations from the evidence adduced in the public hearings; and

WHEREAS, the said Fish and Wildlife Service is not bound by the Federal Administrative Procedure Act, and has never justified any of its regulations, even though many of its regulations cannot be justified on any theory of conservation of fish as may be easily proved by (1) the evidence of the total depletion of many of the very best salmon streams, (2) the partial depletion of others, (3) the closure of vast areas of fishing grounds to all forms of gear, but which in fact affects only movable gear, because the said Service allows the fish traps to continue to occupy strategic positions at the entrance to such closed areas, (4) that by failure to close the said traps, the said Fish and Wildlife Service has placed 100% of the burden of conservation on movable gear and placed no burden whatsoever on fish traps which are the form of gear that is preferred and almost entirely owned by the large special interests that control the canning industry, (5) that the said Service has instituted a system of conservation that is founded largely upon closed seasons with the result that (a) the valuable early runs of sockeye and pink salmon are depleted, (b) the industry is now catching the very runs of salmon which the said Service heretofore designated as seed fish by which it appears that the regulations are determined, and not by the needs of conservation, (6) even the reduction in fish traps from about 800 to about 400 by the said Service was not in the interest of conservation because (a) the closed areas comprise areas pre-empted by so-called "dummy-traps" which caught no fish in the first place, (b) the trap owners themselves nominated the traps that were closed by the said Service, and hence only unprofitable traps were closed; whereas the logic of conservation would direct the said Service to close the most productive fish traps; and that all of these allegations and more could be proved if hearings were held under the Federal Administrative Procedure Act.

NOW THEREFORE, Your Memorialist, the Legislature of the Territory of Alaska, prays that the Secretary of the Interior direct the Fish and Wildlife Service to conform to the provisions of the Federal Administrative Procedure Act to the end that the people of Alaska might have "their day in court"; and if an amendment to the said Act be necessary, that an order be issued that during the interim of such enactment by Congress the said Service conform to the practice outlined in the said Act.

AND YOUR MEMORIALIST WILL EVER PRAY.

Passed by the House, March 2, 1951.

Passed by the Senate March 13, 1951.

Approved by the Governor, March 16, 1951.

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