Alaska seal fishery lease. Letter from the Secretary of the Treasury, in relation to the leasing of the Alaska seal fishery.

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ALASKA SEAL FISHERY LEASE.

LETTER
FROM
THE SECRETARY OF THE TREASURY,
IN RELATION TO
The leasing of the Alaska seal fishery.

February 7, 1871.—Referred to the Committee on Commerce and ordered to be printed.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
February 7, 1871.

SIR: I have the honor to transmit copies of the various papers which seem to me to be important relative to the leasing of the Alaska seal fishery, including a copy of the lease made with the Alaska Commercial Company under the act of Congress entitled "An act to prevent the extermination of fur-bearing animals in Alaska," approved July 1, 1870.

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

Hon. JAMES G. BLAINE,
Speaker House of Representatives.

TREASURY DEPARTMENT, July 2, 1870.

SIR: Congress has recently passed an act entitled "An act to prevent the extermination of fur-bearing animals in Alaska." A copy of this act is found in Senate Document No. 32, commencing on page 7, being an amendment introduced in the House and concurred in by the Senate. The Alaska Commercial Company, a company doing business in the Northern Pacific seas, make an offer in conformity to the provisions of the bill for the exclusive right to the seal fishery at the islands of St. Paul and St. George, for the term of twenty years, as specified, proposing to pay the sum of $50,000 per annum, as required in clause five, and the additional revenue tax of two dollars upon each skin. They claim that it was understood by the committee reporting the bill, and by the two Houses of Congress, that their company was to have the preference over any other party, and that it is the duty of the Secretary of the Treasury, without delay and without public notice inviting proposals, to immediately enter into a contract with said company. Enter-
taining doubts as to what my duty is in the premises, I desire your opinion upon these points, viz:

First. Does the bill so designate the Alaska Commercial Company as to give them precedence or preference of any sort; and if so, what?

Secondly. Is it the duty of the Secretary of the Treasury to give public notice of the passage of the bill and of his authority under it, inviting proposals; or, in case such notice is not given, may he delay action until other parties, if any there be, shall have an opportunity to make proposals to the Department?

The bill was approved by the President on the first instant, and in view of the claim made by said company, an early answer to this communication is very much desired.

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

Hon. E. R. HOAR,
Attorney General.

DEPARTMENT OF JUSTICE,
Washington, July 6, 1870.

SIR: Your letter of the 2d instant, asking my opinion upon the construction of an act approved on the 1st instant, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," has been received. You say that you desire my opinion upon two points, viz:

First. Does the bill so designate the "Alaska Commercial Company" as to give them precedence or preference of any sort; and if so, what?

Second. Is it the duty of the Secretary of the Treasury to give public notice of the passage of the bill and of his authority under it, inviting proposals; or, in case such notice is not given, may he delay action until other parties, if any there be, shall have an opportunity to make proposals to the Department?

I have heard an extended argument from counsel representing the Alaska Commercial Company and other parties in interest, and they have also submitted to me a written argument addressed to you, which I return with the papers.

By the provisions of the act in question, you are required, immediately after its passage, to "lease, for the rental mentioned in section 6 of this act, to proper and responsible parties, to the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, the parties heretofore engaged in the trade, and the protection of the seal fisheries, for a term of twenty years from the 1st day of May, 1870, the right to engage in the business of taking fur seals on the islands of St. Paul and St. George," upon certain conditions thereafter prescribed; "and in making said lease the Secretary of the Treasury shall have due regard to the preservation of the seal fur trade of said islands, and the comfort, maintenance, and education of the natives thereof."

You state that the Alaska Commercial Company has offered to execute a lease in conformity with the provisions of the act, and that they claim that it was understood by the committee reporting the bill, and by the two Houses of Congress, that their company was to have the preference over any other party, and that it is your duty, without delay, and without public notice inviting proposals, to immediately enter into a contract with said parties.
It is apparent, in the first place, that the Alaska Commercial Company is not mentioned in the act, unless by terms of description. If you shall find that that company composed exclusively, or in connection with others, "the parties heretofore engaged in the trade," then the company is referred to for some purpose; but even then the only positive provisions the act contains which necessarily concern them is that, in making the lease, you shall have due regard to their interests. Certainly the act contains no direction to make the lease to this company, unless, upon due examination, you shall become satisfied that a lease to them on such terms as they are willing to accept will better satisfy the requirements of the act than a lease to any other person or company.

I find in the debate upon the act some indication that members of Congress who engaged in it expected that the lease would be made to this company. But if it had been the intention of Congress to declare that it should be made to them, it would have been very easy to say so in simple and direct terms, and require you to make, immediately, a lease to the Alaska Commercial Company, containing such conditions and provisions as seemed to Congress to be proper. Upon the face of the act, or upon any reasonable construction that I can give it, no such intention is apparent.

You are to make a lease "immediately;" but this term, in its legal significance, must depend upon the subject-matter to which it is applicable. I think it means no more than that you are at once to enter upon the discharge of the duty which is imposed; that you are to go about it without delay. As you are required to do an act which involves the ascertainment of various facts, and the exercise of your judgment upon them, to do this act immediately must mean that you shall do it as soon as, with diligence, it can be accomplished; that is, as soon as, by the adoption of proper means, you can learn the facts, and form a judgment upon them.

You are to make the lease "to proper and responsible parties." I think this clearly requires you to ascertain whether the Alaska Commercial Company comes within this description, and to ascertain whether any other persons, if any other should be found, who would better conform to the other conditions imposed, are also proper and responsible parties.

You are to make the lease "to the best advantage of the United States." In order to know that the lease, which you are to execute, is to the best advantage of the United States, you must of course ascertain whether more favorable terms for the Government than those offered by the Alaska Commercial Company could be obtained. In determining what is to the best advantage of the United States, you are to have "due regard to the interests of the Government, the native inhabitants, the parties heretofore engaged in the trade, and the protection of the seal fisheries."

It is claimed on the part of the Alaska Commercial Company, that "due regard" to them, as "parties heretofore engaged in the trade," cannot be had unless they receive the lease. But it seems to me evident that this is only one of the conditions of the problem. I think that you would have "due regard" to their interests if you should give them the preference, as far as was consistent with the other interests for which you are directed to provide. If the terms which the company offer are as favorable to the Government, to the inhabitants, and to the protection of the seal fisheries, as those which can be obtained in any other quarter, or nearly so, then, under the provisions of the act, they would be entitled to a preference. But if the terms which their interests lead
them to offer are much less favorable, then it would seem to me that it would be more than a "due regard" to their interests to give them the lease, and thereby sacrifice the other interests which you are required to protect.

Where the interests of the Government and of the natives and of parties heretofore engaged in the trade conflict, there is nothing in the act to determine to what extent preference is to be given to one rather than to the other. It is all left to your sound discretion to make, as soon as you have the opportunity to form a correct judgment, a lease to such parties as appear to you "proper and responsible," giving a reasonable and due regard to all of the various interests involved.

Whether it is your duty to give public notice of the passage of the bill, and of your authority under it inviting proposals, will depend upon whether such a proceeding is necessary to enable you to arrive at a just conclusion in regard to the party with whom you will contract by lease. Whether, in case such notice is not given, you may delay action until other parties, if any other there be, shall have an opportunity to make proposals to the Department, will depend also, in my opinion, upon your reasonable belief that there may be other parties with whom, on a full knowledge of all the conditions imposed, a lease could be made, according to the provisions of the act, on better terms than with the Alaska Commercial Company, having due regard to their interests as well as those of the Government and of the natives. The method you shall adopt to inform yourself of the willingness of other parties to make proposals seems to me to be left to your own discretion, except that you are to go about it immediately, and interpose no delay except what is reasonably necessary for the faithful execution of your trust.

These expressions of my opinion seem to me to contain a sufficient answer to the questions you have submitted.

Very respectfully,

E. R. HOAR,
Attorney General.

Hon. GEORGE S. BOUTWELL,
Secretary of the Treasury.

[Advertisement.]

TREASURY DEPARTMENT, July 8, 1870.

The Secretary of the Treasury will receive sealed proposals until 12 o'clock noon, Wednesday, the 20th of July, instant, for the exclusive right to take fur seals upon the islands of St. Paul and St. George, Alaska, for the term of twenty years from the 1st day of May, 1870, agreeably to the provisions of an act approved July 1, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska."

In addition to the specific terms prescribed in the act, the successful bidder will be required to provide a suitable building for a public school on each island, and to pay the expense of maintaining a school therein for not less than eight months in each year, as may be required by the Secretary of the Treasury.

Also, to pay to the natives of the islands for the labor performed by them such compensation as may be necessary for their proper support, under regulations to be prescribed by the Secretary of the Treasury.

GEO. S. BOUTWELL,
Secretary.

TREASURY DEPARTMENT,
Office of the Secretary, July 20, 1870.

Memorandum in reference to bids for the exclusive right to take fur seals upon the islands of St. Paul and St. George, read before the
persons present at the opening of the bids, at 12 o'clock noon, July 20, 1870.

First. The successful bidder will be required to deposit security within three days to the amount of fifty thousand dollars, in lawful money, or bonds of the United States, for the due execution of a contract, agreeably to "An act to prevent the extermination of fur-bearing animals in Alaska," approved July 1, 1870.

Second. It being apparent from the language employed in the act aforesaid that it was the intention of Congress to give a preference to the Alaska Commercial Company in the award of the contract, I think it proper to state, before the bids are opened, that the contract will be awarded to said company if their proposal shall be not more than ten per cent. below that of the highest bidder.

Third. No bid will be accepted unless made by a responsible party, acquainted with the business, or skilled in kindred pursuits to such an extent as to render it probable that the contract will be so executed as to secure the results contemplated by the law.

In accordance with the terms of the above advertisement, which was published in the principal newspapers of the country, including those of San Francisco, and after reading the above memorandum, the Secretary of the Treasury publicly opened the proposals in the following order:

[1.]
NORRISTOWN, PENNSYLVANIA, July 18, 1870.

Sir: In accordance with your advertisement of the 8th of the present month, we offer to lease the exclusive right to take fur seals in Alaska, and will pay therefor an annual rent of $75,500, in accordance with the act of Congress referred to.

Truly yours, &c.,

L. E. MORGAN & CO.

Hon. GEO. S. BOUTWELL,
Secretary of the Treasury, Washington, D. C.

[2.]
NO. 5 WALL STREET, NEW YORK, July 19, 1870.

SIR: I will pay an annual rental for the lease of the islands of St. Paul and St. George, Alaska, for the exclusive right to take the fur seals therefrom, under the conditions named in your advertisement of July 8, 1870, and the act of Congress therein referred to, the sum of $96,000 per annum.

J. W. RAYMOND,
of San Francisco.

Hon. G. S. BOUTWELL,
Secretary of the Treasury, &c., Washington, D. C.
Present address No. 5 Wall Street, New York, care of Puleston, Raymond & Co.

[3.]
PHILADELPHIA, July 19, 1870.

In accordance with the inclosed advertisement we offer for the lease of said privileges as contained in the act of Congress referred to, the sum of $105,500 annual rent.

Respectfully yours, &c.,

T. ADAMS & SON,
No. 833 N. Broad Street, Philadelphia, Pennsylvania.

Hon. G. S. BOUTWELL,
Secretary of the Treasury, Washington, D. C.
ALASKA SEAL FISHERY LEASE.

JULY 20, 1870.

The undersigned, an American citizen, residing at the city of San Francisco, in the State of California, and representing and being duly authorized to act in this behalf for Fischel & Co., of which firm he is a member, the American Russian Commercial Company, and Taylor & Bendel, all of said city and State, and all the members connected with and composing the said companies and firms, being American citizens, and being proper and responsible parties, make the following proposals for a lease of the right to engage in the business of taking fur seals on the islands of Saint Paul and Saint George, in the Territory of Alaska, for a term of twenty years from the 1st day of May, 1870, in accordance with the terms and provisions of the act of Congress entitled "An act to prevent the extermination of fur-bearing animals in Alaska," approved July 1, 1870, and of the notice for proposals for said lease issued by the Secretary of the Treasury, to wit:

1. The said companies and firms propose to pay to the United States, over and above the annual rental of $50,000, and the revenue tax or duty of $2 on each fur seal skin taken and shipped from said islands, provided in the sixth section of said act, a bonus of $200,000, to be paid in annual installments of $5,000 for each and every year of said lease.

2. A bonus of 62½ cents a piece on the skins that shall be taken and shipped, of such fur seals as may be killed under the provisions of the third section of said act.

[Note.—Under this proposal, if 100,000 skins are taken, under the regulations of the Secretary of the Treasury, the bonus will amount to $62,500 per annum, or $1,250,000 during the lease.]

3. For such oil as may be made from the carcasses of the seals killed, the sum of 55 cents per gallon.

[Note.—Each carcass is estimated to furnish two gallons of oil. If 100,000 animals should be killed per annum, and the oil obtained from all of them, the total amount of revenue to the Government from this item would be $110,000 per annum, or $2,200,000 for the term of the lease.]

4. In addition to the foregoing proposals, the said companies and firms propose to build suitable school-houses, and to support and maintain proper schools for the education of the natives in each of said islands, and to erect a church-house on the island of St. Paul, and to support a priest thereat, under the authority of the bishop of the Russian Greek Church, located either at Sitka or San Francisco.

Should the foregoing proposals be accepted, the said companies and firms are ready to give bond immediately in such sum as may be required by the Secretary of the Treasury, conditioned that they will promptly enter into the lease, make the deposit, give bonds, and comply, in all respects, with the provisions of the law and the requirements of the Secretary of the Treasury.

LOUIS GOLDSTONE.

WASHINGTON, D. C., July 20, 1870.

Sir: I, C. M. Lockwood, of the State of Oregon, desirous of securing the benefits and rights offered by the act of Congress entitled "An act to prevent the extermination of fur-bearing animals in Alaska," approved July 1, 1870, do hereby offer the sum of $127,000, for the enjoyment of the said rights and privileges secured by the act of Congress above referred to and for the length of time therein mentioned.

Very respectfully, your obedient servant,

C. M. LOCKWOOD,
Secretary of the Treasury.

WASHINGTON, D. C., July 20, 1870.

Sir: The undersigned, a citizen of the United States, desiring to avail himself of the privileges and benefits of the act of Congress entitled "An act to prevent the extermination of fur-bearing animals in Alaska," approved July 1, 1870, do hereby offer the sum of $156,000, annual rental, for the enjoyment of the rights and privileges secured by the act of Congress above referred to and for the term therein mentioned.

Very respectfully, your obedient servant,

JOHN BARNETT,
Per L. L. BLAKE,
Attorney in fact.

Hon. George S. BOUTWELL,
Secretary of the Treasury of the United States.

(The above bid was accompanied by a power of attorney.)
WASHINGTON, July 19, 1870.

I propose for the exclusive right to take fur seals upon the islands of St. Paul and St. George, Alaska, for the term of twenty years, from the 1st day of May, 1870, according to the provisions of an act approved 1st day of July, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska." That I will comply with all the provisions of said act, and do and perform all of its conditions imposed upon the lessee. That in complying with said conditions, I will yield to a liberal construction of the same for the benefit of the Government, for the interest and welfare of the Indians, and the preservation of the seals. That I will pay to the Government annually the sum of $63,000. That I will immediately deposit with the Government the bonds required by the Secretary of the Treasury; and that I will provide a suitable building for a public school on each island, and pay the expenses of maintaining a school thereon for not less than eight months in each year, as may be required by the Secretary of the Treasury. Also, that I will pay the natives of the island for the labor performed by them such compensation as may be necessary for their support, under regulations to be prescribed by the Secretary of the Treasury. That I will deposit all such securities and execute such bonds, with good and sufficient sureties, to the satisfaction of the Government as the Secretary of the Treasury shall dictate or require; and do all things that he, said Secretary of the Treasury, shall require, whether mentioned in this proposal or not.

Hon. George S. Boutwell,
Secretary of the Treasury of the United States.

OFFICE OF WHETMORE, CRYDER & COMPANY,
73 and 74 South Street, New York, July 19, 1870.

Sir: In accordance with the terms of your advertisement, dated Treasury Department, July 8, 1870, for "Proposals for the exclusive right to take fur seals in Alaska," according to the act of Congress approved July 1, 1870, therein referred to, the undersigned offers the sum of $76,550 per annum for the said exclusive lease.

Jno. H. Bradford.

Hon. George S. Boutwell,
Secretary of the Treasury, Washington, D. C.

WASHINGTON, D. C., July 26, 1870.

Sir: The Alaska Commercial Company makes the following proposal for the privilege of taking fur seals in Alaska in accordance with the provisions of the act approved July 1, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and pursuant to the terms of the advertisement of the Secretary of the Treasury hereto attached, (advertisement of July 8.)

Said company will pay to the United States a rent of $65,000 per annum for twenty years from May 1, 1870, and, in addition thereto, will furnish to the inhabitants of the islands of St. Paul and St. George in Alaska, free of charge, each year, 25,000 dried salmon, 60 cords of fire-wood, and a sufficient quantity of salt, and number of barrels for preserving a necessary supply of meat. Also, in order that the inhabitants of the Aleutian Islands may be provided with such necessaries as they have been accustomed to receive, without expense, said company agrees to supply to these inhabitants each year 200 barrels of oil, and a sufficient number of seal skins to supply them with boats, and a sufficient quantity of sinews and membrane to supply them with water-proof garments free of charge.

Said company also agrees to maintain the schools at said islands, as required by the Secretary of the Treasury, and agrees to comply strictly with all the requirements of the law and regulations of the Treasury Department in the premises, and give approved security for its undertaking in this behalf. And said company hereby offers, in the event that any other party, who within the true intent and meaning of said act is "a proper and responsible party," shall, under said advertisement offer, in good faith, a greater amount for said privilege than the whole amount offered by said company, as above stated, to pay to the United States the full amount offered by such party, and comply with the law and regulations, and give all the security required.

Jno. F. Miller,
President Alaska Commercial Company.

Hon. George S. Boutwell,
Secretary of the Treasury.
The undersigned, Talbot T. Fowler, who resides in Washington, District of Columbia, proposes to lease from the Government of the United States of America, through the Secretary of the Treasury, the islands of St. Paul and St. George, for the exclusive privilege and right to take fur seals thereon for the term of twenty years, from the 1st day of May, A. D. 1870, for the annual sum of $77,000.

This proposal is made with the full knowledge of the act approved July 1, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska."

And the undersigned is willing and ready to comply with such regulations as may be prescribed by the Secretary of the Treasury in giving bond and security for faithful compliance with said act of July 1, 1870, and such regulations as the Secretary of the Treasury may make relative to public schools on said islands, and the payment of wages to the inhabitants or natives of St. George or St. Paul.

TALBOT T. FOWLER.

The undersigned, S. K. Hannigan, residing in Terre Haute, Indiana, proposes to lease from the Secretary of the Treasury of the United States of America the islands of St. Paul and St. George, Alaska, for the purposes of taking fur seals, for the period of twenty years from the 1st of May, A. D. 1870, for the annual sum of $73,000.

This proposal is made with a view of complying specifically with the provisions of an act approved July 1, A. D. 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and such regulations as the honorable Secretary of the Treasury may make relative to public schools and the payment of wages to natives of said islands.

SELLMAN K. HANNIGAN.

The undersigned, Jno. M. Davidson, who resides at 411 Twelfth street, Washington, proposes to lease from the Secretary of the Treasury of the United States of America the islands of St. Paul and St. George, for the exclusive privilege to take fur seals on said islands, for the term of twenty years from the 1st of May, A. D. 1870, for the annual sum of $87,000. This proposal is made with full knowledge and good intent to carry out the provisions of an act approved July 1, A. D. 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and such regulations as may be made by the honorable Secretary of the Treasury relative to public schools and the payment of wages to the inhabitants or natives of said islands of St. Paul and St. George, Alaska.

JNO. M. DAVIDSON,
411 Twelfth street, Washington, D. C.

The undersigned, Thomas W. Sweeney, whose residence and post office address is No. 716 Walnut street, Philadelphia, State of Pennsylvania, proposes to lease from the Government of the United States, through the Secretary of the Treasury, the islands of St. Paul and St. George for the exclusive privilege to take fur seals thereon, for the term of twenty years from 1st day of May, 1870, for the annual sum of $111,000. This proposal is made with full knowledge of the act approved July 1, A. D. 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska." And the undersigned is ready and willing to comply with such regulations as may be prescribed by the Secretary of the Treasury, on giving bond and security for faithful compliance with said act of July 1, A. D. 1870, and such further regulations as the Secretary of the Treasury may make and prescribe relative to public schools on said islands and the payment of wages to the inhabitants or natives of said islands of St. Paul and St. George, Alaska.

THOMAS W. SWENEY,
716 Walnut street, Philadelphia.

The undersigned, Louis A. Welton, residing in the city of New York, State of New York, whose post office address is P. O. box No. 444, Washington, D. C., and post office box No. 4,169, New York City, proposes to lease from the Government of the United...
States of America, through the honorable the Secretary of the Treasury, the islands of St. Paul and St. George for the exclusive privilege and right to take fur seals thereon for the term of twenty years from the 1st of May, A.D. 1870, for the annual sum of $96,000. This proposal is made with full knowledge of the act approved July 1, A.D. 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska." And the undersigned is ready and willing to comply with such regulations as may be prescribed by the Secretary of the Treasury, in giving bond and security for faithful compliance with the provisions of said act of 1st of July, 1870, and such further regulations as the honorable the Secretary of the Treasury may make and prescribe relative to public schools on said islands, and the payment of wages to the natives or inhabitants of said islands of St. Paul and St. George, Alaska.

Respectfully submitted.

LOUIS A. WELTON.

The parties making proposals numbered 7, 8, 12, and 14 were subsequently allowed to withdraw the same; and proposals numbered 3, 5, 10, and 13 were rejected by the Secretary of the Treasury on the ground that the parties submitting them had not a sufficient acquaintance with the business.

WASHINGTON, July 19, 1870.

Sir: Before the honorable Secretary of the Treasury proceeds to the execution of the powers and duties devolving upon him by the act of July 1, 1870, relative to taking fur seal in Alaska, I beg to present for his consideration the following facts and propositions:

The Alaska Commercial Company claims—

1st. That immediately upon the cession of Alaska to the United States the persons now composing that company lawfully acquired from the Russian American Company, by purchase, all the private property, possessory rights, interests, and appliances of said company, necessary for the business of taking fur seal on the islands of St. Paul and St. George, which included the dwelling-houses, storehouses, and all buildings used for business purposes on the islands, and all the boats, tackle, and appliances used in the business, all of which rights of property and possession, interests, and appliances had been exercised, enjoyed, and used for more than seventy years by the Russian American Company, and belonged to that company as private property and did not pass to the United States by treaty of cession with Russia, but by the express terms of the treaty and the instructions of both governments to the commissioners, by and through whom the transfer of the territory was made, remained until sold by the parties above mentioned the individual private property of the Russian American Company. (See copy of instructions to commissioners herewith.)

2d. That in addition to or cumulative of the rights of property acquired by this company from the Russian American Company the persons above mentioned became and were, immediately after the cession, in the lawful possession and exercise of a possessory right to so much of the soil of said islands as they claimed to be necessary for the proper conduct of the business of taking fur seal, &c., by virtue of their settlement of the islands. They were in no sense trespassers on the public domain, but acquired possessory rights to the soil under the provisions of the acts of Congress relating to the occupation of public lands.

3d. That being so seized of the property, possessory rights, and interests above mentioned, this company lawfully pursued the business of taking fur seal on said islands until the promulgation at the islands, in November, 1868, of the act of July 28, 1868. That the members of this company were not at any time disturbed in their possession on said islands by the United States, but, on the contrary, have remained and still remain in the quiet possession of their property and possessory rights on said islands. That during the year 1868 this company lawfully pursued its business without objection on the part of the United States; and during the year 1869 it pursued its business lawfully by express permission from the Secretary of the Treasury.

4th. That the act of July 1, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," was passed by Congress, with a full knowledge of all the foregoing facts, and by that act the rights of property and interests of this company above mentioned were recognized, and their existence admitted by the clause in the 4th section of the act, which declares that "due regard to the interests of the parties heretofore engaged in the trade" shall be had, in the execution of the act, by the Secretary of the Treasury.

5th. That the members of this company, having made known to Congress their desire to continue their business on said islands, upon such proper conditions as Congress might impose, the act of July 1, 1870, was passed, not for the purpose of divesting this
company of any of its vested and recognized rights or interests, but manifestly for the purpose, and with the intent, of permitting this company to continue its business upon the acceptance of the conditions and sequences in the regulations imposed by and provided for in the act. One of these conditions is the payment of a tax on the business; another is, the payment of an annual rent for the exclusive privilege of taking fur seals. The direction to the Secretary of the Treasury to "immediately lease" to "proper and responsible parties" clearly indicates a preference for this company, for it was well known by Congress that this company comprised all the persons who had knowledge of or skill in the business, and that to trust it to ignorant or unskilful management was to destroy the fisheries. The intention of Congress is manifest from the words of the act, as well as from the circumstances which accompanied and induced the act, that this company should be permitted to continue its business on the islands, upon compliance with the conditions imposed by the act; that the proposed lease should be first offered to this company, at the rent of $50,000 per annum, and if refused, then the same might be offered to other proper and responsible parties, (if such could be found,) but in no case for less than $50,000 per annum rental.

6th. That this company having offered to accept the conditions of the act, and to fully comply with the regulations made or hereafter to be made for the conduct of the business, the proposed lease cannot be legally given to any other parties; and should the same be given to any other parties, then this company will be entitled to damages to the full amount of the loss sustained in consequence of such action. That the measure of damages would be the full amount of all profits of the business which this company could or would have made for twenty years, (had it been permitted to continue its business,) after payment of the tax of $2 for each skin taken; also the value of all property of which the company might be deprived. The people of the islands, with whom this company have contracts for two years to come, are indebted to the company in many thousands of dollars for supplies furnished, for which no service has been performed. This amount would also form a part of the actual damages which this company might sustain.

In conclusion, I would respectfully urge upon the consideration of the honorable Secretary that the members of this company are the only "proper parties" to carry on this intricate and hazardous business, for they are the only parties who have the requisite experience, the skilled agents, and the necessary appliances for conducting it. Other parties have none of the facilities requisite. This company owns all the salt-houses, storehouses, dwelling-houses, skin-boats, and other appliances on the islands, and these no other company or person can obtain. It will not be pretended that any lessee would have the right or the power to take the property of this company, or that the superior force of the United States would be successfully invoked for that purpose.

This company have offered to accept the conditions imposed by Congress, according to the true intent and meaning of the act, and agree to pay to the United States all that any company or person can afford to pay and so manage the business as not to endanger the existence of the fisheries.

It must be admitted that the privilege sought to be granted by the proposed lease is encumbered by the superior claims and interests of this company. On behalf of the company I beg the careful consideration of these suggestions. I have the honor to be, sir, very respectfully, your obedient servant, JNO. F. MILLER, President Alaska Commercial Company.

Hon. George S. Boutwell, Secretary of the Treasury.

By the 4th article of the treaty it is provided that the Emperor of Russia shall appoint an agent "for the purpose of formally delivering to a similar agent or agents, appointed on behalf of the United States, the territory and dominion property dependences, which are ceded as above, and for doing any other act which may be necessary in regard thereto." Under this provision, the imperial government appointed Alexis Pestochonoff, and the President appointed General Lovell H. Rousseau, their respective commissioners. The instructions from the United States Government to its agent, General Rousseau, touching this subject, are as follows:

1. Pursuant to the stipulations of the treaty, that transfer will include all forts, and military posts and public buildings, such as the governor's house and those used for governmental purposes, dock-yards, barracks, hospitals, and schools; all public lands, and all ungranted lots of ground at Sitka and Kodiak. Private dwellings and warehouses, blacksmith shops, ice houses, flour and saw mills, and any small barracks on the islands, are subject to the control of their owners, and are not to be included in the transfer to the United States. (Ex. Doc. 125, 40th Cong., 2d session, p. 2.)

The instructions to Captain Pestochonoff, from the Russian Government, were as follows:

2. All the forts and military posts will be delivered at once to the American mili-
tary forces that may follow the United States commissioner." 4. The
department, such as the governor's house, the buildings used for government
purposes, dock-yards, barracks, hospital, schools, public grounds, and all free lots at Sitka
and Kodiak, will be delivered by Captain Pestchouf to the American commissioner
as soon as practicable. 5. All the houses and stores forming private property will remain
to be disposed of by their proprietors. To this same category belong smiths, joiners, cooper's,
tanners, and other similar shops, as well as ice-houses, saw and flour mills, and any small
barracks that may exist on the islands.

WASHINGTON, D. C., July 20, 1870.

Sir: I desire respectfully to call your attention to the fact that among all the pro-
posals submitted to you pursuant to the advertisement relative to leasing the right to
take fur seals in Alaska, there are none submitted by proper and responsible parties in
excess of the offer submitted by the Alaska Commercial Company.

In the first place, there is no proposal submitted by any party who is either skilled or
experienced in the business of taking fur seals for their skins and preparing them for
shipment, except the Alaska Commercial Company. Since 1799 the seal fisheries of St. Paul and St. George's Islands, Alaska, were exclusively managed by the Russians.

At the cession of Alaska the business was transferred to the members of the Alaska
Commercial Company, and none of the parties who have made proposals have ever
controlled, managed, or had any experience or skill in the business. The bid of Gold-
stone, professing to be offered on behalf of himself and the Russian-American Commer-
cial Company and others, is an offer (when stripped of surplusage and immaterial
statements) of $55,000 per annum, and no more. The proposal to pay the amount men-
tioned in the act and $100,000 in installments of $5,000 per annum for twenty years
amounts precisely to that sum.

The offer to pay an additional tax of 62½ cents per skin is void for two reasons:
First, the amount of tax is fixed by law, is not subject to increase or diminution by the
Secretary, and was not and could not lawfully be embraced in the advertisement as a
subject to which the attention of bidders could be invited. Second, it is void for un-
certainty, for there is no statement in the bid fixing or guaranteeing the number of
skins which the bidder will take; so that the actual bid ranges from 62½ cents to
$32,500, without stating whether it will be the one or the other or an intermediate
indefinite amount.

The offer to pay the Government for seal oil at 55 cents per gallon, and the represen-
tation that two gallons of oil can be obtained from each seal, is an attempt at fraud and
deception that stamps the character of the entire bid, which is made by an irresponsible
party, without showing that he has any authority to bind the other parties he pre-
tends to represent. In the first place the seal oil from these islands has not sold for
more than 45 cents per gallon at San Francisco, half of which sum is absorbed in the
cost of barrels and transportation, leaving the value of seal oil at the islands at less
than 25 cents per gallon, for which Goldstone proposes to pay the Government 55 cents
per gallon, without committing himself as to how many gallons he will take at that
price. In the next place, only half a gallon of oil can be obtained on an average from
each seal.

The oil of these fisheries has always been regarded as the property of the natives
of the islands, and has been used by them and the people of the Aleutian Islands for
food, fuel, and light. But little has ever been saved for market. By the 4th section
of the act the Secretary is directed to make the lease immediately after the passage
of the act for the rental mentioned in section 6, and section 6 provides that the rental
shall be a definite amount of money, not less than $50,000. There is no authority for
making the lease, except for the rental mentioned in the act, and the amount of the
rental is to be secured by Government bonds; and unless the rent is fixed and definite,
instead of an imaginary number of gallons of oil at a fabulous price, or a certain bonus
on an uncertain number of seal-skins, there is no means of determining the amount of
Government bonds required as security, because the measure of the security is indefinite. But if the parties Goldstone professes to represent are desirous of proposing in good faith for this lease, why is it that their accredited agent, General Dana, who has been constant in his attendance, endeavoring to defeat the legislation which authorizes this lease—I say why does not General Dana put in an appearance?

Goldstone's bid is for $55,000 per annum rental. The amount of tax is fixed by law, and is under the exclusive control of Congress, who can increase or diminish it. The only subject to which the attention of bidders was directed by the advertisement was the amount of rental. It is that which the law authorizes the Secretary to determine. If the law had authorized the Secretary to give the lease to the party who would pay the highest tax, and the Secretary had so advertised it, that bidders might have had the opportunity to bid on that basis, we would then have been able to adjust our bid accordingly. But the Alaska Commercial Company bid, in strict compliance with the law and the advertisement, a definite sum of money, the payment of which is not dependent upon any contingency. The proposal to purchase oil and increase the tax is not responsive to the advertisement, nor in compliance with the law, and cannot be considered. Why does Goldstone seek to avoid the responsibility of the payment of a fixed and determined sum as rental, and to shift it into the uncertain character of a tax or a royalty on oil? Does he see some way in which he may avoid the increased tax, while the way to avoid a rent secured by Government bonds is not so clear? What is the purpose of this extraordinary departure from the law?

In conclusion, I beg to remind the honorable Secretary that the bid of the Alaska Commercial Company proposes to pay an amount of rental equal to the highest bid of any "proper and responsible party." It remains for the honorable Secretary to decide how much that amount shall be, taking into consideration the bids of proper parties made in good faith. The preference belongs to this company, and it is manifestly, for many reasons, to the best interests of the Government to place the business in its hands.

Very respectfully, your obedient servant,

Hon. GEORGE S. BOUTWELL, President Alaska Commercial Company.

P.S.—Since writing the foregoing I have been authorized by Colonel Amos Webster, register of wills, Washington, D. C., to state to the honorable Secretary that General Dana, agent of the Russian-American Commercial Company, said to him in a conversation this morning, July 20, 1870, that he (Dana) had been instructed by the company he represents, by telegraph from San Francisco, not to put in a proposal for the lease of the seal islands, under the act of July 1, 1870, and stated that the withdrawal from the contest for the lease was in consequence, in part, of the war pending in Europe. This seems conclusive that Goldstone's bid is unauthorized by the party he professed to represent, and was not made in good faith.

Hon. GEORGE S. BOUTWELL, Secretary of the Treasury.

WASHINGTON CITY, July 22, 1870.

SIR: I am directed by the American-Russian Commercial Company to withdraw the name of said company from my bid for the lease of the right to take fur seals on the islands of St. Paul and St. George, Alaska, submitted on the 20th instant, and I therefore hereby withdraw said company from said bid.

Your obedient servant,

Hon. GEORGE S. BOUTWELL, Secretary of the Treasury.

WASHINGTON CITY, July 23, 1870.

SIR: Understanding that some objections have been suggested to you as to the legitimacy of that part of my bid for the lease of the seal fisheries wherein I propose to pay the Government a revenue of 55 cents per gallon for all seal or British oil which can be extracted from the carcasses of the seals, I propose to give you my ideas upon the subject, and the motive I had in making the same. The 100,000 seals which may be captured on the islands of St. Paul and St. George, under the act of Congress, will yield, on an average, in my opinion, two gallons of oil to the carcass. Mr. Wicker, Government agent, in his report, (Senate Ex. Doc. No. 50, forty-fifth Congress, second session, page 6,) states that they will yield from one to four gallons of oil to the carcass, and other agents concur with him.

Hon. GEORGE S. BOUTWELL, Secretary of the Treasury.

J. F. M.
ALASKA SEAL FISHERY LEASE.

My estimate being a fair average, the yield of oil for each 100,000 seals would be 200,000 gallons, which would yield an annual revenue to the Government of $60,000.

The capital necessary to erect suitable "dry works" for extracting the oil would not exceed $10,000. Wood being abundant on the adjacent islands, employment would be given to the natives in procuring it for the business.

The law of Congress authorizing you to lease the seal islands directs—

1. That they shall be leased for not less than $50,000 per annum, to be secured, &c.; and two dollars upon each fur seal taken, &c.

2. That you shall lease said islands "to the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants," &c.

3. That you shall have due regard to the preservation of the seal-fur trade of said islands, and the comfort, maintenance, and education of the natives.

The natives are not engaged more than four months in each year in capturing, skinning, and preparing the seal-fur skins for shipment, and are consequently idle the balance of the year. It is good policy, I respectfully submit, to give them remunerative employment.

After the skins are prepared for shipment, the natives can be profitably employed in the work of collecting and making the oil from the carcasses of the skinned seals.

Again, as a sanitary question of importance to the comfort and health of the natives, the carcasses of the slaughtered seals should be in some way disposed of.

From the report of Captain Kuskul, the Russian commissioner, and of others who have visited these islands, the stench of the dead carcasses of the seals is so great as to be a nuisance to persons on vessels many miles from the islands; and upon the islands themselves it is insufferable, and must breed disease and great discomfort to the natives.

It is impossible for the natives to dispose of the carcasses. They cannot burn them, for there is no wood upon the islands. They cannot bury them, for the "bed-rock" is on the surface. They cannot throw them into the sea on account of their bulk and great weight, and the lack of means to transport them from the places of slaughter to the shore.

I therefore submit to you that my bid is legitimate, lawful, and humane: first, because it is to the best advantage to the Government; second, because it will conduce to the "comfort and maintenance of the natives."

Your obedient servant,

Louis Goldstone,
Secretary of the Treasury.

WASHINGTON, July 26, 1870.

SIR: In the exclusion of my bid for the privilege of taking fur seals upon the islands of St. Paul and St. George, Alaska, you either doubted the truthfulness of the written statement I made in answer to your note of the 21st, or you have violated the unwarrantable restrictions you imposed on the bidders on the 20th of July. It will require but a little time to substantiate the statement I made, (a copy of which is on record,) and as to other qualifications or fitness to fulfill the trust alike creditably to myself and beneficially to the Government, I can give the undoubted indorsement of some of the most prominent and reliable business firms in Boston, and in the State of Maine, with whom I have had large commercial relations previous to my entering into business here. To protect the Government against loss, I am prepared to give bond in the amount of $2,000,000, covering the entire amount of Government revenue the bill of July 1st imposes for the term of ten years, and to deposit with you the $50,000 in Government bonds within three days after the right to take seals on said islands is awarded me.

Should the contract be awarded to a party bidding more than myself, whether he comes under your rule or not, (provided the bond is sufficient,) I have nothing to say. But if the contract is to be awarded to a lower bidder, as appearances indicate, and which seems to be a part of the programme and original draught of the bill, the history of which is known and understood, then, by common regard for an overtaxed and burdened people, I must protest against the consummation of a measure that was conceived in iniquity, and which looks very much as though it would soon be born in sin.

Yours, respectfully,

T. T. Fowler.

Hon. George S. Boutwell, Secretary of United States Treasury.
SIR: I have the honor to submit herewith and to ask your attention to a communication, under date of July 20, 1870, made by John F. Miller, president of the Alaska Commercial Company, in which he protests against the acceptance of the bid made by Louis Goldstone, as the agent of certain parties in San Francisco. I also inclose a copy of the bid made by Mr. Goldstone. These, considered in connection with the act of Congress, will present the question upon which I desire your opinion.

If those parts of the bid made by Mr. Goldstone, in which he offers to pay 62½ cents upon each skin, in addition to the $2 specified in the act, and 55 cents per gallon for each gallon of oil taken from the seals, are in conformity to law, then his bid is most advantageous to the Government of all that have been made.

If, on the other hand, those portions of his bid referred to are to be rejected, then his proposal is less favorable than some others.

It is important that the award should be made at the earliest possible moment. I have therefore the honor to request that you will give as early attention to this case as your duties will permit.

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

Hon. Amos T. Akerman,
Attorney General.

WASHINGTON, D. C., July 27, 1870.

SIR: I have the honor to acknowledge the receipt of the honorable Secretary's letter of the 26th instant, relative to the reference of Louis Goldstone's bid to the honorable Attorney General for his opinion, and beg also to respectfully suggest to the honorable Secretary that there is another question relating to the validity of said proposal, which is founded on the withdrawal of the American-Russian Commercial Company from the responsibilities of Mr. Goldstone's proposal, which occurred since the date of my letter to the honorable Secretary of the 20th instant.

It will be seen by reference to the proposal that Goldstone makes the same as the agent of three firms or parties, to wit: Fischel & Co., Taylor & Bendell, and the American-Russian Commercial Company. This proposal discloses the fact that these three parties or firms, or the persons composing the same, had, prior to the date of the bid, combined for the transaction of the business contemplated in the proposal, for their common profit, and had appointed Louis Goldstone as their agent to represent them in their joint and mutual interests; Goldstone being at the time a member of the firm of Fischel & Co.

The legal effect of such combination and the acts of the parties in relation thereto is and was a copartnership between the several members of these three firms or parties, formed for a special business or adventure. "A partnership exists when two or more persons combine their property, labor, or skill, or one or more of them, in the transaction of business for their common profit." (Parsons on Cont., v. 1, p. 147.)

"No particular forms are required to constitute a partnership between the parties. It is sufficient if formed by the voluntary consent of the parties, whether express or implied, whether by written articles, tacit understanding, parol contract, or even by mere acts." (Story on Part., p. 137.)

"Special partnerships, in the sense of the common law, are those formed for a special or particular branch of business, as contradistinguished from the general business or employment of the parties, or one of them. They are more commonly called limited partnerships, when they extend to a single transaction or adventure." (Story on Part., p. 125.)

One of the first acts of this partnership seems to have been the appointment of Goldstone as its agent. The next act of the partnership was the proposal in question, made by Goldstone as its authorized agent.

Goldstone represented the joint and mutual interests of all the partners. His acts were the acts of the partnership, acting as a unit through its authorized agent.
The proposal was therefore the proposal of a partnership firm, having a community of interest in the profits of the business to be obtained thereby.

Now one party, or a certain number of the copartners, viz, the American-Russian Commercial Company, or the members composing that firm, has withdrawn from the partnership. That these partners were competent to withdraw is conceded by the tacit consent of the other partners, as well as by the action of the honorable Secretary of the Treasury, who publicly announced the withdrawal.

If the duration of the partnership was dependant upon the will of the parties, (which is inferred in the absence of express agreement or circumstances showing the contrary,) the consent of the other parties was not necessary. (See Story on Part., pp. 445-6 and 451-2.)

But such consent is not wanting.

The withdrawal of one partner dissolves the partnership. It is a virtual destruction of the partnership. (Ibid, 511.)

"A dissolution of a partnership by tacit renunciation, or by implication, may arise in various ways, as by withdrawal of a partner from the business of the partnership, and engaging in other concerns, or by his refusal to act with the other partners in the business, or by his assigning his interest, or by his doing any other act utterly inconsistent with the continuing relation of partnership." (Story on Part., p. 441.)

The partnership represented by Goldstone was therefore dissolved, by the withdrawal of the American-Russian Commercial Company.

The legal effect of the dissolution is to put an end to the joint powers and authorities of all the partners. (Ibid, 512.)

The existence of the partnership firm who made the proposal has ended. It was not a partnership formed of Taylor & Bendel and Fischel & Co. It was combined of other and different elements, and these elements have dissolved. The partnership is dead. What then becomes of the proposal? It was extinguished with the dissolution of the partnership from which it emanated.

The Secretary of the Treasury cannot now contract (if he so desired) with the party who made the proposal, for that party no longer exists. In contemplation of law there is and can be no party with whom to contract under that proposal. It is too late to make a new proposal or to form a new partnership from the straggling elements of the old partnership with which to revive the old proposal.

From the date of the dissolution of the partnership the proposal must be considered a nullity. The unity, mutuality, and organization of the partnership has been destroyed. The remaining partners have no organization nor an authorized agent, nor can an organization be now effected for the purposes contemplated by the old partnership.

I beg to submit the foregoing considerations as additional reasons for the rejection of the proposal of Mr. Goldstone.

Very respectfully, your obedient servant,

JNO. F. MILLER,
President Alaska Commercial Company.

WASHINGTON CITY, July 28, 1870.

Sir: The undersigned, a bidder, under the act of Congress approved July 1, 1870, for the lease of the right to take fur seals on the islands of St. Paul and St. George, Alaska, respectfully protests against the bid submitted for said lease by the Alaska Commercial Company, and asks that the same may be rejected and excluded from consideration, for the following reasons:

The 5th section of said act provides that "no person other than American citizens shall be permitted, by lease or otherwise, to occupy said islands, or either of them, for the purpose of taking the skins of fur seals therefrom; nor shall any foreign vessel be engaged in taking such skins; and the Secretary of the Treasury shall vacate and declare any lease forfeited, if the same be held or operated for the use, benefit, or advantage, directly or indirectly, of any person other than American citizens."

The undersigned is informed and believes, and charges the facts to be, that the Alaska Commercial Company is an incorporated company; that said company has issued a large amount of stock; that said stock is now held by numerous persons; that the principal markets and places of business of said company are in London and Leipsic.

And in view of the immense revenue and great profits of said company from the seal fisheries for the last three years, its stock would naturally be in great demand, and it would indeed be a miracle if some of it was not held by foreigners in the cities named.

In that case the lease would be "operated directly," for "persons other than American citizens;" which fact alone, according to the act, must exclude any bid made by said company, and must render void any lease executed by the same.
In view of these facts and considerations, the undersigned most respectfully submits that the said company should be required to show affirmatively that it is a competent bidder under the section of the act cited, by proving that no part of its stock is held by foreigners. The law is mandatory, and cannot be evaded by the company.

I submit, therefore, that unless said company can prove that no other than American citizens are interested directly or indirectly therein, whether as owners of an interest or as original stockholders, or as purchasers of the stock in the market, or as officers of the company, the bid of the said incorporated company is illegal and void, and cannot, under the law, be entertained by the Secretary of the Treasury.

Respectfully submitted.

Hou. Geo. S. Boutwell,
Secretary of the Treasury.

LOUIS GOLDSTONE.

DEPARTMENT OF JUSTICE,
Washington, July 29, 1870.

Sir: The questions presented in your communication of the 26th instant arise upon the following facts:

The act of July 1, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," provides, in the fourth section, that "the Secretary of the Treasury shall lease, for the rental mentioned in section 6 of this act, to proper and responsible parties, to the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, the parties heretofore engaged in trade, and the protection of the seal fisheries, for a term of twenty years from the 1st day of May, 1870, the right to engage in the business of taking fur seals on the islands of Saint Paul and Saint George, and to send a vessel or vessels to said islands for the skins of such seals, giving to the lessee or lessees of said islands a lease, duly executed in duplicate, not transferable, and taking from the lessee or lessees of said islands a bond, with sufficient sureties, in a sum not less than $500,000, conditional for the faithful observance of all the laws and requirements of Congress and of the regulations of the Secretary of the Treasury touching the subject-matter of taking fur seals, and disposing of the same, and for the payment of all taxes and dues accruing to the United States connected therewith."

Section 6 provides "that the annual rental to be reserved by said lease shall not be less than $50,000 per annum, to be secured by deposit of United States bonds to that amount; and in addition thereto a revenue tax or duty of two dollars is hereby laid upon each fur-seal skin taken and shipped from said islands during the continuance of such lease, to be paid into the Treasury of the United States; and the Secretary of the Treasury is hereby empowered and authorized to make all needful rules and regulations for the collection and payment of the same," &c.

On the 8th day of July, 1870, the Secretary of the Treasury advertised for sealed proposals for the exclusive right to take fur seals upon said islands, agreeably to the provisions of this act. Among the proposals is that of Louis Goldstone, as the agent of certain named parties, offering to pay for the lease, over and above the annual rental of $50,000 and the revenue tax or duty on each fur-seal skin taken and shipped from said islands, a bonus of $100,000, to be paid in annual installments of $5,000 for each and every year of said lease; also, a bonus of 62½ cents apiece on the skins that shall be taken and shipped of such fur seals as may be killed under the provisions of the third section of said act; also, for such oil as may be made from the carcasses of
such seals as shall be killed, the sum of 55 cents per gallon. The other parts of his proposals are unimportant in the present inquiry.

You desire my opinion upon the question whether "those parts of the bid made by Mr. Goldstone, in which he offers to pay 62½ cents upon each skin, in addition to the $2 specified in the act, and 55 cents per gallon for each gallon of oil taken from the seals, are in conformity to law."

It is my opinion that those parts of the bid are in conformity to law, and will be binding upon Mr. Goldstone and the parties whom he represents, when incorporated in the lease which shall be executed in pursuance of the act.

Section 6 fixes the annual rental at a minimum of $50,000, and also prescribes a revenue tax or duty of two dollars upon each fur-seal skin taken and shipped. Section 4 provides that the lease shall be for the rental mentioned in section 6, but also that it shall be "to the best advantage of the United States," and shall be made with "due regard to the interests of the Government." It also requires from the lessees a large bond, conditioned, among other things, for the payment of all dues and taxes accruing to the United States in connection with the subject-matter. There is no valuable significance in the words "to the best advantage of the United States," unless the Secretary be at liberty to stipulate for the most money that he can get from the lessees for the privilege. The words "having due regard to the interests of the Government," sufficiently provide for all other interests of the United States as proprietor and political sovereign of the islands, as regulator of commerce, and in every other relation which the Government sustains to those islands. A lease to the best advantage means a lease for the most valuable consideration that can be obtained.

To these obvious considerations the competitors of Mr. Goldstone oppose the argument that the imposition, in the sixth section, of a revenue tax or duty of two dollars upon each skin, prohibits, by implication, a contract for any other amount on each skin, whether under the name of tax, duty, or bonus, and that the fixing of a minimum for the annual rental opens room for the stipulations "to the best advantage of the United States," by an increase of that annual rental, and in no other way.

This is an attempted application of the maxim, "The express mention of one thing implies the exclusion of another," a rule which is often useful in ascertaining the intention of the legislature, but which yields to other and more direct significations of the legislative will. From the whole statute it is apparent that Congress meant to give a large discretion to the Secretary of the Treasury in all matters connected with the lease. If it had been intended to confine his pursuit after "the best advantage of the United States" to an effort to get the largest possible amount of money in the form of an annual rental, to be secured by a deposit of United States bonds, that object would probably have been accomplished by simple and direct language. The condition in the bond prescribed in the fourth section for "the payment of all taxes and dues accruing to the United States connected therewith," is broad enough to cover any such addition to the annual rental and the $2 tax, as the bonus of 62½ cents on each skin, and 55 cents for each gallon of oil.

It is also argued by Mr. Goldstone's competitors that the advertisement for bids did not announce that any such proposals would be received, and, therefore, that they have been taken at a disadvantage, and deprived of the opportunity of competing in this particular manner.

H. Ex. 108—2
ALASKA SEAL FISHERY LEASE.

There would be force in this objection if the Secretary were required by the law to advertise for bids. But such is not the fact. It was the opinion of the late Attorney General, on a question arising under this very statute, that the Secretary had a discretion to advertise for proposals or not. The advertisement was but one mode of finding responsible parties who would take the lease on terms most advantageous to the United States. The other competitors, if so disposed, could have taken as wide a range in the character of their proposals as Mr. Goldstone; and then considering them all together, "having due regard to the interests of the Government, the native inhabitants, the parties heretofore engaged in trade, and the protection of the seal fisheries," as required by the statute, the Secretary of the Treasury should give the lease to that bidder whose terms, in his judgment, are "to the best advantage of the United States."

And I am well satisfied that the "best advantage of the United States" may be as lawfully secured in the way proposed by Mr. Goldstone as in any other way. He engages to do all that the statute requires in terms. He also engages to do something more which is not inconsistent with the statute, and, as I believe, is fully warranted by its letter.

Even if it should be considered that the statute does not directly authorize the stipulations in question, I cannot doubt that, if incorporated in the lease upon the voluntary proposals of the lessees, they would be binding. (See 5 Peters, 115; 15 Peters, 290; 7 How., 573; 12 How., 98; 8 Wall., 558.)

In your supplementary communication of the 28th instant you request me to consider whether Mr. Goldstone's bid is rendered invalid by the withdrawal of one of the parties whom he represented when it was originally made.

I do not think that this circumstance will affect the matter, provided that the remaining parties with whom the covenants shall be made are "proper and responsible." The nature of Mr. Goldstone's authority to act for other parties has not been made known to me. I have taken it for granted that he has authority to act for all whom he represents either collectively or severally. The covenants which shall establish the liabilities of the parties are not in the bids, but in the lease and bond. If the remaining parties, however, are not "proper and responsible," in the judgment of the Secretary of the Treasury, it is his duty to disregard the bid.

Very respectfully, your obedient servant,

A. T. AKERMAN,
Attorney General.

Hon. GEORGE S. BOUTWELL,
Secretary of the Treasury.

WASHINGTON, D. C., July 29, 1870.

Sir: I see by some of the daily papers of a recent date that my bid or offer to take fur-bearing animals in Alaska, under a recent act of Congress, has been rejected, or will not be considered, solely on the ground that I have "never been engaged in seal catching or in kindred pursuits." I take this to be a correct report concerning your proceedings in reference to these bids, as I have seen or heard no correction, although I have never been officially notified by you what disposition has been made of my bid or offer.

To this decision or course I must earnestly protest as being unauthorized under the act of Congress regulating this interest, and denying me, arbitrarily, the right to compete on an equal footing with others for the enjoyment of the privileges and benefits
ALASKA SEAL FISHERY LEASE.

secured by said act. On a careful perusal of this act I am unable to find anything which would authorize such proceedings. One of the chief interests to be secured to the Government by the bid, and which it is the duty of the Secretary to keep in view, is the greatest amount that can be obtained for the exercise of the rights secured by the act. And another is the due protection of the seal fisheries and of the natives. These are the principal objects to be had in view by the Secretary in receiving and considering these bids; all others are subordinate to these. It certainly seems to me that the requirements of the law are fully complied with as to the business qualifications of the bidder, if he be a man of good, practical business capacity, honest, industrious, and careful. I have the best assurance for stating that the individuals composing the firm of the Alaska Commercial Company did not, when they formed this association and commenced the business of the company, possess any practical skill in fur-seal fishing, and have not, up to this time, done more than exercise a general supervision of the business until after the furs or felts were prepared for commerce. They do, and must necessarily, employ the natives or Russians, who are skilled in this pursuit, to catch or kill the fur-bearing animals for them. And certainly this any prudent, intelligent business man can do quite as efficiently as the company referred to, and with all due regard to the interests of the Government, the preservation of the fisheries, and the rights of the natives.

I must therefore protest against letting this bid to the Alaska Commercial Company, or to any other company or individuals who have bid an amount so much less than I have, as depriving me of rights and benefits guaranteed under the law. Fully persuaded of the justness of my cause, I must insist on my bid being considered with those of others, without reference to the fact whether I have ever been actually engaged in fur-seal fishing, or in kindred pursuits, as the latter phrase seems to be understood.

I am, sir, very respectfully, your obedient servant,

JOHN BARNETT,

For L. L. BLAKE, Agent.

Hon. GEORGE S. BOUTWELL,

Secretary of the Treasury.

WASHINGTON, D. C., July 30, 1870.

Sir: In the event that the Secretary of the Treasury shall determine that the bid of Louis Goldstone for the lease of the privilege of taking fur seals in Alaska is in accordance with law, and the advertisement under which it was submitted, and that said Goldstone and those associated with him in said bid are “proper and responsible parties,” within the true intent and meaning of the act authorizing the Secretary of the Treasury to execute said lease, I, as the president of the Alaska Commercial Company, duly authorized, and on behalf of said company, respectfully inform the Secretary of the Treasury that I am prepared to enter into said lease with the United States in accordance with the terms of the bid submitted by the Alaska Commercial Company under said advertisement in which said company proposed and offered to pay to the United States the same amount which any proper and responsible party would offer for said privilege and lease in excess of $65,000 and the tax fixed by law.

I beg, therefore, to state to the Secretary of the Treasury that the Alaska Commercial Company is prepared and willing to enter into said lease with the United States upon the terms and conditions and for the amount offered by said Louis Goldstone for the same, and will furnish the security and Government bonds required, and respectfully request that said lease be executed at once and delivered to said Alaska Commercial Company.

Very respectfully, your obedient servant,

JNO. F. MILLER,

President Alaska Commercial Company.

Hon. GEORGE S. BOUTWELL,

Secretary of Treasury.

TREASURY DEPARTMENT,

OFFICE OF THE SECRETARY,

July 30, 1870.

In the matter of leasing the right to engage in the business of taking fur seals on the islands of St. Paul and St. George, in Alaska, and to send a vessel or vessels to said islands for the skins of such seals, according to the requirements of an act entitled “An act to prevent
the extermination of fur-bearing animals in Alaska," approved July 1, 1870.

Having ascertained by public notices inviting proposals what parties were desirous of taking such lease, and on what terms, and carefully examined and considered the proposals received, and having due regard to the interests of the Government, the native inhabitants, the parties heretofore engaged in the trade, and the protection of the seal fisheries as required by said act, it is decided to make such lease to the Alaska Commercial Company, containing agreements that said company shall pay a rental of $55,000 per annum, a revenue tax of $2 upon each skin taken and shipped, and an additional tax of 62½ cents upon each skin so taken and shipped; 55 cents per gallon for each gallon of oil obtained from said seals for sale on said islands or elsewhere and sold by said company; furnish free of charge to the inhabitants of the islands of St. Paul and St. George, annually, 25,000 dried salmon, 60 cords of fire-wood, a sufficient quantity of salt, and a sufficient number of barrels for preserving the necessary supply of meat, and maintain schools on said islands; with such other covenants, agreements, conditions, limitations, restrictions, and provisions as the Secretary shall approve; upon said company making the deposit and executing the bonds required by said act, and to the satisfaction of the Secretary.

WILLIAM A. RICHARDSON,
Acting Secretary.

By-laws of the Alaska Commercial Company.

I. The corporate name of this company is the "Alaska Commercial Company," and its affairs are under the management of five trustees, who shall hereafter be chosen by the stockholders of the company on the third Wednesday of January, in each year, and who shall hold office until their successors are elected.

II. The annual meetings of the stockholders shall be held at the office of the company.

III. Meetings of the board of trustees will be held upon the call of the president, or by notice issued by authority of the president personally served on each trustee, or published in a newspaper of general circulation in San Francisco, according to law. Special meeting may be held upon notice signed by three trustees, having been duly served or published in such newspaper for ten days before the day of such meeting. At all meetings of the board of trustees any three of the trustees being present shall constitute a quorum for the transaction of business. Adjourned meetings may be held in pursuance of a resolution of the board adopted at any meeting by a vote of a majority of the trustees present, or on motion to that effect.

IV. The officers of the company shall consist of a president, a vice-president, and a secretary who shall act as treasurer of the company, and shall be chosen by the board of trustees at the first meeting after the annual election of trustees in each year, such officers to hold office one year or until their successors are elected.

V. The president, in his absence the vice-president, shall preside at the meetings of the board. In case neither are present the board may appoint a president pro tem.

VI. All vacancies in the board may be filled by the board at the next meeting after the existence of such vacancy, and it shall require the affirmative vote of three trustees to elect. In case of any vacancy occurring among the officers or agents of the company, the same may be filled at any meeting of the board.

VII. All certificates of the capital stock of the company shall be signed by the president and secretary, and attested by the corporate seal of the company, and can be issued to the parties entitled thereto, or to their authorized agent. All transfers of stock shall be made on the books of the company by the secretary upon the surrender of the original certificate or certificates, properly indorsed by the party in whose favor the same was issued. No stock shall be transferred to any person not a stockholder of the company at the time of such transfer, unless the same shall have been offered for sale to the company, or stockholders of the company, and the purchase, at the fair cash
or market value, refused; except by authority of a resolution of the board of trustees permitting such transfer.

VIII. The corporate seal of the company consists of a die of the following words: "Alaska Commercial Company, San Francisco, California;" of which the following is an impression.

IX. The corporate seal, and all property and securities of the company, shall be under the control of the president, subject to the action of the board of trustees.

The funds of the company shall be kept by the treasurer of the company, subject to the control and authority of the board of trustees, and cannot be disbursed without the authority of the board.

The trustees may require a bond from the treasurer for the security of the company in such sum and with such securities as may be satisfactory to the board.

The secretary shall keep the books of the company, the minutes of the meetings of the board, and perform such other duties as the trustees may require.

X. The pay and salaries of all officers of the company shall be determined from time to time by the board of trustees.

XI. The board of trustees have power to appoint such general business agents, factors, attorneys, and clerks as may be deemed proper and requisite for the management of the interests and business of the company, and shall fix the pay, commissions, or salaries of all such agents, factors, attorneys, and clerks, from time to time as circumstances may require.

XII. All transfers of the capital stock of this company, made to persons not citizens of the United States, or made for the use or benefit of any citizen or citizens of any foreign government, are absolutely void.

XIII. Dividends from net profits of the company may be declared and paid by order of the board of trustees, in accordance with law.

XIV. These by-laws may be altered or amended by the board of trustees in the manner prescribed by law.

I hereby certify that the foregoing is a true copy of the by-laws of the Alaska Commercial Company.

ALASKA COMMERCIAL COMPANY,
SAN FRANCISCO, CALIFORNIA.

JULY 28, 1870.

H. M. HUTCHINSON,
Secretary Alaska Commercial Company.

Resolution.

The following resolution was adopted by the board of trustees of the Alaska Commercial Company, at a meeting of the board held January 31, 1870, to wit:

Resolved, That John F. Miller, the president of the company be, and is hereby, authorized and empowered to propose, at any time, in the name of this company, to contract with the United States for a lease or franchise to this company of the islands of St. Paul and St. George, Alaska, and the right to take and ship fur-seal skins therefrom, on such terms as may be prescribed by law or the honorable Secretary of the Treasury; and that the president of this company be, and is hereby, authorized and empowered for, and in the name of this company, to accept any such lease or franchise whenever the same may be obtained from the Secretary of the Treasury, or other proper officer of the United States, and to make, sign, execute, and deliver, for, and in the name or this company, any and all contracts, obligations, bonds, or other writings, required from this company, by law, or by the honorable Secretary of the Treasury, or which may be necessary or proper to vest the rights, privileges, or franchises under such lease, in this company, or for the purpose of security of the payment of any rent or tax, or other sums of money agreed to be paid, or required to be paid by this company, in consideration of such lease, contract, privilege, or franchise, or for any other purpose whatsoever, in relation to the subject-matter of any such lease, contract, or franchise; and the said president of this company is hereby authorized and empowered to do all acts and things which he may deem necessary, or which may be required by the proper officer of the United States, to obtain such lease or franchise, of, or upon said islands, and the waters adjacent thereto, and the power and authority to bind this company by contract, obligation, or other writing, promise, or engagement, in respect to the procuring or acceptance of any such lease, contract, or franchise of, or upon said islands, is hereby fully granted to the said president of this company.

I, H. M. Hutchinson, secretary of the Alaska Commercial Company, hereby certify that the above and foregoing is a true copy of the original resolution as the same appears of record on the books of said company, and that the said resolution was unanimously adopted by the board of trustees of said company at a meeting of the board held January 31, 1870, and that the same remains in full force.

Witness my hand and the seal of said company this the 28th day of July, 1870.

H. M. HUTCHINSON,
Secretary Alaska Commercial Company.
STATE OF CALIFORNIA, DEPARTMENT OF STATE.

I, H. L. Nichols, secretary of state of the State of California, do hereby certify that the annexed is a true, full, and correct copy of certificate of incorporation of the Alaska Commercial Company, with the indorsements thereon, now on file in my office.

Witness my hand and the great seal of State, at office in Sacramento, California, the 2d day of July, A. D. 1870.

H. L. NICHOLS,
Secretary of State.

By LEW. B. HARRIS,
Deputy.

STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO, SS:

On this 18th day of September, A. D. 1868, before me, Paul Newmann, a notary public in and for said city and county, duly commissioned and sworn, personally appeared the within-named Louis Slop, Louis Gerstle, A. Wasserman, whose names are subscribed to the annexed instrument, as parties thereto, personally known to me to be the individuals described in, and who executed the said annexed instrument, and they each for himself duly acknowledged to me that he executed the same as his act and deed, freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[SEAL.]

PAUL NEWMANN,
Notary Public.

Certificate of the incorporation of the Alaska Commercial Company.

[Five cent internal revenue stamp, cancelled.]

Know all men by these presents, that we, the undersigned, have this day associated ourselves together for the purpose of incorporating, under the laws of the State of California, a corporation to be known by the corporate name of Alaska Commercial Company, and we hereby certify—

That the objects for which this corporation is formed are for carrying on the business of hunting and fishing in the department or territory of Alaska, and for dealing in general merchandise, furs, fish, exchange, and shipping.

That the capital stock of the corporation shall be two million dollars, divided into twenty thousand shares of the par value of one hundred dollars each. That the time of its existence shall be fifty years from and after the date of this certificate.

That the number of its trustees shall be five, and that the names of those who shall be trustees and manage its affairs during the first three months, and until their successors are elected, are Louis Slop, Louis Gerstle, A. Wasserman, William Kohl, and Leopold Baskowitz.

That its principal place of business shall be in San Francisco, California.

In witness whereof, we have hereunto set our hands and seals this 16th day of September, A. D. 1868.

LOUIS SLOP, [SEAL.]
LEWIS GERSTLE, [SEAL.]
A. WASSERMAN, [SEAL.]

Signed and sealed in presence of—

[SEAL.]

PAUL NEWMANN.

OFFICE OF THE COUNTY CLERK
OF THE CITY AND COUNTY OF SAN FRANCISCO:

I, Washington Bartlett, county clerk of the city and county of San Francisco, State of California, and clerk of the county court thereof, do hereby certify the foregoing to be a full, true, and correct copy of the certificate of incorporation of the Alaska Commercial Company, filed in my office this 18th day of September, 1868.

Witness my hand and the seal of said court this 18th day of September, A. D. 1868.

WASHINGTON BARTLETT,
Clerk.

By BERT McNULTY,
Deputy Clerk.

WASHINGTON, AUGUST 9, 1870. 

To the honorable the Secretary of the Treasury:

The undersigned, as the attorney of Louis Goldstone, of San Francisco, California, and on his behalf, respectfully protests against the action of the Secretary of the Treasury in awarding the lease of the right to take fur seals on the islands of St. Paul and
ALASKA SEAL FISHERY LEASE.

St. George, Alaska, under the act of Congress approved July 1, 1870, to the Alaska Commercial Company, on the bid of the said Goldstone; he, the said Goldstone, being lawfully and properly entitled to said lease, on his said bid.

And for divers other good and sufficient causes.

JOS. W. MCCORKLE,
Attorney for Goldstone.

Copy of lease from the United States to the Alaska Commercial Company, of the right to take fur seals in Alaska. Delivered August 31, 1870.

This indenture, in duplicate, made this third day of August, A. D. eighteen hundred and seventy, by and between William A. Richardson, Acting Secretary of the Treasury, in pursuance of an act of Congress approved July 1, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and the Alaska Commercial Company, a corporation duly established under the laws of the State of California, acting by John F. Müller, its president and agent, in accordance with a resolution of said corporation duly adopted at a meeting of its board of trustees held January 31, 1870, witnesseth:

That the said Secretary hereby leases to the said Alaska Commercial Company, without power of transfer, for the term of twenty years from the first day of May, 1870, the right to engage in the business of taking fur seals on the islands of St. George and St. Paul, within the Territory of Alaska, and to send a vessel or vessels to said islands for the skins of such seals.

And the said Alaska Commercial Company, in consideration of their right under this lease, hereby covenant and agree to pay for each year during said term, and in proportion during any part thereof, the sum of fifty-five thousand dollars into the Treasury of the United States, in accordance with the regulations of the Secretary to be made for this purpose under said act, which payment shall be secured by deposit of United States bonds to that amount; and also covenant and agree to pay annually into the Treasury of the United States, under said rules and regulations, a revenue tax or duty of two dollars upon each fur-seal skin taken and shipped by them, in accordance with the provisions of the act aforesaid; and also the sum of sixty-two and one-half cents for each fur-seal skin taken and shipped, and fifty-five cents per gallon for each gallon of oil obtained from said seals for sale on said islands or elsewhere, and said by said company. And also covenant and agree, in accordance with said rules and regulations, to furnish, free of charge, the inhabitants of the islands of St. Paul and St. George, annually, during said term, twenty-five thousand dried salmon, sixty cords firewood, a sufficient quantity of salt, and a sufficient number of barrels for preserving the necessary supply of meat.

And the said lessees also hereby covenant and agree, during the term aforesaid, to maintain a school on each island in accordance with said rules and regulations, and suitable for the education of the natives of said islands, for a period of not less than eight months in each year.

And the said lessees further covenant and agree not to kill upon said island of St. Paul more than seventy-five thousand fur seals, and upon the island of St. George not more than twenty-five thousand fur seals per annum; not to kill any fur seal upon the islands aforesaid in any other month except the months of June, July, September and October of each year; not to kill such seals at any time by the use of fire-arms or other means tending to drive the seals from said islands; not to kill any female seal or any seal less than one year old; not to kill any seal in the waters adjacent to said islands, or on the beaches, cliffs or rocks where they haul up from the sea to remain.

And the said lessees further covenant and agree to abide by any restriction or limitation upon the right to kill seals under this lease that the act prescribes or that the Secretary of the Treasury shall judge necessary for the preservation of such seals.

And the said lessees hereby agree that they will not in any way sell, transfer or assign this lease, and that any transfer, sale or assignment of the same shall be void and of no effect.

And the said lessees further covenant and agree to furnish to the several masters of the vessels employed by them, certified copies of this lease to be presented to the Government revenue officers for the time being in charge of said islands, as the authority of said lessees for the landing and taking said skins.

And the said lessees further covenant and agree that they, or their agents, shall not keep, sell, furnish, give or dispose of any distilled spirits or spirituous liquors on either of said islands, to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine.

And the said lessees further covenant and agree that this lease is accepted subject to all needful rules and regulations which shall at any time or times hereafter be made by the Secretary of the Treasury for the collection and payment of the rentals herein.
agreed to be paid by said lessees; for the comfort, maintenance, education, and protection of the natives of said islands, and for carrying into effect all the provisions of the act aforesaid, and will abide by and conform to said rules and regulations.

And the said lessees, accepting this lease with a full knowledge of the provisions of the aforesaid act of Congress, further covenant and agree that they will fulfill all the provisions, requirements and limitations of said act, whether herein specifically set out or not.

In witness whereof the parties aforesaid have hereunto set their hands and seals the day and year above written.

WILLIAM A. RICHARDSON, [seal.]
Acting Secretary of the Treasury.

ALASKA COMMERCIAL COMPANY, [seal.]
By JNO. F. MILLER, President.

Executed in presence of—

J. H. SAVILLE.

I certify that the foregoing printed copy of the lease of the United States to the Alaska Commercial Company, of the right to take fur seals in the Territory of Alaska, has been compared with the original on file in this Department, and is a true copy thereof.

J. H. SAVILLE,
Chief Clerk Treasury Department.

WASHINGTON, D. C., September 3, 1870.