

Committee on Resources

Witness Testimony

TESTIMONY OF DR. J.Y.JONES

April 30, 1997

Mr. Chairman, esteemed members of the committee, my name is J. Y. Jones, and I am an ophthalmologist from Dublin, GA. I am a lifelong hunter. I thank you very much for looking into the matter before us, and I deeply appreciate the opportunity to give input.

The unique privilege of testifying before you today results from my being a hunter who has taken almost all of the 40 or so huntable big game species in North America using the same rifle. I am writing a book about my experiences, and I have also written some 50 articles for several outdoor publications. I have hunted polar bear with the Inuit of the Northwest Territories of Canada, and I harvested a large male polar bear there in 1993. I have served for the past five years as the head of a group of several hundred sportsmen who have been instrumental in urging Congress to amend the U.S. Marine Mammal Protection Act (MMPA). We were successful in achieving victory in 1994 to allow legal U.S. hunters to import their hard earned polar bear trophies from Canada. I have had observer status with the IUCN Polar Bear Specialist Group, and I have attended their meeting in that capacity. I am recognized by many as a legitimate lay expert on the subject of the polar bear. I have hunted with the Arctic natives by dogsled, by snowmobile, and on foot for nine different species of big game, so I know the customs and the challenges of the North country better than most.

I also must identify the fact that I am a devout Christian, having dedicated myself to Jesus Christ many years ago after finding no real meaning in life apart from Him. I mention this to draw a significant parallel. I cannot disavow what I hold as my core beliefs, because to deny them is to deny who I am. In a somewhat similar manner, I am a hunter. I held my first rifle in my hands before I was able to walk, a .22 caliber weapon that was a gift from my father which he procured during his service in Europe during World War II. My people have lived in the mountains of North Georgia and North Carolina for many generations, and I can trace my ancestry back to soldiers who fought in the American Revolution and in the Civil War. The menfolk in my family line were always hunters. I believe that all men are hunters in their innermost being, or else our species might well have disappeared from the Earth thousands of years ago. In my case, though, the opportunity to hunt at an early age cemented this instinctive aspect of my character into a living and powerful driving force that only another person of like mind can fathom.

I intimate this in connection with my Christian faith to draw the parallel I mentioned. My faith in Christ is not what I do, but is rather what I am. So it is also with my hunting avocation. I am a hunter, and as our United States Constitution declares for me that I have a right to the pursuit of happiness within the rational constraints of the law, this surely includes my right to hunt. My heritage is under siege by misunderstanding and uncaring forces which would deny me this cherished right if they could. The honor of participating in this activity I love is not one I hold lightly, and the privilege of harvesting excess game animals (those which would die anyway from other causes if not taken in fair chase hunting) is somewhat akin to denying me the right to worship unhindered.

I am not alone in my thinking on this subject. Dudley Young has stated, "What is religious about hunting is that it leads us to remember and accept the violent nature of our condition, that every animal that eats will in turn one day be eaten. The hunt keeps us honest."(1) Erich Fromm has said, "In the act of hunting, a man becomes, however briefly, a part of nature again. He returns to the natural state, becomes one with the animal, and is freed of the existential split: to be part of nature and to transcend it by virtue of his consciousness."(2)

It is just such a relationship that makes the hunter the very best conservationist, and leads men and women who hunt to establish and maintain by their sweat and labor the myriad of hunter groups dedicated to stewardship of our wildlife resources. My grandfather was born in the mountains of North Georgia in 1885, and was a farmer and of necessity a hunter of small game only. He died in 1959, amazingly never having laid eyes on a wild deer or a wild turkey, such was the state of affairs with the wildlife of the continent during his lifetime. Those same two animals are commonplace

in that part of our country today, thanks to the efforts and leadership of sportsmen.

Theodore Roosevelt was an early visionary in the conservation movement a century ago, and his legacy continues today, in part, in the Boone and Crockett Club. I am a member or supporter of a long list of such groups, and I contribute many hours of time and other resources toward making such organizations effective in the conservation effort. Some of these groups are dedicated toward all animals (Safari Club International, for example, which has spent well over \$10 million on some 600 projects around the world that benefit various animal species and their native stewards.) Other organizations are species specific, and their exploits are legendary in bringing back various animals from the brink of disaster. In all cases, hunters are the heroes, the men and women who go to work, donate their time and money, and make the real difference. I would point out at this time that never in history has any species been made extinct by regulated sport hunting, which is in no way to be confused with unregulated hunting, the excesses of market hunting, and the uncontrolled habitat destruction that characterized less enlightened times in our nation's past. Trophy hunting is unquestionably the highest use of any animal, because the trophy hunter seeks the oldest male of the species, which is biologically the least necessary to the propagation of most animal populations. The remainder of the animal's body is wasted in few circumstances, so the portrayal of the trophy hunter as one who shoots, rips off the head, and leaves the rest of the carcass to rot is patently untrue.

I would like to tell the story of Dr. Michael Werner. Dr. Werner was a hard working general surgeon from the State of Wyoming who hunted polar bear legally by dogsled with the Inuit near Baffin Island in subzero weather in April of 1990. He took a giant male polar bear on a grueling and impossibly difficult hunt. He partook of this experience because he was a hunter like me, a man more interested in the experience and the challenge than in having a tangible trophy of the adventure. He was very happy with the hunt and held little hope of ever actually seeing his bear at home until the move to reauthorize the MMPA and include the needed amendment surfaced. He contributed to the cause by writing letters to his representatives in Congress and by donating to help defray expenses incurred in the effort. His letters to me are filled with hope, the letters of a man who saw the light of possibility where once there had been none.

Unfortunately, in October of 1993, Dr. Werner developed a glioblastoma, a type of brain tumor. He suffered through multiple brain operations, several in the United States and also multiple procedures in Japan, where he underwent an experimental radiation therapy that required repeated open skull treatments. Despite a will to live that amazed me and an eternal spirit of optimism, he died in 1995. He never saw his bear imported, of course, but he never gave up hope and he talked about someday obtaining his import permit in every communication I had with him before his demise. I pray his family will eventually have his trophy home at last.

Another person who waits expectantly is Mr. Joseph Cafmeyer of Taylor, MI. This gentleman went polar bear hunting from Pond Inlet, on Baffin Island, in May of 1973. He had obtained his license before the MMPA went into effect, and erroneously assumed he could thus bring his polar bear trophy home despite that law. He has repeatedly lobbied for assistance in his quest to do so. Mr. Cafmeyer is now 84 years old, and has perhaps waited longer than any other sportsman in America to get his polar bear home. But for his wife's debilitating illness he would be with us today.

I have long been a student of North American large mammals, and I have long known of the excellent biological studies and the complex of strategies that constitute the Canadian polar bear management system. It had always seemed ridiculous to me that hunters from all other 180+ nations of the world (besides the U.S.A.) could go hunting in Canada and take their polar bear home to wherever they lived, using only the internationally recognized Convention on International Trade in Endangered Species (CITES) permit. I would clarify at this point that despite the polar bear being listed under that treaty, it has never been classified as endangered anywhere in its range. Because of this information, and the plight of hunters like Dr. Werner and Mr. Cafmeyer, I decided to take a leadership role in trying to convince Congress to amend the law.

Originally, the modest accomplishment of allowing U.S. hunters to import Canadian polar bears seemed a small task because all the scientific information was so solid. I also wanted to try to get Congress to authorize a sport hunting program in Alaska so our own Arctic natives (the Inupiat) could benefit from their natural resources. Natives of Alaska now kill in the neighborhood of 75 polar bears per year, but must utilize the entire bear themselves in most cases. They are prohibited from selling the whole skins, or even giving them away to a non-native. Most Alaska natives do not participate in making hand crafted articles from marine mammal products, so polar bear skins are most often wasted

when a bear is killed (3). Considering the zero economic return to the natives from the bears, it made sense to include such a provision in any amendment. It proved to be politically impossible to accomplish this task in 1994.

I want to include another anecdote that illustrates a point. I wrote an article for a recent issue of Safari magazine which was entitled "Plight of the Hunter." It is about the two Eskimo guides on my own polar bear hunt, and the devastating effect such legislation has had on their economy, their culture, and their self esteem. My chief guide was a family woman who still lives in Resolute Bay, NWT, Canada, some 600 miles north of the Arctic Circle. The assistant guide's name was Ekaksak, a man who had struggled mightily with alcohol for years. Many long conversations with him as we traveled the Arctic ice pack by dogsled revealed clearly to me that his main problem was a missing sense of self worth. Our trade policy toward Inuit marine mammal products, in combination with the animal rights movement in North America and in Europe, has dramatically reduced useful employment and earned income for these Native Americans(4), however well intended is the MMPA. Ekaksak made two long and dangerous trips as a guide to the North Pole seeking that self esteem and the usefulness we all need. He never found it. He died recently in his sleep in a house fire in Resolute Bay, in part a victim of the modern white man's potent brand of economic boycott.

I have a special place in my heart for the native peoples of North America. I have always carried a deep interest in their history, their culture, and their unique styles of survival. My own brother is an anthropologist who specializes in the Southeastern Indians of my home area, so the topic has been ever before me. Our policy towards our Arctic Native Americans is an unintended duplication of the deliberate plan of the 1870s, when we subdued indigenous North Americans by denying them the use of the plains bison, literally wiping out the resource in the process. Many plains Indians died as a result of that planned atrocity, either succumbing to a broken heart or dying of starvation, nobody seemed to care which at the time. We are now denying the peoples of the Arctic, no less Native Americans, the use of their most basic resources as well.

Can we not come up with something better than this for the end of the Twentieth Century? The United Nations has declared 1995-2005 the Decade of the Indigenous Peoples. Can we not at least allow import of all legally harvested sport Canadian polar bear trophies from Canada, as was intended by Congress when it passed the 1994 MMPA amendment package?

For the record, I would point out to the committee that the Inuit and Inuvialuit (Eskimos) of Canada's Arctic have already benefited from the polar bear sport hunting amendments to the MMPA, even before import permits are issued, though the benefit cannot be sustained unless the rules are dramatically improved or outright discarded:

(1)The total harvest of polar bears has declined by about 106 bears per year as a direct result, down from 551.5 bears to 445 bears.

This is because of increased value, and increased conservation incentive,

for the Inuit and Inuvialuit who conduct the hunts. They have been happy to reduce quotas to comply with authorities in scientific management.

(2)The value of sport hunts to the Inuit and Inuvialuit people has

increased from \$870,750 per year to \$2,665,000 per year. These gentle and unique people are thus encouraged to conserve both their bears and their culture.

Congress passed the MMPA Amendments of 1994 with the unambiguous understanding that sport hunters would be allowed to bring home their Canadian polar bear trophies. I was aware of ongoing discussions between Congressmen and their staffs on the wording of the amendments regarding polar bear trophies. As best I could tell, there was never any misinterpretation about the meaning that Congress intended. Let it be clearly stated that this was a bipartisan bill which passed both houses of Congress unanimously. There was expressed at one point some concern that allowing U.S. hunters to import polar bear trophies might increase the pressure to allow more hunts, but as the above figures indicate, the exact opposite has occurred. It was anticipated by all that little further action would be needed by the U.S. Fish and Wildlife Service (the Service) before they began issuing permits, after they consulted with the Marine Mammal Commission (MMC), as required by the law.

Unfortunately, what everyone expected is not what has occurred. What we have, I believe, is a monumental case of the bureaucracy at its worst. Initially, there was no action at all for many months, despite pleas from numerous Congressmen that permits be issued {(5) and (6)}. The Service then elected to go through a complete rulemaking process that has tied up every polar bear harvested by U.S. hunters in Canada in the past 25 years for at least the intervening three years. A reading of the four simple statements containing only 83 words in the MMPA amendments section 104 (c)(5)(A)(i-iv) reveals no intent by Congress to delay or impede the process in such a way.

The Service consistently denies that they have taken this route for capricious or political reasons (i.e.-an anti-hunting, anti-conservationist mentality or influence.) They also have repeatedly cited the floor debate on the bill, in which Congressman Jack Fields of Texas clarified Congressional intent without challenge, but they have failed to implement his interpretation. He stated in the debate the following: "...Canada-a country whose polar bear population is healthy. Canada's polar bear management program is based on science, which ensures a sustainable polar bear population and is consistent with international conservation agreements...it is not the intent of the language that the Secretary attempt to impose polar bear management policy or practices on Canada by the imposition of any polar bear import criteria." (Emphases added.)

These statements mean that Congress passed the MMPA amendments of 1994 with the undeniable conviction that all four of the above findings had already been satisfied. It also means that the 30 pages of polar bear trophy import rules published on February 18, 1997, which disallow import of most polar bear trophies, are de facto evidence of an intent by the Service to obstruct the will of Congress. It is readily apparent that what the Service has done is "impose polar bear management policy...on Canada by the imposition...of ...polar bear import criteria" almost ad infinitum. The Service has acted as if the polar bear were on the verge of extinction, which it is by no means.

Despite their erroneous conclusions, the Service did an admirable job of evaluating the Canadian polar bear management system, it must be admitted, even though the whole exercise was a gross waste of taxpayer funds. The final rule is replete with shining compliments regarding the sterling example the whole Canadian program represents, and in every case all questions are resolved in favor of the Canada's position and interpretation, regardless of the issue addressed in the final rule. This includes direct positive statements on each of the four Congressionally mandated findings, and on page 7323 the statement that "It is the Service's judgment that Canada has the best polar bear management programs in the world." One can almost read into the wording the following: "and we only wish we had the mandate and the authority to manage our Alaskan polar bears as effectively by allowing a native-guided sport hunt under a quota system there." At least I hope they would like that. It is conservation at its best, and we ought to want to emulate Canada.

This gives rise to three questions which will further demonstrate a willful attempt to circumvent the will of Congress.

First, there is the issue of "grandfathering" bears that are stored in Canada, all of which were projected in the proposed rule (of July 17, 1995) for import approval up to the date of the final rule. Besides the obvious fact that these bears are neutral from a conservation standpoint, being already harvested, there is another important issue this raises. (One can state, in fact, that already harvested bears will have an undeniably positive effect when allowed import, since each import permit will provide \$1000 for polar bear conservation in Alaska and Russia.)

One must question the Service about their interpretation of why Congress specifically included bears already stored in Canada in the language of the amendments to the MMPA. Did the Service think Congress really expected hunters like Joseph Cafmeyer to select a population 24 years ago that would be importable today? One couldn't do that with a 1996 hunt with any certainty, much less a 1973 hunt! The answer is more than obvious--Congress intended to clear up the backlog of stored bears and make a lot of long-suffering and vocal constituents happy without a shot being fired or another bear being hunted. Indeed the final rule (page 7320) gives six excellent reasons why the Service proposed originally to "grandfather" for import all bears taken up to the date of the final rule, a most reasonable approach since Congress specifically passed a law including those bears for import. Amazingly, the very next statement after that very apt review of those six good reasons states, without any significant explanation, that "based on comments received and a review of the MMPA the Service finds that pre-Amendment bears must have been taken from approved populations."

We have learned that the comments which resulted in the change from the proposed rule to the final rule came about as a result of objections by the MMC and the Humane Society of the U.S., a well known extremist animal rights organization and avowed antihunting group which has been recently investigated by the Washington Post for misuse of donor funds. According to columnist Rich Landers of The Spokane-Review, such organizations are "the Jim and Tammy Bakker Show of goodwill toward critters." (7) It is appalling that any agency of our government would even appear to align itself with a radical organization to obstruct the will of Congress.

The Solicitor's Office of the Department of the Interior was also involved in this unexpected and devastating change in the proposed rule. The Solicitor's office decreed, in an indefensible opinion, that all bears taken in the past must come from currently approved populations to be importable. Even more weakly, they ruled that once a positive finding has been made for an area (present or future) then bears taken in the past suddenly meet the import criteria! I go back to my original argument, i.e., the original intent of Congress. Wasn't the MMPA specifically amended to allow import of just those bears the Service now presumes to disapprove (or indefinitely defer approval, if one prefers.) Ironically they find themselves in the position of basing their disapproval on the Solicitor's Office's review of that very MMPA that Congress amended! The Service has taken some bad advice in ignoring the facts.

Second, despite all the positive findings on the Canadian polar bear management system, only five of Canada's thirteen huntable polar bear populations were approved for import. These disapprovals were based on two super-criteria not required by Congress, those being that each subpopulation be either stable or increasing, and that co-management agreements with other jurisdictions be in place.

The Service consistently refers to Canada's twelve polar bear populations in the final rule. At the January-February 1996 Polar Bear Technical Committee meeting in Quebec City, Canada, which I attended, this key IUCN group approved redrawing the old Baffin Bay, Parry Channel, and Queen Elizabeth Islands populations into four distinct new populations, based on revised population studies and movements of collared bears. Only two of these populations (Baffin Bay and Kane Basin) are shared with Greenland, where the Service has taken the unprecedented step of requiring as a polar bear import criterion an agreement between two foreign governments.

The new Lancaster Sound population and the new Norwegian Bay populations are entirely within Canada and entirely within sustained yield (8). While these new populations are alluded to on page 7316, they are not considered as new populations for purposes of permit issue. The Service had two representatives at that meeting in Quebec City (Mr. Scott Schliebe of the Marine Mammals Management Section in Anchorage, AK, and Ms. Lyn Noonan of the Office of Management Authority in Washington, DC) Ms. Noonan actually chaired a session of the meeting (as well as one at the 1995 meeting.) Why the information on the new boundaries and population data approved by this international body (and the automatic approval the data convey even under the dubious Service polar bear import criteria) failed to make the final rule is quite mysterious. Why, on pages 7310 and 7319, do the rules refer to data that came in as late as December 20, 1996, but leave out this key earlier information? I believe it was because, for whatever reason, the Service was determined to override Congress and approve as few polar bear imports as possible, and to delay all permits for as long as possible. If this is indeed the case, another obvious reason to disallow import of bears from the newly approved (by the IUCN) Lancaster Sound population is that it has the most sport hunts of any of polar bear population in Canada (in some past years Lancaster Sound has been home to the largest number of total sport hunts.)

This brings up the final point I would like to make. In every communication I have ever had with MMC Director John Twiss, both in person and in print, he has expressed opposition to Congress infringing on the waiver process built into the original MMPA. The record shows that the cumbersome waiver process doesn't work, and it has been used only once in 24 years. Mr. Twiss admits in a number of places and in a number of ways that the waiver process would likely never actually allow one to import a marine mammal (9), but the fact is that the unwieldy and burdensome effort would have kept the MMC on center stage. I dutifully sent him copies of my correspondence and tried to involve him in the line of thinking I was following, assuming him to be interested in genuine conservation. Unfortunately, despite my good faith attempts to keep him informed, it appears that he callously used the information in the most damaging way possible.

Throughout the process, and even down to the final rule, the MMC has erected every possible barricade to obstruct importation of polar bear trophies as mandated by Congress. As one example of this obstructionism, the MMC

received the materials on the polar bear rulemaking from the Service in January of 1995, but failed to respond until November of 1995 (after the Service sent them a reminder letter in October 1995 that their input was required.) We have learned much about the extent of this obstructionism, and I believe that this sheds light on why so much good data are ignored or omitted completely in the final rule. One respected polar bear biologist made the statement in correspondence that the MMC was "going overboard..." The MMC is mentioned in the rule as supporting the will of Congress not a single time with reference to the new law, but many times the MMC (starting on page 7320) is quoted as raising some issue that might possibly complicate the process, invalidate or limit import of trophies, call into question Canada's management practices, or establish polar bear import criteria. The nature of the questions raised by the MMC, most of them legalistic and not scientific, were already answered by Congress in its intent on the bill (i.e., Congress knew about the fact of the Canadian sport hunting program when it passed the amendments, so isn't it safe to assume the MMC didn't need to address the legality of their sport hunts? In like manner, Congress was unquestionably aware that Canada has an exemplary management program for polar bears, so questions aimed at population versus subpopulation management structures had likewise implicitly been answered by Congress.)

On page 7325, it appears that even the Service has about had enough of the obstructionism of the MMC when they refer cryptically to "the theoretically absurd outcome hypothesized by the MMC..." Way to go, Service! It appears to me that many of the questions raised by the MMC were more than theoretically absurd.

Esteemed Committee members, I submit the following items for your consideration in review:

Congress intended for U.S. hunters to bring home all legally harvested sport polar bear trophies stored in Canada, but the law has been intentionally obstructed and delayed in its implementation;

Congress intended a blanket approval of imports of all legally harvested future polar bear trophies from Canada, but the intent has been subverted by an obstructionist mindset, a questionable quest for unneeded information, and then ignoring valid scientific information in their possession that would have opened up more populations of polar bears for import; and

Congress intended for the MMC to help expedite the process, but they have instead acted as an obstructionist bureaucracy that has done everything in their power to derail the entire amendment and thwart the will of Congress as regards sport hunted polar bear trophies. The MMC needs to be removed from the process as regards polar bears.

Finally, the Service has just published a booklet entitled Polar Bear Conservation Plan for Alaska. On the front cover is the name of the head of the Canadian Federal Government's polar bear management program, Dr. Ian Stirling, who is quoted as saying, "To me, the polar bear is the Arctic incarnate." I agree.

I know Dr. Stirling personally. He is one of the top experts on polar bears in the world today, and not coincidentally a strong supporter of sport hunting of the bears as a management tool. It is ironic that his quote is used on the cover of a booklet that fails to mention, even in passing, the possibility of a sport hunt in managing polar bears in Alaska. Without it (or for pity's sake at least letting our Inupiat sell the whole skins of the bears for a paltry few hundred dollars apiece) the Alaskan bears will continue to be wasted at the rate of 75 or so per year. Our nation refuses to recognize the value of a sport hunt for our own bears, and our bureaucrats seem determined to restrict participation of U.S. hunters in the Canadian program, about which the IUCN Polar Bear Specialist Group has stated, "...native guided sport hunting in Canada is not a conservation concern."(10)

Dr. Mitchell Taylor, another personal acquaintance who is the main polar bear biologist for the Northwest Territories of Canada, was asked recently what percentage of native polar bear hunts should go to sport hunters for best conservation. His answer: "All of them." That will never happen, of course. But the highly selective sport hunter seeking a large male polar bear is unsuccessful more than 20% of the time, and refuses to knowingly harvest females, cubs, and small bears. And his or her presence gives a huge economic incentive to the natives to do likewise.

Please do something to help us. Thank you for the opportunity to comment.

Respectfully submitted,

J. Y. Jones M.D.

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- (4) Berton, Pierre, *The Mysterious North* (McClelland & Stewart, Inc., Toronto, Ontario, Canada, 1989,) p. 261-262.
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- (7) Landers, Rich, *The Spokane Review*, February 20, 1997, "Rights Folks Send Mixed Me\$\$ages"
- (8) IUCN Polar Bear Technical Committee Meeting minutes, Quebec City, Canada, January 31-February 2, 1996, p. 38.
- (9) Twiss, John, Letter to the Honorable Gerry Studds, 17 June 1993, p. 5, "whether the MMPA's requirements can be met." (Emphasis added)
- (10) IUCN Polar Bear Specialist Group Meeting minutes, "Conservation Consequences of Native Guided Sport Hunting Under a Strict Quota System in Canada," Oslo, Norway, February 3-7, 1997.

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