

SCOMM

#31:4

Tillion

What about the fellows out of Seldovia that fished for years - fished the inlet and, finally, when it got down to two twelve-hour periods they went out for shrimp or crab? Does that mean they're forever denied, and some guy that's been working at a -- one of the oil depots at North Kenai and fishing two days a week is the guy that's going to end up owning the fishery? This is the one thing I liked about yours where you said a historical dependence on the fishery, because some of our boys have been pushed clean out of Cook Inlet and they're fishing Kokiak and then commuting home to their families, you know.

It might be possible to come up with classifications like this that took both the factors into account. These men with dependence and past participation, though, I don't know. I just don't think that these very clearly do. They seem to be, you know, in Part A, in Subsection A, you set out to (indisc.) the two standards. And, then, in Subsection B you create six classifications that are primarily economic dependence classifications.

Well, yeah, now (indisc.) is the dealer, unfortunately. But Joel and I were talking about this this afternoon, and we decided that Paragraph -- what's now Paragraph A should be Paragraph B, and B should be A - whether the Commission shall classify applicants on a year-to-year basis with these criteria, or these six classifications, and then within each one the subclassifications are based on the degree of economic dependence and extent of past participation.

Of course, that doesn't really make -- I see what you're suggesting. But, I don't know, there you -- there what you've done is created two different systems of legislative classification and kind of piled one on top of the other, rather than trying to say -- or a system of legislative classification will be based on economic dependence and past participation, but it will always fit into these six categories, or something like that.

Well, this, from my view as a Flavon (ph), this was what I felt that -- it was my interpretation what he was trying to do, and we just attempted to clarify it by changing the -- changing the paragraphs around.

I think without too much trouble we could that what is now A under -- write that under the what's now B as applying to B. In other words, get in the past participation thing as a fact as well as what the (indisc. - too faint) six classifications. And make that

Yeah. Well, what I see as a professional fisherman is the man who fished and, you know, really fished for a living. And what you'll find is in many of the marginal fisheries where over gear has pushed them down, that the people that participate every year are not professional fishermen. The professional has already been forced out to where he only comes back on cycle years. He has -- he does nothing else but fish, and, therefore, he can't grovel around for two days a week somewhere; he's got to move out. And you'll find him fishing at False Pass, or somewhere, now instead

of fishing the Inlet, because he's -- all, everything he owns is in a boat. He has to keep fishing twelve months a year.

What you're suggesting really is that if you look at an individual applicant, you may see -- going back, say, five or ten years, you may see several years of full-time professional participation; some years where he went elsewhere to fish. But, you'd want to be able to rank him above a guy who, say, had fished weekends for a solid stretch of years, or something like that. He's somehow more a professional.

Yeah, he's -- he's definitely more professional. He's been forced out due to the fact that the fisheries became marginal.

But, on the other hand, you don't want to write the thing so that somebody that has fished full-time some years back, but then has gotten completely out of the fishery, is no longer involved at all.

Oh, no, no. I'd say

You -- we can't do this thing in such a way that we bring in this group that -- that fished for a few years back there and, then, another group that fished for a few years up here and another group that fished for a few years up here, and wind up with two or three times as much gear as we've got (indisc.). Right?

Yeah, but you take the Vinberg (ph) kid that's now running the

boat for the State out of Kodiak, or something. You know, he's fished all his life. And he went aboard the boat -- or, some of the kids, when the fish got down too bad, went on tugs, except for the good cycle years when they'd come home again. You know, when the fishery -- like you take somebody looking at the predictions that we've got in Bristol Bay now. You certainly don't want to force him to stay there. You want to allow him to look elsewhere for employment, and many of them are. You know, the sea is their way of life. I think of what would have happened if I lost an election. Have you ever thought of how you'd earn a living in Halibut Cove if you didn't fish?

Well, how do we accomplish both things?

Well, just go back and I think

Of course, that was a major -- I don't think anybody's seen the people fail to pick that up about the degree of economic dependence. That gives you the flexibility to consider what kinds of opportunities, alternatives, there are in a particular social section like Halibut Cove or Bristol Bay. And, without being unconstitutional about it, say that people there simply don't have the range of alternatives that someone that is a resident of Anchorage or (indisc. - simultaneous conversation) might have.

In Port (indisc. - interrupted).

There is no part-time job except a fellow gets a job making web-lock, or something, at the cannery. You know, it's

Well, let's -- let's, first of all, decide and get your opinions on

We'll find what's constitutional -- what's not constitutional about it first.

Suppose on page four where we got these six categories, just as an example, we would say, all right, Bristol Bay is in rough shape. They need a pretty drastic cut, so we're going to say only categories one and two are locked in. And those people will know that they will be able to fish. That should make some substantial cuts there. The rest of the State, by and large -- well, the rest of the State, period, one, two and three will be locked in, and we can guarantee anybody in any of those three categories that they will be eligible. Anywhere, Frank, is fine. Right here between us is fine. Now, when we get down to the Southeast we've got a different problem. We've got a lot of people involved in this sport commercial thing and, apparently, their level of participation, their level of harvest is not so great that it's drastically going to hurt anything. So, for certain restricted areas like that, we're going to guarantee one, two, three and four, or which -- wherever that sport commercial thing would come, whether it's four or five. We would probably ought to move it up to four.

NEW SPKR

Or you could take it down to five. You wouldn't change anything.

Well, okay. Now, if we were to list in the bill the districts -- give Bristol Bay A, district numbers it has now in the commercial district, and say in district such and such, category one and two, all those in one and two shall be granted entry permits. Throughout the rest of the State, one, two, three and four shall be granted entry permits, or one, two, three. Now, for district J, down here, one, two, three, four and five will be granted entry permits. Do you see any constitutional problem with that?

I see -- I see some. The attempt here I think we can accomplish without creating constitutional problems to try to tie down what the Commission's range of discretion is a little more tightly. One problem -- are you going to do it for each different type of gear, too? Consistently with the pattern of the bill, you're going to have to decide differently for each category of gear and each area, because they present completely different problems. The Southeastern handtroll fleet's a complete different problem from the Southeastern purse seine fleet. You can't

Yeah, but the Southeastern has -- though it has an oversupply of gear, it doesn't seem to be over in any particular area. It's all about -- it usually goes by area, because if there's another fishery that isn't over-fished to supply them, they tend to -- they tend to seek their own level within their area.

NEW 3PKR:

Okay. All right, then, I might get on to what I see as a constitutional problem, and that is that it seems to me the valid legislative purpose in this legislation is to stabilize at reasonable levels the amount of gear in each particular fishery. And the reasonableness of the level goes to whatever criteria you use in setting the level, whether it's satisfactory for the builder of the resource to provide a livelihood, management considerations, a full harvest. Now, that's the way we had it set up. But all I'm suggesting is that the reasonableness of the level has to relate back to those standards. Now, these categories and the decision that you make in the legislation that nobody in category one, two and three shall be denied an entry permit is unrelated. It isn't -- in other words, what if there are fifty percent more people than there -- you know, unless we provide also a mechanism buy-back, or something, to get back down to the optimum level. Those have to be tied together some way, because you're making decisions here that are unrelated to the basic purpose which is to decide not who should be in the fishery, necessarily, but what level.

Al, of course, that's what we'd do on further to try to encourage (indisc. - simultaneous conversation).

Okay. So, as long There wasn't a buy-back in here.

Do you have a buy-back in here?

NEW SPKR:

No. (Indisc. - simultaneous conversation)

It's roughed-out because I figured we'd be here all night just getting through this.

Yeah. Okay. As long as there is a buy-back option plan.

The buy-back -- the buy-back is tied in. It's up to the discretion of the Commission and the Department of Fish and Game to determine in which administrative areas the normal rate of attrition needs to be increased. And the buy-back program, rather than being a State-wide buy-back program, would then be aimed at those areas - those administrative areas, which would tie in nicely.

All right. But then the constitutional problem comes if you tell in Bristol Bay, to the guy in category three, that he has no right to be bought out, that he is out. What's justifiable about telling the people in Southeastern that -- or telling the Commission if they want to take people out in Southeastern category three, they have to buy them out?

Well, do you see a difference between compensating the number three -- the guy in category three in Bristol Bay who's immediately out? We're compensating him. I think we have to do that.

But, we're (indisc.) back.

NEW SPKR:

Okay. We compensate everybody, in other words.

Yeah. Right.

We compensate everybody we take out, except possibly in category five and six. (Indisc. - simultaneous conversation)

Well, what you'd want to do is -- uh- is allow everything through -- well, they come right back down to if you allowed everybody through five to get a tentative license, but the Commission gave them the flexibility to buy back to this level without choice. You know, wouldn't you -- you're going to have to give the Commission more flexibility than we'd like without

Buy back to what level?

Well, say you wanted to buy out

To the optimum level, whatever it is ?

No. Um mum. You couldn't buy out one and two, but you could buy back to one and two. In other words, the Commission, at their discretion, may buy back to one and two.

What if there's too many with one and two?

I'd say that then the -- the buy-back must be voluntary from then

on.

You weren't assuming a voluntary buy-back, then?

No, I was saying they'd have the right to

Condemn and then compensate.

Condemn and compensate back to a certain level. But they cannot condemn and compensate past a certain level.

Well, what's your -- do I get you, then, to mean that throughout the State everybody through five would get an entry permit?

Yes.

But, the legislation would say that in the case of Bristol Bay, for instance, the

The legislation wouldn't say it. The Commission

The Commission would have the authority to require buy-back to one and two. And that throughout the rest of the State they'd have the permission to buy back to three.

Um hum.

And in Cook Inlet, or in Southeast, only to four perhaps, or

whatever it would be.

There are only

I don't really see the problem with the Commission deciding to which level they're going to protect, because your ultimate -- your ultimate goal is a biological one. And there's nothing that says the legislature can't determine (indisc.) the biological, you know, necessities of biological goals as far -- as far as the optimum gear levels, say.

It's economic more than biological.

Well, it's both.

It's both, because the thing is that you're going to have to start taking a little from every run rather than operating entirely within short periods, even if the economics will furnish a living in those short periods. There's a biological mistake in doing it. And so you have to get back -- you don't need to -- you know, after you've reached the biological level, you'll still have to keep going 'til you get an economic level, or vice versa.

Yeah, I don't see any problems with the legislators -- legislature saying that the problem's in Bristol Bay, which they are. The economic problems and the biological problems are so much greater in the rest of the State that they have to set a different level

than for the rest of the State, as long as that's clear. Because you still keep in mind the same goals as all you're doing is substituting a legislative determination for a committee determination -- for a Commission determination.

Well, all I didn't want to see was a legislative determination that would say compensation won't kick in until we get to a step three in one area, but it will kick in at step five in the other areas.

Yeah. Yeah, that's -- that's clear.

You could go to any level you want to, but you've got to start compensation at the same level through the State.

Yeah. You could also use your different levels and then just plan on attrition where you get in a situation like Southeast, unless attrition isn't going to be passed.

Well, I still think that a buy-back, when you get down to a certain level, you can make the buy-back work by simply assessing. But you're going to have to -- and instead of saying -- the big thing that I'm afraid of is that you'll find somebody who leaves Naknek and goes into Anchorage, or Fairbanks, and gets a job in the winter penalized because he's done it. While the guy that just sits there, and has probably even caught less fish than he has, ends up with a license. And this is patently unfair.

NEW SPKR:

This is why -- well, you know, that question came up time and again, and we tried to explain to people that a person who fishes the full season -- if two guys fish the full season, and one of them takes an off-season job, then they -- they're probably both equally dependent. One has just made the decision that he doesn't need that extra income. I mean, they're both full-time fishermen if they had similar alternatives. And some -- some (indisc.) they don't have those alternatives. But if

Well, in Bristol Bay they don't have the alternatives. They have to pick up and leave to have the alternative. But there are people that pick up and leave, and they don't have the right, then, the ones that go over to Kodiak and go on another boat in the winter certainly shouldn't be penalized for what they make then.

Well, if they pick up and leave and get another job because they have qualifications for getting another job, can do so.

One of the problems

But some people don't have qualifications other than just fishing commercially.

One of the problems with buy-back is you lose the control that the State can have through the Federal provisions we have here as to who's going to sell out. You're usually going to find out --

you're usually going to find like in Bristol Bay, if you had a straight buy-back, the first people that would be selling out would be the people that would be, you know, selling out to the future instead of a guy that maybe has less of a stake in the action.

You know, you've got a good point there. And I was just thinking that in that case you didn't allow one and two to sell out until all other alternatives had sold out. In other words

In other words, to sell out only to a similar -- under similar circumstances.

Well -- uh Oh, you don't mind, but not the -- the State would not buy back. Let him sell out to another fisherman, fine. But -- and then you've already set up some stuff where you screen them out with apprenticeship so that they'll stay. But that is -- the Canadians solved it by just saying an Indian can't sell a license. We have to find something that does approximately the same thing until they realize the value of their licenses.

Lowell, excuse me. Do you know all these people?

Well, I think I do pretty much.

Do you know Mr. Flavon (ph) here?

NEW SPKR!

Right. Yeah, we've met a time or two.

All right. Dave Hernstein (ph) behind? From Kodiak? He's the imprecator this evening.

Okay, thank you.

Bob?

Yeah, Jerry?

I have a question. Did you say that you thought there was a problem that if we didn't specify to each specific gear within an area in each classification?

Well, you're talking about make -- Senator Palmer (ph) was talking about making different judgments about which level would -- you -- you know, you would -- what people (indisc.) in the different areas. And I suggested that if you were going to go that far then you may in some areas have to consider it for different types of gear, also, because they system's set up to work by type of gear and by area. And if there was a real difference -- sometimes there's a real difference in the fishery. I mean, sometimes there's a real difference in the hand troll fleet of Southeastern than in the purse seine fleet, which is an exempt

NEW SPKR:

I mean, legally would -- you don't think they'd have to do it?

Well, we've discussed this thing about two or three different ways, and I

Well, what I mean is -- I mean I could see in Southeast if we tried to set the levels per gear-type it would be an ungodly mess. I mean, the Fish and Game Board, that's what they try to do -divvy up the pie between them. And that's the kind of problems that you'd run into.

You could say as long -- I'm -- you could say, and make different determinations to whatever extent, as long as you are compensating people by and buying people out, I think. In other words, you could say you can't take anybody out in category one and two in this area, and you can't take anybody out in one, two, three and four as long as -- uh -- as long as the only way you can take them out is by buying back or compensating. What I was disturbed about is the notion that you said you can't take anybody out in category one and two without compensating in one area, and said you can't anybody out (indisc. - interrupted).

Oh, no. I don't that was even contemplated. You have to

Then the compensation -- the starting point for the compensation wouldn't be fair and even across the State.

NEW SPKR:

Well, the basic philosophy here, I think, is that State-wide won't categories one, two and three -- there are not so many fishermen in there at the present time but what we could stand to have them stay in and reduce that number by attrition. And then some areas, as we provide here, hopefully increase that rate of attrition by a buy-back. On the other hand, we have a couple of areas with specific problems - Bristol Bay, in one regard, and down here in this hand troll fishery, the other direction. Bristol Bay we do need more cut-back than we would get with one, two and three in all probability. So we would need to cut it back further. Here we don't actually need that much. We could include four and five. So, this is the idea behind it. And, of course, that -- I

I want to make two other points before we go on. Number one, that would probably happen in any event if the Commission regulated the hand troll fleet as a separate type of gear in a separate area. Ninety-five percent of the guys would be in it and maybe a hundred percent. Who knows? But the other point is one of structure. And that is that the thing would have to be reworded because the procedure is, if the Commission will set regulations in its quasi-legislative function first, and those will define precisely the subclassifications and the qualifications for getting into each one of these six classifications, if that's what you set up, for each area and each type of gear before it ever looks at applicant one. And, so, that whole procedure of defining precisely how a given applicant would -- what qualifica-

tions he would have to establish to get an E priority classification. It has to be done before you look at the applications. This reads, the Commission shall classify applicants. Then, it's performing its quasi-judicial function of just making evidentiary findings on each applicant and saying, okay, you've shown that you belong in this -- this classification. So that it can't -- we set it up that way to minimize the possibilities for abuse of the system. Rather than sorting out the guys, it's broken into two steps.

Yeah. Now you're not going to contemplate in any way that from this point on a man has to fish that -- if you have an assessment, you don't have to worry about it. As long as he pays this assessment, he shouldn't have to fish. I'm looking at Bristol Bay with seven bad years. You don't want the guy from Kodiak to feel he's obligated to go over there and fish it to hold his license when he's taking food right out of somebody else's mouth to do it. But he's going to do it if he thinks he's going to lose his license. So you want it spelled very plain that if he pays his assessments for Bristol Bay, he can continue on where he is. But if he holds the license for more than one area and more than one fishery, he should have to pay the assessments in each and every fishery that he's involved in, even if he doesn't fish it every season.

Is there -- is there any objection to that as a -- as a philosophy that we want to build into this thing? That we do not require a guy to fish every year or any certain number of years, even, as

long -- as long as he continues to pay his license fee for that area, his entry permit and his assessments. Then, if he doesn't want to go fish, well, that's up to him.

I would say that would depend on a transfer of (indisc.). If it's going to be freely transferable permits, they're going to get a value on them. Then I would say that you want to encourage people. You would want to discourage, you know, speculation on the permits. So you'd want to have some sort of encouragement to actively participate, perhaps with waivers possible through the Commission when there is a bad situation. But if there's not going to be free transfer of permits, and the permits are not going to get a high value, then you don't have to discourage that type of speculation, I don't believe.

If you work out a -- an apprenticeship program to get your young in, and a person may only sell out to a fisherman approved on the apprenticeship program for the area, you're going to still allow free transferability in ownership. In other words, he can -- he can decide which one of these candidates he's going to sell his license to. But it has to come from the State master list.

Right. That -- that

That would take care of that problem, wouldn't it?

Right. But I wasn't sure we had reached that determination yet,

that it was that far along.

No. Well, what I am worried about is the fact that you could have in a depressed -- right now in Cook Inlet we don't want to make anybody fish that doesn't have to when you're at two twelve-hour periods. Because he's just going to take the food right out of somebody else's mouth when he does it.

Well, does the -- the combination of having -- of having a number of years limit plus the Commission may waive it if it looks like it's going to be a real bad year, or something like that; maybe that -- some kind of combination would work then.

I think you can do both. I think you can discourage -- you can discourage speculation and you can also -- you can also not force people to fish, which is a mechanical-type thing that can be done.

This -- this would be one of the major oversight responsibilities of the Commission as we -- as originally set up, because it could adopt regulations to protect against the speculative kind of abuse. And, number one, any transfer has to be to a fisherman, not somebody else. And, I would assume, if observed in a certain area, that permits were just dropping out and being held by people, things like that. That there's, though, there's authority in there now where it's solved by regulation. I suppose you could elevate it to the statute itself, if you wanted to.

You could -- you could also have that the Commission may charge double assessments for people holding licenses and not fishing. You know, if you wanted to.

Okay. Then, will you guys all work that kind of language out? I think that may be the good approach so that you have a combination of these things. Basically, we do not want to require the people to fish in any specific year. That gives the Commission the flexibility there, too, so that they can (indisc. - noise) based on what the -- what the picture looks like for any one area in any one year.

I'd have problems with double assessments. I don't know.

All right. All right. I wouldn't drop that idea, then. Let's take a look at another one. I'm looking at some of my villages in the South there. Could we work in a -- poverty levels? Like at \$6,500 your gross family income was under \$6,000? The Commission may allow this category to renew with an assessment of only twenty-five percent or fifty percent of the standard assessment? Or is that getting into trouble?

I think -- I think one thing that we've got to make up our minds is what kind of a right are we creating. Are we creating something that's like a license right, which isn't a right at all in perpetuity, or are we creating something that's like a property right,

which is something that, once issued, you can't tamper with too much? You can have the annual assessments and all those kinds of things, but, really, you've given the guy something of value and you can't take it away from him if he decides not to fish for five years. And I think that we keep shifting back and forth and, on the one hand, we sort of think like in license terms and in the next, on the other hand -- and -- and I think that's a basic decision that has to be made.

Well, I would opt for the property right because of the fact that you want to encourage these people also to be conservation-minded. You know, if a fellow thinks that his property right is going to come up because he has taken good care, or because the fishermen have organized them and they're going into stream protection on their own, why, you encourage him to be a conservationist. With a property right, well, you don't encourage him to be a conservationist with a license right. In fact, when he -- when he's ready to cash out, he can be pretty brutal about it.

And what I was suggesting in terms of the Commission's oversight control, is that they notice that in a certain area, because these things are like property rights even though there's a requirement that they only be transferred and sold to fishermen, that that has sort of been abused and that fishermen are not really acting like fishermen. And they're holding out, and there's nearly twenty to thirty percent of your fishery that's not participating. Then they can really tighten up and when each -- you know, the trans-

fers that come along in the future, they'll get tighter and more -- and scrutinize them more carefully and make sure they are going to active fishermen, and they can kind of adjust their actions, depending on what's really happening in the fishery. But I think, as to a guy who's really got a permit that's been transferred to him, I don't see how you can come back five years later and say, I just don't think you should be able to hold that, if you decide not to fish three out of five years.

I agree. And to the fishermen that are left in the fishery, you know, except for the fact that this guy's license is going up in value, to the fishermen left in the fishery it's an asset when he doesn't fish. They've got more fish.

The only real abuse I could see is if some one person bought up so many permits that they could sort of control the number of people that were left in the fishery to some disadvantage. But I think that can be forestalled.

How does that happen?

Well, I suppose -- I don't think it could happen, quite frankly, because the Commission would stop it about the third time he showed up as a transferee.

Don't you think we could very well just say that

NEW SPKR:

Limit it one to a customer?

Limit it one to a customer.

I think that's really the way it is here. I interpret it part -- you know, I can't imagine how it would happen.

A fellow should be able to hold a gill net permit in Bristol Bay, Prince William Sound, down here if he wants to. But he shouldn't be able to hold two in the same registration area.

I don't think you'll have any problem with speculation at that point. There's no way that a guy -- it's a valuable thing. If he's not able -- if he's not working, he might as well sell it to somebody that can work. It's worth more money to him sold than it is to hold, you know.

Dave?

In discussing the difference between whether a license right or a property right, well, my tendencies are usually for the license right and not a property right. I know people say that -- that a fisherman is going to take better care of his resources if his license is going to be of value. In my -- in my experience and the people -- some people that I have talked with recently about creek robbers, are the type of people who might wipe out the run

of the creek. It's my guess that the mentality of the creek robber is such that he's the kind of guy who just can't stand not to give it a try when he sees those fish jumping behind the line, or he's a guy who's not thinking ahead anyway. And I really don't think the fact that if he -- even if he's going to be able to sell his license (indisc. - laughter) change his mind. And -- and I think it's going to take more education, and things like that, rather than -- rather than giving a property rate -- right to dissuade the creek robber.

Excuse me for my -- for my laughter, but I'm reminding him -- reminded of how many times this guy in front of us has said that, and I'm sure it's true, you'll never be the first one into a creek. You'll never be the third one, either. (Laughter)

When I did the first stream transplants for the State, why the Cook Inlet Courier's headlines were, "State Hires Red Tillion (ph) To Show Them How To Rob A Creek." (Laughter)

Well, even though the individuals doing the creek-robbing might not have no more mentality than that, the rest of the fishermen that see him doing it will have more mentality than that. And I think that's where he gets hauled to court. And, again, they're going to be much more concerned about it.

If it's my fish that he's taking, I'll stop him. If it's your fish he's taking, forget it, mother, I'll look the other way.

And it's just that simple. I've got to gain from stopping him before I'll stop him. And don't talk about leaving something for the future, and all of that, right now. There's no reason to stop a creek-robber 'cause there's going to be ten more fishermen fishing in the area next time. There's no reason to. People say that your natives aren't conservationists. Hey, they'd be conservationists if they stood to gain and there wasn't going to be double the gear there next round.

One thing on when we assessed -- before we move on. But when we assess on these, on the six different positions, when we decide which one we're going to cut off, one thing is of -- of compensation versus buy-back. I think you're going to be able to, if you use, in thinking of terms of condemnation or eminent domain, I think you're probably going to get them a lot cheaper that way than you are on a buy-back-type basis. Because then you can -- it's more easy to assess to a guy what he actually -- what it actually cost him to get into the fishery. Like, say, your sports commercial guy that's -- that's got enough commercial gear on board to give himself a business loss, a little depreciation and maybe to pay for his fuel, it might cost a little bit more to buy him back involuntarily than it would cost initially to just put him out of the water. I think in Bristol Bay, again, another situation - one of those boats cannery for years have been fighting on their fleet to get the boats assessed at fifteen-hundred bucks. But you can't buy one at -- at less than four or five thousand fair market value. It would be a lot cheaper, I think,

to go in there and -- and buy them out at fifteen-hundred bucks than it would be to -- to go on a buy-back-type of basis and try to buy them back for, you know, four or five thousand that you're going to have to get for it. And it, perhaps, would even be cheaper on the fishermen, you know, particularly in Bristol Bay where you're assessing a resident population of fishermen plus some outsiders that don't have a whole heck of a lot of degree of -- of profit margin. It's going to be pretty hard to set those assessments high enough so that you can get -- get the number out of there that you want. But I think these -- these ideas have to be in the back of your mind when you -- when you're thinking of, perhaps, natural attrition versus buy-back, or, perhaps, straight eminent domain versus buy-back.

There's one point I'd like to add, and I think those (indisc.) you've got to decide what you want to buy back, too. If you had a system which offered to buy back the entry permit, that really would work like a compensation system, because the fellow is going to not sell until he will receive enough money for his entry permit to -- in other words, the boat -- boat and vessel may -- is still going to have a value. And if it were a voluntary buy-back, offer to buy back, entry permits, I think you'd be at the compensation level and not the full-value level. And, also, it's going to be really hard to -- or complex to administer a buy-back system that includes the necessary buy-back of gear, vessels, and the whole shooting match.

NEW SPKR:

You should leave that for the Commission, whether they want to buy back just the difference between the permit and the gear or the whole gear. But the thing you're going to find as soon as you make this a property right, in a certain category, you're going to find that the young, especially, are going to opt for new boats and better equipment and stuff they can move further out. This is what's happened to us with the Canadians. You know, what was it the average age has dropped from - fifty-five to twenty-eight in three years? And the Canadians are whipping our tail because of it. They built -- where they just had a gill net fishery that didn't want expansion, they now have a little future. They were able to borrow from the bank. They built nice, new boats of increased tonnage, and then they went out into the troll fishery after the gill net fishery and just whipped our tail.

Of course, that argues for an increased cut initially, too. Because if it's going to increase -- the faster that the fleet increases in value, the greater the burden on a buy-back, not the more money it's going to cost in greater assessment, too. So

A five-thousand-dollar boat went for thirty thousand in B. C. this year.

That seems -- that really seems, you know, inflated. And I don't like that inflated method.

NEW SPKR:

We've got (indisc.).

Well, is it inflated, or is it just coming in line with what a -- a permit to participate in that fishery is going to be worth?

I think it should be of value, yes. But I also think it should be regulated.

Well, by picking the apprenticeship area that you must sell to

You can check -- you can look in the classified ads in the B. C. paper and you can see a lot of gill netters with A licenses for ten thousand or fifteen thousand bucks. Now, I don't know if that's horribly inflated, but it doesn't look to me like I was talking to Harold Hanson (ph), and I asked him if he, you know, in terms of getting into the fishery what kind of an increased barrier to entry is this. And he didn't look more like -- more on the order of twenty or thirty percent than at five hundred percent. We're going to look -- that's one of our next projects is to look closely at what's happening to buy-back down in B. C.

Uh -- the only thing that I can say that you can look at in the buy-back at B. C., it has lowered the total number of boats from seven thousand to five thousand without lowering the tonnage at all. Which means that new boats were built by somebody. It has

also increased the off-shore productivity of the same fishing fleet at our expense. In other words, it's been a terrible detriment to the United States 'cause they're just -- they're taking sixty-five percent of the halibut, where we used to take a majority. And they're taking sixty percent of the troll-caught fishery, where as little as four years ago they were only taking forty percent. And it's all at the expense of the American.

Let me ask a couple of questions about this assessment thing. First of all, can -- do we plan on the original amounts paid in compensation for these people that are out of the initial go-around for when we buy people out, or we compensate them for being out? Is this original sum going to be assessed back to the remaining fishermen? Or is this going to be such a large enough sum that we can't afford to do it?

If I could make a suggestion. What I would expect the legislature to do would be appropriate an amount; say, five million into the buy-back fund and assessments over a twenty-year period would have to amortize this debt, plus any growth, so that you wouldn't assess the fishermen in one lump sum. An impossible burden, but, at the same time, the State would get its money back, plus interest, so that, you know, the non-fishing public doesn't have pay for any of the fishing.

Do you have any idea -- I'm sorry. I was just curious. Do you have any idea what type of assessment that it's going to be? Has

anybody got any ballpark figures?

No, I don't.

It's gone from -- it started out at a hundred dollars a fisherman in -- in B. C. I would suggest that even fishermen, though they don't own anything, have some assessment, because the accrued value goes up, you know.

Well, we've had a moratorium on that, so it didn't start for four or five years. Also, that there (indisc. - interrupted)

All right. That -- we could come back, if you're afraid of that. Drop it. It started in B. C. at a hundred dollars, which wouldn't be bad. Then a man owning five different kinds of gear -- you know, like three gill net licenses, might be stuck with three hundred dollars or four hundred dollars. There's some buy-backs, such as halibut, which wouldn't even exist. You'd license them, but they're -- while you're competing with the Canadians, until you have a treaty you couldn't buy back.

All right. I've got one philosophical problem here. At Bristol Bay, for instance, I sort of -- the idea of assessing the whole cost of removing that fleet out there against the fishermen sort of rankles me a bit, because the -- the amount of over-gear -- or the over-gear amount out there has been deliberately encouraged by industry. And I think that if there is going to be compensation

involved here, I think that industry should bear its fair share.

I think it will.

Without a doubt. There's no doubt that it will. Because the thing is, as soon as you've cut off this category you have made the Fishermen's Association a very powerful thing. But, on the other hand, you do have to worry about the fact that right now our salmon wholesale price is just under Japan's. In other words, it stops all imports into the United States. So you have to be careful that you don't -- you can take it out of the industry's hide and should, and I think will. But they'll have to stay down under that thing or lose their market. But I think you're going to find that you've built a powerful bargaining position for the fishermen. The big deal that we had with our ten fleet, and which I'm sure you face in the bay, is that if a fisherman talks back to the cannery owner, he just pulls him off that boat and he's got a man working in the net loft, or somewhere, that's carrying a dummy license. And he just puts him on and sends him out.

(Indisc.) in terms of our wholesale prices being under Japan's, how much of that wholesale price is profit, what percentage? Perhaps there's a large enough margin to begin with that it wouldn't matter if we assessed them a bit more.

We take -- in our district we take forty-four percent of the

wholesale market on the case of fish as the fisherman's share.

Uh

You mean counting (indisc.)?

No. No. Counting pack only. They make a profit on the end.

Yeah. One figure I always like to use is when you're looking at commercial properties for the Prince Rupert Co-op. That's -- that's -- looking at all the figures you get in industry and taxes, and everything, they don't really mean much. But their figure of what they returned of what the fishermen brought is something like sixty-three percent. And what -- and compared to what we're getting, about forty, right next -- ninety miles away from them. So

But when you have a limited entry

I don't know what those figures are, but I think (indisc. - too faint).

But don't you think, Terry, that once you limited new entry, that the fishermen would get a bigger cut, because you have built in the power to bring the whole thing to a stop? You know, we ought to be able to close-control the southern inlet because we have ninety-eight percent of the fleet as membership. And so, therefore, they paid our price or shut down. The north end, where

they had Dobbinspeck's (ph) scab labor, this was impossible.

I think that -- I think that even though that's correct that it should really improve the bargaining power, that there's really two aspects of Frank's point that should be emphasized. And one is that the very areas that are the most -- that are suffering the most, that are the most in need of limited entry like Bristol Bay, and -- and where the average fisherman has barely got his head above water, will be the areas that will have the biggest buy-back assessment because more gear will have to come out of those areas. With some, depending on value of the gear

Yeah. The gear costs less.

The other -- the other aspect is that the threshold, the initial-entry threshold that you establish, for who you want to let in before you start to buy back. If you're pretty liberal on that, then you're going to have people in Bristol Bay assessed and, you know, buy out casual vacation fishermen from Seattle. I mean, you're going to have that kind of phenomena. The more liberal you are in letting people in, the more you're going to be taxing the full-time career professional fisherman to buy out the casual part-timer.

Okay. This goes back -- let me go back to a point on page four of this career fisherman definition again. Do you see any prob-

less if we paid the area fishery for which the permit is being applied, constitutes the primary subsistence and or income source, rather than fishing as a whole? So that the guy from Seattle, if he's going to be in one or two, he has to have his primary source of income from that fishery, not simply fisheries.

Yeah, this works -- this is the way the standards in the original bill work. It's harder to make them work that way here, because you've got the multi-fishery problem. But, in other words, I think you could perhaps do that. But I think you'd get into more problems with that kind of a thing when you've got the categories, because you're really going to hurt the multi-fishermen - the fishermen that fish with more than one type of gear and a multi

And he's the most valuable fisherman, too.

You'll hurt him more. Now -- now the way the thing originally worked, you're looking at an area and the type of gear and you're saying who is more economically dependent on that fishery. So, I think you are looking at that area that's appropriate.

But I'd explore the poverty level for lower assessment area which would -- could take a lot of your heat off the Bristol Bay and would definitely hit your -- say you're non-resident fisherman that then works for another job in San Francisco. He's going to have an income that's over six thousand, or over five, or you go

on down. You know, you could adjust it in your area so that the Commission may establish a poverty level at which they may reduce the rate of assessment.

That's going to make the assessment very, very vulnerable, though, because you're really creating an economic advantage for a local area. I mean, you're straight-out discriminating against non-residents.

What's wrong with that in terms of the fact that we've -- we realize that we have too many people in one area now - too many fishermen?

That's right. But it's a reasonable legislative purpose to get that level down. But, in deciding who you get out, whatever standard you've got can't unfairly, or arbitrarily, discriminate against non-residents of the State or non-residents of the area. Now, we felt we came pretty close to that, about as close as we could get with the notion of economic dependence. Because if you ask who is more economically dependent upon that fishery, eight times out of ten we'll come up with a resident of that area. But the point is it's a standard that can be applied fairly to the resident of Seattle or the resident of Anchorage or anybody else. But I think if you go so far as to say that everybody outside the area comes out before the people in the area, I think

Well, no, that's quite

NEW SPKR:

He's was talking, I think, about a higher assessment for those outside the

But that's the same

No, no, no. Not outside the area. I'd say the high-line -- the high-line fishermen would still

Suppose you look at it from the standpoint then of an assessment being a (End of tape I - Side 1)

TAPE I - SIDE 2

Now this is the one trouble with making your assessment the percentage of catch. I would look someday that the State should levy -- you know, once you get down to optimum level, the State definitely should levy landing pacts, so that it got its share out. You know, the non-fishermen got something. But, if you built it in to where the guy in Bristol Bay that has to go like heck and get six thousand dollars worth of fish or he doesn't eat too well, and then he pays a percentage of all that's his fish while a guy comes over on a vacation and catches a thousand fish and ends up paying one-sixth of the assessment of this guy. And then he goes back to his job somewhere else. No, it's just -- it's a double-edge sword. If you could work the poverty level at one end, I'd like it. If, you know, the attorneys say you can't work it, why then I'd say you're going to have to keep your

assessments -- somehow you're going to have to get -- keep your assessments

I don't think people should have an assessment as a functioning income. I mean, as (indisc.) proportional tax technique of some sort.

If you took it of gross income now, so it had nothing to do with just the fishery, if you could do it, why, that would take care of it. Because, on the fellow that lives in Bristol Bay and doesn't leave has an advantage. But, I don't know.

We're going to have to look at several different ways evidently.

Well, that one there you have to check out.

Of course, hopefully, in Bristol Bay in your initial cut you're going to get rid of quite a (indisc.), hopefully. If we're going to make that severe a cut out there.

If it's -- do you see any constitutional problem with being a function of value of investment? Well, the example I've used a time or two (indisc.) where, on one point, the guy was in the path of the fish traveling. Thirty thousand a year for him is not unreasonable. But, right across the bay, if he makes twenty-five hundred, he's doing very well. Certainly both of them should not be assessed equally for the buy-back of other people that get

(indisc.) a fishery. On the other hand, the value of their set-net sites reflects the difference in the (indisc.) and the places

First, who -- who do you assess the price on for the cannery fish? I mean, at the (indisc.) there's going to be an individual, but he's going to be fishing somebody else's boat. Do you assess him the value of the processor's boat, or do you assess that value (indisc.)?

You don't think that processor's going to hang onto that boat very long when you freeze the license. I mean, he's going to, if necessary, give it away to get rid of it. Because it's going to really be a rock around his neck as soon as you do that.

It occurs to me that in our earlier discussion we -- when you got to that point we suggested what -- why not it just be a percentage of the appraised value of the entry permit which continues to set that example on to the other fisheries. And that's a little fairer, because it will be a reflection of the income-making ability of that permit. In other words, you see what I mean. But -- but the problem of that is that Bristol Bay permits are likely to all be worth the same amount of money. So, we've, you know, written that permit in Bristol Bay and it isn't tied to a particular vessel, so it

It would be fine for the set-net permits along, you know, the

Naknek (indisc.) where the -- certain points are worth a heck of a lot more than others.

Why don't we assess -- why don't -- maybe we could just flesh four or five of these different alternatives that we're looking at?

Another point on the buy-back. If we want to encourage the State to buy out or, if it's possible, to encourage increased attrition rates, will it be constitutional to have the State paying a premium above market value? Or does this, in fact, then constitute an unfair advantage of the State?

I can't imagine that the State and the market value would be that price at which you could buy a permit.

I don't see why the buyer should discriminate against -- or the seller should discriminate against the State as a buyer.

No. But, if we say, in this, for instance, that the State, the Commission, shall buy at a hundred and twenty-five or a hundred and fifty percent of market value so that regardless of what he'd come up with in the marketplace, the State will always offer him a bonus above that.

But why would you want to do that? Because you can always

To (indisc.) sale to the State.

(Indisc. - simultaneous conversation) as many permits you want as fast as you want by paying the market price. The market price will go up, but you could buy them all off the market tomorrow if you've got the money. I mean, you know, if you're willing to pay the price.

Also, the Commission is liable to want to put its emphasis on somewhat disaster areas with its original buy-back and only buy back eight or ten licenses in district X, even though more are offered for sale. Because they only have so much funds, and they'll want to put their funds on the area that they -- you know, they'd buy all the licenses they could buy in Bristol Bay and Upper Cook Inlet long before they'd worry about

If you let the Commission go too far above market value you're going to -- you're running into very, I think, grave problems with controlling the Commission. I mean, the abuse locked into that for -- for buying out some of their friends, or something, is sort of obvious.

I think that the more central problem is what you suggested. That if the Commission only wants to buy out eight permits and there are thirty guys that offer it at the first price you name, how do you decide which eight? I mean

You'd drop your price until there's only eight left.

NEW SPKR.

Right. Which would be the market price

Yeah. That's the true market price.

Well, the thing is that that same problem in here is the State being in there and bidding as another buyer in the marketplace makes the same kind of abuse possible. The State could keep bidding the thing up. Of course, if you only bid it up a little bit high -- above the last bidder, is what you're saying.

I'd bid it up enough to take the license, in which that would be the true market value.

I -- I don't see where we have the protections for the State or a guarantee that the market price won't be artificially inflated.

Well, there isn't any reason to believe, I don't think, that -- I don't see why the market for entry permits would be any different than, say, the market for farm land. And there'll be some artificial inflation. I know in an area where my mother has a farm -- what I'm saying is that the farmer can't buy a farm and make money farming it because rich people from town that come in and pay maybe ten percent above that and -- but still there's a price at which the value's really going to reflect the ability to make money off that permit. Like, you know, the value of that

They're cranking in subdivisions, you see, which is -- which makes land a lot different.

Well, can't the fishermen get together and artificially raise the market price?

But don't make the State buy it.

Well, wait a minute, though. If we want -- if we want to encourage the State to buy these things up, to get the amount of gear down, you guys are on the Commission now. Johnnie's got a boat. He wants to sell it to you. How are you going to determine what true market is, what other valid offers have been made to him?

Well, all you have to do is look around. And this is why I say you're going to -- at what boats are selling for. In B. C. you can just -- the Commission there can pretty well look in the newspaper and see what the advertisements for boats are and whether they're selling. You know, which is easy enough to check.

Well, what are you going to say? No, the State is not going to purchase it for that price?

No. They can say that, and you keep it. They just refuse to buy it if your price is too high. You don't have to sell and they

don't have to buy. You don't make them.

If you're only allowing three transfers through the Commission to members of an apprenticeship-type pool, you're going to have some indication through that method of what the fair market value

It wouldn't be from that method. It would be sales that have been consummated by giving your best (indisc. - simultaneous conversation).

I'd say you don't make it a total property right with, you know, no real restrictions until you've reached that optimum level, which in Bristol Bay would be a long ways off. And then, at that time, the Commission could say, like they would in Chignik, We're not buying anything in Chignik. You know, your license is good period, and if you want to sell it out, it's up to you to find a buyer when the State isn't going to buy in that district. Because we consider it adequate. The Yukon River-Kuskokwim they're never going to want to buy out. It's -- it's optimum right now. You know, it's final.

Of course, the whole discussion on offers for making the initial cut is -- as big as -- you know, as acceptable so that you can pay back before the -- you're going to always have someone, I think, with an inflated value for a few years and the value of the permits. If you pay initially now, you're going to save your-

self some money in the future. You might have to use a little State revenue to do it.

Dave?

I think it's important to point out the difference between farm land and fishing. And that farming and grain and all, as I understand it -- well, I'm not a farmer -- you get pretty much pure competition as far as the market price of your product goes. You don't have that when it comes to the market price of fish. A cannery is willing to subsidize the boat in order to have that boat's catch. And it -- it might make, you know, three times as much off it's profit on the catch. But it processes and then it subsidizes the fishermen to get that boat. And that's why I fear -- I fear the canneries are going to be very, very ready to subsidize a promising crewman who they know is going to go their line and -- and loan them interest-free twenty grand, or whatever it might take, to allow them to be the high bidder on that permit that's available to avoid another guy who they might not care for. Even though they might know he might want to sell to an independent fellow down the street. And, so, I fear this happening with the sale.

I fail to even see the problem.

Well, it's not with a bid, so what

So what? Yeah.

Well, that's why I against buy-back. I like an alternative, too, in there where -- or with a very narrow priority on the top that the allowable buyers may come from. If you have a very narrow top priority, and I mean it's got to be narrow if you've got twenty guys and one license. All they have to do -- the cannery has to do is find one guy who's willing to make a side deal and that's that.

If the canneries have sufficient economic power to stake a large number of fishermen so that they are indirectly going to be able to control entry permits, anyway, then maybe that argues against an entry permit system in the first place - against creating a property right.

All you're saying is against creating a property right. All you're saying is that the fishermen don't have enough economic power and can't have it to be able to hold on to that property right.

I fail to see the fear in what he's pointing out. This is done. And I've been in it all my life. You can't hold fishermen that tight. As soon as they have that entry permit, and you say it can't be moved against, he has the power to really tie that cannery up. Now the cannery is going to finance, and what maybe

you don't like to face up to, is that if fisherman A catches twice as much fish as fisherman B, they're going to stake him to get rid of B for the simple reason that to tender service to B is twice as much per fish as to A, because you still make the same number of pick-up. You're naturally going to stake you're better fisherman. And what's wrong with that? Shouldn't they be the ones that end up? Your high-liner is the man that counts.

Bristol Bay high-liners, according to the Fisheries study, are all non-residents, because they've been encouraged, you know, through the years. The canneries have maintained two fleets, essentially resident and non-resident, because it's good for the bargaining position. And they, you know -- the system has been such that the non-residents have the better boats. Most of the residents right now are in default. I can see a very real problem over the fact that most of your Bristol Bay fishermen, maybe not most but a substantial percentage, are very much in hock to the canners. And, once you're that far in debt, they can pretty much control what you're going to do. Correct me if I'm wrong, Gene. But they have quite a bit of control directing people as to where they want their -- what kind of direction they want with that permit, or anything else. I can see a guy that's five or six thousand dollars in debt being defaulted on his boat taking his boat leaving with an empty permit. Perhaps he might find it a little bit easier for credit financing in

the future, but it's going to be several years before that happens. That's why I argue that perhaps the best thing is to initially take who you want to take and pay them. And then you lose that -- you know, you sort of ease that sheer economic bludgeoning of the people with the most money being able to control where the permits are going to end up and where they're going to stay. 'Cause if it's involuntary buy-back, the first guy that's going to sell out is your resident on a shoestring, because he's the least economically viable. And it's going to be a gradual attritional migration of permits to your central areas of economic power. That's why -- that's why I keep re-emphasizing that you -- the picking and choosing who you want as, you know, as much as constitutionally permissible, who you want to eliminate is the best thing to favor residents. Because I know that a processor cannot own the permit, but to think that he cannot control where that permit goes and he can't encourage his own people to hang on to their permit as long as possible through, you know, contracts in regard to where a boat fishes, how it fishes, what kind of boat the guy gets, this type of thing. I think that they can control the permits to a large degree. I think that they can make it lucratively very well for their own people and make sure that they don't sell back as much as possible.

Now, let me just try a counter-example. As I understand it now, a lot of that economic power comes because they have an unlimited pool of fishermen that they can rely on. If they have a limited

pool of fishermen they can rely on, the canneries are going to be in competition for those fishermen, and they will offering, you know, we'll offer you a better deal than cannery X. We'll forgive your mortgage. We'll do this and thus and so, and we won't be hard-nosed about it, because we'd like you to sell fish to us next year. And I think that -- I'm not minimizing. I mean, I realize that this (indisc.) is a tremendous amount of economic power wielded by the canneries in terms of loans and mortgages on boats. But all I'm suggesting is the canneries can't afford to drive the entry permits out of the business.

Oh, they can if they can transfer it to somebody else.

But they'll be -- all right, but there'll be competition between the canneries. Like, let's say a guy owns twenty thousand dollars of this cannery. And this cannery says, You transfer your permit to this fellow and we'll forgive your loan, and the guy can't afford to pass it up. Maybe cannery B will say, We'll take over your loan and we'll pay off cannery A, if you'll fish for us.

That assumes -- that assumes quite a bit of competition between the canneries.

(Indisc. - simultaneous conversations)

For their boats, for their gear, for a lot of things. I can't

think of very many fishermen who have bought new boats in Kodiak or who have expanded or diversified into another fishery who haven't borrowed the monies from a cannery rather than from a bank. And this is your situation now, and there's no reason to assume that all of a sudden they're going to be totally independent. It's going to be tendencies toward what you say. That's one of the reasons I'm so thrilled about limited entry. But it's not going to happen overnight. It's going to take time for the fishermen to start borrowing money from the banks instead of -- instead of getting it from the canneries.

But the fact that the cannery's staking them isn't a problem unless they use that staking, the fact that they're staking them, to get the entry permit.

Right. But the thing is that you're assuming. You're assuming that the canneries are more of a solid block than I have found in my twenty-seven years in fishing. When Rubenstein (ph) bought Squeaky Anderson (ph) out, it didn't take me very long when I decided I didn't like their tender service to turn around to another cannery and just go through three canneries to see which one I'd get the best draw from. And, at that time, I owed. And they just picked it right up. There wasn't any problem. They were all out. Because now you have a limited number. And the guy that can line up enough fishermen and, believe me, in the inlet the way they lined them up when the fishermen were more

independent was by lining up enough of the good fishermen that they made it pretty rough on the other one. And they lined them up with service. And, sure, I got interest-free loans. That's how I bought my boat with an interest-free loan.

I think we're probably talking about a timing problem. Like, say, it takes a hundred boats to harvest per fleet for the cannery purposes. In Bristol Bay, now, they probably have maybe a hundred and forty whereas you need a hundred. They maintain their dominance by the fact that they have enough of their own controlled non-resident fleet to guarantee the type of market they need - the type of quantity of fish they need. The fishermen are going to be in a better bargaining position when they get down to a near-optimum level. But then, on the other hand, it's going to benefit -- since they are going to get down to a state where they can't guarantee their fish catch from just their non-residents alone, it's going to behoove them to control that other percentage of the fleet as much as possible. Or to see that their percentages that they directly control are much larger now than they were before even.

Of course, I can see various things. I see the native corporations playing a major role in this.

Assuming they can get geared up in time. I'm worried about the next three

Oh, all right. The thing is that I don't even care about it becoming a real ironclad property right until you get down near optimum numbers. But I say that you're never going make real conservationists out of the fishermen 'til it becomes a property right to where a guy can see if the fish go up, his retirement is in his license. If the fish go down, he's shot his retirement. You know, then you start getting some interest in conservation.

I think that both (indisc.) points are right to an extent. I think perhaps Clem's (ph) emphasis on conservation has less bearing in Bristol Bay than perhaps anywhere else in the State. The only reason that Bristol Bay still has a few fish left is because the rivers are so big that they just can't physically wipe them out, such as they've done on the peninsula, Southeastern Alaska, Kodiak and other places in the State. I agree that the property right is going to really inject an interest in maintaining the stock into the individual fisherman. Coming back to the canneries' concern for controlling the fleet, I think that -- well, this can't be over-emphasized, their ability to, or their desire, to compete with one another is very present, though. I don't think they are going to act quite as a block. I think Clem's right in this, and Frank's right to a certain extent there. But we're talking about creating a property right at a time when, in Bristol Bay at least, the situation in the fishery is in a state of flux. It's -- it's -- well, next year, for instance,

in Nushagak we have the first year of operation for the Nushagak Fishermen Incorporated - the new cooperative, the new cold storage plant there. This can change the whole picture of the thing by creating, for the first time really in the bay, a significant open market. Well, yes, we have an open market in the low years because we've got a floater here and a floater there. In a big year, if you're not already tied in with that floater, there isn't any such thing as an open market because he's already parked by the few boats that he had. And here we've seven or eight years now of low returns and at more of an open market than ever before. If this co-op takes off, it's going to take off big, because those people are going to make more money. But this is something that I don't even know if the co-op itself is aware of that, although it may have a group of, say, ninety so-called independent fishing boats ready to fish for it, yet, until it can provide full service, all-out parts, more engineers that do mechanical work, those are not independent fishermen. Even though they may not owe the industry a nickel, their boat may be paid for, or at least independently financed, they are not independent because they have always historically depended on a cannery for service.

Plus a market.

Yes. Service plus a market. And the combination of the two are damaging. All the cooperative is doing right now is providing the market. And I think they're toying with the idea of offering

series but, whether or not they're going to be able to, I don't know. I think probably if they don't fall flat on their face this year that by the time that this limited-entry thing begins to effect, then we will indeed have a free and open market. And it's going to change things drastically, and the cannery people that we're worried about are going to have to compete. A number of years back we had such a thing as canneries competing for fishermen - local fishermen for a time. Since then things have changed around. The cannery fishermen have gone independent and bought their own boats; that is, the real high-line cannery fishermen. Many of them are now in a non-resident, independent fleet, or a largely non-resident, independent fleet. And they are controlled by the cannery by virtue of concessions that the cannery makes to them - under-the-table concessions they never show to anybody else; travel benefits, grocery benefits, other subsidies. But the cannery can afford to do that because they are producers. Perhaps, in time, the local people will develop to compete. But now we've got this situation where the local fishermen are not really as efficient as this non-resident, independent fleet, because not every man who lives in Bristol Bay is a high-line fisherman. And nobody will pretend that they are. Yet, we are more or less saddled with the job of assuring these people a place in the fishery - forever and ever, I don't know, but certainly for the time being, at least.

Of course, we can solve these problems. You know, this type of problem is one that can be solved by watching your transfer-

ability section and by determining -- instead of going on, you know, just whoever turns up buy back. If you protect those two categories, the first two, maybe the first three, in most instances, to determine who you're going to buy back from, control the buy-back, or control who you're going to buy out in case, you know, of using eminent domain, and guard the transferability, control the transferability, then you can -- I think you can watch against both of these things. I think the transferability through the Commission to an apprenticeship pool if it's handled right and it's like Dave said, a narrowly defined apprenticeship pool, and the priority's well-defined, I think cushions the type of impact we've been talking about with certain bases of financial power getting control of a substantial portion of the fleet.

Well, you're still going to have -- you know, I sold for ten years to canneries after I had everything paid off for the simple reason as he mentioned - they have the haul-out, they have the tender. You didn't want to be forty miles offshore and break down if you were an independent, 'cause nobody would come get you except the Coast Guard who was clean down in Kodiak. While the cannery was obligated to come get the men that flew their cannery flag. So you always stayed with a cannery in case you had -- if you had sickness in the family, you could just call Seattle and say, I've got to have a thousand dollars, and they'd send it. So this -- you're always going to have this control. And, as far as the co-op goes, I've watched ours go broke. And

the only co-op that works is the one that ruthlessly gets rid of the third-rater. And that works against them, I think, you know. Because

(Indisc.) is working out pretty well.

Yeah. They have a beauty there for the simple reason that the Yukon doesn't have more fishermen than they can handle. If you freeze the Yukon and the Kuskokwim, you'll have saved a great deal of suffering. But I know that in the fishing business, where I did some pickup, that if a guy gets over five thousand gill net fish, you can give him a nickel more. If he gets over eight thousand, you can give him a dime more of fish, and this is paid under the table. So the less fish you catch, actually the less you get for your fish, 'cause it costs just as much to run out to the fishing grounds to pick up a hundred fish as to pick up a thousand. So your high-liner is always going to be worth more money. He just is.

Okay. Terry's going to

Bob, I'm going to run along. I hate to leave you without my expert advice on that subject, but, obviously, I've got some other things that I must do.

Okay.

Let me know what you finally decide to do.

All right, Lowell.

One thing, I think, that the danger of this economic power -- I mean, first of all, we know we're not going to create a bill that's going to last for all time. It's pretty obvious what happened in Canada. It's going to be Phase I, Phase II and right on down the line on this, so I'm not really that worried about it because I think probably the first year you will see the canneries into this. Because I know the experience we went through when we organized our marketing association down there. This year it's competing against Whitney-Fidalgo (ph) and New England and P.F.I. (ph). There is a lot of economic power there. But I think they'll only be able to do something the first year. And, then, after the first year, the fishermen, by and large, all of a sudden you're not going to see this twenty percent turnover. You're going to see a lot of guys that say, you know, I'm making money; I'm improving. So I see a danger the first year. And there's probably no way you can get around it, because I saw some letters of what they did this year. They were so scared by us creating an association that they actually were sending letters to people that they knew were interested in becoming fishermen saying, We have heard you are interested in becoming a fisherman. We have certain methods we can use to get boats and blah, blah this and that. And I've seen these

letters they've sent out. But this was due

These are from the Canadians, or

No, this was from Petersburg fisheries - Whitney-Fidalgo (ph).

I see.

But, after the first year, it's not going to do any good, because there just aren't going to be the licenses available.

That's right. (Indisc.) has been making a pretty good healthy cut for the first time in Bristol Bay - to get down enough so that the residents have that competitive, you know, the size of the fleet is such that the residents are competitive.

I just think it will be a danger the first two

I'd say don't over -- don't underestimate the power of the processors to work together. Because if you examine the interlocking directorships in the Naknek area like I have, and see where Bumblebee, Columbia Ward's (ph) and Red Salmon are one in the same entity. And, you know, they're three of the five.

Yeah. But you stop and look at somebody like Melbro (ph), and they hate them.

very closely involved

No. I think that he will automatically be unfair to another district.

(Indisc. - simultaneous conversation) let this sentence take care of that problem in your mind, once you interpret it as an attorney, outside of what the intent is (indisc. - too faint) here.

Or do we need to define that vested part?

Yeah.

Give some thought to that, and let me know, the three of you, if you will. And we'll come back to it another day. Okay. Page three, addition four. The A G is going to represent the legal counsel for the Commission, but we have the language, however, the Commission may retain additional legal counsel as appropriate.

You've got to have your own staff now.

Page four, line fourteen, we have number five. We're talking about general powers of the Commission. We add nine and designate, in view of the purposes of findings of fact. In section 010 of this chapter, specific fishery resources, subject to the provisions of this chapter.

NEW SPKR:

Melbro's (ph) the only one that, you know -- but how far can Melbro (ph) go to compete, because A.P.A. there is tied into a joint venture processing agreement with the Brindle (ph) outfit? So, you know, they can work together

Brindle (ph) will stab Petersburg Fishery any chance that he gets.

He'll stab anybody. He has.

Well, this is the nice thing about Brindle (ph). It's why I've always liked him.

Let's go to page one of the bill. Instead of saying species, on line twenty-two and three -- instead of saying, applying this to species listed in this section, and then divide salmon species, let's just say simply fishery resource. There and on down as you see on twenty-six forty-seven. Does this allow the Commission to apply it to salmon first, and then the other species as the need arises? Do you see any problems with it?

I see one problem we've been projecting all along, and that is if it's too much of a delegation - in other words, the legislative finding here is that there is, for certain, specific species, a crisis situation warning limited entry. Now, if it's true that for some species

NEW SPEE:

Where do we see that? Where do we see that?

Well, not in those terms. But it says, "It is a purpose of this chapter -- it is also the purpose of this chapter that it be the legislature (indisc.) that the commercial fishing for the species listed below has reached levels of participation which either have impaired or threatened to impair the economic welfare of the fishermen." All I'm suggesting is if by making the -- including all fishery -- the whole fishery resource, we're also including fisheries which aren't in that category, yet. Now, I like the idea. But, you see what I mean?

Is it really that important, though, in just the intent and purpose part of an (indisc.)?

Well, that's more than intent. That's the finding that creates the jurisdiction over these particular enumerated species because it finds a situation in distress exists.

Yes. But, of course, the thing is that as soon as you go to limited entry, if you don't go to all limited entry, you're going to push a big influx into the other fisheries.

Well, you're going to check it out and see if we can do it, then?

I'd say that's imperative if it can be done.

NEW SPKR:

Let's go to page two, then. The term of office -- yeah -- where I don't think that there's anything we need to talk too much about this, except that we do have staggered terms. Do you see any legal problem with that? The staggered terms of this thing? All right. We do have a question about two - can be removed for cause only. Down on the front sheet of your proposed committee (indisc.), I like the idea of B down at the bottom, and I'd like to have your reactions to it. The Governor may remove the Commissioner from office as a for cause and with the consent of the majority of the legislature. This thing is important enough that I'm not sure that we ought to allow him to do it just with cause, or for cause, when this is the language we presently have with the Board Fish and Game members. And he can simply say the cause was I didn't like what they were doing, or something like that - whatever reason he used for this last Commissioner to get rid of him. So, what's your thinking?

I'm not that much in favor of tossing it to the legislature. What's wrong with C? Isn't that another alternative here? If you -- if the Governor has to -- he has the power to remove, but the fellow has the power to have counsel and be heard as to why, I think you'll find that that probably is even more protection than a legislative body.

You know, it probably is.

NEW SPKR:

Because I can see some guy that is absolutely incompetent, yet you have a Democrat Governor, and the Republicans won't let him remove him.

Well, you see no problem legally with three, or with C?

Why would the Republicans want to do such a thing?

All right, the Republicans wouldn't. Say you have a Republican Governor and a Democrat Legislature. Why, those dirty (indisc.- simultaneous conversation) probably would.

It would never arise, anyway.

We haven't done anything to him.

Okay. Page three. Add three. That's on page two of the new work. Qualifications. It says the three members with a broad range of professional experience, non of whom have a vested or commercial interest in the fishery or the harvest, production or management of a commercial fishery resources. I don't know that we want to do this, but do you see any problems with it?

What's a vested interest?

If my son is fishing a boat that I own, that's a vested interest.

NEW SPIKE:

All right. If we go back in the definition section and define vested interest

I don't see what purpose it serves. I don't -- in terms of the qualifications, I think that should be a flexible thing. You know, I'm certainly not (indisc.) to what we set up as qualifications, but I don't see what you're trying to get at there.

I don't

I don't want to financially involve

Yeah, I don't want to financially involve, because -- yeah, well, some of us that are in the fishery

Just like making a Commission, or something, in terms of conflict of interest statutes and all that sort of thing.

What you worry about, for instance, is the Bristol Bay fisherman is somebody from Unalaska being appointed. And he represents Unamak White (ph) because he has two boats fishing there.

What I can see is that if you pick real people that are really from Alaska and from fishing areas, whether they own a boat or not they're connected with that area. And that is as much of a vested interest as having -- and they may intend to return to that.

You've talked to

I would -- I would, therefore, make the qualifications vague enough that I hoped the Governor would have the good sense to pick a man from Fairbanks, one from Tananof (ph). Hey, the manager of the Prince Rupert Co-op is a wheat farmer. These people don't have to be fishermen to understand this thing.

In view of your comment about the vagueness of this, would you request a different definition or (indisc. - too faint)?

Well, I just don't know enough about it. I felt that the important thing to emphasize was the kind of experience that you wanted the individuals to have since it is going to be a professional, full-time regulatory commission, and they've got to be conversant with the thing to regulate it. And since they are removable for cause, and improprieties in office, and all that kind of thing

It says a broad range of professional experience, but it doesn't say what profession.

I'd be willing to leave the Governor a certain amount of latitude. He's got to make those appointments. I don't know how

Except that you feel that you shouldn't have a person who is

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(TAPE I - LAST PART OF SIDE 2)*

*The latter part of Tape I - Side 2 is very poor. It is very faint and distorted at times

NEW SPKR:

Excuse me.

Yeah, go ahead.

One way we might cure the problem that I saw in the including all species, would be to require the Commission to make, you know, a finding that if a specific situation exists when they designate specific fishery resources subject to (indisc. - too faint).

The big fear I have is that you'll have - like we had eggs on kelp. And you'll have one, the sea urchin egg harvest, which, you know, the market's looking pretty good on some of those. You will have a one-year rush which will automatically put them in the disaster area when you could just as well have specified the number of licenses and quit when it got there.

I'll (indisc.) by any objection that I had to it. I think it will work. I think it will work the way you've got the first section (indisc. - too faint).

Yeah. Well, I worry about this. But I would make it very plain that you get a license in all species even if it's a species that now doesn't have enough (indisc.).

Well, when we go back and tie this in to the purposes of finding 010, when we talked there about (indisc.), economic health,

stability, and so on and so forth. Well, okay. We'll check it out and if it seems (indisc.), why Okay. Number six. Page five.

The (indisc. - too faint) of species.

Right. Then we go down to standards, and that's where we add six. "The maximum number of units of gear, each type of gear in these administrative areas shall be established by the Commission based on the number of units of the gear necessary to harvest peak runs in an orderly, efficient manner based on sound management techniques."

We've got a conflict here. Page four. Issuance of entry permits. If you lock in, say, the first two priority classifications, or in the first three priority classifications, say what happens in Bristol Bay where, by locking these in, there are more people than you have based on the number you have for the harvest peak run?

You keep your buy-back in effect until you get to that level, which might take fifteen years (indisc. - too faint) are felt.

(Indisc.) the Commission saying under standards that, okay, X number of units of gear are going to be allowed in this administrative area, and, yet, in this other section, we're saying, no, the people in these first three classifications shall be

denied a permit. So, there's a conflict actually in the language here in the statute.

Well, I'm reluctant to let them force out. I think we're giving them too much power.

We could say in the beginning of page five, line twenty-eight, "except as provided for in" -- in this section over here where we lock in these categories. (Indisc. - too faint).

I don't like to give them the power to just say only three hundred and fifty units of gear shall be allowed in Bristol Bay. You know, I think they're going to have to buy down to that. Now I can see starting out with a couple of squeeze-outs. But, once you've given a guy a permit, there should only be one way to keep getting it down to the optimum number, and that's by purchase. Now we can do with a -- the apprenticeship program to make that pool that they have to buy from.

What's your initial starting level going to be? The present level of gear?

Oh, no, I'd say -- well, it might be. Assume it was. Now this would be the worst that could happen, say.

That's not even the worst that could happen.

NEW SPKR:

The worst that could happen is that you could have more. All right, say that you could have ten percent over what you've got now.

Fifty percent.

Well, it's according to how lenient you wanted to get. Yeah. Okay. Fifty percent. You're going to have to buy back. But the Commission should set an optimum level of their goal to reach, you know.

I think what Mike was suggesting is if we're going to have that be the mechanism, that the entry permits will be issued at sort of existing levels, or appropriate existing levels, and optimum levels to be reached by buy-back, then the structure that we've got in the basic bill might work. We have to make certain technical changes so that the Commission is authorized to issue permits, not tie up the optimum levels, but issue permits tied to those other starting point levels and then is authorized to buy back to the optimum.

Why don't we just change the word maximum and standards to optimum and

That's a good idea.

NEW SPKR:

The way this was, standards was a different thing than what we are talking about.

And optimum could be changed, you know. But I'd -- yeah.

(Indisc. - too faint)

You'll probably want to make that change back in number four, the power section, too. No, I'm sorry. It's not that -- let's see. Yeah, up to the No, that's not right. It fouls up number four. (Indisc.)

You mean, number four's changed?

Page four?

Page four, number four in that basic powers of the Commission. The Commission (indisc. - too faint) qualified applicants for up to the maximum number of units of gear established.

I don't -- I don't think that that one -- I'd say offhand we probably should strike that one.

Why don't we just strike (indisc. - simultaneous conversation) issue entry permits to qualified applicants for each administrative area.

NEW SPKR:

Okay. Because you don't want that.

We're establishing; they're not.

Yeah. Right. Good. I'm glad you caught that one.

Okay. Page six, line eighteen - Commission may increase the maximum number of unics. Now we'd better look at that, hadn't we?

Well

That's okay. That's that one where we increase the optimum and explain (indisc. - too faint).

All right. Let's look at six down at the bottom there - to establish

That's just cutting off about four words.

All right. So, lines thirteen through seventeen, that's what you're talking about? The change between species (indisc. - loud noise) and species designated.

Right. There's one additional change on line twenty-four - (indisc.) fishing for species for which separate entry permits

are issued.

I would -- I would have a designated under one-twenty. I still would like to see entry permits required for every kind of fishery, even that that hasn't reached optimum level, yet. Not give the Commission the right to not designate a species, because they're liable to say, Well, there's not any danger of this happening. And the next thing you know you're flooded out and you're in another big buy-back program for a species, and you could have saved yourself a lot of problems with it.

What did you see as being wrong with that? (End of Tape 1 - Side 2)