

SCOMM

#31:8

CSSB 39:

LIMITED ENTRY WORK SESSION

2/9/73

You know where the changes are better than I do now. You people have
a different way that you'd like to handle it, why speak up and forever
keep your peace. Do you have a copy of the draft (simultaneous speech)

tape #6
side 2

That's a new copy we have...

Where we put it all together, Gene? Is it -- maybe the same, I don't
know.

Looks the same.

Okay.

Is the typing all wiped out now (indisc. - loud noise)

Yes.

The next change is on line 20, 22, 23 where we say in the commercial
harvesting and fisheries resources liable...

Instead of specific...

Species listed. (indisc.) change on line 27 and 28 for certain fishery
resources rather than for the species listed.

What page is this?

Page 1.

Do you want to go through the whole thing now? We've not done that yet. Rather than looking at just the changes do you want to look at the whole language as we go through? What's your desires or have you gone through it enough so that you've looked at all the language?

I have gone through it enough that I have the general thing worked clearly in my mind so that if somebody asked me to get up and explain it.

Are we prepared to do in the general framework -- the thing that we talked about before. Just overall what we're trying to accomplish. Would that be worthwhile doing prior to going through the details of the bill?

Are we settled on what we want to do on the handling of the ^{permits and} (indisc.) of the issuance and...

No, no.

Well shouldn't we settle those things before we worry about the language?

I would think that really what -- this draft that we have today has all these other changes incorporated into it. The other changes have been discussed with the committee and had the concurrence of the committee at that point. The only problem area is the transfer ability and the buy back and investment ^{Q: so...} if we get into those areas.

Why don't we go on back to where we had the problems instead of starting

(indisc.) where we've gone over several times.

Right and if we get that ironed out then we can come up with the proper legal writing, put that in and then check the whole thing for properly language and housekeeping.

One problem we still have to talk about sometime before we get through here is whether we want to leave this as ^{three} free member commission or whether we do not. Another point is the qualifications of the commission. Now I get a lot of mail saying this ought to be all fishermen. Other mail comes in and says it should be no fishermen at all and we haven't really discussed that point and we probably should before it's over. So that's another thing we ought to discuss. Other than that let's go on down to name the legal counsel -- ^{- Dave -} commission may retain additional legal counsel as appropriate. Do you have any objections, the administration have any objections to giving the commission that additional authority as far as legal counsel is concerned?

I don't know. We had -- we're not prepared to answer completely. We have legal counsel being the Attorney General and they can clearly ^{the thought was} (indisc.) additional assistance was necessary on a contractual basis they had may be appropriated, but I haven't...

Well let me tell you our thinking, Art, and that is we've seen the Board of Fish and Game over a period of years where they've been hampered very greatly by not having ^{6.} the continuity in the legal counsel. I think Roy can certainly attest to that and through the

tort turnover that we do see in the AG's Office, it made this continuity very difficult to attain ^{that's one reason} as far as we're saying this -- they can hire other legal counsel to fully determine...

One change that as far as qualifications go...

Where?

Page 3, the (indisc.) consist of three members of broad range (indisc.) none of whom have ^a invested interests. They felt that it would be good to include a definition of ~~invested~~ interest. It's on page 14, line 15.

Let's look at that definition.

~~Invested~~ interest means a present or fixed interest or right of present for future enjoyment of something of value the nature of which this considering section 10 to 290 of this chapter reasonable be considered to conflict with the public interest.

In other words nobody that owns an entry permit could be a commissioner.

That's right.

Nor a lawyer who had worked for the canned salmon industry and still had some stock involved.

How about a close relative having one? Is it that important?

Well, yeah, it's pretty tough.

To screen them out to that extent, you mean?

Well I don't know that you can screen somebody out ^{due to} ~~through~~ the actions of their brother, their offspring -- you know whether that might --

It's a relatively minor problem compared to the rest of them we got.

Okay, I was just going to mention that -- it's not hard ^{fast definition} (indisc.)

Yeah, okay. Where's our next major problem?

Transfer ability.

Yeah, we were hung up on the nature of the permit, the transfer ability--

That's where you ran aground, yeah.

If I could -- before we get into transfer ability I had made certain suggestions that when their draft came back to me that had an add on -- it's in the -- let me find the proper page number. It's issuance of entry permits on page 10 actually, the top of page 10 -- except that no applicant ^{filing} within the first two priority classifications -- now the position that I was trying to explain is that you've got to adopt the same standards for deciding on matters of compensation or something that's going to determine what kind of right of the offset that people have and you can't vary from area to area and if

the categories are used to do that, they will discriminate unfairly against ^{different} types of gear within an area because the structure is set up to deal separately with each type of gear in an area, not just to deal with an area and I suggest that in some areas there may be a higher percentage of career fishermen fishing certain types of gear and a lower percentage and one of the assumptions we made is to try to come up with a structure which wouldn't discriminate against certain types of gear, but we kind of accept the status quo in terms of the division of fishery between types of different gear. That's one problem and I had one other -- you can only take them one at a time. I had one other question about that.

Okay, I wasn't concentrating enough on what you were saying the first time so I don't know...

All right. Let me go through it a little more carefully. You establish in the ^{preceding section} (indisc.) on page 8 -- five priority classifications then on the top of page 10 the language starts "except that no applicant following within the first two priority classifications set out shall be denied a permit and no applicant following within the third priority classification shall be denied a permit unless there is a prior determination by the commissioner, the commission, the commissioner of game" and so forth. Now I'm not sure how that is meant to work, but I think what you're getting at is you want to say in an area like Bristol Bay category 1 and 2 only and in an area like Cook Inlet category 1, 2, and 3 and as we discussed the other night. Now the problem that I have with that -- there are two problems. One is the one that I just tried to explain, that if you're going to deal separately with each type of gear as the

origin... I tried to do. In other words accept the status quo between the various types of gear, I suggest that saying everybody in category 1 and 2 is in does discriminate against certain types of gear because now in Southeastern it's apparent that in the troll fishery there is a much higher percentage of (indisc.) fishermen than there are career fishermen. In the first seine fishery there is a much higher percentage of career fishermen than there are (indisc.) fishermen. When you're dealing with the different types of gear, most of the fishermen will usually fit into one or two of those categories, not all of them and so it will be leaving the principal of not disrupting the balance that tower between the types of gear and at that point the bill will really discriminate in favor of certain types of gear against others. Now that's question number one. Now question number two is really more important, I think and that is if this becomes a mechanism -- well before we -- in the previous sections of the bill in setting an optimum standard of gear according to the two standards, an optional level of gear, that is the basic objective to get to that level of gear in a given area. If the legislature develops the five classifications, it seems to me they're only justified as a way of deciding who gets in, how many people, and in what classifications get those x number of permits in a given area, but if you go it the other way around and say everybody in category 1 and 2 shall get a permit then you've used the classification of the individual as a basis to set the optimum level rather than the other way around and again it's unfair as between different areas of the state. You not applying the same standards for the different in setting your levels.

That's the reason we have changed that standard in the first place

in one of the earlier drafts. It may not have gotten through here.

Well it did (simultaneous speech)

But what we said would be the maximum number, the maximum number would be those who qualified under those categories. The maximum number of units in Bristol Bay for instance will be the number that we have in 1 and 2.

Okay, then if you do that in theory you'll use that as a starting point for working some compensation to buy that program and at that point you won't be treating each program fairly and squarely. You'll be using very different standards. In Southeastern you're using...

But don't we do that because the pressure of the gear is different in various places. Isn't that a legitimate reason...

It's a legitimate reason for setting a different level, but it's not a legitimate reason for saying that in one area if a man is an alternative occupational fishermen he has the right to compensation or (indisc.) or in another area he does not have such a...

Oh, aren't you going to buy everybody out down to 4 even in those areas that you've screened them out in Bristol Bay, you're still paying them off...

You still compensate them.

Okay, well this is what -- okay then I'll reserve my comment. It

depends entirely on the way -- on what we do later on if we're going to compensate everybody, but I thought the initial cut was going to be on the basis of categories 1 and 2 and...

It was, but anybody that's in any of the other categories, 3 and 4 will get cut if they get out -- if they're no longer in Bristol Bay they get compensated for their investments.

Okay then the only remaining problem I had with it is that it really at that point you don't need your previous section on how you set up or you let that determine where you want to buy down to in terms of everybody that gets in, you want them in terms of categories.

But see in some areas you would -- you wouldn't even want to buy out the applicational fishermen.

Then my problem would be if the categories are too vague because they will determine substantial rights and they're just too vague to work for every type of gear in every area. As a way of ranking they're all right, but if they're really going to determine who gets in then I think they're too vague.

One problem that I kind of have with this same section also is that we're speaking pretty much (indisc.) and we're locking us in in broad area -- I mean for broad areas -- into these classifications 1 and 2 in Bristol Bay, 1 through 3 in the rest of the state except for Southeastern, 1 through 4. What happens with shrimp, crab, these unexploited things. You're automatically locking yourselves into issuing permits in these same...

Oh, you mean you think that it ought to read 1 and 2 in the Bristol Bay gillnet fishery?

Well, I'm not -- I'm just suggesting...

Instead of -- so it doesn't affect your crab or herring or anything like that.

Right. So you're adjusting yourself to all entry permits without regard to what fishery it is.

I'm sort of willing to suspend my objections. I mean I'm not trying to prolong the discussion, but they are....

Okay the question would be then I think Mike has a point that we've got to deal with, but let's talk about yours too. For the purposes that we're trying to accomplish here, why do you think these categories 1 through 5 are too vague?

You cannot -- I think that to categorize the fishermen, your justification for it is to create priorities and to decide, you know, which 500 out of the 800 get permits, but to categorize them with the notion that career fishermen -- drawing a line between career fishermen and alternative occupation fishermen and saying that if you're above that line you have it right and if you're below that line, you don't. I think it is a different type of thing. It bothers me just because of the vagueness of the categories. In other words rather than merely trying to prioritize and say we'll start at the bottom and come up with anybody that hasn't come out

it's kind of starting at the other end and saying if we declare you to be a career fisherman, we think your deserving to be in the fishery and we declare you an (indisc.) fishermen, we don't think you're deserving enough to be in the fisheries. Without looking to how many people and without this thing relative one to another.

And we can't say that the maximum amount of gear is a variable enough figure. It really cannot be determine accurately from a scientific basis, not within ten units or something like that. Therefore, what we have to do is to hurt a few of those people the least that we can and therefore all those who are primarily dependent on that fishery, we're going to accept them as part of the fishery, but those that are not primarily dependent, we won't at this time. I think your point would be stronger if you could have the real scientific basis and say x number of units is x number that is best to have here, but we can't do that. Now if we can do it, then what?

Well maybe if you want -- I wouldn't be adverse about it although it's still something that I think presents a lot of fairly complicated legal issues. If you wanted just to say statewide that categories 1, 2, and 3 will be the starting level, not discriminating from area to area and then just say we realize that won't solve the problems in a lot of areas and we'll have to work down more quickly from that level to others, that removes some objection.

I think we could do that. We could even say that to 1, 2, 3, and 4 because you don't have enough of 4 in the rest of the state other

than what we're providing for 4 in Bristol Bay anyway. I don't believe we do anyway. Has anybody looked at the statistics here enough -- if we say 1, 2, 3, and 4 what does that do for the number of units in Bristol Bay? Do we know that? Do you know that?

I don't think it will change. (simultaneous speech)

See that's another problem because we're going to have -- if you don't look at who is just registered last year, if you really try to be fair about it and look at economic dependency and past participation, you don't have a lot more people qualifying in even 1, 2, and 3 then you had fishing last year in a given area. Probably twice as many or fifty percent again as many so...

If you had 3 and 4, yeah but not (indisc.) 1 and 2.

Not necessarily, but and the other thing -- for instance taking Cook Inlet, if we were to say that the optimum limit in Cook Inlet is okay now and that's why we're letting 1, 2, and 3...

At the present level...

The present level -- whereas in Bristol Bay it's more serious. The facts don't support that. The average gillnet earning in Cook Inlet is around \$2,000 and even in forgetting 1970 the average gillnetter earnings is around \$5,000 in Bristol Bay.

But you're disregarding the alternative sources of income in Cook Inlet that don't exist in Bristol Bay.

Okay those may be significant factors but there would have to some sort of a finding made that this is the reason for distinguishing between, I think...

Both areas but...

(indisc.) closer to that than the language they had before about biological and economic factors justify deniable permits in those classifications. I don't like that denial permits basis because I'd rather see it on -- certainly you can -- the legislature, commission can determine that they would try to reach optimum levels faster in some areas than others because of the economic or some other conditions in that area. Is that right? Maybe I'm wrong.

I guess all I'm suggesting is that I think the starting point for our program if it's present levels, there ought to be present levels statewide. If it's optimum levels then it ought to be optimum levels statewide and that buy back or you know -- it has to kind of cut the same.

Well I don't see any problem with that. If we can have Bristol Bay and it still does the job...

Anything that works in Bristol Bay will work anywhere else.

Well that's the point. These other things will work elsewhere but they may not work in Bristol Bay and that's what we've got to determine.

And also again when you say -- in other words this doesn't really say

to the fishermen that everybody is in if you're in: -- well our suggestion is you may have a lot more people in categories 1 and 2 if you've looked at the past years then you even have at the present levels. If you say maybe depending on what type of gear in what area you may be well above the present level at the starting point.

But how can you be very far above it, what was fishing last year for instance and still have them be dependent on it for a primary or as a supplemental income. How could they be dependent if they weren't there last year?

Oh yeah that would be easy. The fellow down here that fishes Bristol Bay in the (indisc.) you know it's not that -- he's dependent on it for the (indisc.) because it doesn't support him down here on low grounds.

That's right. This is true for Bristol Bay but it's not going to be true for the rest of the state. (simultaneous speech)

If you say that we're going to compensate everybody and you know definitely going to compensate everybody in classes 1, 2, and 3 that because of the economic factors existing in these two areas we're going to cut back the optimum level faster in those two areas then we are in perhaps the three other areas. That's permissible isn't it?

The commission has the power. In other words when you (indisc.) on a buy back program to put the emphasis on buying -- they're not going to be able to buy all the gear that's offered for sale probably for the first few years because the fund won't back it. They can

concentrate on buying back in the areas of greatest needs, can't they?

Yeah they could but the buy back is going to cost you more in the long run than straight cut.

Sure, you chop their heads off it won't cost you as much too. You know, I mean (indisc.)

What would be the matter with just saying that you're worried about this statewide business, say that statewide just groups 1 and 2 will be able to -- will be guaranteed, you know they're not going to be cut out but you give the commission the power to include the other classifications as they see fit.

Then it won't apply -- you're leaving too many people undecided.

What I'm saying is what you're doing -- all you're doing is separating -- the worry is you know the bill to be struck down as unconstitutional. I assume this was the difference why we're trying to use the regulatory power because we don't have so much problems as getting the whole thing thrown out. It's just merely a regulation so that my idea was that you set this statewide to suit Bristol Bay, but that's too harsh for the rest of the state. Okay you set your statewide standards then the commission can allow other groups to fish and the commission could be created the day after and it would, you know, we would have it set that the next day after the bill went into effect the commission

would declare that groups 3 and 4 in Southeast Alaska and groups 3 in Cook Inlet.

But how can you guarantee to the large number of fishermen around this state that is what would happen?

I suppose that is a little bit of a problem...

That is the problem.

Well I mean if the commission would just do it right after then I think that would solve the whole problem.

The thing is, Terry, if we don't find some way to get well I won't use any names, but we've got to pick up (indisc.) enough people right in Southeastern Alaska to get the bill passed.

I'm probably from the worst district for that. I've probably got more...

Yeah, but you don't represent them. You represent the commercial. What about the Juneau delegation that represents nothing but sports fishermen?

And there's such a very high (indisc.) of this type of category 3 people for instance in Cook Inlet and if we don't give them some guarantee that they'll be there why we...

You've got a guy that spent \$45,000 for that but for the last five years it hasn't given him a living so he's in camp and works at the plant up in Kenai and suddenly he finds out that everything he's invested is kind of down the tube.

Okay the only problem with what I just mentioned that you don't think it's politically acceptable.

I think it's legal.

Of course the unfortunate thing is that if these people realize that the thing was being done by types of gear and that Juneau's sports fisherman wasn't being compared with anybody but the Juneau sports fisherman (indisc.) we could put in the definition that the (indisc.) had to be stabilized separately. Therefore, they're not even going to be competing against the power troller or the purse seiner or somebody who is more professional quote. You know it seems like they think they're some how being compared with professionals and that that's going to cut them out. My point is (indisc.) went to three out of the last five years in terms of the number of people who held gear licenses would be 14,300 whereas our present level is 9,800 and if you were more restrictive than that and required four years out of the last five, you'd still have 12,100 compared to 9,800 so even with pretty tight restrictions there will be some inflation.

Yeah but of course that's not what you're doing. You're -- each one of these individuals is going to have show that he has been dependent to this extent. All the fishery (indisc.) one year, it's over a period of time.

Yeah the thing is that what he is saying that even when they prove that you're going to have more than actually fished last year. Maybe not more than fished in Bristol Bay in the last cycle year.

Well if they're still, but you see (simultaneous speech)

(indisc.) those are still there and ready to jump back (indisc.) and I think that's not necessarily (indisc.)

I think we've always found that there was more than we thought.

I think you're going to find out that there is more of them than you think, but once you do it at least you know that once you have set a number at which it can't get any bigger.

Have you considered going and having only the Bristol Bay problem this year -- trying it out and see how it works rather than going (indisc.)

But you'd have such a (indisc.) gear this year (simultaneous

speech)

That it would disastrous, John. You would have a gold rush that wouldn't quit, you know. You've got to shut it off this year. You can't even put off any of it until next year.

This is one of the reasons while we are where we are today. In 1968 we tried to do something like this...

We just talked about it in 1968 and the percentage of new gear just skyrocketed.

If you make your condition of entry or if you're going to make your judgment period so many out of the last five years, say three out of the last five or something like that, they're not going to develop any particular (indisc.) by one year.

No but they'll (simultaneous speech)

That's exactly what we're -- what we just came up with with the approach I mentioned. Everybody said there's nothing wrong with it, it's just a political problem and so that's what happened (simultaneous speech)

The only reason for suggesting Bristol Bay is that is where our biggest problem is and I'm wondering if the (indisc.) is more than we're going to be able to manage here if we do it all at once...

Isn't what the commission is doing here -- what we're trying to do really with (indisc.) aside from some amount of doing it for political reasons into five categories, isn't what you're really doing there is saying how fast you're going to reach optimum levels -- you're really going to regulate the speed by the areas that you're going through and Bristol Bay -- actually what you're really doing is reaching optimum levels a lot faster because the economic conditions in that area are so much worse and if you change the language instead of saying -- instead of talking about denying permits, you know you're not going to deny anybody any permits in this area, but you are going to deny them permits in this other area. If you talked about it in terms of reaching optimum levels, wouldn't that be a lot more constitutional and permissible? If you talked about speed of reaching optimum levels because of the economic conditions in that area or economic conditions of the fishery in that area. In other words instead of saying that except no applicant following within the first two priority classifications set out in section 200(b) shall be denied a permit in Alaska following within the third priority classification shall be denied a permit unless there is a prior determination by the Board of Fish and Game that biological and economic factors justify, say that no applicants following within the third priority classification shall be initially denied a permit unless there is a prior determination by the Board of Fish and Game, the Commissioner of Fish and Game and whatever

else it was, the commission -- that biological and economic factors justify reaching optimum levels (indisc.) at a point and time necessitating denial of permits in these classifications or something like. So in other words you're putting it on reaching optimum levels instead of protecting different types of people or something.

It seems to me that there are really only two basic choices either to start at the present levels everywhere or to start at some other level.

Are you saying that you have to reach optimum levels at the same time all over the state?

No, no.

That's what he's saying. Start at the present level everywhere, but give the commission the authority to get done quicker in some regions (simultaneous speech)

Like Bristol Bay they would be able to go and that's going to necessitate it. They're going to get the optimum level quicker than necessitate going through in some areas going through that five point system. It's going to necessitate going through some of those classes differently in some areas than others.

But then everybody that's in every class would have to be bought out or compensated.

Right, yeah. Your compensation has to stay with the standards throughout the state, but it doesn't mean you have to go into each class on a proportionate basis in each area.

But the starting point would be the same.

The starting point would be the same. It's just that in one state you're taking, you know you're taking out a bigger chunk because that area is a little bit more critical economically than others. That's -- the wording has to reflect that I know, but your basic premises are the same, compensation (indisc.) would be the same and your basic starting point would be the same, but then there would have to be that determination by those three governmental bodies that in this area there's justification for taking that much bigger of chunk (indisc.) I think that was (indisc.) in what the commission was going to do anyway.

I think that probably makes sense. I don't know why there would need to be three bodies making that decision but...

I don't think there needs to be three.

You mean the commission, commissioner and the board.

Yeah.

Well I don't neither.

Then if you could also put in a little language so that it was clear that wasn't meant to discriminate between types of gear.

Why would this discriminate between types of gear if you simply apply the four categories to all types of gear?

(indisc.) just letting everybody in at the present level for all types of gear -- see you only would discriminate if you were going to say four and five don't get in at the offset then for certain types of gear there would be a lot more people in four.

I assumed that these five classifications go on a gear-to-gear basis, but if your career fishermen in a trolling fleet is going to be at different (indisc.) and time then your career fishermen in a (indisc.) fleet or something.

That's all I was suggesting and I think a lot of types of gear will probably be blobbed right on the line between (indisc.) these categories and that's the only place where you're getting probably the vagueness then there's probably going to be a lot of them right on the line between (indisc.) and alternative occupation.

Didn't we have at one point have language that these

categories would be on a gear-to-gear basis?

Yeah, it says -- it looks like the bottom of page 7, the commission shall adopt regulations (indisc.) qualifications for entry permits for each administrative area and for each type of gear. We'll go on top of page 8, the regulations (indisc.) specific qualifications of the grouping (indisc.)

The only time you discriminate is if you cut below a certain class. If you cut from three down.

If you took half of three.

But if we had it on a gear-to-gear basis and had the classifications would that help?

Yeah.

What page and line?

Eight, line four. (simultaneous speech)

It's all on the issues of permits (indisc.)

Okay, Dave, summarize where you think we are now as far as this particular point is concerned.

I'd rather have Frank.

All right, Frank.

Let's if we are all thinking the same way. Well we got five different sets of classifications to establish priority (indisc.) I guess we're compensating to level three. We're allowing a determination, I don't know by how many bodies, that within in certain areas you can cut back into these classifications faster than in other areas because of economic necessity.

Right but as far as entry permits in the beginning, statewide it would be the same that anyone in 1, 2, 3, or 4 would be in. In some areas we need to buy back more quickly and we would have language giving the commission authority to do that and they already have authority to do that. It's simply something they would do under regulatory powers. But everybody would be compensated through 1, 2, and 3 throughout the state. The idea is that the (indisc.) fisherman there's not enough there to really -- he needs compensation. Is that a liable..

All the way. If a guy had a couple of shackles of gillnet, you buy them. Doesn't amount to that much. Buy equipment only.

The only point you get into is when those sport fishermen

guys leave town and he wants to sell his (indisc.) to you.

Well the commission may buy just the value of that license, you know. Actually you wouldn't in (indisc.) case, you'd just let him sell his sports license to another sports commercial or you'd offer him an amount and if he bought why that would be one left.

I think this depends very much on the position we take on compensation or buy back. If you're going to buy back the value of the right (indisc.), we're in a much different ballgame then if you merely going to look at each individual and compensate them for the stake in fishing over the past. Clearly, if you're letting everybody one through four then all of a sudden you got 8,000 or 800 permits in a given area of equal value and you've got to buy them off the market even though he may only have a couple of shackles of gillnet, his permit is worth just as much as anybody elses because it will allow one unit of that common type of gear to be fished in that area. So it's going to depend entirely, I think, on what we do with the other sections.

It would seem to me by going all the way through four your initial level like in Bristol Bay, number four (indisc.) fisherman (indisc.) participation in fishery provides a variable minor income source. We're opening

up an awful big door for initial levels.

Tillion

Well if you had four and five -- in other words if one and two got a negotiable that you could buy back to two by just -- in other words that three and four got an interim permit and one and two got a regular would that (indisc.) and the an interim permit can be purchased at the will of the commission at any time for whatever...

Over

Of course, you know what I was suggesting as an alternative that I wrote the other day was possibly saying that anybody in category 1, 2, and 3 can't be told to stop fishing tomorrow. In other words you still issue just up to the number of permit the optimum level or whatever in terms of permanent entry permits. The rest of them get interim entry permit which -- and when they can be compensated then they can be removed from the fishery but not before. But then this didn't go over so again that would really be creating kind of two kinds of rights at the offset. One to stay in until you're compensated and the other is to stay in forever.

It's not feasible to have a negotiable and a nonnegotiable permit is it?

I think it is. The interim entry permits are renewable year-to-year. They don't confer. They're not an entry

permit. They don't confer any of those kinds of rights to transfer and sell on the recipient. I don't think there is anything wrong with -- I think you could create two kinds of permits. We sort of have it here in the bill already. With the interim entry permit (indisc.) and we had thought at one time of having the interim entry permits spaced at over say a four to six year period rather than...

Yeah but you're treating everybody alike there. My point is that if you gave one and two category people a free negotiable property right, three and four ~~does~~ not have that. They could fish as long as they wanted to fish (indisc.) get out why they were compensated for the value that they had an investment and that was it. Couldn't sell their license (indisc.)

I wouldn't -- I think it might be. I haven't (indisc.)

John, you're awful quiet. What do you say?

John: As long as you applied the standards fairly and your classifications weren't arbitrary. I'm still really concerned when you apply to any given type of gear these classifications just may really fall down, that they may not work. I mean if you look at the separate fisheries -- Roy will be able to tell us more.

Well I don't understand what you're saying really on that.

Give me an example.

John Radar A perfect example is that you don't hand troll (indisc.) that's regulated separately. All those guys are going to fall in category four. About twenty percent of them in category three there will be no ones and twos. So there isn't any problem except that the drawing a line between those guys and three and those guys and four in terms of the Juneau sports commercial fishermen it's going to be almost completely arbitrary. It's just going to be decided whether you go between you know -- there isn't a dimes worth of difference between a guy on one side of the line and a guy on the other side of the line and if you get into situations where there's not a dimes worth of difference between guys on one side of the line and the other side of the line, your classification breaks down and I think you'll agree -- now let's say that the purse seine fishery and here -- I'm sort of talking out of turn but I think a lot of those guys will lump up at the top category you know being career fishermen but some of them may be multiple fishery participants more or less and others not and there may be not -- and some of them hold other jobs in the winter and I'm suggesting that whenever they lump on the line and there isn't much difference then the whole thing tends to break down.

Except your optimum levels are going to be different. If

they are all on four and five and you're not taking any of them out anyway, what difference does it make?

Where you get a situation and I think you will in Cook Inlet or like in the (indisc.) where they will lump in three and four. They will either be alternative occupation fishermen or advocational fishermen and there will be guys so close to that line on both sides that you won't be able to tell them apart.

But if the buy back applies to all of them I don't...

But you don't. You're saying that your buy back -- you're going to let people in, unless you let everybody in and that's okay if you want to do that.

Well if you let all of 1, 2, 3, and 4 in that's what we're talking about.

Well if you let them all in you've got yourself an expensive buy back but if you skip it, you know only hit Bristol Bay like this year, you have something that is going to be far more expensive than that -- you're better off to just take everybody then put it off for a year. If you can't pass it any other way but to take them all, you better take them all and figure you're just going to buy them out because boy if we passed this thing in 69' you know...

We would solve that problem largely if we go ahead and do what I was talking about earlier. In three and four have a buy back where they're compensated only for the amount of the value of their investment. If one and two has a real (indisc.) increase as time goes on. If that's (indisc.) that might solve the problem, wouldn't it?

Dave, were you saying that you felt the handtrollers would lump between three and four? The man made a statement the other night that probably not more than ten percent of them even have any hopes of making a profit and then I would figure income would be over your expenses. In other words most of them -- I can't see very many of them over ten percent going into three or four if it's an income there has to be a profit...

Dave When you set standards like variable minor income, I'm afraid a court will look at that and just laugh at you and say (indisc.) applicable standard because how your expense stays, what you're going to you know (indisc.) completely from those kinds of variables that you suggest and it's just going to get so arbitrary when you...

Okay if we got a language problem maybe we can tie it down.

I'm suggesting that it may be more than just a language problem. It may be a problem that if you can't draw

that kind of distinction between people and have it be fair

They could either prove over a period of years whether they're making a profit on the (indisc.) or not. Is that a line that you could...

You'll just have to look at their income tax.

T. H. O. Wait a second now. If you took everybody down through four and gave them all interim permits of which the commission has the right to buy back for their interest in the fishery for x number of years for their investment for x number of years at which time anybody still left in the fishery at the end of x number of years gets a real concrete permit, would that do?

Then you've got transferability problems then because you're holding everything in abeyance.

T. H. O. (indisc.) what you have is transferability must be cleared by the commission and just allow transferability. You're going to have deaths and all that you know.

Well then all I'm suggesting is that you're fair about letting everybody down through four then you'll have twice the present level...

I realize that but when you start buying them back you'll

find the guy that's actually fishing it even on that business you won't buy the buying back but you come to the other guy and say we're going to buy your gear and he doesn't own any, you know. Well he might but I (indisc.) You know you're not buying anything else out so he's bought a set of gillnets, you buy out. So he's bought a boat, you're stuck. If you really want to get rid of him or you just skip him and buy some guy that hasn't got a boat. You go through and screen out. That means the guy that's actually fishing that you just ignore.

tape 6, side II - SPORTS-COMMERCIAL DISCUSSION - not transcribed

Ray how prevalent ... ^{tax write off} sports boats. In sport commercial,

how prevalent where they're doing it as tax write-off on boats...

(6-13-73)

Well what difference does it make? There's no difference.

It's a different...

It means that a guy that's in category three of Bristol Bay won't get compensated but a guy that's in category three everywhere else in the state will.

No you compensate them all but you just cut them out faster there. Now you compensate everybody but you...

I thought you said that somebody wouldn't get in. I thought you said...

No he wouldn't get a permit but he would be compensated.

All right let me see if I understand what you're saying then. We can initially let everybody in in categories 1, 2, 3, and 4, but have different rates of buying back according to the difficulties of the different areas (indisc.) etc. You're seeing that as a way that even the first year you might decrease in Bristol Bay for instance by knocking out three and four but compensating them when you do it. You simply compensate them sooner, you knocked them out and compensated them sooner in Bristol Bay then you do somewhere else.

All right because there is a prior determination by these three agencies (indisc.) that that area is so economically depressed that you have to go faster in that area.

Therefore, you're going to compensate now instead of

buying back.

What are you going to compensate them for? You're not going to issue them an entry permit, right?

Right.

But everybody else that is in category three and four you are. So everybody else in category three and four you'll be compensating them for the value of their entry permit and the value of their gear and the guys in Bristol Bay you'll only be compensating for the value of their gear and that's not fair.

Oh wait a second. If you have an interim entry permit for three and four then all you have to do is buy them back at the end of the season and they don't have anything else. They're just like the other one. You just have to buy out the gear.

That's fine if you give everybody in the same category statewide an interim entry permit. I don't think you can differentiate and that's what Frank is suggesting.

All right. What you might want to do is give everybody all the way from one to four an interim permit, but you know how much of a howl are you going to get then.

Yeah I don't think you dare classify it as an interim

permit. You're going to have to give that permits period and then if you want to buy back faster in some areas and if you can do it legally, fine.

At that point it becomes transferable and at that point two years from now when you get around to buying it back, it can represent a \$100,000 investment rather than a \$10,000 investment -- there's no way you can put a lid on the investment.

But of course the thing was that if you leave that commission the power to buy back to optimum levels for the amount of actual fishing equipment held by the person.

Not at the time of the permit because that permit might be in hands of somebody else.

Oh if that permit might be in the hands of somebody else and they might have a \$100,000 boat, but you'd only pay them for the boat. No, not for the permit.

(indisc.) not allowing the transferability of any permits for a number of years until it has been cut down. I mean have it all permits be not transferable for a period of a number of years.

That's one of the problems that was first recommended and (indisc.) that one if you don't allow any new entry,

you've really plowed into...

I still think that you may be able to justify more (indisc.) on transfer for a year or two. That's the only way and I'm nervous about that, but that's the only way I think you can tamper with transferability. And even there you got to allow it (indisc.) and even there you're granting a valuable right that you're going to have compensate for and you can't (indisc.) an entry permit and then turn around and not compensate them for the value of the entry permit and only the value of his boat. You just can't do that because that thing is going to have real value.

I'm still having trouble following on the compensation thing because if you buy -- by that argument if you compensate one -- you're compensating one guy by (indisc.) the other one you're compensating by buy back where he is going to get more because he's got the permit whereas the other guy didn't have the permit and he's not going to get that value of the permit. On that basis the guy that you buy out five years from now is making more than the guy you buy out now. That's you know - there is going to be some differential there.

Well but one you're compensating for the permit and the other you're not.

Well maybe you can say that the guy -- when you buy back (indisc.) it would have to be a (indisc.) buy back in order

for that to work. If you had compulsory buy back it would not compensate them for the (indisc.) permit, but it would work.

I'm not an attorney. It just seems to me that the courts should be -- it would be a reasonable thing to have the courts to allow two or three year period without allowing licenses to be transferred without upsetting the whole you know multi-year program that (indisc.) set up by the commission.

Well if we had a moratorium, the longer the better, you know but whatever you thought we could stress and that the state could buy back at any time during that moratorium, not on (indisc.) willing (indisc.) certainly you know the guy is looking at the fact that he is going to pay his annual buy back assessments to start building the fund and nobody is going to have nowhere to sell the licenses, only a hardship transfer which would be just a transfer. Why then don't you have a fact that you might be able to buy back a year's considerably less because a fellow is looking -- well if you started right in buying back what you could handle. Sooner or later you're going to come to the point where it becomes expensive.

I don't think so because I think that if I were sitting there and even though I couldn't sell or transfer for two or three years, facing a \$200 year buy back assessment realizing at the end of three years I could sell it to

the state or anybody else for \$5,000, I'd borrow money to make the buy back assessment.

There will be an awful a lot of people that won't. I'm not talking about those ones. It would be the guy that fishes that will buy it back.

I wasn't suggesting that you -- you're confusing two things in terms of moratorium on the transfer but at some point you've got to issue entry permits that are going to be like property rights to everybody on the same standard. Then if you want to have a moratorium on transferring that, maybe that's defensible.

Well is it possible to have an involuntary buy back during that period of time of these categories three and four licenses?

In other words you're suggesting you issue to them not an entry permit, but just an interim entry permit or something.

(indisc.) period that you can't transfer the license unless the license is going to be worth the (indisc.) and you feel that you could justify two or three years, could we leave it to the commission who might keep it on until a court knocks them down if necessary. You know the longer you keep it while the state is still buying back whatever -- you know you have the hardship

case come up. The commission may take the idea that yet this is in the best interest to transfer or in the place where the person dying or so forth doesn't have any other way out, the state just buys him out. In other words the hardship could include purchase or transfer, the commission could do either. It would have to do it on a nondiscriminatory basis, but I mean any person who has died in the fisheries, they buy the widow out -- you know buy all his gear and stuff, but you don't have any transfer and if you could hold that for five or six years, you'd find your fishery had gone down a long ways. Now if you got knocked down by the courts after three years then it's going to become a little more expensive but you haven't lost your (indisc.)

You would think you would want to avoid buy back in categories three and four as much as possible because you're setting -- by buying them back you're giving them an artificial value that they don't really...

Well I'm saying in buy back...

So that they gave them some sort of permit that didn't have a value on that permit so that when you took it back you didn't have to compensate for the permit...

Make a hardship buy back. You know the hardship buy back shall be at the actual value of the equipment you're buying, you know because you'll find that

there will be some that you can't sell. You couldn't sell a \$13,000 boat in Bristol Bay during this period. They just wouldn't sell.

Okay why do you think, Frank, that a class three for instance would not have a value in some place like Cook Inlet?

Well I'm sorry I should have said four and five. Three would have a value.

We'd figure we'd screen out five right to begin with didn't we?

Yeah five and four are two (indisc.)

Yeah four would be the only -- the only guy that would sneak under yours.

Of course that's another question. How are you going to distinguish -- you define four as an irregular variable minor income. Now irregular could be construed to mean he doesn't fish every year. How are you going to distinguish between him and a guy that dropped out two years ago as...

It's a matter of income.

No but the guy -- you might have guy before you that

fished irregularly up to two years ago every one year out of three and he made a minor income.

I'll agree with you and I think the language maybe on four ought to be changed to...

Well I -- the language of four should be an advocational fishermen would be one who had bought a license every year but didn't necessarily fish it every year. While five an inactive fishermen. He hadn't even bought a license.

No, no, no. (simultaneous speech)

Five (indisc.)...

But hadn't fished it.

All right. No record.

About just dropping out the irregular part? Just say minor income.

But would you do that with the two people that are making the same dollar income (indisc.) but one that has a \$40,000 income on the side and the other has a \$2,000 income on the side.

Well there's two (indisc.)

What would be wrong with just recognising the right to compensation down to a certain level and then saying that, you know -- well that's sort of what I had mentioned. There's something (indisc.) suggested at our last meeting, but then basically you would be saying that to only issue the number of interim -- permanent entry permits that is reasonable and you could do it on the same old priority basis, but that you'll be saying when you pass the bill, anybody that has any substantial income from fisheries is going to have a right to compensation and whether they get an entry permit or not, we don't know yet, but if you don't you have to be fully compensated. So that lets everybody know right now that the (indisc.) would be to get an entry permit or to get compensated.

That won't take care of your sports from (indisc.) because you're going to pay them for a \$35 rob and he's out. He's not going to stand for it.

(indisc.) the handtroll separately, all those guys are going to be in. It's such a false problem because there is no -- even at the offset nobody thought we were taking those people out in Southeastern. It's just a misunderstanding of how the bill works.

In that case is there any need to lock in one through four statewide?

No because these guys aren't going to be taken -- you know-- it's and I'm certain -- that's what made me nervous...

I think that's where your legislative intent comes in. That's where you publish what you're going to do before you print it. What it means is you've got to tell them what it is going to say. That was a mistake last time. The bill came out and nobody knew...

Well that's what we just (indisc.)

I know but I'm saying this time there's going to be a substitute bill so that's telling everybody that bill is thrown out. Tell them is a new bill coming but...

That reads the same...

No, no before the bill comes out you want to tell them what it says because they can't read it themselves. (simultaneous speech)

(indisc.) everybody is going to be compensated then you're going to have a problem because everybody says well I'm coming out.

What would be the (indisc.) sports commercial fishermen in Southeastern, would their minds be set at ease if you told them (simultaneous speech) handled separately and it will not -- entry permits will be issued at the present level. In other words at the level the fish...

Well if they show it to me in writing, I don't trust you.

Okay well that's fair enough, but I mean wouldn't they be...

You can specify that in writing in the bill that they are considered separately.

It's just what we were doing earlier.

Well you can use them as an example so that each fishery shall be considered separately. For instance, the handtroll fishery shall be not considered part of the gillnet or power troll fishery, but you want to mention them...

They're in the definitions aren't they.

Yeah. You want to make sure that they know they are going to stay in or you're going to have Bill Ray and Willie Banfield down your neck.

(indisc.) problem (indisc.) to number three (indisc.)

Well you know if I had mine...

What's the difference?

(indisc.) just off to a buy back even though I knew it was going to be expensive and take years longer and get the bill passed because that power of giving the bill passed and stopping the new entry is just worth it. You know, if we just think of what it would be like if we passed it in 69', you have fisheries that within the next two years will be in major trouble that

that are perfectly all right like some of the shrimp areas, you know. Kodiak is in trouble...

(indisc.) buy back in Bristol Bay except (indisc.) to handle (indisc.) well enough so that the residents can handle it, it's going to be set to a minimal amount of money that you're not really going to get them out very fast.

All right what you do in that case is you have the minimum buy back assessment, you know, all over so even the handtroller helps buy them out and then you have additional assessments on top of that and so in Bristol Bay -- you can't do it by -- you can't give a guy a break by income, your gross family income was under \$6,000, you can pick it up for 25% of the annual assessments. I thought of this for like our -- when we tried to raise fishing licenses. We had it set at \$3,600 -- we say a gillnet license in Cook Inlet is now worth \$300, but if your gross family income was under \$3,600, you don't have to pay the whole fee. Is it legal or not?

Well we have subsistence sports and hunting license are 25¢.

Yeah we just never -- if we could -- see this would take the strain off your village people because that (indisc.) coming in from San Francisco is going to have a large enough income that even if he only made \$3,600 in the bay or \$5,000 in the bay, his other income would boost him up to where he paid the full assessment while the other people that had a lower income wouldn't and the (indisc.) Bristol Bay resident would pay the full assessment.

Well in the interest of getting something done today, we wandered from what levels -- we started out at what levels that we were going to be statewide and we've wandered through a little bit of transferability and a little bit of moratorium and a little bit of buy back and a little compensation. We're running into the same problem we ran into at the other work session.

Yeah but if we don't solve this problem...

I think we're coming closer, Mike. I don't think...

It's just, yeah.

I'm just saying that if you took everybody in down through four, you know then you have a bill that is politically acceptable. You can get it through the legislature. How would you correct the problem of over gear then. Now is there a solution? If there isn't a solution, why you have to go back into it and cut out some blood, but everytime you cut out four or three, you lose two to three to five votes from the floor and you just have to figure whether it's better to lose the whole bill and (indisc.) or get something passed and at least have something to start with.

Well I think -- taking an example of Bristol Bay though, if we're fairly liberal on where we start things and let them in on down to four, we've got 1,900 units of gear last year. That probably put us over 3,000 units of gear as a starting point for buy back. Now assessing people in Bristol Bay to buy back

people in Washington that have irregularly and as for minor income participated in the fisheries, I think that would raise some political opposition too. (indisc.) sport fishermen in Juneau are nervous because if that's what you're implying that the poor native out in Bristol Bay is going to have to cough up buy back assessments for ten years to buy out the guy that fished three years out of the last ten from Seattle -- didn't make much money.

Didn't we reach the conclusion that is if we went one through three we still (indisc.) with sport commercial fishermen, the handtroll fleet in Southeastern because they're going to be considered only against the other handtrollers and certainly they may not fall in 1, 2, or 3, but they're going to be lumped into these other areas and it's (simultaneous speech) I thought we came to the conclusion...

They're not going to believe you.

They won't believe it if you got those classifications...

I'm not so sure. (simultaneous speech)

Can we have an exemption of -- he doesn't know.

I don't know.

If you can have an exemption, you wouldn't have to worry about the fellow outside that you were buying back. He'd be paying full assessments. You know, who's got the minimal income in

Bristol Bay?

But you're asking for a lot of guaranteed law suits if you do go -- I don't know and it may be possible, but if I were a guy outside that was being more heavily assessed than the guy in the local area to buy out my license, I know that I'd complain.

Yeah but the thing is that he wouldn't be more heavily assessed than the school teacher from Anchorage or the other Alaskan. You know, or even a (indisc.) in Bristol Bay...

That could be done through a covering letter, couldn't it. I mean like the Governor's letter that stirred up all this controversy in the first place. It looks like to me that if you explained all this in the terms of that covering letter about the sports commercial being considered separately.

You're a lawyer. Do you think that's illegal, huh?

Well it might -- I don't know if it's illegal or not. (simultaneous speech)

I think it could be worked out in another language or another section or something, but (simultaneous speech) including all the way through four because the cost like in Bristol Bay is to (indisc.)

Maybe we have kicked it around long enough that we've about exhausted our thinking at the present time. Maybe it would be better to go on to another subject area and let the subconscious

take over during the evening and so on and then come back to this at another -- at the next go around. If there are no objections, then let's do that. Mike, where are we with the next one?

Okay transfer of entry permits -- we have several proposals here. One thing before we get started on this, we did make provision for emergency transfer, page 12, lines (indisc.) through 22, emergency transfer -- the commission shall adopt regulations to temporary transfer an entry permit from one person to another if sickness, injury or death prevents an entry permit holder from satisfying the requirements of section 180 of the chapter. Section 180 just says that essentially the entry permit holder has to be there physically operating the gear and (b) the commission (indisc.) temporary entry permit transfers within a reasonable period of time and to refer those transfers it has reason to believe are fraudulent or made in violation of sections of the Department of Law and then...

Now wait a minute...

In addition, under penalties we included a person making a false statement to the material fact for an emergency transfer is guilty and so forth.

The (indisc.) emergency transfer provision?

Not necessarily in terms of the -- I'm not quite so sure what you mean in terms of (b).

Well that was taken out of the present vessel transfer statute,
Title 16.

Refer to them for what?

You refer them to the Department of Law for action you mean?

Yeah.

Are you going to pick it up in your penalty section to make it
some sort of a violation that (indisc.)

Sure. It would be perjury, wouldn't it.

Why in this particular section (indisc.) refer them to us, wouldn't
they -- I just -- okay.

Well if it's defined as a penalty then the clearly the D.A. is...

Yeah, refer them to the D.A. and not to the Department of Law.

In other words it implies that we have an administrative
responsibility to help the commission review those transfers,
is that what you mean? In addition to our law enforcement
responsibility?

It means that the commission reviews them and if they think that
they might be fraudulent and then refer them to you for action.

So they make a -- are they going to make some sort of finding that

they think -- okay.

They have reason to believe are fraudulent or made in violation.

Well do you want this to be instead of the Department of Law, Department of Public Safety? In other words you -- just the commission?

I don't know. Vessel transfers -- this is the language that came out of seine and vessel transfers. You know I felt it was applicable at the time.

Mr. Chairman, I suggest you insert two words in there.

Where?

The one we have trouble with in the present law. In 260, sickness, injury or death of the permittee, if that's what you mean. It doesn't say that.

In other words if his wife...

(indisc.) his mother in Vermont is ill, we've got all kinds -- the whole family.

I don't know the answer to this, but if this bill is supposed to be applicable to king crab and shrimp there is many cases where you know to keep the vessels working year-round, you know the skipper will have a relief skipper and I don't know how this plans on being handled and like I said I don't know the answer

to it, but if this is meant to be applied to king crab and shrimp, there might have to be some sort of modification.

That's what the big space is just above. There has to be. They were just worrying about the emergency transfer. There is going to have to be some transfers on some seine boats and on king crab boats where one guy fishes it up to Christmas and then the other guy fishes it from Christmas on, you know. Where you're at sea continually.

Mr. Chairman, I had a letter from the Aleutians. They were worrying about this emergency transfer thing and they felt that somebody within the Department of Fish and Game or something, someone on the spot should be able to grant it rather than have to go through a...

Well couldn't that be under the regulations (simultaneous speech)

We tried to leave it fairly broad.

I'd say there has to be transfers other than emergency transfers, but that's the alternatives up here. You know a fellow has to be able to like Flim Giles did, you know how -- where his kid takes it for awhile you know for six weeks and then he takes it for six weeks and they alternate it all year around. They do it every year. They've got one vessel and two highline skippers, you know.

Why is that legal or why should that be if...

When you've got a half a million dollar investment and one guy can't live at sea all that time, you can't tie it up.

(indisc.) full time is different...

These are full time fishermen.

Mike, maybe you'd want to handle it under regulations, but will temporary transfers expire? I mean will there be some outer time limit?

Well we felt once again, you know, that this would be by regulation of the commission.

So the commission could allow a temporary transfer to go on forever if they wanted too.

Yeah. I'm not sure that that would be consistent with the (indisc.) of the chapter, but...

Well they couldn't finish up the rest of the season (simultaneous speech)

It seems to me that something like, you know, a sixty day -- six thirty to sixty day of transfer that had to be renewed -- emergency transfer that -- are they into that type where you'd have to renew it or something. If the cause of the original transfer was still there....

Seems like you might put that into the statute to save the

Well now right now we have gillnets are not transferable, but seines are. You just call into the fish and game and say I'm transferring my seine to my son William, you know and he takes it up, but you can't do that with a gillnet. It's a nontransferable so you might just as well make it that way that keep it in the gillnet fishery which is the one that we're having our trouble with -- it's nontransferable in the gillnet fishery and let her stand. If a guy wants to transfer it on a halibut boat he doesn't actually lose the ownership of it. He's just transferring the gear and let him. You know, he has to work something out for when he transfers the gear so the guy doesn't walk off with his permit, but it's nothing that you have to worry about. You know, transfer it to a crew member who has been abroad or something.

On a temporary basis. A temporary transfer...

Yeah a temporary transfer so that it automatically lapses at...

Might be thirty days or sixty days.

Maybe we should have an emergency transfer and a temporary transfer for these other people and places where it's not really an emergency.

An emergency transfer is a complete and total transfer. Somebody is dying or something and you just go -- you completely transfer it to his name. Now the other transfers that can be interim transfers not over thirty days or sixty days or ninety days, whatever you want to work out.

Okay should we go on down to the idea of the transfer of the permit itself?

Yeah. We have three proposals for a transfer covered on this sheet here and there is a kind of summary before you get into the details of them, you should take a look and consider each one. The first sheet is a summary.

The one that says proposals at the top?

Right.

Well let's try one will simply and see what troubles we run into with it. Suppose we simply say for the beginning that maybe a holder of an entry permit after he has received approval from the commission to sell his permit can then sell it to any qualified purchaser on a negotiated sale basis, on a one-to-one basis with the guy that is going to buy it and when we talk about qualified purchaser, we simply say anyone who either through past experience in the fishery or a person becomes qualified either by cause of past participation in the fishery or through training in some approved course of training. Therefore you have an applicant pool of people that the commission has certified then as being approved by and any of those may negotiate with a saler for his license. Can this meet the requirements that we were talking about the other day? It gives protection to the fellow in Bristol Bay that may not be very sophisticated. The commission can give him some protection there. We have an out for the son, for the relative or the nonrelative even who has worked on a boat for period of years and he now wants to have a gear license

license himself -- we've left it open for the guy who has had no experience in the fishery but who is willing to go ahead and take a course of training so he becomes eligible and yet it's still not completely wide open and will not necessarily then so quickly gravitate to the money source.

Are you suggesting a course of training by itself would qualify a person?

Very much like his -- you know very much like you see in some of this applications for jobs now where it can be a certain number of years in the field or so many years of college. It makes you eligible for a job. It would be somewhat the same thing.

I have had lots of both kinds of training and of course the training I had in school wasn't in fishing, but I just can't see how any amount of training would make a man capable of being an efficient purse seine skipper in Kodiak. He doesn't know the fish.

All right but that's something he could learn after he gets the permit and goes ahead and goes through experience, but at least you have left it open to anyone that is willing to make that sacrifice. There is nobody that can keep him from doing so -- going through the course of training. If you have it only through a matter of experience then you may have the situation where the court addressed itself to in 68' saying well hey you're relying on the friendship or the -- whatever you want -- of the skipper to agree to let the guy come aboard the vessel to work

for him.

I could see training be worth so many years of fishing experience but training by itself as a prerequisite.

I don't think we have to get into discussions just what qualifications are as long as your initial standards are fair (indisc.) If you say a fair and reasonable balance of those standards and the commission does not -- the commission if you want to leave some discretion to the commission (simultaneous speech) doesn't qualify you but a reasonable standard would be two years of college plus some participation. Of course the court says well that's unreasonable. They can't go back and say these standards that you put here (indisc.) basic broad standards are unreasonable, they say that the commission's usage of those four broad standards is unconstitutional as a (indisc.) or something and throw out the regulations but your statute would still be broad enough and reasonable enough on its face to stand up. Of course in these proposals there's lots of little kick backs if something does happen, you go back and retransfer but you've (indisc.) yourself a couple of years.

And the thing is that on some of those, David, wouldn't you say like on your crab and shrimp fleets you could require that a man who has met the requirements necessary to have picked up a coast guard license for tonnage in that area. You're going to have to go to that sooner or later anyway and the coast guard requires that you be two years in that area aboard ship before you can sit for the exam and you haven't stipulated that he has to be apprentice two years, but the coast guard says you can't just

walk in and get a ticket for the arctic. You've got to have been there for two years before you can get an operators permit.

I thought the requirements were for just a hundred ton and over.

Yeah but just have an operators license -- no you have to have an operators license -- well you don't -- they don't make you have an operators license to do over a hundred ton but you could -- they issue them for any documented tonnage down to any size but just meet the coast guard requirements for that tonnage plus some other -- I mean you know you can get a twenty-five ton license if you want to.

Dave, do you on this alternative number three, the (b) paragraph there, do you feel that that's an adequate out clause?

No I think I can make my position known on transferability in about thirty seconds. Basically I think any limitation on the class of people to whom permits can be transferred is probably unconstitutional and it seems like everytime you get into this business you're trying to decide to create a local privilege and that's whether the two years before you can sit for an exam, all these kinds of things are into one thing, to create a privilege for Alaskans and it's unconstitutional, I think. So I don't (simultaneous speech) I can't buy (indisc.)

Under these criteria, one, two and three, an alternate of three - you think that's going to discriminate against nonresidents?

Sure because fewer nonresidents will wind up in that category. I

mean -- all I'm saying is that I think that those people are aiming at is trying to make sure that certain kinds of people wind up with permits and I think that is an unjustifiable purpose because it has to be based on discrimination and the only reason you can classify people is if you've got a justifiable purpose and I don't...

(indisc.) justifiable purpose in a friendship program like this to encourage an economically efficient fishery?

I don't see it. I don't think it is to encourage to that.

Pretransferability is guaranteed on the market place to encourage an economically efficient fishery.

You've crossed over between unconstitutional (indisc.) if you have standards that are reasonable under face, no court is going to throw them out. If they're applied unreasonably by an administrative body, they'll get tossed out, but we're looking at something -- sure pretransferability is absolutely constitutional, but that doesn't solve any of the other problems you want to look at. If we have a common resource that used to be open to anybody that wanted to get into, it's a common resource. Now we're taking that common resource and locking it into a limited number of participants and I think it's a valid legislative objective when they're locking up a common resource that is supported by all the taxpayers, it's a valid objective to make sure that those participants that have that less in competition than have that property right not resourced or qualified and if you have standards that are there under face, no court is

going to throw them out, but if they're applied unfairly, they can throw them out but that's not going to...

I'm continuing to study the thing but my -- I mean -- so I don't -- I won't make any more comments but I just can't conceive of a nontransferability or this kind of a participant pool that wouldn't be very, very vulnerable to all sorts of legal attacks.

As applied to (indisc.) plus you have the kick back provision that if it is tossed out you can go right back to pretransferability so I don't really see -- I don't really see the problem.

I think both. I think either. I think that when you look at giving the commission and those standards -- because you're coming into separate point. You've already got your gear stabilized and you can say well we've come from a fair set of standards, we're going to apply them fairly to nonresidents and people that were on the east coast and everything else, but the point is -- the very threshold question is do they have any business monkeying around after it gets gear level stabilized (simultaneous speech)

(indisc.) if the state decides to have an (indisc.)

I'm just saying that you're just on a lot weaker grounds because there is so many ways that power can be abused and the justifications for it are so minimal, experience and efficiency, they just aren't the same.

But when you transfer an air taxi certificate, you require that the fellow called a commercial pilots rating...

That's because the public is at stake.

The public is at stake in this case too to a certain degree. For instance in the last two years we've got an extremely crowded boulevard (simultaneous speech)

So long as it doesn't knock the bill down, but (simultaneous speech)

(indisc.) boat handlers license to have a permit, you could do that in some other statute. There's no need to do it here. If you just want to make sure that your safety is provided for then just do it in another statute.

If we lose the commission the right -- if you leave the commission the right to do this so that they can do -- regulation -- in other words they say that you must have a license for the tonnage vessel you're fishing, in the area that you are fishing and that in its self bills it in because the coast guard won't give you the license until you've been the area two years.

Precisely my point. That creates a decided discriminatory...

It does right now when you want to get your license and I have to...

When you're talking about a fishermen, you're talking about apples and oranges together. A fishermen is a combination of things. He's

an (indisc.), he's a small business man, but he is also a working (indisc.). So you get a combination of people involved and when you say solely money is going to be the course, as far as I'm concerned, you're discriminating against a lot of people who are excellent fishermen, but they're not the best money managers. Yet they can run a boat, they can do a lot of things great and they may have the longest tradition in the history of the fishery.

Don't confuse what I say. I'm not saying that wouldn't be a desirable social objective. I just don't think it is one that could be accomplished by this kind of state legislation. If you want to subsidize crewmen so that they have an easier time buying in, that may be very worthwhile, but I'm just suggesting that you do it in another statute.

They're not doing anything here except giving the commission the power to set some qualifications which is not much different than the broad standards you gave the commission all through the initial (indisc.) (simultaneous speech)

You're looking at it on the basis that it would discriminate against nonresidents, right?

Discriminating against somebody, yeah.

Well I'm not sure that it wouldn't.

Hey his point is excellent though, I think. We wouldn't be doing this in the first place if we weren't trying to discriminate. The

-- it's the whole reason we're doing it. Therefore, we must do it or we wouldn't be trying to do it. (simultaneous speech)

I was just going to say you know I don't think it would work.

You don't necessarily have to discriminate. I think that there is - you know, if you can get people set up that are in the qualified -- if somebody can participate even if you have to let in an equal amount of nonresidents, the resident guys that can participate as a crew member -- that can get himself you know involved and get himself on that applicant pool is going to have it that much easier to pick up financing then if he was just, you know one of the vast (indisc.) of people.

You know I just -- I'm perfectly willing to give yours... (end of tape)