ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
867 SCOMM31: SPECIAL COMM. FISHERIES (LIMITED ENTRY) 1973

0. GUIDES AND MISCELANEOUS INFORMATION (COODINATING AND CROSS REFERENCE LISTING OF COMMERCIAL FISHERY ENTRY COMMISSION TRANSCRIPTS, LEGISLATIVE REFERENCE LIBRARY TAPE HOLDINGS AND LEGISLATIVE REFERENCE LIBRARY FILE)

1. PUBLIC HEARING, JANUARY 24, 1973

2. HOUSE RESOURCES HEARING, JANUARY 29, 1973

3. WORK SESSION, JANUARY 30, 1973

4. WORK SESSION, FEBRUARY 5, 1973

5. WORK SESSION, FEBRUARY 5, 1973

6. WORK SESSION, FEBRUARY 6, 1973

7. WORK SESSION, FEBRUARY 9, 1973

8. WORK SESSION, FEBRUARY 9, 1973

9. WORK SESSION, FEBRUARY 13, 1973

10. WORK SESSION, FEBRUARY 13, 1973

11.* PUBLIC HEARING: INDUSTRY, FEBRUARY 21, 1973
PLEASE SEE NOTE AT END OF THIS DOCUMENT
IN RE: THIS FILE

12. WORK SESSION: FLETCHER, FEBRUARY 22, 1973

13. WORK SESSION FLETCHER, FEBRUARY 22, 1973

14. WORK SESSION, MARCH 2, 1973

15. WORK SESSION, MARCH 6, 1973

16. FLETCHER PROPOSAL, MARCH 9, 1973

17. PUBLIC HEARING: UFA, MARCH 13, 1973

18.* PUBLIC HEARING, MARCH 20, 1973
PLEASE SEE NOTE AT END OF THIS DOCUMENT
IN RE: THIS FILE

19. FINAL DRAFT WORK SESSION (1) MARCH 26, 1973

20. FINAL DRAFT WORK SESSION (2) MARCH 26, 1973

21. FINAL DRAFT WORK SESSION (3) MARCH 26, 1973

22. FINAL DRAFT WORK SESSION (4) MARCH 26, 1973

23. FINAL DRAFT WORK SESSION (5) MARCH 25, 1973

24. FINAL DRAFT WORK SESSION (5) MARCH 25, 1973

25. FINAL COMMITTEE MEETING, MARCH 30, 1973

26. SUPREME COURT OF ALASKA. STATE OF ALASKA VS. LORI, JULIANNE AND HAROLD OSTROSKY. APPENDICES TO APPELLANT'S BRIEF. APPENDIX A. "EXCERPTS OF THE HEARING TRANSCRIPTS OF THE SENATE SPECIAL COMMITTEE ON FISHERIES, EIGHTH LEGISLATURE, FIRST SESSION, 1973

RE: FILES 11 AND 18

NO TRANSCRIPTS AVAILABLE FOR LEGISLATIVE REFERENCE LIBRARY FILES #11 AND #18; FOLDER MADE TO ACCOMMADATE TRANSCRIPTS SHOULD THEY BE MADE

SCOMM

#31:0

General Information in Folder #0

MEETING DESIGNATION		CFEC[d]	LRL LIB.	SCOMM 31
DATE	DESCRIPTION	TRANS.	TAPE	FOLDER #
1/24	public hearing	file 4	tape 1	1 BOX 1
1/29	H.Res.hearing	file 1	tape 30/32	2
1/30	work session	file 2/3	tape 2	3
2/5	work session	file 5/6	tape 3/4[a]	4,5
2/6	work session	file 7	tape 5	6
2/9	work session	file 8/9	tape 6/7[b]	7,8
2/13	work session	file10/11	tape 8/9	9,10
2/16	work session	no	tape 10[c]	no
2/21	public hearing:industry	no	tape 11	11[e]
2/22	work session:Fletcher	file12/13	tape12-15	12,13
3/2	work session	file 14	tape 16	14
3/6	work session	file 15	tape 17	15
3/9	Fletcher proposal	file 16	tape 18	16
3/13	public hearing - UFA	file17/18	tape 19/20	17
3/20	public hearing	no	tape 21/22	18[e]
3/26-27				BOX 2
	1. final draft work sessions	file 19	tape 23	19
	2. " " " "	file 25	tape 24	20
	3. " " " "	file 20	tape 25	21
	4. " " " "	file 21	tape 26	22
	5. " " " "	file 26A	tape 27	23
	6. " " " "	file 26B	tape 28	24
3/30	final committee meeting	file 23	tape 29	25

Supreme Court of Alaska.

State of Alaska vs.Lori, Julianne and Harold Ostrosky.
Appendices to Appellant's Brief. Appendix A.
"Excerpts of the hearing transcripts of the
Senate Special Committee on Fisheries, Eighth
Legislature, First Session, 1973. 26

[a] CFEC file 5 is on tape 4; CFEC file 6 is on tape 3
[b] CFEC file 8 is on tape 6, side 2; but second part of 8 is not found
file 9 is on tape 6, side 1 and tape 7, side 1; 7, side 2 is blank
[c] LRL tape 10 is almost indecipherable; terrible buzz
[d] CFEC files #22 and #24 missing
[e] no transcripts available for LRL files #11 and #18; folder made to accommodate transcripts should they be made.

CFEC = Commercial Fisheries Entry Commission
LRL = Legislative Reference Library

(6/83 - KHS)(rev. 10/83)

MEETING DESIGNATION		CFEC[d]	LRL LIB.	LRL
DATE	DESCRIPTION	TRANS.	TAPE	FILE
1/24	public hearing	file 4	tape 1	1
1/29	H.Res.hearing	file 1	tape 30/32	2
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2/5	work session	file 5/6	tape 3/4[a]	4,5
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2/13	work session	file10/11	tape 8/9	9,10
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#31:1

CHAIRMAN: Here are the comments of administration spokesmen on Senate Bill 39, the Governor's limited entry proposal. Allen, I think that all the legislators know you. Will you introduce for their benefit, the rest of your people?

ALLEN ADASIAK: This is David Jackman with the Attorney General's office and this is Rich Listowski who is working for the Attorney General's office on contract handling these statistical data aspects of the limited entry study. And, pardon me, Roy Rickey, from the Department of Fish and Game who tells us about the fish.

CHAIRMAN: You mean they're such a minor part that they can be overlooked in all this. Okay, again, what we're going to do then, is give you whatever opportunity you desire for presentation of your case and we're going to open it up to questions from the committee members to you epople, and if we still have time, then we'll take comments from the public if they wish to make them. So, without any other--are there other comments that any of the members would like to make before we begin? If not, the floor is yours.

MR. ADASIAK: Well, I think that the bill that you have before you is one that very many people agree in general concept is important. I can't think that I've talked to anybody recently who has said Alaska does not need limited entry, but when you get beyond certain general ideas like that into more specific considerations of what are you going to limit, how are you going to limit, who's going to be in, who's going to be out, it becomes very difficult, very complex. As most of you know,

the State doesn't just have one fishery and one type of gear. We have a variety of fisheries, a variety of different types of gear, a variety of species of fish that are taken, and we tried to put together a bill which would be flexible enought to look at individual areas of the State and the participants in each individual area in evaluating how it is that you limit the amount of gear that is in a particular fishery in a particular area. Now, again, you go from the general idea of limited entry, which I think is accepted, into specific considerations and right away you raise a fear in a lot of people's mind, and I'm sure many of you have fishermen in your constituencies. You've encountered it already. That's the fear that, that's me. I'm going to be cut out of the fishery when limited entry comes through. Then other information gets out on the basis of what is admittedly a very complicated bill because we've got a complicated problem and that information suggests that 46 percent of the boats, 46 percent of the gear will be removed from the fishery. Well, when you hear a figure like that, it's almost impossible to avoid concluding, that's got to be me, I'm out. Well, not necessarily, and definitely not under the terms of this bill. The 46 percent information that was advanced to the public is erroneous. It was arrived at through an incomplete consideration of the provisions in a very complicated bill that balances another whole series of factors, not just the number of units of gear necessary to catch fish. Now we would be--we'd be attempting to con people if we said we're proposing a limited entry program, but nobody will be taken out of the fishery, because you're just not doing anything then. And, there are

areas of the State where we can demonstrate quite clearly there's too much gear. The excess of gear works to a disadvantage biologically in the management of the fishery. It makes the management clumsy, and sometimes ineffective as far as controlling escapement in any certain way, and the excessive gear also makes the fishery less satisfactory from an economic point of view to the number of people who are in it. So, we have put together a bill which we feel will address the problem of how do you decide what the level of fishing effort should be in each area of the State and then, what is the fairest way that you can come from the present level down to the level that has been decided is desirable. And that's the thrust of what we've attempted to do, and in deciding who will remain in the fishery and who will get out, and again, it's an unpleasant question to have to look at because if you're going to reduce gear, that means somebody gets out. We felt that there would be three standards that should be applied. One of those standards is the people who have the least amount of economic dependence on the fishery. Now, economic dependence is fairly easily confused with strictly income, and economic dependence was a term that we chose because we felt it was broader than just income, and it allowed the commission which we established, or propose to establish here, to consider more factors in evaluating economically an individual's relationship to the fishery and his relationship of commercial fishing to his total livelihood. For example, a person could earn, and these are just figures I'm pulling out of the air to illustrate, $8,000 from the fishery, but to say that his dependence on the fishery was that $8,000 may completely

ignore the fact that he has about a $45,000 boat, and whether he has the boat paid off, or whether he's got a mortgage on it and he's making payments, that boat represents another part of his economic dependence on the fishery. So, the term was chosen to allow a broad and what we hope to be a fair consideration of a person's relationship to the fishery economically. The second test that we proposed is that the people who should be eliminated, and these tests are not one or the other or all three, there's a balance of these three. The second test is that the people who fished the least should be the ones that we tend to eliminate, and the reasoning there is very simple. If you have a person who is going out, oh, one day every other weekend and he's catching a little bit of fish, his degree of involvement in the fishery over the past several years at that rate, is far less than the person who goes out for two or three weeks, four weeks, fishes ten months a year, and we feel that the time factor is relevant. The third thing we propose is a standard that people be ready, willing and able to fish. Now, the reason for that is, there has been in the past speculation that a limited entry program would come along and people have bought licenses and not fished them. Their speculation is that the way you decide who got into the fishery was to look and say who has held licenses over the past ten years, and say we'll let in the people who've held licenses eight over the past ten years. So, they've bought licenses, never fished them. We've term these paper licenses. We feel that if you're looking at actual fishermen, that you ought to look at people who've been in there fishing, not just paper license speculators, so we set

up a criteria of being ready, willing and able to fish. You've got to perform. Now, in applying these criteria, the commission in a given for a given type of gear, will apply these standards to the applicant, and it will conclude by category from those who rank highest in balancing all three of these, to those who rank lowest who should be in the fishery. When those standards are applied, and if at the lowest category there's more people than there are who can get in in that group, that's settled by lottery, but at any rate, once the level in an area and for a type of gear is brought down to what has been decided to be the desirable maximum allowable level of gear, from then on those permits that are issued, the permanent entry permits, are like property. A person who has them has a fishing right which he holds through the rest of his life, except under certain conditions. One of those conditions is if--there's an annual fee for the permit, and if for five consecutive years at any time, he fails to pay the annual renewal fee, he has the option at the end of that time of either paying up or he gets out and his permit reverts to the commission. Our reasoning there is again that we don't want people collecting and holding permits. We don't feel they should ride for free, yet a person can suffer severe economic hardship in a few years, such that he can't pay the permit fees, and there ought to be a grace period, but even a grace period has to have reasonable limits after which you either pay up or we cash you out. Now, another provision that we put in here is transfer or sale of permits. Once, in any area for any particular kind of gear, it's brought down to be the desirable level, those permits, which I said are

like property, can be sold to anyone else who is ready, willing and able to fish, The procedure isn't just simply that you meet at the corner and exchange money and you hand them a piece of paper. It does have to go through the commission so that the commission can satisfy itself that the sale is being made to another person who is going to participate in the fishery. This helps to eliminate the possibility of people closing out fishing in a certain area and controlling who does or does not fish by buying permits and keeping people out of the fishery through the control of those permits. So, while we have limited the number of people in a particular fishery for a particular type of gear we have not frozen the entire class and locked it in so that only those people forever more can fish. If someone wants to get in, he can attempt to contact someone who is in the fishery and buy him out. Those permits are for sale. So, you can buy in and you can buy out of the fishery. Now we know that transfer and sale does work from the British Columbia experience with limited entry, because you can look through the newspapers and you can see that these sales are going on. There is movement in and out of a class even though the level of gear has been set. And we feel that this will be a legally sustainable means of allowing mobility without freezing it into one particular group of people and protecting ourself from a court attack at the same time by creating a completely closed class. Another thing about these permits is that we have set them up so that they would attach to a person, not to a boat, and the permit can be fished only by that person. It can't be held by a corporation. The right to fish can't be delegated

to an agent, and our purpose behind this is to prevent any moneyed interest from trying to buy a block of permits again and gain an excessively large control over any particular fishery through the control of all of the people who fish. We feel that by putting the permit--attaching the permit to an individual, it gives the individual more strength in league with other individuals in the fishery than if we were to allow any company or group to accumulate a whole handful of those permits and decide in a given year whether or not they would pass a permit out someone to let him use it. Now there are many other aspects to the bill, and we'll be happy to answer questions about all of them. The machinery, for instance, for deciding what an optimum--or a maximum allowable level of gear is in a particular area and things like that that we can discuss. We'll be happy to answer any questions you have about the entire proposal. Our concern in putting together the bill was to come up with what we felt would be a fair method of limiting entry so that you set a limit level and bringing fisheries where that level was too high down to the level that was arrived at.

CHAIRMAN: Why don't you go ahead while you have the floor, Allen, and explain about the commission and how it would work and function and such.

SENATOR KAY POLLAND: Mr. Chairman?

CHAIRMAN:

SENATOR POLLAND: Could I ask one question? I noticed that through the chair they didn't mention the income tax issue.

MR. ADASIAK: Fine. The--once the number of units of gear is established and the commission is set up, the series of standards, regulations,

qualifications within that number to decide in a given fishery who would get the permits, then as a separate stage after that it takes applications. We split this apart into two sections to try to reduce the amount of pressure and influence that would be put on the commission. It will set up regulations that define priority classes, boxes from top to bottom, taking these standards that we have of degree of economic dependence, past participation and present ability and intent to participate, and the commission will make a statistical study of each area and each type of gear, so although they don't know individuals they do know in terms of gear, and terms of the economics of the area, what's in there. And they will evaluate those, and say according to these standards, we know that this groups meets these levels, is definitely in this group which the levels are a little lower is in, and set classes down to one, which as I said before, may be a doubtful class, because they know the total number of people of people in the fishery and there might come a point where, in one group, some will make it, some won't, and that is resolved by lottery. There are hearings held on these regulations before their adopted so that the people in the area have an opportunity to comment on them, review them and satisfy themselves that it is a fair way of looking at their situation in their fishery. Then, and only then, before anybody knows anybody's name, then the applications are taken and the commission can require whatever information it feels is necessary in order to evaluate accurately which people go in which classifications. It was suggested in the Governor's transmittal letter that the commission may well request income

tax records. Now that, it seems to me, is a matter of convenience since most people file income tax records and income tax records contain a great deal of the information that the commission would probably want to look at. It doesn't have to. It's not in the bill. The commission can set up whatever information requirement it feels it needs in order to evaluate the different applications. There's also a provision in there for people who, for one reason or another, cannot furnish the particular kind of information that the commission has required, and it allows the person to come before the commission and to present alternate evidence, whether it's a testimony of associates or separate records, fish tickets instead of income tax records, or whatever, to build his own case if he has, for one reason or another, an inability to meet the information standards the commission set out, so that he has a fair opportunity to put his own case of proof on to demonstrate with whatever he has at hand that he should be considered, and that this is the grounds with his application. So, income tax records are, as I say, a likely choice because of the kind of information they yield, but there is nothing in the bill that requires the commission to require applicants to produce those.

SENATOR KAY POLLAND: There was one other item I had in mind, and that was that I thought there was consideration being given to the idea that if they had failed to pay Alaska income taxes (indisc.).

CHAIRMAN: Do you want to answer that, Dave?

MR. JACKMAN: Mr. Chairman, if might respond to that question. An applicant that was asked to produce income tax information and

delinquent in his taxes, would clearly be liable for non-payment of taxes, and I would think this choice: either he would go to the Department of Revenue and try to strike a settlement and bring himself current so that he could then go in and make application and provide this kind of information without clearly opening himself to prosecution under our tax laws, or he would disinclined to apply. Now, there are probably a large number of people who've evaded taxes in the past who might decide, you know, we won't apply. There seem to be nearly, between 25 and 30 percent of the people in the fishery that consistently the past few years failed to file income tax returns. So, that's a fairly substantial number of people. That's how I see it as working at the present time.

CHAIRMAN: Allen, let me back up a minute and introduce the members of the committee and some of the other legislators. Some of you people may not be familiar with them. Starting on the other side of Senator Polland is Senator John Sackett, and I think maybe you do know John, Senator Kay Polland here, Senator Hohman from Bethel, Senator Lowell Thomas from Anchorage, and (indisc.) is Senator Grove from Anchorage who is not a member of our committee but he is sitting in with us. I think I saw Ernie Haugen. Did Ernie leave? Okay. And I think maybe that's all the legislators that we have for the privilege of those people that... Okay. I'm Senator Palmer, and, oh, I'm sorry, Senator Hensley is here from the Senate also. Okay. Kay do you have another question at this point? Does that answer yours as far as income tax is concerned? In other words, that will be one of the means used to determine

the economic dependence. Does that...

MR. JACKMAN: It would be one of the forms of evidence mostly, probably the most useful forms of evidence in establishing some of those factors, yes.

CHAIRMAN: Yeah, fine. Are there other questions? Lowell?

SENATOR THOMAS: Well, I have one right off the bat. It looks to me like you would probably eliminating the part-time fishermen most often, judging from what's set out in the three standards, least economic dependence, those who fished the least, and I just wondered about this. It would seem to me that many of those part-time fishermen, that that part is critical to their overall economic situation, and they farm part of the year, or perhaps go to subsistence hunting or something of this sort, and would this be covered by a study of their income tax situation, or are they going to be the ones likely to suffer?

MR. ADASIAK: Do you want to start an answer on that?

MR. JACKMAN: This is a point that we spent about three hours wrestling with last night at a local public meeting of part-time fishermen and moonlighters and whatnot. The thing--the point that's most often missed in thinking of this is to think of comparing, say, the hand troll fishermen in the Juneau area with the purse seiner in Southeastern Alaska, or with the Bristol Bay drift net fishermen. That's not the apparatus that's set up in the bill. You would be looking at each area and each type of gear independently, and you'd be comparing likes with likes. You'd be looking at, say, the hand troll fleet in Southeastern or the drift net fleet in Bristol Bay. Now some of those fisheries by their very nature are part-time fisheries. So there you're

only asking who is less of a part-timer or who is more of a part--if you follow me. Nobody in Bristol Bay fishes the whole year in terms of that salmon fishery. So, the commission would be establishing reasonable, stable levels of entry for these different types of gear, these different particular fisheries and then only within that group would it have to make a decision in terms of ranking people on priorities, so while you can make the generalization that the categories are basically designed to work, if somebody has to come out it should be that person least dependent. I think that the point that's most often missed is we're comparing likes with likes, we're not going to throw all the part-time trollers out so that we can let all the purse seiners in that fish for ten months. Does that partially answer your question?

SENATOR THOMAS: Yes, sir, it does. Mr. Chairman, but then within that particular category, then perhaps you might wind up penalizing the most skillful fisherman, the one who's techniques are a little better, who doesn't have to spend as much time to get the fish or to make the money that some other do. He may have better equipment to--perhaps he only has to go for one-quarter of the amount of time of somebody else. And it would seem to me too bad if you wound up penalizing efficiency in the fishery, too.

MR. JACKMAN: Well, Senator Thomas, the efficient fisherman is the very fisherman who is, as you say, probably going to catch more fish, make more money, is economically dependent. It's likely to be a larger share even though a small share. It's likely to be a larger share of his income. He's liable to be the

guy that makes a few thousand dollars rather than three or four hundred dollars, because he is a good fisherman, whether he spends a lot of time at it or a little bit of time at it, and that evidences a higher degree of economic involvement. You know, a closer relationship between his livelihood in the fishery than some casual fisherman who gets out on a few weekends and doesn't really catch any fish.

CHAIRMAN: Are there other questions at this time? Well, let's pursue that one a little bit further if we may then, Dave. Let's consider two individuals that may be equally skillful in the harvest of fish, may have an equal investment, and be equal in all other ways, except that during the off-season, one individual may have a little higher basic metabollic rate, if nothing else. He may not be able to sit still and do nothing during the winter, so because of that he's a--he actually is a carpenter, and I have some people in mind as far as that's concerned that fit this exactly. Because of his motivation, his extra amount of energy, his desire to have a better living for his family, he goes on and spends some of his other time doing these things which very considerably increases his living, his total income. Now, compared--one compared to the other, is the one that does do something else in his spare time, is he actually going to be penalized then when it comes to a choice between which of these two people stay in the fishery?

MR. JACKMAN: Senator Palmer, this is one of the most difficult aspects of this priority ranking system, but I think that if you look at the actual participation in the fishery, what you're

usually faced with are a large number of people who have other employment. Most of the fishermen have some form of other employment, so you're looking at people that maybe 20, 30, 40 percent of their income is fishing, something in that range. The people that we're talking about is the marginal people, are the people that have two, three, four percent of their income from fishing that are very--that either don't fish regularly or there is just a bare threshhold of economic participation in the fishery. If the commission were faced with a choice between two individuals, if it really--I don't see many of the lines falling in that area, that's what I'm suggesting, if you look at how the fishery--who's really participating in it, but if the commission were faced with that choice, the way these standards are set up, it would seem that the person that had no other alternatives is most economically dependent, but I think we've given the commission sufficient flexibility that it still is going to be treating those people very similarly if they're both participating at about the same level in the fishery, even though one has a little more outside employment. But there are certain areas in the State where people don't have alternatives, fishing communities in Southeastern and some of the other areas, where there simply are no other economic alternatives available but fishing, and the commission can take that into account where it's appropriate, and can say, even though these people don't make as much in dollar terms their livelihood is absolutely dependent upon the fishery, whereas another man who fishes hard but fishes part of the year and lives in a big city, does have other alternatives,

and there would be a basis for favoring the one who's a hundred percent dependent on the fishery in that instance.

CHAIRMAN: I hope you're going to make it a lot more black and white than it really is. I think they're going to be many more shades of gray in here than...

MR. JACKMAN: I certainly would agree with that, Senator.

MR. ADASIAK: If I could also comment on that. We were posed in a meeting this morning with a similar question where, for sake of illustration, you had one person--two people who earn $10,000 a year on the fishery, one of whom was also a carpenter and earned another $10,000. And the question was: who stays in? And our answer is that if you look at the statistical studies that we've done so far, which we hope will be prepared in some final, hard form, other than IBM run sheets for you very soon, you'll see that you're not called upon to make that choice. The pattern over the fishery is such that there's a very clear group of people whom it's obvious because of the minimal amount of their economic dependence, would be removed from the fishery, and that taking those away, you never get high enough up into the complexities to have to make the kind of choice illustrated by that situation. We believe the levels can be brought down without even getting into something like that.

CHAIRMAN: Are you, even in light of the severity of the cuts that are being discussed, do you still think that your cuts will be restricted, or would be restricted, to those who--you have said earlier, 50 percent of their income.

MR. ADASIAK: The question of the severity of the cuts that are

being discussed is something that--this, again, is one of the reasons that we proposed a commission with a good, competent staff to analyze area at a time and by type of gear, what goes on in the fishery, because, frankly, 46 percent is out of the question. That's not going to happen. But what will happen is a more complicated problem to evaluate than--than we've been led to believe. If you turn to page six of the bill, in deciding how to figure what your maximum allowable--your maximum number of units of gear is for each type of gear and for each administrative area which, for salmon, is going to correspond to the registration areas pretty closely, I'm sure, because of the way the species define themselves, the commission looks at four things, and it doesn't just tick them off and say you have to meet all four and have 25 marbles in each pile, but it makes a reasonable balance of these things so that it's flexible enough to adjust to the different social and economic conditions in different parts of the State. One of the things that it looks at is the number of units of gear which will result in an average level of income for the fisherman in that fishery so that they have an adequate and sufficiently stable income to sustain a professional fishery. Now, the term, average level of income, contains in it the meaning, when you come to average, of combining high levels of earnings and low levels of earnings. The commission prescribing one figure. Everybody in this fishery must earn $8,000. It's to come up with a conclusion when it balances out all of these things, that the average is going to be at whatever it determines is appropriate.

CHAIRMAN: Or, Al, if I might even inject at this point. What it's looking is kind of--what--the fact that it's looking at under that number one standard is kind of the general income condition. In other words, is there so much over-capitalization and over-participation that people are operating right, then, on the margin where they can't make money and when there's no prospect in the future of making a decent living at fishing. It is in no sense an effort to guarantee people an income. It's only saying that we have to stablize the level at an economically sensible level so that people can act efficiently, so that the pie isn't divided into so many small pieces that no one can keep their head above water, so it isn't a magic number. It's merely looking at an income condition and an acceptable range of income.

MR. ADASIAK: Now... Excuse me. Go ahead, Senator.

UNIDENTIFIED SENATOR: Okay. In that line then on page 5 of the Governor's cover letter we have a chart showing the various districts and the amount of gear registered in '70 and '71, and then optimum units required. Now, in our discussions, apparently, the levels that would be set are these optimum levels. Now, if that's correct, and we look at, for instance, Southeastern and drift gillnets, we have 420 in '70, in '71 it was built to 475, but optimum, apparently, is 250, so the question then becomes, how fixed a figure is that 250, and where's the reduction going to come from then?

MR. ADASIAK: That chart is not the answer. If that chart were the answer, we wouldn't need a lot of research staff to look at all the different areas of the State. All you'd need is

a few guys to figure out how to put the ax on particular individuals, and in coming to, first of all, a number of units of gear before even considering people, that chart falls into item number two on page six of the bill, which is the number of units of gear sufficient to fully harvest the allowable commercial take, and that is the one thing that that chart represents. It's strictly a biological harvest consideration.

MR. JACKMAN: I--Al, if I could just interrupt to make this point a little more clear, Mr. Chairman. That chart is nothing more than, I think, arm chair estimates by biologists asking the question on one factor alone. The only factor that they considered was, how many boats could harvest the allowable take in an area. You know, if you could have the best of all possible worlds and the most efficient fishery with their given type of gear. The bill sets out four factors, each one of them equally important. That's only one, and even that factor is only in the letter to give people an idea of the relative magnitude of the problem from area to area and type of gear to type of gear. That was the only thing it was intended to do, was just give people a feel for how many drift nets there really are in Bristol Bay, and that sort of...

CHAIRMAN: Well, I don't want to be contentious at all about this, but I think we do need to investigate it a little bit further. For instance, in Cook Inlet the optimum is set at 300 as I see it. I believe, according to our local management biologist, the actual number of boats fishing there in the last few years has been approximately 412. That right, Roy?

MR. RICKEY: Yes, I don't have those figures with me, but... I think

it's higher than that, as a matter of fact, Mr. Chairman. Seven hundred and some registered and...

CHAIRMAN: Yeah, but there's only been just over 400 fish according to Loren. And I can't believe it would only require a reduction of a hundred to an optimum number there that could harvest all the fish adequately. Your own experiences in the last few years...

MR. RICKEY: Mr. Chairman, I'd like to go back even further. The area management people and the region supervisors were asked in 1965 when we were beginning to strug[illegible]ith the previous step in this direction, as he said, standard two and part of standard three, we were asked what would be, not optimum, but maximum number of units of gear to harvest any run in any given year in any area of the State.

UNIDENTIFIED SPEAKER: Minimum.

MR. RICKEY: No, maximum.

CHAIRMAN: Okay. Optimum.

MR. RICKEY. In one case it's minimum, in the next case it's maximum, but we call it optimum.

CHAIRMAN: Adequate.

MR. RICKEY: In 1970, we were asked to revise their thinking and they didn't only do it out of their head, they talked to fishermen, they talked to processors, and talked to everybody they could encounter in this area. And this is where this came from and it is mostly concerned with standard two only. This was a misinterpretation in the first run through of this thing, so another question that parallels this is, there seems to be a feeling that the more gear you have the more fish you're going

going to catch, which is not true, simply because of the fishing period being shortened so that only a given amount is taken regardless of gear. There was no consideration given in this area of economic, (indisc.), fishermen or anything else. They were simply asked for this table. That was where it came from, and whether or not it's close to what the commission might do, I don't know, but this is one aspect of it. Another point, if I might for a second. I've explained this in every meeting I've been to, about five of them. This relatively low amount of gear in each fishery is capable of harvesting five to twenty times the amount they take now because of the restriction in time, and a great many people don't understand this. The limiting factor in every case that I'm familiar with has not been the amount of gear, but the process and cabability when there are a lot of fish present.

CHAIRMAN: Alright, thank you, Mr. Rickey. Any other questions at this point? Well, let me continue with another one. If the commission on it own, then, is going to use these three criteria and a mix of those, to decide who is eligible for entry and who is not, then how do you prevent favoritism in this thing, since no third party is going to know exactly what mix there was, how these things were evaluated for any one individual and say yes he belongs here? Do you see what I'm getting at?

MR. ADASIAK: Well, first of all, the criteria, the three criteria of economic dependence, past participation, ready, willing and able. In a given area, administrative area, and for each type of gear, the commission analyzes the makeup of that area by gathering all sorts of data from different sources so that it

knows, in terms of income levels, in terms of types of gear, the character of that area and of the fishermen in that area. It then proposes regulations which will be applied to assigning priorities once individual applicants submit their application, and those regulations go out to public hearing and are adopted and it's only after that that the individual applicants are assigned. Now, if an individual applicant gets thrown into box four, which is the loser's box when he thinks he should go into box three, there are provisions in here for appeal, and there are also provisions that during the course of any appeals an entry permit is to be reserved for each person who is pursuing an appeal on the assumption that he will win it, so that he isn't sort of he loses anyway, even though he goes through his appeal. It's saved. And if he wins his appeal and demonstrates that he has been classified wrongly, then he has an entry permit.

CHAIRMAN: My question goes back to number one, though. Since number one is the least amount of economic dependence, that's going to be a somewhat subjective decision rather than an objective one, apparently. That's one of the ideas of the commission, that they're going to make an individual evaluation in each case. It seems that it would be somewhat wide open at least for favoritism to become involved. I'm not so much concerned about the guy that doesn't give in and feels he should, because you do have a procedure he could follow, yes, than about the guy that shouldn't be in that does get in because of this type of thing. Do you have anything there?

MR. JACKMAN: Mr. Chairman, if I could respond to that. This is

why--one reason that we've set this commission up as a quasi-judicial commission, once the regulations and the qualifications and established. That is the priority classifications, as Allen explained. The commission, in looking at individual applications, will make an evidentary finding. In other words, acting sort of like a court on individual applications, either on the basis of the actual evidence submitted to it, or on the basis of the administrative adjudication, which it can be given at the request of an applicant, and the only thing they'll be determining is his qualifications, and it'll be determined in an orderly fashion in conformance with the regulations which are set out in advance, so that this should make it very difficult to abuse the system, because it will be a quasi-judicial evidentary determination with the opportunity for hearing officers to get into and all of that, and alternative forms of evidence, so that any individual applicant is treated fairly, and if he's not treated fairly he can appeal it as provided in our Administrative Procedures Act to the courts, show an abuse of discretion by the commission, and as Allen said, his right to an entry permit will be preserved while he's pursuing that appeal, so we've tried to build in administrative procedures which will do as good a job as possible at protecting the individual applicant's rights to fair treatment.

CHAIRMAN: Do you have further statements that you, you know... I'm sorry. Senator Grove.

SENATOR GROVE: I've been a D.A. in a defense counsel so, you know, I've been on both sides of the fence, but I don't understand why in the penalty section you don't have any imprisonment

provisions for violations.

MR. JACKMAN: We certainly--Mr. Chairman, Senator Grove, we certainly--actually we had those in the form of draft, and we thought the most effective thing would be destroying a man's eligibility, after a multiple violation, to ever hold an entry permit again. That imprisonment in this kind of situation would be very--the courts would be very reluctant to impose imprisonment, maybe it would only be a matter of fine, and then a much more legal sanction would be to say to the man that if he violates the provisions of this Act, I think it's twice or three times, he never again will be eligible for an entry permit.

SENATOR GROVE: Yeah. Mr. Chairman. The problem is, though, that's the one thing the judge isn't going to take away from him. He may send him to jail for 30 days, but he's not going to take that permit away from him.

MR. JACKMAN: We certainly find nothing inconsistent with the imprisonment provision. I don't think it's something that, in putting this thing together, that really...

SENATOR GROVE: ... Mr. Chairman, but I do think that, you know, if it's going to be a misdemeanor, well we ought to treat it like all of the misdemeanors.

CHAIRMAN: I'm not familiar with that section of the bill. Does this allow the commission to...

SENATOR GROVE: No, sir...

CHAIRMAN: ...the eligibility, the entry requirement?

SENATOR GROVE: Note eleven, line 26. It says if a person violates the provisions of the Act he is guilty of a misdemeanor and punishable by a fine by up to $5,000 for the first conviction,

$10,000 for second conviction, $10,000 for third conviction.

CHAIRMAN: If a guide, licensing and control board can rescind that guide license, why couldn't this provision rescind an entry permit given by the Legislature this power?

MR. JACKMAN: Mr. Chairman, if I might respond to that. There, I think, is a distinction in the thing we're trying to create with an entry permit system and a guide license. What I'm suggesting is we are dealing here with, if a man violates the Act, the determination of the violation, you know, made in court--I mean, we felt it was a very important thing. It should have all those kinds of protection with it. He should really be found of a misdemeanor if you're going to impose these penalties on him, and it's only at that point it might be giving the commission too much discretionary power to say that it can at any time destroy this very valuable right to participate in the fishery wi'hout the protections of the criminal procedures and sanctions.

CHAIRMAN: While it might not be advisable, still is there something illegal about giving the commission that power.

MR. JACKMAN: Certainly not.

CHAIRMAN: That's my point.

(End of one side of tape)

SENATOR THOMAS: Regardless of who the governor is or which party he belongs, the partisanship getting into it, I worry about the influence of fishermen around the State in terms of elections and all of those things, and although I see that the Legislature has to confirm, I don't know how you can--if there's any way you can relieve my concern over that angle that might come into

this thing. You've mentioned already, Allen, the enormous pressure or influences which could be brought to bear on the commission. I just really wonder how any commission can stand up under that kind of thing, the political pressures that would undoubtedly occur, it seems to me, in an election year especially.

MR. ADASIAK: Well, you can't deny that they'll be under pressure. The people who are commissioners are going to feel the heat. They're going to have to have asbestos skin, but there are two things. One, in terms of the way we structured the procedures that the commission has to follow, I think they will be under less pressure having to make impersonal determinations first about categories of priority rather than dealing directly with individuals. I think that insulated them somewhat from an immediate, personal pressure. The other thing is argument by analogy in that we do have a transportation commission and a public utilities commission which have a similar scope of authority and they, too, face certain pressures and yet...

MR. JACKMAN: Mr. Chairman, if I might add just a couple of points to the question that Senator Thomas has raised. This is one of the great dilemmas, I think, of trying to come with a limited entry program which can cope with the problem statewide, can cope with the problem for the various species and the various different fisheries, because you have to give it tremendous flexibility or you'll be cutting with too broad a knife across, you know, and unfairly treating the multitude of various situations we have in our fisheries. But at the same time, this is why we felt that a professional commission 365 days a year, people that will have to have a high degree of ability

and dedication to this job is the only way to set up a mechanism which can really be sensitive to the particular problems you're going to face in every area, but at the same time, the dilemma is, in doing that, in creating an institution which can be flexible and be sensitive, you're also creating an institution which has a great amount of discretion, and there's no denying that. It's a balance and I recognize the problem.

SENATOR THOMAS: Could I ask another question, Mr. Chairman?

CHAIRMAN: Sure.

SENATOR THOMAS: Has any thought ever been given, not only with this commission, but with others, of having one of the appointments come directly from the Legislature, another directly from the Judiciary, and the third from the Executive?

MR. JACKMAN: I don't think we've ever thought of that.

MR. ADASIAK: Not to my knowledge.

SENATOR THOMAS: Perhaps that would be unconstitutional, I don't know, but you mentioned the word lottery in here, and it's been a while since I read the cover letter. Has any thought been given at all to making the whole thing--putting it all on a lottery basis, leaving it all up to chance as to whose in and whose out?

MR. JACKMAN: Well, Mr. Chairman, Senator Thomas, we gave that some thought, but when you really think about it, there are some inequities with a lottery. There's an even more fundamental uncertainly and an even more fundamental instability. I think that we've used lottery as a last resort. If you get down to a class of applicants which can't be reasonably differentiated, clearly a lottery may be the only way out, but if there's any

of coming up with equitable standards of preference, I think the dislocation, the actual dislocations of people, will be much less severe than with the toss of a coin or the, you know, drawing of straws.

CHAIRMAN: Any other questions?

UNIDENTIFIED SENATOR: Mr. Chairman.

CHAIRMAN: Yes.

UNIDENTIFIED SENATOR: If--any idea what this is going cost, about $400,000 to administer this program?

MR. ADASIAK: We estimate that the first year that it will cost that, and the real question of the cost of administration is one of how long it's going to take to analyze each area and arrive at the gear level determinations, because once those determinations are made, and your gear is down to the level that you want it, then the commission's responsibilities and the things it has to accomplish are far less and it's cost of operating drop down, unless it has to deal with another species. If king crab is added later, for instance, then it has to be funded in order to deal with that question.

UNIDENTIFIED SENATOR: Since these licenses are become a valuable asset really, the transfer or fee of $50, what is that going to raise on an annual basis in round figures?

MR. ADASIAK: We estimate it would be about $500,000.

UNIDENTIFIED SENATOR: It's a washout, in other words, or maybe you might even make a hundred thou. I see.

UNIDENTIFIED SENATOR II. I don't know if you've considered this, Mr. Chairman. Did you go into the question of why--I mean, what was the theory in making these transferable through sale?

You know, I'm a lawyer. I've been a lawyer for 20 years. I've got a license to practice law. I can't sell that license.

MR. JACKMAN: Mr. Chairman. Our reason for doing that is because our objective was to stabilize the fishery, not close the fishery, not creative an exclusive class of fishermen as individuals, but stabilize the fishery at that level. We see that as the real purpose of the bill, not to decide--and secondarily, one of the real legal weaknesses in any effort to limit entry is when you start to close the fishery for a substantial period of time, so a persen on the outside has no way of getting in and there isn't any movement in and out of the fishery, there isn't--a person can't shift from one area to another easily, and we felt that the only way to accomplish this without creating insurmountable administrative burdens was, once this right is conferred, it's not really property and it may be quasi property of sorts, unless the individuals transfer or sell these permits.

UNIDENTIFIED SENATOR II: In the British Columbia experience, what do they sell for nowadays.

MR. JACKMAN: Well, you can pick up the Fishermen's News that's published in British Columbia, and usually the permits are sold, or they're what they call A licenses, in their system they're attached to the boats, in our system they wouldn't be attached to the vessels, but clearly they'd usually be sold with the vessels, and it seems to have increased the price of getting into the fishery maybe 20, 30, 40 percent. I mean, you can run down and there'll be, you know, gillnetter with X equipment, an A license, $16,000 or $10,000, or maybe a much better boat $30,000. So, we haven't analyzed it as closely as we should,

but it appears that the variest (sp.) entry will rise somewhat, but not--you know, not anything unreasonable. They aren't going to go out of sight.

SENATOR GROVE: Mr. Chairman, when I first came to Anchorage you could buy a liquor license, ycu know, for $3,000. The last time that anybody inquired it, that I'm aware of, they're selling for $20,000, and that's over a period of time, and they become terribly valuable assets. I'm wondering what, you know, what range we're talking about here. Are we talking about $300, $500, $1,000, $5,000?

MR. JACKMAN: Clearly we're talking about many, many ranges, because each type of gear in each area and each fishery is going to be very peculiar. An entry permit to fish a hand troll boat in Southeastern won't be worth nearly as much as an entry permit to fish a purse seiner or a--because the entry permit represents nothing more than the right to participate in the fishery, and the projected discounted income from that fishery will establish the market value of the permits.

SENATOR GROVE: Thank you.

CHAIRMAN: Is that what's actually happening in British Columbia, or did your--indicated a minute ago that's it's a function of the value than (indisc.).

MR. JACKMAN: Well, because they're transferred at the same time, it's like (indisc.) base and the dairy industry or anything else. Part of that value is attributable to the entry permit and part of it is really the value of the capital, the boat there. In other words, a boat wouldn't lose it's value totally just because it didn't have an entry permit attached it. It's

hard to separate them out, but I'm sure that part is attributable to one and part to the other

CHAIRMAN: On page five again of the cover letter, that same chart, I'm a little concerned about it. Reading the sentence above the chart it says, if existing levels of gear are substantially above the optimum levels necessary for an economically healthy fishery as this table indicates, then merely halting any further increase in gear levels will not achieve the basic objectives of the limited entry program. A moratorium alone will not work, but again, if we get down to, for instance, Cook Inlet with which I'm more acquainted, we find that drift gillnets 761 registered, but probably something in just in excess of 400 actually being fished, set net somewhat the same situation. We all know that there are great many gear licenses purchased each year that are not fished, and yet if those figures are the basis for the statement above the chart there, that simply a moratorium on existing levels will not work, then perhaps the statement is wrong, too, since the chart actually misrepresents the situation. Is that a possibility?

MR. JACKMAN: I think it is. However, a moratorium has frequently been conceived of as a license freeze, which would...

CHAIRMAN: In numbers.

MR. JACKMAN: ...in numbers, but which would let in a much larger number of people that the numbers you mentioned of who actually fished in a given year cause usually it's based on anyone who fished in the last three years or on the actual paper registration or those things. If you perceive of a moratorium as those people actually fishing, then--I'm not--it would modify this

statement. I still think in some areas it's clear we'd have too much effort.

CHAIRMAN: If we were to say something that we discussed the other night. Three--someone had fished three years out of the last five or even three years of the last ten, then you're getting down much closer to the actual fishing effort rather than ghost or paper licenses, and, well, alright... Roy, do you have something you'd like to comment on that?

MR. RICKEY: Yes. Senator Grove's question to go back to that for a moment. I think the value of these permits would depend on the optimum or maximum amount of gear for each area and the anticipated return or runs of salmon. For one thing that would have, I think, a big influence on it.

SENATOR GROVE: Yes, Mr. Chairman. Mathematically, then, depending on what the commission decided as the number of units of gear they were going to put in a region, they would affect the value of those permits, wouldn't they?

MR. RICKEY: I would think so.

SENATOR GROVE: And if the commission decided that there would be a very limited units of gear in a given area, the value of those permits on a theoretical basis would go up.

MR. RICKEY: I would anticipate that, yes.

CHAIRMAN: Go ahead.

MR. RICKEY: Mr. Chairman, I've just about lost my original thought here.

CHAIRMAN: The amount of gear.

MR. RICKEY: Yes, the amount of gear. Oh, yes. One thing that might be interesting. In 1966, between '60 and '66, we had a vessel

plate for each vessel, and...

CHAIRMAN: Vessel plate?

MR. RICKEY: A plate. It was a yellow and blue plate that you--it came with your license...

CHAIRMAN: We still do don't we?

MR. RICKEY: In '66 we had to renumber the fleets, primarily because the wrong application by mostly private vendors of licenses, not understanding the complex things involved in licensing and registration. Anyway, we renumbered the fleet. Many of the people got the same number. We had 20,000 plates. Last year in August we ran out of plates and there are only 10,000 boats in the fishery. Now, this will give you some idea of the turnover, and the paper licenses are not the same people each year, so when you talk about taking out paper licenses, in total you may, but they may not be the same people each year who do not fish, and further, peculiar to the set net fishery and perhaps some of the others, are family groups fishing and causing us to think there are paper licenses, but they're selling all of their fish under one boat's number, because of the nature of the fishery. I'm sure you may be familiar with Cook Inlet in this instance. Those people actually fish, but they don't reflect in having landed any fish. So the paper license thing is not as precise as it may look on the surface.

CHAIRMAN: Yeah. There's another variation of that. I can think of families there that have as many as five gear license holders in a set net family, each one licensed to fish three 35-fathom nets. However, out of the 15 that they could be

fishing, probably only fishing nine, each one fishing only a portion of what he's really eligible to fish and selling the whole thing under one name. This happens frequently, but it's, again, a family unit here, and there's no reason why it shouldn't. So it's that much more difficult to really assess what's going on.

MR. RICKEY: That's correct.

CHAIRMAN: Al.

MR. ADASIAK: Senator, if I could point out in the criteria for arriving at your allowable number of units of gear in an area, one of the standards that relates to this is standard four which is the number of units of gear commensurate with the history and traditions of the particular fishery, which gives the commission a little bit of flexibility in circumstances like that. Again, we feel that the commission is going to be required to do an awful lot of research so that in every area it's aware of a lot of little subtle differences that separate that from the one they did five months ago. The judgments are going to be on an individual area basis.

UNIDENTIFIED SENATOR: Well, Mr. Chairman, it seems like you really got around to something here. I know it's been talked about. What about a moratorium on the people, and not let any more in and just let those who are there slowly die off or move away until that alone reduced the number of people and the number of gear and the amount of gear to the right level.

MR. JACKMAN: Mr. Chairman, if I might respond to that. We considered that and rejected it primarily because it's on extremely weak legal grounds we think. Any attempt to really close the class

of fishermen for a substantial period of time to wait and let attrition take effect has the real practical effect of saying to anyone on the outside that there is absolutely no way that you can get in, and it does amount, if I can borrow words from the constitution, to a sort of exclusive right, whereas we're talking about a stabilized level, but not a closed class, and I think--I'm not--you know, you can't predict what the courts will do in a particular situation, but we felt that kind of an approach would be on extremely weak legal grounds. The courts have--you may remember the language from some of the decisions on previous limited entry programs, they've spoken of medieval guild systems and apprenticeship systems and there's been a reluctance to go along with programs like that.

CHAIRMAN: While we've gone that far into it, we might mention some other proposals then that we may be coming up with. We have discussed informally these things, and one of them is this, this moratorium on any additional numbers of gear licenses, first, perhaps, reducing somewhat by those licenses that have not been fished at all, et cetera. But then, giving this a property right right from the beginning and allowing a fisherman to sell it when he desires and trying to arrange things so that the State will be the purchaser in as many of these as possible, so that in this method we do reduce amounts of gear without forcing anybody out that's really been in the fishery fishing. Now, you might want to carry further on that if you want to elaborate, Dave.

MR. JACKMAN: Well, this would essentially amount to a voluntary buy-back program which, depending on what the starting level

was and how far you had to move to get back down to your optimums would be more or less expensive. It certainly is compatible with the basic structure of the administration bill, although it's not a feature of it. In other words, as you explained it, we'd still be stabilizing numbers and creating the property right at the outset, not closing the class, but we'd be moving back to the optimum by buying out--by offering market value plus five dollars or whatever it took to get people to sell their entry permits back to the State.

CHAIRMAN: One extreme advantage that this has, as I can see, is that we do not, at that point, we do not period force out who has been in the fishery. If we allow him in for one reason or another and he wishes to get out, his license is bought and hopefully by the State, and we reduce numbers that way. There's of thinking and a lot of work to be done on the proposal and it's not in finished form at all, but it's one of the things we--we've met a couple of times, some of us, with the A.G.'s office and so on, trying to work these things out, so... Other questions from the committee? I threw that last in, incidently, because we do have some people from the audience, from the public, that wish to testify and it might be one of things they wanted to comment on, that's the reason I brought this last subject up. If there are no other questions from the committee members or other legislators. Senator Meland.

SENATOR MELAND: (Indisc.), Mr. Chairman:

CHAIRMAN: Alright. I do have some names of people that would like to make comments, and Allen, would you mind moving on the other side of Rich there and we'll let people come up and take that

seat there so they're in front of the mike, and will start with Jim Austin, I believe. I believe that's the name, or do I have it correct? Alright, would you like to sit over here please and we can get it on tape then. I'm not going to promise that we're going to have time to hear everybody. This was--we're running out of time pretty rapidly, but we'll do the best we can.

JIM AUSTIN: My name is Jim Austin, and I'd just like to make some comments. Being a former commercial fisherman myself, I do have some thoughts on the bill, which most of it is not included in the bill per se. Limited entry fisheries is nothing new really. After the Statehood Act of 1958 the cry was to eliminate fish traps, and fish traps were eliminated, but also the fishermen--commercial fishermen, themselves, were limited to a day and a half sometimes in fishing, so it's the worst limited entry fisheries I ever saw. When I was seining--I was a seiner, we fished six days out of a week and we barely made. We made some money to survive on, but six days a week we had to really work. The bill, in my mind, does not really go far enough. This Resource Committee, and the Resource Committee will be considering other resources in Alaska, and a resource, we have to think of the fishermen themselves. They're one of our human resources. Why is it that every time we think of limiting something we limit the humans, so we're limiting the fishermen. We will be getting into the area of forestry. Every stream that I know of, for I've up to and into a lot of streams, is located in a forest, and being located in the forest sometimes, or most of the time the Forestry gives out permits and they could

care less about the fishing streams, and they pollute the fishing streams. The loggers bring their logs down. They anchor it in the front of the fishing streams, which sometimes, as I understand, it creates a chemical reaction in the water, and that pollutes the water to a point where the fry can't get out and the salmon can't get in. So the limited entry fisheries on fishermen themselves is caused by one of these. The recent example is Silver Bay where all the crabs, salmon, halibut, everything floated to the surface because the logs were in Silver Bay. And I'm thinking in terms of economic dependence that they mentioned. It's a very broad--it's a very broad term in my mind. We have depended on picking up salmon for dry fish to supplement our regular diet, or it becomes and regular diet most of the time. The economic dependence should also mean giving us the opportunity to catch fish for dry salmon. We all know that after a salmon spawns up in the river, it's no good any more. It's dead, really, and they go up there to die and we're not allow to catch them. Going further, the herring is the main diet of a salmon. It doesn't say anything about the herring. The herring is--being the main diet of a salmon and also the 1958 Statehood Act eliminated traps, we still have traps that catch herrings, but they name it herring ponds, but no matter how I looked at it, I've been around canneries ever since I was a small boy, herring pond is a fish trap, so we're taking herring ponds so--herrings away from the salmon which, in essence, is also killing it with our--besides other pollution. They're starving to death, and what we offer them sometimes is bait, and we catch them with it. The salmon, as I understand it,

is also an aquaculture. Being aquaculture, you get down to the farmers down below when they tell them not to plant alfalfa. You pay them not to plant alfalfa. A lot of times the Fish and Game Board has told their fishermen to stay home and they were not being compensated to stay home. Okay, to go a little further, it states something about compensation in this bill and I can't figure it out, so where this will compensate the fishermen not to fish, or--I don't know. One of the concerns I had, or thoughts I had in my mind, about the bill is the difference in powers between the Fish and Game Board and the commissioners. I believe it states that this chapter does not limit the power of the Fish and Game Board. And, if I was still commercial fishing, I have in mind that I can go and get a license from the Fish and Game Board. Legally I would be licensed to fish, whether they gave me a permit or not, or do I have to get a permit, too. I don't know about this, sir.

CHAIRMAN: We'll let Dave respond to that.

MR. JACKMAN: Mr. Chairman, Mr. Austin. The Fish and Game Board is charged with developing a regulation to protect the sustained yield of fisheries. In other words, the common conservation measures of closures and deciding what the allowable take may be in an area, gear restriction on size of mesh, things of that nature. The commission that's being proposed here would not change that in any way. In other words, a person that had an entry permit would also have to have a license, as you suggest, and would also be subject to all the regulations of the Fish and Game Board. There would be a pretty close relationship, I suppose you might say, between the commission and the Board, but

the Board is charged with managing the resource, the commission's job is to look to the fisherman, the livelihood of the fisherman. Does that clear it up at all?

MR. AUSTIN: No, it doesn't.

MR. JACKMAN: It doesn't clear it up?

MR. AUSTIN: If I--after watching the politicians at work, there's going to be a lot of power play there as far as I'm concerned.

MR. JACKMAN: The Board--I might make one other point. The Board doesn't issue licenses. They're issued by the Department of Revenue. A person would have to have an entry permit and would also have to have all necessary licenses under the...

MR. AUSTIN: Normally--normally, a commercial fisherman, when it comes to buy licenses, cannot afford a license sometimes. He has to get an advance or borrow money, and buying a $50 permit besides a license would also throw him way off, as far as I'm concerned. I'm talking about the commercial fisherman. Not too long ago I owned a boat, and I might add that I'm one of the best conservationist's that ever lived around here, I guess, by not catching any fish really--to really make any money, but I was being employed twelve months out of a year. I was able to maintain the boat, able to pay for the boat and pay it off, and pay for the insurance. If I was depending upon fishing with that boat, I'd never be able to maintain it at all in the first place. Now, to think about the compensation for fishermen not to fish, I notice the State of Alaska is now paying our old timers for being 65 years of age, and they are already paying a special set of people, and to me, fishermen are a special set of people. When you come right down to

fishermen, they do have creditors right at this time. They cannot wait until they're 65, so they will have to go and fish. I'm just bringing these points out for your consideration, that I think it has to be a close relation with the forestry people, it has to be a close relation with the mining people. As I understand, the mining people have no restriction whatsoever, and they can go and tear up the land, especially in Glacier Bay they have 250 mining claims right now, and there's a lot of salmon creeks in Glacier Bay. I'm done.

CHAIRMAN: Are there questions of Mr. Austin? Well, if there are none, why we thank you very much. We appreciate your comments. Mr. Chuck Porter.

CHUCK PORTER: Mr. Chairman, Senators. My name is Chuck Porter. I was very happy to hear you in that statement you made about a moratorium. We had a meeting last night of local people, normally what we call, or what are called, moonlighters and part-timers, and we have 124 people sign the register. I would guess that probably 110 actually there that were interested. They all went on record as opposing this bill in it's present form. They also all went on record as favoring some kind of a limited entry bill. Basically, the problem seems to be in the qualification section, although the commission and a few minor items are subject to conversation, also, but basically the qualification is the problem. Now, the people that are fishing part-time are 99 percent 12-year residents of this State. If you allow this economic degree of dependability on the fishery to go through, it's the consensus of the group that many of these people that live here 12 months out of the year will forfeit

their right to fish in a fishery at the expense of people that come in from the outside because they are going to be hard to prove--it's going to be hard to prove whether or not they are actually dependent upon the fishery, and if they are, of course, fishing in the fishery, they're going to get the permit. Because of the quota system, you want to reduce it down to the point where these people that are part-timers are going to be out of it. Now, for example, I've fished commercially for 40 years in this State, part-time and full-time, and presently I'm part-time, and I feel I'd be knocked out of the fishery if this bill with the qualifications went in the way it is. Now, I could a suggestion out to you that possibly you could reword the qualifications to say that any two out of the following, and if you've got more than three qualifications, if you had two of those qualifications, you would be issued a permit, or perhaps, write a new bill as you suggest, on the basis of a moratorium for everyone that has had a license and has used it. That's just about all I have to say, sir.

UNIDENTIFIED SENATOR: Mr. Chairman, he's a point there, a very good one about the outsider being hard to really figure out what his dependence is. You won't be able to get his tax reports from another state, surely. How would you go about that?

JACKMAN: Any--Mr. Chairman, any fisherman that catches fish in Alaska waters, I believe, is obliged to file State income tax returns here to report that tax if he's been in the past a fisherman in Alaska waters. We're talking about dependence on, when we talk about dependence on the fishery, we're talking

about the fishery for which entry permits are being issued, and that is an area of the State of Alaska. We're not trying to assess his dependency on Puget Sound fisheries or on halibut fisheries on the high seas, or things like that that may be beyond our reach.

CHAIRMAN: A rather significant number of the Bristol Bay fishery and even (indisc.) number in the Cook Inlet, for instance, are more or less full-time fishermen. In the Puget Sound area, Astoria, and so on, they come up here and fish for two to three weeks during the summer, and what you're saying is that dependence would be dependence on this fishery.

MR. JACKMAN: That's right.

CHAIRMAN: Not on fish in total. I see.

SENATOR THOMAS: Mr. Chairman, didn't they earlier say that they would also, in come cases, want to look into the man's overall economic situation?

MR. JACKMAN: The capacity would be there to do that. In other words, I think again, Mr. Chairman, Senator Thomas, that we--it's easy to slip into thinking of dependency only in terms of income, or percentage of income. The--that is why we used the broader term, because the commission clearly can look beyond that to the individual's relationship, kind of economic relationship with the fishery. Income, capital invested, savings, all o. those factors, and I suggest, though, that more often than not the non-resident who has alternative and participates in lots of other fisheries, may be less dependent upon the fishery than the person in that area who's most--more dependent on that particular fishery.

CHAIRMAN: Are there other questions of Mr. Porter? If not, why, thank you very much. The next one in line is Clancy Hinkins. Clancy?

CLANCY HENKINS: No, I didn't have nothing to say, Bob.

CHAIRMAN: Oh, you didn't. Alright. Ray, did you? Ray Matthews.

RAY MATTHEWS: Well, Mr. Chairman, I'm Ray Matthews, and I just thought I'd bring up something I haven't heard mentioned here, is the possibility of, particularly of some areas in particular where it might be necessary to make some kind of compensation to the fishermen who are ousted and have to take a considerable loss. Some areas, it's more likely that the expenses will be a greater cost, or else by having the licenses like a freeze where they can stay in if they want, but they have an offer, rather than buy the boat, an offer to--by the State to buy their license. I was thinking in terms of compensation, either through buying the boat where they really have to use a (indisc.) or buy their license, and preferably, give them a choice of staying in. That's all, sir.

CHAIRMAN: Questions?

SENATOR GROVE: Yeah, one quick question. What do you think the licenses would be worth?

MR. MATTHEWS: Well, you mentioned that they went from $3,000 to $20,000 on liquor. I don't know. It might be worth $5,000 if I was ousted, to get back in. I don't know.

CHAIRMAN: Alright.

UNIDENTIFIED SENATOR: Mr. Chairman.

CHAIRMAN: Yes.

UNIDENTIFIED SENATOR: I have a question for the Attorney General's

office. What did you propose being done with those people that have an economic decline and, say, had a boat or had just purchased a boat and were taking on (indisc.) industry?

MR. JACKMAN: You're talking about a person who has not participated in the past at all, but has just now purchased a boat?

UNIDENTIFIED SENATOR: Correct.

MR. JACKMAN: ...that has no record of past...

UNIDENTIFIED SENATOR: A person that purchased a boat last year, for example, is making payments on that boat and paying insurance, this year, this year, after--on passage of this Act, you state that he cannot fish.

MR. JACKMAN: No, the bill doesn't state that. Clearly, he has been less involved than someone who's been fishing and had a boat for many years, but the very fact that purchasing a boat and having sunk capital costs, evidences a degree of economic dependency. Whether it's enough for an entry permit depends entirely on the area, the type of gear, and so forth.

UNIDENTIFIED SENATOR: Assume that it isn't enough to qualify.

MR. JACKMAN: Assuming that it's not. There's no provision here to compensate him, that's correct.

CHAIRMAN: Thanks again, Ernie. A Charlotte Siberly. I've got one more I can't read, and I'll give it to you.

CHARLOTTE SIBERLY: My name is Charlotte Siberly and I read this bill and I think that it would against a certain class of people, and it sounds like it would do fine and it would cut out the stateside people, or it would bring the fishery level back to a good normal way of living, but I have a very strong feeling that the people in the villages who live from hand to mouth,

who don't have a steady income, who don't have a savings account, who don't even own their own boats, but are very dependent on the fishing industry. Now, these people, I feel, you know, if the bill goes through and they receive a permit and they're allowed to fish it, I can see the companies from Seattle or whatever coming in and using that as a threat. You would think of it as an advantage, but I don't think it will work that way. I think it would work against the person who is working every season and trying to pay off last summer's sets, and at the same time trying to continue to feed his family. Now, I have a feeling that if the guy loses his permit he's not going to have any alternative. If he has to sell that permit, he not going to have--be in a position to be able to buy it back, so he's not going to be able to fish, and in a sense, you're forcing him into a form of welfare, because, you know, that's the last resort. There's nothing else for him. I think the commission or the legislature, or whoever it takes, should look into a subsidized program and allow the people to build up some kind of equity where they can begin to support their families, they can begin to save money, and they can begin to look ahead without having to lose that permit, because they've got to feed their families, say, next week or next month or next summer. The other thing was, possibly a loan program. Now, many of our fishermen in Alaska at one time owned their own boats. True, they were small, but they owned them, and today with the problems in fishing and everything, they've had to turn to the companies, the large companies, to provide them with the boats, and this is something that just--you know, if they don't own their own

boats, how are they going to fish? And if you don't have a program to allow them to be able to buy a boat and stay in their line of work, then I think this is going to work against the village fishermen, and the guy that really needs that kind of work, and to stay out of the welfare category, and anything else along that line. I think you have to have at least two other bills to go along with this one. I don't see how it could benefit the Alaskan fishermen as it is now.

CHAIRMAN: Thank you. Questions? Thank you very much.

MS. SIBERLY: Thank you.

CHAIRMAN: I have one other name here that--I've called all the others. This one I can't read, so, alright. Bill Randall, maybe, huh?

BILL RUHLE: Oh, no.

CHAIRMAN: No? Alright.

MR. RUHLE: My name is Bill Ruhle.

CHAIRMAN: I see. Alright.

MR. RUHLE: Pronounced R-u-l-e, and I am classified under the cover letter as part-time commercial fisherman, a troll fisherman. I'm concerned about several things in this bill. I'm concerned about the elastic standard of the application of the economic dependency of the fishery, how in one instance we will apply it, or the commission should apply it, if I have to amortize the payments of a boat and my investment in a vessel over a period of years, then I become economically dependent upon the fishery then to pay for my boat, but then, in the other instance, if I come into the fishery and apply for an application or permit to fish because I'm going to become a full-time fishermen, my

investment has nothing to do with it at that time. Only my dependency to earn an income from that fishery, then, becomes part of that elastic standard. I'm worried about how that's going to be applied equally to everyone. I'm also worried about, in the deletion of fishermen. I'm concerned about the actual economic impact to the State of Alaska and the areas that we're talking about, because these figures have been banted around, we don't know what the true figure or the elimination of the fishermen is. But I see this as a very large economic problem that will be established very quickly on the State, and what economic impact is that going to be? Has there been any study into the realm of that? These are some of the things that I'm concerned about.

CHAIRMAN: Would you like to expand a little bit on what you mean by economic loss to the State. Now, there's only a certain number of fishermen--a certain number of fish going to be caught. If they're caught by a fewer number of people, a smaller number of people, nobody would see the economic loss. Would you expand on that for me?

MR. RUHL : Well, I'm concerned--when I mean economic loss in this, I'm talking about the amount of money now that is being spent in the fishing--in the fishery, being spent for boats, being spent for gear, equipment and relative supply that is involved in the fishery. Now, I feel that I'm probably the world's worst fisherman, but if I decide that I want to spend ten dollars to catch a three-dollar fish, that's my business, that's my money. Now that money goes into the economics of the community that I come from, as well as any other community that is involved

in the fishery.

CHAIRMAN: Questions? Okay. Thank you very much. Are there others who have not--on the list here that would like to be heard? We do have a little bit of time yet. Any questions from the committee of the former people that have spoken? Allen, do you have anything you want to add?

MR. ADASIAK: I'd like to clarify one thing that has perhaps confused in some people's minds, and that is, that an entry permit is not needed by everyone who will be fishing. Entry permits--David can correct my language to make it more precise, but basically, entry permits relate to gear. The crewmembers of a particular boat have to have commercial fishing licenses, but they do not require an entry permit. The person who needs an entry permit is the person who is going to be--what's the proper term, David?

MR. JACKMAN: Well, the gear operator, if you want to call it that, but, clearly, it'll be a self-regulating thing, once you stabilize that level, and these are--somebody who holds an entry permit has to be participating in the operation of the gear. We don't want them to be able to hire agents, hire people to go out and fish their entry permit, but the crewmembers that are fishing with them don't have to have entry permits. That's what Allen's trying to say.

CHAIRMAN: Thank you. Yes.

UNIDENTIFIED SENATOR: I have a technical question. On page eight, line 27. You say, when an applicant is unable to establish the qualifications for an entry permit by submitting (indisc.) verified evidence required, he may request and obtain an

administrative adjudication. Why did you put it negatively? Why wouldn't it--it appears to me to be negatively. When he's unable...

(End of tape)

SCOMM

#31:2

CHAIRMAN: Mr. Rodman, the (indisc.) on the bill in case we're going to make any amendments or any further hearings and questions asked. I know there's a lot of you here and a lot of you have come from a long ways to testify and we will hear all of you on the hearings on this House Bill 126. So, as you want to testify, to avoid confusion, so we can get everything right on tape, just step forward and give me your name and who you represent-- if you represent yourself, say so. If you represent groups, state which group you recognize, and sit right in that chair there and testify. So, we can start the meeting off. Who's willing to be first to testify.

UNIDENTIFIED SPEAKER: Mr. Chairman, before we get started, could you have the administrative assistant try to make sure during this meeting that he keeps the ventilation moving here by opening and closing windows. We have quite a crew in here today.

CHAIRMAN: Okay, yes. Thank you. Who wants to be first to testify and start the meeting off? Come on, Jim, you're a (indisc.), get up here.

JIM BEATON: Well, in lieu of nobody else, I guess I can get out here, and that means I might have a little more time....

UNIDENTIFIED SPEAKER: State your name and who you represent.

JIM BEATON: Well, my name is Jim Beaton. I'm president of Southeast Gillnet Federation, but I think I'll represent myself today. Okay, in the beginning here, course I read over the governor's Bill 39 and your amended version of this. It's quite ironic that the governor did go to all this trouble and compile all these statistics. It seems almost to me an indication that he'd been in the bars and coffee shops of the fishing areas and more

or less threw the fish--threw right back to the fishermen exactly what he thought they wanted. Fortunately, I didn't want the fishermen to choke on it. I guess they weren't really ready for it after all. The basic bill itself, I mean basic agreement with... Of course, like all other fishermen, I have certain reservations about it. I've attended some of the hearings over there and the committee of the governor simply unfolded their stand on these things and elaborated on them to the point where I not nearly as afraid of this bill as I, of course, was in the beginning. I think it's too bad that more people did'nt participate in these hearings, and I hope that they in the future take the opportunity to do so, because a great deal of things have unfolded with that bill. As I see it, the bill has only one blind spot from the standpoint of commercial fishermen, and that is, I cannot, after reading the bill a dozen times, I cannot determine whether there is really any advantage in the bill to being a commercial fisherman. It doesn't seem to be slanted at all towards that, although in the cover letter that the governor wrote, he specifically stated that he was aiming all of this at, as he put it, all (indisc.) moonlighters and part-timers and the rest of it. Yet, I really fail to see much in the bill other than the economic dependence portion of it, which is almost almost inoperable, and almost impossible. But, anyway, it is really designed specifically as part-timers and moonlighters or anything. With that though in mind, I do feel very strongly that some provisions have to be made in an amended version of this bill to allow for people who want to actively pursue and make it their principal means of livelihood. The

reason I state this--I realize I have a great deal of criticism from various and sundry groups on this, because they keep saying because of the concept of the free enterprise system and American way, and the whole spectrum there... But I really feel, in studying other nations throughout the world and the way they handle situations, studying our own westward expansion, the concept of common property, and the fact that whenever you take a renewable natural resource, and you try to manage it in a way whereby you do not have any form of limited entry, whereby you literally let anyone who wants to participate in it, you have complete and utter chaos develop. And I think we all certainly all realize now that this has already happened in the commercial fishery of Alaska, and will probably continue to happen. We're probably ten years behind time--we all know this, and as far as I can determine I don't really see any famous way to alleviate this problem--in some ways maybe a little less painful than others, and of course, that's what these hearings are about, and that's what the amended form of the bill would give out. (Indisc.) into it with that thought in mind I think all the--there's already been sufficient talk of the concept of common property and the rest of it and there's no sense getting into that at this time. But, moving on into the bill, everyone has come up with their own version. I've had people hand me their version on the street corners. I've had all types of input into what seems like almost everyone who has ever participated at all in the commercial fisheries has their own version of what would be ideal, which is, I suppose, only human nature. Now we all know that there is going to be probably relatively very few people that really determine these things, but I've

come up with my own concept, of course, which I'd like to present at this time. Elaborating on this theme of professionalism, which I think is the one thing that we have to have to make this a viable, strong fishery, and I reiterate here again that the reason for this is such things as marketing, such things as the fishermen sticking together, such things as conservation, such things as strong fishery's groups like you have in Prince Rupert's co-op in order to maintain the strong economic base, that the concept of professionalism has to be considered, and without it we'll end up with exactly what we have at the present time. My concept of this is, for example, in 1973... I would like to state here at this time, too, that when I state this, I state it in context of the Southeast gill net fleet. That's all that I want to talk in terms of at this time, and that's all that I really have enough of a background or time to talk about at this time. So, with that thought in mind, I maintain that in 1973 all licenses would be issued this year, and essentially they already have been started the issue, so I don't think there's any argument on that. In 1974 you issue 460 licenses, which is roughly the figure that we had issued last year, based on background, time in the fishery, economic dependability--a small portion on a point system type thing on economic dependability, history of time participation per season, and I'd like to emphasize this history of time participation per season, because I think at that point, it's on that point that the concept of professionalism either stands or falls. Thereafter, you make the licenses negotiable with State buy-back programs, plus trading an apprenticeship program, whereby it would only be possible to either sell to the apprentice pool or say the State for an

arbitrary figure. I just threw out $5,000--I really don't know what this would be, and this would go into a fund that the State would use in their buy-back program, and what not. Going on from that, there would be no lifetime licenses. That the... The governot's bill has a provision in there for lifetime licenses. I don't believe in this concept of lifetime licenses. I think it would develop into a situation whereby someone would literally just buy their way into it--hardly ever use it. You'd muddle the fleets. You'd end up with chaos like we have at the present time. So there'd be no lifetime licenses, and your time to participate in per season would be the main criteria for keeping licenses necessary. Keeping licenses... Also, it would be necessary to be flexible for licensee. For example, in the case of illness, or other reasons--or other reasons of importance. Also, say, every three or four years it would be possible to take a year off for some personal reason, but after a reasonable time off from fishing, or for lack of sufficient participation, I would like to draw into context here one other situation that arises as far as this lack of sufficient participation. And that is that I feel that the fishery also has to be flexible, and if a person, say, was involved in the gillnet fishery, and he deemed it feasible to expand out and to go into the halibut that troll fishery, or some other type of fishery, the trap fishery, say. I still think he's a fisherman. I think he's a professional. I think the concept of diversification is very healthy to the fishing fleet, and of course, for economic reasons, if we are trying to push this governor's bill or to push any type of bill along

the lines of gear entry. So I think that it shouldn't be held against him if he does diversify. It goes without saying that, for the sake of implementation, it would be necessary to also do at least some portion of that season in some gillnetting, or whatever the licensee you were trying to hold--license you were trying to hold. But, with this concept in mind, what's developing here, and the thought I'm trying to get at is that, for example, in Southeastern Alaska you have roughly a six months' fishing season. We've argued back and forth, what is a professional, what is a non-professional? Is a man who goes out and makes $30,000 in the winter, is he any less a professional than the man who doesn't make anything? Is the person who makes $2,000, should it be more his right to stay in the fishery than the makes $30,000, and he makes $20,000 in another form of endeavor? And, of course, these arguments go on and on and on. Well, I have a very brief definition of what a professional is, and I don't think it can be argued. And I'd debate anyone here at the present time of what a professional is. And that is strictly that if you do not participate, and of course, you can it on a percentage basis any way you want to, but if you do not participate you're not a professional. You have a six months' season in Southeastern Alaska. You only participate for one month out of that six months. It's indicative to me that you are not a professional. Any percentile of that from there on, why you can almost figure it out on top of your head exactly how much of a professional you are. The man who participates 100 percent of the time is 100 percent professional to me. If he can get out of the fishing in the fall of the

year and land on his feet, and land on his feet running, and go on to something else and rip of another $20,000, I figure that's his business. But, I certainly do not consider a professional one who dabbles in the fishery, fishes one month out of the year, and has another full-time avocation in some other field of endeavor, and is not really affected that much by the fishery. Going on and elaborating from that, the license would be, of course--but, for example, if a person did not participate in a futuristic (indisc.), if you did not participate, say you were only participating one month out of the year. This may be if the fishery was stabilized, and if there was no problem developing, it's possible that even these people would stay in the fishery. However, if, due to the fact that the runs drop or for economic reasons the prices drop or for varied and sundry other reasons if something came up whereby a cut was necessary to be made, then it becomes quite obvious that the most vulnerable person should be the person who participates the least. And, by this type of reasoning I would say that the licensee would be forced by the Commission if he was a very small-time participator, to literally sell back into the State program, and the State would in turn either keep it if he was trying to bring fishing into it, or for varied and sundry other reasons he just wanted to get these people out of it that were not participating because they was, say, a large apprenticeship pool, these fellows had went through some kind of a training program. I'd like to elaborate a second on that, that I conceive of an apprenticeship program as some form of practical experience in the fishery, but on top of that we have various university

programs whereby you can study here technology, and fisheries technology, and the whole thing. I certainly think that could be incorporated into it, just like in any other apprenticeship program, such as the electricians or plumbers or anybody else have. It's very similar. Anyway, after th State buys it back they could either keep it if it was a necessity to keep it, or they could sell it to the apprenticeship pool. Of course, cannery participation--that's always been a big point. You know, let's try to keep the canneries from getting a monopoly on them. This is what is--has developed in Canada. I've read all the briefs from Prince Rupert co-op, and they are having a tremendous problem down there with the canneries gaining control of the fleet. Now, we understand that when the license is a negotiable item that, although the cannery could not openly buy licenses, there would certainly be a very real problem of, say, backing--in the case of (indisc.) area Bristol Bay. I fished there nine years myself. I could see where they could take, say, none of them sitting in here, I don't think--and say the day goes out at San Pedro or somewhere, and buy them all licenses and set them up up there, and things wouldn't change at all in Bristol Bay. And this, of course, is something that we'd like to not have happen. So it goes without saying that the canneries would be eliminated from participating in the licensing things, however we realize that there still is a problem of them doing it underhandedly, and you'd have to think in terms of ways of getting around this. There'd probably have to be some elaboration on that. Some of the Native groups have expressed to me that, not trying to pick

Natives, but it is true that in some of these areas where the Native villages are, the economic situation is such that they're damn hard up in the middle of the winter time, and $5,000 looks good to them, or any figure does. There would be this problem of buying the natives out and literally ace them out of their rights so to speak, and their heritage, and the whole bit. And there's been some concern expressed to me about this and the aspect of a negotiable license. Well, this a problem you have to live with. It's a problem you have to educate the people to, and the whole rest of it. But I do think, in this type of a thing that I've tried to unfold here, that the--it would be quite a bit less likely of this, and even if some of it did develop, there would be the possibility of the Native groups or these areas to be reactivated through this apprenticeship program, and also possibly buying these licenses back up for their people that are involved in this. These things are what I've more or less throwed off the top of my head. The governor's committee worked on this years. You know, a year or two years, whatever they worked on it for, and spent a lot of time and a lot of hours. I've put this down this afternoon and I don't expect to stand up under all kinds of cross-fire, but I think the basic concept of it is generally good. The thing that I've really tried to stress there is that I'd like to see some type of provisions made for professionalism. I stand at this time to be cross-examined by any of you on any of these particular aspects I brought up there, and I'd appreciate any comments.

CHAIRMAN: I believe Mr. Tillion, the Judiciary Committee chairman.

By the way, this is a Judiciary Resource Committee meeting, and Mr. Tillion (indisc.).

MR. TILLION: I see some problems in the area--your professionalism area. You have a fish and game prediction of four bad years on (indisc.). It sounds like an Alaskan, this fellow with the same boat, and he takes a contract to tow logs, or barges, or anything else. This means that he has forfeited his right to reenter the fishery, and so what you'll do is, is you'll--won't that tend to keep people fishing on the down cycle, therefore further depressing the livelihood of the few that could be in it?

MR. BEATON: Well, I certainly think that this is where the area where the Commission would--definitely I have--a lot of people have expressed the idea that things have to be laid out here. The fishermen have to know what's going to happen, what they're going to get into, and they're all seem to be very scared to death of the Commission. So this to me would be a gray area that you're talking about there, and certainly I think it would be at the discretion of the Commission is there was some type of an economic situation like that whereby the runs were bad and everything, it's a possibility that you could alleviate that problem by actually allowing people to go into something else during the low cycles or what not. Certainly, you have to--I can see the need for a commission myself, and I think they would have to be used extensively in this type of an area and in this type of a situation.

MR. TILLION: Thank you.

CHAIRMAN: Any more questions from the legislature?

UNIDENTIFIED SPEAKER: No more questions. Thank you, Mr. Beaton.

CHAIRMAN: Is there anyone else who wishes to testify? (pause) Please give your name and who you represent.

MIKE McNIVEN: My name is Mike McNiven. I'm a member of the Southeast Gillnet Federation, however I'm representing myself. I feel that the governor's bill under certain applications is very equitable, however I'm one of the people that Jim describes as being afraid of a commission. I would like to see written into the bill some guidelines for this commission, some concrete guidelines that would enable the fisherman to know just exactly what he's up against. I'd also, backing up Jim on this, like see some apprenticeship program provision initiated. This would encourage participation in the fishery of deck hands, and also if would, I feel, create a more mature and experienced fishery. This one area would lead to a--or a professionalism in the fishery. There seems to be a number of bills banted around. I feel that this is possibly an equitable solution to this problem, however I must say again that it seems to me to be quite vague, in that the Commission has no guidelines set for it. That's why I say I think this is necessary to be included in the bill. That's about all I have to say.

UNIDENTIFIED SPEAKER: Mike, I was wondering, do you believe in the concept of (indisc.).

MR. McNIVEN: Yes, I do.

CHAIRMAN: Mr. Tillion.

MR. TILLION: I like you to share the fear of a commission, but on the other hand, if you allowed licenses to become a vested interest, would you stand for an assessment--an annual assessment to buy out your competitors, rather than forcing them out?

MR. McNIVEN: I didn't mention a buy-back program because I really don't have any information. I just--to what extent the licensees are going to have to be cut back. This is one area that I feel--this is one guideline that I feel has to be established before guidelines for the commission must be established. As soon as that becomes apparent, then I can say this problem can be tackled from several different areas. Perhaps I can see varying degrees of influence this commission would have. If the only license holders that would be eliminated from the fishery were those with the so-called ghost license, there would, in my mind, be no need for any compensation. If the people could be eliminated where people that had fished very sporatically, had a very minimal investment, then I would say compensation on certain levels would be fine. If half the fleet was to be eliminated in one fell swoop, I would say that compensation would have to be a very integral part of the bill.

CHAIRMAN: Mr. Tillion.

MR. TILLION: Well, I think you're aware that areas such as Bristol Bay, you're talking about more than 50 percent of the fleet to get it down to a reasonable level, many of which have sizeable investments, and in a buy-back program we realize this would probably take ten or fifteen years to get it down to a reason--would you prefer going that route and not forcing anybody to sell, or would you prefer giving a commission the arbitrary right to force somebody out of the fishery?

MR. McNIVEN: Well, I don't choose to give anybody the right to force another man from his living. Under those conditions, I would say a buy-back program, or a compensation program of some sort,

would be feasible to institute. However, I will say that I am a Southeast fisherman, and in the Southeast areas here, I feel that it would not be necessary to cut back half the fleet. In fact, I personally feel that there may justification in eliminating ghost licenses, and thereby removing the threat of those people from the fishery would be sufficient. In such a case, I don't feel a statewide provision for compensation to these people would be necessary.

CHAIRMAN: Mr. Tillion, continue.

MR. TILLION: If compensation--I agree. The only compensation that would be fair then would be one that was by area and by gear, so that a gillnetter did not have to pay an assessment to buy a (indisc.), nor did a Prince William Sound gillnetter have to pay to buy a Bristol Bay gillnetter out, but basically you'd prefer not to force anyone out of the fishery other than the ghost licenses? In other words, if you issued a license to a man who had only actually participated in the fishery, you'd get rid of your--you know, as a gear holder, you'd get rid of that section, but you'd still face how do you eliminate the man who fished just a few days a year? And do you want to give a commission the arbitrary powers to remove this man?

MR. McNIVEN: Well, I certainly don't have all the answers to this problem. In some areas I would say yes, and in some areas I would say no. Of course, the investment that this man has would be certainly a criteria for the commission to look at, and it was figured in the bill. If a man is going out here and gillnetting off the bow of his sport boat, he certainly doesn't have the investment that a person that has a $20,000 or $30,000

boat built specifically for gillnetting, and I feel that the exclusion of this person that's fishing off the bow of his skiff would certainly be--well, I would say this--it would be very, as far as I'm concerned, I would rather see the skiff get out of the fishery than the other man. And I really don't see why a person that is just utilizing something that he has for a sport purpose utilized in the commercial fishery, compensates for it.

MR. TILLION: We still have a difficulty in working into law how you would separate the two. It's--without giving the commission the power of life and death over, say, there are great fishermen who still depends on it for a living, but just doesn't catch much.

MR. McNIVEN: Well, like I say, you're using a figure in Bristol Bay of half the fleet. I think the figures that we're talking about right now are only arbitrary figures. As far as I know, I haven't seen anything at any rate that definitely states how many people have to get out of it per so many fish. So, I have to go back, and Bristol Bay is an area that I would have to admit that I am completely familiar with, because I haven't fished there. Southeast is.

MR. TILLION: How many days of the week do you fish, average?

MR. McNIVEN: Three-day openings.

MR. TILLION: Well, that's hardly a very efficient fisherman.

MR. McNIVEN: By what standards?

MR. TILLION: By any standards of vessel and (indisc.) should be something that you should at least fish six, preferably seven, on cycle years, wouldn't you? You should get the limit down

to where you can fish. After all, you're only fishing three days a week. The last time I fished two twenty-four-hour periods in Cook Inlet, I also went down and took 55,000 of crab, halibut on a crab fleet during July so that I'd have something to do to fish seven days a week.

MR. McNIVEN: Well, by the same token, I will say that I fish salmon three days a week. I also fish halibut three days a week. I wasn't tied to the dock, if that's what you were getting at.

MR. TILLION: No, no (Indisc.--simultaneous speech) The gillnet fleet then, has about fifty percent too many boats.

CHAIRMAN: Is that a l, Mr. Tillion.

MR. TILLION: That's all.

CHAIRMAN: Alright, Mr. Grofin (sp.).

MR. GROFIN (sp): (Indisc.) going down the road I intend to. There's still some guidelines that you'd like to see put into the bill, and you mentioned specifically the buy-back aspect of the bill, or the whole program. Outside of buy-back, what guidelines would you like to see?

MR. McNIVEN: Well, I didn't mention guidelines. Clem did. The guidelines that I'm talking about right now are guidelines that would enable me, as a fisherman, to put myself in a category of possibly being in the fishery, definitely being in the fishery, or definitely not being in the fishery. Right now, as far as I know, the Commission has the power to eliminate me from the fishery at their own discretion. I would like to see the criteria that they consider, more specifically defined. I don't--in the bill it states that they're going to look at economic dependence. It also says they're going to look at

past participation, and it says they're going to look at the ability--present ability to fish. I feel that these are rather vague. Now, I--by the ability to fish, do they mean am I physically able to pick fish? Does it mean that I have a boat, or does it mean that I bought a used gillnet off somebody that I'm keeping in my garage? These are the things that I'd like to have clarified. I don't really know what they're going to use as a base of judgment. Economic dependability. Does it mean that I have to derive my entire living from fishing. Does it mean in the closed season that I can't go to work, that I just sit home and kind of wait for the season to open? These are the things that I'm curious about. My past participation in the fishery, if one year I chose to fish a species that is not covered in this bill, does that mean that I'm not a fisherman? These are the things that I'm curious about.

UNIDENTIFIED SPEAKER: It only deals with salmon.

CHAIRMAN: Mr. Gardner, I believe is...

MR. GARDNER: I don't think anybody knows that to draw these out in more details is, of course, going to require more study, which will take time. Maybe two years. So, therefore, the question comes, shall we wait two years until we can draw these all out in detail before we do anything, or should we at least put a lid of some sort on what we've got now and then try to study this? Because, I don't think they got the figures right now that to look at each area and each fishery within an area. So, that's why I, you know, I would wonder if they can't the South in detail right now to satisfy you, would you rather wait two two years (indisc.).

MR. McNIVEN: Well, as I mentioned before I am certainly in favor of gear limitation, and I think it is a necessary thing, and I think it should be implemented as soon as possible. The--I was merely giving some points of view that I have on the bill. I'm not a legislator and I'm not even gonna propose to deal with the right bill. I'm just came up here to tell you kind of what I thought. I think that something should be implemented. I agree that if we wait two years we can probably get a little better bill, and maybe if you wait twenty years, you can even get a real good bill. There may not be any fish left then. So, I guess we're just gonna have to get what we can. These are just some of the considerations that I'd like to have in the bill.

CHAIRMAN: There's a couple of--there's a lady, Miller.

MS. MILLER: Thank you, Mr. Chairman. Mr. McNiven through the chair, as a fisherman I would be interested in your suggestions for standards that would establish the degree of economic dependence in the (indisc.) fisheries. What would you suggest?

MR. McNIVEN: These are things that I feel would be related to the number of fishermen that are going to be dropped from the fishery. As I said before, if the ghost license fishermen are the only ones that are going to be eliminated, I would say that there would be no problem.

MS. MILLER: Mr. Chairman, I was referring more to, for example, the percentage of your income that you would derive from fishing--fishing and so forth, so that we're not closing out people who are making their major livelihood from fishing. In other words, they're not moonlighters or part-timers.

MR. McNIVEN: I feel that as I have had experience in the past, that a percentage of an income derived from fishery--I'm speaking of Southeast cause that's where I fish, would be in some cases unfair, because the season is a little less than six months long. And, myself, I just don't particularly like to sit around in the winter. I like to do something, and a percentage of income would inhibit me from going out and getting another job, if this is what I chose to do. I can't really say how this economic dependence clause could be implemented. There is some mention of State income tax delinquency in there and that opens up another area, too. I don't really feel that by saying that a fisherman can earn no more--or no less that fifty percent of his income from fishing is fair, because often times the mere fact that there are--the season is less than six months long gives you a bit more than fifty percent of the year to work in another area. If you can find employment, I feel that that certainly should not be held against a person.

MR. CHAIRMAN: Let's see. Mr. Eliason is next and (indisc.).

MR. ELIASON: Mr. Chairman, I still have a problem understanding exactly--is your problem with the Entry Commission, the concept of a commission, or the fact that some members are not spelled out or their duties are not spelled out?

MR. McNIVEN: It's not with the commission or it's not with the membership. The problem that I have is that I feel that the guidelines that this commission is going to follow are clearly enough spelled out.

CHAIRMAN: (Indisc.) Mr. Hubert.

MR. HUBERT: Well, I think we have a little trouble in determining--

you mentioned that there wouldn't any problem at all in eliminating the ghost licenses, and then you also mentioned the matter of maybe only fishing one month out of the six-month season would be--might be desirable to eliminate again. Or at least you mentioned that it might be important. What portion of the resource are we saving by eliminating this ghost fisherman and the one who isn't catching many fish anyway. Could you relate that to me somehow?

MR. McNIVEN: Well, as I see it, in the first place I said sporadic participation, I didn't say any given length of time. Also, I feel that these ghost licenses are actually unmanageable. They represent a potential, although they are, just by the fact that presently they are ghost licenses and are not fishing, of course they're not hurting the resource. If they are left intact they have the potential of becoming active licenses, and no one can say if they're going to or not. This is the problem that I would say could arise there, that you don't know what's going to happen. One year maybe they might all decide to go fishing. The next year maybe they won't. And by eliminating them you're removing that threat from the fishery. These people, if they're not fishing for a number of years, not delivering any fish under the license, they cannot really be too serious about it, is my feeling.

MR. HUBERT: If I can ask one more question. In other words, the--in other words, I didn't understand really the ghost license apparently, but he's likely to come into play then during this period when there's a lot of salmon, and he's not there the rest of the time. How does that line up with the conservation

prices?

MR. McNIVEN: I don't know if I exactly--can actually answer that. What I was getting at is if a bill of this sort of implemented and the ghost licenses are left, if people are still able to hold the ghost license, these licenses are going to become more valuable, and they'll become more valuable probably not from a monetary standpoint of the license, but a potentential standpoint. And, therefore, I think as soon as enough limitation has occurred, these people are going to want to become active in the fishery. It will become profitable for them to at this time become active where, perhaps, they were working a year round job, they had the license purely on a speculative basis, and I don't care to see this speculation take place.

MR. HUBERT: I see. You realize that you relate it to like real estate speculation. It's another form of speculation. I understand what you have been talking about. Thank you.

MR. McNIVEN: Yes.

UNIDENTIFIED SPEAKER: Would you say that the dollar base, or the percentage of income base is preferable?

MR. McNIVEN: In an economic dependence consideration? I don't know, I can't say. I don't really know. I don't really know how it can be related. I mentioned that perhaps it could be related to the State income tax clause that was in the bill. Maybe that's the only application it has.

UNIDENTIFIED SPEAKER: (Indisc.). We could say that the person who makes less than $50,000 a year in fishing is not a professional fisherman, and therefore does not get a license. Or you might say a person making fifty percent of his income from fishing

or more, as compared to one who makes less than fifty percent of the professional fisherman, therefore should be licensed. Would you depend on dollars on that base or a percentage basis would be more equitable?

MR. McNIVEN: Well, I would have to say that I don't think either one of them would be equitable. This economic dependence may may have greater ramifications than just the gross earnings. I would say--well, I just don't know. These are what--one of the questions that I have. This is a standard the commission has--would be allowed to operate under, and I would like to know what they have in mind. I am not really sure how it's going to fly. The way this bill has been written, somebody must have an idea.

CHAIRMAN: Any more questions? Thank you. Anyone else who wants to testify?

BRUCE LEWIS: I'm Bruce Lewis from the Southeast Gillnet Federation, and I'd like to testify on behalf of myself at this moment. First of all, I have a couple to points. Mr. Tillion here has stated that since the gillnet fishery in Southeastern only lasts three days and could warrant a six-day fishery, that would mean that the fleet should be cut back fifty percent. And, I myself, seeing that I--I see no justification for this. I would think that as long as the people in the fishery were making a reasonable living, there wouldn't have to be any real big cutback to speak of. There's hardly any warrant in this day and age when there is a problem getting a job, to cut back a fishery which actually employ double the amount of people. Say, if it was on half the time basis, than if it was on, say, you know, a double time

situation where the fishermen went around the clock for six days instead of around the clock for three days, I really don't see where that really has very much merit that fifty percent cutback there does to this. I would think that when the situation arose where the people involved in the fishery were not making a substantial living for the amount of investment they have or for, say, the amount of time they were participating, that there should certainly be some sort of cutback then. As for this time participation and economic dependence, I think that this definitely should go more on time participation than this economic dependence system. Economic dependence seems to me almost impossible--it seems totally unworkable. I can see a vast bureaucracy rising up before us, and possibly, you know, it would take many statistians and secretaries and, you know, they'd have to look back at everybody's earnings, and, you know, maybe if you had an inheritence or, you know, a lot of things like that. But, then again, if it was going to be a percentage of the income per year for this versus, say, how much money was made, you know, I would say that you'd have to go on how much money a person made. I don't see how you could go on a percentage basis, unless, perhaps, you implemented somehow this--you know, the percentage of the time of--for the year that the person actually fished because, take Bristol Bay. We have an instance where, well, hopefully this will change years from--I mean in a few years with the introduction of gear limitation, but at the present time we have a situation where no one, at least I don't think there are many who last year in Bristol Bay made any kind of an income where they didn't

have to take some sort of winter job. I don't even--I think that there are many places where a person just about has to make more than fifty percent, almost, of his income at some other side job other than fishing, in the winter time in order to make it, the way it is at present. This, of course, if one of the big arguments for gear limitation, but I kind of thought I'd throw it out as sort of an argument against this percentage deal. Is there anybody with any questions?

CHAIRMAN: Any questions?

UNIDENTIFIED SPEAKER: Just one area of argument. I'm a little confused toward the concept of your limitation.

MR. LEWIS: Definitely.

UNIDENTIFIED SPEAKER: You're talking fifty percent boats in three days. I was a little lost along there.

MR. LEWIS: Oh, I'm sorry. I should have stated at the onset there, I'm definitely for the idea of gear limitation. I don't see anybody can even be human and not be for the idea of gear limitation.

CHAIRMAN: Mr. Pollack:

MR. POLLACK: Intelligent, I think would have been a better word.

(Laughter)

MR. LEWIS: Well...

(Simultaneous speech)

MR. POLLACK: (Indisc.) Mr. Cotten (sp.) has. Hopefully, they wanted that same question.

UNIDENTIFIED SPEAKER: I wanted your name.

MR. LEWIS: Bruce Lewis.

CHAIRMAN: Any more questions? Does anyone... Well, there's some

members of the... You'll have your chance to be sent up.

UNIDENTIFIED SPEAKER: Gil? (sp.)

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: The one thing I was wondering is if that is gear limitation or limited entry. He apparently favors both as (indisc.)

MR. LEWIS: Well, let me clarify that a second. I kind of wondered-- I hear a lot of talk about limited entry and I hear a lot of people call it gear limitation, and I should probably clarify it and say that I think the entry should be limited, and definitely some time in the future before a person's limited, by the amount of gear he can fish. More people are allowed to enter this fishery. I think the existing people left in the fishery should be able to have, say, be able to fish a greater amount of gear in order to harvest the fish present, because I think that there are very few fishermen existing now-a-days that can handle more gear than they are presently fishing, but the problem of the amount of people in the fishery is causing them to have to cut back, do a lot of restrictions.

CHAIRMAN: Thank you. Does anyone else wish to testify? Could you give your name and who you represent.

JOE JOHNSON: Well, my name is Joe Johnson and I'm a troll (sp.) fisherman. Excuse me, I have a cold. Joe, I'm up here to testify...(Indisc.--one side of tape ends at this point.) Will this be the only hearing from the House Resources Committee?

CHAIRMAN: I don't intend for it to be.

MR. JOHNSON: No, the reason I asked is that two weeks ago we got

this bill, Senate Bill 39. We didn't think too much of it. It was pretty general, and just a couple of days before I came down here, we got the covering letter, and it kind a different light on it. It showed a lot of work was put into it, and after coming down here and listening to the Attorney General's staff, it was a lot more enlightening, and the thing I'm asking is for a permanent input in this thing. At this time, probably ninety percent of the people in Alaska don't even know what it's all about, and from what I understand, a week to two weeks from now that the Attorney General's staff will go around in different areas and have public hearings, and I was just curious if we were going to have more public hearings in the House.

CHAIRMAN: They intend to have at least one more. When the governor's bill first come out I did send a couple of hundred around the State.

MR. JOHNSON: Yeah, we got/the bill (indisc.--simultaneous speech) Attorney General. Then you'll have more public hearings after this Committee (indisc.) the State, is that right?

CHAIRMAN: Well...

MR. JOHNSON: ...on these public hearings, cause, like I say, how can a lot of people testify when they don't know what they're talking about.

CHAIRMAN: Well, like I say, they'll send out a couple hundred, and the only word that I've ever got back is some lobbyists that, from my group their sending lobbyists down, but the Bristol Bay district would be the hardest area. That's part of the...

MR. JOHNSON: Well, like I say, you read the bill...

CHAIRMAN: The only thing I've got from them is just sending the

lobbyists down to lobby for it.

MR. JOHNSON: Well, like I say, you read the bill and it's very general. It goes in too much. Like, we never thought much of it at all, then we got the covering letter and read it. It's 23 pages on both sides, and it kind showed that a lot of time went into it, and after more elaboration down here there's good potential here, but what I'm getting at is the hope that they have another hearing after this Committee, or this Attorney General's staff towards the statehood. I think on an issue this big you'll have a lot of input on it.

CHAIRMAN: Would you leave your name, address and phone number with my secretary after the meeting's over, and we'll make sure that you know when were going to have...

MR. JOHNSON: Thank you.

CHAIRMAN: Would sit down. I believe there's a couple of questions. Mr. Tillion.

MR. TILLION: Yeah, well, I was deciding, Joe, the noon what we'll do. This particular bill has three committee referrals. We'll try and work it out to where we don't chew our cabbage too many times, but I'm sure that when we make the corrections that come out after some of the testimony and make some changes in the bill, then we have a different--like a committee substitute printed, and we have to allow time for the reaction of the people from that one.

MR. JOHNSON: Yeah, well even...

MR. TILLION: I mean the...

MR. JOHNSON: The way it looks to me, even testifying under the bill itself seems like a very short time for people to know what's...

(pause) seems like a very short time since we've--well, say, two days before I got down here I got the covering letter, and that elaborates on what the bill is all about and changes the whole picture. Then again, when you listen the Attorney General's staff, it elaborates on the covering letter, so I can't see how you can get too much fair input on this one. Not too many people have had time to roll this around.

CHAIRMAN: Mr. Johnson, part of holding the meeting this quick was to culminate the group from United Fishermen. It wasn't dumb because I know that there's some of them in and it'll be their only chance to be heard on this bill. Some of them spend their own money or the association's money that's not in too good a financial state. I expect that Juneau (indisc.) meeting is a lot to culminate them and get estimates.

MR. JOHNSON: Well, that's exactly the point I'm getting point. I represent 500 members, and if I don't have all the stuff in my mind I can't come down here and give an opinion for 500 people. I want them to all read it first so we can hash it out and then come down.

CHAIRMAN: Well, this time you'll be ready to go and get an opinion and we'll get in contact with you. But make sure you leave your address, because I know they got your address about (indisc.).

UNIDENTIFIED SPEAKER: Mr. Chairman.

CHAIRMAN: Mr. Knott (sp) and then Mr. Pittman (sp).

MR. KNOTT (sp): Well, Chuck and I were just talking here, and surely this Committee is going to send subcommittees to various areas throughout the State. I surely would not...

CHAIRMAN: Not unless we have to.

MR. KNOTT: ...to be put in a position to have to vote on this bill without having gone to Prince William Sound, without having gone to (indisc.), without having gone to Kodiak. Because, just because, you know, this one little room full of people made it to this hearing, doesn't mean that we've picked up the thinking of the fishermen in the State. And, as long as the capitol is going to be in Juneau, then it's going to fall to us the responsibility of going to the people.

MR. JOHNSON: That's just the point I was going to make. You know, we've got a very large State, and it goes, you know, you've got different types of fisheries. Some of those fisheries are going to be developing. Some of them are just getting started. So, I think we need to hear people and go to them. You know, it's really expensive to come down here, and you're expecting fishermen that sometimes have bad seasons to kick in money just to come down and testify before the Legislature. And, I think the Legislature ought to make--at least send some subcommittees out to these other areas to take testimony and then bring it back to the full committee.

MR. CHAIRMAN: Mr. Tillion.

MR. TILLION: Well, the one problem of cost we're facing is that I don't think the Legislature will stay in session one extra day to get this bill passed. And, so I'd say probably this will be a 90-day session without that much time, you know, to get (indisc.) and get it out, or else this year is lost. And then, when you start speaking about getting new entry, we've huge influx of gear this year. There'll be a whole mass of people fish this year just so that it'll be covered if the bill

doesn't pass. So, it's one of those things that you have to move fast, but you have to be covered. So, there'll be a lot of it that'll have to be come by mail and by telephone, and by conference call. But I agree that you can't pass--you know, you can't pass a different bill than this one.

MR. JOHNSON: I just hope, then, that this--this team takes off as soon as possible so they can get everybody informed on what this is all about, because...

UNIDENTIFIED SPEAKER: I think Clem covered what I--what I was concerned with, but actually we were talking 75 to 90 session. When we talking about hearings throughout the State, two Houses, two sets of committees here--if we're going to finish it up next year, that's one thing. I'd like to hear more whether people figure it's important to get it done this year, if so it really is going to take a shortening of procedures. I can see that.

CHAIRMAN: Mr. Eliason.

MR. ELIASON: I might say, Mr. Chairman, I don't it prohibits individual members from returning to their districts on the weekends, for instance, and talking to your constituents. You have allowances in your pay for this, and I think it could be used for this particular matter.

UNIDENTIFIED SPEAKER: It costs you what--about $30 to go home? And it costs Chuck about $300.

UNIDENTIFIED SPEAKER: Mr. Chairman.

UNIDENTIFIED SPEAKER: The committee can do it.

UNIDENTIFIED SPEAKER: That's because the capital's in Juneau.

UNIDENTIFIED SPEAKER: Right.

MR. ELIASON: Are you saying you're favoring the capital move then. (Laughter).

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(Simultaneous speech)

CHAIRMAN: Mr. Juhill (sp).

MR. JUHILL (sp): Just to point out how big a problem it is, my vote is the same as anyone else. I come from Fairbanks where we don't have this problem, yet I've got to be as much ready and as knowledgeable to support the right things for the fishery as anybody else does, or I can do the wrong thing.

MR. JOHNSON: Well, the main thing I wanted to--main thing I wanted to know if there'll be more hearings, cause I know from areas there'll be a lot more input to this (indisc.--simultaneous speech).

CHAIRMAN: Anyone else wants to (indisc.).

JAY STEVENS: My name's Jay Stevens. I'm secretary--I mean treasurer for the Associated Fishermen at Yakutat, and I'd like to talk to you just on my own, though. I agree Jim, here, mostly on--although, what he says I--I'm afraid of this economic dependence that is written into this bill. I think that we could better utilize participation. I see that--well, I'd like to take myself as an example. I fished quite a few year very hardly, you might say, in a professional capacity, and starved every year. And, finally I decided, well, Stevens, you'd better do something. Your wife and kids want some money to live on. So, I started shopping around for some things to do, and one of the first things I did was I bought a school bus, because they needed one in Yakutat. And so, I became a contractor with the State so I could have a winter income, so I wouldn't have go on a welfare check. And, then, that didn't quite do it, so I took up a lease on a service station and garage. Now, possibly in some years

this could be very hard on me, ... yet I've got quite an investment. I've got a $20,000 troller to start with, which right now is sunk, but that's neither here or there. I hope to get it back. And this kind of scares me to right now. I come down here to testify on this, and my boat sinks the day I come down, and I don't even know where I stand now. I don't even have a boat. What's going to happen to me in my case, see. But, we have people like my people at home where they have, let's say, they stated in there an average on year was $2,300. Now they're really dependent. They are really dependent on that fishery. But, if you--if you hold a person back for trying to improve his lot, I don't see where--where it's a good thing. The thing that I could see possibly is I will have to get out of the bus business, and I will have to get out of my service station business, to be able to continue being a troller. And, if I can't make it then I'm going to have to put myself on the welfare dole, and draw a G.A, so that I can qualify to fish in the Gulf of Alaska. I have a couple of other things I wanted to bring up, and I guess that's about done. That's the main parts that I was really--really scared about. I think that there's quite a few people are scared about is the--is this dependence, economic dependence. And, I'm sure there was something else, but I'll be open for questions.

CHAIRMAN: Is there any questions from members of the Committee?

UNIDENTIFIED SPEAKER: I think he struck at the heart of the question in the bill. I don't have any answers. (indisc.) to find out.

CHAIRMAN: Thank you, Mr. Stev ns. Do you have a question? (pause) Anyone else wants to testify?

UNIDENTIFIED SPEAKER: Mr. Chairman.

STEVE MEYER: Yeah, my name is Steve Meyer, and I'm representing myself.

CHAIRMAN: Steve, what's the last name?

MR. MEYER: Meyer. Well, I'll just toss this around a little bit. As I understand it, this limited entry is an effort to insure the economic stability of the fishermen, and I've also heard some talk about saving the fishery by doing this. It seems to me that probably one of the biggest problems is the depletion in the runs of the fish, and by limiting entry of the individual fishermen in the fishing--let's say we've got 5,000 boats fishing in Alaska today and we cut them by three-quarters. Okay, well, the gear is going to be--has been, in fact, developed over the years to make each individual boat more and more efficient. Each--for instance, your gillnetters are a lot more able today to take more fish than they were, perhaps, twenty years ago. This is the Resource Committee I'm talking to, and fish is a renewable resource, and as I see it there's being nothing done to renew this resource. And, the way I feel about this is that strictly limiting the number of fishing is like burying your head--or of fishermen is burying your heads in the sand on the issues at hand, because in a few years they're going to have to limit the number of fishermen even more than you're doing today. And, as I see it, in a certain number of years there's going to be very few people who can fish just because there aren't going to be any fish left.

CHAIRMAN: Are you ready for questions?

MR. MEYER: Yeah.

CHAIRMAN: Mr. Tillion.

MR. TILLION: There happens to be a few fisheries that aren't completed yet, such as some of our king crab schools that are now operated on the sustained yield of tonnage, where a few years ago the fishermen fished twelve months a year to fill his quota. I believe the Kodiak season was 23 days, wasn't it? This is an economic disaster. It's not that the fish--or in this particular case, the fishery hasn't been hurt. It can go on indefinitely, but what you've done is literally done is put the fishermen to the wall. There's no way to repair a half-a-million-dollar or $300,000 vessel, and this is what it takes to fish salmon. And how do you do it when more and more and more come in? How do you do it in a shrimp fishery, in a gillnet fishery that you have to keep reducing it, and still you finally have a volume of gear off the mouth of a river that a couple hours mistake on opening can mean the total disaster of the run. And, so, this is why the conservation element was brought in.

MR. MEYER: This to me, though, is false conservation because you're--okay, let's say in Southeastern Alaska they cut the present 460 licenses to 250 like, or to 300, or whatever they cut it to. This isn't going to insure against those 300 doing exactly the same thing as the 475 are doing today.

MR. TILLION: If you make it a property right. Of course, now, I wouldn't say there's any free property in Southeastern, or any illegal fishing. There probably isn't. But, if you make that license a property right, to sell when he is retired, or sell even if he doesn't want them, somehow or another in other areas where this has been done, they become very conservation

minded for some reason or other.

MR. MEYER: Well, we're salmon fishery here, and that's not the...

MR. TILLION: Oh, I think if we let this bill go to salmon only we'd be real remiss in our duty. There are lots of fisheries that are not yet in danger that should be covered. I'm talking--I realize all you saw was this bill. I believe it should probably be expanded to all fish, but...

MR. MEYER: But why attack the fishermen, rather than spend some money to put more fish out?

MR. TILLION: Only God can make a fish.

MR. MEYER: There's fishery programs going on in the world that are effective, that are putting salmon into the seas. In Canada they have a pretty good program.

CHAIRMAN: With the amount of gear we have now, we are putting quite a bit of money into rehabilitation, there's continuous increase in the program, but the amount of gear there is now there's no way that in the next hundred years we could create enough fish to satisfy the number of fishermen we have now. There's no way.

MR. TILLION: The university...

CHAIRMAN: ...all over the State.

MR. TILLION: Not with unlimited entry. The University of Alaska's study, which is four years old now, showed that if Alaska really dedicated themselves to it and didn't worry about the dollar amount it cost, they could have a fifty percent increase in salmon. And, to expect at least a sixty percent increase in fishermen in the same period, which still leaves you without a limit.

CHAIRMAN: The State won't go under lock and rehabilitate the program, like say, the State of Washington did. Spent $14 million dollars to raise $12 million worth of fish. There are other things that have to be (indisc.). Mr. (indisc.)

UNIDENTIFIED SPEAKER: I think that there are--although this bill isn't just--is mainly economical in the main thrust, but it does have a relation to biology, because, you take the (indisc.) run of fish in, like, the Haines run up here in the Chilkat River. Nobody knows how many fish is going to come in on any given year. Nobody has--well, there's indications, but nobody knows how much you will have. You have X amount of boats out there, say it's 200 boats. So, the Fish and Game says, well, given the--normally there's 500,000 dogs come in here, we can let these guys fish three days a week. Well, what if they're wrong. See, by having such a huge fleet, you can only--if you let it fish one hour too long, it may have severely hurt the run. And it gets worse and worse, whether into Canada where they've got two 12-hour periods, 24 hours out of the whole week. So if they let them fish that's even more than 12-hour periods, they might wipe out a portion of the runs. So, the size of the fleet does have a relation, you know, the biology. But this bill is aimed at more than just biology. It's the economics of trying to combine people with a living that I'm...

MR. MEYER: Yeah, well, I understand that this is aimed at economics, but I think that it's really short-sighted. That without any attempt at some sort of fisheries program, that you're not going to be any better off in ten years. Instead of 250 gillnetters, your going to have to only allow 100. Now, it

seems to me that limited entry is just taking the fishing industry and turning it into the type of--well, like farming today. A small farmer can't farm, because of mechanization. The big farmers drove him out of business. So, the same thing is going to happen here. I might--you know, at least the way I see it.

CHAIRMAN: Mr. Tillion.

MR. TILLION: I'd like to take farming. The United States has a food surplus, and the Russian Ukurain that operates it as a public resource where no man owns his own land, has never reached the 1960 production that they had under the Czar. And so, they have to buy the food from us to eat. And we now have reached the point that we have allowed our fisheries to so deteriorate, that the United States buys 70 percent of the fisheries products we use, because somebody else can produce them cheaper than we can. And, the failure of a common lease off is just like the common pastures of Old England. There was always ten sheep more in the pasture than there was grass to feed them. And that's what we have here. And though I agree with you on rehabilitation, rehabilitation without gear limitation leads nowhere.

MR. MEYER: Yeah, well, gear limitation without rehabilitation leads nowhere is probably scary(?).

MR. TILLION: ...for those that are in it.

MR. MEYER: I mean, you're going to be able to support fewer and fewer and fewer people then, obviously if no fish are put back into the streams, if no creeks are rehabilitated. And just simply limiting the number of fishermen isn't even--you know, it--it's just--it's going to help right now, and that's

about all.

CHAIRMAN: How did you reason this?

MR. MEYER: You don't.

CHAIRMAN: Mr. Eliason.

MR. ELIASON: Steve, evidently you don't buy the concept of limited gear, then?

MR. MEYER: At least not the way this--this thing is set up. I don't--I...

MR. ELIASON: What's your objection to the bill? We're not... proceeding with that bill, not with...things in general.

MR. MEYER: Well, it's a wide open bill. It doesn't state how the limitation is going to be handled, which forms of fishery are going to be affected by it. For instance, you know, I happen to be a troller, so I'm interested what's going to happen to the trollers. And, you know, I've looked at the other bill--the Senate bill, and the format that was laid down, and, you know, it gives the percentages of who catches how many fish. I want to know, and all the rest of the fishermen want to know, okay, how are you going to regulate this? You know.

MR. ELIASON: In other words, you want specific guidelines outlined in the bill so you know exactly where you stood?

MR. MEYER: Actually, I'm not--I am opposed to regulation. Yeah, I'm opposed to it, especially to this bill because it doesn't give me any idea of where I stand or where anybody else stands.

MR. ELIASON: Well, you know, as in regards to the other programs the State has, there's many of us sitting in this Committee--you can check the history of this particular Committee--that have supported time after time after time rehab bills, hatchery

bills, the whole ball of wax. And we know it will probably fit(?). But this seems to be a case of economics, and we certainly aren't going to delute our efforts in this direction. We're just trying to find another way of--they both have to be done, we realize that, and we're certainly not going to give up the--our other endeavors on trying to get more in the State.

CHAIRMAN: Mr. Hubbard (sp.).

MR. HUBBARD (sp.): I was just going to make the same comment, Steve, That it's obvious that we'd be very short-sighted if we didn't have some rehabilitation program after limiting the gear, but as was pointed out by Mr. Tillion and Chuck here, it wouldn't do any good to continue operating the way it is, because it's uneconomical for the fishermen, and there isn't going to be any fish left. And we've got to do something, and to me, this looks like a good place to start, but coupled with the rehabilitation program, we sure hope that (indisc.) can make it economical.

MR. MEYER: Yeah, well, I don't know. It's--yeah, I'd just like to see something more definite. I mean, this--this bill--all it means to me is that there's going to be a commission set up by--up there in the heavens, and they're going to tell me if I can go fishing or not when I walk in and apply for my license. I won't know until that day if I'm going to get to fish or not.

CHAIRMAN: Mr. Naughten (sp).

MR. NAUGHTEN (sp): I think this--all of us here are preaching, and I might as well come right as well come right to it. Are you saying, then, that do not pass this bill and in its place pass three location provisions? Is that what you're saying?

MR. MEYER: I would prefer seeing that, yes.

MR. NAUGHTEN (sp): In other words, you're saying do not pass this bill?

MR. MEYER: Well, I'm saying, do not pass this bill as it stands, for sure. I wouldn't want to see it passed.

MR. TILLION: Would you mind...

CHAIRMAN: Mr. Tillion, hold on, this is another one. Were you done, Mr. Naughten.

MR. NAUGHTEN: Yeah.

CHAIRMAN: (Indisc.--addressing female speaker).

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN: Then you're next, Clem.

UNIDENTIFIED SPEAKER: Mr. Meyer, I'm getting back to this economic dependence concern again, and professionalism, which is part of the concept of this bill. So, forgive me for asking these questions, cause I'm fishing for some guidelines for myself. How many months or weeks annually do you fish and where?

MR. MEYER: Oh, let's see--four or five months.

UNIDENTIFIED SPEAKER: Four or five months. I assume...

MR. MEYER: As many months as I can be out there.

UNIDENTIFIED SPEAKER: I assume you also, then, do have to take another position in the winter like most of the others who testified they do work elsewhere.

MR. MEYER: Yeah, I have enough (indisc.).

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN: Don't be disturbed. ...Tillion. Any more questions? Is that all you have? I've got a gentleman back here that wants to testify.

UNIDENTIFIED SPEAKER: Well, I'd like to agree with Steve there

on the part of the bill where he said that--well, it doesn't give the people the freedom--it takes the freedom away from the people. In other words, a person couldn't go fishing if they wanted to.

MR. TILLION: Do you argue with the fact that you could go farming if you wanted to? You don't want a few to become like farmers where you have to buy a farm to get in? It should be like farming.

UNIDENTIFIED SPEAKER: It is farming.

MR. MEYER: You have to buy a boat to get in. The point of it is, it's going to make it so you have to buy a $25,000 boat to get in.

MR. TILLION: Oh, well, don't get me wrong. I'm with you a lot on that commission. I couldn't be able to go home without being able to pin it down myself. But, do you object to the fact that a license would become a property right just like the ownership of a farm? You don't become a farmer by buying a plow. You become a farmer by buying a piece of land. And when we start farming our sea instead of hunting it...

CHAIRMAN: Please, there's someone has the floor here. We've got a lot to...

MR. TILLION: But do you object to that concept? Do you object to the concept of license ownership?

MR. MEYER: License ownership...

MR. TILLION: If you could see in this bill what it would amount to, would you object to licensed owners?

MR. MEYER: I don't know. It's--I'm not sure if I do or not.

CHAIRMAN: Okay. Thank you.

UNIDENTIFIED SPEAKER: Mr. Chairman. So that I'm not confused with (indisc.) here, I believe this witness has said to me, that if I have the ability to fish and the equipment to do it, I want to be able to do it without having some other kind of a license. I think that's what he said to me. If he didn't say that, I want to know what he means before he leaves.

MR. MEYER: Yeah, that's how I feel. And, if the whole thing is such a mess and as much chaos, you know, like I haven't been fishing for years and years and years, so that I don't have the experience. I don't know as many other fishermen, as perhaps some of the other men here know. The areas where I've seen economic failure is in seining, and in Bristol Bay they had a pretty big catastrophy in gillnetting. But in Southeastern Alaska, I can't see that the fishermen are in economic trouble. The gillnetters and the trollers. The seiners--there's so damn many of them, and they have to catch so many fish to make it, that I can see where they, you know, the average crew member make eighteen hundred bucks or so. Now that's not...

UNIDENTIFIED SPEAKER: I'm only trying to understand. I was raised a farmer boy on one of those marginal farms, but I hear it referred to like farming and the same kind of things. I can understand it a little easier.

CHAIRMAN: If there are no questions of the witness, we have someone else. Would you give your name and who you represent.

TONY GUGENBICKLER: I'm Tony Gugenbickler. I represent the Wrangell vessel owners.

CHAIRMAN: How do you spell that?

(Laughter)

UNIDENTIFIED SPEAKER: T-o-n-y. Just like it sounds.

MR. GUGGENBICKLER: G-u-double g-e-n-b-i-c-k-l-e-r.

CHAIRMAN: You don't mind if I call you Tony, do you?

MR. GUGGENBICKLER: No.

(Laughter)

MR. GUGGENBICKLER: We feel the bill passed should reflect these views among others. All fishermen should get a permit, excluding the paper license holder. And we would like to see a great deal of leniency in the infancy of this program. We would like to die-offs and quitters bring the level of permit holders down to the level sought by the Commission. And we also feel very strongly that all fisheries, present and future, and not only salmon, be limited.

CHAIRMAN: Is there any questions? Mr. Tillion.

MR. TILLION: Do you have any objections to having the commission? Some of the other people mentioned that they were afraid it would (indisc.).

MR. GUGGENBICKLER: None whatsoever.

MR. TILLION: Even if it has the power to take that license away?

MR. GUGGENBICKLER: Under this it has (indisc.).

MR. TILLION: (Indisc.) the same commission.

MR. GUGGENBICKLER: No, I believe in the commission concept.

MR. TILLION: Just so long as it doesn't have the power to take an existing license away?

MR. GUGGENBICKLER: Well, without a valid reason.

(Indisc.--simultaneous speech)

CHAIRMAN: Mr. Horton (sp).

MR. HORTON (sp): That was my same question of concern was the

commission itself (indisc.).

CHAIRMAN: Thank you.

MR. GUGGENBICKLER: Thank you.

CHAIRMAN: Who were you representing, Tony?

MR. GUGGENBICKLER: Wrangell Vessel Owners Association.

CHAIRMAN: Go ahead and give your name (indisc.) right now.

CHRIS BIRCHARD: Chris Birchard, and I'm a troller and I represent myself.

CHAIRMAN: Chris, what's the last name?

MR. BIRCHARD: Birchard. B-i-r-c-h-a-r-d. And I have two points I'd like to bring up, and one of them is this--there's quite a few trollers who make maybe $3,000 or $4,000 a year and they're happy with that. I mean, they even quit when they make $4,000, and I hate to see those people kicked out, because they don't need any more money than that to live, and they're not depleting the fisheries, and it's going to be those people that are kicked out. They're pushing out the small guy. And the guy's a small guy, cause he elects to be. And my other point is on this chart here, Alaska salmon net gear registration, current and optimum levels. So, right here is says, Units registered in 1971, drift gill nets, 475 for Southeast, and then it says, optimum units required, 250. That's a cutback of almost fifty percent, whereas the Southeastern purse seiners were cut back from 358 to 300. That's not near the percentage of the cutback in gillnetters, and it seems to me you're putting a lot more people out of a job and not catching that many more fish. Well, you're catching the same amount of fish. And, whereas, why don't they cut back the seiners a reasonable percentage.

CHAIRMAN: Mr. Gardner.

MR. GARDNER: Yeah, one thing about that piece of paper, should have never been published.

MR. BIRCHARD: Yeah, I think so.

MR. GARDNER: Because it doesn't mean anything. It doesn't have any relation to what the bill... You read the beginning section there. It doesn't say that that's what the commission's going to do. It just says that this is--some biologist drew this up, and I think there's--it just doesn't have that much relationship to what's really going to happen. That's just like saying the optimum level for legislators in the room was whatever it is, but that isn't what's going to happen. Anyone looks at one criteria that's mentioned in the bill, not three criteria. So, I know the newspapers, as good as they are, go around quoting 46 percent reduction on Alaska's fisheries. That's the only headline they know how to print, but I think people should at least read what that's all about before just looking at that and saying, that's what's going to happen, because that wasn't even projected on the basis of gear limitation, it was projected on optimum levels. It doesn't have anything to do with it.

MR. BIRCHARD: I see. Well, I hope they don't use this as a guideline, because I think it's inefficient.

CHAIRMAN: Mr. Harvey, and then Mr. Tillion. You don't have nothing?

MR. HARVEY: Chris, you mentioned that there were some fishermen that fish just a few months out of the year and make, say, $12,000, or whatever it is, and maybe not do anything else. How about--what do you think about a school teacher that makes 12, 16, 18 thousand, and that same period of time, that three or four months,

goes out and does the same thing again in fishing.

MR. BIRCHARD: Well, I'd say that's alright in a certain sense, because he has a standard of living that he likes to maintain and he wants it that way, but there's some people--like there's an old man out in Elfin Cove, and he quits fishing when he makes enough money. I mean, he loves fishing, but he doesn't want to take any more salmon out of the water than he has to to make himself happy.

MR. HARVEY: Then how about the fisherman that doesn't make it and is on welfare the rest of the time?

MR. BIRCHARD: Well, I don't think he should be eliminated either. I think he should be able to go out and look for another job. I-I'm just saying that...

CHAIRMAN: Excuse me a minute. If you want a chance to testify, would you wait your turn cause...

UNIDENTIFIED SPEAKER: I only testify when there's something that comes up that I...

CHAIRMAN: Well, I'd prefer to avoid--avoid confusion if you would take the chair when you're going to testify. To avoid confusion. Go ahead, where was we now with that.

MR. HARVEY: I'm finished. Thank you.

CHAIRMAN: Were you finished? Mr. Eliason.

MR. ELIASON: The previous witness, Mr. Guggenbickler--you heard that testimony? Do you agree with that all to give permits and exclude the paper holders, and that limitation be established by the people that die off or quit this business, and that all fisheries should be limited?

MR. BIRCHARD: That's a little closer to what I'd agree with, but

it doesn't quite cover the way I feel, no.

MR. ELIASON: Well, why--how do you feel then?

MR. BIRCHARD: Could you reiterate that again please.

MR. ELIASON: He proposed that all--everyone who had a permit now would receive one to fish in the future, and somehow or other we eliminate the paper holders. And then the way we get down to optimal levels would be for the people that either pass on or quit the business completely.

MR. BIRCHARD: Well, that seems bad to me also, because no new people can get into it and it'd be years before it got down to the optimum level that--that the harvest can sustain.

MR. ELIASON: Okay, who do we cut out then?

MR. BIRCHARD: Now, that's where the problem lies.

(Laughter)

MR. BIRCHARD: I wish I knew, but the way we're going about it, I agree for a commission but not with the power that it has, and not with the guidelines that they're going by. And I think Canada's got a lot of good ideas. They're trying to float programs and whatnot. I don't know. I don't know if we can apply their system to ours.

CHAIRMAN: It's Mr. Hubert and Mr. Tillion.

MR. HUBERT: Chris, generally speaking, I've noticed the general tone of your testimony seems to be critical, and I listened to Mr. Eliason's questions to you about cutting out the paper holders, and I note that you are a troller. Cutting out those paper holders and those non-fishermen that have got licenses and so forth, how much will this help your living in making the fishing better for you in trolling. How much more fish

will you catch when you get rid of those guys?

MR. BIRCHARD: Well, it depends on whether they get rid of me or not, because I might be subject to being exempt from the fishery.

MR. HUBERT: (Indisc.) and assuming that you're allowed to fish if these paper ho ders are taken out. Do you think that'll improve the resource?

MR. BIRCHARD: Sort of, yeah. I think limited entry by itself will help, but just not the way it's going in this bill.

MR. HUBERT: I was wondering how, in what manner, the one's that aren't fishing anyway, and not taking very many fish compared to you aren't taking very many fish, in what manner they will improve the resource. I can see that if you cut down some real high--some real high-take fishermen, and some real high-liners, and cut some of them out, I can see where's there's more left for the rest...

MR. BIRCHARD: But if they cut out a bunch of us trollers who don't catch that many fish anyway to make a living. See, our fish are higher priced, but as they cut back more of us I--I don't think that's going to improve the run at all. I mean, it won't--it won't even be negligible.

MR. HUBERT: One more question. I don't know, Chris, whether this is a fair question to you, or whether you can answer it. I can recall--I've (indisc.) Alaska 15 years but now associated with anything coastal until I came down here in the legislature. I can recall the abolishment of the fish traps which we all got busy and backed, and it seems the argument that I heard--I know when my group when to help abolish the fish traps, (indisc.) I heard was that there were an awful lot more

fishermen could make their living in Alaska. It wasn't just a few canneries getting all the fish from the traps.

MR. BIRCHARD: Well, that's just mechanization.

MR. HUBERT: Alright, but now, you tell me what kind of fisherman we should engage in in salmon that would give the maximum number of fishermen work?

MR. BIRCHARD: Well, I'd make an awful lot of enemies doing that. (Laughter)

MR. HUBERT: I just wanted to know. I recognize you...

MR. BIRCHARD: I mean, I don't want...

MR. HUBERT: ...gillnetters and the seiners and trollers...

MR. BIRCHARD: There's people who like the seiners and I don't want to push them out of business, but I was discouraged by the statistics here. I mean, it seemed unfair they were pushing an incredible amount of small men out of the business, where they were leaving in quite of the people who really take the large amount of salmon. The larger (indisc.).

CHAIRMAN: Mr. Tillion.

MR. TILLION: I think we've got--before I ask you anything, we've got some understanding of what these paper licenses are. There's two kinds. There's the kind where you can't transfer a gillnet license, so some of the big canneries to the westward have half their staff with a license, so that if a fisherman talks back to them they can just yank them off the boat and put another man on. They never really fish. It's just the power the cannery has over them, and then in the last two years with gear limitation being spoken of, you have people that have bought licenses hoping that it would be limited, a property

right would be established, and then they'll have a saleable product they only paid $25 or $30 for, that'll now be worth several thousand. So, what they're talking about is screening out these speculators, not the fishermen. But would you-- you're worried about the new entry under the proposal Tony made. Would you support one that made your license a property right and you had the privilege of selling it to the highest bidder?

MR. BIRCHARD: No, because that--it's just--yeah. I'm opposed to that.

MR. TILLION: I mean to anybody? Then you could have a new entry.

MR. BIRCHARD: I'm opposed to that, because just for that very reason that it goes up in value so much that, well, someone was saying earlier about the Indians in the outlying communities where they didn't make much money and someone's going to go in there in the middle of the winter when they were near starving to death and offer them $10,000 for their license. Well, that's kicking that guy out of his business completely.

MR. TILLION: Isn't he kind of kicking himself out of the business?

MR. BIRCHARD: Well, he's forced to do it, because--well, not absolutely forced to, but he's hard up for money, you know, in the first place, and...

MR. TILLION: Well, I can understand...

MR. BIRCHARD: ...he wouldn't be if we had a good limited entry program that worked and everybody made money.

MR. TILLION: How do you get down to the level where they get--you either have to buy the licenses away from them or you have to just die by attrition. You've got these two routes to do it. And, which one would you prefer?

MR. BIRCHARD: Well, we're going to have to find some sort of guidelines as to be able to buy the licenses from them, but--but not buy them for resale, just buy them, and, you know, just cut them off right there. That's the end of that license.

MR. TILLION: I was saying, that closes off your new entry though.

MR. BIRCHARD: Well, there should be some sort of a attrition program that will work out eventually into the people that die off. See, now, and those people will be able to get into the business.

(End of tape)

UNIDENTIFIED SPEAKER: Approximately what percentage of your income is derived from fishing--100 percent, 75 percent?

MR. BIRCHARD: 100 percent. That was my first season last year.

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN: Then, Mr. (indisc.) and Mr. Gardner will be next.

UNIDENTIFIED SPEAKER: What you're saying is that you want to be able to make a living by fishing and not be forced out?

MR. BIRCHARD: Right. That's part of it, yes.

UNIDENTIFIED SPEAKER: And you don't--you want to make just enough to sustain your standard of living, and each individual has a different standard of living.

MR. BIRCHARD: Uh-huh. Well, right, right.

CHAIRMAN: Mr. Gardner.

MR. GARDNER: Yeah. There seems to be a pattern in the way everybody looks at this bill, and first of all, do you want the guidelines--everybody said that the guidelines in here are so vague they don't know where they stand, so would like to see the guidelines more specific so that you know where you stand under this bill?

MR. BIRCHARD: There's so many conflicting specifics that we can't

even get those together, so if we could do that we'd be doing it, I'm sure. I mean, if we could lay down these guidelines I'd like to have more specifics, but no one agrees on the specifics.

MR. GARDNER: I think you tried to get one (indisc.). Because, like (indisc.) everybody's been telling they want more specific guidelines, then the second thing it says, well, Joe Blow out here is a special case and that somehow we need to include him, which, you know, you've kind of got yourself boxed in. That if you're going to have these things so specific and include everybody, then what you've accomplished nothing. You can't limit it by--if you're going to limit it that way, and so, if you--everybody's been coming up with these same arguments, and if we go along with both of them we won't have (indisc.) to fish.

MR. BIRCHARD: Right.

UNIDENTIFIED SPEAKER: One short one, gentlemen, because we seem to be a little in the confused area now. Chris, if you had your way and you had the only copy of the bill there on the table, would you try to go ahead and try to improve it now, or would you take a coat with you and throw it away. Are you for or against it as it now stands? Are you in favor of it or what?

MR. BIRCHARD: As it now stands I'm against it, but I'm for limited entry. I think we need it, because there's just too many fishermen.

UNIDENTIFIED SPEAKER: Keep working on it then.

CHAIRMAN: If there are no more questions, I am going to call a break, but before we do have a break, I want to announce that

we will work on a committee substitute, and any of you that can't be here and want a copy of it mailed to them, if you'll just leave your name and address with my secretary, my legislative assistant.

UNIDENTIFIED SPEAKER: Are you going to come back here?

CHAIRMAN: Yes, we'll come back here. Ten minute break.

(Hearing resumes)

CHAIRMAN: The Resources Committee has to leave, but we will put everything on paper and get it transcribed later so that everyone will have the information. Does anyone else wish to testify? Would you step up and give us your name.

RONALD BELANGER: My name is Ronald Belanger.

UNIDENTIFIED SPEAKER: Ronald who?

CHAIRMAN: ...tell us who you represent.

MR. BELANGER: Belanger. B-e-l-a-n-g-e-r. I represent the Petersburg Fishermen's Union. Right on the front page (sp.)--you know, the only thing I heard so far around here has been, everybody's talking about their living. I'm talking about my living now. On this thing here, right on the front page you have, oh, what is it, the second paragraph, you have right here, the last word, salmon. I happen to be a halibut head. I fish halibut and that's all, in Southeast Alaska over here. It looks like we'd be cutting it off at mid-year--150, 200 gillnetters, and well, I'm not going to go by that page, but I heard about it that it shouldn't have been there, but you're going to cut off at the mouth again. Now these guys got boats. You know what they're going to do. It takes about a thousand dollars to put halibut gear on that boat--get some line, get some

anchors, and (indisc.) and hooks and you're all set. They're going to be all over this area over here. (Indisc.) salvage one industry, you're going to kill a hell of a lot of work. That is my first complaint. Second one, we are crew members. I represent strictly crew members, men that have worked on boats for years and years. I mean, even one of your members here in the House. He's been on a boat for I don't know, it must be fifty years isn't it? So, what if he wants to buy a boat next year. How--you know, you cutting us out, just about right off. (Indisc.) They're not too worried. They bitch if they all (indisc.). That doesn't bother them. That much (indisc.). How about me? I don't intend to be a crew member all my life. Now, maybe I'm--as a crew member, we're not rich you know. I don't have a rich father. I don't have one at all. So, how am I going to come up with this license? The price you guys are talking about--$5,000, $10,000. I don't even have a boat yet. So, you're just about putting me--you know, you're going to make an old fishermen out of me. I'll be 65 years old. That's my only future. I can't go nowhere else but there. So, you take that kid who's got about, you know, two, three, four years of experience, and again, if that happens to be (indisc.). I mean, he'll be there ahead of me and get his license. I just don't go for this license whatsoever. If somebody don't want it, it reverts back to the State. And if he doesn't fish it for two or three years without no good reason, it comes back to the State, so that way they can reissue it. The State can charge me the--stick a price to it, you know, to reissue it, but that's the one point I have--

two points that I have, and that's all.

CHAIRMAN: Any questions from members of Committee?

MR. BELANGER: I would like to salmon and halibut added to this year.

CHAIRMAN: You would like to see other species of fish added into it?

MR. BELANGER: That is my point, and we--I have another one that kind of looking at me, he says he's going to talk about it little (sp.), and shrimps and crabs, and all kinds of species. But to us here in Southeast Alaska, that's really going to hurt us. (Indisc.) These gillnetters will move on us just like (indisc.), so we (indisc.) industries in Southeast.

CHAIRMAN: I can understand your concern. That's something that I think that we will take into consideration when we remark up this bill. I intend to anyway.

MR. TILLION: Yeah. It should be all the fish, there's no doubt.

MR. BELANGER: Cause I didn't like one thing you said before, Clem. You said, in the future we will add.

MR. TILLION: Oh, no. No. No. No. I agree that it has to cover, because there's species that we're not even fishing now. Why let those get over-capitalized, when we can save them by limiting it now.

CHAIRMAN: Mr. Eliason.

MR. ELIASON: All fish except halibut?

MR. BELANGER: No, salmon and halibut and shrimps and crabs and...

MR. TILLION: We've got a problem with halibut...

MR. BELANGER: No...

MR. ELIASON: Don't misinterpret what he said. You don't mean halibut at the present time. Why should we limit our gear and the Canadians come and pick up 90 percent of the quota, and you're sitting there

wondering why.

MR. BELANGER: At the same time, what's going to happen to me with 300 boats on my--you know, on our gear?

MR. TILLION: Well, you're going to get them anyway. Dick can see it already.

MR. ELIASON: At 70 cents a pound it's going to bring in twice as many boats. I don't like it either.

MR. TILLION: You might (indisc.) We might end up limiting in-shore--no in-shore licenses. We can't--I agree, we can't license, you know, cut our off-shore fleets, but we might limit our back bay fleet.

MR. ELIASON: Well, you're not talking about many boats.

MR. TILLION: That's where the gillnetters will go.

MR. ELIASON: Unfortunately, the problem is tremendous.

MR. BELANGER: I heard that (indisc.) news last week. None enforceable.

CHAIRMAN: Do you have anything else? Any more questions? Does anyone else wish to testify?

UNIDENTIFIED SPEAKER: I have a rain check.

CHAIRMAN: Would you give us your name and who you represent.

WALTER JOHNSON: I'm Walter Johnson and I'm speaking for myself. Well, the one big point that I see is the Commission--the Commissioner--I mean, the Commission will be too small. It is too small as far as I can see. I can see some possibilities that would end up hurting the fishermen with the small commission that they have, and those three appointees by the Governor could be extended by three more, voted by the fishermen...

CHAIRMAN: Pardon me. This bill has a five-man commission.

MR. JOHNSON: Huh?

CHAIRMAN: This bill has a five-man commission--this 126.

MR. JOHNSON: Oh, this 126 is--reading the Governor's bill. Also, the word is circulating around about a board of inquiry made up of fishermen and lawyers. In case a person got his permit yanked, they could have someone to appeal to. I can see the possibilities of people--now I heard two people mention adding crab. This would hurt if they did add crab at this time. This would hurt Yakutat as a community, because at this time we are in the process of trying to acquire two boats--crab boats, and if they limit the gear license, that would mean that they would give the--there's nine boats fishing out in the Gulf, and they're all West Coast fishermen. These nine boats in Yakutat, according to figures that we got, put nine--three million pounds of crab, and that's little--and it's come a little bit over a million dollars. This--if we get this loan processed and we get the boats, and they add crab to this bill, we would have the boats, we would have the finances to pay back, and no way to get the finances paid back. So, that's about all I have for right now.

CHAIRMAN: Any questions? Well, thank you, Mr. Johnson. Does anyone else wish to testify? Give us your name and who you represent.

JERRY CONSTANTINE: My name's Jerry Constantine and I'm representing Alaska Aquatic Farming Co-op.

MR. TILLION: Where? At Pelican?

JERRY CONSTANTINE: Pelican and Linden Bay.

CHAIRMAN: What's the name of your organization?

MR. CONSTANTINE: Alaska Aquatic Farming Co-op, and its a conglomerate

of a number people and a number of (indisc.), I'd say. Well, last time I came up and testified before this committee--committee at the time. Of course, I think it was about two years ago. And, I think at the time, the first thing that I said as far as limited entry, it was my belief that the probably the most effective thing we could do would be to limit the entry of outside fishermen coming in, and I guess I'm referring to people from the West Coast coming up, and since it has become pretty obvious that we can't do this without a constitutional question. So, I just want to go on record as saying a few things, and answering a few questions and then leaving. First of all, I'd have to take exception to Mr. Gardner's commission, or what he sees--pushing through the bill just to establish a commission, simply because, as far as I can see from reading over the--this paper here, there isn't any place that it says just exactly what the commission's going to do. And, I recognize the fact that some of these tables may be a little inaccurate, except for perhaps these tables that the Fish and Game's published. I just don't think that the--that the commission's the answer. Probably my strongest thing on this would be the--here is the fact that they say here that you're entitled to a hearing if your license--if you're denied a license, and my experience with hearings has always been that by the time they get around to hearing what you have to say, the fishing season is well over, and so you've missed the season. The next things that I'd like to propose that this committee investigate is the possibility of upgrading boats in some type of a loan program. Now, when we're talking about depleting the fisheries, particularly

in Southeast Alaska, I think we're talking about depleting the inside fishery, whereas we've got an outside fishery, and with all this talk about (indisc.) mile limit going on around now, I think that our outside fishery and outside waters has got a much greater potential than the inside waters do. And the next thing I'd like to propose is that this committee also investigate fish farming as a reasonable substitute to limited entry. I--unfortunately, I don't have any figures to give you as to what our findings have been on fish farming yet, since we're an infant organization, and just beginning to investigate this ourselves. But I do have these Fish and Game figures that state the number of licenses that have been issued from 1961 to '71, a ten-year period since then, and ever since statehood this limited entry idea has been kicked around and, because of that, every year it seems that there are a number of people who go and buy licenses simply because they're afraid if they don't buy them now they're not going to be able to buy one ever. I think by taking this into account, I'd kind of like to take a general look at this. Our commercial licenses from '61 to '71 jumped--the number jumped 4,867 in this ten-year period. Vessel licenses, 2,784. Drift net licenses, 1,757. Set net, 998. Purse seines, 141, and trolling licenses, 856. Now if we break this down we've got 486.7 licenses per year in this ten-year period of commercial licenses. Skipping vessel licenses down to drift nets, 175.7 per year, 99.8 per year set net licenses, 14.1 purse seine, and 85.6. Now these are totally inaccurate, I realize this, but if had a breakdown from year to year, I'm sure that these--that there'd be quite a fluctuation

here. But referring now to this Southeastern Alaska chart on page seven in this letter to Terry Miller from the Governor, it looks to me like there just really isn't that many more people fishing from 1968 to 1971. The fluctuation isn't that great, as compared to the total salmon catch. Now, 1968 I remember, was just a fantastic year for fishing, and I'm sure that everybody that was fishing then made a lot of money, but then it just started to drop off quite a bit. And, so, it just appears to me that the big problem we have here is not that there's too many fishermen, basically, but there just aren't enough fish. And, so, obviously the solution to this is to try to incorporate some type of aquatic farming of our fisheries resource, and I don't--somehow hatcheries just don't seem to do it. Now, Fish and Game--what I know of Fish and Game hatchery program so far and the plastic trays and however else they do it, the fry that they produce is usually is a pretty substandard fry, smaller than the ones are produced in the steams. What we're investigating right now is what Canada's doing, and that's dredging diversion channels using whatever means are available, and growing the fish right in their natural habitat, rather than in a plastic tray that has been proven to produce a substandard smole (sp.). And one last suggestion I have--I just don't know--I don't know if this would work or not, but if we've got to do a limited entry thing here, and if we've got to have a commission, well, I'm a little bit worried about the politics in the commission that might take place. In other words, because somebody on the commission doesn't like a guy that's applying for a license, the guy can't get a license. Perhaps we could divide up these

classes of licenses into a commercial and a subsistence commercial class license. Also, include the guy like from Elfin Cove that only wants to make $4,000 during the year and live on his boat the rest of the year. I'll entertain any questions that anybody like to ask.

MR. CHAIRMAN: Mr. Eliason.

MR. ELIASON: Jerry, do you have a commercial gear license?

MR. CONSTANTINE: No, I don't at this time. I pick eggs and I fished salmon long line for a while this summer, but I...

MR. ELIASON: Fished salmon long line?

MR. CONSTANTINE: No, halibut long line.

MR. ELIASON: This has been your experience in fishing then?

MR. CONSTANTINE: Yeah, this has been my limit.

CHAIRMAN: Any more questions by member of committee? Well, thank you.

MR. CONSTANTINE: Thank you.

CHAIRMAN: Anyone else wish to testify?

MR. ELIASON: There's a (indisc.) fish farm bill in incidently.

MR. CONSTANTINE: Oh, well we're hoping that there'll be a lot more of them, too.

CHAIRMAN: Please state your name and who you represent.

BOB BISHOP: I'm Bob Bishop, Ketchikan.

CHAIRMAN: Bishop?

MR. BISHOP: Bishop, yes. I'm representing myself at this hearing. I realize I'm not prepared to present any testimory at this hearing properly, and I'm scared to death, but I'll do the best I...

CHAIRMAN: (Indisc.)...testimony...(indisc.)

MR. BISHOP: I'll do the best I can, because I'm here on behalf of this limited entry, mainly. I represent the Southeast Alaska Gillnetters Association of Ketchikan at the UFA meetings. However, I want to make it clear that I can't speak at this time for my organization in Ketchikan or for the UFA. I like the governor's bill quite well. When we got a copy of the bill about two days before I left Ketchikan, and I haven't had too much of a chance to work on it here because we've been having meetings from almost early morning till late night every day since we've been here. I can up here with pretty severe reservations about the bill itself. I've listened to all the testimony of the governor's study group, and most of my fears have been allayed. Many voice a fear of a commission. I see nothing wrong with the commission or the makeup of the commission, and I feel that there's every need to have limited entry and a limited entry bill and it must be regulated. I feel that at both times a salaried commission can do a much better job of gathering information and putting it in its proper place in the various areas than any other possible means. The Department of Fish and Game probably could handle it, but they're probably not staffed for it, and would only represent one source of feeling. I'm a little concerned about the permits, the entry permits, the permanent ones, where they specify that more than one entry permit may be held by a person, and for different species and for different types of gear and more than one entry permit may be held for an additional administrative area. Most of this has been explained to me satisfactorily, however I see a possibility where, let's say the total number--maximum

number of allowable units of gear in the State of Alaska would be set at 5,000. There is a possibility that in time that total number of permits allowed should end up in the hands of one-third that many fishermen, which would exclude other people from making a reasonable living from the fishery, while a few got exceedingly wealthy from it. I see no reason why the fishery shouldn't support as many as possible, and if this situation here were that a few fishermen could hold a number of permits which would take the permits out of the availability of other fishermen, it would be good for the fishery and it would be good for the stocks, probably, but it would exclude quite a few fishermen from participating where they're making a reasonable living made by them. The bill is extremely non-specific, and that's where most everybody's worry seems to come in, however I feel that being non-specific it can the commission a better chance to study and make the regulations necessary to be as fair as possible and hurt as few as possible. There's only two areas I notice in it that are quite specific, and that is the salary of the commission and the penalties for a person if they violate this provision of this bill. I might say, also, that I am definitely for limited entry. I can speak that my group, who I represent, is definitely for limited entry, and generally in favor of the governor's bill. I think that's about all I can up with tonight.

CHAIRMAN: Any questions, Mr. Tillion?

MR. TILLION: Yes, we have one problem. I just wondered how you-- if you'd thought about it, of the real fulltime professional fisherman, who, on down cycle, for instance, of salmon, must

turn to some other type of fishing. You know, a man who--everything he owns is invested in the vessel and is going to be fishing twelve months a year somewhere. Now, he just about has to hold permits, even for other areas if this area's down-cycle, or else he'd have to turn to some non-fishing income to feed him.

MR. BISHOP: The solution I've been able to come up with, this one problem of one fisherman holding more than one permit, is that if this fisherman holds more than one permit--say, a fisherman in Southeastern might qualify to hold three permits, one for seining, one for gillnetting and one for trolling, which is our major form of fishing. If he held three permits he would only be entitled to fish one type of gear at a time by the Board of Fish and Game regulations, so if you took the total number of permits that this fisherman held and divided them by one-third, so that he would classify as holding one-third unit a year for each type of permit he held. Then it would not exclude other fishermen from participating in the fishery as badly as if they were counted as three different units of gear, which would come out as a total allowed for that area--that specific area. Does that answer your question?

MR. TILLION: That's a little confusing with--you know, units of gear. Usually, you know, your gillnet season and your trolling season are slightly different, and therefore, he could very well be delivering above-average on all three and be counted as only a third. This...

MR. BISHOP: Well, he would probably--if he held three permits he

could only fish one at a time.

MR. TILLION: Do your seasons overlap is what I want to know. At home I hold a seining permit and a gillnetting permit, because the two seasons don't overlap. The seining begins at the end of gillnetting season.

MR. BISHOP: Yes. Of course, that happens in our district, too. The seasons overlap, and they also run at the same time. Quite a few of the fishermen change from one form of gear to another during the season when the best fishing seems to be in one fishery or another. Now, I think the commission would have the power to solve this problem and set the maximum units of gear allowable to allow--to apply to this sort of accounting system.

CHAIRMAN: Any more questions of Mr. Bishop? Well, thank you.

MR. BISHOP: Thank you.

CHAIRMAN: Does anyone else wish to testify? State your name and who you represent.

FRANKLIN R. PETERSON: I'm Franklin R. Peterson. I'm a gillnetter and I represent myself. I am a member of the Southeast Alaska Gillnet Federation. I'd like to go on record as saying that I do support a limited gear program, and I support a time factor in that the man has to spend so much time, and rather than an economic--there's so much money being made from some other source, and this is all I've come up here for is to get on record that this is what I support.

CHAIRMAN: Any questions, Mr. Tillion?

MR. TILLION: It was a little confusing. Do you say a time or percentage year?

MR. PETERSON: Time. I'm for time and not for the percentage income. I'm for the time. If a man wants to go out and fish a hundred percent of the time and make a few thousand dollars on the side, I'm all for him, cause that's the way I do.

MR. TILLION: Yeah. I'm just wondering about on the down cycles. Do you still want to require that a man fish every year, or would you stand for some leniency so that in bad years, with the bad predictions, that he could just do something else without losing his right to come back when the predicitions are up.

MR. PETERSON: I think this is where the board could come in, and a person would have to apply for a permit if they want that forecast on something like this. I (indisc.) I'd like to ask one question. Is there--it seems to me that this is a very important bill to the fishermen, and to put ninety days on it to work all the details out seems awful short. Is there some way that licenses can be froze at this time, and then work on it. Maybe it's going to take a couple of years.

MR. TILLION: We can pass something that might serve to come close to freezing licenses, where an outright freeze would probably be unconstitutional. This is according to the Attorney General's office. We might have to freeze--pass something that says you don't issue over this number of licenses, but I agree, that this is a short time. Course, some of us have been working on it for years. Yeah, but if you leave it wide open for another year you're going to have a real problem.

MR. PETERSON: I know that. It's if the increase--there's so many more licenses, I guess, issued right now than there has been

and most of the fulltime fishermen haven't even went and got their license yet. So...

CHAIRMAN: Mr. Gotkin (sp).

MR. GOTKIN (sp.): Yeah, if the alternative to handling it fast, it seems to me that we would then have to approach this thing from a different angle, and we would have to simply do away with grandfather rights as any consideration for past entry. And, what would your reaction be to that?

MR. PETERSON: Well, past entry. If I hadn't got my license now, why I'd be out, and I've got all the investment. So, I don't know where the answer is.

CHAIRMAN: Any more questions?

UNIDENTIFIED SPEAKER: Any of the limit that we've been dealing with is mythical. It's just the mood of this session. There isn't anyone that knows how long this session is going to last.

MR. PETERSON: It has--well, after last year, I think the legislators got such a harrassment over going over that I think that they're going to be watching it pretty close, and I'd hate to take in to figure somebody'd make an irrational--you know, real quick decision on what I'm going to be living on.

CHAIRMAN: Mr. (indisc.).

UNIDENTIFIED SPEAKER: Yeah. There's many of us that can consider problems in facing the problems as they come up, and although there's pressure to have a very short session, I think most legislators will take a look at the problem areas and be responsible to the people they represent. So if you have a great concern for this particular bill and it comes down to a crunch on whether it's going to be a short session or a long

session, you ought to talk to your representative in your area and let them know your feelings about it. You know, there's no statutory limit to the end of the session, that's correct. It's just the mental problem of some people.

MR. TILLION: Oh, yes, but Chuck, you're both dreaming if you think this legislature's going to sit here. When that budget comes down, they're going to adjourn. The point is, it's going to adjourn out from under us.

CHAIRMAN: Chuck?

CHUCK: Mr. Chairman, we've spoken so much about this 90-day that now the witnesses are starting to refer to it as the 90-day limit. Well, in fact, there are no magic--ninety is the magic number, like 89 or 91.

CHAIRMAN: When I first come up here, 60 was the magic number. Mr. Hubert and Naughton (sp.) and then Eliason.

MR. HUBERT: I can understand the concern there, but there's not a 90-day limit, or something like that, but, you know, Speaker Fink says this ought to be a 75-day session. He happens to be one of the leaders now, and I would expect that this bill--we're really going to have to work on it fast and time is of the essence, but I can expect the fishermen will be the next group following Mr. Atwood of Anchorage, to ask for a session over 90 days. I don't think Mr. fisher would ask for a long session even if it was for their bill, because they haven't felt that way in the past. We'd better try to get them (indisc.) and get this thing put together.

MR. TILLION: I don't intend to miss another halibut season.

(Laughter)

CHAIRMAN: Mr. Hugow (sp.).

MR. HUGOW (sp.): While we're talking about this idea of getting this bill out this Spring, I'd like to throw the idea out in front of UFA, that if this thing isn't knocked into shape by the end of 90 days, the pressure should be put on the Governor to call the Legislature back in for a special session just to deal with this one specific bill, and you might start laying the ground work for that at home.

CHAIRMAN: Another thing with passing it at the first session, it gives the same body of legislators a chance to hear the comments and find out what's going to happen, amend it something, whatever has to be done the next year. You wait till next year and, you know, in the Resource Committee you're apt to have like we had last year, Fairbanks--or Anchorage lawyers on it, and then you don't have a hell of a lot of chance.

MR. TILLION: You only said that (indisc.).

CHAIRMAN: Mr. Eliason.

MR. ELIASON: Oh, I was just commenting on this 90-day. I don't think--the legislature didn't exactly say that, I think the people said it here about two months ago, and I think we'd better listen.

CHAIRMAN: Mr. Barker.

MR. BARKER: Well, one thing everybody is talking about--you'll notice in the bill it does say that there--everybody says it's going to take two years to figure out, or whatever time to figure out what the optimum level is, well, you notice in the bill it does say, the established interim entry permits to start with, so I wish everybody...

MR. TILLION: Well, I'd rather see them give the entry permits at established interim optimum levels so they could adjust that. I think the average fisherman is afraid--well, the testimony I've heard, you know, the one who liked the bill just as is, the rest of them were all afraid of that commission screening them out. And, I think Guggenbickler's testimony was probably the most widely held position, even though it's different than yours you'd probably say that was the most widely held position that UFA, and that was to be a little lenient, to let little people--you know, let a little more in it necessary to make sure you didn't screen the wrong man out and then if you want that license you either wait for attrition if there isn't a constitutional barrier, or buy it out if there is. And, I think that's--you know, that's what I gathered in three days of sitting down there, and I don't--they're thinning out so fast here.

CHAIRMAN: Any more questions of this witness? Give your name and who you represent.

CLANCY HINKINS: My name's Clancy Hinkins and at the present time I'm just going to talk for myself. I wouldn't--I didn't even come here with the intention of speaking, but the point was brought up and I would like to...

CHAIRMAN: Now you don't need to say you didn't come here (indisc.).

MR. HINKINS: I fish for a living and have for quite a number of years and I fish at quite a number of different things, such as shrimp, crab, herring, halibut once in a while and I troll and gillnet besides, so what you're doing is if you put all this into a--everything--all types of fish in this, you're just

going to force me to put in for all types of permits, even though economically maybe some years I don't do some of them. I just wanted to make the point. I think Clem understands what I'm getting at. So, I would be forced under this kind of conditions to ask for more than three, four, maybe five permits at the most just to cover all the things that I do have gear and have (indisc.) in the past. That was the point I wanted to make was all.

CHAIRMAN: Mr. Eliason.

MR. ELIASON: You do agree with the concept, though, of limitation of some type?

MR. HINKINS: My organization does, yes. I'll speak for them at that point.

MR. TILLION: No, I think we fully understand that. You don't want to force a man to go on a carpentry job just because you took one of his licenses away, and if it's a down season or something.

UNIDENTIFIED SPEAKER: (Indisc.)

MR. TILLION: Me, I always need a good carpenter, I'm such a lousy one.

CHAIRMAN: Anyone else who wishes to testify?

MIKE ROSE My name is Mike Rose, and I'm a member of the Southeastern...

CHAIRMAN: We don't want to be confused with Mike Rose because this is a different one.

MR. ROSE: No relation. Mike Rose and I represent the Southeastern Trollers' Association.

MR. TILLION: Couldn't you just change it.

(Laughter)

MR. ROSE: The only thing I can say for or see on this. I have one

point that was brought that was brought out to me repeatedly, and that is, if we have limited entry we want some kind of a guaranteed rehabilitation program tied into it.

MR. TILLION: You can't (indisc.) two separate subjects.

UNIDENTIFIED SPEAKER: Salmon or fishermen?

MR. ROSE: Beg your pardon?

(Laughter)

MR. ROSE: Salmon.

CHAIRMAN: We have better than your aspiration of rehabilitation as fast (indisc.) This committee has, but (indisc.).

MR. ROSE: Now, personally, I want to see some type of limited entry. I've been listening ever since we've been meeting here to all different ideas, and I don't know exactly--can't make any definite recommendations, but I do feel this way. I want to see the professional fisherman be the one that remains, and we've argued and argued and argued in the UFA and we can't come to any definite definition of economic dependence on (indisc.) fishery.

UNIDENTIFIED SPEAKER: What do you define as professional? How do you define professional?

MR. ROSE: This is my idea of a professional. It is a man that fishes the whole season, starts the opening day of the season and he's still fishing at the end of season.

UNIDENTIFIED SPEAKER: Okay, go all the way to Brazil? I know there's different fisheries from--all the way from salmon all the way to tuna and all that.

MR. ROSE: Salmon fishermen. I'll qualify that if you want.

UNIDENTIFIED SPEAKER: No, I mean. I'm having difficulty with your

my right to be able to go fishing, and I don't want to be kicked out. And that's about all I have.

CHAIRMAN: Any more questions? Mr. Naughton (sp).

MR. NAUGHTON (sp): Well, if we accept the concept of professional fisherman as you had said, then you'd have no real worry about being kicked out.

MR. ROSE: I don't feel that I would, that's right.

MR. NAUGHTON (sp): Given that we're trying to take out some of the school teachers and State employees who are sports commercial, but they fish every night, and they land a few fish every day. Wouldn't we run into problems trying to weed them out with that definition?

MR. ROSE: Yes, I--we very definitely would, but there again, if we did have a commission, why, I believe they could establish definite guidelines that we could go on.

MR. NAUGHTON (sp): Are you saying that you don't want two--one guy being in two professions, being a professional fisherman.

MR ROSE: I can't say that because I am. I do. I have outside investments, and I would actually be classified as being in two professions at once. So I feel that we'll have to put some kind of a--how much time a guy spends working at the fishery. Some kind of a clause in there. I don't know what it would be.

MR. TILLION: Yeah, this is a roughy, because where I come from a professional fisherman is a man who starts on January 1 and quits on December 31st. And he might fish different species every year for a number of years, whatever happens to be the best market. But he is a professional fisherman. It's his only

definition of professional fisherman. Do you get on a boat and do you go from one type of fishery to another, and finally end up off the shore--coastline of Chili and stuff like that?

MR. ROSE: A Southeastern professional fisherman would fish the total salmon season.

MR. TILLION: What he's saying is total by species, I think, Chuck. That a professional salmon fisherman fishes it from the beginning to the end. This is a little confusing, because you have a lot of professional fishermen that would take a look at the price of crab and the fact that you aren't expecting a big run, and he's still a professional fisherman--he'd fish crab that year.

MR. ROSE: Yes, that's right.

MR. TILLION: And you can't penalize him.

MR. ROSE: But he puts in as much of the season as he possibly can in his area. I realize that we have guys that troll and at the end of the trolling season they go tuna fishing or they switch over. Personally, this year I fished halibut half the season and I fished black cod late into the season.

UNIDENTIFIED SPEAKER: So your definition of professional fisherman, if he'd fish within his own area for the maximum amount of time, he could?

MR. TILLION: That would cover you, Chuck.

UNIDENTIFIED SPEAKER: I just wanted to know what his definition...

MR. ROSE: My worry on this dependence upon a fishery, and this is my own case. I do fish the whole season. I put in as much time as I can and on my other investments, I make more money than I do fishing. At the same time, I feel like that's--that's

way of life. And there is always the worry that you would say, well he has to fish three years in a row. We have seven bad predictions for Bristol Bay. That man wouldn't think of going to Bristol Bay until probably seven years from now. Do you wish to take that right away from him, you know. And this is some of the problems that we face.

MR. ROSE: Yes, that's right. There's definitely problems, but at the same time we have to use something of this nature as a guideline because we can't have a guy--poor old schoolteacher keeps catching it in the neck...

(End of one side of tape)

CHAIRMAN: (Indisc.) who do you represent?

UNIDENTIFIED SPEAKER: I'm going to repeat Mike. I'm with SETA but I'll speak for myself. But, somehow I hope that fish and fish rehabilitation come hand in hand. I'll stand on that.

UNIDENTIFIED SPEAKER II: Did Mr. Tillion take off?

CHAIRMAN: Oh, he'll be back. He takes a...

UNIDENTIFIED SPEAKER II: Good, I can say...

CHAIRMAN: (Indisc.) ten, twelve years up here, he's still here.

UNIDENTIFIED SPEAKER I: Possibly I'm wrong on this professionalism, but I think I can be established merely by fish tickets. You could--a man could show his fish tickets, and if he was crab fishing or shrimp fishing or, I don't know, somebody smarter than I would have to figure it out. But, if he was fishing tuna off of California or--I don't know if that would figure in or not, but somehow or another I hoped that the--this bill can establish professionalism. I think that's important. I haven't got all the answers. I all answer any that I can, or try to.

CHAIRMAN: Mr. Hubert.

MR. HUBERT: Mr. Chairman, I was highly concerned that basically what we've--though we may say it's unconstitutional, what we hoped to do with limited entry was to discourage outside fishermen from fishing in Alaska. We'd like to save Alaska for Alaskans, for Alaskan fishermen. We'd like to, but we can't say it. And, I worry an awful lot--in fact, I care nothing, personally, for the professional fisherman who fishes tuna and fishes off San Diego and fishes out of Seattle, and then he fishes Alaska, too. I'd like some way to keep him home. I know they can't do it constitutionally, but one reason that the people in my area are not very interested, and I say this to every fisherman in this room, are not very interested in spending State money to rehabilitate the fishery, and I'm not saying what I think, but what they think. They say, well, we hear in the paper every day that the Japanese take all the fish, and the fisherman comes from the states and gets all the fish, and we don't like to spend our money to rehabilitate a fishery for outside interests. And, the hardest thing to talk to them--get them to say--to realize that the fish is still one of the greatest resources in Alaska. It's just exactly that. I think a professional man, if he isn't an Alaskan, I'd like to find a way to let him stay home, but I know I can't do it.

UNIDENTIFIED SPEAKER 1: The way it's been explained to me, is that you're right. We can't discriminate against down south--not that I'm for them, don't get that idea, but I don't know what you can do about it.

MR. HUBERT: If I may. Just one moment, if I may. I'm also told that, well, now look, Mr. Hubert, an awful lot of our good Alaskans are the best highlighter fishermen, have moved to Seattle. And they go out there for the winter, they vote in Seattle, they live in Seattle, they pay their taxes in Seattle, but they were old time Alaskans. And again, my heart doesn't bleed. The minute the man moves to Seattle and decides he wants to be a voting resident in Seattle, and left Alaska, I don't care if he was a 50-year-old or a 50-year resident from here, my heart doesn't bleed for him anymore when he decides that the pastures were better there and he just wants to come back and skim the creek.

UNIDENTIFIED SPEAKER I: I think the statistics--I wish I could just (indisc.) to you, but the percentage of resident fishermen has been raising. I don't know that's an answer, but that--the trend has been the other way around. The trend, that is.

MR. HUBERT: Thank you.

CHAIRMAN: Mr. Guy (sp).

MR. GUY (sp): Mr. Chairman, a question that you've been talking of of fish tickets. You seem to have a some idea in this area. Could you elaborate on it?

UNIDENTIFIED SPEAKER I: I don't understand the question. I mean, as far as proof of participation?

MR. GUY (sp): Whatever you were getting at. I didn't quite...

UNIDENTIFIED SPEAKER I: Well, every time a man sells he get a fish ticket. The date, the amount and the type of fish and the whole works. A fish ticket. And I think that could be used as proof of participation. Is that...

CHAIRMAN: Mr. Eliason.

MR. ELIASON: Victor, you never say anything about this commission. Do you share the same concern that others do in regards to the power of this commission, and would you like more guidelines on what they can do and what they can't do?

UNIDENTIFIED SPEAKER I: Definitely. I--did I say I'm for limited entry, personally? Well, I'd rather see the governor's bill go through like it is than not at all, but I'd rather see this improved. And I think it can be.

CHAIRMAN: Anyone else? Is that all you have? Mr. Naughton (sp).

MR. NAUGHTON (sp): On the commission--I don't know whether anybody else sees it this way, but when I look at the commission I see a chance for us to be pretty arbitrary in cutting out the outside fishermen--the stateside fishermen, and if we don't let the commission have a--you know, quite a wide scope, an awful lot of authority, we're going to defeat ourselves in that area, and when you get down to guidelines for that commission I would hate for us to lock them in so tight that they can't get arbitrary. See, if all we do is limit the number of people fishing and we don't weed out that outside penetration that we have I would consider this bill a favor.

UNIDENTIFIED SPEAKER I: How do you answer that?

MR. NAUGHTON (sp): Well, what I'm saying, I think, is that that commission is going to have to have a lot of arbitrary authority, and (indisc.)

(Simultaneous speech)

CHAIRMAN: Any more questions?

MR. HUBERT: Ted brought one up there that I just might try it. It

is kind of a question to this witness. In your fishing experience, let's say that we have this little bit of arbitrary power on the part of the commission and they cut out--in cutting this down they decide to cut out some very big stateside interests, good big boats and good equipment. From knowing and associating with some of these type of fishermen and stuff, what do you think would happen? Do you think they would be successful right away or do you think they would have some means of hollering foul and getting a court decision, getting a court staying order that will allow all these guys to be here anyway. What is your feeling on it.

UNIDENTIFIED SPEAKER I: Well, I don't know if this is going to answer what you say. Possibly. But, I'm thinking of a different aspect--the same thing. But, for instance, myself, last winter. I crab fished all winter long. I crewed on boat. I'm a vessel owner and a fisherman, but I consider myself to be a professional fisherman and 100 percent of my money comes from fishing. Okay, and our season closes theoretically in September. I fished right up until September, then after that I went into a different type of fishery. It was--I didn't make a nickel at it. I was bottom fishing. It was experimental, but I was fishing, and I had a couple of fish tickets. In the--I went crab fishing in December working on a boat. Okay, I'm going to go fishing just as soon as I get out of this mess.

(Laughter)

UNIDENTIFIED SPEAKER I: Okay. I hadn't even thought of it before, but speaking of the stateside fisherman, I can only speak for one group, and that's trollers. And, the average troller leaves

Seattle April 1st, 10th, 15th. The--there's a lot of guys, I'm not--a lot of the gillnetters in that fisheries, and they don't even have this. Well, they do, too. I know a lot of net fishermen--I'm speaking of Hoonah guys and stuff like that, that in the winter time they've got a skiff and they go out and sport fish. These are professional fishermen, and when the--myself, I'm at it off and on the year round, one way and another. Well, I think--well, back to what I was going to say. The Seattle fisherman leaves April 1st, 10th, 15th. He catches his first fish in May 1st. He's afraid of the equinox storms around September. Fishing's slow in the Fall. He goes down the first of September. Well, he--I think that using that as a criteria would have a tendency to destroy the out-of-state fisheries. I don't know. There'd have to be somebody smarter that I make a study or something on it. I don't know. Did that--is that a good enough answer?

MR. HUBERT: I think so. I get some of--more of the feeling about it.

MR. ELIASON: Something I'd like to clear up. When comes to fisheries, Dexter, there's nobody smarter than a fisherman.

(Laughter)

MR. HUBERT: Well, Mr. Chairman.

CHAIRMAN: Yes.

MR. HUBERT: What they don't know is that I'm a fulltime fisherman, too, only I'm amateur, not professional.

(Laughter)

CHAIRMAN: Any more questions? Well, thank you. Anyone else wish to--yeah, would you step forward and give your name and who you represent.

JOHN PASQUAN: I am John Pasquan and a gillnetter.

CHAIRMAN: Pasquan?

MR. PASQUAN: Yeah. P-a-s-q-u-a-n. I wish to say I'm against the governor's bill as is. I don't think it's necessary. I don't think we--the voters voted to reduce the fishing fleet. I think they voted for limited entry. I did. I don't like the commission. I think the money could be better spent in rehabilitation, and I think the fishing industry's going to be in an uproar for the next four or five years, until this is settled. And, I think there will be a court case, but we don't know, but I suppose there will be. I don't believe we should try to freeze out the outside fishermen, I think we should have them come back to Alaska. There are a lot of investments there, considerable investments, too, and effort. And, I do not like the arbitrary power to the commission to--at their whim, you might say, to tell anyone he should go fishing at any time in the future. I don't think I have any more. This (indisc.) been elaborated on.

CHAIRMAN: Mr. Eliason and then Mr. Gardner.

MR ELIASON: Mr. Pasquan, this is an interesting development. You're not at all interested in keeping outside fishermen out if there--if you could legally do it?

MR. PASQUAN: I have a lot of friends in the outside fishery, and I understand their position. I'd rather see them be Alaskans and compete like--even to the rest of us. My argument against the outside fishermen is their--they've got a built-in edge. They--their costs are 25 percent less. Probably the maintenance on the boat is down more than that. We're just not competing evenly. This bill, as I see it, is going to force the Alaskans

to leave Alaska for the simple reason that even in the next two years we--I don't see how a fisherman can dare compete by going out and getting another job. He can't--we're in competition with each other. We're on a priority list, and if it's a poor season we don't have anything prophesies of gloom and doom in this area, and if we don't make it can I afford to go out and work and make another income and more income, and the next man sits tight? He's got to be at an advantage.

MR. ELIASON: Well, we're you saying you want these southside fishermen to come to Alaska and fish and stay here? Is that what you meant?

MR. PASQUAN: Yes, definitely. I'd rather--I'd like to see them winterly residents.

MR. ELIASON: Well, I don't disagree with that concept at all.

MR. PASQUAN: Speaking of--I have one more question. We say that we are getting more and more residents every year and I think it's possible we are getting more resident licenses, not necessarily residents. I think that the--that a resident is more or less a wintering resident, but our residency laws are quite lax.

CHAIRMAN: Mr. Gardner's next.

MR. GARDNER: Yeah, you said that you were for limited entry, but not for cutting anybody out. You mean just for some ty attrition policy?

MR. PASQUAN: Yes, I--I think I can see some methods of re icing the fisheries to optional methods. I don't see why we have to take half of the fishermen or a quarter or any amount for any reason and just throw them out of the fishery. I--in Juneau we have a large commercial sport fishing fleet, that's what they call

it and many of them are my friends. It's a way of life with them. I don't see why this way of life should be thrown out. They take so few fish it makes no difference as far as I'm concerned.

MR. GARDNER: You're talking about Southeast now. Do you think what is happening in Southeast and more or less what you're saying would be the proposed solution for it is comparable to what the Bristol Bay problem is there?

MR. PASQUAN: I have difficulty with Bristol Bay because we're trying to make a living for people in a three-week fishery, and three or four weeks--I just don't see where that applies to the rest of the State. One man talks about year around, the other man six months. In general, some years you can't get out of Juneau with a small boat. It's very difficult, and I don't see where the problems are applicable in the State's--I understand the problem in Bristol Bay, but I don't see how we can settle everything the same on the same bill.

MR. GARDNER: That why I guess I understood the theory of the commission was that they would treat each area separately, you know, each administrative area. Southeast--the solution for Southeast wouldn't necessarily be the same as Bristol Bay, and so I understood that was the reason for having the commission so that they could be solved separately, but I--it seems that now you're saying that you would rather see one standard for the whole State, and I don't see how that can solve the problem in Bristol Bay and at the same time solve the problem here.

MR. PASQUAN: I do not see where it is equitable to throw a participating fisherman, with a substantial investment, out of the fishery. I don't know what the Bristol Bay problems are, but I understand

they're most just fishermen, they're not boat owners or operators. I don't even know if they own their own gear. There's not much of an investment there, and there may be some method to handle that.

CHAIRMAN: Well, most of the Bristol Bay fishermen do own their own boats. Their investment's roughly, you know, the peak investment's probably twenty, twenty-five thousand. It's not as many as it was (indisc.).

MR. PASQUAN: Is this non-resident also?

CHAIRMAN: Yes. Mr. Hubert.

MR. HUBERT: I wanted to take one particular part of your testimony (indisc.). You weren't against the outside fisherman. It bothered me a little. How do you feel about them not paying taxes in Alaska?

MR. PASQUAN: Well, I resent it greatly. I'd rather see them Alaskan residents. Of course, I believe they pay their State income tax. I'm sure the better fishermen do.

MR. HUBERT: They don't pay ours. They get a court case that keeps them from being--from having to. They don't have to pay out-of-state income tax. That's what I was talking about. They won a court case.

CHAIRMAN: Yeah, that's the ones that don't land in Alaska, the ones that (indisc.) shore.

MR. PASQUAN: I understood they all paid income tax on income earned here.

CHAIRMAN: Are you done, Joe? Mr. Parker.

MR. PARKER: Mr. Chairman. Mr. Pasquan, do you think the Southeast fishery is in danger from overfishing?

MR. PASQUAN: With unlimited entry, yes. In the present situation, no. I believe that the management can still handle the problems. We speak of a few hours, or we've been spoken of a few hours either way could destroy a fishery, and I don't see that at all.

MR. PARKER: What do you think of the idea of--of having a fisherman being able to fish every day of the season?

MR. PASQUAN: Given a viable industry, I'd say fine.

MR. PARKER: Whereby given the present Southeast fishery.

MR. PASQUAN: And this is a criteria of staying in the fishery.

MR. PARKER: I'm wondering, do you think that would be an ideal for the fishery in Southeast? That a fisherman should be able to fish every day.

MR. PASQUAN: Oh, you mean every day of the week?

MR. PARKER: Every day of the fishing season.

MR. PASQUAN: Well, the gillnet season--the gillnet fishery is right now--I mean, speaking of, it'd be impossible. We fish three days, that's 72 hours, we fish 72 hours, the successful fisherman. There's no other way. He couldn't do that for six, seven days. I don't know what would happen, but surely something would happen. Of course, they'd have to put some of them--but there'd be a few of the tougher ones fishing seven days. It'd be quite difficult.

MR. PARKER: So, as it all adds up to you, the present situation is working out to be what? The fishery's not in great danger, fish three days and have as many fishermen as there were last year, say, and again you think that's a good way to handle the fish resource in Southeast?

MR. PASQUAN: No, I think it would be advisable to institute some

kind of reduction in the fishery, but not a forced reduction. I think it should be optional. To normal attrition, I think the problem is legality. I think that with unlimited entry the fisheries will definitely be endangered. Of course, we have management and maybe we're going down--maybe we're fishing 200 fathoms now, maybe we'd get down to 50 fathoms of net. This wouldn't endanger the fishery as such. Maybe the gillnetter or the fisherman, yes. I don't think it's advisable at all.

CHAIRMAN: Mr. Naughton.

MR. NAUGHTON: How much have you invested in fishing? What was your capital investment?

MR. PASQUAN: I would say roughly $30,000, maybe more.

MR. NAUGHTON: Uh-huh. Have you ever appeared before the Fish and Game Board or the advisory board for the Fish and Game...

MR. PASQUAN: Oh, yes.

MR. NAUGHTON: ...and testified?

MR. PASQUAN: Yes.

MR. NAUGHTON: Have you ever testified asking them to reduce the time period that you could fish?

MR. PASQUAN: No.

MR. NAUGHTON: Have you ever asked them to expand the time period that you could fish?

MR. PASQUAN: Yes.

MR. NAUGHTON: Well, see, that's the problem, is that you're faced with that $30,000 investment, and so you're putting pressure on the management board to increase the pressure on the resource.

MR. PASQUAN: I will qualify that statement, please. I did not ask for more time. I don't believe I have asked for more time. I

have asked for more area. I believe the gillnetter is discriminated against, and...

MR. NAUGHTON: You know, I'll just make my question a little bit broader and ask, have you ever asked for anything that would increase the pressure on the resource, so that you can meet your payments and make your living?

MR. PASQUAN: I do not think I did. I asked for a little more share of the resource.

(Laughter)

MR. NAUGHTON: But you see, I took that to mean that you asked for--because if it's good for you, then everybody else has to have the same larger slice of the resource which puts the pressure on the resource. Do you follow?

MR. PASQUAN: Yes, but I was going to take it away from the purse seiner.

(Laughter)

MR. PASQUAN: I understand what you're driving at, but this is...

MR. NAUGHTON: But you can see what I'm getting at, though. That if we don't find some way to limit the amount of capital that the fishermen have, and when I say fishermen it's plural, it's the total capitalization of the fishing fleet, which of course, generates the pressure for more exploitation of the resource in order to meet the payments and the living standards, or the income you need for your living standard and such. And given that, are you still opposed to the concept of limited entry?

MR. PASQUAN: I haven't been--I regret it. I think that limited entry isn't--it isn't fair. We know that, but I think it is necessary. I--when I speak of limited entry, this is people--there's not

unrestricted entry to the fishermen. I mean, there will be no more entry as such, or increased entry. I am against reduction in the fishing effort, or in fishing. Let's put it this way, participating fishermen, that is. And I think it should be reduced. It would be advisable to reduce it with some more equitable method, such as the fishing, maybe a buy back. I don't know. I'm a little afraid of buy back.

MR. NAUGHTON: Well, then what--what I read you saying then is that you would in essence simply freeze the number of licenses we have out right now at approximately the level they are. You're saying that we should freeze the number of licenses we have. No more licenses would be issued. They would be issued to the same people or different people, but no greater number than we have today.

MR. PASQUAN: Definitely it would be a stipulation that the only--those partipating fishermen or with substantial investments, would be allowed an entry permit as of December 31st of '72. I see no hardship on a man that held a license and not used it, unless he has--I know there's people that have invested in boats and gear in the last five months or so and I can see where they've got a problem. I think attrition would take care of this problem. It may take a while, granted it will take time. We don't know why--maybe ten years we'd get an adequate level of fishing effort. I--I do not like the idea of transferring licenses or selling them. I just think you're prolonging a problem, unless you throw all the fishermen out, or half of them. And as far as one man holding a permit and another man not being allowed to, maybe it's the same justification--maybe one man holding two--I don't understand that at all.

MR. NAUGHTON: Well, he'd be holding two permits, but only one for a particular type of gear on a particular species of fish.

MR. PASQUAN: I'm pretty dumb, but I think you get that out of the bill. I...

MR. NAUGHTON: Oh, well, this isn't written into the bill yet. This is--was in the concepts. We haven't written in.

MR. PASQUAN: Well, our organization has been through this, and, of course, everyone hopes that it will be amended, or it seemed to be, and--but all we can judge on now is what is in the bill as it is, that I can see.

MR. NAUGHTON: When reduced down to about as far as I can get it, then your message to us is that this bill is going to have to be amended before it would be acceptable to you?

MR. PASQUAN: Definitely. Greatly amended.

CHAIRMAN: Mr. Dayton.

MR. DAYTON: In past years they eliminated an efficient way of getting fish, and that was the fish traps, from what I understand. And would you favor that type of limited entry where you throw out some specific type of gear in order to save the fish?

MR. PASQUAN: You want an opinion? I feel the purse seine fishery is doing this (indisc.) Alaska as it is now. They're at low level to gain. They have huge investments. Unless the fishery--unless the purse seine fishery is changed, I think this is going to come about. I--they're taking 80 percent of the fish. Their probably their percentage of profit is the lowest. Right now it's just talking--I don't have the figures. I haven't figured it out. I assume it is, and I think that this is going to force them out of the fishery unless there's a major

such as this--stopping everyone else from fishing and allowing the seiner to continue at reasonable--at this level. Of course, this--I understand these figures are arbitrary, but we have these figures pointing at maybe twenty seiners or so eliminated as against 150 to 200 gillnetters. They take 80 percent of the fish.

CHAIRMAN: Are you done Mr. Dayton?

MR. HUBERT: Can somebody tell me, give me the present (indisc.) I've been wondering about this, because I've heard the argument for year. As a matter of curiosity. You mentioned the ratio between the gillnetters and the seiners in relation to the number of fish they take. Could that also be expanded by somebody who's coerced by some idea about...

UNIDENTIFIED SPEAKER: I think that to get into the controversy between gillnetters and seiners wouldn't serve any purpose. I'll explain it to you in the (indisc.) one of these days. I'll tell you all about it.

MR. HUBERT: I've spent two years here listening to the under currents and the over currents, too, of the gillnetters the setnetters, the seiners, the trollers, but I wonder if anyone knows actually--and I'm not trying to start a controversy--what the ratio is, and the amount of fish they take. I want a ratio of the other.

CHAIRMAN: There's some of these people here might get, but I can't right off the top. Can you give that to Jim? Yeah, well...

UNIDENTIFIED: ...roughly 80 percent or so of these 15 seiners and gillnetters, and some years go up 12 percent, some years 6 percent, and somewhere along the line it was 6 percent. I don't know, they've probably got it written down there. I mean... You got it?

UNIDENTIFIED SPEAKER: Rich, do you have any of those figures with you?

CHAIRMAN: Yes, for Southeast (indisc.) right now. (Indisc.)

RICH: In 1971, Southeast Alaska (indisc.) 81 percent of the catch, drift net, gillnet 12 percent, the troll fleet (indisc.) six percent.

CHAIRMAN: Any more questions from members of the Committee? Some of the committee members had to leave. We are putting everything on tape. They have other commitments and everything else. Go ahead, John.

MR. PASQUAN: Can I make one more statement? I wouldn't want to be in the position of favoring the abolition of seining or anything like that. I just--I pointed out an opinion I have.

CHAIRMAN: I understand. Any more questions? Thank you.

MR. PASQUAN: Thank you.

CHAIRMAN: Would you step up and give us your name and who you represent.

LEONARD LEESE: Leonard Leese, Ketchikan. I'm representing myself. I heard this point about professional fishermen, or professionalism, to be brought into this. And, I want to make just primarily a point on this. I am in favor of gear--or not gear limitation, but limited entry. Primarily, I'm talking about Southeast Alaska, now, and the gillnet fishery. There they have a fishing season that starts approximately, say, June 18th and it's runs through primarily October. We have fishing weeks that will start on a Sunday opening and run four days a week. And, so, these part-time fishermen that you're hearing so much about, what happens, is these guys--there'll maybe be a peak of the season. They will just hit the peak of the season. Maybe that's two weeks of the

season, where the professional guys that are deriving their income out of the fishery, primarily will be there the full season. The second point I'd like to make is, on the first day of the fishery, 50 percent of our fish are caught. And so this more or less shows you that we have too many boats if we catch 50 percent of the fish during a period on the first day. These part-timers, that aren't necessarily dependent on the fishery, they don't have to come up with their living off of the fishery because they have--they're school teacher or whatever they happen to be. They'll come and fish just the first day, and after the first day where they've caught 50 percent of the catchable fish, they'll go home the rest of the week. And, you know, do whatever else they want to do. And, actually, the guy who is fishing and making his living off--his entire living off this or even--it may not be his entire living, but he is making the primary part of living off this, will have to stay there the rest of the week to fish. And that was the main point I wanted to make.

CHAIRMAN: Any questions from members of the Committee?

UNIDENTIFIED SPEAKER: Mr. Chairman. Basically, then you're saying that possibly these people should be eliminated from the fishery?

MR. LEESE: Well, I, personally, would like to see them eliminated. I feel they got--I--constitutionally they have a right there, I guess. A lot of them have some--I mean, they have some pretty big investments in the fishery, maybe even more than I do, and--but, really these guys they're just reaping the cream right off the very, very top, and by them doing this they might catch the two biggest weeks of the season, and the guy who's been out there

all season, you know, they really bring his standard of living down from doing that. And this is partially the reason our fishery's is in the bad source it is by--you know, we have too many guys and there's too many people just doing this. If we could knock those guys that just primarily come down there for that two weeks of the peak year season and could get them out of the fishery somehow, the fishery could stand more people. I mean, not more people, but more people than if we left them there. Do you understand what I'm trying to say? I probably confused you there.

UNIDENTIFIED SPEAKER: As I understand what you're saying is, the man that depends on the fishery for an income should be granted a higher priority than the man that doesn't.

MR. LEESE: Oh, yes, I believe that. The main thing I wanted to do was see in this bill that there could be something in there about the participation. We've heard that a lot. And I just want it made clarified what some of these guys are saying about fishing your pole throughout the fishery, because in the gillnet fishery, like I mentioned when it started, I think if a man fishes through that season, even though he may not be as a high line a fisherman as one person or another, is he's participating and doing the best he can, he should be allowed to stay in the fishery. Although, this guy that comes down there for two weeks, he may be the biggest high liner there is, and make more money than that poor guy that puts his full season in there, but I think the one that stays in the fishery for the full season, and is the professional, he should stay in.

UNIDENTIFIED SPEAKER: And, so, the determination should be made

by participation in the fishery and not economic dependence on it.

MR. LEESE: Basically, yes. Cau- that economic dependence is going to get out of hand. You know, it can really be intrepreted a lot of different ways. An- I more or less feel that a board--well, commission is the only one that can really evaluate this, and get the true meaning out of it. You know, whether a guy just fishing two weeks out of the period or one day out of the fishing period, or what. Like they mentioned, the fishing--fish tickets--it very--it's the fact they're easy to get. I mean, it's--it doesn't cost a lot of money to get a hold of those fish tickets and you can analyze it very easily. And I believe, if there was a study made, you would see the amount of boats in the fishery on the first day, by the last day there'd be only half the boats in the fishery. There wouldn't be half the boats, but it's be a tremendous number--a decline from the first day of the period to the last day of the period. And you can tell--and the period, I mean, throughout the season, the peak weeks there'd be a tremendous amount of fishing effort on the peak weeks rather than at the first of the season or the last of the season. Now this is partially from guys that troll and gillnet and halibut, they're making the right decision and they're on top of it there, and so--I mean, you'd have to realize that, but that's more or less the point I wanted to make.

CHAIRMAN: Any questions by any more members?

MR. LEESE: Thank you.

CHAIRMAN: Thank you. Anyone else wish to testify? State your name and who you represent.

DAN GARROUTTE: My name is Dan Garroutte. I'm from Ninilchik. I

represent myself only.

CHAIRMAN: What's your--what's that last name? It's almost like Tony's, only it's...

MR. GARROUTTE: Garroutte. G-a-r-r-o-u-t-t-e. I came down here mostly to learn about this entry bill. It's got most of shook up, and I think I it has most of the people that fish, whether they depend on it exclusively for a livelihood or just fish commercially, or intend to fish commercially. And like I say, I wasn't going to testify, but there are two or three points that kinda got hackles up, which always happens. I'm like Clancy. But, I came here with the intention of learning something about it, and the study group was appointed to look into this. They did a pretty good job and I'm really impressed with what they have to say, and I think should have a few people. I don't know if they presented their side like they did to us or not, but it's real good and I've had a little bit of change of mind. I was against the commission type concept at first, and I still am to a certain extent. I think maybe a five-man board, or commission would be more appropriate, but being's as this is about commercial fishing, I think is should weight--be weighted in favored of commercial fishing. It should be a concern to us only. Just a concern, gentlemen, just concerns of commercial fishing. So, I think maybe we should... Maybe a weighed choice there. And I (indisc.) entry, and I'm also for cutback in gear, and, of course, I feel that if anybody's damaged from this cutback they should be compensated, but those holding paper license should not be. And, I realize we're going to have to pay for it. And, maybe the commission could be enforced only long enough to

establish the rules. Once these rules are established, this is just my own idea, maybe it could be eliminated. I don't see any need for running a commission indefinitely. But, maybe... and I think this fish farming that Mr. Allison had real good help to rehab--I mean, quite seriously, it would. I believe it should be allowed for the commercial fisheries as long as--up to a certain point. Now, I think if a man establishes a fish farm he should have some protection. He should have maybe like an area where some places you have to stay a mile away from the rivers, others 500 yards. I think if a man has this fish farm, I think he should have to stay this--get the same privileges a spawning stream with natural (indisc.) fish. And, I noticed the Legislature's a little bit sensitive to this 90-day reference that's made every so often. I heard a reference here and that's what got my hackles up, about potential clean-out of a fishery in five days. To me that's kind of (indisc.) with me. I fish Cook Inlet, and I would like to explain my reason for thinking we need a limited entry and that's one of them. This reference to--if you make a calculation for five hours you potentially clean out the run. I see that aimed at us directly because of that fiasco two years ago. But let me tell you my side of that story. In the Susitna River, which is the biggest branch of the Cook Inlet, the Fish and Game had a monitoring device in there that is a fish wheel. They're not intended to catch an awful lot of fish, it's just to monitor the run and see how they compare from year to year. On a normal year they catch about 1,200 fish in that fish wheel. In 1971 they caught 1,800 in one day. That's why I'm sensitive to this river. I think

it's aimed at us, maybe not. So, we got the low pack that year, but there was a lot of fish, and they were afraid to open it. Maybe that was one of the man's fears, I don't know. It could be. He was afraid that amount of gear could clean him out, although it was a bigger run than he estimated. (Indisc.)

CHAIRMAN: (Indisc.). Any questions, Mr. Gardner?

MR. GARDNER: Wouldn't you agree, though, that the larger your fleet gets, the more riskier it is landing the fish, because you don't know what will happen?

MR. GARROUTTE: Well, I think there's two or three thoughts of what happened there. Well, I know, still aimed at the same direction. That's a typical example. That's true. A lot of people are afraid of that and, not only are there larger fleets, but the fleets are much more efficient now. I've been fishing quite a number of years and I know my gear is much more efficient now with the same amount of effort than it was several years ago. So, I think we need to cut down gear. And I believe these ghost license is only going to stop new ones from coming in. I think you need more than to knock those out.

MR. GARDNER: What you think about--you know, you expressed the fear of the commission that everybody else has that--and so, would you agree, too, like everybody else was saying, that they wanted to see more specific standards drawn out so, therefore, the commission is limited?

MR. GARROUTTE: I think so.

MR. GARDNER: Course, you know who's going to draw these specific standards out. Is that the body that you trust more than the commission?

MR. GARROUTTE: Well, I hate to say this, but I'm going to. I remember but you could possibly have a, say, a help-to-hell owner's governor, and maybe he could appoint a Fish and Game Commission as a typewriter salesman, and I can visualize our sports fishing biologist there, (indisc.) is almost a three-man board. Course, you could hire a lawyer from Fairbanks, no reflection on Fairbanks, but then the commercial fisherman could be a sports commercial out of Juneau. That's what scares me about boards. If they could qulify that board (indisc.) favor there, I think maybe I could trust them. I don't--I'm--somebody'd say, you got to have one man from each gear. That is no big thing at all, but I do--I can see one thing. I think it should be scattered out all over the State, one from the northern part of the State, one central part, one the other. Because I can see a tremendous outlook that different on what should or should not be (indisc.), because some people do not understand the other areas.

MR. GARDNER: Do you see what I'm getting at, though. If the commission doesn't do, somebody does it, and so then you throw it back to the Legislature and there may or may not be people who know something about fishing, and even if they do know something about fishing, they're spending a lot of time on a lot of other legislation, and you can hardly qualify very many people in the Legislature as experts on fishing. And so, I'm sure that I have never heard any great trust in politicians anyway, so I'm just wondering about whether people actually the Legislators...

MR. GARROUTTE: Well, like I say, I'm beginning to have second thoughts. With the study that the Governor's group did is quite commendable, but I think maybe that's--the biggest part of it is probably

acceptable.

CHAIRMAN: Any members of the Legislature have anything else? Mr. Hubert.

MR. HUBERT: Well, Mr. Chairman, I don't quite share Mr. Gardner's concern, but especially as long as we have Representative Joe McGill as chairman of this committee, I think that there will be come fishing expertise used in whatever is drafted, and I share the witness's concern. God help us if we get any Fairbanks lawyers helping on that draft.

CHAIRMAN: I believe that we're going to (indisc.). That's what we're doing, but Mr. Rose, do you have something?

MR. ROSE: Yes, I'd like to say that we hope that this little interview we're having tonight here, will give you an idea of what we want as guidelines for that commission set up.

CHAIRMAN: Well, that was the purpose. That was...

MR. ROSE: Right. I just wanted to make that point clear.

CHAIRMAN: I want to say again that I'm real glad that it could happen while this group was in town.

MR. GARROUTTE: I didn't intend to testify, but I'm going to leave in the morning, and

UNIDENTIFIED SPEAKER: Well, most of the Legislature's gone at least (indisc.)

CHAIRMAN: Yeah. We're putting it all on tape, so thank you. If there's no more questions, thank you. Does anyone else wish to testify?

(End of tape)

DR. BART (sp.): If I could see some provision in the bill that would allow the fishermen to recall a member of the commission

that they feel is not giving them a fair shake, I guess is the best way to put it. That, say, 50 percent of the permit holders throughout the State sign a petition requesting that a commissioner be recalled, that nobody else could say no. I feel that something like this could alleviate many concerns the fishermen have. Another thing that I'm very upset about is the economic dependency clause put in this bill. I see so many hazy areas that the commissioners could shape one way or another that will affect so many people, and they're going to cause problems with the fishermen themselves. They're--well, I heard one remark the other day. The man's worried cause his wife's making too much and he's going to divorce her. This is ridiculous, but it's something that's being considered. Why should you people cause this much concern among the fishermen. All this does--it's not spelled out and it--that much--main fisherman out in the boondocks somewhere may say to himself if that's only solution to make sure that he's going to be in the fishing. And I hate to see something like this happen. And this is what's going through their minds. At least,if they're not doing it, they're at least thinking about it. On this professionalism. I would like to put in a suggestion here that the (indisc.) fishery, or however else you want to put it, that at least the idea of the amount of capital investment as compared to the income, could be used as a guideline. If a man has $40,000 invested in the fishery he should be making more than a man who has $4,000 invested in the fishery in order to qualify as a professional fisherman. I think this is a very strong point. Something else that I have given very strong consideration with is, being from the general

area is the strip fishing done in this area. I strongly feel that any permits issued should be under a separate category for these people. It's a separate type of fishery. I don't think they should be considered along with the power troller. The licensing is identical right now, but the fishing is not. It's a complete different ball game. And something else I'm concerned about is the administration of the interim permits. There's nothing definite in the bill that says how long these interim permits will be issued. The bill takes effect in 1974, but until the commission comes around to the specific areas and establishes the guidelines, they have to keep right on issuing interim permits for many years as it takes to happen. Till that commission gets there and establishes the optimum number of entrants, and this can be a serious problem. I guess I've about run out of steam. I'd like to get some questions now.

CHAIRMAN: Any questions? We're pretty well running out of question askers. Mr. Gardner.

MR. GARDNER: Yeah. Would you try to explain a little more your theory behind why a guy that has one (indisc.), the relationship between your investment and your income. What--I don't understand that.

DR. BART (sp.): Well, it's the same thing that you have in most any other business. A man can make a living with a small amount of investment easier--he needs less income to keep up his living. If he has a large amount of money invested, he is deeply involved. I guess what I'm trying to get at is, that you have (indisc.) sports commercial so-called fishermen who have a vast amount of money invested in the fishery, but they

are not catching that many fish. Their economic dependence is low. Someone else who has the same amount of money invested would be in a complete different category under this kind of a guideline, and I think that the man--I used the case of $40,000 investment for one man, $4,000 investment for another man. The $4,000 investment will cover the man who's sitting out in the woods somewhere and he only needs a small amount of fish to live on for his livelihood, but a man who has $40,000 invested, he's either going to have to use his $40,000 in the fishery, or he's got some other idea of what he's going to use his capital investment for. And if it's not fishing, I don't want his piddling around in the fishery, period.

MR. GARNDER: So which guy--I don't understand which guy's going to be in the higher priority.

DR. BART (sp.): If a man has $40,000 invested and he's only getting $1,000 a year in fish, he's in the small category as far as I'm concerned. That's what I'm--the point I was trying to make.

CHAIRMAN: Any more questions? Mr. Hubert.

MR. HUBERT: I don't know whether particularly to this witness or not. I'm concerned that we want--all of us seem to want limited entry and recognize its necessity as a means of controlling our fishery. At least to rehabilitate and getting it back to where it should be. Some of believe when we say limited entry we mean limiting--I guess we're talking about somebody else, and I'm concerned with I'm hearing here. Instead of limiting it against somebody else or something else, that we're setting Alaskan fishermen against Alaskan fishermen. And there seems

to be a lot of concern for that here.

DR. BART (sp.): Well, I guess the whole idea of the bill is that you--until everything is settled out, until every grain that will fit through the seive fits through, you're going to have a lot of agitation, and I don't see how you can get around it. And, the more stringent--whether the guidelines are set up, the more agitation you're going to have. I don't see where you're going to get away from it.

CHAIRMAN: I fall in a different category. You know, there's no question in my area that this bill would eliminate me to get them support, because I something that's got to be done.

MR. HUBER: Eliminate you because you're here you mean. So...

CHAIRMAN: Because I'm in office and got other business.

UNIDENTIFIED HOUSE SPEAKER: Yeah, this is not a question. It's just more or less a discussion. I suppose that different methods of fishing would put in separate categories, and take, for instance, a man with, say, a $40,000 investment in a fishing boat, why he has a crew of about four or five men, but then a person who has an investment, say of about $4,000, if he has a set netter where he can fish that by himself. Okay. See, the boat owner would have the one permit. Of course, I understand the the crew member would just require a commercial fishing license. So I'm sure that that would be put in there in consideration. I mean, they's be separated in different methods and different...

DR. BART (sp.): I requested a stipulation that the strip hand troll fleet or whatever you want to call it, would have a separate category all their own, because I cannot for the life of me see then in this--that being considered as saying a regular

full size troller.

UNIDENTIFIED SPEAKER: Dr. Bart (sp.), another question. Are you in favor or rehabilitating the program of any kind in any way.

DR. BART (sp.): I am strongly in favor or it, but I cannot see it as being effective until limited entry is in force.

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN: Any more... Mr. Morrison (sp.).

MR. MORRISON (sp.): What you're talking about here is the criticisms of this bill as presented and so forth, not limited entry...

DR. BART: I'm all for limited entry.

CHAIRMAN: Any more questions? (Indisc.) anyone else wants to testify. How about you, John? Well, for everyone who's not here today tell them thanks a lot, and...

SCOMM

#31:3

_____: **...it does look like we are going to have to meet in the evening most of the time to get our work done. There are just too many conflicts otherwise. Mike, you've been working so much on this, you are probably much more familiar with our proposal than I am at this point, why don't you go ahead and point out the main things that we have changed and anytime anybody's got a question or a comment, why just ask it.**

_____: Jim, do you have an extra copy?

_____: Yes. This is not a formal meeting at all. This is just a get-together, a work session to kick this thing around and see what kind of ideas we have for the bill. What we think needs to be in it. Whether this meets some of our objectives or not.

_____: These are the ones from Legal Services?

_____: Right, Legal Services, and then the Buy Back.

_____: _____ Legal Services in this package?

_____: Yea, right on the second one that looks like it is a piece of the bill starting off with "Applicant Pool" at the top of the line. That's from Legal Services. It wasn't checked back. It has one problem constitutionally according to the Attorney Generals office.

_____: I think it would be easier at this point just to work through the Governor's Bill that has the additions on it. Most of those additions and delections and everything should go pretty rapidly. Then if we have any problem, get

to the Buy Back assessment and then this Legal Services language. The first change is on page two. To include all commercial species, this is pretty much a feeling of a number of people. There is one problem with halibut.

_____: I'd say you should include species, but you might not be able to shut off the licenses, but you should take it under. But until we can negotiate a deal with Canada that equitably divides the catch, any effort we reduce just will mean a greater catch for the Canadians. They _____ limited entry on their salmon. And what they have done is they found that modernizes their _____ of salmon vessels and puts them into a trolling fleet, and they have gone up to 60% of the catch on trolling where they were 40% here about four years ago.

_____: How does everybody envision this happening with the growing fishery that hasn't been harvested up to that time. The commission will just automatically issue them up until the point in time when they thought that there was some problem?

_____: No.

_____: Or until Fish and Game thought there was some problem?

_____: They would try to estimate how many the fishery could handle.

_____: Well, take black cod in Southeast Alaska. There is no way of estimating because nobody, right now, it is

going to just burst wide open, because everybody is buying pots to go black cod fishing with pots.

_____: **Well, I'll tell you, with the harvest of black cod, the unit effort has already leveled out.**

_____: No. That's in the northern half of Southeast. Nobody harvests below Petersburg. And these guys, they are going to start going out. Dixon Entrance is probably one of the richest areas of black cod in the whole west coast and that is only being fished by the Japanese and other people. So they are going to start moving out beyond the three miles and stuff like that. I don't know how you reason this out as being _____ until some point when for some reason somebody things there is a need.

_____: Well, if you don't think there is a danger now you haven't studied the _____ coast. The impact in the north, to call one stock.

_____: He is asking, how do you ensure?

_____: Well, the thing is that you... Unless you have a treaty that protects your half, you are liable to have more entrys that you want before you can shut off. But I say you certainly want to shut off your territorial water.

_____: Well, on page five anyway, we talk about standards at the bottom of that and you say you mention a number of units of gear, or each type of gear, and for each administrative unit. So be established by the commission based upon the number of units of gear necessary to harvest peak runs based

on a six days a week fishery, and for as long a season as is feasible. So when it is a new fishery opening up, they can establish the maximum amount of gear necessary to harvest that fishery. To the best of their knowledge. Now it also provides, on page six, that they can increase the maximum number of units of gear, when certain all these things have happened. We did not give them the power to decrease. If we did that we would be right back to where we are in the beginning. Does that answer your questions, Terry, at all?

TERRY_____: Yea. I'm just not sure that I... (Indiscernible) There is only one guy who has been black cod fishing in the whole... (Indiscernible) Now say, 30 guys are going to go in. Well, if I were on the commission I wouldn't have any idea what is there. You would have to say, well, only fifteen guys can go in.

_____: You might add on the side of conservation for a change. I'd like to see somebody go that.

_____: Go easy and gradually give..(indiscernible)

TERRY_____: Well, see, none of these guys participated in the black cod fishery, so you would just have to have a lottery I guess. And the way black cod season is, it is almost year around too. And so, I just couldn't see it working as well.

_____: It is really not our worry because it doesn't leave _____ that very plainly to the commission. If

If you don't want the commission, then I'll have to figure that out. By then we need a biological staff.

_____: Okay.

_____: Did you get all the copies?

_____: I gues so.

_____: Okay, well I think maybe he has got some more stuff.

_____: I'm sorry I'm late, I really thought it was tomorrow night.

_____: What happened to Mike?

_____: He got called out.

_____: We just finished on page two...

_____: I have a question Bob. When you take all commercial species does that include everything? Crab, shrimp?

_____: Crab, shrimp, sea urchines.

_____: Anything _____. See, if we limited our south fleet to four boats, they could have fished forever. Allowing the over supply wiped us out.

_____: Are you going to run off?

_____: (Indiscernible)

_____: Okay. Now, while it includes all commercial species here, we don't lay out guidelines or specific means by which we determine who will be qualified to fish, other than in the salmon net fishery in this bill. We may want to include some standards or some specifications for shrimp and crab here, but these other things we leave to the

commission. But because we have included all species, it does give them the power to set up some standards.

_____: You say _____ that they might set up standards that are not in compliance with what we might have them do...Do you see any possibilities? I don't know anything about the fisheries of shrimp?

_____: Well, I think we have given them... We have said as I _____ on page five, the bill is set for a maximum amount of gear in relation to what is needed to harvest it and so on. And we give them broad guidelines and all we can do is give them a chance to make it work, and if they don't, them we'll come back and amend. But we do have time to do that for these other species. The salmon we have got to do something about now. As I see it.

_____: Well, I tell you, for shrimp and crab you have got to do something now. Because there is a few areas that the shrimp are not maximized yet. But in the Kodiak area they have already overharvested. In my area they are right up to peak. In otherwords, anything in addition is going to hurt. And so you have got to cover it. It is like, you wouldn't to leave out the northern part of Alaska today because this is the one place that you probably could stand a little bit of an increase, you know, in some of the areas, but not much more, before you would be facing the same problem there as we are facing here. So now is the time. It would be painless to do it up there

because you wouldn't have to take anybody's license.

_____: Okay. Well let's see how we are going to try to do it as far as salmon is concerned and then we will see if that same method will fit _____. Joe, anytime you have any comments, please don't hesitate. Again, this is not a formal meeting. We are just trying to work this thing around.

_____: Well at this point I have a lot of questions. I don't really know what you are doing.

_____: Okay.

_____: _____ whether or not you are going to rule anybody out of the fishery right off the bat? Or let them die a slow death.

_____: Again, we will have to debate that issue when we get there. And we haven't gotten there yet. So let's hold off on that for just a little bit. We are down to term of office, I think, on page two. Why don't you go ahead Mike?

MIKE_____: From the USA meeting and all the other hearings we had here, the fishermen are scared to death of the commission. And the politics involved. Everyone seems to have felt that it was a good idea to stager the term of office and there was a great deal of comment about the governor's act _____ the Board of Fish and Game here in the past, and its removal only for cause. And it was suggested that the commissioners could only be removed

for _____.

_____: The point being that the Board of Fish and Game members can supposedly only be removed for cause, but we have seen what has happened in the past, therefore, they want to tie it down more strictly. Is malfeasance adequate or do we need that term malfeasance, or misfeasance?

_____: I think both terms perhaps should be in there.

_____: Okay.

_____: Usually it is misfeasance and nonfeasance. I'm not sure whether malfeasance might be the same as misfeasance.

_____: Well would you check into the proper language.

_____: The staff could work it out. It is just that they didn't want them removable for anything except gross violation of their job. And if you don't want this, bring that issue up now, where the actual terminology could be left to the staff.

_____: Yes. I might point out to the committee members that this is -- there has been no attempt to use proper legal language. We are just trying for context and ideas.

_____: Alright. Well, what do you think, first of all, about the concept of staggered terms? Do you think that is important?

_____: Yes.

_____: What do you think about the concept of more... of tying this down to more than just removal for cause? That there has got to be some malfeasance or misfeasance

or whatever the terminology winds up being, in office before they can be removed?

_____: Do you have three year terms?

_____: Well, four year terms. Except the first ones.

_____: Except the first ones. But even for governor, now, actually when you have got, one, two and three year terms as well as the four year terms, probably, well, there is only three members...

_____: One for two, one for two, one for four. Joe?

JOE_____: I just wanted to ask Mike or whoever put that word in, what is the difference between cause and malfeasance?

_____: I don't know. Now this is language that Adasiak....

_____: I can answer that one. What the rule was when they removed the Fish and Game Board for cause, they just said because the Governor didn't like his looks.

_____: Well, that just at the pleasure of the Governor.

_____: No. The Board of Fish and Game is not at the pleasure of the Governor because he was removed for cause. And he says, because I didn't like the rulings they make.

_____: And that was the cause?

_____: That was the cause and they removed them.

_____: (Indiscernible -- several speaking at once)

_____: Hickle is the one who did it. He said, because I don't like the way they are doing their job.

_____: Well isn't this whole point a very good one, that in other places we do have cause defined?

_____: Yes. If you want to you can. Again, I would say why not leave that to the staff to decide whether we want them nonremovable except for a gross violation of their trust.

_____: It can't be just at the whim. And use cause as an excuse. Okay. Are we generally in agreement with that concept then?

_____: Well, I have a reservation Mr. Chairman. Of course there is the other side of the coin too. _____ could make a mistake and we could make a mistake in confirming somebody. And you don't want to make it impossible to get him out of there.

_____: The only way you can -- the legislature can overrule anything they do by concurrent resolution, even if they couldn't remove him. You always have the legislative route.

_____: Does this commission (indiscernible)

_____: Yes. I hope that there are no fishermen on it really. I'd just as soon not...

_____: Is that what everybody seems to think is best, just a three man committee?

_____: I don't know. But it ranges all the way from five to three, some want area representation, I think actually that is the one thing that Joe McGill and I are agreed on. He says, for God's sake keep the fishermen off it. They have such a narrow, prejudice view, that you are much better off to let a commission like this operate. In fact, I would

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suggest that we spell into it that no one serving on the commission may own any interest in either a fishing operation or a processing operation.

_____: What about somebody with a fisheries background? I think there are people around that have some background, not biology but...

_____: Give _____ credit for a little bit of brains, you know.

_____: We do that so often and are disappointed too.

_____: (Indiscernible -- several talking at once)

___ _____: Mark, you know that if you look at things that have happened on the Fish and Game Board, that's scarey.

_____: It sure is.

__ __ ___: This is why I think, in there you have a vested interest built in between sport and commercial and all that. And I'd say that that is the mistake.

_____: Actually, I think regarding the Fish and Game Board, you are lookirg at a Board more like Public Utilities.

_____: This is what it is. Quasi judicial.

_____: You mean something like CUD?

_ __ _ _ __: Couldn't we say ICC? They administer fairly nice. CUD is a bumble.

_____: Are we squared around on the _____ terms?

_____: Why don't we go on to page three and 050 when we talk about qualifications. I wonder if we shouldn't leave the language we have but simply add the kinds of

things the claimant is talking about. The fishermen shall have at the present time no interest in any operation or something of that nature, put in that kind of language.

_____: I would go even further, I would say that he requires an attorney, that you shouldn't require an attorney, you shouldn't require a fisherman. They can't require that. Why should one of them have to be an attorney? You know?

_____: Okay.

_____: The Game Commission has been the brunt of that mistake. However, ones that are fairly small, and have somebody that is not directly involved...

_____: Well, are you saying to just simply strike out the qualifications?

_____: Three men who don't have a material interest in the industry.

_____: How are you going to write the qualifications? That he has to go through college? Or that...

_____: No, just say that the person shall not have any interest in, as we said before, in...

_____: Yes. But what I'm saying is that they shouldn't...

_____: ...cannery or fishing.

_____: It doesn't have to be an attorney. He doesn't have to be a fisheries specialist.

_____: Not have to -- he should not be.

_____: Well, I would say off-hand, that if he wanted to pick an attorney, fine. But you shouldn't say that it has to be an attorney or has to be a fisherman, remove that

requirement of what it has to be. Because they can hire that.

_____: Well, I don't know. Maybe... That's how it should, but if you look at what happened. The governor _____ there wasn't anything that anybody seems to agree with, specially the fishermen, that probably (indiscernible)

_____: It does apply.

_____: You know the three who wrote it? They put a lot of work in it, but don't pull that. Not three guys drug off the street. The thing is you took an attorney that know nothing about fish. You took Hickle's old press man, Al Adasiak, and you took Litowski, a young kid that don't... this was his first crack at anything, you know. And they did it fine. But I'm saying you just pull three men off the street.

_____: I think they had a little more qualifications than that.

_____: Well, give the Governor that much credit that he is not going to put a moron on. Because he didn't put a moron on the bunch who wrote the bill.

_____: Terry, do you think that sentence that one member shall have been a commercial fisherman, should stay there?

_____: (Indiscernible -- several talking)

_____: I think if you just that someone who has a background in commercial fisheries, but not in the fishery now.

_____: **Do you really want to tie it down at all?**

_____: **I don't know.. it's too early for me to tell yet.**

_____: **I'd rather not tie it down for the fisherman or the lawyer.**

_____: On the other hand, you want three professional board members.

_____: Yes. I don't think you get the manager of the Prince Rupert Fishery Cooperative is a retired wheat farmer as was your general manager previous to that. They wanted somebody who did not want have a fisheries background because it automatically prejudices them. And that is the most successful coop on the Pacific Coast.

_____: Well, this comes up to the basic premis of this whole bill. We are not talking about fish. We are not talking about commercial fish. We are talking about economic need of a resource. That has nothing to do with the amount of fish necessarily. It is just a product. You have to understand the product. The question is in terms of weeding out a mass of people who are harvesting that product. Whether it is wheat, whether it is fish or moose.

_____: And really the fishery is so diverse that no one commercial fisherman is going to be able to understand necessarily, from his previous experience, the fishing situations in all these various areas of the state. So you are almost as well starting from scratch with somebody that knows nothing about any of them.

_____: If I was to list three that I wanted, it would be three bankers whose banks made no loans in the commercial fisheries area.

_____: Mr. Chairman, I would think that your people ought to have some background, some kind of expertise, to know what the hell they are dealing with.

_____: They probably will...

_____: If it is in the past tense. Just simply put in, one shall have been but is not currently a commercial fisherman.

_____: Then would you want to leave the lawyer in too? The one who has to be a lawyer? That puts it down to a pretty small, elite group. Or can you just hire the lawyer for legal talent?

_____: Most attorneys are prostitutes to begin with. (Laughing by all -- several talking at once)

BILL_____: Something that was suggested down here when I had all these fishermen together was perhaps we might get two men from an area being considered not having boating rights however.

_____: (Indiscernible)

_____: I would really prefer not to have fishermen anywhere near the _____ myself.

_____: I don't think you are going to be able to sell that though. Don't you really think the people are going to say, hey, this commission is going to be so important

to fisheries, that somebody has got to be there who really has some experience in fisheries?

_____: I would much rather have no one from the fisheries industry unless -- I would be happy if I thought the fishing man was going to be a year round commercial oriented fisherman, a twelve month a year man. But rather than risk getting a summertime commercial fisherman, I would rather have none. And I think each area would say, rather than having a man from some other area, I'd rather have a man that didn't have any. And you can't have one from all areas.

_____ But again, I think...

_____: I mean for western Alaska to have a Southeastern fisherman is terrifying because they have an attachment to Seattle.

_____: Let me ask you something. Don't you think in all reality the Governor is going to appoint this thing -- he'll ... (table thumping -- can't hear)

_____: The governor has agreed to it so why worry.

_____: Yea, the governor doesn't really mind. Why don't you just say, put in the spot that you can have -- Leave three commissioners who have no monetary, no vested interest in any aspect of the Alaskan fisheries.

_____: Which means if a guy has his son fishing his boat, he can't serve.

_____: I don't mean that at all.

_____: That is a vested interest.

_____: Oh, come on now.

_____: You bet your life it is.

_____: If you are engaged full time in that statue business and Willy has got a boat out for fishery, you do not have any vested interest in the fishery.

_____: I didn't say that. If he is fishing my boat. If it is his own boat, okay, fine. But if it is my boat, that is a vested interest because I'm going to get a share of what he catches.

_____: Okay. I didn't understand. Alright, what is your feeling?

_____: I'd say take it out.

_____: Too many windmills -- leave it the way it is. The hell with it. Let the governor do it. If he does it wrong, pass a resolution like Clem says.

_____: George?

George_____: Well you have the option to evaluate the qualifications.

_____: Without qualifications he has flexibility. With qualifications he has none.

_____: I tend to agree with _____ on that (indiscernible)

_____: Alright. Apparently the weight of the majority at this point is the idea that we simply provide three people with the language under the old. They have no vested interest in the commercial fishery. And we do not specify any other qualifications. This is, again, not formal

and the committee as a whole appear -- something that we will bring up for a vote at that time and get an official committee position on it. For a substitute to be drawn up, we'll go that route then at this point.

_____: It seems to me it would be more expensive that way though.

_____: If you do what?

_____: Not to require expertise -- er the commercial fishermen on the fisheries management studies. You are going to find there that they are going to _____.

_____: I think that they are going to have to pick up staff anyway. Because no one man would know the fishery that complete. I have been in the fishery since I was a little kid. There are too many gaps.

_____: The attorney is probably going to have... The individual board members, commission members, will have so much to do that the attorney member can't really be the guy that's practicing law for the commission anyway.

_____: You would have to have staff, you know.

_____: This is line 14, page three. The idea that the commission may retain additional legal counsel in addition to the services of the Attorney General as they feel the need.

_____: The Board has really been hamstrung. The Fish and Game Board, by not having legal counsel when it needed it.

_____: I thought they had an attorney down there?

_____: No. Only part time. In and out. It has just been really...

_____: They need a secretary of their own and there isn't any way to (several talking at once)

_____: This is so that they can retain in-house counsel?

_____: Yet, you are regulating $190 million industry and it had better be a good one.

___ _____: We have some more important things to get to here so we better move. Any objections to the change on line 14? Alright, go ahead.

_____: On the bottom of page three, delete "Establish qualifications for issuance of entry permits to gear operators." That's taken care of later on in the bill.

_____: In other words, we are leading the powers, all the rest of them, to the commission, except for this one specific one, deciding who is going to be in and who is going to be out. And that we put in the bill itself.

_____: (Indiscernible)

_____: On page three, we take that power away from the commission.

_____: Okay. Line 29, page five. Maximum number of units of gear for each type of gear and _____ shall be established by the commission based on the number of units of gear necessary to harvest peak runs based on the six day per week fishery and for as long a season as is feasible. With deletions then, all the way

down to line 73. I guess is a deletion.

_____: So this is the one standard on which the commission is going to decide what the maximum number of units of gear to an area shall be. Simply what is necessary to adequately harvest the run in a peak year based on a six day a week fishery and for a reasonable length season.

_____: Mr. Chairman. What happens if it is not a peak year? What do they do then? Have too much gear?

_____: Well what they will have to do is shorten the seasons and so forth. Like they do all the time now.

_____: Yes. Instead of six -- in order to keep from having an over-harvest, they will have to reduce the amount of time the gear is fishing.

_____: This is the basis for the governor's opting levels, is peak years. And they realize in the low years they are still going to have this problem.

_____: This is a major decision now, about whether you wish to reduce the fishery only to a level of an adequate make-work program or whether you want to reduce it like you did in the oil industry, to a paying operation that can pay us substantial amounts in state taxes. And I would say, off hand, that anyone -- this is a policy decision that you got into some fairly substantial one at this point. Whether you want to _____ in any other factors besides just making the industry healthy. I'd opt

for this because I've seen what it is like on the other coast of the United States. And how we have allowed ourselves to get in the position to where we are buying 70% of our fish. But you know, if it is somebody's work project, it will never get down to where it should be.

_____: I'd be curious. Are you anticipating a slow approach to this or a reduction in a very short period of time?

_____: I would want a very slow approach. I would say 15 to 20 years to reach that level.

_____: _____ that long, do you think? (indiscernible) six days (indiscernible)

_____: ....this will apply to more than just the salmon. And I just wondered how much (indiscernible)...when you start getting into other things that really aren't at all concerned with the fishing like trolling, you maybe have to fish fourteen days or halibut or something. (indiscernible)

_____: Where do you see a problem with the troll fleet? I don't understand that.

_____: They don't base their season on so many days per week. They just fish whenever they want.

_____: Well, that is the point. We are trying to make the thing a full time fishery.

_____: They are based on seven days a week now.

_____: The optimum number -- One of the things is the troll fishery is one that you can't shut off, just like

the halibut fishery, because the Canadians would just flat, would not apply on troll. You know, they are just going to wipe us out if we don't get into something that's... So that is one of the fisheries you can't shut down now anyway because we haven't put our maximum out there.

_____: What I mean is that the troll fleet is based on seven days a week, and you are changing it -- actually you may increase the fleet by saying it is a six day week.

_____: You are saying that...(indiscernible)

_____: Six day week season makes sense for the net fisheries for salmon but I...

_____: He's right. But you might just say, using, necessary to harvest the optimum amount of gear necessary to harvest peak runs and just delete based on a six day week fishery. Based on the necessity to harvest peak runs in an orderly manner and for as long a session as possible. I will go with that one because of the troll fishery. The fact that there might be times when we want to fish them seven days a week.

_____: Do we get into bottom fisheries. crab...

_____: (Indiscernible - several talking)

_____: Well somewhere back in here you are going to have to shut off the new entry and figure out a method of reducing.

_____ : Well, what do you think about that _____ event. Based on the number of units of gear necessary to

harvest pink run in an orderly manner and for as long a season as is feasible.

_____: Just in an orderly manner. I don't think we need to add anything else.

_____: If I may interject something. Why don't we just _____ that after pink runs. That would take care of all that.

_____: Well, okay. Because for instance, you can take the run in the peak (Cough) rural end of Cook Inlet and you could wait until those fish were schooled out at the mouths of these rivers. And then you could take a very small amount of gear, relatively speaking, and just sope those fish up like a sponge, right off the river mouths. This would not be good from a conservation standpoint at all. For the canneries or for anybody else. The canneries would be glutted. The fish would get into poor condition, a lot of them. The fish would already be in poor condition because they are so much closer to fresh water. On the other hand, if you start harvesting them down here, in an orderly manner, as soon as ome available, and harvest them all the way thro nen you would have a far better quality of product and everything would work a lot better. So this is what we are talking about. That is the reason for the language, and for as long a season as is feasible too. Stretch that thing out. Now maybe it is inherent in the language "in an orderly manner"

And the Department recognizes, I think, that language, "to an orderly harvest" here. Excuse me. What, John?

JOHN_____: No, that's okay. Fine.

_____: Well, okay. We are at a point then where we either make a decision. Do we want to use this as the... Mike, have you got copies of the bill? Okay.

_____: (Indiscernible) What is the definition of optimum?

_____: Where are we using it?

_____: Are we using it at all? This is the question.

_____: Whether we are using it at all?

_____: The number of units it would be necessary to harvest peak runs based on peak runs.

_____: In an orderly manner.

_____: In an orderly manner, yes.

_____: For as long a season as is feasible?

_____: I think probably not. Why don't we investigate... Why don't you do that Mike? Would you check with the department and see whether they feel that to accomplish the purpose, and you know what it is, that additional language is necessary or if "in an orderly manner" is specific enough for them?

_____: It should be. God Almighty, it should be.

_____: That gets rid of your worry then Terry?

TERRY _____: Yes.

_____: Okay. Any trouble with that concept then? On the language that we have so far.

_____: (Indiscernible) a regular and seasonal method or in an orderly manner.

_____: Well, I don't know. Let's check on that and find out and that's something we can come back to the next time around here. Okay. We are on page six. Go ahead Mike.

MIKE - _____: Line 19, delete "or decrease." The commission may increase the maximum _____ ____ of gear for the type of gear in administrative area. This was deleted. Because of the life or death ability of the commission and if there is a need based on any of these things to decrease, to establish volunteer _____, biologic condition of the fishery, establish long term change in market conditions, those can be regulated by the board as they do now, just by limiting time or gear. So the commission doesn't have the ability to knock people out.

_____: As I recall reading down this cover letter, it is pointed that there is so much here and so many fishermen that it gets to the point that even one element could be disasterous to the whole fishery. And it is impossible to manage it on that basis that you are speaking of here. Could that occur in this case?

_____: Well, we are going to later, in the bill itself, reduce the amount of gear, provide ways for which it shall

further _____ over a period of time. But what we are saying here is that the com.ssion can't do that. The legislature has got to do it.

_____: I understand that. We have got to do it in this bill.

_____: Yes.

_____: In other words, we have got two solutions here that are printed up at the end of the bill, Lowell. One is a buy back, to buy out those when they are willing to sell, whatever it takes. The other is an attrition method. The attrition method has one problem, the Attorney Generals's office says it will be denied all new entry. You've got yourself into a constitutional box. On the other hand, if you get in, you must buy somebody else out, this in effect, at least puts a moritorium on an increased amount. But it doesn't stop new entry. But then, of course, you have inflated the value of the licenses. So that is at the end of the bill. That is one of the stickiest problems and that we haven't gotten to yet here.

_____: That's another question I had.

(Several talking)

_____: No, I just recall that that point was made, that we have so much here and so few fish than even if they limited it to one day or one hour, it could still dessimate the whole fishery because they simply couldn't count, supervise the fishery that closely.

_____: That is the major reason that you have to embark on a limited entry proposal.

_____: Now wait a minute now. I don't understand it here. Because if you are not going to give them the power to decrease the units of gear, and if you had this situation, had very few fish and a hell of a lot of gear relatively speaking,

_____: You would have to shut it down. Fish and Game would have to shut it down. Fish and Game has the right to reduce the amount of gear individual fishermen..... That's different. You are just not giving the commission the power to say, you can fish and he can't. But that is the only power you are taking away from them. The arbitrary decision, if there is an arbitrary decision to make, somewhere at the end of the bill, when we decide which route we go, we make that arbitrary decision so that a fisherman can merely look at the bill and tell whether he is in or out.

_____: Well, are you saying then, in answer to my question, that if the situation is so critical that the board says no fishing whatsoever. We can't even let you fish for two hours.

_____: Not only the board but the commissioner in an hours time, can _____ the whole thing. The emergency closure, if we reach that point, where it is so critical...

_____: You are able to do it?

_____: Yes.

_____: Or he could reduce the amount of gear down to such a small amount that it could...

_____: You are saying that instead of 160 fathoms of gear you are limited then to 10,000.

_____: You mean the commissioner of Fish and Game can do that?

_____: The commissioner of Fish and Game can set the time down. The Board can set the amount of gear down, if there is any advance warning. The commissioner has the power to open and close.

_____: The board can limit the gear but this group can't.

_____: That's right. That is still a function of the Board of Fish and Game.

_____: The board of Bristol Bay this year, instead of fishing 150 fathoms of gear on, they are only able to fish 30 fathoms of gear, through this body.

_____: I think a question now, in terms of your _____ _____ is that if we put a moritorium on at this point in time, is Fish and Game board going to decrease the amount of days or the gear to fish. At this point in time to help reduce or save what fish there are? Is that question, one, critical? two, are they going to do it if it is critical? I think that not only this committee but probably the legislature is going to have to have some proof.

_____: Did you follow that?

_____: No.

_____: I don't think I did either. Run through it again.

_____: Well, Okay. The thing was, initially, the governor came out with the recommendation that gear be reduced. Now you are saying that gear is not going to be reduced but there is going to be a moritorium.

_____: We are not saying that.

_____: Well, in essence this is what it is.

_____: No, we are saying that these people are not going to decrease their gear. We are saying back here that this (Band) reduces the gear. The legislature does it, not the commission.

_____: Assuming there is a buy back privilege for example, which...(several talking at once)

_____: We have done some other things back here too, that reduced the amount of gear.

_____: That would force a reduction?

_____: Yes.

_____: At what percentage?

_____: I don't know yet. That's what we are going to have to find out when we get the computer run out.

_____: He's got all the returns. How does this apply in terms of the total number of fishing licenses that are given out each year? Which would put a moritorium on however -- of that total there is only, relatively lower percentage that is actually utilized.

_____: Right

_____: When you read through the bill on Friday...

_____: That again, is this the information we asked from Rich?

_____: Yes. It is supposed...

_____: It is supposed to be confidential until their report comes out.

_____: As you get into the bill you start to understand that we have got some information on tax delinquencies, some information on fishing rates, and information on Alaska native fisherman, commercial vessel, and salmon gear licenses and statewide registration areas. Which, this is all part of the governor's study that isn't out yet and we have been getting bits and pieces of it as we feel the need. And they have asked that it does remain confidential until it is released.

_____: Indiscernible.

_____: No. Probably a fresh rundown of the bill would help, Bob. _____ these subjects were coming up later on.

_____: Okay. Well, let's go ahead then.

_____: One question. I don't know if I am just foreseeing something that really might not develop but is section 3 on page 7, there at the top it says, that an established _____ by the board. What we want to change in their policy, the commission names the maximum number of units, well, what I foresee here is a

_____ pressure being put on the board to reduce the gear, 100 fathom net to a 50 fathom net, and then the Board wouldn't have to, it says they may, but being pressured by the nature of the way this is worded, then increase the number of fishermen.

_____: Yes, but of course, we have already said what the maximum units of gear shall be. Those required...

_____: But you said they may increase the maximum number of units.

_____: You have to have some way of doing that Terry, if a run recovers or in a new fishery.

_____: Yes, but I'm talking about section 3, a change of the Fish and Game Board policy. See, it might put a lot of pressure on _____ do this. (Indiscernible) If they changed the number, the size of your net, or whatever type of gear you are using, then that would be a reason for increasing the number of fishermen. (end of tape)

_____: ...that gives some idea of the turnover rates, its on the third page.

_____: Wait a minute.

_____: It is the precedent here.

_____: I understand that, but,.. He wants it to be kept confidential for how long? Until after that report comes out?

_____: Until the report is out.

_____: **When is the report coming out?**

_____: **They are trying to get it out this next week.**

_____: **Alright. Let's do this then. Why don't we leave this at this point, for right now. Knowing that there are lots of alternatives that we could look at and that the final decision is going to be based on these numbers.**

_____: Okay. Go on this concept and we will work the numbers around as necessary to see where we are going to start on them.

_____: Let's understand that we are looking at this kind of a thing, its going to depend upon what the numbers show, let's go on through the bill and see what we can do about this matter as far as confidentiality and so on. I don't want to abuse the opportunity that they have given us here.

_____: I can keep a secret.

_____: (several speaking)

_____: Do you feel that we should state how the fishermen can or should crew to the satisfaction of the commission, that they know who is...

_____: Leave it up to the commission.

_____: It would be up to the commission. They have an appeals board in the commission, in the bill. If they have any problems proving, by the commission's standards... Say the commission uses fish ~~dates~~ tickets and the individual doesn't have fish tickets, he can still go before the commission for a hearing. And this is going to be a problem in a lot

rural areas especially.

_____: Yes. Where the father made all the deliveries even though there were several...

_____: Right. Now there is a problem here, say, with any kind of family operation where the father does. All the fish are sold under the father's name. All the fish tickets are issued under the father's name and yet the son was actively participating in the fishery.

_____: And had a gear license.

_____: And had a gear license but doesn't have the fish tickets to prove that he was active. This is going to be a problem.

_____: Yes, but this one could handle all of them...

_____: ...but we should put in a pergury clause so that if anybody acquires a license by a fradulent means, say like an additional license, then this license is destroyed upon conviction.

_____: Well, what do you use to protect the person that has to prove such a point?

_____: Let's go this way. Here is a perfect example of it. He is sitting right here all these years, he has fished for me, with me. He is registered for gear and _____. But much of the time the fish have been sold under my name. Okay. But on the same token, on each side of us there are families all up and down the beach, everybody goes, and who has been there was fishing. So I would assume that affidavits signed by the fishermen on

either side of us, saying Lee Palmer was there during those years and actively fishing with gear. You've got the fish and game records to show that he was licensed. All we need is satisfactory proof.

_____: What I am wondering is that you know how to go about doing this. But in order to protect the person that does not know.

_____: Yes, but the commission is going to have to set up these things. To provide these ways of doing things.

(Several talking at once)

_____: There is only two areas that have these, set net areas, and you are talking about 3,500 locations, total, isn't it? Bristol Bay & Cook Inlet are just about it, with one little spot at _____ Bay, they are nearly all related. It is almost entirely a resident fishery.

_____: Indiscernible

_____: Well that's what I said, Thumble Bay. It is on the south end of Kodiak. But very few. You watch, I think it is going to be easy to catch this one. The one you will have trouble with will be the fishermen who obviously, was out there gill netting, and now he claims that he fished crab too. And he has got to be able to prove that. If he acquires a license by fradulent proof, his license is violated, and if he gets two people to swear and it turns out that it was illegal, then they should have to forfeit their licenses too. And then you will find that there won't be anybody swearing unless they know.

_____: Do we need to research the income tax, where they come in under this provision of proof?

_____: Yes. Oh, excuse me?

_____: By the commission?

_____: Well we've included it in paragraph (b) _____ required that tax delinquent gear operators to tell the department of Revenue violations of the permit.

_____: The question arose during the last fisheries meeting as to the possibility that the commission be able to look into income tax. And this is in regard to economic need.

_____: Right.

_____: Now, when that question arises in a situation such as this. Without need being a criteria?

_____: No. (Several speaking at once) As I understand, The Department of Revenue at this time has a master tape of all tax delinquent fishermen. And we have a breakout of percent, tax delinquency by area, from the Governor's Study Group.

_____: About 50% of these are non-residents and there is just no way because you can't catch them out there.

_____: Oh, 50%?

_____: They are just about half and half. And some of them you just can't get your hands on, but when he comes back for his license, you have a chance to get your hands on him, and he doesn't get a license.

_____: **Does this include the ghost licenses, are they included in that figure of 50% that haven't paid?**

_____: **That's probable. In which case many of them haven't paid because they haven't caught them.**

_____: **These are vessel operators?**

_____: **Vessel operators?**

_____: Oh, well then that doesn't include the ghost licenses at all. You have a way of getting rid of your paper licenses.

_____: And we also have some figures on paper registration for some areas for some types of gear. As an example, here in southeastern, 1971, drift net-27% paper registration, purse seine-15%, total 29%. Prince William Sound, drift net-15%, purse seine-6%. Kodiak, set net-42%, purse seine-8%. Cook Inlet, drift net-35%, set net-40%. Bristol Bay, drift net-8%, set net-50%.

_____: Do you know anything about this problem I heard mentioned where there might be a problem, constitutionally and legally, trying to tie in _____ just legally a problem of trying to tie in the income tax requirement with... They way they were going to do it was tie it in to a degree of economic dependence upon the fishery.

_____: They said they could.

_____: Yes. But they said that if you tried to use the income tax requirement by itself, which according to this new language, you would be using it by yourself, that you kind of... not related.

_____: **Your only requirement is.. to pay his back taxes. Before he can get an entry permit.**

_____: **Well, I still think that that might be a problem from what they were talking about.**

_____: **I remember what you said was that you could not require that a man swear that he had paid his taxes before he applies for a license that is available to everybody. But as soon as you have a closed entry, where you are giving a $50 permit, you can...**

_____: It would be like requiring that I pay my taxes before they let me vote. Or something like this.

(Several talking at once)

_____: Okay. I might even look into it.

(Indiscernible)

_____: You can't. Yes. I knew you couldn't make a man sign one of those releases before he got his license.

_____: Alright. Let's go ahead. Save time. Basically what we are doing here is, Mike, is this correct? That we have already decided who is going to be qualified under this previous page, so now we are simply eliminating all these other things that the commission shall do with regard to issuance and simply say that the commission shall issue an entry permit to all qualified applicants. And on the previous page we are going to study who is qualified. But you are leaving the rest of it. Right?

_____: Right.

_____: Can we go back for a second. Under the qualifications, those who fished in any three of the past ten years, do you have any rough idea of how many license holders would be ruled out?

_____: No I don't really. That is what I was...

_____: If you are worrying about ruling somebody out, unfairly...

_____: I'm really not. I'm just wondering, if you don't knock some of these guys out, what are we doing?

_____: Well, I certainly recommend a buy-back and just buy them out. You know. The pay-in system _____ has been criticized a great deal, has brought, within three years, the fleet from 7 thousand boats to 5 thousand boats. And I will admit that the 5 thousand boats that are left, they are getting pretty fancy because the guy suddenly has a future. Also, the average age of a fisherman has dropped from 55 to 28 in that same period. Because the young want in, where they didn't before. So I think, you know, buy-back has some inherent problems in that it does raise the price of a license very high and they accept, the individual fisherman, these fees to pay for this. You have to have safeguards with the canneries don't end up with the licenses such as one license to a corporation. You have to, if you can work something in to keep the license from having an inflated value, one license in British Columbia sold for $30,000 this year. Because that is the

only way you can get into the fishery is to buy somebody else out. And that is what we want, you know. There are these problems, but the thing is that -- you have to decide somewhere and they just postponed it here. Do we want to just arbitrarily to cut a chunk of fishermen out and say "you are no longer a fisherman" or do we want to buy them out. And if we want to buy them out, preferably the way I would approach it, even though it would cost more, and then just assess the fishermen. Because only the fishermen bought the fisherman out.

_____: We just put this kind of language in here to indicate what one of the possibilities might be. And when I go on by this now, I'm not suggesting that we adopt that language, rather that we wait and see what the computer printout says as to what we're doing in numbers of gear.

_____: I'll talk to Terry on that one later because the one way you can keep from hurting the kids that just entered is by making it two out of ten. Because this year a whole bunch of paper licenses, that automatically squeezes the paper license out if you didn't get last season in. He's out, you know.

_____: Mike, do you want to go ahead?

_____: (Indiscernible)

_____: Well, I don't know. That whole buy-back program is a real matter of discussion yet, so let's hold off on it until we get there. Go ahead.

_____: **Okay. Continuing on over to page ten. The Board of _____ of that previous section. There is a question here, it has been discussed that there is an annual fee of $50 for the issuance and annual renewal of entry permits. This is straight across the board. There is a possibility of a 3:1 differential in there, just as in salmon net gear in fishing licenses.**

_____: It seems to me that any time we can do that we ought to.

_____: If the Attorney General says we can get away with it, or our staff, yes. But I'm a little hazy on whether this entry permit....

_____: Shall we adopt a _____ position, temporarily, at least, that if there could be a 3:1 resident versus non-resident, or non-resident vs. resident, if the AG's office feels that we can do that, that it so be a part of the bill?

_____: Yes.

_____: Okay.

_____: We tried 5:1 on licenses once and they were struck down in the court. You are allowed a differential that is enough to pay for the cost of going out and going through a legal process of extraditing the man back and his transportation back. And that is all the differential you are allowed. Because the 14th Amendment says that all citizens in the U.S. may be -

_____. Well, I think that is pretty well established, that if either one is okay. We don't know about anything else, whether we want to bring in anything else in this bill is really not.... established.

_____: Okay on page eleven, all we have added is an... under penalty. I don't know exactly what happened but... Anyway, I've got an _____ copy that I've got. Under penalties we are adding a section (b).

_____: That appears on page 13?

_____: That appears on... oh, I see. It appears on the wrong page. We are adding section b. "The person giving false information to the commission is guilty of perjury and upon conviction shall forfeit all existing entry permits to the commission."

_____: Do we want....

_____: This is in line with our problems with obtaining an entry permit. The qualifications for it say that you have to be a participant. If they have to go on the basis of affidavits, from other fishermen, this ties it down a little more closely.

_____: Okay. I can hear Mr. Ziegler now, Senator Ziegler, saying "suppose it was an accident, he didn't know at the time he was giving false information, and now you have taken away his license."

_____: He will put in "willfully and knowingly" in there.

_____: That's what I was going to say.

_____: You can just see him doing it. But don't worry about it. It will never get past Ziegler without a "willfully and knowlingly" in every....

_____: Well, there is no sense in it getting to anyone else without having it in there ourselves, that's the point.

_____: Yes, but I don't really (cough).

_____: And I'm wondering. (several talking indiscernibly)

_____: Now, do we want to tie it down further to say that a person getting, wilfully and knowingly giving false information to qualify himself or another...

_____: ..acquiring a license _____ false information, that would be the easiest so that he wouldn't be entitled to the license if it was true. But the big thing is, which you will find, is some of them that are entitled to several different types of gear licenses will fudge a little on the third. For instance, hey, I _____ fished halibut for ten years.

_____: Boy, you make it sound like fishermen are biggest crooks in the world.

_____: No. They are just human.

_____: And they are all crooks.

_____: (Several talking at once)

_____: As long as it is unlimited they will cheat and steal, but you just watch. That's the first thing the Canadians said they noticed, was the fact that one Canadian was very happy to land on another one that went

upon behind the marker or something, because he was treating it as if it was his own. And as long as it belongs to the public, he didn't care. So as soon as you freeze the licenses, you are going to find a much more law-abiding, bunch of people.

_____: Okay. I think we have largely gone through the existing bill. We have got some other add-ins here. And what we essentially have done in this bill that we just looked at now, I think what we essentially have done is to say that we shall still have a commission that shall administer this thing, but we have removed the discretion from the commission and instead, by law, established who shall qualify. We did that on page 8, under what every language we ultimately adopt there. Now, apparently, most of us want to allow about as much gear as is fishing now without any great increase or without any significant increase in the amouht of gear as is there now, otherwise we haven't done anything. If we can reasonably reduce the amount of gear, through a 3, any three out of ten year, something like that. Some kind of language. And then, if that reduced, and we can do it reasonably, I think we generally want to do so, though, again, that hasn't been established. Starting with net, level of gear, we then want to reduce down gradually to what we have earlier called the maximum amount of gear necessary to harvest the run in a reasonable manner, in an orderly

manner. Now to reduce gear we are going to try to do that first of all, if feasible by _____, then by this buy-back, then I guess generally that is it. Is there anything else we are doing to reduce gear?

_____: Don't it also get reduced by the income tax law allocations?

_____: They have the right to come anteup.

_____: if they don't choose to pay the back taxes, and we hope, indirectly, by the result of the assessments against the people that stay in because of the buy-back provision. Now that's probably very unclear at this point but why don't you go ahead and then maybe it will become clear as we go along. Mike, do you want to take, which one of these first. Applicant pool or?

_____: No let's take buy back. The applicant pool is language that we recieved from legal services. They feel that there is a real problem in the transferability of the permit. We can change that.

_____: Yes. The legal services want, one, has that one problem, which probably could be controlled _____. I for instance wouldn't care if you went for a straight buy back where the property became, where the license, once you qualified, became a property right and you could just sell it for whatever you could get for it. This would mean that your buy-back funds would have to assess the other fishermen fairly high to buy this man out. Or

whether you want to use an attrition method where no one can sell his,.. One of the methods that they asked for was that no man could sell his license at all. Not being able to fish, the license lapses to the state. And this has a terrific hardship on somebody who has invested $60,000 or $100,000 worth of boat and then suddenly the old man dies and that's the end of the license. I prefer the buy back system but legal services has some arguments in here. What it is, a good argument on their part, was when a person wants to sell his license, let him. But he may only sell it to a person who meets the apprenticeship qualifications. In other words, it is not on an open market itself, the state keeps a list of apprenticeship people and a person who has served so many years on it, or graduated from one of the maritime fishing schools, is on this list and when you say, I want to sell it, the state established an assessed valuation price and this person on the list picks up the license.

_____: Bob, do you anticipate that we will have an opportunity to hear from Legal Services on.....?

_____: Yes.

_____: Now, getting back to the same thing, this transfer of entry permit. They have two proposals, legal services does, just basically, they deal with real problems because these _____ property items are going to be valuable and that come a lean, long winter, people will be selling

then and giving up their rights to the fishery.

_____: Alright. Before we get into that, why don't you go ahead and take this buy back provision so we all understand what we are doing there and...

_____: Once again, it is conceptual. There are one hell of a lot of various options. This is not necessarily the answer. Okay. Add a new section, buy back provision. "The commission shall adopt regulations to purchase either the entry permit or the entry permit and fishing gear of willing gear operators _____ until such time as the optimum level of that type of gear _____.

_____: Okay. I think you are going to have a language difficulty with "willing gear operators" but then, that can be worked out too. But the content is that if they want to sell out, the commission will buy them out.

_____: They would have the first chance?

_____: No. They can sell to whoever they want, but in section a, value of property thus transferred shall be determined by the commission. The commission may establish whatever value is necessary to encourage transfer to the state. So in other words, the state has to outbid. (Several talking)

_____: This would inflate the property, but it has one big advantage constitutionally, in that at that point, you don't have a legal limited entry. It becomes like farming, anybody can be a farmer, all he has to do is buy a farm.

Anybody can become a fisherman, because you have a buy-out on one of these licenses.

_____: **One question that I have abou the legality of the constitution. Would the state encourage any sales to the state _____?**

_____: **I don't know.**

_____: **Well, probably, it would have to prove that it inhibits sale to anybody else. But I think you would still find that the, within family units like we have here in Alaska, that the Uncle tends to sell to his nephew without regard to the state. He will sell directly within the family unit.**

_____: Well, but again, since this takes place (coughing) ...maximum level of gear have been reached, it would stand much better constitutional grounds because of that than if it were a long term..... situation.

_____: Right. Yes, once the optimum level is reached then the thing you have got to realize, like for instance on the Yukon and Kuskokwim, the optimum level is, I believe, a little under on the Yukon and just about even on the Kuskokwim.

_____: Present levels you mean?

_____: Present levels. So in this case, they just get a valid permit because _____. And that would be it. The commission would really have very little to say to them. They could sell their licenses to whoever they wish, handle it anyway they want. At this point, as I was saying

to John, it would behoove the native corporations in that area to step in and make sure that they have funds available so that licenses stay within their own community rather than getting bought up by some buy living in Anchorage.

_____: Can you buy a lot of paper licenses?

_____: Well, this is what that other qualification was for. That you must have fished three of the last ten years to...

_____: ...license for that...

_____: But actively participated and that will pile your paper a lot. And you know, the speculation _____ to begin with.

_____: Okay. Is there an advantage to paying more the first year and reducing it down each year after that that you are going to pay? Start with a higher amount and try to get them out the first year.

_____: What, what. Oh, I'd say, the buy back provision, the way this is worded, the commission has great flexibility in this area themselves, and they would decide, for instance, some areas like Bristol Bay, is imparative that you get some people out rather quickly, while in southeastern Alaska there isn't any big rush to get the gill netters out, just so long as you don't allow an increase. They are just slightly over number now and they can still earn a living as long as you don't have another big influx come in.

_____: In Canada, what are they doing?

_____: One license this year sold for $30,000.

_____: What kind of a boat was sold witn it?

_____: No, this was the license.

_____: Just the license? (Several talking)

_____: Well, the boat goes with it, but I mean. The boat, from what I gather was a complete junker.

_____: Well, why would that one sell for more than others then, if the boat...

_____: Well, the think is that that is the highest peak so far for one of these little gill nets. Most of the gill netters have been selling for $5,000, somewhere around there.

_____: Well, why would one sell for $30,000 when others have sold for $5,000?

_____: Because there are none moving. They have dropped their gillnet fleet down to where it is damned hard to make anybody sell.

_____: Do you remember that information we got last year.....

_____: And somebody just offered $30,000, finally, just to get a license. He wanted to go fishing and he just kept bidding it up until he got one of them to sell.

_____: Alright, so you are not saying that the commissioner of the province bought it for $30,000. An individual was willing to pay that.

_____: Increase in _____, there is in the _____ study, there is one table there that did do an average increase in value. I think over the past three years.I haven't had a chance to work it up percentage wise.

_____: (Indiscernible)

_____: Mike, would you summarize what we accomplish on the first page of that buy back provision?

MIKE_____: Okay. In section (b), entry permits thus transfered shall be invalidated and cannot be reissued. And we go on to (c). In other words, _____ that are buy outs, just invalidate. Increasing rate of attrition. (c) Fishing gear thus transfered from the _____ public auction. Then we get into this, possible problem area and the wording and everything is going to have to be worked out. First is a fishing vessel by valid entry permit holders shall be limited to vessels _____ if the entry holder is operating _____. What we are trying to do there is eliminate the possibility of a guy getting _____ windfall, a state subsidized windfall, by purchasing... He has an entry permit and at public auction he picks up a vessel for much reduced value where the state has paid a very high value for this same vessel. Also, getting into this replacement problem that they had in British Columbia. Guys were going out and the first year they had a 15 ton vessel and they were going out and buying a 30 ton vessel and increasing the productive capacity of the fleet to the point that it was starting

to negate their buy-back program. That was the latest information that we had. We are waiting on some additional information from British Columbia on some _____ evaluations of their program.

_____: But essentially, this page is to do what? Is to hurry up attrition?

_____: Right.

_____: By buying out those people that would like to get out?

_____: Right.

_____: And to encourage the state doing it rather than an individual?

_____: Right. Rather than keeping it in the fishery, removing these individuals from the fishery.

_____: Do we have any idea how many we would like to sell?

_____: It could vary so much, for instance Lowell, that in... you have to do it district by district. You couldn't expect the southeast gill netter that's still making a fair living to sell out as cheaply as some Cook Inlet gill netter that's flat starving to death. So what you have is your assessment on the fishermen to pay for the buy back. It would to be by your area and by type of gear. You couldn't ask a seiner to pay an assessment to buy a gill netter out. So the seiners would have an assessment to buy seiners out. A gillnetter would have an assessment against your

license. And what they did in British Columbia, they started it off that all the fishermen in the salmon area paid $100 a year to the buyback fund. And the problems with the buy back, more than that. And now the fisheries have reduced, they are paying as high as $300 a fisherman to the buy back fund. Now what you would probably do is appropriate something like $5 million which had to be reimbursed by assessment against licenses, and you would find in some areas, this would move so slowly that the assessments wouldn't be very high. In other words, areas where there is still a good living to be made in it, and the only person selling out would be one retiring who didn't have a family to pass it to.

_____: In other words, there is no way to really predict what the impact to this would be?

_____: Except that there is no intention for the state to pay it. The intention is that whatever it costs, will be assesses back to those fishermen who remain in the fishery. They are the ones that pay.

_____: In other words, there is no impact on the state's finances.

_____: (Indiscernible)

_____: What the state might do is finance, in which they should have the right to interest it on. They might finance instead of making the guy pay it out suddenly, they might finance it over a ten or fifteen year pay back. But

the fisherman's license, _____ licenses would be assessed for the period long enough to retire the total debt that this type of fisher accumulates.

_____: Now, on the next page however, we do have a different situation. On the next page we are saying that if a guy last year bought a boat for $30,000, and he doesn't meet the qualifications that we establish here for a fisherman. In other words, he is not going to be able to be in the fishery and he is not going to be one of them that can sell out to the state instead, he simply will not be able to go fishing. And here he is sitting with a boat. Now, there is no market for the boat. And he is going to get hurt. Then we are going to have to compensate him for that.

_____: Indiscernible

_____: Well,...

_____: Indiscernible

_____: One of the easiest criteria to follow this problem, we would let a few more in so it would solve the problem by just saying, have to fish two out of the last ten years. That means if you bought a license last year, which you have had to have at this point, and then fishes this year, because our effective date can't be until after this one starts, he will have qualified. But if he buys one this year, he won't have his time in and then you won't have to pay him anything.

_____: I would like to see very definitely that everything

we do applies to people that fished prior to this year. That anybody that sees this thing happening and runs out now, _____ fishery this year, period, they are out. But if a guy started fishing last year and bought a boat, and because of our restrictions here he is not going to be able to fish anymore, we do have a moral obligation I think to compensate him for his loss. Now when we talk about 100% of the vessel, for instance, if that is what it is, will have some value. So what we compensate him for would be the difference in the actual market value now, and what it was or would have been had he still been able to fish with it.

_____: Right.

_____: It says, "reasonably compensate" which looks to be a very broad term. But if you look at page 12 of the governor's bill. "Reasonable compensation means the lesser of either the cost of acquiring by transfer and purchasing equivalent entry permit for the same registration area, or the difference in value between the fair market value of the gear without an entry permit and the fair market value of the gear with an entry permit. "

_____: You guys are talking about all kinds of fish now. But some guy who has been a crew member on a crab boat for the last ten years, is _____ for a $300,000 crab boat, just last year. Wow.

_____: This is why I would suggest two out of the last ten years. Because then the person that you are really screening out is the person that rushed down to buy a license after the governor had put this thing....

_____: (Several speaking at once)

_____: Then I would include... What happens.... See these have already been bought. They have already issued '73 licenses. Before the 90 day provision of this bill can go in, in fact even without it, there will be people (bang) fishing this year already. Like the follow that is fishing this year trolling.

_____: One to two years out of ten, now this is only salmon gear license holders, would be about 15%.

_____: That's the reason we can't really make any decision until we get a look at those numbers and see what we are talking about.

_____: Yes, but screening 15% of...

_____: ..of 27,000. About 4,137 people.

_____: Look the think that you are looking at. The thing that is confusing, is the area concept. In Southeastern Alaska, that concept would work very well in the gill net fishery. Because if you accomplish nothing else, passing this bill and screening out those that bought the licenses in a hurry, like Joe Orsini was saying, I'd better get down and buy a license, it might be the last year I can. And I said, well, you know, unless I fail absolute flat, that license won't be worth a thing in the end.

_____: I just went down a bought a boat, what do you mean?

_____: Yes. But you know, you can take care of that. Gugenbichtler of the Wrangell Fishermen's Association was here and his was the most direct of the presentations last night. And he said, "we are for limited entry. We think you should be fairly lenient if screening out those who rush to get the licenses at the last minute and those who have never fished them, and then we are willing to _____. We would like to see it go by attrition." But at least if you stop the new entry, what happened in Canada when they froze these licenses which had a real detrimental effect on the American fishery, incidentally, was the people immediately modernized. You know, the fellow who had a little junk gill netter, bought a fairly big boat with a substantial holding tank to keep his fish in and rigged it for trolling as well because the trolling then could move outside of Canadian waters and move into the American sector and what they did was they moved their troll fishery up from 40% to 60% in those three years. They have had their share. So what they have done is they have put their fisheries on a paying basis at the expense of the Americans. The same with their halibut which is now up to 65% of the catch where two years ago they offered to split it down the middle and we didn't want to split because we were at little ahead. The Canadians are going to, if they

have limited entry in B.C. and we don't have limited entry, they are going to butcher us. At the Straits of Juandefuca this year, the Canadian fishermen fished four days for his allowable half of the run, per week. And we got two 12 hour periods for the total season for the American fleet. Our fish that we were catching in Puget Sound, were going for 45¢ a pound until the Canadian boats showed up in the Puget Sound at our cannery, at 17¢, just flat busted the Americans right out of the game. We just sat there and let them do it to us.

_____: An employee of the Canadians could what, afford to sell at 17¢ per pound because they were getting many more fish?

_____: Oh yeah. They were getting boatloads you know. While the American was getting a couple of fish.

_____: Well, we've known for quite a while.. (end of tape)

SCOMM

#31:4

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.

NEW SPKR: 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 Steinberg (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 SPKR:

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 ul.imate 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.

NEW SPKR:

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 canners 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-

lem 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

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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 evidentally.

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.

NEW SPKR:

(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 ....

NEW SPKR:

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 ....

NEW SPKR!

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 esire, 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

serice 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 ....

NEWSPRE

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 SPKR:

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 statutues 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

SB 39: SPECIAL COMMISSION ON FISHERIES

WORK SESSION 2-5-73

(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 units. 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)

SCOMM

#31:5

Tape II/2 2/5/73

David Jackman

Senator Bob Palmer

Senator John Sackett

Representative Clem Tillion

Dean Goodwin

Frank Flavin - Alaska Legal Services Corp. attorney for village of South Naknek

Phil Daniel - UFA

Jackman: OK so what would happen say if runs in Bristol Bay would stabilize at a harvest of a half-million fish a year. You might set a level that because of the basic change in the fishery was entirely inappropriate - you're just going to pass new legislation at that point I guess.

Tillion: We're going to be right back with some changes next year - what we want to do is at least stop all these paper licenses that are being issued right at the moment.

(unintelligible)

Daniel: Are you going to make that clear by the way - that you're going to be continually working this thing over in the legislature.

Tillion: No, you don't make it clear because if it comes out all right you might let it ride for a few years.

Palmer: But it's possible to if the need arises.

Tillion: Well anybody that's read Mason's manual knows its possible.

Palmer: I don't know that we've talked to this point in here and I think we've got to and that is that we've got to do everything we can as often as necessary in this bill to make sure that all these standards - all these qualifications are as of 1972 not '73, '74 or '75.

Palmer: Well that's the subject. We're going to find some way to find - some way to make sure that the guy who's bought a license - you can screen the guy that bought the license and what I think you could do on that one is to let a few of your trollers in maybe but just say pass an effective date on the bill if possible and say that anyone who hasn't actively used the license by the effective date of this bill is out.

Jackman: Well we did that - rather than getting into all that we reasoned it this way and it may be inadequate I admit and that is that anybody who buys a license this year is going to be lower in priority than anybody who's held a license heretofore.

Tillion: Why don't we just chop them off.

Jackman: We saw other problems with that for the period of of implementation the real thing we're scared to death of is closing the class for any substantial period of time and

that's the legal problem. In other words before the Commission's made a decision or issued permits for a given fishery in a given area - to tell somebody "no you can't fish." Now its another thing to say if you come in now you're going to be at the bottom of the totem pole and you can come in if you want to but that's where you're going to sit when we get around to issuing entry permits, but to tell him that before the Commission's even made its decision on an area that somebody that's new can't come in and buy licenses to fish - it just gets us into all sort of problems.

Tillion: OK has - but we have to have some mechanism where when the Commission moves they don't have to reimburse anybody that doesn't have a participation history.

Palmer (?): Well what about on page 4 again when we're talking about the 6 categories - page 4 of the new material. Suppose when we're talking about B there that language "the Commission shall classify applicants, etc. based upon the character of the applicant's involvement in the fishery prior to 1973 . . ."

Tillion: No - prior to the effective date of this bill.

Palmer: Well can you make an effective date clause - can you make an effective date prior to the passage of this bill.

Tillion: No.

Palmer: We can't have this thing apply - include everyone that's jumping in now.

Tillion: Well of course the thing is prior that a mere license holder if he hasn't fished prior to the effective date of the bill hasn't actually wet gear - we're going to let a few trollers in down here but I don't think its going to be excessive, would you say, because if we can move this thing in the next month and get an effective date through.

Palmer: Well that alright too. It could not have constituted a primary income source if they just started in '73.

Flavin: I don't see if the Commission can cut out 4, 5 and 6 or the Commission can cut out a certain percentage why the Legislature can't do it right now. What makes it so sacrosanct that the Commission can do it six months from now that the Legislature can't do it now?

Jackman: I tend to agree but one thing that makes it more sacrosanct is that there's some basis in some specific regulations for what the Commission does whereas the legislature now would be cutting with a pretty broad knife. Sure you

could say that the bottom 30% of people will be removed from the fishery and the Legislature can do it fine but it isn't what you really want to do in the various areas.

Sackett (?): Are there any consitutional problems at all?

Jackman: No I don't think so.

Tillin: Oh well - then the thing is that I would say "has not actively engaged in the fishery prior to the effective date of this bill" and then fine - he'll get refunded, you know the fellow that's buying his license right now and there's no fishing till July - he'll get refunded for his license and if he wants to participate in the fishery . . .

Jackman: The reason tha might work OK is because there'll be some guys that might still enter and depending on transfer-ability on the reasoning: I'll enter and start paying off my boat, get into the fishery and I know when the Commission issues entry permits for this area I won't get one but I'll just buy somebody out - I'll get in that way. It still isn't going to be telling somebody that he can't get into the fishery but if we on the other hand go to something that is going to close the fishery then I'm nervous about that.

Flavin: Well you're going to close the fishery at some point anyway.

Tillion: The thing is he has the right to buy out, but they're under no obligation to pay for his license if he has never fished before the effective date of this bill. So you don't have to spend money for all these paper licenses is what I'm looking at.

Palmer: If in that new language on page 4 instead of saying prior to 1973 why if we said involvement in the fishery prior to the effective date clause or prior to the effective date of this legislation, anything . . .

Jackman: Again I only - the only caveat is depending on what we do with transferability on down the line.

Tillion: Well what I'm looking at - if you make the effective date of the bill you're not just screening out this year's people you're screening out all the Daubensbeck's men who have held licenses low these many years waiting in case one of his fishermen talked back to him - the paper license is screened out if he hasn't actively engaged in the fishery prior to the effective date of this bill.

Jackman: I mean I'm not embracing the words . . (unintelligible).

Palmer: Wait a minute though - that sure opens up a big

question. Career fishermen. The fishery constitutes the primary subsistence and/or income source. If he had been workin' in that cannery all these years does the fishery then constitute the primary source of income?

Tillion: No, I don't even says he's a fisherman - he's a cannery worker.

Unknown: But it does say fisheries industry.

Palmer: Is this a point that could be argued?

Jackman: Sure it's something that we ought to clean up. But the other thing - as long as we're on that I don't see what subsistence - we've got to make this clear that this is commercial fishing not subsistence fishing.

Flavin: The reason it's in there is because when we're talking about participation factors in Bristol Bay your resident and native fishermen is going to show up less on the participation factor because he always takes of 2 or 3 weeks early or at least a week or so early to get back up river to Iliamna and places to take a subsistence harvest.

Jackman: I think we can cope with that problem in other ways - because he's more dependent because even though the may only

make $2000 - it may be the only cash income he's got - he's 100% dependent on that fishery for his cash income even though he leaves a week early. The guy that fishes the full time season - that fishery - that season - I don't see how in 99% of the cases he isn't as important.

Flavin: It's hard to separate income from subsistence - what difference does it make whether you're eating it or whether you're buying it.

Tillion: In fact internationally we grade them 3 ways. Subsistence, commercial and play. The Japanese don't even acknowledge play - I remember when we tried to cut the bill fish at Samoa one of the Japanese stood up and said you want us to stop eating them so you can play with them.

Jackman: You see what the implication of what you're doing is giving out rights to participate in the commercial fishery based on activity in the subsistence fishery and that's just something we try to keep separate because it's a very important problem and has to be dealt with separately I think.

Tillion: Well I can see what you mean - you don't want somebody that's been fishing trout out at Iliamna to pick up a right to fish commercially in Bristol Bay because you might have some that don't hardly fish at all in Bristol Bay that would pick up a major right to fish.

Flavin: I don't see how they're going to qualify as a career fisherman if they're just subsistence fishing - as a career commercial fisherman. They're not going to qualify as subsistence fishermen but they wouldn't be penalized for any type of activity that they . . .

Goodwin: I don't think they're going to lose too much - if you don't have that clause in there.

Flavin: Some years actually the last people there are these people say from Iliamna - say the recent poor years when they've taken off in all honesty I think is oftentimes in the big year. They make their stake and they've got what they want and then they want to go home to revert to the old traditional subsistence ways.

Flavin: The reason I expressed that concern is that in Alaska Fisheries Policy there whatever measurements they take they said that showed significant measure of participation less because of the people that lived up-river going back early.

Goodwin: The guy that wrote that thing relied heavily on input from certain friends in the canning industry for that statement. It's a definite factor that does occur but it's not necessarily consistent and it's something that is changing but I think it was played up by his sources which

were - was not based on real knowledge of what happens in the fishery. It was based more upon this subjective type of BS that the industry likes to make so much out of to justify their reliance on the non-resident.

Flavin: If it's not a real factor I have no qualms about taking it out.

Sackett: Well assuming that the person does give up commercial fishing in order to go back up to Iliamna, how did you envision doing it by other methods?

Tillion (?): I don't think you'll find . . . This is the issue - it's the highliner.

Jackman: Wouldn't it still be his primary source of cash income even though he gives up fishing.

Sackett: I don't know.

Jackman: All I'm suggesting is I think these people will qualify and wind up about the same spot even if you struck out - in other words because the commercial fishery will still be the primary source of income because the subsistency fishery isn't a source of income - it's a source of livelihood.

Tillion: One thing John, I think your resident will come out ahead not behind because I know and when you say Daubie's boys and the cannery highliners leave as soon as their pay gets below what gillnetting will bring on the Columbia - they pull right out - bang and they go donw for the fall fishing in Puget Sound and so they're one of the last to come and the first to leave - they only hit just the peak of the run and it's . . .

Jackman: The other answer might be is you're still going to leave the Commission the authority within those classifications to create specific regulations in specific areas and sub-classifications and at that point when they're in Bristol Bay they can be sensitive to that particular situation.

Sackett: How can we guarantee that they are going to be sensitive?

Jackman: You can('t ?) the way it's written.

Tillion: You can't guarantee what the next Legislature will do John.

Unknown: Oh pretty well. It's always hard to repeal something that's been passed. I find the interpretation to be very lax (unintelligible).

Palmer: Well John, do you think any of those people that would be involved that way would have or would not be a primary or significant part of their income - primary or necessary and substantial income source.

Sackett: I don't know - I've never been to Bristol Bay in my life.

Palmer: Well Dean can you?

Goodwin: No, I don't think so.

Sackett: I take that back - I was down through there one day. Unintelligible Portion

Tillion: I'd say the major gainers in this one - the areas that I see a major gain will be Chignik and AYK of the Yukon Kuskokwim - they'll be the major gain when we shut off new entry because they're ripe now at optimum.

Flavin: We might be able to drop it out at that and bring it back into past participation fishery to determine the length and degree and character of participation. And then put it in there as in some correlative fashion as to commercial fishermen. So it's more specific so we know what we're talking about.

end of tape

II/2 2/5/73

: I don't have any objections to changing the standard but I don't think this standard is specific enough or covers enough ground.

: Do you think then, legally the standards here the wording of this standard should be tied in with the qualification for entry permits because there that's what we do talk about is participation.

: I think those are two different things.

: You're recommending leaving it the way it is because the fact you feel is stronger legal.

: I'm not necessarily recommending leaving it the way it is - I'm saying _____ what's suggested.

: The problem is though with the wording that we've got in the bill as it came from the Governor's office - we do I think very definitely trend towards a commercial fishery - a professional career fisherman which we're actually saying that we're trying to get to the point where (A) an individual individual will be able to make a 12 month living in six weeks work.

: No, I dont think we're saying that at all.

: Let's hope not.

: Well that't the way I think it's going to be interpreted by an awful lot of people.

: that's the way it's interpreted.

: Well then that misunderstanding_____ has to be corrected and cleaned up - but I think that hthere is - the way I look at this thing is that you aren't going the whole route say as Crutchfield will go and establish the level the optimum amount of capital investment in the fishery and all that but I think it does have an economic compcnent and an important one and that economic component is what means for the livelihood of the fishermen participating in the fishery and it's going to vary from area to area and type of gear to type of gear.

: You have to go along maybe not on salmon for instance where you have a captive market but you have to go half way to meet Crutchfield or youre never going to take back that 70% of the fisheries product that is imported or Alaska's share, you know.

: _____ movement in that direction but the starting point wouldn't be so severe. In other words....

: Well all right. The problem I see is in this very first paragraph at the top of page 6. The number of units of gear which result in an average level of income to the fishermen participating in that fishery which is adequate and sufficiently stable to sustain a professional fisherman

: I don't like that

: I have no real qualms, I don't see any big problem about leaving the rest of it in there if we can change that wording so that we don't

: Do you want to come up with that?

: Is that where you see the problem.

: We don't want this to end up as a make work project which leaves us in this poor competitive position which we are now.

: They quit reading after they read that

: The rest of it - well there's really no problem with the rest of it that I see

: But you're also, you've got to remember even though you're looking at a particular fishery, area and a particular type of gear. Professional fishery means what other areas and what other types of gear are those guys fishing - you're looking at that contribution that adds to a profession not saying the profession is going to be based just on harvesting/drift gill net gear in Bristol Bay.

: Well that's one of the things we want to look at - you take the AYK and they'llhave very little - just a little ice fishing in the winter. Down in Bristol Bay its possible that you could - when you took your 32 foot limit off as soon as you get control you would encourage the guys to start embarking in herring seining in the spring - you know right now you can't lift the lid off

: They might even go out in the Bering Sea a little further and fish crab.

: Yeah, except then you'll end up with the whole thing wintering at False Pass.

: You might be able to go up to Lake Iliamna and fish white fish.

: Will you fish salmon up there if the Governor's program goes?

: The Governor's program doesn't look like that any more. The Governor's program is now toward conventional rehabilitation. The damming has ceased to be an issue.

: OK _____ on page 6 then.

: Number 4 - what was the reasoning behind that - I mean that seems like something that really isn't tied in to this.

: Number 4 or line 15 the old bill. On page 6 line 15 if you use that in Bristol Bay you'd get back to what 500 units roughly. 5 to 800 units instead of 2,900.

: The reason behind that to solve the problem that you point out with the professional fisherman - in a lot of areas the season may only be 3 weeks or 6 weeks long and the full time professional fishermen take other jobs in the off season - it's just not that kind of fishery - it's not a year round fishery so in setting out those levels you're going to take that into account. What the particular history and traditions of that fishery are - what's appropriate in that fishery - thexproblemx it's a fudge factor.

: What constitutes history - the last 10 years?

: All it is is just a reasonableness kind of factor - it can be reasonable in terms of what other factors in that

fishery are -

: You'd have to get back to the sustained yield year.

: That was a long time ago - before '59 in the Bay.

: We're probably going to change the standards and we're probably going to change the qualifications on page 7 - lines 2 through 9 we have eliminated. First of all because we don't want the Commission to be able to decrease the maximum number of units over and above what we're already doing. Otherwise we voided the whole intent of this thing.

: OK so what would happen say if runs in Bristol Bay would stabilize at a harvest of a half-million fish a year. You might set a level but becasue of the basic change in the fishery was entirely inappropriate - you're just going to pass new legislation.at that point I guess.

: We're going to be right back with some changes next year - what we want to do is at least stop all these paper licenses that are being issued right at the moment.

: Are you going to make that clear by the way - that you're going to be continually working this thing over in the legislature

Tillion : **No, you don't make it clear because if it comes out all right you might let it ride for a few years.**

Palmer : **But it's possible to if the need arises**

Tillion : **Well anybody that's read Mason's manual knows its possible.**

Palmer : I don't know that we've talked to this point in here and I think we've got to and that is that we've got to do everything we can as often as necessary in this bill to make sure that all these standards - all these qualifications are as of 1972 not '73, '74 or '75.

Tillion : Well that's the subject. We're going to find some way to find some way to make sure that the guy whose bought the license - you can screen the guy that bought the license and what I think you could do on that one is to let a few of your trollers in maybe but just say pass an effective date on the bill and possible and say that anyone who hasn't actively used the license by the effective date of this bill is out.

Palmer : Well we did that - rather than getting into all that we reasoned it this way and it may be inadequate I admit and that is that anybody who buys a license this year is going to be lower in priority than anybody whose held a license heretofore.

: Why don't we just chop them off -

: We've got problems with that. - the period of implementation & the real thing we're scared to death of is is closing the class for any substantial period of time and that's a legal problem. In other words before the Commission's made a decision or issued permits for a given fishery in a given area - to tell somebody no you can't fish - it's another thing to say if you come in now you're going to be at the bottom of the totem pole and you can come in if you want to but that's where you're going to sit _____ entry permits but to tell him that before the Commission's even made its decision on an area that somebody that's new can't come in and buy licenses to fish - it just gets us into all sort of problems

: Ok has - but we have to have some mechanism where when the Commission moves we don't have to reimburse anybody that doesn't have a participation history.

: Well what about on page 4 again - we're talking about the 6 catgegories - page 4 of the new material. The six categories - when we're talking about B there that language the Commission shall classify applicants, etc. based upon the character of the applicant's involvement in the fishery prior to 1973.

Tillion : No - prior to the effective date of this bill

Palmer : Well can you make an effective date clause - can you make an effective date prior to the passage of the bill. We can't have this thing apply - include everyone that's jumping in now.

Tillion : Well of course the thing is prior that a mere license holder if he hasn't fished prior to the effective date of the bill hasn't actually wet gear - we're going to let a few trollers in down here but I don't think its going to be excessive, becauseif we can move this thing in the next month and get an effective date through

Palmer : Well that's ok too

It could not have constituted a primary income source if they started in '73 - I don't see if the Commission can cut out 4, 5, and 6 or 5 and 6 the Commission can cut out a certain percentage why the Legislature can't do it right now. What makes it so that the Commisison can do it six months from now that the Legislature can't do it now.

: I tend to agree but one thing that makes that there be some basis - some specific regulations for what the Commission does where/as the Legislature now would be cutting with a pretty broad knife. Sure you could say that the bottom 30% of people will be removed from the fishery and the Legislature

can do it fine but it isn't what you really want to do.in the various areas.

Sackett?: Are there any constitutional problems at all?

Jackman: No I don't think so.

Tillion: Oh well - then the thing is that I would say has not actively engaged in the fishery prior to the effective date of ~~the~~ this bill and then fine - he'll get refunded, you know the fellow that's buying his license right now and there's no fishing till July - he'll get refunded for his license and if he wants to participate in the fishery

Jackman: The reason taht might work OK is because there'll be some guys that might still enter depending on trasnferability - on the reasoning I'll enter and start paying off my boat, get into the fishery and I'll know when the Commission issues entry permits for this area I won't get one but I'll ~~have to~~ just buy somebody out - I'll eget in that way. It still isn't going to be telling somebodythat he can't get into the fishery but if we on the other hand go to something that is going to close the fishery then I'm nervous about that.

Tillion: Well you're going to close the fishery at some point anyway.

Tillion: The thing is he has the right to buy out but

they're under no obligation to pay for his license if he has never fished before the effective date of this bill. So you don't have to spend money for all these paper licenses is what I'm looking at.

Palmer : If in that new language on page 4 instead fo saying prior to 1973 why if we said involvement in the fishery prior to the effective date clause or prior to the effective date of this legislation, anything . . .

Jacobsen : Again I only - the only asset is depending on what we do with transferability under the line

Tillion : Well what I'm looking at - if you make the effective date of the bill you're not just screening out this years people you're screening out all of ~~Dobb & Specks~~ Southeastern web men who have held licenses low these many years waiting in case one of his fishermen talked back to him - the paper licenses screened out if he hasn't actively engaged in the fishery prior to the effective date of this bill.

[illegible] : I'm not .....

[illegible] : Wait a minute tho - that sure opens up a big question. Career fishermen. The fishery constitutes the primary subsistence and/or income source. If he had been workin' in that cannery all these years does the fishery then constitute the primary source of income?

Tillion : No, I don't even say he's a fisherman - he's a cannery worker.

A Palmer.

? : But it does say fisheries industry / is this a point that could be argued.?

Jackman : Sure its something that we ought to clean up. But the other thing - as long as we're on that I don't see what subsistence - we've got to make this clear that this is commercial fishing, not subsistence fishing.

Flavin : The reason it's in there is because when we're talking about participation factors in Bristol Bay your resident and native fisherman is going to show up less on the participation factor because he always takes off 2 or 3 weeks early ~~and~~ at least a week or so early to get back up river to Iliamna and places to take a subsistence harvest.

: I think we can cope with that problem in other ways - because he's more dependent even though he may only make $2000 - it may be the only cash income he's got - he's 100% dependent on the fishery for his cash income even though he leaves a week early. The guy that fishes the full time season - that fishery - that season - I don't see how in 99% of the cases it's important.

: It's hard to separate income from subsistence - what difference does it make whether you're eating it or whether

buying it.

Tillion : In fact internationally we grade them in 3 ways. Subsistence, commercial and play. The Japansese don't even acknowledge play - I remember when we tried to cut the bill fish out at Sanoq one of the Japanese stood up and said you want us to stop eating them so you can play with them.

Jackson : You see what the implication of what you're doing is giving out rights to participate in the commercial fishery based on activity in the subsistence fishery and that's just something we try to keep separate because it's a very important problem and has be dealt with separately I think.

Tillion : Well I can see what you mean - we don't want somebody thats been fishing trout out at Iliamna to pick up a right to fish commercially in Bristol Bay because you might have some that don't hardly fish at all in Bristol Bay.that would pick up a major right to fish

: I don't see how they're goingto qualify as a career fisherman if he's subsistence fishing as a commercial career fisherman, they're not going to qualify as subsistence fishermen but they wouldn't be penalized for any type of activity that

Tillion : I don't think they're going to lose too much - if you don't have that clause in there - some years actually

the last people there are these people say from Iliamna - say the recent poor years when they've taken off and in all honesty I think as oftentimes in the big year, they make their stake and they've got what they want and then they want to go home to revert to the old traditional subsistence ways.

Flavin : The reason I expressed that concern is that in Alaska fisheries policy there whatever measurements they take they can't show significant measure participation less because of the people that lived up-river going back early.

Gordon : The guy that wrote that thing relied heavily on input from certain friends in the canning industry for that statement. It's a definite factor that does occur but it's not necessarily consistent and it's something that is changing but I think it was played up by his sources which were was not based on a real knowledge of what happens in the fishery. It was based more upon this subjective type of BS that the industry likes to make so much out of to justify their reliance on the non-resident.

Flavin : If it's not a real factor I have no qualms about

Gordon : Well assuming that the person does give up commercial fishing in order to go back up to Iliamna, how did you envision doing it by other methods?

~~Tillion~~ ?:) → I don't think you'll find

Tillion : This is the issue - it's the high liner

Jackman : Wouldn't it still be his primary source of cash income even though he gives up fishing? R Jackman.

Sackett : I don't know. All I'm suggesting is I think these people will qualify and wind up about the same spot even if you struck out - in other words because the commercial ~~history~~ fishery will still be the primary source of income because the subsistency fishery isn't a source of livelihood.

Tillion : One thing John I think your resident will come out ahead not behind because I know and when you say Dawber's boys & the cannery/highliners leave as soon as their pay gets below what gillnetting will bring on the Columbia - they pull right out - bang and they go down for the fall fishing in Puget Sound and so they're one of the last to come and the first to leave - they only hit the peak of the run and its

Jackman : The other answer is youre still going to leave the Commission the authority within those classifications to create specific regulations and sub-classifications ~~and specific areas~~ and at that point when they're in Bristol Bay they can be controlled to that particular situation.

Sackett : How can we guarantee that they are going to be available?

fashion; You can(t?) the way it's written

Tillion : You cant guarantee what the next Legislature will do John.

? : Oh pretty well. It's always hard to repeal something that's

: I find the interpretation to be very lax (...intelligible) been passed.

Palmer : Well John do you think any of those people that would be involved that way would have or would not be a primary or significant part of their income - primary or necessary and substantial income source.

Sackett : I don't know - I've never been to Bristol Bay in my life.

: Well Dean can you

: No, I don't think so

: I take that back - I was down thru there one day

: I'd say the major gainers in this one - the areas th at I see a major gain will be Chignik and AYK of the Yukon Kuskokwim - they'll be the amjor gain when we shut off new entry because they're ripe now.

: We might be able to drop it out at that and bring it back into past participation fishery to deteremine , the and character length and degree/of participation. And then put it in there as in some correlative to commercial fishermen. So its more specific so we know what we're talking about

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

SB 39: SPECIAL COMMISSION ON FISHERIES

WORK SESSION 2-5-73

(TAPE II - SIDE 1)*

*First part of Tape II - Side 1 is very faint and distorted.

Tillion **Well, I've looked at what it would have been in the scallop fishery (indisc.) if you had limited it to four boats instead of letting it go to sixteen in class.**

Are you saying, though, that the threat is **imminent** ....

Tillion The threat is imminent for all species.

(Indisc. - too faint)

Yeah, if you limit one portion, you're going to push a whole fleet into another portion and be in trouble there almost immediately

(Indisc. - too faint)

If they -- if the have the entry permit system where you have to have an entry permit, even if they're not at that moment turning their attention to it. For instance, nobody's going to rush out to get a whole bunch of clam permits. You know, there's just very little clam-digging going on.

(Indisc.) on halibut now. Is there anything that can be done about that? I know (indisc. - too faint).

That's one that the real six business -- and I don't know but

what you might want to limit -- the Commission might want to limit additional licenses over a certain tonnage where you knew you were pushing them offshore.

(Indisc. - too faint)

We're already doing some (indisc.) on that halibut - of course, as it came up. (Indisc. - too faint)

If the (indisc.) -- the same way as the troll fishery is in the same bucket of worms as the halibut fishery, because, if we limit our troll fishery offshore the Canadians will take an even bigger chunk.

But, the thing is, this confuses the point. Because, if you're in international competition, one of the criteria for the optimum number of units of gear is that number which makes you most competitively the most efficient, the best competitor, in the international seas. So, if you're really doing your job right, the optimum level ought to make you a better competitor ....

If it's handled right. Okay, the Commission would have that ....

(Indisc. - simultaneous conversation) that could be taken into consideration.

We're running out of time.

NEW SPKR:

Okay.

Let's go on to eight - entry permit qualifications. We're going to establish the maximum number of units of gear. And, do we want to go back and change that again? Let's see.

Page eight?

Yeah, page eight.

Yeah, this is the one that we ....

I'm sorry. Did we get beyond the standards? Did we get beyond the standards for establishing the levels?

No, no.

Yes.

Oh, did we?

The optimums back on page six. That was one of the major comments that had run over when we were short on time. But I'm very disturbed about the suggested alternative. Number one, it's only ....

NEW SPKR:

Well, now, wait a minute. Let me make sure I understand what you're doing.

Revision of optimum instead of revision of maximum? Page six, line eighteen. Is that ....?

Terry, on page five at the bottom.

It's the add six item.

Yeah.

The add six item on the number of units of gear (inc sc. - loud noise) based on sound management techniques. I think that this is really the crux. The basic legal justification for everything the legislature is doing has got to be in that standards section. You've got to be saying what is the reasonable and justifiable legislative purpose of this whole effort. And I think that it goes beyond management and it goes to the livelihood of the fishermen. And what we've tried to come up with is standards that reflected both sides of that coin. So that you'd say the optimum number of gear has something to do not just with the orderly harvesting of fish, but also with a level which is commensurate with the resource's ability to provide a livelihood for the fishermen. Now, in other words, all I'm saying is that I think those -- I don't have any objection to changing

the standard, but I don't think this standard is specific enough or covers enough ground.

Do you think, then, that legally the standard here, that working with this standard should be tied in with qualifications for entry permits? (Indisc. - too faint)

I think they're two different things.

You're right in leaving it the way it is because of the fact that (indisc. - too faint)

I'm not necessarily recommending leaving it the way it is. I'm thinking I don't like what's suggested.

The problem is, though, that with the worries that we've got in the bill that came from the Governor's office, we do, I think, very definitely tend towards a commercial fishery, a professional career fisherman, which we're actually saying and we're trying to get to the point where A, an individual, will be able to make a twelve-month living in six weeks' of work.

No, I don't think we're saying that.

Oh, let's hope not.

NEW SPKR:

Well, that's the way I think it's going to be interpreted by an awful lot of people.

Well, if it's misinterpreted ....

Well, then, that misunderstand, I couldn't agree more, has to be corrected and cleaned up in terms of the bill. But I think there is -- that one -- what I was just saying is that you aren't going the whole route that, say, a Crutchfield (ph) will go and say we're going to establish the level of the optimum amount of capital investments, you know, in the fishery and all that. But I think what does have an economic component, and an important one, and that economic component is what it means to the livelihood of the fisherman participating in the fisheries. And it's going to vary from area to area and from year to year.

You have to go along, maybe not on famine, for instance, where you have a captive market. But you're going to have to go halfway to meet Crutchfield (ph) or you're never going to take back that seventy percent of the fisheries' product that is imported, or Alaska's share, you know.

And we're (indisc.) movement in that direction, but the starting point wouldn't be so severe (indisc. - too faint)

Well, all right. The problem I see is in this very first paragraph, at the top of page six - the number of units of gear

which result in an average level of income to the fisherman participating in that fishery which is adequate and sufficiently **stable to sustain a professional fisherman.**

I don't like that.

All right. I have no real qualms. I don't see any big problem about leaving the rest of it in there if we could change that wording so that we don't ....

Do you want to come up with that?

I'll try to come up with something.

Isn't there where you see the problem, Terry?

We don't want this to end up as a make-work project, which leaves us in a -- it's for a competitive position (indisc.).

Well, the rest of it, really, is not .... There's no (indisc.) on the rest of the prices.

But, you're also -- you've got to remember that even though you're looking at a particular fishery area and a particular type of gear, a professional fishery (indisc.) what other areas and what other types of gear are fishing (indisc.) You know, you're looking at that contribution that adds to a profession.

Not saying that a profession is going to be based just on harvesting (indisc. - too faint).

Yeah, well .... Of course, one of the things we want to look at -- you take up the A.Y.K and they'll have very little except a little bit of ice-fishing in the winter. Down in Bristol Bay it's possible that you could, when you took your thirty-two foot limit off, which, as soon as you got control of them, you would encourage the guy to start embarking in herring seining in the spring. You know, right now you can't lift the lid off because ....

They might even go on out (indisc.) a little further and fish for crab.

Yeah, except then you'll end up with the whole thing wintering at False Pass. But, nevertheless ....

They might even be able to go up to Lake (indisc.) and fish whitefish.

Can they fish salmon up there (indisc. too faint)

The Governor's program doesn't look like that anymore, John. The Governor's program is now ....

Conventional rehabilitation.

NEWSOKR:

.... conventional rehabilitation. Damming has ceased to be an issue.

(Indisc. - too faint)

Let's don't get started on that now. Okay. Let's go to the problems on page six, then.

I just want to say something. Why on (indisc.) number four. What was the reasoning behind that? (Indisc. - too faint)

Number four?

On line fifteen (indisc. -- too faint)

On page six, line fifteen. If you use that in Bristol Bay you'd get back to, what, five hundred units, roughly? Five to eight hundred units instead of twenty (indisc. - simultaneous conversation).

The reason behind that was to solve the problem that you pointed out with the professional fishery; that is, in a lot of areas the full-time fisherman, because the season may be only three weeks or six weeks long, the full-time, professional fisherman takes other jobs in the off-season. I mean, it's just not that kind of fishery; it's not a year-round fishery. So, you're -- instead

of setting optimum levels, you're going to take that into account - what the particular history and conditions of that fishery are. You know, what's appropriate for that fishery. And it's a (indisc.).

What constitutes history? The last ten years, ten years ago, fifty years ago?

It's just a -- all it is is just a reasonableness kind of factor that the Commission could use in terms of what other factors in that fishery are.

You'd have to go back to the same-yield year.

(Indisc. - too faint)

Before '59 on the bank.

All right. We'd probably change the standards and probably change the qualifications. On page seven, lines two through nine we have eliminated. First of all, because we don't want the Commission to be able to decrease the maximum number of units over and above what we are already doing, otherwise, we've avoided the whole intent of the thing.

Well, okay, what would happen, say, if the run in Bristol Bay would stabilize at a harvest of half-a-million fish a year?

You know, you might set a level that, because of the basic change in the fishing, you might find it inappropriate

Now, we're going to be right back here with some changes next year. What we want to do is at least stop all these paper licenses that are being issued right at the moment, you know.

(Indisc. -- too faint)

Are you going to make that (indisc.) the other way that you're going to be continually working this thing over in the legislature? Or is this going to be some ....

Well, no. You don't make it clear. Because, if it comes out all right, you might leave it right for a few years, you know. But ....

You could make it clear as it's possible to as the need arises.

Well, I mean, anybody that's read Mason's (ph) Manual knows it's possible.

I don't know that we've talked to this point in here, and I think we've got to. And that is that we've got to do everything we can, as often as necessary in this bill, to make sure that all these standards, all these qualifications and so on, are as of 1972, and not '73, '74, or '75.

NEW SPKR:

Well, that's a subject we're going to have to find some way to make sure that the guy who's bought a license -- that you can screen the guy that bought the license. And what I think you could do on that one is let a few of your trollers in, maybe, but just say pass an effective date on the bill, if possible, and say anyone who hasn't actively used the license by the effective date of this bill is out.

Well, we did that. Rather than getting into all that, we reasoned this way. It may be inadequate I admit. And that is that anybody who buys a license this year is going to be lower in priority than anybody who's held a license heretofore. That ought to be at the bottom somewhere.

Why don't we just chop them off?

Well, okay. We saw other problems with that. Because, for instance, with a period of implementation, the real thing we're scared to death of is closing the class for any substantial period of time. And that's the legal problem with -- in other words, before the Commission has made a decision, or issued permits for a given fishery or a given area, to tell somebody, No, you can't fish. Now, it's another thing to say, If you come in now you're going to be at the bottom of the totem pole, and you can come in if you want to but that's where you're going to sit, when we get a ground (indisc.) for the entry permits.

If you tell him, before the Commission's even made its decisions on an area, that somebody new can't come in and buy a license and fish, it just gets us into all sorts of problems.

Well, no. Okay. Has -- but we have to have some mechanism where when the Commission moves they don't have to reimburse anybody that doesn't have a participation history.

Well, what about on page four again where we're talking about these six categories - page four of the new material. No, the new material where we set up those six categories. Suppose when we're talking about B there that language, "shall classify applicants, etc., based upon the character of the applicant's involvement in the fishery prior to 1973."

No, prior to the effective date of this bill.

Well, can you make an effective date clause -- can you make an effective date prior to the passage of the bill?

No.

Well, we can't have this thing apply and include everybody that's jumping in now.

Well, of course, the thing is prior -- that a mere license holder, if he hasn't fished prior to the effective date of the bill,

has and actually wet year. Now you're going to let a few trollers in down here. But I don't think it's going to be excessive. Do you think so? Because it's just -- if we can move this thing in the next month and get an effective date through ....

Well, that's all right, too. But then it could not have constituted a primary income source if they just started in '73.

Again, I don't know. Maybe I -- I don't see if the Commission can cut out four, five and six, I don't see -- you know, five and six, or the Commission can cut out a certain percentage why the legislature can't do it right now. I mean, what makes it so sacrosanct that the Commission can do it six months from now if the legislature can't do it now?

Well, I tend to agree. But one thing that makes it more sacrosanct is there be some basis and some specific regulations for what the Commission does whereas the legislature now, because (indisc.). I mean, sure, you could say that the bottom thirty percent of the people will be removed from the fishery. And if the legislature can do it, fine. But it just isn't what you really want to do in the various areas.

No.

Are there any constitutional problems at all?

NEW SPKR!

No, I don't think so.

Well, then, the thing is that I would say have not actively engaged in the fishery prior to the effective date of this bill. And then, fine, he'll get refunded. You know, the fellow who's buying his license right now and there's no fishing until July, he'll get refunded for his license. And if he wants to participate in the fishery ....

The reason that might work okay, because there'll be some guy that might still enter and, depending on transferability, on the reasoning, I'll enter, start paying off my boat, get into the fishery. I know when the Commission issues entry permits for this area I won't get one but I'll just buy somebody else's, or I'll, you know, I'll get in that way. And he still isn't going to be telling somebody that he can't get into the fishery. But if we, on the other hand, go to something that is going to close the fishery, then I'm -- I'm nervous about that.

Well, you're going to close the fishery at some point, anyway.

The thing is, he has the right to buy out. But they're under no obligation to pay for his license if he has never fished before the effective date of this license.

I don't think that would even be ....

NEW SPKR:

So you don't have to spend money for all these paper licenses is what I'm looking at.

Well, okay, if in that new language on page four it says prior to 1972, '73, or if we said any involvement in a fishery prior to the effective date clause, or prior to the effective date of this legislation -- is there anything ....?

Again, the only caveat is depending on what we do with transferability on down the line?

Well, what I'm looking at you're going to -- if you make the effective date of the bill, you're not just screening out this year's people. You're screening out all of Dobbin,Specks Webb (ph) men that have had licenses lo these many years, waiting in case one of his fishermen talked back to him. You can screen -- the paper license is screened out if he hasn't actively engaged in the fishery prior to the effective date of this bill.

I mean, I might -- I'm not embracing the word (indisc. - simultaneous conversation).

Don't give him time to get in there.

Wait a minute, though. That sure opens up a big question. Career fishermen. The fishery constitutes the primary subsistence and

or income source. All right. If he's been working in that cannery all these years, does the fishery then constitute the primary source of income?

He's not a fisherman.

No, it doesn't even say he's a fisherman. He's a cannery worker.

I know that.

(Indisc. - too faint)

Well, okay, but now is this a point that could be argued?

Sure. It's something we ought to clean up, I think. But the other thing, as long as we're on that, I don't see what subsistence -- we've got to make it clear this is for commercial fishing not (indisc. - simultaneous conversation).

The reason it's in there is because when we're talking about participation factors in Bristol Bay, your resident and native fisherman is going to show up less under the participation factor because he always takes off two or three weeks early, or at least a week or so early, to get back upriver to Iliamna, and places, to take the subsistence harvest.

Yeah, but I -- I think that we can cope with that problem in other

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ways, because he's more dependent. Because even though he may make only two thousand dollars, it may be the only cash income he's got. He's a hundred percent dependent on that fishery for his cash income even though he leaves a week early. The guy that fishes the full-time season still -- you know, that fishery -- you know, that season I don't see how -- in ninety-nine percent of the cases his is just as important ....

Of course, it's hard to separate income and subsistence, you know. What difference does it make whether you're earning it or you're buying it?

In fact, internationally we grade them in three ways: subsistence, commercial and play. And the Japanese don't even acknowledge play, because I remember when we tried to cut the billfish out of Samoa, one of the Japanese stood up said, You want us to stop eating them so you can play with them.

You see what the implication of what you're doing is giving a guy -- giving up rights just in the commercial fishery based on activity in the subsistence fishery. And, you know, it's something we try to keep separate, because it's a very important problem and it has to be dealt with separately, I think.

Well, I can see what you mean. You don't want somebody that's been fishing trout out of Iliamna to pick up a right to fish commercially in Bristol Bay, because you might have some that

don't hardly fish at all in Bristol Bay that would pick up a major right, then, to fish.

I don't see how they're going to qualify as a crew of fishermen if they're just subsistence fishermen. As a career commercial fisherman, they're not going to qualify as a subsistence fisherman. But they wouldn't be penalized for any type of activity that they ....

Well, I don't think they're going to lose too much if you don't have that clause in there. Like, some years actually the last people there are these people, say, from Iliamna. When they've taken off, in all honesty I think it is oftentimes in the big year they makes their stake and they've got what they want. And then they want to go home to revert to the old traditional subsistence ways.

Well, the reason I expressed that concern is that in that Alaska Fisheries Policy that whatever measurements they take it is a fairly significant measure of participation less because of the people that lived upriver going back early.

The guy that wrote that thing relied heavily upon input from certain friends at a cannery industry for that statement. It's a definite factor that does occur. It's not necessarily consistent. And it's something that is changing. But I think that what's played up by his sources, which is not based on a real knowledge

of what happens in a fishery. In othere words, based more upon this subjective type of deal is that the industry likes to make so much out of it to justify their reliance on the non-resident.

Well, if it's not a real (indisc.), I have no, you know, qualms about ....

Well, I'm assuming if a person does give up commercial fishing in order to go back up Iliamna, how did you envision doing it by other methods?

I don't think you'll find that this is the issue. It's the highlight (indisc. - simultaneous conversation).

Wouldn't it still probably be, you know, a primary source of cash income even though he gives up fishing?

I don't know.

I mean, all I'm suggesting is that I think these people will qualify and wind up in about the same spot even if he struck out -- in other words, because the commercial fishery would still be a primary source of income. Because a subsistence fishery isn't a source of income. It's a source of livelihood, but it isn't a source of income.

One thing, John, the thing is that I think your resident will

come out ahead, not behind. Because I know, and wouldn't you say, that Dobbie's (ph) boys and the cannery high-liners leave as soon as they're paid, yet below what gill-netting will bring in Columbia. You know, they pull right out - bang - and they go down for the fall fishing in Puget Sound. And so they're one of the last to come and the first to leave. They only hit just the peak of the run. And it's ....

The other answer to this might be that you're still going to leave the Commission the authority within those classifications to create specific regulations in specific areas and subclassifications. And, at that point, when they're in Bristol Bay, they can be sensitive to that particular situation.

How can we guarantee that they are going to be sensitive?

You can't the way it's written.

You can't guarantee what the next legislature will do, John.

(Indisc. - simultaneous conversation among all parties).

I find the interpretation to be very lax in (indisc. - simultaneous conversations)

Well, John, do you think do you think that any of those people that would be involved that way it would have a -- where it

would not be a primary, or significant, for their income - primary or necessary and substantial income source?

I don't know. I've never even been to Bristol Bay in my life.

Well, Dean, could you?

No, I don't think so.

I take that back. I was down there one day and saw it while I was landing (indisc. - simultaneous conversation).

Well, I'd say the major gainers in this one -- you know, the areas that I see a major gain will be Chignik and A.Y.K.; you know, the Yukon Kuskokwim. They'll be the major gain when we shut off new entry, because they're right now at optimum.

Okay. We might be able to drop it out at that and bring it back into the extent of past participation of fisheries to determine the (indisc.) of participation, and then put it in there in some correlative fashion as to commercial fishing.

You want a traditionalist.

So that it's more specific, so that you know who we're talking about when you go into specifics rather than somebody subsistence fishing getting a commercial permit.

NEW SPKR:

Yeah, you don't want somebody driving down from Fairbanks and dip-netting in the Copper River to pick up a license.

(Indisc. - simultaneous conversation among all parties)

That's not subsistence.

That's what it's listed as.

I know (indisc.) two years at the Fish and Game Board. See what they do is they -- in Fairbanks (indisc.) Fish and Game Board get that (indisc.) subsistence so that everytime they talk about doing away with this, they say, Well, you can't do away with the subsistence. There's two things - there's a fish wheel subsistence fishery that the villagers use that takes a very small percentage, like ten or fifteen percent of the fish; then there's a huge recreational (indisc. - simultaneous conversations). If you link it up with the subsistence (indisc.), as I see it, the recreational people, the guy that owns that big camper, it's giving him some viability, see. Because he knows that the Board's going to be reluctant to shut down subsistence fishery.

Is that really the guy that's got that camper from Fairbanks, right?

But as long as they can keep that delusion up, it benefits them.

And the real danger is that, at some point, the Board's going to get fed up with it and just abolish the whole thing. And it will abolish all those people that really do depend on it, too.

Well, of course, if you leave the fish wheel and abolish the (indisc.), you'll take care of your ....

(Indisc. - simultaneous conversations among all parties)

At least we're halfway through.

How about three o'clock tomorrow afternoon?

Sure.

Let's make it the same place at three o'clock tomorrow afternoon.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

SCOMM

#31:6

SB 39: SPECIAL COMMISSION ON FISHERIES

WORK SESSION 2-6-73

(TAPE I - SIDE 1)

Now, we didn't have this last night, Lowell.

I know.

This new sheet. Okay. Good. Establish an optimum number of units of gear based on the number of units of gear that will result in a reasonable average grade of economic return to the fisherman participating in that fishery, considering time fished in necessary investment of vessels and gear. This phrase, considering time fished, is what would prevent us from coming up with a six-week fishery to provide a year's income.

Right. Right. And that was the intent. I think that the notion of a professional fishery confused people on that point. It wasn't very precise. Clearly, we don't want have the right to expect a man to make his entire living, you know, in three weeks. It wasn't the intent to do that in the first place - to confuse people.

On page six of the Governor's bill, number one is the first thing that they were to consider in establishing standards; in establishing a maximum unit of gear. And it says there, as you can see, the number of units of gear which will result in an average level of income to the fisherman participating in that fishery which is adequate and sufficiently stable to sustain a professional fishery. It is my concern that this would be interpreted to

mean that they would try to reduce gear to a point where any individual being involved for six weeks would make an income that would enable him to live the rest of the year on those six weeks of fishing. And I don't think we want to go that direction. So this is the reason for the new language, then. And, number two, the units of gear necessary to fully harvest the allowable commercial take of the fishery resource to date, and during all years, in an orderly and efficient manner based upon sound management techniques. Okay. Frank, do you see any difficulty with the language? Or Joel?

Oh, he's working back there.

Do our four legal advisers, at this point, agree, at least tentatively, that this would accomplish what we're trying to accomplish?

Is the phrase, necessary investments in gear, clear enough as to what ....?

Well, I toyed with some sort of wording that would talk about adequate rate of return on capital and labor or something, you know. What you're really getting at is time spent and money invested; those two concepts. But I didn't think capital and labor were very good words to stick into the statute, so I retreated to consider in time fished and necessary investments in vessels and gear.

NEW SPKR'

Okay. Let's tentatively, then, adopt that language. Again, it's just tentative until we see how everything fits together. On page six, line nineteen, since we are desiring by statute, I believe, to establish who shall be in and who will not be in, on line nineteen we deleted the words, or decrease, so that after this is all over, after the legislation is in effect, the Commission can't come back and say we've got too much gear yet, and we're going to jump some more people out; and the legislature has no interest in the matter. So that's the reason for that deletion this morning. Again, after we see how everything fits together, we might want to change it. The biggest -- well, all right. And on lines twenty-nine, the bottom of page six, and the first two paragraphs on page seven, the same situation. Now these are all under the picture where the Commission was going to decrease the amount of gear. Nothing substantial on the next page. Okay, on page eight, then - entry permit qualifications. We've deleted the language there. Here is where we really get into the nuts and bolts of the whole thing in deciding who's going to be in and who will not be in. Let's take a look at the language now, or add seven.

Bob, an academic, or rather very elementary question here. I've lost track now of what the impact of all this is going to be upon the sports fishermen, if any.

Sports?

NEW SPKR:

Well, in some of these areas where there is sports fishing.

Well, it doesn't affect the sports fishing, it just affects the (indisc. - simultaneous conversation).

Well, that was my question.

Okay. Let me tell you what we're trying to do here, then. In Bristol Bay basically the problem is that we've just got way more gear than we need; that if we -- okay, let me go back. On number seven here you find five categories: career fishermen in one and two; number three, an alternative-occupation fisherman where it provides a substantial income supplement; number four is an avocational fisherman, like the sports commercial fisherman down here - the guy that has sports tack on his sports boat, and he goes out and does sport-fishing and sells the stuff; and, then, number five is an inactive fisherman. And the -- this, I believe, will offer us an opportunity to fit different conditions, different areas of the State, with different sets of people according to these classifications. In Bristol Bay the situation is bad enough that if we guaranteed only those people that fall in category one and two that they shall continue we'd probably have done as well as we could do by the large number of people. We hurt as few people that way as is reasonable and still reduce the gear to the amount it needs to be reduced. Now that's the basic premise at this point.

The rest of the fishery is not in that bad a shape, yet. So, our intent at this point is to say that anybody in category one, two, or three is guaranteed that they'll be able to have an entry permit through the rest of the fisheries in the State.

Other than Bristol Bay?

Other than Bristol Bay. Right. Now, when we get on down to Southeast where we have this large number of people that are involved in what's called sports commercial, this hand trolling, where they may only make two or three or four hundred dollars a year, and yet they think it's very important to their livelihood and to their way of life, and so on. Apparently, there's not enough pressure on that fishery, yet. But if we put the lid on at this time, we're really in danger of damaging the resource or taking any substantial number of fish away from the true commercial fisherman. The hand troll fleet, according to the Department of Fish and Game, catches a total of 12.8 percent of the troll-caught fish down here. Is it troll-caught fish or total fish, do you know?

Troll-caught fish.

Troll-caught fish. Okay.

Yeah, which is only twelve percent of the total fish take down here.

So the point is that apparently we could leave these people in and it hasn't really hurt the fishery. So our thing we're looking at now is to say in this law -- okay, anybody who fishes Bristol Bay that falls in category one or two here will guaranteed as to being in that fishery. Anybody in the rest of the State that falls in category one, two or three will be guaranteed entry into new fisheries in the rest of the State. When we come on down to this area we make that same guarantee for fishermen in categories one, two, three and four. Now there's still a problem in five, and what we're going to do with that I don't know. That's -- we have to discuss that yet. But that's the way we're heading it, at least. So, in effect, what we're doing is trying to put a lid on the present amount of gear in the fishery. We're going to try to encourage attrition among those who are now fishing by a program of compensation of buying their gear, or buying their vessels, so when they're ready to get out they may be paying them -- well, again, maybe allowing the State to set the market values so it might give them that much more encouragement and, at the same time, using, I hope, improved management techniques and a re-hab plan we can increase the number of fish at the same time these other things are going on. And use this as our principal for curing the ills that now beset the fishery. Now one of the biggest difficulties with the previous bill, that we heard from all sides, was allowing the Commission to decide who was going to be in and who was going to be out. We hope that with this kind of thing and us locking in

one and two in Bristol Bay; one, two and three in the rest of the State; one, two, three, four down here, then we largely remove those fears the fishermen. Now, that's my intent at this point.

Question, Chairman? In terms of Bristol Bay, now, if you lock in one and two, then what do you do to the others? Are those the ones you try to buy back, or do you just say nothing doing? You can't make it; you can't fish, period.

Okay. There will be very few, if any, of four or five -- well, okay. To answer your question, anybody that is pushed out because of this thing right now, it would be my belief that we would have to compensate them for their loss. The guy's got a vessel and he's not going to be able to fish, and the vessel has a much-reduced market value because he's not going to be able to fish, then I think the State has to compensate him for his loss. Does that answer your question?

I think so. The thought, then, is that nobody will be absolutely just cut out without any kind of compensation or recompense at all.

Only a man with no investment such as the guy that bought a license each year in case he might want it; he'd get cut out.

Okay.

NEW SPKR:

What I -- jumping in a little bit but on this compensation point, what I'm suggesting is that it might be appropriate for the legislature to find that inactive fishermen and avocational fishermen don't have a right to compensation. But anybody who has anything like a substantial participation in the fishery does have; in other words, anybody in one, two and three. And on the sport commercial fleet here in Juneau, in certain areas, this is why I've put in language to create subclassifications. There will probably be -- you've got to remember we'll be treating the hand troll fleet separately. There probably is nobody in the hand troll fleet that isn't category one and two and very few that are in category three. Most of them will be in category four, and you'll be comparing them one against another; not against people in categories one and two. So if it's true that the present level is okay, even without saying you have to let them in down to a certain level, they'll probably all get in.

But this removes our fear of (indisc. - simultaneous conversation).

Yeah.

Frank, you had something you wanted to ....?

Yeah. I just wanted to find out from Jackman (ph) if the legislature specified that one and two were in at Bristol Bay, and

let one through four in in Southeastern, would you have a suit that you couldn't defend on your hands from somebody in Bristol Bay that said, They don't do this in another part of the State. And could you defend it, or would you lose it?

I think you might have a real problem in accomplishing -- reaching the same objective of making people sure of where they stand. I think you could do it by this other mechanism of saying that anybody anywhere in the State in categories one, two or three, if they're removed from the fishery, has a right to compensation. Now what that means in practical terms is that when you get down to the optimum level in Bristol Bay you're going to have to compensate people. Whereas to get down to the optimum levels in most of the other areas, where merely removing category four and five will get you to an optimum level, there won't be a number of people in those areas that need to be compensated. But I think the standard would have to be even across the State. I'm really nervous about a different compensation standard in different areas of the State.

Yes, John.

What about the case where you get the person in four and five who feels he has to be compensated because he lost the pleasure of fishing?

There you'd be maybe in court, but I think you'd win. I'm merely

suggesting that the legislature make a reasonable finding that he had no compensable interest in fishing. The licensing is an annual thing; there isn't any grandfather right in our present statute; there isn't any point at which we've given him something that guarantees him the right to fish commercially on in the future.

Well, the big thing I see, you could give up a hard license, you know, a negotiable license, to one and two and a revokable license, in other words, could require that three and four sell out at any time the Commission so requires. And they wouldn't require it in all districts, but the big thing is you wouldn't get it passed on the House floor. You cut out the sports commercial, and you're going to lose the bill.

In terms of the hand troll fleet in Southeastern, you just won't be cutting anybody out. Because I think -- our study is due up here on the plane tomorrow night, and I think that will really show clearly that we do have a manageable level of effort if we just restrict it to these particular areas and to hand troll fishing. And if we can make that clear that the existing level is going to be the optimum level in the hand troll fleet, that nobody's coming out ....

Well, if you'll allow eminent domain, you know, in areas three and four, but not in one and two. You know, one and two would just become a negotiable property right, and you'd have to meet

the highest bidder if the State wanted to pick up more licenses in that area. But, I'm just wondering what you'd do with your hand troll -- the hand troller political force, it's sad to say. And 'though they don't catch a big enough amount, you know, we'd gladly just let them in, especially if you separated hand trollers from power trollers. They'd never be a threat. But how do you go to a meeting and say, Your license will not be taken? And they say, Show me in the bill where it won't, because you have the right to buy eminent domain just to cite just to wipe us out.

But not in the bill. Once -- I think the way this thing is set up, once you give a man an entry permit, not an interim entry permit but an entry permit, clearly the legislature has some sort of residual right to condemn that out. But there isn't any procedure for taking back entry permits in the way I've tried to re-draft it here. So that once the hand troller has an entry permit within the language of the bill, he'll have just as much a permanent right as the man in category number one. He won't until he does, but once he gets that entry permit ....

Well, I was thinking in the case of Bristol Bay you would only issue the permanent to one and two. You'd get an interim for three and four. Unless, by finding of the Commission, a permanent would in in no way injure the fishery.

I think the confusion comes out when we think of issuing to a class rather than the class is establishing a priority. In

Bristol Bay there is so much effort that would probably will have used up, be down to our optimum level and maybe beyond, by the time we get through one and two. In other areas we may be able to issue entry permits all the way through four and maybe into five before we reach an optimum level. Once those people have entry permits you're not excluding them. But in Bristol Bay what you'd be saying is if somebody in category four and five doesn't get a permit, he has not compensable right; he has no right to ....

Why is it any more legal for the Commission to say, okay, in effect, in Bristol Bay only categories one and two will be given permits than it is for the legislature to say the same thing?

Because the legislature isn't tying it to the optimum number of units of gear. The Commission -- if the legislature says -- you know, there's no problem with the legislature saying it if they want to say it in these terms: people in category one will get permits first; category two second; category three third; in Bristol Bay we're going to hang tough with our optimum levels of gear and only issue entry permits according to those priorities as far as they'll go. And, then, if when we finish, we're still somewhere in category two, anybody that didn't get a permit in category two and category three we think ought to be compensated. But anybody that didn't get a permit and that is in category four and five, doesn't have a right to compensation. But, no, I agree.

Either the Commission or the legislature could do that. But I think if you just start out and say everybody in category one and two shall get permits, then the decision on your starting point doesn't relate back to the other part of the bill which says that entry permits are going to be issued up to the optimum number of units of gear.

Oh, I don't think that you can live with that up to. I think you're going to have to let a whole category in.

But that's fine, because the way that I've suggested that it might work is that we might say that since you can't deny a man a right to fish without compensating him, and if he's in category one, two and three, in Bristol Bay you have to let all those people in now, even though it will be above your optimum. But the ones that go above your optimum, you let them in on an interim entry permit basis until such time as the State compensates them. So, in other words, you can't remove a guy from the actual fishery without compensating him, but you don't have to give him an entry permit.

But, the thing is, that if you remove one and two by anything other than attrition, you're going to be in real trouble. I can't see all of one in and half of two. I think you're going to have to let all of two in or none of two in.

I think we'll be talking about it down in category three.

NEW SPKR:

Why don't we wait until we find out what (indisc. - simultaneous conversation)?

Can we go on? We have lots of problems, I know. I'd like to kind of get an overall grasp of this thing.

All right.

I get a little lost.

Let me ask one question before we do. It was my -- it was the whole underpinning of my belief that we have found a solution to this problem. It was that we could do it constitutionally - one area in some categories; the rest of the State another; and so on. And I thought that was the agreement that we had yesterday, or last night, that this was constitutional. Now I seem to hear something different.

No. I think you can do it if you're deciding who should get entry permits on a different basis. But, if you're deciding who should be compensated, and if you're creating a different compensation threshold, then that's a separate problem. And I think there is a problem with that.

Well I'm not worried about compensation yet.

NEW SPKR:

Okay.

I'm worried about entry.

That's all I was suggesting is that ....

In other words, you think that the legislature could just say one through four is legal in Southeastern Alaska, but only one through two will get a real entry permit? The rest will get interim permits in Bristol Bay? And an interim permit is subject to just being paid off?

That's all you're doing is substituting a legislative determination that one through four are at their optimum level out there at this time. And one through three might be someplace else.

You're just substituting a legislative (indisc. - simultaneous conversation).

And we can do that.

It's just when you get to the compensation point that I think the standard has to be equal.

Gracious, you had me scared.

NEW SPKR:

Yeah. Okay, that's what I meant.

Yeah.

What happens -- taking yesterday as an example for a moment, if you only get halfway through one in that category? If there's so much gear in one in the salmon fishery, are you going to compensate half of that class and let the other one get permits?

Why not?

No. You're just going to have to face up to that one and two are going to have to have permits regardless of whether they're twice your number. And then you're going to have to buy them down voluntarily. You can cut down below that, but when you start cutting your career fishermen out .... Or, you take half of section two out, the guy that got left out is going to sue you because you let the other guy in who had no better criteria than him. You're going to be in real trouble. So you're going to have to let whole sections in.

What we're suggesting, though, is that there may be subclassifications within the sections.

If you'll have that in your report, please.

NEW SPKR:

Lowell wants to hear more of it, I guess.

All right. Application for entry permit on page eight, section 210, those (indisc. - noise) are the Governor's. Issuance of entry permit. Okay, this is add eight.

You'd have to add four, too.

Right to compensation. What do you mean you have to add four?

Let's see. Okay. You're right. No. That had one, two and three.

The right to compensation. If an entry permit is not issued to an applicant who qualifies under priority classifications one, two or three, all reasonable compensation must be made based upon the economic value of an entry permit to the area and type of gear for which his application was denied and proving compensation for direct economic loss resulting from a drop in the market value. Okay. B - Until full compensation is made by the Commissioner, any applicant eligible for compensation under A shall be permitted to continue fishing under an interim entry permit.

That's a typo that should be Commission, not Commissioner, there at the end of that line.

NEW SPKR:

Okay. So that provides compensation. Now that's in one, two and three. And the idea was that four was avocation and he really didn't have much in the way of an investment anyway. Right? So, do you want to talk about compensation in category four?

You may get into trouble there, but I think that's the reasonable way to approach it.

As long as you're going to grant it in Southeastern Alaska, you can probably live through it. But if you didn't grant it automatically by statute in this area, you'd be in trouble.

Okay. A question. I'm sorry to back up, but under what circumstances would an applicant who'd qualify as under one or two not receive a permit if we do lock them in? I guess we set the point yesterday, didn't we?

Well, that's okay. If you want to say everybody in one and two gets in, that's fine.

I just set it up this way to make it so that either the legislature or the Commission would still have the freedom to decide what level they wanted to let in.

So what we might be saying, in effect, is that anybody in Bristol

Bay, in category three, who does not get in will be compensated? Because all threes in the rest of the State would get in, all one and two will get in.

Even if you say all one and two, it may be too sweeping to say that all threes everywhere else in the State would get in. I'm not sure -- there are some other fisheries that are pretty badly inflated; depending on how three gets defined.

I would real reluctant to cut out three, because of the fact that it would cover especially in some of the areas where you only have a seasonal fishery. The fellow might be taking two-thirds of his income somewhere else but still be very dependent on that.

Yeah. Ninety percent of Cook Inlet is in that category I'd say.

Would you?

Yeah.

And the thing is that even myself, after twenty-one years in the Inlet, after you get down to twelve-hour periods, there's no way I could earn a living at it.

What about the (indisc.) villages in Kodia, are they above the standards of the Bristol Bay situation? (Indisc. - noise) over gear, too, aren't they?

NEW SPKR:

They're not so bad. They have one advantage; and that's the fact that they have access to a year-round open water. You know, there's some future. There what they've done is they, like in Bumble (ph) Bay and the South the gill net, and then they seine, and then there's an opening on crab boats. And, you know, they're over-geared and they have problems but nothing like Bristol Bay.

I was under the understanding it was quite a sizeable transient sort of fleet that would come out in the summer. Maybe I'm wrong.

Well, sure, there is. They come out from Kodiak proper and they come out from Cook Inlet and from everywhere, I think.

I might be wrong, but in the first seine fleets it might be necessary to cut into the number of permits, because ninety percent of those fleets, or eighty percent of them, are made up of career fishermen. But there is a marginal residue of part-timers that, if you had to reduce the first seine fleets, you might have to get into category three.

Well, let's look at that one when we get to it.

Okay. We'll get back to that.

Those people -- that segment is probably harvesting such an infinitesimal amount of the total harvest. Isn't that true, also,

that to leave them in is not really doing them that much harm to the fishermen?

But you're leaving in a number of entry permits which in the future aren't going to be restricted to that infinitesimal amount.

Mr. Chairman, like Frank mentioned about Kodiak, you know, on the years where the forecast is for a big year, we get all kinds of people coming from other areas transferring into the Kodiak area. And on the off year we don't have as many.

Which is desirable.

Right. But are the permits going to be from year to year?

You can't possibly have a permit that requires a guy to fish every year. Because, if you do, you're going to force people to fish even on those poor years when the resident needs every bit he can get to eat, you know.

Then the number of permits will be from the optimum year only?

Right.

But, and this is something that you ought to bring out, too, that we haven't yet for those of you who have not been here earlier, it will be under the concepts that we're talking about

now possible for an individual fisherman to have permits for several different fisheries if he meets the qualifications; if he has fished those areas before, or whatever the qualifications are.

So, in a bad salmon year, he doesn't fish salmon. He goes crab fishing, and this doesn't mean -- or shrimp or something. He doesn't lose his right to come back into the salmon fishery.

Well, the crab fishery isn't during the salmon season.

Not now it isn't. It's gotten down so short that it's not hardly anything any more. But, I mean if he goes into another one -- if he goes to work in town, it's the same way as the guy that fishes, and you have some that go over to Prince William Sound in some years, you know.

Yeah, fine. You have some that come over (indisc. - simultaneous conversation).

Yeah. No, they keep this right. Only they have to pay when you cover the buy-back; they'll have to pay the assessment in every district they hold a license for annually.

Each year they would have to continue to pay an entry permit for that year for that area whether they fished it or not. They'd have to pay the buy-back assessments that are going to pay for

the buying back on the other vessels. They'd have to pay for their license fee whether they fished them or not in each of the areas that they would wish to hold an entry permit for. But we don't want to require that they actively fish, because it would be far better if we use, in your low years, the set netters that can't go anywhere else; not to add any more of that drift gear or sand gear of fishing there. All right. Page ten. That's the concept. Now, whether you people want to agree to it or not, that's a different matter. But that's the concept that we're talking about for that time. Page ten we're talking about terms and conditions of an entry permit. Basically no change until we get down to line thirteen where we add nine. Let's consider nine. Let's see, you don't have any language for nine, then, do you?

No, that's (indisc. - noise).

Well, wait a minute. I see an add eight, and I've seen an add ten. Okay. You skipped nine.

We go back to the original proposed ....

Terms and conditions of entry

Now we had said in the Governor's bill, failure to renew an entry permit annually does not result in the loss of the right to renew the permit upon payment of all accrued annual fees. Except that

failure to pay -- or failure to renew for a period of five years from the date of issue shall result in a forfeiture. And so the changed language would be two years from the date of last renewal shall result in a forfeiture. Failure to renew for a period of two years shall result in a forfeiture, except as waived by the Commission for good cause shown and consistent with the purposes of this chapter. I think we had quite a bit of conflicting ideas on that the last time around.

Would we be figuring that -- I would hope that commerce would each year, you know, just put people on an IBM card. And each year you'd be billed for your total, you know. So that, as assessments changed and so forth, a man would know. He would get his annual bill from the State for all the fisheries he was engaged in.

Well, let's mark this as an area that's a problem. And the question really is whether we want to have a five-year period, whether we want to have a three-year period, or no period at all.

Give them two, anyway. That's what you have on the guide's license.

No, no. I mean no limit as long as they've paid every year whether it should ever have to come .... Okay, we're talking about two different things. I'm thinking about actively fishing.

NEW SPKR:

No, I don't think you should make him actively fish. You don't -- if he'll pay his assessments and not fish, he's a bum.

Yeah, right.

That makes the assumption, though, that we're going to get to a buy-back plan at some point.

If we don't get to a buy-back plan, I don't think we have a livable -- you can't expect the rest of the State to pay out of the treasury for the fishermen. The fishermen are going to have to pay it themselves. So, it's going to take a buy-back assessment.

Okay.

What is wrong with the original concept of five years?

All right. Now what we would be talking about would be five years of not paying the entry permit. And we can assume then that we haven't talked about assessments or license fees.

Well, this wasn't really put in there to -- as a source of attrition, because we weren't relying on attrition in the original bill. But it was felt that if we're going to create something that's like a property right, and not really like a license so much, that you shouldn't forfeit a guy's right just for one, or two, or

three years. But you don't want dead permits; permits just sort of passing out of existence; nobody knows where they are or who owns them; somebody just stopped paying the fees. Those have to come back to the Commission at some point in time. So, we just thought five years was a reasonable, you know, sort of outside limit that wouldn't hurt anybody.

(Indisc. - noise) changing it to two.

This is Frank's position?

Yeah, if we're going to have free transferability in these permits, we've got to change the value as sort of a means of cutting down on just pure speculation on permits. Of course, if you're going to have a buy-back program, assuming that we do reach that stage, then these paying assessments are not going to do that. But, in the present state of the bill, we haven't definitely reached that point where it is going to be a buy-back. And, if the permits are going to start increasing in value, you're going to have a lot of people depending on permits for speculative purposes instead of, you know, really having the fishing license. Maybe that's not a problem.

I think that you're going to have to make sure that anybody that comes -- you know, that missed a year and comes back has to pay all the fees.

Oh, yeah, that's in that. That's in there.

NEW SPKR!

And, in that case, why, whether you want to wait -- have it five years, with the option to pick it up, or just two years, is almost immaterial as far as I'm concerned.

Except that it would increase the speculative (indisc. - noise).

A fellow would hold it for four years and then look and see whether it was worth it. And, if it was worth it, he'd then have to ante up all the money and pick up his license every fifth year.

And make it two years, and it means you have to make a decision more frequently.

But the amounts are smaller, too. When he has five-year assessments to pay, it might be expensive. It's no great thing.

Okay. Let's go to transfer of entry permits, then. The position of the Governor was the holder of an entry permit may apply to the Commission to transfer his permit to another person. If the proposed transferee can establish his present ability and intent to participate and the proposed transfer is otherwise consistent with the purposes of this chapter, the Commission shall approve the transfer application. And otherwise consistent with the purposes of this chapter, the Commission adopt regulations providing for the transfer and re-issuance of entry permits within

a given administrative area from one type of gear to another type of gear. Regulations shall reflect the relative difference and the average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area. What did you mean, Dave, when you were talking of the first line on page eleven? The proposed transfer is otherwise consistent with the purposes of the chapter.

Well, we wanted to try to give the Commission some authority to look into the nature of the transaction before and make sure it wasn't kind of a ruse for speculative purposes, or something like that. And I admit we were pretty vague. Maybe we should have been more specific on that point. But we -- the idea was that the Commission would exercise kind of an oversight function in making sure the transfers were on the up-and-up and going from fishermen to fishermen.

Yeah. But, of course, you have to allow somewhere for the fellow, without screening it through the Commission, for a man who wants to transfer a license to his son. In other words, he would have to transfer the license to his son, but then the son might very well transfer it back at the end of the season.

Well, those transfers would still go through the Commission but, on a case like that, of course, that would be perfectly consistent with the purposes of the chapter. So, presumably, there would be

no problem. We did have all transfers going through the Commission so the Commission would know what was happening and who held permits at what point in time.

Yeah. At this point you could work in your apprenticeship, if you really wanted to, so that the transfer could only come within that area, if you wanted to do it.

Well, we've got two other alternatives. Let's look at them. One of them would appear on page five of this proposed (indisc. - noise).

Let's see. Where is that?

Here entry permits are non-transferable except that the holder of an entry permit may apply to the Commission to transfer his permit to a spouse or child if the old transferee can establish present ability and intent to participate actively and that the proposed transfer is otherwise consistent.

Where are you, Bob?

It's this one here.

I might have a suggestion on here. Instead of spouse or child, you went to the one within the second degree of kindred. This will give you a bit of an advantage in the villages; that you'll

find that, regardless of what they're paying, quite often an uncle -- say, like the man that has two sons, but his brother doesn't have any, this would allow the brother to transfer his gear to one within the second degree of kindred. And it would give you a little bit of a built-in edge, especially in an area in which there are lots of relatives in the village, you know, and some of them are bachelors.

Okay. That's one alternative. Then Dave has one on page three of what we've been reading before; add ten. You would suggest leaving the permit transferable, but establish a five-year moratorium on any transfer or sale? You mean, except when necessary to death or disability, the Commission would process no transfers for five years; partially justified on administrative grounds because the Commission will be too busy with this initial work the first few years to administer transfers?

I think many of the objections raised last night by giving fishermen a few years to improve their economic situation and get used to the limited entry program before they would have the opportunity of selling out, or the others faced with the necessity of buying them out, which I think is a real good idea.

Again, I would suggest that we work in transfers within the second degree of kindred through the old man who might very well -- not -- his health might not be shot, but he might hold a permit in two areas and just not be up to it anymore. And he should

be able to transfer to his son as long as the same piece of equipment is then going on, you know. And that wouldn't open it very wide. But I like your five-year moratorium on no sales.

I think that (indisc. - simultaneous conversation) this transferability thing is where we're in the greatest danger of getting this thing thrown out in the courts. I think ninety-five percent of the possibility that they're going to say it's unconstitutional is going to come by not doing the right thing here. Because you're really directing yourself toward a different legislative purpose. You're directing yourself away from the purpose of just stabilizing gear levels toward the purpose of deciding who ought to be in the fishery. And that second purpose is a very questionable purpose, on down the line, to think that the State has any business deciding who among its citizens should be in the fishery.

It's already determined that it will makes its cuts.

Only at the initial outset, and there there's justification for it. Because those classifications are reasonable (end of tape).

TAPE I - SIDE 2

.... the program work. You'll have a lot smaller group that's willing to part with their license is, I'm sure, what you're looking at.

SB 39: SPECIAL COMMISSION ON FISHERIES

WORK SESSION 2-6-73

(TAPE I - SIDE 2)

NEW SPKR:

How do they get around -- let me see -- it's basically somewhat like the restricted status of (indisc. - noise) or something, if you're going to sell it for ten years, or something.

But that won't work.

I mean, I think that the five-year moratorium approach could easily affect the political acceptability of the bill. Because I think the strongest argument against it, coming from fisherment, the people apt to be most vocal, is their argument that it stands in the way of free enterprise. And if you point to them and say it's not standing in the way of free enterprise, that anybody that wants a license can get one, you've got a way of keeping this people a little more contented than if you say, okay, we're going to have a five-year moratorium, and then we're going to have anybody be able to get into it.

I don't think you'll defend your five-year moratorium. I think it's worthwhile to contemplate, but I don't think ....

Then let me suggest a couple of alternative approaches to it. Number one, leaving it to the Commission, which could delay or make -- I mean, just in terms of getting geared up and so forth, we're probably looking practically at a one- or two-year moratorium before they'll be geared up to process transfers. There may be some flexibility there. Maybe it's making it a little bit

less precise. I don't know. These are just -- it was just an idea. I'm very nervous of any non-transferability.

About the Commission, how about in this we request the Commission to come back with recommendations of the legislature next year as far as the process of transferability?

This is the basic problem of the thing here. You've got to treat it like a free enterprise thing. It's going to have to be transferable; there are going to have to be new people to be able to buy their way into the industry; other people sell their gear and their license; and it become sort of a property right; and they all have an interest in a particular fishery. And, once you destroy that, then you're turning it into something else. And then if you don't think that free enterprise is the way to do this, because some people are going to lose their right to fish, and, believe me, they're going to lose their right to fish just like they'll lose their land or anything else they have that's valuable, but if you don't think it's going to work with the free enterprise system, then you'd better look to what you're doing. And if you're afraid to let it work in the first five years, I don't any assurance that -- I think we're away from that now, but what makes you think it's going to work in the second five years?

Because we'll find a reason.

Really -- really, what I've been thinking in the back of my mind is your native corporations will get on their feet in the next few years to where when one comes up they'll grab a hold of it.

Can corporations buy these?

Well, the corporations will stake a fisherman to -- stake a fisherman in competition to the canneries, you know. This is what -- they probably are good enough along to do it right now.

Dean?

I was going to suggest that I think possibly this problem can be taken care of outside of the scope of this bill. If not just exactly the way that Clem suggested, certainly there's a way. And, actually, what this is doing is perhaps buying time. Once this thing gets started, you'll be able to define the extent of the problem -- or rather the Commission should be able to define the extent of the problem, I would hope. And, maybe within fiducial limits, you can say, okay, it's going to cost (indisc. - noise) bucks to prevent this certain segment of the fishery from losing this privilege before they know what it's all about. And perhaps the corporations can cooperate. Perhaps the State itself could take a hand through legislation. Apart from this, establish loan funds, or something like this, like we already do for

fishermen.

Well, you have to be a resident for a loan fund. If that will stand up under court, you could probably give those people an advantage.

There's a third alternative to this offer and that was that apprenticeship program where you get rid of that. You determine who's going to get the permits. You allow sale, but you only allow sale to people within the apprenticeship pool. I know that was in (indisc.), or however you pronounce it; it was ruled unconstitutional. But there you had very sound reasons for it. And that's because the only way to get into the apprenticeship pool was to have fished with one of the fishermen in Bristol Bay, so it went into the control of completely private hands. But if you set it up so that you could get -- and this provides another favorable thing to the fishermen in general. It provides a means whereby your subsistence fishermen that want to get into commercial fishing have an opportunity. And a crew members that's been on a boat for a number of years has an opportunity to have a little less competition than he normally would have which is (indisc.) system. Now, like your three categories could be: past participation in the area fishery; and, two, to make it constitutionally acceptable to non-residents, non-academics fisheries training; and, three, perhaps participation in like fisheries. And this participation in like fish-

eries would also help out non-residents from different areas. Like, if there's permits opening up in Bristol Bay, some guy that's been fishing in the Kuskokwim, or some guy that's been doing some amount of subsistence fishing, could have that same similar type of participation in another fishery and could get into that apprenticeship pool. And then you'd be selling -- you'd be transferring your permits, but you'd only be transferring them into an area of qualified people. I admit you're determining who the fishermen are going to be, but you've already made some sort of threshold determination already.

Let me ask you. If you transfer a permit to a non-qualified person, he's going to catch fewer fish. Now what the hell does that hurt anybody?

It would (indisc. - too faint).

I mean, as a matter of fact, you ought to hope that a whole lot of non-qualified people that don't use these things buy the permits. Let the fish be caught by the people that are out there catching them. It seems to me like the test of qualifications is that the guys are qualified to fish who'll learn how to fish and catch fish. If the guys aren't; they aren't going to hurt the fishery any.

Suppose you turn that argument around, though, and say, Hey, in the first case, you've only allowed him this business - peopl

who are already dependent on it for a sizeable chunk of their income. But, once you've established -- once you've reached the -- once you've put the lid on, now you're letting in anybody that's got the money to buy a license, anybody that thinks that they want to try to become a .... I don't think you're going to be able to take a phase-out industry and keep it within those who are presently using it forever. I think you're going to have new entries in it. There has to be.

There should be.

Yeah. Which means that people who don't know nothing about the business start in and get into it. They want to become a fisherman like they want to become a lawyer, or a legislator, or something else.

Or a farmer.

This is fine. But ....

How does it hurt this system by saying, if you want to try to be a fisherman, be a fisherman?

It raises the alue of the license.

All right. Now who does that help? That helps a fisherman who's

selling out his license; who's trying to sell his gear.

Yeah. Actually, I was more inclined to go with apprenticeship pools yesterday. I'm more inclined to go with John today, because I've been thinking about this meeting (indisc.), and I have a deep suspicion that they'll be a lot more prepared to pay higher to get the licenses in their category.

Well, I'm concerned about the constitutional point of it. And this is what I want you to consider.

Well, if it's absolutely negotiable, there's no constitutional problem.

Well, I know. But what does it do to the basic concept of the bill if, in the first place, we're saying one and two only in Bristol Bay? These are the people that are the professional, or career, fishermen there. And, yet, as soon as there's a license to sell, it's open to anybody that can raise the bucks. Now, I don't know, but ....

You have to assume that the man who'd buy in would have to be pretty professional to buy into a professional business. And the thing is that you don't worry about it with a farm. You got your original homestead by clearing and patenting, which is the way nearly all the farm land in the central United States was acquired. And you had requirements for the first settler.

There was no requirements on the second settler. All he had to was buy out the first settler. Wouldn't it be the same thing?

The basic justification, and the only justification, for those priority classifications, as I see it, is because you've got too many people and you've got to cut down, and you've got to say what's the fairest way -- what's the fairest way to determine who should come out first. And I think it'll all hang on that. If you've used a reasonable set of classifications calculated, you know, toward that end, to getting back down to that level. But, once you're there, I don't think you've got any business in the classification business anymore. You know, once you're down to that level, you've accomplished your legislative goal. And the priority classifications have nothing to do with it anymore. And that's the way I see it as working.

About the apprenticeship, I don't see the problem. You say if anybody wants to go fishing, they can go fishing. There's nothing keeping anybody from participating as a crew member or anything else. I mean, a guy could still get into it. I mean, you don't get a law degree because you can buy it. You get a law degree by going through certain requirements. So, if you want a professional fishery, you can set up those requirements. And if a guy wants to hack it as a crew member, he's got an equal chance with anybody else to be a crew member.

NEW SPKR.

That's a good idea.

If you let it with outside these schools, that have the fishing school, as long as you have that route, you'd probably be able to ....

Or participation in like fisheries elsewhere.

Well, remember I started out in a halibut fishery. And it was just by pure luck, because you had to have two Norwegian uncles on the same boat to normally get on. It just was absolutely closed otherwise. But I don't know that this ....

By trolling in Southeast, if you were a troller in (indisc.) Bay, or someplace, then you should be able to qualify as a troller in Southeast.

Well, basically, we're coming around to the point.

Well, I don't know whether ....

If it'll stand up in court, fine. If you don't lose the bill over it it's easier to just let them go like John talks about and just let them go for sale rather than lose the bill.

Here's the problem to me. You know, you don't buy a lawyer's

license, but, presumably, if I go out and have a fishing license and don't catch any fish, I haven't hurt anybody.

Well, John, on the other hand ....

But if I'm holding myself out to be a lawyer, and I'm a sham and a fraud, I can hurt somebody. Now, I can't see how in the world you destroy the legislative purpose of this by restricting entry into the resource if you, first of all, you decide who gets it on the basis of who's used it. But once you establish that level of fishery and the permits are free, then I don't even see any legislative purpose in trying to restrict who gets to use the permits after that. Unless you were to restrict it to corporate ownership, or something like that.

If you go out to Bristol Bay and fish and you don't catch any fish, you are hurting somebody. You're catching that guy's who might have that entry permit in Bristol Bay that would catch some fish and would ....

If that's the case, you might catch more fish, then; or there's a better harvest; or they . . .

Well, now if fifty percent of the fishermen are incompetent, the other fifty percent could fish twice as long ....

Well, let's get on here.

NEW SPKR:

John, I'd see the first one you are hurting comparable to the incompetent attorney to be the State of Alaska with its resource. We're working for an industry, a fishing industry, which has those qualifications of being effective, efficient, and something that you could have -- for example, qualified people going into it who would have better methods of fishing, bringing (indisc.) to the whole method of fishing in the State of Alaska. This would be the effect of having competent people going into it.

Let's look at it from another standpoint, though, John. Our purpose here apparently is to do two things; first of all, to protect the rights of those that are really dependent on it at the present time --right? -- and to reduce gear so that they have a decent livelihood in the future. All right. Once we've done those things ....

Hey, you've forgotten the third purpose. The fishery.

Conserve the fishery.

The fish.

The fish. All right.

I mean, that's one of the most important ....

NEW SPKR:

I thought that that was really what was ....

Well, right. But, then, that's irrelevant to this discussion right now, I think.

Well, they're all in the same package.

All right. But now, my point is, once you have protected the rights of that individual, say you're one of them -- okay, so we now have reduced gear down to four hundred units as the optimum level, you're on of those people -- we've protected the resource because we've limited gear. Now, once you have your right protected and you've got a stake, a four-hundredth out of that, what you do with your share ought to be up to you, though. And if you choose to sell it to A over here who is going to be multi-fisherman and is only going to catch one-tenth of the fish, then the other three hundred ninety-nine guys are going to profit by it, the fishery resource has not been hurt, you still are keeping your gear level, and the individuals, all four hundred, who we depended on, their rights have been protected. (Indisc.) Which is what John is saying.

I don't see what's wrong with including another reason for this bill, and that's to make the fishing industry a resource industry where you can get the maximum (indisc. - noise) through all different methods; one being lower gear and less people, and,

also, an increased method of fishing, or a better efficient method of fishing.

(Indisc. - simultaneous conversation)

You can put that as another privilege and you can give it to people who are (indisc. - simultaneous conversation).

If you wind up with two hundred incompetents, though, then the bill's going to increase the kinds of gear, or pool the kinds of gear (indisc. - simultaneous conversation) the two hundred that are left are good fishermen can catch the fish.

But, again, you said one of the basic purposes is to protect the people who depended on the resource, but if you allow free transferability, then that's an illusory-type thing.

Now, wait ....

There are overriding reasons, too, that we haver't mentioned. There is the fact that there are more native people in Alaska who are trained (indisc. - simultaneous conversation) than are outsiders. Can we put them in a special category of an apprenticeship that would be able to qualify much easier than ....

That's what I thought until I started figuring that the bulk of

our San Francisco gill netters work the whole coast right on up, you know. And they've got more hours of gill netting in a year than most of the Alaskans pick up in ten years.

Well, okay.

(Indisc. - too faint)

I would hope that we can shoot for a deadline of this week in getting something out of here. And, obviously, this is going to be a question that we're going to have long and hard on. Equally, obviously, we're not going to be able to settle it today, I don't think, as far as this matter of transferability. So, let's go ahead and keep that in the back of our minds and see where we can go on it.

Mr. Chairman, it seems to me really that it's up to the attorneys now. I mean, I think everybody has the right idea and basically the same idea, but it's just how do you do it so that it holds up in court and it's constitutional.

The transferability ....

I can't help very much when it comes to that.

Yeah, I'm sure.

NEW SPKR:

Ownership will accomplish the same thing it does in agriculture. (Indisc. - too faint) on the conservation and, on an average, that a sharecropper doesn't take as good a care of his land as the owner. And there's no doubt that if you're going to be able to sell your license when you retire, you're going to have a much longer-range view.

You might be familiar with this, too. Although you object to the speculative nature of the license, you have to recognize that the more market there is for a license the better off a fisherman's going to be at a time when he decides he wants to cease fishing so he can sell his boat and his license. And you have to recognize to the extent that we recognize holders of land, holders of stock, since we recognize the stock exchange as being a valid way of transferring ownership and equities, that we do that to enhance the value. The only reason people go to the stock exchange with their corporate petitions is because they can get more money that way. And the reason they can get more money is because they have trained people to look at it. But if you restrict the salability, not only do you have very serious constitutional problems, and not only do you have to create false, basically false, arguments if the premise of the bill is correct to do it - in other words, apprenticeship and things like that - the (indisc.) fishermen, that's not the problem; but the problem here is that this isn't a fishing school that we're trying to conduct here, we're trying to con-

serve a resource. And if you keep your analysis clear on the thing, it would almost have to be freely transferable. But, myself, when I get to that thing, I have no doubt as to where the licenses are going to end up. And that is where I get re-hung up with the limited entry permits.

Well, where do you think they're going to end up?

They're going to end up, just like the land does, by the guys who are the smartest and have the money and the economic (indisc.) and they can pay the assessments that come in annually. What are you going to do with these guys that can't pay their assessments because they've had a bad year, or they consistently have bad years, that they've relied on all their lives? Are you going to foreclose them out when they can't pay their assessments?

Well, I tried working something in, and I didn't know (indisc. simultaneous conversation). .... if your gross family income is under a certain amount, you can pick it up for a quarter of your assessment. But I agree with you, John, the way to -- if you want to conserve the resource so that you have people administering it who really want to take care of it, such as your farmers -- in other words, if you want to turn it like the farming is, the farmer of the United States can feed not only the United States but two other nations as big as us -- if you want your fisherman that kind of a person, just let it go private entry, and that's what it'll become. And instead of importing

seventy percent of our fish, we'll start exporting fish.

I'd like to suggest that there's sort of a natural apprenticeship tendency in the fishery. I would think that a crewman that had worked on given vessel for ten years knew the fishery and knew how to fish it would probably be able to make more money off that boat and would be in a better position to buy it. I mean, he would be a better credit risk, he would be a better operator, a more efficient operator. And that works that way in a lot of other trades, and I don't think there's any reason to expect it wouldn't work in this.

(Indisc. - simultaneous conversation) loan a city slicker a lot of money to go out and buy a wheat farm.

Yeah, that's my point.

But wait a second, John. The one thing that you have to -- you can take your fish tickets in, and I've done it. I can take my fish tickets in to Elmer (indisc.) and get a loan.

Yeah, you can, but no one from Bristol Bay does.

Very few residents (indisc. - simultaneous conversation).

Very few residents -- they're so depressed. But it wasn't too many years ago before -- you know, you're looking at a fishery

there that's been completely depressed. But it wasn't too many years ago that a high-liner didn't have any trouble getting financing.

If you give the people in Bristol Bay four years, I think the credit would loosen up. But the way it is now they're so far in hock that they couldn't get -- they'd be a fool to loan anybody money out there.

Well, with seven bad year predictions, yes, you're going to have a little trouble.

Yeah, but I'm worried about that initial four years, because the guys that have the clout behind them, financial clout, at this stage of the game, and the guys that are fishing on contract for somebody else .... I don't have to name any names. We know who they are, you know. And those are the guys that have the financial clout right now. If they want to guarantee their market the way they have been, with limited entry coming in they're going to get as much control as they possibly can.

They won't be able to hold (indisc. - cough). I see you're worried. And I can see that some of your local residents could get hurt unless the corporations picked it up. They could ....

No, don't think that corporations are a way of solving everything now.

I don't say that, but I'd say just automatically it's going to be a source. And I don't think that it would be a bad idea to, you know, take a look at some State loans on it. But -- yeah, go ahead.

I think the more complex the formulas get, by way of building an apprenticeship clause, and whatever else, the more difficult it's going to be to get the fisherman to understand what's happening to him. And the more difficult it's going to get for him to vote for it.

Well, suppose we say this. Suppose we say that the gear licenses may be transferred but they need approval of the Commission? Just that much.

Under regulations set up by the Commission.

All right. Then, the situation that you envision, the Commission would have the opportunity -- the Commission would have the opportunity to talk and convince the guy in the Bay, who's in hock to the cannery, and so on, to hold on to the thing; perhaps even arrange for additional financing, and this is where the corporations might come in, or the State under their own program, and so on, to give him the financing so that the cannery can't hold this kind of power over him. I know that's difficult, but

all I'm saying is that it's freely transferable and, yet, it does give the Commission an opportunity to persuade the fellow not to do it if it's really in his best interest and he's just on a spur-of-the-moment type deal.

Yeah, but the only trouble with that is that it's a three-man Commission for the next two or three years, and it's just going to be up to its ears in promulgating rules and regulations and optimum levels. And unless you're going to allow some sub-delegation of quasi-judicial powers, you're going to have to have a kind of watchdog.

All right. What's the law? He's talking about counseling people in a business venture is what he's talking about; saying, Look, son, you're making a bad mistake by selling your permit here. Maybe it's a good move for him to sell a permit, too, you know. How are you going to counsel these people in their business decisions? And, again, you get down to it, I don't think you can do that.

You can't do it.

And I don't think that neither can we write a law that does it, nor do I think the Commission can pass regulations that counsels.

There's one thing that the Commission could do. And that is by

merely administering transfers, they could collect some basic information about what the economic basis of transactions are just for an information sense. I mean, there will be information available as to what's happening out there. And if a problem grows up, the legislature can take cognizance of it on down the line.

The problem was not just administrating their ideas or statistics-gathering. The question is, is there some way to protect if a person gets a foolish transaction.

I don't know.

We can't figure out a way to devise it, and I don't think the Commission can either.

If they can, we ought to be able to do it, too. Now, maybe we can, but I don't know what it is.

I don't think you really can. I think it's better to just have them freely transferable than lose the bill. If you can work in a few safeguards that you know don't endanger the bill in any way, fine. But the free transferability in the end will bring you a healthy fishery. You know this. What you're looking for is will the people stay in it. The loans have one drawback. It costs just like the Fish & Wildlife Service Loan

Program may have. The only person that ever utilized it was the -- for the most part, the incompetent. I mean, the real competent guy just went down and got his loan. You know, he could go to the bank or usually to the cannery and get an interest-free loan if he'd caught enough fish.

It would get to the position where we're slitting our throats, and we're saying, well, we're slitting our throats, but at least we're doing it constitutionally. That's ....

I don't see where you're slitting your throat. You're going to have a small (indisc. - cough) with high production and a high standard of living of those engaged in it. You're going to be able to produce fish at a competitive world-market price which is going to be beneficial to the United States. You're bound to come out of it ahead. Now, if you can come out and reach that point with less injury to the unsophisticated members of the community today, fine. Let's do it. But this is the end result that you want to reach, isn't it?

What we're trying to do in this thing is to -- in this transfer thing, the question we have before us, is to try to protect people from themselves, is it not, basically?

Well, not necessarily just from themselves.

Well, that and your economic coercion, too. I mean, that's the

basic thing. I think that protecting people from themselves is a lot easier to handle than trying to keep them from ....

Protect them from themselves with our eighteen percent interest on our conditional sales contracts and other stuff like that. You can't really protect people completely from themselves.

We have a very difficult problem here. If you have these assessments -- and I'm sorry I missed the other meeting -- but if you have these assessments, and if they're going to be buying people out and buying boats and defunct gear, and all sorts of things, there's going to be some tremendous assessments needed. If a guy's not successful, he's not going to have enough out of his season. A marginal fisherman is going to be taken out of this thing by the assessments it looks to me like.

The problem is that the guy who's marginally competent, either because he doesn't have gear or because he doesn't have energy, or he doesn't have know-how, or he's just unlucky -- but I think that that guy it looks to me like he's going to retire anyway.

(Indisc. - simultaneous conversation among all parties)

Are you going to assess for the amount of fish they caught or on the (indisc.)? Does everybody have the same assessment? When you get ready to buy -- the four hundred units of gear --

one hundred units of gear catches three portions of (indisc. - noise). Does every unit -- does every license holder have to pay the same assessment, or are you going to put it on the amount of fish that they caught?

We've already talked about that.

That hasn't been decided.

I don't know.

We haven't decided that.

Well, I'd opt for a flat assessment, but then I do feel that I want a tax on poundage. But I want that tax to go into the general fund. You know, the industry should pay a tax on what it produces. Why should the man from Fairbanks not share in the harvest of his waters that are his, too? But, as far as the assessment, I think the assessment -- I'm willing to work in a poverty level. You know, to where under a certain level if it's constitutional ....

If you went on that (indisc.) assessment basis in Bristol Bay you'd be building a very nice, small professional fishery of non-residents. Because your resident fleet are the guys on a shoestring, and those are the guys that if we apply the assessment they are going to go up and, you know ....

NEW SPKR:

Well, can you have an assessment -- well, of course, I think that the assessment can be kept quite low by leaving the Commission with the power to cut back as slow as they want to cut, so the assessment stays in the hundred dollar category for years, you know, But, eventually, it's ....

Can't you attach it to (indisc.) the number of fish?

Well, the only thing is that -- I'm just philosophically myself opposed to having the guy that sits. That would mean the guy that sat out the season would pay nothing. Now, if you want to have a minimum and then so much percentage of the fish over a certain amount, fine. But you want the guy that isn't going to fish that year to pay a fairly husky assessment. And the guy that has a license for Bristol Bay that he's going to stay down here this year, you don't want to let him off with a free ride, you know.

You could have a minimum, though.

Well, you can have a minimum that's something that somebody can live with and then -- because you should keep this minimal money until they've reached optimum levels until all the rest of the fisheries have, because the whole fishery is one unit of (indisc.). If you wanted to work something like that you might come into it

and have the minimum low enough -- you know, something like a hundred dollar minimum. But I have a philosophical beef about penalizing -- you know, giving the third-rater a better break than the high-liner, because the high-liner is worth so much more to the State.

But it might be reasonable to do it like an (indisc.) is you've got a flat minimum and it pays for a certain number of fish caught. And then above that, why, there's additional charge.

Suits me. I mean, that -- as long as you do have a minimum that's substantial ....

You could say one million dollars would service a twelve million dollar debt.

Well, I think that's -- yeah.

(Indisc. - simultaneous conversation)

Wouldn't that be the way to go to get the funds put in order so they can begin to buy back?

That would be the thing that you appropriate X amount to start the fund off. And the service charge on that fund is your rolling capital and that the whole thing has to pay itself

off over, say, a twenty-year period. So that the assessment for any one particular time isn't too doggone high.

Two hundred dollars per fishing boat in Cook Inlet would generate a million dollars.

And you probably wouldn't have twelve million dollars over the State, would you?

No, no. I'm wrong. I didn't figure that right.

Is your objection to the apprenticeship-type program, is it legal or philosophical?

(Interruption for telephone call.)

(Indisc. - too faint) we were talking about the conservation of fish. We're talking about trying to close -- not only conserve fish but we're trying to create a class of (indisc. - simultaneous conversation) into the fishery. I thought that what we're trying to do here was to divide up the billion-dollar resource among those who have used it to where there would be a reasonable amount of gear, and then try to operate the fishery with that gear.

Plus the underlying foundation of trying to build economic stability within the local areas, too. I think that was ....

NEW SPKR:

It puts it in the bill, even though it's not stated.

In time -- **Bristol Bay is a toughie. You know, it's the tough spot. In time, where it's done elsewhere in the world, it has -- you know, from the (indisc.) in Norway to our own Atlantic coast it has developed a year-round fishery.** They asked some of the fellows **in Maine how it would work. Could you stop non-residents? And they said, well, we know we weren't able to at the time. But when the season got to where you just went from one season to another, and you were a year-round fisherman, the problem ceased to exist.** It just didn't pay a man to run back and forth when the fishery had recovered.

One of the concerns you run into in talking to the fishermen individually is they all want to know how is a crewman -- you know, a guy that's not making a lot of money, especially with the situation the way it is now, how is he going to get a boat of his own, how is he going to get a permit. How's a guy's second or third son going to get a permit? And I would hazard a guess that if it's on a free-market system, that those guys are substantially going to be priced out in the business unless they can hitch their wagon to somebody's financial star, which may be possible. But I would think that if they -- if there was some sort of apprenticeship program, they would have a lot better chance of being in that program and getting the type of financing and things they need. So, we need to tell them, you know.

NEW SPKR!

That's the so-called professional fisherman.

Sociological determination. All I can say is -- you know, all of the king crab boats out of Seldovia are basically native (indisc. - cough), wouldn't you say? Or mixtures?

Yeah, absolutely.

Out of Seldovia. Well, they're -- in your Kodiak area now.

Yeah, but the Adak area has this ....

They've got those damned Norwegians.

And tremendous Seattle fleet.

Yeah, they're valid when they hire their crew from Norway. But, I mean, our local fleet down here, the natives ended up in control of it because they just happened to be the toughest. You know, they were year-round fishermen. But a lot of them fell by the way.

That's what's finally going to happen here if you create a semi-property right here to fish a portion of the ocean and limit it. It's going to end up to where the most competent and the hardest-working and those who have the greatest ability

are going to end up with the financial ability of one of them.

That's partly because it's a business, and it's an expensive business. But I don't know how you could change that. If you're going to go to this whole system, see. I think that's what -- I think that's the price we pay by limited entry, frankly. And that's what really bothers me about it, because I've thought for years that this is the way to do it. And then I suddenly began to realize what the price is. The price is that the strong man is going to have the fishery. That's going to be the open price in this.

And the alternative is that no one has the fishery.

I don't think there's (indisc.) around to make it where the marginal fisherman, or the guy that can't afford the boat, or the guy who's a crewman, or a guy who lives in the area, is going to necessarily end up with the resource.

Well, I think that the guys in the local area will stand an equal chance with anybody else.

It will only be because they have -- well, what we have to do is have a loan program and things like that for them, you know, so they can compete. But you're going to have to make them where they're competitive. Because you can't legislate the industry into their hands and custody. You're going to have

to be able to equip them by apprenticeship programs and by economic clout and loans, and stuff like that, so that they can compete with the guys from Seattle, or wherever.

Well, I would agree that you can't legislate them into it, but the problem is will we legislate them out of it.

Well, I don't think you can. I think that the legislative apprentice program is attempting to legislate them in. I think you could have an apprentice program so that they can fairly compete and hold their own.

That's all that an apprenticeship program does if you (indisc. - simultaneous conversation).

But then you're going to hook a license right to that apprenticeship program. And that's where I think you fall down, see. And I think that that was the point you were making, is that the moment you try to hook this to where it is a limited entry type of thing, a special class or a special group, or a guild, I think it'll fall.

The other balance that's struck in this is that it should increase the overall economic position of the fishermen vis-a-vis the processing industry. But, clearly, it is going to have that other effect. It's going to be the efficient fishermen, the people that are ....

NEW SPKR:

And they're not going to be too easily controlled by the cannery. The big problem that you have is the initial. You know, I can see that.

And during that initial two or three-year period ....

But the fishermen -- you know, the Fishermen's Association will become a pretty powerful bargaining organization where there are X number of licenses and the cannery can't say, the hell with you, I'll bring in a bunch of Finns from Astoria, you know. They're not going to be available.

What are you going to do about subsistence fishing?

Well, that's handled in the Fish and Game regulations. It's an entirely different ....

Well, can you continue subsistence fishing in these areas that are ....

I would say, offhand, that there are some areas in Alaska that you shouldn't allow commercial fishing because the subsistence is too valuable.

It's already that way.

NEW SPKR:

It's already that way. And those are still handled by Fish and Game. These are still under the Fish and Game regulations - what will be open and what will be closed.

You're saying that no matter how many units of gear you set down, if I go down and string out a net and pull my subsistence that I can ....

If it's permitted by law.

That's the way it is right now.

Yeah, fine. I don't see any change in that one. You can't stop that.

It's not that great of an effect, anyway, as far as these major commercial ....

Except where the sportsmen want to keep the fish for themselves.

Well, that's exactly ....

Well, you have a bum one on the Copper River over there. You have a bum one in the Copper River where you have this dip-net fishery. It's supposed to be subsistence, but it is in no way subsistence. But that's ....

NEW SPKR:

Well, time has run out and maybe we have, too, for this time.

Well, it's getting closer to getting -- you fellows are doing a doggone good job. The hearings in the House aren't anywhere near this. I mean -- well, Joe has just about decided that he'll pretty well pay. You know, when this one comes over, why, that'll pretty well be it. They'll be able to see yours when you vote it and then see what the static is and see what things are, and then make the ....

Then go up and talk to the Governor.

Well, the Governor ....

I believe the Governor will be ready to take it, too.

I'd say what the attorneys say is liveable. The Governor will buy. He's determined to ....

He isn't inclined to veto an approach like this, I assume. At least ....

You told me the other day he wasn't (indisc.) on anything. He just wanted us to come up with a workable (indisc. - too faint).

He wants a professional fishery, too, because the thing is --

and, of course, the thing I like about the tax, which is a little hard to tax these people when they're this poor. But the reason I want to tax eventually, to be quite blunt, is I want that guy from Fairbanks, when the guy from Anchorage says, We want to close all of Cook Inlet, and the guy from Fairbanks looks at how much they pay and says, Oh, no you don't. Because that's the way -- where I was born and raised they have five commercial fishermen in the Bay, and they hold -- you don't even dig clams in their part of the Bay. And nobody will close it because they pay twenty percent of their catch to the city council.

What about a moratorium on the buy-back assessments for five years, or something like that, to take the economic load off of all these people, as far as that's concerned?

All you have to do is let your Commission decide on your assessments and that they don't have to buy-back at any given rate. And the assessment will vary from district to district. I'd say we could start out with fairly high assessments in our district, and should. Bristol Bay you'd have to start out with lower assessments and figure it's going to take a little bit longer.

You're going to start buying, I take it, from the bottom categories up to ....

Well, I would want you to let them in and give them the license. I'd say you could buy but don't -- I'd say what you'd want to say to the Commission, and you'd want to have your talk with the

Governor and the Commission and say, Hey, just don't buy many out in Bristol Bay or offer not over a thousand dollars a license and pick up a few of the ....

A compensation program would be much cheaper than a buy-back program, and there are those two alternatives. And the other point is the extent to which we're liberal in letting people in at the first. We are going to have to buy out those non-residents. And we're going to have to treat them open-handedly. If we create -- go down to category four for residents, we're going to have to go down to category four for non-residents, and you'll be assessing that people who are most dependent on the fishery to buy out those least dependent on the fishery, which will be, in many instances, a majority of non-residents.

Don't ever think that it can't work the other way - that the non-residents will buy out the residents.

Well, as you say (indisc. - simultaneous conversation).

In time I think that they would for the same reason for the majority of the catch right now. They have the better skill, the better equipment, the better financial ability, and the rest of it. (Indisc. - simultaneous conversation) that kind of a poker game, you know? But I tell you who's going to get bought out, it's going to be the guy who hasn't got anything and can't stay. All he's got to have is a couple of bad years

and he's through. The buy-out isn't going to be us buying them out, it's going to be them buying us out.

What's your solution, John?

I don't know what the hell it is, John. But this is the thing -- this is really bugging me to death, because I thought I was for this for the last five years.

Well, don't get to thinking so hard that you're not for it, because it still has to go.

I'll be damned if I can figure out a solution for it.

Well, I think you're over-estimating the number of non-residents we have in these areas.

I'm saying in Bristol Bay ....

Bristol Bay's the toughest in the State. But there's a whole state to save. You can look Chignik. Well, isn't the whole fishery resident?

Sixty-nine boats, but there are thirteen non-residents. It's fifteen percent.

Yeah, I mean the thing is that Chignik, if we pass this, we've

saved Chignik from going through the bloodbath that Bristol Bay -- that's inevitable in Bristol Bay. In other words, we've saved the fishery. If we do this, the Yukon-Kuskokwim -- actually the Yukon's a little under-licensed, we'll save them a whole blood-bath. In some of the other fisheries, like some of the shrimp -- I think Kodiak might be a little over-fished, but the Alaska Peninsula is under.

You can substantially help Bristol Bay by making an initial large cut in getting rid of those people that you're worried about competitively-wise from outside; that is, financial, you know, the dependency on the income and this type of thing. And it's much cheaper to -- it's going to be much cheaper to compensate and remove than it is to buy back, because the longer those permits are around the more you're going to appreciate the value. And it takes a heck of a lot more money to say, Hey, how much is it going to cost buy you out, than saying, Hey, this is how much you're worth - Goodbye.

I'd like to have somebody tell me how you're going to value this buy-back or compensate on initial get-out. What standard of damages are you going to use for that? Have you given any thought on that?

Well, I've given it some thought. I think if you did it on the compensation basis, you'd have to look at not necessarily market value of a prospective entry permit in that area but at the reason-

able value of what it would have been worth to the guy to stay in, plus any direct economic loss in terms of the lowered market value for his vessel and gear. You'd probably have to look at both those factors.

You could do it about like you do a motel where you have to -- remember when they used to sell set nets, and the normal thing was five times more than the set net had caught that year? In other words, when a guy sold out you just pretty well took your.... Then they went much higher.

I didn't pay that.

(Indisc. - simultaneous conversation)

(Indisc. - simultaneous conversation) on the beach and they left otherwise. And, because of that, they left. And that's what may happen with all of these (indisc. - too faint).

Yeah, a bucket of worms, isn't it?

(END OF TAPE)

SCOMM

#31:7

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

I/1 2-9-73

Representative Clem Tillion

Senator Bob Palmer

Representative Terry Gardiner

David Jackman

Flavin - laska Legal Services Corp.
attorney for village of South Naknek

Tillion : Oh sure, you chop their heads off, it won't cost you as much too. But I mean, you know, they're the politically acceptable.

Gardiner : What would be the matter with just saying that you're worrying about this statewide business say that statewide just group one and two will beguaranteed that they are not going to be cut out but you give the Commission the power to include the other classifications as they see fit.

Palmer : Well fine, but you are leaving too many people undecided.

Gardiner : Yeah, what I'm saying is, that what you are doing, all you are doing, is separating, I mean the worry is, the bill could be struck down as unconstitutional, well regulations, I assume this was the difference, why we were trying to use the regulatory power, we don't have so much problem with there getting the whole thing thrown out. It is merely a regulation. So my idea was that you set this thing statewide to suit Bristol Bay but that's too harsh for the rest of the state. Okay, you set your statewide standard, then the Commission can allow other groups to fish in here, and the Commission could be created the day after and you know, we would have it set up 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.

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Palmer : Yeah, but how can you guarantee, to the very large number of fishermen around this state, that is what would happen?

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

Palmer : That is the problem.

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

Tillion : The thing is Terry, if we don't find some way to get-- well I won't use any names, but we have got to pick up a,alay the fears of enough people, right in Southeastern Alaska to get the bill passed.

Gardiner : Look, I'm probably from the worst district for that. I have probably got more.....

Tillion : Yeah, but you don't represent them, you represent the Commercial. What about the Juneau lelegation that represents nothing but sports fishermen?

Palmer : Well, and there is such a very high perponderance of this type category 3 people, for instance in Cook Inlet. If we don't give them some guarantee that they will be there, why we....

Tillion : You got a guy that has spent $45,000 for that, for the last 5 years and you haven't given a living so he skins cats and works the plant up at Kenai, and suddenly he finds out that everything that he has invested in is kind of down the tube.

Gardiner : The only problem is of course that I just mentioned, that you don't think is politically acceptable.

Tillion : That's right. I think that it is legal.

Jackman : Of course, the unfortunate thing is that if these people did realize that the thing was being done by types of gears and that Juneau sport fisherman wasn't being compared by anybody but the Juneau sport fisherman, the hand troll fleet, I mean we could put it in the definitions, that the hand troll fleet stablized separately, therefore they aren't going to be competing against the power troller or the purse seiner or somebody that is "more professional," quote. You know it seems like they think somehow they are being compared with the professionals and that is going to cut them out. But my point is, on 4 (unintelligible) if you went to 3 out of the last 5 years in terms of the number of people who have held gear licenses would be 14,300, whereas our present level is 9,800. If you were more restrictive than that and required 4 years out of the last 5, you'd still have 12,100 compared to 9,800. So even with pretty tight restrictions, there will be some inflation.

Palmer : Yeah but of course that is not what you are doing.

Palmer (continued)

Each one of these individuals, is going to have to show that he has been dependent to his extent, on the fishery. And this is not just one year, this is over a period of time.

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

Palmer : Well if they are still there. You see ... This is assuming that those are all still there and ready to jump back into the fishery if they are qualified. I think that is not a necessarily valid assumption.

Whitehead : I think that we have always found that there was more than we thought.

Palmer : Yeah.

Tillion : Well I think you are going to find out more, there is more than you think, but once you do it at least, you know, that you have set a number that can't get any bigger.

Rader : Have you considered going and handling only the Bristol Bay problem this year. Trying it out and seeing how it works rather than going statewide on it.

Palmer : But you would have such a massive build up of gear this year that.....

Tillion : It would be disastrous, John. You would have a gold rush that wouldn't quit. You have got to shut it off this year. You can't even put off any of it till next year.

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

Tillion : Yeah, we just talked about it in 1968 and the percentage of new gear just skyrocketed.

Rader : Well if you make your condition of entry or if you're going to make your judgement period so many out of the last 5 years, say 3 out of the last 5 or something like that, they're not going to develop any particular rights by one year.

Tillion : No, but they will have an investment.....

Gardiner : You'll develop a lot of boats....the (unintelligible) pressure...and that is exactly what we came up with, with the approach I mentioned. Everybody said that there is nothing wrong with it. It's a political problem. So that's what happened with, what you are talking about.

Rader : My only reason for suggesting Bristol Bay, was that is where our biggest problem is. I'm wondering if our problem is more than we are going to be able to manage, here if we do it all at once.

Flavin : It isn't what the commission is doing or what they are trying to do is really with those 5, aside from some amount of.... (unintelligible) doing it for political reasons, the 5 categories. Isn't what you're really doing there is saying, how fast you are going to reach optimum levels; that you are going to regulate the speed by the areas that you are going through. In Bristol Bay actually, what you are doing is reaching optimum levels a lot faster because the economic conditions in that area are so much worse. And if you changed the language instead of saying, instead of talking about denying permits, you are not going to deny anybody 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 constitutionally permissable? When you are talking about speed of reaching optimum levels because of economic conditions in that area, or the economic conditions in the fishery in that area.

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Tillion : No, but they will have ~~enought~~ ....

Cardinez : There is an awful lot of beats.

That is exactly ~~why we are here~~, we ~~just~~ came up with the approach I mentioned. Everybody said that there is nothing wrong with it. It's a political problem. So that's what happened with, what you are talking about.

Parker : My only reason for suggesting Bristol Bay, was that is where our biggest problem is. I'm wondering if our problem is ~~going to be~~ more than we are able to manage, here ~~gonna~~ do it all at once. It isn't what the commission is doing or what they are trying to do is really with those ~~guys~~ aside from some ~~modest~~ ~~junk, or~~ doing it for political reason, the 5 categories. ~~Then~~ what you ~~are~~ really doing there is saying, how far you are going to reach ~~out from the models,~~ how ~~you~~ are going to regulate the speed ~~from~~ the areas that you are going to. Bristol Bay actually, what you are ~~actually~~ doing is reaching ~~out to~~ a lot faster because the economic conditions in that area are so much worse. And if you changed ~~lines~~ instead of saying, instead of denying permits, you are not going to deny anybody 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 ~~out to more~~ , wouldn't that be a lot more constitutionally permissable. When you are talking about ~~species~~ spped of reaching ~~out to more~~ because of ecnomic conditions in that area, or economic conditions in the fishery in that area.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

Eighty or ninety years old but got a fishing license. That's who they are.

Tape 6

Then you've got to keep them in. It makes sense to otherwise.

Right, right, but they don't want to go to power troll anyway, their -- that's why they're there.

MR. CLEM TILLION:

Why, you just want to make sure that when they sell that license when they retire, that it can't go to a power troll, it can only go to another little hand operation. There's no kick on that.

(simultaneous speech)

Thank you gentlemen. We're going to take this thing apart, starting right now and see if we can, I think it's impossible. You have their ingoing (indisc) it's almost impossible to pull them out if you just ask, like the Juneau hand troll fleet. Well, hell they fish clear down to Fredricks Sound in the summer time and the rest of the guys -- purse seiners will take six skiffs and go to Glacier Bay in June and fish. So they're in that vein,too. And to pull out a group is almost impossible.

(Simultaneous speech) Purse seiners will take skiffs and then go and use hand troll rigs with the skiffs,

are you talking about?

Yes.

Well they have to have a troll license, and if they're trolling -- all we're separating Roy, is -- if you fish with a rod and reel, you're in one category, and if you have power gear, you're in the other. I can see not worrying about where they went.

I think the real thing the Commission would have to consider is, is it significant that this hand troll fleet takes 15-20% (simultaneous speech) or 13% of the total troll (indisc) -- is that significant that you have to feel (voice trailed off, indisc).

MR. CLEM TILLION

No,you can leave it right the way it is. You just want to make sure that that guy can't sell a troll license that becomes power gurdie. You can leave it alone, we're not even out to get rid of it.

I think that's all you have to do.

Frank.

I'm not sure we're completely straight still (simultaneous speech) how we're going to cut. All right, is your position Dave, that you have to -- we've got these

five categories, going statewide again, that you have to put down four all over the state and then buy back from their faster than each one? Or can there be an initial determination based upon some factual difference that in some areas you don't have to ?

I don't think so. I don't think -- I think that even if the arbitrariness of the categories is defensible that you could make the decision that our starting point will be present level but that has to be all over the state. I don't think you've got those two choices -- I don't think you've got something in between. You either -- because your whole justification for classifying people is to get the gear level stabilized at some objectively determinable level. Either the present level,or a reasonable level,or an optimum level, and you've got to make those determinations from the classification of fishermen. Now (indisc) classifying the fishermen is to decide who gets permanent at the offset.

Well, there's a reason for doing that, because you can -- you're going to want to vary the speed at which you reach optimum levels. You're going to vary the speed you take it by the amount of dependency (interrupted) .....

That's still -- you're assuming that everybody gets in on the same standard at the offset and you only

adjust the speed of your by-back area .....

Right, but that's what you're doing basically when you -- if there is a determination that this area is more economically depressed, so you're not -- you're going to cut into those levels faster in that area by not initially protecting that one, you know, that one criteria. There has to be a factual determination.

Now that's a completely different thing, because you said you'll cut in by not letting one guy over the line to start with.

What difference does it make? There's no difference.

It means that a guy that's in category three in 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. You compensate everybody, but you .....

I thought you said that some wouldn't get in. I thought you said you'd make (interrupted) .....

No, you would get a permit, but he would be compensated.

What's the difference?

All right, let me see if I understand what you are saying then. We can initially let everybody in categories one, two, three and four, but we'll have different rates of buying back according to the difficulties of the different areas, the pressures, 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.

Right.

When you simply compensate them sooner, you knocked them out and compensate them sooner in Bristol Bay then you do somewhere else.

Right, because there's 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's in category three and four, you are. Is 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 at Bristol Bay you'll only be compensating them for the value of their gear. That's not fair.

MR. CLEM TILLION:
Oh, wait a second. If you have an interim entry permit for three and four, then this -- all you have to do is buy them back at the end of a 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.

MR. CLEM TILLION:
All right.

I don't think you can differentiate and that's what Frank's suggestion is.

MR. CLEM TILLION:
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?

other speaker

I don't think you dare classify it as an interim permit. You're going to have to give them permits, period. And then if you want to buy back faster in some areas, we can do it legally .....

At that point it becomes transferable and at that point 2 years from now when you get around to buying back it can represent a $100,000 investment, a $10,000 investment, there's no way you can put a lid on the investment.

MR. CLEM TILLION:

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

Not at the time of the (indisc) permit, cause that permit might be in the hands of somebody else.

MR. CLEM TILLION:

All right, that permit may be in the hands of somebody else and they might have $100,000 boat, but you'd only pay them for the boat.

Or for the permit?

MR. CLEM TILLION:

No, not for the permit.

What's wrong with not allowing the transferability of any of the permits for a number of years until it's been cut back? I mean it'll have all permits be non-transferable for a period of a number of years.

MR. CLEM TILLION:

That's one of the problems that was first recommended and he says that one, if you don't allow any new entry, you've really plowed into a (interrupted) .....

I still think that you may be able to justify moratorium 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 (ph) transferability over. Even there you've got to allow in a case of death or disability. And, even there you're granting a (indisc) right, but you're going to have to compensate for it. You can't brag on entry permit and then turn around and not compensate for the value of the entry permit and only the value of his boat. You just can't do that. Cause that thing is going to have real value.

I'm still having trouble following on the compensation thing, because if you buy -- if you -- by that argumert if you compensate one guy by eminent domain, I think is your argument, and the other one you've compensating buy-back, where he's going to get more because he's got the permit, where the other guy didn't have the

permit so he's not going to get that value of the pemit. But on that basis, the guy you buy out five years from now is making more than the guy you buy out now. That's you, there's got to be some differential there.

Well, but one you compensate for the permit the other you're not.

Well, maybe you can say that the guys when you buy back, people in three and four -- it would have to be compulsory buy-back. If you had compulsory buy-back in order for that to work. If you had compulsory buy-back it would not compensate them for the value of the permit. It would work.

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

MR. CLEM TILLION:

Bob, 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, un -- willing fellow suddenly, you know, the guy is looking at the fact that he's

going to pay his annual buy-back assessment to start building the fund. And nobody is going to have no way to sell the licenses,only a hardship transfer, which should be just the transfer. Why then don't you have a fact that you might be able to buy-back a year considerably less, because a fellows looking, you know if you started right in buying back what you could handle. Now sooner or later you're going to come to the point where it becomes expensive.

I don't think so, because I think if I were sitting there, even though I couldn't sell or transfer for 2 or 3 years, facing a $200 a year buy-back assessment realizing at the end of 3 years, I can sell to the state or anybody else for $5,000, I'd borrow money to make the buy-back assessment.

MR. CLEM TILLION:

There'll be an awful lot of people that won't.

Unfortunately.

MR. CLEM TILLION:

I'm not talking about those ones; maybe the guy that fishes will buy it back. (interrupted)

You misunderstood. I wasn't suggesting that you could. 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's -- maybe that's defensible, I don't know.

Well, is it possible though to have a involuntary buy-back during that period of time, of these category three and four licenses?

Well, if you -- yeah, if you -- in other words you're suggesting you issue to them not an entry permit but just a interim-entry permit or something.

MR. CLEM TILLION:

Well, the longer the period that you can't transfer the license, the less the license is going to be worth the opposite, and you feel you can justify two or three years. Could we leave it to the Commission who might keep it on until a Court knocked them down if necesary? You know, the longer you keep it while you're still -- the state is still buying back whatever you know, you have the hardship case come up. The Commission may take the idea that you have to -- in the best interest of 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, purchase or transfer, the Commission could do either. It would have to do it on a non-discriminatory basis, but I mean any person who died in the fishery, buy the widow out. Have, you know, buy all his gear and stuff.

But you don't have any transfer, if you could hold that for 5 or 6 years, you'd find your fishery had gone down a long way. Now, if you got knocked down by the Courts after 3 years, then it's going to become a little more expensive. But you haven't lost your bill.

I should think you'd want to avoid buy-back from categories three and four as much as possible because you're setting an -- by buying them back you're giving them an artificial value that they don't really (interrupted) .....

MR. CLEM TILLION:

Well, I'm saying that buy-back (interrupted) .....

..... but 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.

Well, of course ..... (interrupted)

MR. CLEM TILLION:

Make a hardship buy-back. You know, a 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. Well, they just wouldn't sell.

Chairman, **Mike?**

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

Oh, I'm sorry, I should have said four and five.

Okay, okay. Three would have a value.

MR. CLEM TILLION:

We figured we'd screen out five right to beging with, didn't we?

Yeah, five and four are two current ones, I guess.

MR. CLEM TILLION:

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

Course, that's another question. How are you going to distinguish the -- you define four as a irregular variable minor income. Now your regular could be construed to be he doesn't fish every year. How are you going to distinguish between him and a guy that dropped out 2 years ago, as an inactive?

Minor income.

No, but the guy -- you might have a guy before you that had fished irregularly up to 2 years ago every 1

year out of 3 and he made a minor income.

Well, that's (interrupted) .....

I will agree with you and I think that maybe the language on four ought to be changed to (interrupted) .....

MR. CLEM TILLION:

Well, I -- the language of four should be an avocational fisherman would be one who bought a license every year but didn't necessarily fish it every year. While five, an inactive fisherman, he hadn't even bought a license.

Humh. I didn't realize this.

MR. CLEM TILLION:

Five is a paper license, but he didn't (interrupted) .....

But he hasn't fished it.

MR. CLEM TILLION:

All right, no record..

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

What you'd do then would be two people making the same dollar income to the fishery, one has a $40,000 income on the side, and the other a $2,000 income on the side.

Well, there's two sub ..... (interrupted)

(simultaneous speech)

Yeah, there's subclassifications where that's true. I think that .....

What would be wrong with just recognizing a right to compensation in a certain -- down to a certain level, and then saying that, you know, you (interrupted)

Well, that's sort of what I had (indisc) something wrong, because it didn't go over very well when I suggested at our last meeting, but then basically you'd be saying that the only issue the number of permanent entry permits that is reasonable and can do it on the same low priority basis but that you'll be saying when you pass the bill, anybody that has any substantial income from the fisheries is going to have a right to compensation. Now 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 at the offset, that they either get an entry permit or they get compensated.

MR. CLEM TILLION:

That won't take care of your sports permit that commercial because he's going to -- you're going to pay him for a $35 rod and he's out, and he's not going to stand for it.

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

Yeah.

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

No, because these guys aren't going to be take -- I mean, you know, it's uncertain, that's what made them nervous. But as (interrupted) .....

I think that's where the legislative (indisc) comes.

Yeah.

That's where you publish what you're going to do before you print it. Before they read this you've got to tell them what it's going to say. There was a mistake last

time the bill came out and nobody -- people read it.

Well, the damage is done.

I know, but I'm saying this time we're coming -- there's going to be a substitute bill, so, I mean I'm telling everybody that until it's thrown out. I'm telling them there's a new bill coming but before (interrupted) .....

You know the bill comes out (interrupted) .....

(indisc - laughter)

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

(Simultaneous speech) you merely say everybody (indisc) coming out is going to be compensated then you're going to have a problem becuase everybody says, well, I'm coming out.

What would be the (indisc) if the sport commercial fisherman in Southeastern, would their minds be set at ease if you told them the hand troll fleet would be handled separately and it will not -- entry permits will be -- issued at the present level, in other words the level the fish (interrupted) .....

MR. CLEM TILLION:

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

Okay, that's fair enough, but I mean, wouldn't they be (interrupted) .....

(simultaneous speech)

I think you could specify that in writing in the bill that their considered separate.

That's what we were doing earlier.

MR. CLEM TILLION:

Well, you can say -- you can use them as an example some of the bill. Each fishery shall be considered separately. For instance, the hand troll fishery shall be not considered part of the gill net or the power troll fishery, but you want to mention them (interrupted) .....

..... during the definition (interrupted)

MR. CLEM TILLION:

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

That was (indisc - mumbled)

MR. CLEM TILLION:

I know it, I know it. But .....

But the problem is (indisc) so when you get to number three.

Yeah.

In other parts of the state as it is here.

MR. CLEM TILLION:

You know, if I had mine, I'd just opt to a buy-back even though I knew it was going to be expensive and take you as longer and get the bill passed because the power of getting 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 2 years will be in major trouble that now are perfectly all right, like some of your shrimp areas, you know. Kodiak's in trouble and I (interrupted) .....

(Indisc) buy-back in Bristol Bay and he said buy-back loan off the handle low enough so the residents can handle it it's going to be such a minimal amount of money that you're not really going to get them out very fast.

MR. CLEM TILLION:

All right, what you do in that case, is you have a minimum buy-back assessment, you know. All over, so even the hand troller 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. If your gross family income was under $6,000, you could pick it up for 25% of the annual assessment?

I don't know.

MR. CLEM TILLION:

I've thought of this for -- like our -- when we tried to raise fishing licenses we had it set at $3600. We say a gill net license at Cook Inlet's now worth $300 but if your gross family income was under $3600, you don't have to pay with the old fee. Is it legal or not?

Well, we have subsistence sports and hunting licenses for 25 cents, so.

MR. CLEM TILLION:

Yeah, we just never -- if we could -- see this would take the strain off your village people because that Italiano coming in from San Francisco is going to have a large enough income that even if he only made $3600 in the bay, or $5000 in the bay, his other income would boost him up to where he pays the full assessment. While the other people that had a lower income wouldn't

and the highline Bristol Bay resident would pay the full assessment.

Mike?

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

Yeah, and if we don't solve this problem (interrupted) .....

MR. CLEM TILLION:

I think we're coming closer, Mike, I don't think I'm, I'm just saying that if you took everybody and down through four, you know, then you have a bill that's politically acceptable. You can get it through the Legislature. What's the -- how would you correct the problem of over-gear. 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 every time you cut out four or three, you lose two to three to five votes on the floor, and so you just have to figure whether it's better to lose the whole damn bill and stay a puritan or get something passed and at least have something to start with.

Well, taking example of Bristol Bay though, if we're fairly liberal on where we start things and let them in down to four, you've got 1900 units of gear last year, that probably will 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 a -- for minor income participated in the fishery, is going -- I think that would raise some political oposition too, as to counter the sport fishermen in Juneau who 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 10 years to buy out the guy that fished 3 years out of the last 10 from Seattle is -- didn't make much money.

MR. CLEM TILLION:

All right (interrupted)

Didn't we reach the conclusion if we went one, two, three, we still don't have a problem with sport commercial fishermen, the hand troll fleet in Southeastern because they're going to be considered only against the other hand trollers. And certainly they may not fall in one, two, or three, but they're going to be lumped in these other areas and it's (interrupted) (simultaneous speech) I though we came to the conclusion we didn't have (interrupted)

MR. CLEM TILLION:

They're not going to believe you.

They won't believe it if you've got those classifications (interrupted)...

I'm not so sure.

MR. CLEM TILLION

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

I don't know.

MR. CLEM TILLION

If you can have an exemption you wouldn't have to worry about the (indisc.)outside that you were buying back. He'd be paying full assessment. 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 being more heavily assessed then the guy in the local areas to buy out my license, I know that I...

MR. CLEM TILLION

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 (indisc.) in Bristol Bay...

That could be done to a covering letter, couldn't it. I mean like the Governor's letter that stirred up all this controversary in the first

place. It looked like to me that if you explained all this in the terms of that covering letter about the (simultaneous speech) sports commercial being considered separately...

MR. CLEM TILLION

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

Well I don't know if it's illegal or not...

(simultaneous speech)

I think it could be worked out, you know, in other language or something -- another section or something, but let's (simultaneous speech) because the cost like in Bristol Bay is...

Maybe we have kicked it around long enough that we've probably 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 in the next go around. If there are no objections, well then let's do that.

Okay, transfer of entry permits -- we have several proposals here. One thing, before we get started on this we do think provisions for emergency transfer, page 12, line 15 through 22 -- emergency transfer -- the commission shall adopt regulations to temporarily transfer an entry permit from one

person to another if sickness, injury, or death prevents an entry permit holder from satisfying requirements in Section 180 of the chapter. Section 180 just says that eventually the entry permit holder has to be there physically operating the gear and (b) the commission (indisc.) all temporary entry permit transfers within a reasonable period of time (indisc.) refer those transfers it has reason to believe are fraudulent or made in violation of these sections to the Department of Law and then (interrupted)

MR. CLEM TILLION:

Now, wait a minute...

In addition under penalities we included a person making a false statement -- material fact for a emergency transfer is guilty and so forth.

Is there a problem with the emergency transfer provision?

Yes.

I'm not quite so sure what you mean in terms of...

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

Referring them to what?

Can we 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 violation that (indisc.) wouldn't it?

MR. CLEM TILLION

Sure. It'd be perjury wouldn't it.

Why in this particular section would you refer them to us, would you say -- I just -- okay...

Well if it's define as a penalty then clearly...

MR. CLEM TILLION:

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 to review those transfers, is that what you mean -- in addition to our law enforcement responsibility?

I mean that...

The commission reviews them and think that they may be fraudulent then refer them to you for action

Are they going to make some finding that they think -- okay -- it had reason to believe were fraudulent or made in violation.

MR. CLEM TILLION

Well do you want this to be instead of 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. I'm not sure, you know -- I felt it was applicable at the time...

Mr. Chairman, I suggest you insert one word in that -- two words...

MR. CLEM TILLION

Where?

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

MR. CLEM TILLION

In other words...

license because his mother in Vermont is ill, we've got (indisc.) the whole family.

All right, I don't know the answer to this, but if this bill was supposed to be applicable to king crab and shrimp, there's many cases where, you know,

to keep a vessel working year-round, you know, the skipper will have a relief skipper. I don't know how this is planned on being handled and I'd like to say I don't know the answer to it, but if this is meant to be applied to king crab and shrimp, then it might have to have some sort of modification.

MR. CLEM TILLION

That's what the big space is just above -- there has to be -- they were just worrying about the emergency transfer. There's 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, you know, where you're at sea continually.

Mr. Chairman, I had a letter from the Aleutians -- there 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 (simultaneous speech)

We've tried to leave it fairly broad.

MR. CLEM TILLION:

I'd say that 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 up there with his --

kid takes it for awhile, you know, and then -- for six weeks and then he takes it for six weeks and they alternate it all year-round...

They do it every year.

MR. CLEM TILLION

They do it every year. They've got one vessel and two (indisc.) skippers, you know.

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

MR. CLEM TILLION

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

The (indisc.)

MR. CLEM TILLION

These are fulltime fishermen.

Maybe you want to handle it under regulations, but will temporary transfers expire -- I mean -- some outer time limit or...

We felt once again, you know, that this would be regulated by the commission. So if the commission required a temporary transfer (indisc.)

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

MR. CLEM TILLION

Well they couldn't finish up the rest of the...

(simultaneous speech)

It seems to mean that something like, you know, a sixty day, six -- thirty to sixty day transfer that had to be renewed -- emergency transfer that at the end of that time you'd have to renew it or something if the cause of the original transfer was...

It seems like you might put that in the statute to save the commission some...

MR. CLEM TILLION

Well right now we have -- gillnets are not transferrable but seines are. You just call in for the fish and game and say I'm transferring my seine to my son William, you know, and he picks it up, but you can't do that with a gillnet. It's a nontransferrable so you might just as well make it that way. Keep it in the gillnet fishery which is the one we're having our trouble with. It's nontransferrable 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 (indisc.) you know, he has to work something out for when he tranfers the gear -- 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.

There's a lot of temporary basis - temporary transfers.

MR. CLEM TILLION

Yeah, (indisc.) automatically lapses it might (simultaneous speech)

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

MR. CLEM TILLION

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

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

We have three proposals for a transfer covered on this sheet here and there's a kind of summary. Before we get into detail though we can take a look and consider each one. The first sheet is a summary.

The one that says proposals?

Right.

Well, let's try one real simply and see what troubles we run into with that. Suppose we simply say from the beginning that any holder of an entry permit after he has received approval from the Commission to sell his permit, and then sell it to a qualified purchaser on a negotiated sale basis, one-to-one basis with the guy that's going to buy it, and when we talk about qualified purchaser, we simply say anyone who either through past experience in the fishery or well a person becomes qualified either because of past participation in fishery or through training in some approved course of training. Now, therefore you have an applicant pool of people that the Commission has certified then as being approved to buy and any of those may negotiate with a seller for his license. All right, can this meet the requirements that we were talking about the other day? Gives some protection to the fellow in Bristol Bay that may not be very sophisticated. The Commission can give him some protection there. We have an (indisc) to the son, or the relative, or the non-relative even who has worked on a boat for a period of years and he now wants to have a gear license himself or we've left it open for the guy who's had no experience in the fishery but is willing to go in and take a course of training so he becomes eligible. And yet it's still not completely wide open and will not necessarily (indisc) so quickly gravitate

to the money source.

Dave, are you suggesting a course of training by itself would qualify a person?

Very much like that you see in some of these applications for jobs now, where it can be a certain number of years in the field or so many years in college, makes you eligible for a job. It would be somewhat the same.

I've lost (indisc) kind of training on the courses of 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. (simultaneous speech)

He doesn't know the ground.

That's one thing that he can learn after he gets the permit and goes ahead and does it through experience. But at least you've left it open to anyone that's willing to make that sacrifice. There's 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 a situation where (indisc) addressed itself

to in '68 saying well, hey you're relying on the friendship or the whatever you want.....

Yeah.

.... of the skipper to agree to let the guy come aboard the vessel to work for him.

I can see training being worth so many years of fishing experience, the training by itself as a prerequisite.

I don't think we have to get into discussion just what qualifications there 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 can -- if you want to leave some discretion to the Commission ..... (interrupted)

MR. CLEM TILLION:

(Simultaneous speech - indisc)

..... that 2 years college doesn't qualify you but a reasonable standard would be 2 years of college plus some participation. Of course, if the Court says well that's unreasonable, they can't come back and say these standards that you put here on the four basic broad standards are unreasonable, they say the Commissions usage of those four broad standards is unconstitutional

as a (indisc) aren't going to throw out the regulations. But your statute would still be broad enough and reasonable enough on its face that -- to stand up. Of course, (indisc) there's also a little kick back if something does happen you go back and retransfer, but you've bought yourself a couple of years.

MR. CLEM TILLION:

Yeah, and the thing is though, some of those David, wouldn't you say like on your crab and shrimp fleet, would require that a man 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 it's the Coast Guard requires that you be 2 years in that area aboardship before you can sit for the exam, and you haven't stipulated that he has to be apprentice 2 years, but the Coast Guard says, you know, you can't just walk in and get a ticket for the (indisc). You've got to been there 2 years before you can get an operator's permit.

(Simultaneous speech) requirements for 100 ton and over to be ..... (interrupted)

MR. CLEM TILLION:

Yeah, but just have an operator's license, no you have to have an operator's license -- well you don't have -- they don't make you have an operator's license till you're over 100 tons, but you could -- they issue them for any

documented tonnage now of any size. So just meet the Coast Guard requirements for that tonnage plus some of the -- I mean you know, you can get a 25 ton license if you want to, you know.

Dave, do you want ..... (interrupted)

Then this alternative number three, the paragraph there, do you feel that that's an adequate note?

No, I think I can make my position known on transfers in only about 30 seconds. Basically, that in any limitation on a class of people for whom permits can be transferred is probably unconstitutional and it seems like every time you get into this business you're trying to decide to create a local privilege .....

No.

.... and that's whether the 2 years before you can sit for exam, all these kinds of things are aimed at one thing, create a privilege for Alaskans and it's unconstitutional, I think, so I, you know, I don't think ..... (interrupted - simultaneous speech)

MR. CLEM TILLION:

If you (simultaneous speech)

new speaker **.... cause I can't buy it, contrast for ability.**

Dave, under these criteria, one, two and three, and alternate of three, you think that's going to discriminate against non-residence?

Sure, because fewer non-residence will wind up in that category. I mean, I just -- all I'm saying is, I think that what 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. Now I don't see (interrupted) .....

Is not the justifiable purpose in an apprenticeship program like this to encourage an economically efficient fishery?

I don't see it. I don't think it's to encourage (interrupted)

You think that pre-transferability is guaranteed on the market place to encourage an economically efficient fishery.

You crossed over between unconstitutional (indisc) and unconstitutional supply. If you have standards that are

reasonable on their face, no Court is going to throw them out. If they're applied unreasonably by administrative body, they'll get tossed out. So we've lost objectives, we're looking at something that's (indisc) free transferabilities absolutely constitutional, but that doesn't solve any of the other problems you want to look at. We have a common resource that used to be open to anybody who wanted to get into it, that'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's supported by all the taxpayers is a valid objective to make sure that those participants that have that lesser competition and have that property right in that resource are qualified. And if you have standards that are fair on there face, no Courts going to throw them out. But if they're applied unfairly, they can throw them out because it's not going (interrupted) .....

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

As a buyer or on the fish?

Well, sure you could say (interrupted) .....

Plus you have a kickback provision that if it is tossed out you can go right back to pre-transferability. So I don't really see the -- 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 in at a separate point. You've already got your gear level stabilized and you can say that well we've come up with a fair set of standards we're going to apply them fairly to non-residence and people that were on the East Coast and everything else. But the point is, the very threshhold question is does the state have any business monkeying around after it gets gear levels stabilized?

(Simultaneous speech) that's not a Court determination. If the state decides to have an interest, they can.

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

MR. CLEM TILLION:

Yeah, but now when you transfer an air taxi, you require that the fellow hold 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 2 years we've got an extremely crowded (indisc).

Well, (simultaneous speech)

.... boat handler's license to have a permit, you could do that in some other statute, you don't need to do it here. If you just want to make sure it's your safety is provided for, then just do it in another statute.

(Simultaneous speech - lots of it)

MR. CLEM TILLION:

If we leave the Commission the right to do this so that they can do it, regul[illegible]on in other words they say that you must have a licen[illegible]e for the tonnage vessel you're fishing in the area that you're fishing and that in itself builds it in because the Coast Guard won't give you the license until you've been in the area 2 years.

Precisely my point. It creates a decided discriminatory (interrupted) .....

MR. CLEM TILLION:

It does right now when you want to get your license. Because I have to have one during the (interrupted) .....

Dave?

When you're talking about a fisherman, you're talking about apples and oranges together. A fisherman is a combination of things. He's an entrepreneur, he's a small businessman, and he's also a working (indisc). You get a combination of people involved and when you say, solely money is going to be the Courts, as far as I'm concerned you're discriminating against a lot of people, who are excellent fishermen. But there not the best money managers. Yet, they may -- they can run a boat, they can do a lot of things great, and they 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's one that can be accomplished by this kind of state legislation.

If you want to subsidize crew so they have an easier time buying in, that maybe very worthwhile, but I'm just suggesting do it in other statutues.

(Simultaneous speaking)

residence guide can participate, it's the crew member that can you know, get himself involved and get himself on the applicant pool, is going to have it that much easier to pick up financing than if he was to just you know, one of the vast (indisc) of people.

MR. CLEM TILLION:

Well, you know, I just -- I'm perfectly willing to give your .....

END OF TAPE I - SIDE 1

BEGIN TAPE II - SIDE 1

Even if that got knocked out, you go back to pre-transfer-ability so what's the problem? You could call that second thing a cop-out if you want.

How would you transfer one to the other? Sealed bid?

Mr. Clem Tillion:

No, oh God no, anybody within that applicant pool .....

....could then -- would be competing then against one another just .....

MR. CLEM TILLION:

Would be competing against one another, that's right.

But, that's why the difference between two and three on these proposals. Two mentions that, you know, whatever this Committee wanted to do you could -- you could say sealed

..... giving the Commission power to set some qualification. which is not much different than the broad standards you gave the Commission already in the initial Governor's Act.

(Simultaneous speech)

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

Discriminating against somebody, yes. It's a kind of .....

Yeah, well, I'm not sure that it's (indisc) .....

Well, 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.

Sure.

The whole reason we're doing it, therefore, must do it or we wouldn't be trying to do it. I think that's basically what .....

(Simultaneous speech)

I think that if there's -- you know, if you can get people set up that are in a qualified -- if somebody can participate, even if you have to let in an equal number of non-residents, the

bid, or anything else, or you could leave it up to Commission, but number three locks it in -- number three would just be a straight transfer basis where a guy -- where you would if you want to sell your permit and your boat you would go to somebody in the applicant (interrupted-indisc) I hate to use the word apprenticeship because everybody thinks apprenticeship programs are unconstitutional.

Well, let's say qualified buyers.

Labors been using them for years and getting away with it.

MR. CLEM TILLION:

Well, qualified buyer would be fine. See this one wouldn't shake them up. If you have maybe 1500 guys in your applicant pool (indisc) everytime we have a graduating class from school. You end up with a few more.

I mean you guys can talk about how if you get this thrown out, we'll just be back to pre-transferability, but the Court -- when we get attacked from the Court on this thing, they're going to look at this whole statutory scheme and they're going to look at every part of it and at the first shot we're going to have economic dependents as one of our standards which is already designed to cut in favor of the resident, we hope constitutionally, and then we're going to have this tacked on to the other end and it's just going to make it a lot easier to -- for them to find enough to hang their hat on to throw the whole shabang out the window.

new number **Except Courts do not try to find something like that.**

All right, I'm just nervous about it, and I don't have any experience with it, you know, so I don't know. I could be completely wrong, but I'm very nervous about it.

Dave?

Yeah, well I can see where you're nervous from your end of it and I'm nervous at my end of it because we get into this we're going to have it for, not only for the rest of our lives, but many lives afterwards and it's a .....

But Dave, I'm a whale of a lot more nervous about him being nervous than I am about you being nervous, because I really think that we could have held that thing in 1968 had the attorneys from the state that were defending, not been nervous at that point and really give it all they had (interrupted-indisc)

MR. CLEM TILLION:

They didn't want to win.

..... a hold of that one, but if he is nervous from the beginning, it's going to affect, and he's the guy that's in charge of the defense, and his hearts not really in it because he's afraid it's not constitutional anyway, then what has this done to our defense?

MR. CLEM TILLION:

The guy that beats the case on federal -- gee you know, it's

too bad I wasn't still working for the Attorney General's Office. I think I could have beat it on your side -- or won it on your side.

I don't think there's any doubt of that.

I object to that type of thinking.

(Simultaneous speech)

Our problem here, to get away from economic bidding on these permits, because a local resident may not have the economic ability to do it. That's really what we're trying to get around, isn't it?

Yeah.

Not necessarily the bidding, but making sure that not just the guy with money and nothing else is going to be doing this.

Well, but I have to agree with Dave on this. That if our problem here is to stabilize the number of units of gear, the fact that a guy comes out that doesn't know how to fish that gear, doesn't hurt the fishery, doesn't hurt the other gear holders.

MR. CLEM TILLION:

Well, but.

So it can't be a part of this -- it's not part of the fabric of this bill, that's what makes it stick out.

MR. CLEM TILLION:

We're trying to work on a sociological game.

I know, but it's not a part of this fabric see. You've got a fabric here that we're weaving together and suddenly you get something that sneaks into like a Pepsi Cola can sits on an American flag. What the hell's that doing here? No matter what you want or anything else, it's just sticks out as being -- as having nothing to do with conservation of fisheries, nothing to do with stabilizing gear, has nothing to do with the economic well-being of the number of limited gear holders here, it's something that we're -- that we socially want to do. But if the main purpose, I agree with Dave too, why don't we subsidize our fishermen? Let's set up a lending fund which only residents can borrow from to buy these permits to equalize the economic aspect of that, if that's what we're trying to protect against here.

One of the problems is we don't have 2 years to get that type of thing -- now this things ..... (interrupted)

We've already got it.

(Simultaneous speech)

MR. CLEM TILLION:

All right, now you (interrupted-indisc) non-transferability hold for 2 years, right?

I think you might. I'd say so.

MR. CLEM TILLION:

Yeah, see the thing is he's agreed upon that part.

(Simultaneous speech)

.... non-transferability you're saying they're transferable at the offset but the Commission for a number of reasons won't process transfer for a couple of years. Maybe you could get by with that and if that moratorium fell, you probably would still have your basis.

I disagree with the fact that this goes against the basis (indisc) because once the legislature makes a determination that they're going to limit a common resource to a set number of participants, it is completely logical for them to determine who and what the qualifications are for those people that are going to get that right. It's all one right after the other.

It's completely illogical -- that is -- at that point it does become a special privilege of fishery. You've said more than just saying there shall be only 800 drift gill net permits in Bristol Bay, which is necessary and permitted. You've said we're going to set up a statutory structure that defines special privileges.

No.

Some people will be more privileged than others in getting those permits.

No, that's completely illogical. You're saying that you -- that there's going to be a set number anyway and you're saying that the set number's going to be qualified instead of unqualified, and I don't see how that's illogical.

Seeing that you're creating fifty to one hundred million dollars worth of paper capital, which is real money, then it's -- a man's going to have to earn that much more fish to get the (interrupted-indisc) .....

MR. CLEM TILLION:

So what?

So what? If you can do without it, you've got (interrupted indisc) .....

MR. CLEM TILLION:

Well, fine, if you can do this illogical without hurting it, but the thing is what it really discriminates against is people my age; his age will end up with it. Because the guy that's younger will be able to buy it and the guy that's old won't ever buy a new license.

The guy your age with the past experience may be able to go to the bank and get the money to buy the thing (interrupted-indisc)

MR. CLEM TILLION:

I'm not talking against him, I'm just saying that if we can

do the sociological problem, fine. I wouldn't want to endanger the bill because I agree with Jalmer, it's the thing that will save the fisheries, is a professional -- and your perfectly right, if you just made them pre-transferability and bought them back, you'd end up with a professional fisheries in 10 years. What he's looking at -- or maybe 20, but he's looking at the fact that there might not be any Bristol Bay Natives engaged in it.

Well, I agree with you. I think that may be the price of the bill, that's what really concerns me about this.

MR. CLEM TILLION:

The price of the bill still -- even with that is worthwhile.

I'm not sure it is, I don't know.

MR. CLEM TILLION:

Now you can say -- now you've guaranteed that those people will be on starvation forever and destroy the resource too.

Well they at least have an opportunity. A way out.

MR. CLEM TILLION:

An opportunity. That's no opportunity to go out there and compete with more and more and more a year. That's no opportunity, that's disaster.

(Simultaneous speech)

Let's bring this whole thing to a head. There's two sides to arguing here. Isn't a qualified group a privileged group?

MR. CLEM TILLION:

I think you could (interrupted) .....

I want to retract that, because I shouldn't have put (indisc) That was a little unfair of me Frank, and I apologize.

Okay.

But I still think you don't know -- what -- I think it's (interrupted-indisc)

Well, that's the basis of the whole difference here, is whether by qualifying -- giving one group, you know,saying that they are qualified and another groups not, that's some kind of special privilege. It's something that's unfair to discriminate against somebody else. Does qualifying one group of people -- by the basis of their quality -- of their qualifications they get the license, does that mean it's unfair to the other people that don't have those qualifications?

Well, the problem is pre-entry into a billion dollar resource with a right of any citizen. Not the citizens that are necessarily that are here today or interested in fishing today, but the right of a citizen of this state or anyother state, as far as that concern, to enter into its resource. And then if you're going to exclude your permit resource, it -- you have to be on some grounds. Although those grounds are acceptable to us, that he's not an Alaskan, or he's not a resident, whether we want him to live here locally, that's

perfectly acceptable grounds to the people in this room. Because that's us, and that's our friends and neighbors, and our concern. But that's not an acceptable standard when -- outside this room, and that's where you -- that's where the thing is going to rise and fall. That's where they always fall. Is becuase we sit around and talk to each other with standards that are perfectly acceptable to us, and it seems to be lacking more of the absolute problem that is not going to be acceptable outside because it doesn't fit into the necessary parts of this.

(Simultaneous speech)

So, what you're saying is the qualifications -- it's okay to have qualifications as long as we base them on the right thing?

That's right. You could,if I can't think in this context, why it hurts your scheme if the man is completely unqualified see, he knows nothing about it, I don't know why that really hurts the scheme. If he wants to go out and try it .....

Suppose tho ..... (interrupted-simultaneous speech)

How does that damage it? If he catches many fish it's going to be better for the resident?

MR. CLEM TILLION:

John, John, if you have the qualification group one that required a certain amount of fisheries background, the fisheries background

Tillion could be Oregon, Washington, if you've at least held it to a more limited -- the fisheries aren't helping anyone in the United States. Unlimited entry has guaranteed that they're a sick industry. So the thing that you have to do is at least you held it to an area of that expertise and sure, maybe the guy from Columbia River can beat you out, you know, Oregon or Washington. You're not discriminating on residence.

Let's go back to the basic issue here. I think it's what Terry is talking about. If we wind up with 400, let's say, or 500 gear holders in Bristol Bay and none of them are willing to sell out, okay, we have achieved our first purpose of getting down to the limit gear where we desire to go. But nobody is willing to sell out therefore, there's no way for anybody else to get in. Isn't what we are doing each year is getting the right and exclusive right to these people who are qualified under our original conditions here because of their primary dependency on the thing, etc.? Isn't that exactly the same thing that we're doing then as we would be doing with new people coming in having them meet some of these qualifications? What is the difference?

If that happens, I think you would be 100% correct, but I think no reasonable reason to expect the market price (indisc) existed unless you had a complete (indisc) all 400 became some sort of a huge monopoly organization and agreed not to

transfer their permits. If that happens, sure, then we've done something -- but I just don't think that will happen because each individual has the legal power to transfer his permit and at some price they will be transferable.

What's wrong with the (indisc - cough) with this problem? The point of view I'm trying to help our citizens that we can do this in terms of loans and otherwise, or training or whatever we want to do. God, we can buy them boats, we can loan them money, we can give them operating capital, we can grubstake them, we can do all those sorts of things without any question of legality or constitutionality. In other words, are we really going to help our people till we're -- until we teach them and equip them with money and otherwise, so that they can compete then to try and legislate the competition away from them. In other words, our (indisc) is to raise our non-competitive and marginal fishermen to our friends and neighbors to a competitive level where they can operate with anybody else rather than to legislate, try to legislate, so that we can protect them from the outside competition.

I would agree to some (indisc) but if those programs were on the boards now and if those programs were funded now, that would be one thing, but if the bill goes through tomorrow and they have an expectation that those programs will (indisc) and they don't, then you've just, you know .....

There's some men in there now that wouldn't want to be taxed to pay for it.

(simultaneous speech)

They wouldn't have to be taxed for it.

Well, where's the money coming from then?

You've got a fisherman loan fund on the books now, it's just a matter of putting .....

They wouldn't have to be taxed on that, all they have to be is funded on that. To the extent that there's economic thing that we're concerned with here.

This is something that the Commission is going to have to keep tabs on these transfers on anyway and I think that's what the Commission's for is that so they know what's going on at all times to watch this thing.

I would like to agree with Senator Rader. I think that the only way we can make this thing work is to help raise the ability of the people about whom we are most concerned to compete and there are ways that this can be done. In regard to this qualification pool, apprenticeship thing, may I submit that for every Italian fisherman who has a gear license there's another boat puller sitting right there who's probably

infinitely more qualified then any second son, or somebody coming out of the brush who has not had a similar background. So, concern about this does not necessarily gravitate to the benefit of the resident from whom we're showing this concern. We'd like to be able to assist the resident this way but evidently within the constitutional limits as I understand them, we're going to have to have a sort of a free for all here. The only thing that we can do is to assist these people to fight on equal terms, shall we say. So, let's go ahead and try to do that. Inevitably, there's going to be a screen (indisc) while over a course of years because somebody is going to fall by the wayside. Well, I submit that that may not be more tragic than what we're having now. We have these people, they're all by the wayside today. This may make it possible for some of them to compete. The guy who is down and out now may not be quite as down and out -- I mean some of them will manage to make it okay over the hump. Some of them will be down and out after a few years anyway. So you're going to be darned if you do and darned if you don't and I think you're going to have to take a stand here and realize that you're -- whatever you come up with is not going to be palatable to everybody for ever and ever. May I suggest that you look back at some of these thoughts that Mr. Flavin has put down here, "Transferability of Permits." I think it would be a mistake if everybody left this meeting without really addressing themselves to some of the questions Frank has raised here.

(simultaneous speech)

MR. FRANK FLAVIN:

Well, of course, it's not exactly what we've been addressing to ourselves to as far as the very last question, what kind of transfers should we allow for, (indisc) partially restricted, non-(indisc).

Frank, talk out loud here. I think that you've done us a real service here. When I first read this three or four hours ago, I thought so to. Talk to us in terms of if this were exclusive property rights, what you think -- tell us the bundle of rights those things that would go with it and then tell us what you think it would be if we made the use permit and how we would change those rights and get a certificate of public convenience.

MR. FRANK FLAVIN:

Well, in relationship to what amount of control (indisc) in terms of qualifications, but there's other controls too that the state might wish to put on it. When you grant an exclusive right, you run into all sorts of problems about how you might want to take that right back in the future (indisc) increased compensation,and all these things. But a use permit like you have you know, like grazing permit or any kind that (indisc) a governmental property or resource, there's always some sort of standards that you retain that people will have to abide by. But once you give a right you know, vested right, you lose a lot of abilities to control how somebody operates within that system. But all these it's -- you go from the top from

very little governmental control to the bottom to the most governmental control and I sort of looked at it in that fashion. I think it's sort of necessary to determine in your mind just how much governmental control that we want to have here. That's why I got into the whole thing of qualifications in the first place, because I just -- it seemed to be sort of shirking some sort of duty to divvy up a resource that's supported by tax dollars. It's a counter resource belonging to everybody who (indisc). But you just outright grant that to an exclusive limited number of people solely on the basis of monetary worth without retaining some sort of controls or somehow controlling on how these people operate, seems to me to be somewhat abusive and I'm not so sure that there's not some constitutional problems with that in the first place, despite the fact that we've got(indisc) constitutional amendement. That's, you know, that an inquiry that I think we have to make.

DAVE:
I'd like to suggest that we really haven't done that. We really probably are at the use permit level because we haven't granted a way to fish. We've granted a way a right to use the fish. There's still completely subject to conservation regulations by the Board of Fish and Game which could include total closures of an area, which include all sorts of modifications as to what kind of gear you can use. The whole gamete of police power restrictions over the way that the resource is utilized. All we've done as we have parceled out a finite number of use permits, I think that's what we're really looking at, they would something between one and two. They would -- if we make them transferable, there like property. But they're

still no more than a use permit. We haven't granted away the fish in Bristol Bay to individual people.

I thought in this way I use this determination when I was thinking of qualifications because when a governmental unit usually allows somebody to have sole use of a resource and gives them a competitive exam advantage, they always look to some sort, you know, it's like the public utility, you always look for the you know, whether this guy is -- this company is to be expected to have a financial resources necessary to do the job you're giving him or whether he's trustworthy enough to have that type of an operation. And I'm just wondering if in fishing, it might not be the same thing? Do you want to require something from these people that you're giving the competitive advantage to or do you -- is it just -- are you just going to sort of make a micro-cosmal of the rest of the free enterprise system (indisc) or say well it's a dog eat dog and it's anybody can get in by money and that's the way it's going to be even though it's not really the same as it is. Once you've determined that it -- the kind of resource you're going to be locked into a set number of individuals then you're out of the free enterprise system right away. Talking about, you know, if you've got the money you can buy any (indisc) even if you're not -- even if you're not doing the job or something. I think is a little bit -- it's not completely irrational, but I think you're getting away from some of the main issues. That's why I thought the qualifications fit in.

Well here's the problem. On arcertificate of public convenience or necessity or something like that, you're talking about when we fear that a job won't be adequately done. And we don't have any fear that there won't be an adequate number of fishermen there with gear catching fish, do we?

(Simultaneous speech)

Let's take another example then. State lands at the present time is available for grazing leases. But you're restricted. You've got to show that you can or have a reasonable expectation to put on a certain number of head per hundred of acres etc. etc. etc. You just can't take the land and do anything with it that you wish to. Now how does this apply?

But if you were faced with the problem of common overgraze -- let's assume you've got a common area, and you were going to let people graze on it and it was being overgrazed, you would not require of the permittee that he -- that if he gets a permit that he has to put 100 head on it. You'd hope to hell that he maybe didn't put any on it if he was entitled to a permit or something. I mean the problem is overgrazing see, you can promise other grazing then it would be different. But the problem of this thing, the thrust of the whole works is an over -- too many people, too many people, and therefore if it's a taxicab you're giving a certificate of public convenience of necessity to, if you're only going to have five cab operators in town, you want to know that when it's

raining you're going to be able to get a cab. That there will be enough cabs to go around. But, so the public will be served. But here, we don't have any problem in knowing that there's going to be enough boats to go around or enough gear to go around, you see. The whole thrust is in the opposite direction and that's why it seems to me like that if that as I was saying before, that I know if it were a public utilities program or if it were something like that, you'd take these considerations, but the thrust of this is not in that direction.

We're talking about into the future and we're planning to get in each area the size fleet that that can -- that will be able to harvest the peak run as well as to make a living off the average run and so there is some sort of economic justification in that. To me you're creating an efficiency in your fishermen if you allow an attorney or a businessman or anyone or a doctor or anyone with a high income otherwise to buy a purse seine license because he likes to go out with his wife and kids and he thinks it's good training and a nice way of life for him and he's -- he will have just as much right to buy that .....

Let's not say a doctor, lawyer thing, let's just say another worker instead, because all his life he's wanted to have enough money to go out and buy a boat and be a fisherman, because that's what he'd rather be than anything else in the world. Now that's what I'm talking about and that's what

you're talking about, is the right of the poor guy who has a dream and he wants to accomplish that dream and whether or not you're going to foreclose him out on some basis here which doesn't have anything to do basically with what we're trying to accomplis here.

Well, if he's been working within the fisheries at all....

He hasn't been a working (indisc) within the fisheries.

If he wants to become -- I mean I see no reason why I should be able to become a plumber if I don't know anything about plumbing.

(Simultaneous speech)

He can be a crewman but why should anyone have the right to run an operation?

Why can't you become a plumber? If you can't become a plumber is probably because people would hire you and you'd end up making violations of plumbing code and the people that you sold the product to would be getting an inferior product and you'd be damaging. You'd be a consumer fraud to hire you as a plumber when you're not. But when a guy goes out and fishes if he doesn't catch any fish he hurts noone but himself. There's no consumer fraud. There's nobody else involved and in fact the resource has been helped.

No, well no wait a minute.

No, no, no.

Carried to an extreme he could. Suppose you're down .....

Yeah, but you're not ....

Wait a minute, suppose you're down the 500 units. This is what's necessary to harvest. It's necessary to harvest a peak run. You're peak run comes, but half of your 500 or any substantial part of your 500 are not qualified fishermen. Okay, so instead of (indisc) they go up the streams, they plug the streams, etc. you haven't harvested your resource, you could have actually hurt your returning runs because of too many fish escaping. Does this sound worth considering?

Well, that's an argument.

(Simultaneous speech)

If I'm not incorrect, some of these fisheries if you're not really a good fisherman you can really do some damage to the resource, maybe I'm wrong, maybe I don't understand, but I know that it takes a certain amount of expertise to be able to really not only efficiently but properly harvest them (indisc).

And then you're insurance costs go up, you have more injuries all these sorts of things and when you know, certain costs go up for everyone when they go up (indisc - interrupted)

There's no reasons that these conditions should be attached to an entry permit anymore than a commercial fishing license. Why should they just have certain minimal qualifications and anybody that's involved in commercial fishing along these lines set professional standards because of these -- I mean there's no reason that this should attach and be a part of an entry permit anymore than a commercial fishing license which a guy still is going to have to have. Every fisherman and the crewman.

I guess I respect the abilities of the skipper too much. I tend to think he's a little special man is all.

Do any of you anticipate we've accomplished anything more this evening at this point or should we break until the next .....?

Well, I think as usual .....

(Simultaneous speech)

... only to be a union plumber not as far as the laws concerned.

What do you have to do to have a plumbers license?

You don't have to do anything to be a plumbing contractor.

This came up with a friend of mine. He wanted to be a plumber. But he couldn't be a plumber so he became a plumbing contractor.

END OF TAPE

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

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 (indisc.) permits and 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 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 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 -- 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 (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 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 ~~through~~ due to 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 a 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 tranfer 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 faving 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

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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 (indisc.) preceding section 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... ll 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 then 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 . shall get a permit then you've used the classification of the i lividual as a basis to set the optimum 'evel 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 Southeast 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 fisherman 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 permissable 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 hack 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...**

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?

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.

Tillion **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.

Tillion (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

Roy how prevelant ... tax write off a sports boats In sport commercial, how prevelant where people have it as tax write off or boats ...

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 them 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 gent 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 compenated.

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

[illegible] are perfectly all right like some of [illegible] 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 can 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 permitee, 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

commission some [redacted]disc.)

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 ninty 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 does it 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 abroad 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 initially 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 abroad 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 arent' 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)

SCOMM

#31:9

CSSB 39

2-13-79

Work Session

For the benefit of the people in the audience, let me introduce the members of the committee that are here. Across the table, we have Senator John Sacket from the Interior, Senator Poland from Kodiak. Next one here is Senator Radar from Anchorage and I am Bob Palmer from Ninilchik. We have Mike Whithead here as our committee assistant and has been working on this thing non-stop for all the time since the session began and this is Joel Bennett, one of our attorneys from Legislative Affairs agency. Okay, to go back to where we were, one of the earlier proposals that we have been working on in really great length and have been discussing has been free transferrability of these entry permits so that they would have a property right and the fisherman could sell that either back to the commission the entry permit could be sold back to the commission when the fisherman wanted to get out of fishery or he could turn around and sell it to anybody else that wanted to get into the fishery. We had known of some of the drawbacks and we recognize some of the drawbacks to this system though, but we hope to include in that idea the fact that the commission would need approve the transfer of any of these permits wich would give an opportunity to discuss the advisability of the sale with the fisherman that is wishing to sell his transfer - or is permits. We have also discussed the idea of having a two-year moratorium during which no permits would be sold. We have also talked about providing adequate funding for the fisherman through the fisherman loan program that we have now in effect in the state, though the fisherman who might be indebt to the cannery at the present time would have an opportunity to borrow money from the state fisherman loan program in order to pay off the cannery so that the cannery could not foreclose all names and force him out and force the sale of his permit

to the cannery perhaps. Well that's one concept - free transferrability with a property right. We have another one before us in the form of a work draft today in which the entry permit is not transferrable, does not have a property right if the fisherman did not fish for a certain number of years, and that's not specified; then the entry permit would automatically revert back to the commission and after there had been enough reduction in fishing gear so that a so-called optimum level of gear the specific fishery had been reached, then when there were people getting out of fishery and the permits going back to the commission, the commission would make these available on a lottery basis to people who wish to get into the fishery. There are quite a few advantages to each of these things and a number of disadvantages to each of these systems. Ant the purpose of the meeting today is to consider some of these alternatives that we have or the transfer permits, the non-transferrability and the disadvantages and advantages of each. I think that we had not intended to have a great deal of testimony from the general public today, but I do recognize that alot of you people have travelled quite a distance to be here for another meeting, yes, perhaps that you're still here and we would like to take advantage of your expertise. Alot of you have been life-long fisherman and so we will give you an opportunity within the limits of time that we have to have your say. I think what we'll start then, I think we will start with Mr. Clay Linen. We'll let you, if you wish, to give us your analysis of the lottery type arrangement where no property right is attached to the entry permit and therefore it is not really transferrable and I would like to have your comments pro and con on that as you see, and I think we'll then go to the representative from the United Fisherman's Organization, Mr. Dejak, if he'd like to and

them to people in the audience over here. Okay, Frank would you like to set up a table, you may do that.

The non-transferrability certainly wipes out the problem we had with coercion, the economic coercion and one of things we worried about when we approach this two-year period on the transferrability section is to your moratorium on the fishery permits, whether we hope in that two-year period to be able to educate the low-income areas as to what they had and perhaps bolster them up economically so that they could withstand the type of pressure and when they get to transfer those permits to financial interests. With this pipeline problem and everything else with the drying up of alot of funds has just become questionable whether those types of fundings are going to be available. I know alot of the people in the Bristol Bay area cannot qualify for the state loan program the way it's written now. Even if we could get the funds for it, I am not sure that would be the sole answer. On strictly legal issues, I think that non-transferrable is legal. I think that you might be able to get away with allowing transfers to family members. I think that it's worth the chance and I think it could be severable and thrown out to you and wouldn't be worse off and it's worth a try.

Excuse me. I interrupt. Are you saying that under the concept of non-transferrability it still might be transferrable within the family?

I think so. I think that you should keep that standard if you had the original governor's bill that anybody that gets the permit has to be able to actively participate in the fishery rather than

attach the ability to participate. I think that it would be one thing to give a permit to somebody that was 14 or 15 and something else again to give it to somebody that was 4 or 5 years old. I think that the original bill provided, in another section, that the commission would draft rules and regulations on the inheritance of permits and this type of thing. I think that they could investigate that alot more as to ways to go about that and make sure that it was legal (loud coughing noise). I think one advantage I have been going back and trying to analyze the prior decisions in the advantage in the other Washington cases. One of the things that has troubled me is by advantage the court there said, the federal court there said that the problem they had we had no excuse for right of fishery clause, which is gone now, but also had the common resource, which is still there, that the fishery is a common resource. And their problem was vesting entry into that common resource into that private had so that anyone that looked into the future to get into the common resource fisheries would have to look into a private individual to get that and that is where they found the constitutional deprivation in that you had to go to a private individual in order to get into a common resource. I am not really sure that when we have free transferrability we have changed it. Legally in anyway, instead of a three-year standard now we are saying you have to buy it from them instead of working for them and I am not sure if that's not any difference without any significance in law. You say you still have that private individual that you have to (indesc. noise) get into a common resource. I wish that Dave was here today because I feel like I am taking an unfair advantage over the attorney general by approaching these things without having some playback but I think that's a problem that hasn't been looked into. I just wish we had some more

briefing on this. I think the non-transferability, if we could get into that, I think we would certainly take care of that problem. Despite John's reservations, Senator Radar's reservations, I think that you might want to put some basic memo qualifications that anybody could meet if they tried to on new applicants. I think that the state could do that and I think that it would be wise to do that so that you would go to a lottery of people that could actively participate now and go to a lottery of incompentence or something or anybody but somebody that would have the ability to participate and do some basic memo qualifications, hopefully not something where you get into some credential position, at least some present type ability participator. I guess that's (indesc. mumbling).

Well, describe if you will, how you really see this thing working. I tried to summarize a little bit. Perhaps you would like to into a little bit more detail as to how this actually works on a lottery basis.

Well, hopefully there would be a subforfeitures as the resource stabilize perhaps we have some more permits issued in the future. Once permits did become available if permits came to the state for forfeiture or came to the people that didn't leave any areas or something like this. Then these permits would then be reissued by lottery basis on basically the same standards that we had originally to maybe a little less harsh on the dependency and participation but they would go on a lottery basis to people who could actively participate. Of course, that's extremely fair. You're not showing any favoritizm if you're on a lottery. I would myself prefer to see it go to people that have invested personal

time in this resource but that's a philisophical option the committee has to consider.

So it would not be a completely open option - er, a lottery as you see it, but there would be qualifications on those who are eligible to participate in the lottery.

Right. I would hope at least that there would be some basic qualifications that you would have the ability to participate in some manner. Maybe that's not acceptable.

Senator Radar, what's wrong with the lottery type situation?

I don't know. It has alot to recommend it. It really wasn't my idea. (person's name), I think, brought it up first, maybe Mr. Flaven did, I don't know who brought it up first, but, it has several things to recommend it. First thing is that we are worried about if we distribute permits today that economic interests would aquire those permits, either local or outside, it doesn't make any difference, superior economic interests. A lottery would stop that because the transfer that the permits could absolutely not be transferred to anybody nor could anybody buy them up. The best that they could do is to put their names in the lottery. That's the first thing. And this would be whether with the canneries or the canneries' nominee. Most of anybody can do it and put their names into the lottery and presumably they could only get one license in at the most. So it seems though that a number of people buy them up, and therefore the guys are going to be on the beach. It also keeps the fisherman from having anything to sell which is a disadvantage to the

fisherman. If he had something that was really tranferrable, he could have something that was saleable. This way he doesn't have anything that's saleable because the moment he quit using it, he can't determine who the subsequent users are going to be because they'll go to the lottery. So he doesn't have anything to sell, therefore, the economic interests have nothing to buy, therefore the economic interests presumably could not corner the market on them. The second thing is that if it is done by a lottery, it's emmitably fair. I think that that has a lot to recommend it but it doesn't mean that any group or group of people are going to necessarily be the only ones in the lottery. As a mtter of fact, I am convinced that they guys in Seattle, if he wants his name in the lottery too, you'd have to put him in.

Can you see a certain requirement though, that can be in this group of lottery?

I think that it would have to be really minimal. If the requirements are safe, then you should require that of everybody today. If the requirements are ...

How about of knowledge?

Well, why don't you require that today? What difference does that make? Maybe a guy has a fish but he wants the right to fish. I think that it was Phil Daniels here who said that he had never been fishing in his life and on the third year he's a highliner. Well, he wouldn't have been eligible for the lottery but people like him should be eligible for the lottery whether they have ever fished or not because if they don't catch any fish, they haven't hurt the

resource. Like the argument we made before, if they don't catch any fish they haven't hurt the resource. They other fisherman catch more fish and the only thing that is is that he has a permit there which he has not fully utilized. The argument is that what are you going to do if you have only a limited number of permits and you need a full harvest and the number of guys are incompetent because they are learning. I think that that argument has some wave to it. But I assume that what the knowledge thing here... I don't know...

Thank you.

Could I make one more response?

One disadvantage of the lottery is that the guy that's in the crew members status or something investing his time into the fishery would hopes that someday gain a permit. With the lottery system it would seem like playing Russian roulette, which he has no real manner of improving his position as the years go along and I see that as a real disadvantage in the lottery, where on one hand it's fair and on the other it's hard for a person to really to (word) gut effort to improve his position.

Why wouldn't it still be a defacto type thing of these licenses or permits gravitating to the canneries simply by the fact that the canneries might have a pool of twenty, thirty, forty applicants for every space that comes open. Any one of which can be successful in the lottery becomes a cannery fisherman. Whereas everybody else is definately one against one.

I would say that somebody would have to work on that lottery system to make sure that it was fair and that there wasn't any packing going along with it. That's why I still believe in some basic memo qualifications because I think that's one way to prevent that type of thing.

Well can't the cannery have qualified people..

Sure they would have..

They would have but they are not going to weed them out that way.

You know it's a little bit like this. The problem of deciding the qualifications is a light thing and you can't go to college unless you graduated from highschool when the fact of the matter is that they let you take the courses so you can work your way to college. A lot of people didn't go through highschool for a lot of different reasons, but it's the idea of making everybody hold certain credentials and letting them go out and see who really can do it and letting them produce...

Same thing for attorneys?

As a matter of fact, I agree with you. I agree with you 100%.

Let's keep to the subject.

I think you're absolutely right. As long as they work, I don't care how they aquire their knowledge or information or that they

want to spend a couple of years learning how to do it. There may be people who won't want to go fishing until they know that they have a permit or are going to have a permit because maybe what they really want out of life is to be independent and on their own. There is no point in learning how to fish if you're going to be a deckhand all your life if you don't want to be a deckhand so I don't think you really want to limit it to any class of people on getting in there. I think you should limit it to people who think they want to fish. If they don't use it, then they lose it. Anybody who didn't use it, say three years or five years, or whatever be a reasonable cycle, would automatically lose it, which means that there would be no (word) value in the thing.

I agree with you except that while you're doing all this and while you're allowing these people to go in use, I believe that there has to be some method whereby you can make it easier for Alaskans, particularly those that are in the field that don't have all the advantages to be able to have at least a better chance than others. And of course that's the questionable...

If you could figure out a way to do that. If it is based on Knowledge and goodwill you could get the Seattle fisherman the knowledge too.

Mr. Chairman?

Yes.

I think that I am the only one that (indesc. mumbling) sometime the crucial part of the testimony.

Alright. Thank you. I'd ask everybody to speak a little bit louder. I don't know whether the acoustics are not to good here or what. Anyway let's try to speak up a little bit more so that the people in the audience can hear. Incidently I didn't introduce Mr. Flaven. He's an attorney representing the people from south Naknek. He is here, Phil Daniels representing the United Fisherman's Association and Mr. Dajak representing the Governor's Office. He's worked with the Governor's version of this bill for quite a few days, weeks and perhaps months with us here since the session began. Did you have something more that you wanted to say?

Yeah, just one quick thing. I think that what we are talking about is we've got three options as far as a new entry bill. We have got a lottery option which has had the advantage of being eminantly fair, but perhaps no one knows where they stand and the other two options are we are going to have two kinds of qualifications; you're either going to have a money qualification or you're going to have a personal type of experience type qualification or educational type qualification with some type of personal qualification. I think that's our three options. We're going to have to look at fairness and we are going to have to look at what kind of qualifications it's going to take to become a member of the industry. I think those are the (indesc. noise) we have. Either personal qualifications or strictly monatary.

Alright John, let's get you're opinion and Joe I'd ask you too if you wanted to give us one. If we were to go the lottery route, there's two things we might think of as far as qualifications as things we would like to do perhaps and one is to make it transferrable to son or someone within the second degree of kinship. First of all, do think that we could possibly do this within the confines of the constitution? Is this something we could work out perhaps? I know that I don't want to pin you down. I am just saying what is your immediate reaction?

My immediate reaction is that anytime you have a group of people that have a special franchise permit and you make it inheritable so to speak, that you're creating the worst type of a closed society. I understand precisely the idea of a family in a fishing situation but you have to recognize the people who don't have anything, for their interests generally, that the special privileges to fishery resource or something else is that the pre-entry into it and not to be precluded for pre-entry into it. Because someone's father who is a fisherman and two kids are going to school together, one of them therefore is assured that he has the right to fish and the other one is equally sure that he doesn't have the right to fish because of his father, doesn't appeal to me as being basically fair.

Well the question is constitutionality, not morality...

Well I strike it as the father's place as being unfair.

It probably was not a fair question since you hadn't had an opportunity to study the constitution, so we now retrack the question and see now what can be done as far as research into the constitutionality.

Certainly certain benefits or a lot of benefits of the nerve of the family (indesc. mumbling).

Are we in the same situation if I ask the question about applying the same criteria to those who might go in a lottery pool as we apply to those who dub the original entry permit? You follow me? We have some qualifications. There's a criteria here. Primary your second career fisherman consistent participation in this fishery provides the primary substantial income source, etc. If we try to apply these kinds of qualifications for one to be eligible under the lottery even. Do we hit the same problems? Are we in the same situation? And answer the consitutional question. (indesc. mumbling).

I think the committee knows my feelings. I have always felt that if you're going to use those same criteria in the future, you sort of undermined their fairness and equitableness in the past.

Phil, would you like to present the other side as you see it or some of your thoughts on the other side?

I will make it very clear that what I say will not be the official position of the United Fisherman's, because they are coming back down.

We're not asking for their position just some thoughts that you see as far as the other side perhaps, of this coin.

Well I would have an enormous amount of reservations on the lottery approach. From this point of view initially from travelling around the state and meeting with fishery organizations, that the biggest argument against limited entry was the argument that you're interfering with the free enterprise system and that you are excluding the hope of the fishery creating perhaps a closed class. Well it's bad enough to have to exclude someone from the fishery but then you turn right back around and say that buy establishing an apprenticeship school and buy putting on a lottery basis, we're gravely jeopardizing your possibility of ever getting into that fishery. It's going to be that much more discouraging to the general public and to alot of other fisherman. In other words, if you went the lottery route and you had ten licenses and you had only eight fisherman, just in terms of the laws of probablity alone, a man can go back and put his name on that list thirty years in a row and never get a license and I think that this is going to be very discouraging to a lot of people who see themselves as one day wanting to fish. I also think that in my own case, and in many other peoples cases, has come here and wanted to fish that they had to go to the apprenticeship school as required by the state five years for participation as a crew member and various other things before they could become eligible to roll the dice, that they would be discouraged and evidently see themselves as excluded. And this is my real reservation: if I were a crew member and somebody said well you're going to have a chance to fish but only if you're lucky enough as far as the lottery is concerned, I would really be discouraged at that. On the other side of the coin, if

you make your li[illegible] really tranferrable a[illegible] property right, you're really saying to somebody that although we have an exclusive fishery, still, anybody who has the courage to buy a license can get one. Now this, I think, is legitimately pointed out that this is a disadvantage to people who don't have the money. But as far as the concern that these lincenses will eventually end up in the hands of the cannery, I think that's a bit short-sighted from several points of view. First, the lincense attached to a man and the cannery can only own one license. I can't, for the life of me, see a cannery put down 10 to 15 thousand dollars for a man to get a license, when that license cannot be encumbered and that man can turn around the next day and tell the cannery to go jump and take off and do whatever else he wants to do and I imagine that when the cannery has been burned two or three times, as it no doubt would be, that they would become very reserved about buying a man a licnese for 10 thousand dollars when they can't get their hands on that license. Secondly, I think the cannery's ability to dominate the fishery economically, would not have been precluded because as long as the cannery is able to loan a man money, as they are going to continue to be able to do, then their going to have a way of getting their hands on that man whether they've got his license or not. As long as it hasn't been a hard winter, a man can go to and say how about loaning 3 or 4 thousand dollars, they have him under the same kind of economic coercion as they would have now, as some canneries do, and I don't see you're going to preclude this by making that license put on a lottery base. I don't see the advantages. Now, from another point of view, I think that the idea to the fisherman who is the really serious professional fisherman, the idea that by being able to buy a license...take a man who already owns a license, say in Cook Inlet,

[redacted] go to Kodiak, buy a [redacted], be it that he would have to pay the assessment cost, but he would be able to fish more than two areas and that's going to be an enormous boom for that man as far as the ability to earn a living fishing. And there are alot of people who could make a living fishing if they can fish more than one area as we used to do. That I think is one of the strongest points in that entire bill as far as the fishermen are concerned. I would like to see the license made a pretty negotiable item. Now actually I'm pointing out that you're giving a man a big economic windfall by doing this and if you have an assessment by way of a buy-back program, you're going to requiring that fisherman to pay one or two hundred dollars a year or so in order to buy these excess boats out of the fleet. Well, if he does pay that and his license is valuable, I don't think he's getting a windfall game. The man who is getting the windfall game will be the man under the system where you had no cost on your license and the man comes into the fishery 10 years later after you've (indesc. words) you're looking and he doesn't have any assessments to pay, the fishery will then help his state to reach optimum level. He's the man who's going to get the windfall game. So those are my reservations on it. I am certainly in sympathy in the idea of trying to protect people in low-economics bracket. I know that the Alaska Native Land Claims provisions provided that you could only sell your license by going back to the B.I.A. I believe that's the way it's written. And the idea there, I imagine, is to keep a man from selling something valuable when he doesn't realize the value. Well if we could do something on that level, the cause of this license when it wants to be transferred to be referred back to the commission for their approval so that a man doesn't sell when he shouldn't, at

least you can try to discourage him from doing so, and it still allows to be open as possible by way of the license being pretty negotiable between whoever wants to buy or sell would seem to me to be alot more desirable way to go. Again, I want to make sure that everybody understands this is not the U.S.A. position and this is the way I feel about it and I may change my mind before its over

Question to Mr. Anderson.

I started out, I think that at one point in my thinking here, to the statement that you just made and I don't know whether I agree or not. I am very troubled by one argument that we presented the other day in the hall. That is let's forget about the assessment that we are going to make here against the fisherman. Let's figure out whether the (indesc. mumbling) amount of fish he catches for each license or what, and reduce the number by a fish per license. We assume that the salmon resource (indesc. noise) and I don't know what you want to assume but it's got to be worth probably several times that the North Slope oil is producing; many, many times in a long term. If you assume that you're going to divide that up among a certain number of people and that they will have the right then to sell that when they are through using it, aren't you really giving the first group the resource and then when they sell it, they receive the value of the resource and the second group pays to get into the industry. The first group doesn't pay. They get it for nothing. This generation of fisherman get it for nothing but the second generation of fishermen don't get it for nothing. They have to pay this generation of fishermen and then what are they paying this generation of fishermen for. They are paying for a public resource that this generation of

fisherman did not pay for but was given to them and once you make it pretty transferrable, there's that element to it that it would be a little bit like us saying why did we give away the North Slope oil on a lottery instead of selling it on the basis that they will pay us maybe a royalty or something like that because they want to use it because they'll develop it. We'll make the money off the pipeline or royalty or something else. The public will make the public interest here on this fishery. And that's the thing that bothers me now and didn't bother me a few days ago about the very thing you're talking about. Maybe I'll get back to where it doesn't bother me again, but it does right now...

Well, I would hate to see it go the route that you just indicated, if not having a buy-back. Because of the first place, I think that your (word) is going to be painfully slow and if what we are trying to do in the first place is limit the fisheries for what I think is a very, very good reason, then I think we ought to accelerate that limitation being arriving at the optimum level, you're going to have to have a buy-back of some kind. I would prefer to see it by way of assessment simply because in talking to all these fishery crews around the state, these guys are willing to be charged money as long as it they see it benefiting the fishery. So I would really like to see the buy-back. Even if you didn't have the buy-back, I would be perplexed too, because obviously the guy is getting it for nothing.

Let me ask you this. What if we made the rule that when a particular fisherman got through with his license, his permits, and wanted to give it up or sell it, that the only amount that he would receive for that would be the amount that he had paid in assessments between the time that he held it and until he put it up for lottery?

Well I could see the fairness of the first part of it, but the second part of it still bothers me tremendously. I just can't see a man going up to the fishery going up to roll them back. I only disbelieve because of the fact that, again, if you got eight licenses and 10 men, some of those guys can go back forever and never get a shot at that fishery. And I just think that publicly that's going to be tremendously objection and plus the fact that I think that apprenticeship school is not going to provide the kind of benefits to people that they may think would. Because for one thing, most of the people in the apprenticeship school are going to be fishermen who are actually fishing other areas and if you were to use the same criteria for priority rating, that you have in that bill, they are going outweigh the group, they are going to outweight the man who hasn't got experience because obviously they've got all the experience and all the requirements and qualifications because they are already fishermen.

I like that first part John. It's interesting; just pay back in turns of the amount of assessment. I have always been concerned about exorbant or inflated costs at a buy-back division.

The chairman suggested the other day when we were going through this thing that ...

But of course if you do that, where is the incentive then for someone to sell out?

Of course there is always the question about whether he would want to buy that in the first place. We're still on that question. I am not going to go back...

Well, let's don't get too far off of this, though they do fit together, I grant you. Okay, Allen?

There's just another wrinkle on that. If you were to apply for the first man's selling and then that all he pays back is the amount he paid in assessments, assume that the assessments were spread over ten years and he was in there for ten years and then decided to sell, he'd get that back. The second man then, would be the one who got the windfall gain if the amount of assessments over ten years didn't equal what the market value of the permits were. He would suddenly benefit from a great increase in value, so you've got a problem there.

So if you follow the string through, then you'd have to charge the guy in the lottery the amount that you paid the first man on assessments, which then puts in a financial qualification for getting into the fishery, but is not guaranteed, and that's what Phil ojbects to and yet, what the problem of the guy who doesn't have any money, we have suddenly made it so that he has to pay to get into the fishery, and he would probably have to do that to. So ultimately, they would have a value, but they are going to have a value more than the assessment. The assessment value will only represent a very small value of that permit. The value of the permit is really going to be as if you'd taken a billion dollar industry and divided into a thousand parts, and there's a thousand people who have a franchise now.

So somebody gets the advantage, whether it's the first guy or the second guy...

No. You could keep on passing to where they all got what they paid for, but finally it gets to where you're not get into fishery then unless you pay your way in.

But then there's no purpose for a lottery.

Yes there is. Because the assessment will be only a small part of the value of that... For instance, if the assessments were say, two thousand dollars, if it were freely transferrable property, it mght be worth ten thousand. So there is an eight thousand dollar equity there. The eight thousand dollar equity would be the windfall if you let a man sell it to the second generation of fishermen. Whereas, if you took that lottery, the eight thousand, which represents one one-thousandths sale of the billion dollar industry, whatever it might be, you know. It's horribly complicated if you pull the thread through.

One thing I like about the free tranferrablility is because it obeys the law of parsimony, a rather simple approach; something a person can understnad without ever having to agree.

Well I think that's really (indesc. mumbling)

I think too. (laughter)

It has to be understandable by the people by the who are the people involved in this, it's the worst.

(indesc. mumbling)...it may be understandable, but the thing we're really concerned about is the remmifications, and I thought that surely those are so (indesc. noise) understandable.

Well about economic dominations by processing; can anyone tell me exactly how the cannery is not going to be able to dominate?

Well I am not so concerned about that as much as I am about the immediate large number of people going into the fishery or as I see it, if we go this route, it has a free transferrability and this thing has a property right, and it were locking in everybody in categories one, two and three, so that anybody that has been a fisherman in the past, that depends upon the fishery even to the amount of substantial supplemental income, is guaranteed right back into the fishery. Then it seem to me that we are going to have an awful lot mor› people coming into it because, purely from a speculative approach, if nothering else, they think that thing is going to have a five or ten thousand dollar value in a few years, Therefore, they are going to get in now and get it and even thought they may not be too interested in how many fish they're going to catch in a year or two, simply if they think they're guaranteeing themselves having a property right of an x-number of thousands of dollars after a few years, they're going to be willing want to fish now. Don't you think that's really going to happen?

Well I am not sure it will, because in Australia, one of the healthiest fisheries that I know of, is one (indesc. mumbling) that we talked about, and that is that down there you can buy a lobster license, there are three hundred and twenty of them available, and you can buy them and they cost about $2500, and they don't seem to have these problems with the enormous inflation...

But they have already reached their optimum level...

They have an optimum level right now...

So they're not under the pressures that we are at this point when we look back and see how those people that may be eligible under the criteria that we're setting up here. Frank?

I'd like to reply to the argument on the economic power Crutchville(ph?) that's booked as Crutchville, that I referred to on the Alaska Salmon Management: The Study and Irrationality. His proposed plan covered Alaska and Washington. When he talked under their plan, they had a free transferrability of the permit. He expected, under that plan in the state of Washington, that they would, after a period of years, find a gradual migration of permits towards financial powers and that he expected that there would be quite a bit of verticle integration in that fishery after an extended period of time, just because when when they do have this free transferrability, it becomes a sort of monetary type of thing where the ones that have the most interest in the permits skip them. I think we're going to do away with it a little bit by saying that the license has to an individual, but then Washington is a much freer marketplace than we have up here because you just don't have company towns in Washington and it's

foolish to think that if the processor wants to maintain this bargaining power that he has now through having too many boats by increasing his percentage of non-resident boats to get this playoff against each other for bargaining position which is very real, that they cannot tie these people in contractually that they are going to get the permits for. I think we can do it on a contractual basis and then again if the guy doesn't fish for him, they just cut his boat off and he's not going to fish very well with a permit and no boat. We have never said that this, by making this non-transferrable, would go into break domination of processors in certain parts of the state over the fishermen. We have never said that that would be the case. We just said that we're not going to make it any worse than it already is. I think it's a very real concern. I don't think it should be minimized. I think that unfortunately we have two kinds of fishermen in the state. Some of them are more independent than others. We're talking about people going to Kodiak and buying permits and having permits in Cordova and putting out $10,000. People out in Bristol Bay right now in a foreseeable future, they'd have one hell of a better chance if you rolled the dice than coming up with four or five thousand dollars for a permit. I don't see that changing in the near future. I wish it would but I don't see it, and so I don't think we can minimize that problem.

I think that when Dave made a good point the other night in Sitka, some guy raised up and asked him what did you pay for your license when you started fishing and Glen said nothing and that's exactly what it was worth. I think that he's right in his point, that if you institute a limited fishery and you began to achieve the goals of limited entry, that licnese is going to become to be able to earn

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money and the guy is going to be able, by the virtue of the fact that he's got the license and that there is not someone else standing three deep behind him to take his place to go to a bank, to the go to the state, or wherever, and have an awfully good chance of getting financial backing. Whereas, into the present system, it's almost impossible to get it because we don't have limited entry. So if limited entry works, it's going to change that position of not being able to compete financially.

I was going to say in commenting on the possibilities for category for economic control participants of whether it's true that the cannery may decide in a boat. On the other hand, because the entry permits issue to a person, they need somebody to run that boat. There are certain number of unit to gear so that the number of times that they could exercise that option become very limited because then they have a bunch of idle boats. There are only so many people to run those boats. Without a man with an entry permit on that boat, you cant' have a crew and you can't operate it. So I think that there is a limit. There is another cutting edge on that thing in favor of the fisherman and again, the coercion powers of the cannery.

Of course, the danger is that when you cut - you got to make a substantial cut in Bristol Bay - we know that the area residents are much more dependent; I think that the danger is that once you cut those guys from outside, the danger is that these are highlite fishermen, they want them to have a permit. They'll end up with a permit again after he's lost it and there will be the guy who can't hang on that's a (indesc. mumbling) so that boat isn't going

to be idle, it's going to have a guy that's been on there for the last four or five years on there. It's not a question of idleness. I hate to sound like a great paranoid.

Are there any other questions?

I do have a couple comments on the work draft here...

Okay, we'll take your comment but we'll see if there is any further questions from the committee and then we'll go to...

I'd like to apoligize for David not being here...

Apology not accepted...

Very well, I'll offer it anyway...and acknowledge from the beginning of the fact that I am not a lawyer and have been out of town for a week so I am not completely up on everything the committee has done, but a few thoughts did occur to me as I was looking through this. One of them is that if you go for total non-transferrability, it seems to me that what you're doing, and I may misunderstand something here, is locking in the fishery...(end of tape)

...what would happen if you have two sons, whereas if you have a transferrable permit, I don't see that there is anything that says that a father has to sell his son permit. He can give it to him if he wants to. It seems to me that that's perfectly valid kind of transfer. If the old man wants to bail out and sit on the side and let his son get into the fishery so that there is a way of apssing on the permit if it's transferrable whereas, if it's not transferrable there may be some difficulty with coming up a fair system, have some sort of limited transferrability as long as it's a blood relative. It seems to me that if you use a lotterysystem as proposed is here, then while in one way it's fair, it's impartial and to that extent it's fair, to ! ndicap a man who again, wants to develop himself within the commercial fishery because there is no way he can plan. he can't save his money and say you know I am going to build it up and then I'm going to investigate in this type of gear and this type of gear and switch over and get this type of boat. All he knows is that he throws his name into the thing and maybe they draw his number and maybe they don't. I think that this is a handicap if what we're looking at is the system which will allow the upgrading of the fishery; for growth and diversification so that eventually Alaskans in the commercial fishery are in a far better position than they are now. I think that the lottery works against that.

Can I interrupt on that point?

Sure.

You mean your thought here would be that if a guy here were a troller and he wanted to really get into a net of sort and he wanted to upgrade himself, but his present permit wouldn't permit him though to buy a bigger boat and to buy better gear now huh? The only thing he could do is to join the lottery and try to get a fish net and ...

Sure. Right. If he wanted to diversify, the only way he could do it is to try the lottery first and then if he lucked out, and then if he was a winner, then he could go buy but otherwise he might lose, which makes it very difficult to plan and to manage your money...

It would freeze him into a hand troller forever...

Yeah, right...

Because that's all he could afford starting out. That's where he is today.

Right. I think that the lottery makes it very difficult to have a man manage his own finances in any intelligent way and the other question that was raised here was about the application of standards for qualifying for something like a lottery and using the same five categories that are proposed now initially. Well, it seems to me, and again I apologize for not having the chance to study this in detail and study it all through, but it seems to me that something has changed if, say hypothetically, you set up this system and for five years no permits become available

for one reason or another, and then after five years you go to conduct the lottery and you apply those same standards; it seems to me that over a passage of time, you've made a much difference to come up with people who will fit into those categories. Maybe there's going to be no one to fish in the top couple of categories or very people and a lot more who will fit in the bottom four or five. I wonder whether because you have already created a change circumstance by limited entr', you haven't made it less possible if not impossible, for people to qualify in any manner to meet the standards as they would be applied five years down the road compared to applied now when everybody stands at a given point of time confronting them equally. Do I make myself clear there?

Frank, would you like to reply to that?

When I tought of applying the standards, I didn't think in terms of our five categories. I thought in terms of our two basic standards that we were using to set up those categories. And as for aprticipation and dependence, the crew members are not going to cease to existover thenext four or five years. Again, I think we're looking at three options we're getting into the resource. We're looking at luck, money and skill and that's three options we have by determining whose going to get in in the future and what I try to do for some of those other alternatives of maybe a lottery within the qualifications, or maybe a sales through the commission into that to qualify was to use a little bit of each of these because that's probably what it takes right now to get into the fishery; a little luck, a little money and a little skill and I think that those are the things

we have to work with and if we go to strictly money, we are cutting the people out, and if we go to strictly skill, then perhaps we're cutting people out of it too. I don't know I'd rather heir on the personal side rather than on money, but that's a philisophical, but I think those are the three standards you have to work with to let new entry in.

Questions?

Well, Bob, I do have now. I am sure that it's been asked before and I apologize. Have you considered just plain using a waiting list instead of a lottery?

First come first serve. It's like a standby to get on an airplane. You sign up and take them off the list (indesc. mumbling).

That might work. That way you could get, uh, depending how you work it, you could get Alaskans on there first. You could have the list open Iqigik in January or something like that.

You be that person in January to put your name on that list.

Right, you have one hour to sign up...

Just like the Oklahoma land rush.

Well, I mean, you know the whole intend is to try to get some economically deprived Alaskans on it someway or another. At least a partial quarantee.

Mr. Chairman, it seems to me that there ought to be a way that's a little fairer then just a lottery, but I came in on it too late.

Well, it's got a lot. Is money more fair than lottery?

Pardon?

Is money more fair than lottery, whoever can afford to buy it?

No. I wouldn't say so, but the fellow who shows the greatest interest, perhaps who has signed up and waits a little bit longer, ought to be entitled to more considerationand just lucks out.

So everybody signed up; the barber, the butcher and the gas pump filling station operator and to hope that they will get when their name will come up some day. When it does, it will be a very valuable permit...

Well another way to get that many people waiting is to have a list...

Initially, it would like the oil simultaneous firing list. You'd have the very first time around would you anticipate a very large number of people...after that I think it will have an awful lot of merit that they have anyway. Are there other questions?

Well I was thinking on this waiting list. You have one or two permits open up and you have a dozen people that signed up on the same day, how are you going to decide who?

You'd have the highschool bids for seconds.

Let's go onto the money content for a moment. If this were down to the more nearly optimum amount of gear in the water, then it had a property right, became something valuable, don't you think the individual would have a great deal of better opportunity because now, as far as borrowing from the bank is what basically what failed the thing earlier, plus the fact that we started last year this state fishermen's loan fund to buy boats or repair boats it would certainly seem reasonable to amend that to allow them to use this money also for the purchase of an entry permit. If this thing were funded, it certainly could be, this would a source of funding for that so money wouldn't really become such a problem then.

Well given the optimum conditions, you're correct that it would take care of even the people who have permits now.

Would it end up to maintain the permit?

Yep. This money becomes available. The way the loan program is written out, their standards are such that a heck of a lot of fishermen can't give all (word). It would have to be increased a great deal and that's assuming that we are going to give two optimum levels at sometime in the near future. That determines how fast, how much the state is willing to compensate when they take that first bite to get people out like Bristol Bay, they're looking for what, eight, nine years before they really get a stable fishery out there.

Well let me ask you this. I'll turn around and look at the other side and look at the lottery. Where, depending, perhaps unreasonably so, on a rate of atrition, if the lock won't do in three in Bristol Bay or anwhere as far as that's concerned, where depending on atrition to get rid of a certain number of category three people, if this were a lottery and the fellow didn't receive anything when he sold out or if he quit fishing the first year he gave up his license, wouldn't that slow down very drastically the rate of atrition, compared to what it would if he had something of saleable value?

Actually, it would go down somewhat.

Let me ask you a question. What's a category three person?

Category three is alternative occupation, the individual depends on the fishery or a substantial income supplement.

Alright now, are the great number of these fishermen going to be alternative three people in the bad years when there isn't enough fish to go around and don't you have to have them if you're going to have people there to harvest a good year? Aren't you going to have to have a lot of people in eleven years that are getting part of their income from this...no, huh?

...Because there's no requirements when they fish in those years.

Well then they're going to be a category three person...

We take their highest year. The peak year of their run to determine ...

You're going to have category three, you're going to want category three people in (indesc. noise) years aren't you?

Yeah well...

(indesc. noise) fish full time so that they can harvest the crop.

You are going to want them eligible to have a permit for these off years but you're not necessarily going to require or need them to be fishing (indesc. noise) you're going to let them fish...

Yeah, so you're not going to get class few people out into fishery...

No but you're going to want to class some of them out to fish in Bristol Bay.

You're going to have class three people in the fishery all four years and then on the fifth there'll be class one because they'll be full-time on the fifth year because they make a living at it. The first four years, they can't because they'll be class three: partial, that's the worst but there's not going to be results though.

Taken on an average, your rating would be taken over several years.

I think that one of your standards for setting your optimum level of gear is the amount of gear that's necessary to harvest peak runs. That would determine your optimum and I would imagine that if category

three people were component of that, a certain number of them would be included. I see what appears to me to be discrepancy between two portions of this working draft though, and that is the one which includes people in the first three categories and the other portion where the optimum level of gear is set since obviously you're going to get in an awful lot of people who'll be in there a long time. They may all lump in category one, two and three, and then you finally get down somehow to your optimum level and I just throw out a suggestion , that an altenrative way of proceeding might be to say that the people in category one, two, and three will either get entry permits or be comephsated for their law suits if they don't get them.

Yes, we understand that. Thank you. Of course, what we have said before is that altenrative is not necessarily good enough to leave to the commission to decide. That's giveing them the opportunity to force out substantial numbers of those that are presently there which would be saying that politically impossible or perhaps politically impossible. Well, we've required the audience to sit for a long or are those who would like to give us a benefit of their things now? Would you like to ..

Let's see, can we pick them up from here?

I'm Bob, on the CCC meeting and I'm from the Cordova area. I've heard about saving the salmon and also limiting the gear, licenses. And reading this report here about spawning areas being depleted because of too many nets out there. Now there's nothing said about law and order in this stuff. There's many years that these streams have been wiped out because of people going in there and taking

away our salmon and then they don't come back because they ruin (indesc. mumbling). There's a certain amount of illegal fishing going on. Now in order to remedy the situation, there might be something put into the law that any salmon fisherman that is arrested three times, loses his fishing license for at least five years, or whatever they wish to chose to do, in that district. This would give them, the fish, a better chance to reach the spawning area. Now you're talking about a lottery system - now that makes some of these people that are illegal fishermen into honest type fishermen. Secondly, it could give them intiative fish leal. Thirdly, if they are caught three times and their license is taken away from them, it could be put in to a lottery type system for the boat pullers to drop out of that hat and try to get that license if these people have their license taken away. There you'd have a lottery type system that would take the apprentice fisherman on the boat a chance to get a license.

We've been talking here about the various advantages and disadvantages of the lottery system verses the opportunity to buy one, freely transferrable. Now the thing you're talking about could be used either direction if the guy is penalized and part of the penalty is to give up his entry permit, then it goes back to the commission and now becomes available for other people. If that were the case, what would be your desire? Would you rather see it available on a lottery basis, or for sale?

To the boat pullers (indesc. mumbling)...

Well, okay. Assume that that's not constitutionally probable that we can't limit it just to a specific class of people that would be eligible. Suppose we have to make it available on the same basis to everybody. Now, would you rather see it on a lottery basis or on a basis where you could go in to buy the thing if you got the money; buy it from the commission or buy it from an individual? Do you have anything that you feel strongly about there on one of the other wave...

There is a possibility on some of these people. I'd like to see them sell it back to either person or family or relative that hasn't been fishing and that hasn't got a license. (indesc. mumbling and noise).

Thank you.

That's the problem we're running against all the time here; what's constitutional and what's not. And I'm almost thinking that we're getting to the point where maybe we ought to sit down and maybe find a better constitutional lawyer that's available on this thing and hire him on whatever basis of the costs and get him up here and sort some of these things out.

He'll set up a nice constitution and might be able to conclude...

(indesc. mumbling).

Alright, Ernest?

I'm Ernest Madsen from Ninilchik. I would like to say that my thinking would go in line with Mr. Daniels except for one thing. On the sale of the permit, what would be to stop the person just putting out if he did get a permit, just putting out a very minimum effort whereby everybody would lose; the businessman, the state, by him not producing any fish. And then waiting until such a time when his wife's permit was worth say $15,000, $20,000. That would be my concern.

Thank you Ernst.

Mr. Chariman, could we get a reading of these qualifications (indesc. mumbling)?

Alright. You're saying that when you've talked to these people now, how they would go about an apprenticeship verses straight monetary...(indesc. mumbling).

Alright. Instead of talking about lottery verses buying in, the lottery apprenticeship qualifications verses buying in. How would you feel about that, Ernest? One of the ways to get in would be through an apprenticeship program.

Yes. I would go along with that.

Would you prefer that over the other two?

Yes.

Okay. Anybody else with a question or two?

Let me ask you a question about the apprenticeship program. Would if a man has a license and is a troller and he wants to become a gillnetter. Would he have to go through an apprenticeship program, would that mean that all fisherman would automatically be eligible to get a license?

There would be some priority...(indesc. mumbling and noise)That is a trolling permit that's coming up for the guy that's been trolling for ten years, is certainly going to have something not involved , he's a crewman (indesc. mumbling).

Would if he has a permit as a troller but he'd like to go trolling (indesc. mumbling and noise)...

...transfer from one type of gear to another type of gear.

He's not one to transfer. He'd want to do it as an addition, or?

Either an addition or transfer, either one.

(indesc. simultaneous speaking)

We'll probably have (indesc. simultaneous speaking) from one type of gear to another but commission regulations will look relatively different to the average fisherman.

I don't get what that means. Does that mean what it does mean that where you make a lot of money with a gillnetter down here and not very much with the troller, all the trollers will then buy gillnetters and your equipment is going to get away from

fishing, and the boats are fishing because they're going to be the only kind of gear ultimately in the fishery. If one permit gives you any kind of gear you want you can always move out.

I would imagine on your question, just about your problem. (indesc. mumbling) guy that would be the highest qualified for troller would be the guy who has worked on as a crewmember for a long period of time, they would have the higher standing than guys that worked for a number of years on a gillnetter. And to be constitutional, you have to also include those guys in Washington.

I still don't understand how selectivity made within the rights of the people who are in the priority apprenticeship school. Are you still going to roll the dice or the commission going to make the choice or how you going to do it?

I think that we're talking about...

Well, it looks like to me that you'll end up back in the lottery situation even though you may (indesc. mumbling) priority classification, again, I think, would be dominated by other fishermen, not necessarily by ...

You could (indesc. simultaneous speaking)...

I think you're talking about trying to get into another fishery when you're down there working on that same boat also rather than drifting with a gillnet, is that what you're saying? If you're wanting to get into apprenticeship school for seine...

I hate to be pesimistic. His story explains that if there is anything that's brought about the ruination of the Roman Empire when everybody got frozen into their occupation and couldn't transfer from one to the other...

Alright, let's get back to the audience again. Ward do you have...

My name is Walter McGinnick. I'm from Fort Graham. I've got a question. In finishing up this bill is to reduce the gear, right? How is this bill going to reduce the gear, which now exists, if we with the permit is appropriate (word)?

Now the concept is that we would only have that property right. First of all, we hope to limit it to some extent by the qualifications that the individual would meet in order to get the first entry permit in the first place. Now even after that we hope to reduce us more by profiding an incentive if we go to property rights. Providing an incentive where the commission buy the permit back from the individual and hold it. If only after a number of those have been bought out and the commission held them, we got down to an optimum level of gear, then after that, others who wish to sell out, would be able to sell to somebody else. If one was not (word) on that, it's just one of the possibilities.

Would you be willing to sell the permit to me now. I'm not willing to give up my permit knowing that it's going to be worth money.

That's the reason...

Don't forget to look into Cook Inlet, 1971 Gear Union, now we trading with. You and I are going to have the same problem we just had last year. We're not going to fish. Last year we only fished three 48-hour here. We're going to have the same problem if the gear isn't reduced right away.

How do you suggest that we do that?

I don't know. The permit shouldn't be put into a property value.

You don't think it should have a property value?

Because nobody is going to keep up the permit. I know that I wouldn't. You know you wouldn't.

I probably wouldn't do anyway.

This year, you and I are not going to fish. The Fish and Game Department are not going to open the fishing early. We might be sitting back like we did last year until three days before season. The idea of this limited entry of fishing is to reduce the gear, now it's only going to stop it from increasing, but it's not going to help to reduce. You got it?

I was only speaking as an individual for myself, Mr. Chairman, not for any...

You got me?

Yes. I thank you.

I was talking to Mr. McGinnick earlier about the responsibility I think that you may be interested in being able to pass the license back within the rights of your family...

Right.

I'm curious about how you may feel about the lottery on that basis. It would seem it would be less likely being able to do that whereas if it were a copyright, you might be able to pass it back just by giving it to them.

Yeah.

It's something to consider.

I haven't thought it to much .

My conern is with my son who is now fishing. (indesc. mumbling)... We need to come up with something like this to decrease the gear. I don't see how it's going to reduce the gear because there's 600 unit of sitting in in Cook Inlet now. They're going to remain that way for a few years. So maybe ten years. Nobody's going to keep up the permit.

Of course, we do see the thing happen each year, then that's like come up for sale, don't we?

Yes, well, somebody else's going to by it...

Well?

...the same unit of gear is going to remain. If I can sell the permit to somebody, I'm not reducing one gear because I sold it to this guy here.

If we can power the commission to buy these out at a market price, and really meet market price of anybody else or beat it, then we have provided something heavy for this gear that goes to the commission itself...

If we give the commission power to purchase the permit, then we're going to transfer from cannery to cannery and the cannery is going too slow because they don't have any fishermen.

Yeah well, of course we wouldn't go to that extreme. Only if we get to a point where we got down to the optimum level. Okay, Alex?

If we slower it, and if we expect people to sell their license every year, why should we? Why should they sell their dollars. They know it's not (indesc. mumbling).

Well they said that you always got...for instance, one of our neightbors, last year, they split up; he went back to Pennsylvania and she went back to Hawaii. You're always goin to have this type

of thing happening. People holding on, people getting sick, people getting dumped. You're going to have a certain amount. I grant you it will be slower than you've been having in the past. Alex?

Senator Palmer, members of the special fisheries committee, I am here just as a participating citizen. I just made a bunch of random notes here with you learned people because you're so far ahead of me, I'm goijng to try to catch up and do a little thinking on this, but I would, try as far as Cook Inlet. I've proposed this for the Fish and Game board a number of times. Free the gear and reduce it in half. Just freeze the gear and reduce it in half. Leave everything, the distance between gears, but I said reduce s t nets by half...I proposed instead of 105, say 75 fathoms, if you want to go drastic, go to 50 fathoms, reduce the drift gear from 150 fathoms to 75 fathoms and just chop it in half.

How do you decide then, Alex, who stays in...

I say freeze it...

what do you mean by freeze it?

Freeze it under '72 licenses that exist in 1972. Freeze it right now.

Suppose a man fished every year up to '72, but it was Ernie back there and suppose Ernie was in the hospital back then and he couldn't fish in '72 and somebody else came in in '72. Let's just suppose Ernie got disgusted. Every year up until '72, all of his life, he

has been fishing out there, but he got disguested and I'm going doing to do something else, there's not going to be enough fish, etc. etc. Somebody else came in and '72 was the first year that he had ever fished, one of your schoolteachers. Now that schoolteacher fisherman '72, for the first time is going to be given a permit and Ernie, who has been there every year except 1972, is not going to be given a permit?

You have special provisions. Anything that you do you have to have something that's amendable and have special permits. The concept that you have here, dependency and some of these others could be utilized in these special provisions. Then it's going to be the general thing. They're going to be a small part of the total. If the...I'm not sure that the gear itself is the total problem. I think that the fishery at the estuary, is that we haven't made a determination if that's the total problem of why the fishery is reducing. I get a trend here, a feeling, that the trend of the discussion is not really making much attempt to protect the fishery sources for the people of Alaska.

Mr. Sojour, your problem is that we've been on this for several weeks, you've happened to have heard that we have picked out the day of having the problem of transferrability. But we really have believe me, we are really trying to do the same thing that you are but you haven't heard an hour and a half today, and if you had heard the last 30 days like this...

I'd like to go back again when you...

Yeah, that's what I tried to make clear in the beginning. All that we're looking at today is the...

Well, here's the thought that I'd like to put out. Are we concerend with a continued and sustaining fishery as to maintain an economic climate within the resource to earn a livelihood, or are we giving an opportunity to a select group of fishermen to benefit?

Let me read the opening paragraph of our bill then, and maybe that will help you out. We say it's the purpose of this chapter of this legislation, to provoke the economic health and stability of commercial fishing in Alaska. In the conservation of sustained management of Alaska fishery resource , by requlative and controlling entry into the commercial fisheries and the public interest and without unjust discrimination. It is also the purpose of this chapter to prevent economic distress among fishermen by stabilizing the levels of participation in the commercial harvest of the species such as this section, at levels reasonably commensurous with the ability of the resource to provide a livelihood to the fishermen participating.

Alright. I would just like to state from my experience. Last fall I made a special trip on behalf of the Governor. I travelled throughout the whole Bristol Bay area. I made a detailed study of each village. Every fisherman that were involved in the fishery, how much each were in debt, and I found out this one thing that was really shocking. There is enough fishery resources to sustain those people in that area, in that watershed.

There is?

There is. But only in two areas, where fishing was fairly good was in the Igigik and Togiak area. In those two areas, the people who took the most of the catch were not fishermen, they were all stateside fishermen. So there is your basic problem. I'm concerned with continued resource because an uncontrolled will eventually be depleted. It will happen. But these people have depended on that in that area. Or else it's the responsibility of the state if they don't allow to use this resource to earn a livelihood, then the state will have to do something else to provide them an economic base for them.

This has been the real concern of the objective of all of the subeconomics, but we're continuously faced with the problem of the federal constitution and our inability to restrain interstate commerce anytime we start discriminating in favor of the residence. This is what we run up against.

Let's exclude the residence. I know that I talked to Mr. Arnold about this. We had a discussion about residency and think that Mr. Flaven is convinced is that you cannot use the residency.

I thought that was your point about the ...

No. You can use administrative area. You can use watershed. You don't have to use residency.

But you have to treat all people equally...

Yeah, all people equally in that watershed.

Okay. Any questions? Are there others in the group that would like to...

Yes. I'm not sure. You say that we're only discussing the issue of transferrability?

Well, that's what we were discussing. But I recognize the fact that you people are going to have to be leaving here, so we would be more than happy to hear your comments about any of this.

Bill Vaderan, Pedro Base, Lake Illiamna, Bristol Bay watershed area. Bill Vaderan?

I fished at Naknek for 14 years. I've not missed any seasons, but I've been forced, along with the great majority of the people from our village, to leave and find employment during the winter from lack of being able to sustain ourselves in the village any longer on fishing. This last year we had two 12-hour periods and one 24-hour period of fishing while there was fish. I mean they give you a week before and a week after to look for them (indesc. mumbling) We had 48 hours of meaningful fishing. Our village population is **few** now, it's 18 people. We have 6 students in the school. We will likely lose our school next year. The typical population was running say 50 to 65. But nobody could afford to stay there anymore. None of us made any money. (Indesc. noise and mumbling) ...the gravity of the situation to the local residence. Also, my understanding of the bill that in one aspect, it rewards what might be negative and anti-

progressive behavior when a man has got a family and he is faced with a situation of two or three or four seasons in a row. At certain points he comes up to the issue of I've got kids to feed, and I've got to get through the winter and I don't have any other source of income. I can either go to welfare or I can go to work. I understand that the bill is being proposed that limited entry permits will be given on the basis of percentage of dependence on the fishery. Is that correct?

Well, we're considering first category one. They call it a greer fisherman and this means that consistent participation in this fishery provide the primary or substantial income source. Then, again it's greer fisherman, but this time there is more than one fishery involved, instead of being just Bristol Bay salmon, he may be catching crab, shrimp, and so on and so forth. Category two, again, consistent participation of this fishery together with participation with other fisheries constitutes the primary income source. Number Three: Alternative Occupational Fisherman. Participation of this fishery provides a substantial income supplement. Then we go on down to the guy who's doing it, more or less as a hobby and so on.

Yeah, but at this point, you decide to the rights because at level three, the guy who goes and gets a job will be in level three. Whereas, if he's on welfare and didn't have a job, he'd still be up in lazy level one or two. I think you make an excellent point. You're absolutely right.

That's correct in my case then.

That's right.

I'm a fisherman. I have three years of losses and I'm working for the state now and now I'd be disqualified...

The two important categories of people...I myself have had the opportunity to keep coming out of the village and go to school and I have been able to do enough work that I can come into town and I can get the kind of job where I can earn a living. A very good living. In fact, such a good living, that it's equal to four or five of our poor here. Everybody is not so fortunate. Another guy in the village who was chief there for over ten years; five or six years came up against the same thing. He's got eight kids to support and he couldn't support them any longer and he is very proud that he never has once been on welfare and he wants to raise his kids up as that as a model. He always tried to have a home for them but that's not the way to lean on his people so he had to take his whole family and move into town and now he's just staying there until he can get all his kids through school as soon as he can go home. If we had the kind of season whre we could depend on a level of this to get through the winter, he'd be back there right now. But he's moved out for five or six years now and he's been holding down a winter job so that again, according to the criteria, he wouldn't be uppermost, although he spent his whole life in that area, fished for over 40 years. That's all he ever did. That would be his prime source as chief of the village. But now he may be and I may be, all of those in fact that are cut out. Two families have sent one kid each back to the village now to raise the student population to 8, which is still isn't enough to hold the school but we're going to those kind of those extremes to try

to keep the school there to try to hold the village together, but we all know that next summer is going to be even worse than this last summer and ...

Let me interrupt...don't misunderstand us. Our main thrust so far, riding in this way, has been statewide, we would gaurantee everybody in categories one, two, and three that they were in. It's only when we got down to the hobby fisherman, the advocational fisherman and the guys that was the paper license holder that they were out one, two or three to begin. Now, we have been concerned about the problem with Bristol Bay, that if we guarantee that categories one , two, and three, that they were in, that they still had wayward gear in Bristol Bay that (indesc. mumbling) And perhaps we want them to give the commission authority to inaugurate a more rapid buy-back program so that they could encourage some of the ones that are three fishermen in Bristol Bay. If they voluntarily wanted to buy it, that could be encouraged. Now there has been all sorts of talk about perhpas a compulsary buy-back for category three fishermen in Bristol Bay (indesc. mumbling and noise).

I'd like to comment also on the fact that I understand that the gear dropped cutbacks 25,000 per man per boat. Again, I'm not speaking for any association, I'm just a fisherman and I'm not a mobilizer or a recruiter or a union representative...

You're speaking for the boards actions for the next year or individual as limited ... (indesc. noise).

Per man on board as I understand. I wish that more of us had the opportunity to be aware of these things that are going. I just

happned to be going next door to hear about this so I learned about these meetings after they've taken place. I hope that opportunity made for particularly watershed residents to express themselves on these issues instead of some professional representative they do hear about these things. But for my own personal view, that's going to hurt us, that's going to bust us; nobody possibly...I lost money. Last summer I had to go talk the cannery to leave there and it will happen again this coming summer and I do like the idea of reqarding us who stick with it year after year after year on four years because a lot of guys have a boat and they fished during the good years and take off and rent it from cousins in the four years but that will kill us next year but also, it will kill those guys that are coming up. Anybody who fishes knows that 25 fathoms of gear won't hold the boat in the water. The wind blows up on the beach so nobody going to come by and sell if maybe a lot of guys would. You got to have at least two more guys. You've got to have 75 fathoms in order to keep your head in the water so that he's going to have at least two partners that he's got to pay transportation up from San Francisco. I like that because I think that will cut the gear down and although we'll all suffer for one year, the year after that. I think that will be a miserable change. Whereas those of us there, we can get a couple of kids from the village and pay them a wage, and we're making a wage and we'll just tough it out.

SCOMM

#3:10

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Work Session - Hearing
..Pedro Bay...

If we exclude people who go to Anchorage pumping gas, or a carpenter, or in a cafe or doing anything; works from say October through March, and then go out and start work on nets and our boats and the rest of it; if those people were excluded because they were advocational fishermen or part-time fishermen, or whatever you want to call them, how many people would that give in your village?

There would only be one guy in the village who is dependent exclusively on fishing. There is only three families there now with the head of households who are fishermen. One is a chronic welfare He is the only guy in the village anymore, but he's been a welfare all his life and he would still be eligible for a license and one other guy who's council president and that has all the jobs in the village. The only third head of the household who is dependent on fishing - his two sons fly an air taxi. But all the rest of the guys who rely on fishing are out in town now.

Take not just your particular village, but is that typical (indesc. noise) out there?

Some communities rely more heavily on welfare. I think that would be fairly typical. You know, like say a dogman he would generate more income as far as there is wein goes through so you have a few jobs to unload the plane or work at the store. There is little kinds of things that people can do to tie themselves over.

Basically John, all those people on the Illiamna Lake, Nuchigak River, (indesc. noise), they are all involved.

We're talking speaking dollars, what it's worth. If you're in the top ten boats; I've never been in the last ten years below the top ten boats. Last summer, my gross was $27,000.00. A third of that goes to my partner after that. A third of it goes to my boat payment and the reast of it goes for food, gas, all the rest of it. I am in a hold before I can figure travelling down and out and plus what I should have been making some place else.

Going to Anchorage though is not a real difficult alternative to many people. (indesc. noise and mumbling) forty-five percent of seventy were (indesc. mumbling). Certainly froty-five percent of the Bristol Bay area couldn't go to Anchorage (indesc. mumbling).

This here has been a heavy influx because I know they called my office. They called me (indesc. noise) not only in the Navy population but a non-navy population.

I am saying three-fourths of our village is in Anchorage this winter.

What I was curious about, that in your village, how does the amount of time that you fish (indesc. noise) from outside; do you have an advantage from that point of view? Now there is two standards in this bill; one is economic dependence and the second is the amount of time to participate in the fishery. That means the amount of time in a given yar as well as history of participation. Now just take it from a standpoint of how many days you fish in a given

season. Do you come out with an advantage there over the outside...

Forty-eight dollars last summer.

No, no. Over the entire season?

Well there is no...ninety percent of our run goes by in twelve days. There is no purpose to be there. I mean, well, if that's all you have you're going to be there. You're going to go a month early and stay a month late because it means a couple hundred extra bucks that you wouldn't get...

Do all the outside fishermen do this two?

The way it works out, the're mandated to be there a longer period of time than most of us are because they've got to stay there until June 25th, and if rental doesn't let them go home until the 25th, then they don't...

Plus the agreement says that they'll come at a certain time, so they are there before alot of resident fishermen are there fishing and they're later, they stay later than a lot of the other fishermen do...

Right...Jul/ 23rd.

I think when we've read that third criteria there, how he would feel that if he would back up against that (indesc. mumbling and noise)...

Which third criteria?

The Third one; the substantial income supplement.

Well, that is the alternative occupation fisherman. Participation in this fishery provides a substantial income supplement.

And it's hard to tell really. I think it's quite questionable whether your situation may be under number three or up under one or two because of the qualifications down below.

See there is two other elements too. King season is before red season. A guy can make your grub stake. You can pay your expenses, that's generally what you figured. You can pay your expenses by going fishing kings over in Nushigak, but you can't go unless you got a really good boat because it's really rough, it's strange area to you if you've fished in Naknek all your life, and you can't go over there with a skiff, so you have to kind of already made it in order to even make that an option or else go on as a partner and then again, stay late in the year if you want to fish humpies. Again, it's a seasonal type of thing. It's not very much but you might make a few dollars but you have to be pretty well made in order to consider either those other two options because the companies don't let company boats out there.

You said a third on your partner and a third on your boat payment; **how do you finance your** boat? What kind of boat do you have?

You can't even do it anymore.. Practically speaking, people from the village; if they don't have boats now they can't get boats. There's all kinds of laws. The same guy I just talked about that has been chief for ten years now, for five or six years has been in Anchorage, has been trying to finance a boat. I've got the address of tne people here in town and I'll try to stop by and see them before I leave again. I have been writing letters for him for a year trying to get a boat loan and I think it's atrocious and unbelievable the kind of run-around that guy has been getting. He's never been into any school so he can't fight all that paperwork of jumble; fill out triplicate of this form, you have to have a letter of each bank you have ever dealt with that they won't give you a loan, the reasons why stating the date, stating the amount, stating why it would amount to banks three times if you would have to word it just so, and those people are getting tired of see us coming around to please write it in another way to abide by the lines. So we've got letters now from two banks, the credit union, from state fisheries, from everybody in the world saying why they wouldn't realease a loan so it finally got right down to the nitty gritty. Now we've done all the negative things and they ujust turned him down again under another obscure law. There is no way for people in the village to buy boats...

Okay...who did you make your application to? Is that the federal people, the Bureau of Commercial Fisheries people?

I think that he was trying to get a federal loan but you had to show that you had exhausted every other possiblibility. In other words, whoever is available, we have.

What was the State agency that he was dealing with?

Here it is, right here. Department of Commerce and National Marine Fisheries, P.O. Box 1668, Juneau. So we've gone through everything else that there possibly is and the woman's name is Weinberger or it's a long ...

What would happen in your area if you could get state loans on a pretty reasonable basis for boats?

Well it would put alot of guys in the running. You see, the canneries use to when they first - like American Packing, when they first started trying to come up, they were desperate for fisherman so they would say well, we'll finance your boat and pay us back a rate of twenty cents per fish or you pay us back a third of your catch each year or something like that. At first there was no down payment, then they broke it down easier where if you could come up with a third, so you waited until a good season and after 60, 65 or 70, you paid a third down, and they'd finance in a payback. Now, the canneries won't do that because they've got all the fishermen they need, too many fishermen, and they won't give you any breaks. I just happen to still be buying a boat there for a third down on one of those kind of deals. But that's not an option anymore.

What kind of (indesc. mumbling)...comment about that?

Let me just get these guys out here...

What size of boat do you need out there?

A 32-footer and the prices are going up and up and up. It costs well, a ten thousand dollar boat ten years ago costs twenty thousand dollars now.

Is that what it takes to compete with the Seattle fishermen?

For rough whether. You can have a skiff here, you know, like maybe a skiff that we have over at the cannery that's (words), I mean you have only forty-eight hours of fishing. But if you have, like 66, or any rough season and alot of tough water, you're sitting on the beach if you don't have that kind of boat. You can get a boat for ten thousand dollars. A used one; plank boat, it probably leaks alot.

You'd be alot better off if you had an eighteen to twenty thousand.

Minimum of sixteen thousand to get a new decent...

But if you had such a boat now, there is not enough fish out there with their closures you got to pay for, is there?

I don't have trouble paying for mine.

Alright, Walter McGennicks behind him and then the gentleman behind Walter.

I'd like to say something on the same lines and I've observed this through many years. The stateside fishermen are highboat fishermen because of the choices of the gear and it happened that I see that in Kenai all the time and different areas. If they had the oppor-

tunity to have better quality gear as far as the fishing ability they haven't it; they haven't go the gears. I have seen them assigned to a boat that's swamped when they barely get out of the stream...out of the river.

This kind of a situation...

I'd like to make one more comment if I can because I may not have the chance to talk to before you again. I was going to mention, John, you mentioned billions of dollars in resources worth were about one billion dollars per each ten year; in the last five years in excess of one billion dollars every ten years (indesc. mumbling) to Alaska...

The gross catch or what, is that what you're talking about?

Yes, in the gross value of the resource which is about one billion in every ten years...

An average of about one hundred million every year then...

That's salmon only.

Bill, how many fishermen in your village are currently under credit applications to one of the canneries?

You mean how many of them owe money to them?

Yes, generally all of them. How many are technically involved?

Oh yeah. You know the first time in Naknek, we tried to do a strike and it came out with the worst of the boats, see, and they said that all these boats will be retrieved. I really got most of it.

(indesc. mumbling)

There's anothere element when you're asking what kind of a boat it takes. There is also a thing of whose boats gets fixed. You can ask any resident whose boats gets fixed when you go on the beach, like in '65, I know (names), a whole lot of guys with their boats sets. There's a whole season and never had a guy walk into it. Old Pete sat there day after day after day trying to get a portage near his; speaks very poor English, he's an old guy and he's got kind of a beat up boat and finally between periods I asked him how come you're not out on the water, gee, everybody's making limits day after day, all you got to do is put your net out. Well he said I don't know, the guy won't look at it. So I jumped up in there and his battery terminals were corroded you know and you just scrape off the terminals and put the battery together and it fired right up but he couldn't get a portage engineer to even look at it you know. So he's losing two or three thousand dollars every day just because the Italian boats came first and that's for sure. There's a real blaten discrimination I hope that would get uncovered by the Human Rights Commission investigation last year. I mean you are all familiar that we have segregated canneries; you have Native mess hall, the White mess hall and the Philipino mess hall and I don't know what the Philipinos did but I know that the people from the village get fish and stew and soup and stuff and the guys in the White mess hall come out saying that the steak was real good

and we're paying exactly the same dollars. Meal tickets are the just the same for everybody.

You didn't have that at Bumble Bee, did you?

Don't go try to sit at the Italian table at Bumble Bee. There is one mess hall but you've got one end of it. It's the same thing works with packers and the rest of them.

I found that out...

I would like to make just one more comment. Mr. Daniels said the thing about mobility of your...I am talking now primarily of salmon. I don't agree with the mobility from moving from one area to another in the salmon resource because that only adds to take depleting that salmon resource...

There's been a lot of talk, if I may, about a cadre of professional fishermen given to the opportunity to the guy who wants to be a full-time fisherman twelve months of the year to go into the crab fishery perhaps...

That's fine, I agree with that...

That's fine. I agree a person should if he wants to be a professional fisherman, say in Palmer, he's a shellfish, he goes to salmon he goes to halibut, but he shouldn't be allowed to go to Kodiak to fish. And neither somebody from Kodiak come to Cook Inlet to fish the salmon because you're doubling the gear again. Freeze the gear in the area as it is now and reduce the gear.

Alex, that's another thing that has bothered me. If someone from Seattle can fish off the coast down there someplace, and some of them go down to Southern California they tell me and do so fishing down there, and then they come to Alaska and fish up here.

The only reason they can have those big boats and good gear is because they use it year-round and a bunch of...

No, now let me tell you, John...

And our own fishermen, you know there's no way for these fellas to have that good gear if they are going to have to use it for two or three weeks in the Bristol Bay fishery. If they are going to have a good year, they have got to be able to use it in a lot of places. Don't...

I tell you what they even do. They furnish boats and boat areas for them. The Astoria fisherman have boats set up for them by Dabenspek sets them up down there and he sets them on Cock Inlet.

Well, don't you think that part of the reason though is that they have good gear and are highline fishermen is because that they work in a bunch of different fisheries and they go to...

No. These are salmon fishermen. They...

They migrate around...

But they have two sets of boats.

Two sets of boats, two sets of gear?

And are financed by the same company.

Can I talk too about the system of social controls? The expectation that the fishermen have of each other is way different from resident fishermen than it is from other fishermen. You know with us it's kind of a...probably it all started with by saying that those guys are crooked from the beginning. So that in order to disassociate yourself then everybody else is kind of straight. I mean you know you might push the margin a little bit on the marker or something, lay out a couple hundred yards below the marker but when it's dark and foggy and the period is definately closed, we're to die when we're on the beach and those guys are out there fishing and we know that they're out there fishing and if Fish and Game ever hired a bunch of resident fishermen to go out and place the fisheries, you know that we would have that problem cleared up because we know where they are at all the time. But those guys of each other saw fair and you get to be highboat fishermen by only one thing and that is by being crooked and you look at those deals and because a (name) fisherman are ethicnally superior to resident fishermen you know but they're just crooked that's all.

My statement a little while ago to alleviate that situation...

Let me ask you that do you agree with Mr. Sejure that we should limit people to fishing in one area?

I really don't have any formed opinion on that yet.

Could I try to anchor this out? The only time (indesc. noise) transferrability operating this way is if you do have limited entry so that if you did have a license for more than one area, like say Cook Inlet and Prince William Sound, if I would have bought a license in Prince William Sound, I wouldn't be increasing the gear there because I would have to buy a license that's already existing in Prince William Sound. You're not increasing the gear there and of course, when it really would work best is when you finally get to your optimum level of gear, which would be a considerable deduction in both Prince William and Cook Inlet to one in his time. Then let's say you had only three hundred licenses in Cook Inlet and some guy wanted to come in from Kodiak or from Prince William Sound to fish Cook Inlet, if you bought one of those licenses and there can be no more three hundred, then he's not really increasing the gear there. That's the idea.

So long as you're not by what I mean is what's happening up in Cook Inlet, Prince William Sound and Kodiak used to converge on Cook Inlet and they owe her fish to Cook Inlet area where the pack of Cook Inlet should have ran about two hundred fifty thousand cases two hundred seventy five thousand to have a sustained yield; it ran up to four hundred and twenty thousand cases and the biological elasticity broke and that's one of the reasons. There is a number...the fishing is complex and there's many problems and I said that if this was just part of the whole picture, but I know that there's other things...

The reason I say that I have no formed opinion is for that reason is so complex. You mean now or in the past or next year with new regulations. By way of (word), I could say that I don't know of any single Native resident of the Bristol Bay watershed that is that kind of a fisherman. All those people fish at Bristol Bay because that's where they live and that's their life style and they're just trying to make enough to get by and...

You couldn't get a boat around the horn anyway because...

Nobody does it. The only guys that do it are outside fishermen.

This fellow, that Forsman, you say that the outside fishermen are breaking the law and the local fishermen are sitting on the beach. Is there a selecting enforcement out there by the Fish and Game agents?

I don't know if they just don't know any better or what, but you can drift out by them in the night and they're sacked out during the times when...you know, the deal is the period opens tomorrow morning at 9:00. So about 8:30, we'll get up and make sure that nobody is cheating. Well by 8:30 all the highboats are loaded up. Their fish are picked and they are ready to deliver. Usually they sleep until two hours after opening and deliver and then go out and get a second limit.

These are professional men who have been doing this type of fishing they have doing all through there. It's traditional with them.

I fished the Prince William Sound one year many years ago and I know that they turn out their lights and if they want to get a across your gear, they turn out their lights and they go across your gear. That's the way they do it. No I wouldn't think of doing it but some of the people I know would do it but they do it because they know that in order to get transferred from the front line, they've got to do it. So they turn out the lights and you can hear it. I can imagine that it's the same kind of pushing they're doing in Bristol Bay (indesc. mumbling).

Time is running out on us. Before we have nay more committee members leave, let's go to Walter and then to the man behind him and get an opportunity for each of these people to be heard who want to be heard (indesc. mumbling).

I agree with Mr. Shudua here on the Cook Inlet area. You might not agree. Cut the gear down to hundred, from hundred and fifty Seventy to Seventy-Five pack from hundred and five; and purse seine, hundred and twenty-five from two hundred. At such time that the gear we do inland. We can ask to bring it to the lake back to the regular camp. That's the only way we can get rid of the gear up there in the inlet.

But Waltern, you recognize, don't you, that it's the Fish and Game board that has the authority to establish the amounts of gear and not us. They are the ones that can cut it from one hundred and fifty down to hundred...

He's answering the question that you put forth to us to begin with. What would we do and this is our suggestion and it can be done.

Well I was asking for a way to cut the number of people down from the amount of gear.

Well this is saving the resource. We are saving the resource and still keeping a livelihood for those who are really dependent on it. Fine.

You might give our suggestions to the Fish and Wildlife. Give them our protection and that would cover a lot of that...

Of course that's what they did in Bristol Bay this year to attempt to solve the problem in Bristol Bay. They cut it from one hundred and fifty fathoms to twenty-five fathoms per gear license on the boat, then they allowed several different individuals to fish on the same boat and pool their gear license so that if there were four guys there they could fish one hundred fathoms. That is one way we could really help residents.

Dick Gregory is here from Meigik. Why don't you ask him some questions. I don't think you have...

I am going to this gentlemen behind Mr. McCanigan.

Yeah, I am Dick Gregory. I am the president of the Bristol Bay area corporation over Bristol Bay. I know all of these... there is twenty-nine of them over there...

Where do you live sir? Where do you live?

First we'll get on this (indesc. mumbling). I can't see how (indesc. mumbling). Those people over there, they have nothing right now and they never did have anything before that's all they ever had was that they can't get away like this young gentlemen from Bristol Bay, why this seventy-five percent of them are dependent on that fishery today. They don't make enough to make a living now resulting in welfare. These welfare programs going on, that's what I'm concerned with . A lot of them are concerned with it. They'd be willing if anybody come around with a bunch of money and he says here, let me have your fish wire. Nine Tenths would take it. Well I wouldn't want to see that. Because they'd have nothing else. You think they are worse off now, the whole bunch of them would be on one huge welfare program.

Let me interrupt at this point, if I may. It has been suggested that it might be handled as your Native allotment under the Land Claims Settlement wherein that you would in effect give a group the authority to administer that thing for you so that you longer have the opportunity to just sell out when times were bad and ... I'm sorry.

My I suggest that (indesc. mumbling) handling these permits to sell (indesc. noise) to do with it but it seems like one way to get around that permit. It used to be that when an old man makes a will, he kicks the bucket. That's his property and they start with that permit, why that goes down to the next of kin. If he lost that permit while he goes fishing, why that would be alright too. But on this here gear, now we're restricted to twenty-five

fathoms this year for (indesc. mumbling) and that's one way the biogrphy is protecting and trying to protect the fisheries. One way I'd like to suggest is to take the fishing up there is to have the ones dependent on these fisheries, the ones issued these licenses. In other words, you have school teachers, doctors, lawyers. You have outside fishermen, they fish eleven, twelve months a year; one month up to day. (indesc. noise) fishermen from down below. I've heard beware of (indesc. mumbling). I'd like to see something like if you made over fifty percent of your money fishing up on one area; you're the one fish up there, you made over that, why you shouldn't fish there. These people can't move around up in that Bay area. (indesc. mumbling) the Natives alone, that's 4,766 Natives; they are there to stay forever. They have no money to get out, they can't get out and another living. Well I think that there should be some kind of answer to that, certainly not transfer these permits to be transferrable(indesc. mumbling).

Even again, even if you had it tied down as you do your Native allotment so that the regional board or the commission or somebody were put in charge of it so that you couldn't just sell it off or you still not want it transferrable?

Well I can't see problems now, I just see my own. I just have to find out...(indesc. mumbling) Under that conditions, yes, but under controled orders, the regions, the board or the executive boards or the commissioner...

Of course, there might not be any other way that you can assure that it would go your side or to a son when the old man kicked the bucket as you were saying.

(indesc. mumbling)

But unless it's really transferrable, there may really not be any other way to give it to the son. That's the problem there.

well just as long as a piece is still his then he can do what he wants with it.

Only if it's freely transferrable.

(indesc. noise and mumbling)

Allen?

Mr. Flaven was mentioning that there is a possibility to foul it up in family and I think...

Yes, there is that possibility.

That would be a lot better than ...

We have another gentleman. Thank you very much.

Thanks John. Ketchikan and my MCC delegates here (indesc. mumbling) And my heir also in fishing is an important topic, mostly training. I have listened to (indesc. mumbling) suggestions. The thought that

occured to me and I referred to, the lawyers about transferring, I read what that proposed act is (indesc. mumbling) You can't put every last regulations or lieu of into our law. Usually some of it required by regulations. The thought that occurred to me, if you transfer the permits and you don't define who's going to get it, what qualifications going to have, you're in effect of lost control of the whole thing, that's the way it looks to me. Since you invited us to comment on some of the others, frankly speaking, the penalty clauses scared me...

Which clause?

The penalty clauses. Five thousand dollars for first offense, Twenty thousand dollars and so on. And then you permanently lose your permit after that.

These are not for violations of Fish and Game regulations. We're talking here about violations of this act. Pergering yourself in applying for or this type of thing, furnishing them wrong information to establish your eligibility. We're not talking about Fish and Game violations here.

I asked a technical question the other night. I served in the Legislature for about ten years and that's long according to my former prehistory, prehistoric animals...

Johnson, when were you in the Legislature?

Before it became a state, '47 to '55...

I was going to ask you that question because there was some comment here at the table that you were at one time served in the territory of the Legislature.

Well, I asked this question one time when it stumped the Attorney General for a little while. We were discussing some penalty clauses some other legislature. I asked the question where is the dividing line between a misdemeanor and a felony and he couldn't answer it right away but it him to (indesc. mumbling) The next day, they come up with the answer. It was the money penalty. Anything over a thousand dollars would be a felony. And a jail sentence over one year is a felony. Now I know that this law says it calls all those heavy fined misdeamnors. I just wondered if that was attached with the general laws of the United States. And that was the question that profounded the others and there was no time for anyone to answer it...

We'll certainly check that out.

Thank you.

I'm Mr. Aukenson from Uzinkia from the Kodiak area. I'm a CEE delegate here and I thought I'd come down. One thing I was wondering about is on these permits they will be just issued to captains on fishing boats?

Well, again that's not been decided yet at all. It depends on which direction we go. Under one category, it may be, on another, no. So...

If a person got sick, could he let his son carry on his permit?

There would be clauses for emergency transfer in that case. Yes.

Also, yesterday there was some discussion on this (indesc. mumbling) and it was brought up that you might do away with the area fishing; you buy a fishing license, it would be good from Southeastern Alaska to Nome. Is there anything in there that...

We haven't proposed that. No. I can't see that...

Anyway, would permits...could they be categorized into the two different areas - Southeastern, Southcentral and the Bristol Bay area? Because of the uniqueness, they are all different oceans.

I think that under the terms of our legislation and all probability, they will stay the same areas that they are now: Bristol Bay, Alitak, Chignik, Kodiak, Cook Inlet, etc. Thank you. Anyone else? Yes. Dean.

Bob, I wanted to try to put the whole thing into perspective before everybody takes off. I know that some of the folks that are from the outside areas haven't been as close to it as those of us who have been here have. Obviously, our big problem is that we got too much gear. I don't think we can expect this bill to accomplish miracles all at once but it's a step in the right direction, whatever bill comes out, it's bound to be a step in the right direction if it stops the gear from increasing. No we (indesc. noise) talking about Bristol Bay , where obviously we needed someting way back but even if we can't do Bristol Bay right

off, at least if the legislature is able to come up with a plan that will prevent that situation from proliferating, as it has in Cook Inlet and Bristol Bay, it will certainly be to the advantage of all the fishermen because inevitably people who are not fishing will go out of the fishery and it will be possible to control it in areas where it isn't too big of a problem to bring it back into reason in areas where it is. So, actually the goal then is to eventually reduce the number of fishermen, and thereby increase the size of the pie for those who live in these areas and depend upon the fishery. Now if the size of this pie gets big enough, then I think that's inevitable that the privelege of fishing would be worth money. Therefore, it's sort of futile to talk about a permit which has no cash value because the goal is to make the profession in Alskan fisherman a profitable one. Now our people don't really see anything wrong with this. They are willing to participate in other fisheries if necessary, if possible. Some people criticize the people in Bristol Bay because they say that they insist on making a livelihood in six weeks. These people are willing to go elsewhere as Mr. London indicated, if they are able. If they have any other saleable skills then they are willing to go. But so many people out there in Bristol Bay...Mr. Gregory testified don't have any saleable skills elsewhere. That's why this is so important to us and even though we're coming up against some rocky spots here, I'm sure that Jake will stand up and shout if anybody says that we're just going to back off, it isn't going to work. The people out there want this legislation memo improve this situation. Even though the going to be rough here for awhile, because they are on welfare now and there is a real problem. Now as Mr. Shudura testified, the resource, by and large, is still there. Even in

in a year, as bad as last year was, the payload of the fishermen was some three and a half million dollars. But, most of that went outside because the fishermen who got the most of that were not the local resident fishermen. Sure, we're talking about some real difficult problems here. I think that Mr. (Name) made a real contribution when he brought out the fact that in the category that they presently declined, category three specifically, are presently behind, category three specifically, there's really little difference between the professional school teacher who fishes and the professional fisherman who teaches school or does something else as a necessity. I don't know. Maybe we're going to have to address ourselves to this problem by reclining these categories. Of course, we could leave this matter up to some extent to the commissioners because they are the people who can review these individual situations and may resolve this problem but I know that a lot of people like Mr. (name) are president of Bristol Bay or maybe they are present in Anchorage because they can't afford to present in Bristol Bay. They certainly want to be considered in a different category from the school teacher wherever he lives. The cannery where Mr. Hogan fished, Whitney-Fidelgo, I fished there myself in '70. Among our top five votes were owned by three Anchorage school teachers. They were not residents, Bristol Bay reisdents, sure. Chuck Cravege, he was one of the top. But of the other four votes I was speaking of were owned by the non-watershed residents and two of those four votes were staffed by fishermen from I don't know where but they certainly weren't Bristol Bay residents and they certainly did not depend solely upon that Bristol Bay fishery for their livelihood. It was a bonus. But I would question right at this time, that it was absolutely necessary that we have the guarantee that all of our present category three is glued in. I

think that if we garauntee that we would perhaps not be doing justice all the way around.

Of course, let me just interrupt a minute. Our problem is that we have various situations in various areas of the state while guaranteeing three in Bristol Bay may not be doing right, and doing anything other than that in other areas may not be doing right. We may have to treat th m all equally the same across the state. So that's the diffuculty, basically.

One other comment. I'd like to see the committee consider this possibility Mr. Gregory mentioned that I mentioned to you that Mr. Flaven has done some research on it from depth, because I've mentioned it to him of perhpas creating a quazar public entity to whilst individuals who are worrying about losing their right the best control of that privilege in this group. I think that will help get us over this hurdle. I talked about Mr. Gregory. He agrees that many of the people there would be willing to do this. And it would be a voluntary thing on the part of those who wanted to do this. I hope we can get across this hurdle so that this group can go on and make progress in behalf of this bill because it's important to all the fishermen in Alaska. Thank you.

Okay, thank you. Bill, Alex. Bill first and then Alex and then we're going to have to shut her down.

One final first comment. The way the system is set now, we are willing to subsidize your right not to work. In the village, if you stay there with your family and you apply for welfare,

you'll get it. If you move to Anchorage, and I think that our village is stubborn and others haven't yet discovered and when they do there will be a lot more, but you go into Anchorage right now and you got a family and you can't get work, you can get welfare and you can also get housing, unbelievably luxurious, beautiful housing, four or six bedroom homes. The whole thing for $123.00 per month. You can welfare on any kind of hammer and nails and live in a style like you'd almost like to become accustom to. Alot of those families are saying, you know, several of our village families, man, you know that this knocking back and forth every year depending on how good the season is, it ain't worth it when I can stay right here and live in a house like this, and look at this house and it costs me practically nothing out of my pocket so we'll subsidize them to stay there but we won't put purchases in fishing boats within reason of anybody in the village. I do not know one single watershed resident that got his boat through any of the traditional governmental mechanism and I wouldn't be about try. I did it for another guy; I have been filling his papers out for a year now and I could see that I would never begin to go through that for myself and no guy out there that is within shooting distance are being able to get it from the state or federal government. Although, all those outside fishermen help each other and have people and experts and stuff they can refer them to ways which they can get through and finance government purchase vessels. We'll pay guys not to work but we won't put working equipment within reason where people can get through paperwork in the beauracracy to get them.

SCOMM

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NO TRANSCRIPTS AVAILABLE (JUNE1983)

LIMITED ENTRY. SPECIAL COMMITTEE ON FISHERIES
PUBLIC HEARING - INDUSTRY 2-21-73
TAPE 11

SCOMM

#31:12

CSSB 39
LIMITED ENTRY WORK SESSION
FLETCHER
February 22, 1973

CHAIRMAN: We've sent him a rather large bundle of our work drafts of the governor's bill and various papers, and so on, last week. We don't know if there's been much time to go over them, but I'd like this morning to be the carryon of what we've been doing in the past, just a work session that's quite informal for we're to find solutions--ways out of--a way out of this maze that we're in, and I think perhaps Professor Fletcher has had some opportunity to put some thoughts together at least, and I think we'll just turn it over to you, and let you give us the benefit of your thinking to this point and then we'll go on from there, so...

PROFESSOR FLETCHER: Alright, fine. As Senator Palmer suggests, my exposure to this material has been really quite brief in recent times, and I must say my thinking is far from having arrived at conclusions, particularly with reference to details, and I know that some of the things that perhaps I label detail are not going to be considered detail by you at all, such as transferability of licenses. It seems to me that, in some sense, is a major problem, but I've kind of put that off to the end and not really come to any firm conclusions, indeed I've not really got many factors that I've been able to come up with that deal that particular aspect very well. On the other hand, it does seem to me that there's certain rather generalized considerations that I think can furnish a basis for development of detail that, at least, in what I had furnished to me I felt, perhaps, had not been clearly enough differentiated, and I want to suggest to you one or two major lines of thought that may be helpful in deciding what you want

to do by way of fleshing it out in the sense of what do you put in the actual bill that you pass. I make this statement, now, from the standpoint of what I think would be applicable and we'll say, reasonably well-educated predictions as to what the Supreme Court of the United States would do if it were to be reviewing what you've done, what system you have put into effect. I don't profess to be an economist, nor a fisherman, nor a politician, and I daresay that some of the ideas that I might suggest to you will run aground on considerations of that sort. I've tried to avoid them, but I don't necessarily have confidence in my capacity to do that. I think first of all, that you have to differentiate fairly sharply between what I conceive to be a whole range of legitimate legislative objectives incident to a transitional period and those that are incident to the long run operation of this scheme. Certainly the transitional period can take into account presently existing situations, and all aspects of it. I take it the most critical one, however, deals with persons who are actually fishing, to some extent to those who are related to the fishery--that is to say, the processors, so that transition can be one that makes it at least relatively painless to those who perhaps in the long run will stand to be hurt by the fact that you're going to a limited licensing system. Certainly, historically, in many instances there's been no real objection to grandfather approaches to making that transition relatively painless, or at least, not as harsh as it would otherwise be if you simply went whole hog into the new system all at once. The degree to which you protect persons in their present condition is in major part a legislative judgment. The factors that you should take into account are two

or three, perhaps. One surely is that in the background you have a kind of constitutional worry, perhaps, in terms of, as I would phrase it, taking a property without due process, meaning to say without compensation. If you render something worthless, you run a risk of the court saying you can't do that because you run afoul of this constitutional inhibition. I say that's only a concern because, in fact, there are many things that government does that does take away and destroy, and make worthless--zoning regulations, all manner of things, in fact, can produce that result. I say then that only that's a consideration that you could have in mind in terms of how you shape your transitional period. In addition, you should be sure that it's done on a basis that fair as among the various persons who are affected, so that it avoids suggestions of favoritism and, in one particular setting that's important, favoritism as between persons who are residents and those who are non-residents. Affirmative factors that can be taken into account incident to this are, of course, the investment that a person has by way of actual equipment, his economic dependence upon what it is that he's been doing in the past. Of course, to the fisherman is an extremely important factor, and it's probably much more acute in the great bulk of fishermen, as I understand, in that many of them are almost solely dependent upon it, and indeed are not really readily adaptable to picking up any other means of livelihood, and this is going to--is indeed a major, legitimate consideration that the Legislature could take into account in deciding how to make this transition. The mechanisms that you have, I think, are ones that you've approached in your major effort. That is to say, you've been more concerned, it seems

to me, as to how to make the transition than you have been with what the thing's going to be in the long run, because most of what I read is aimed toward, how are you going to set this up initially, and that in turn is showing through in detail, it's taking into account these factors I've been describing. The measure of economic dependence of a particular operator or pond fishery--how much gear he's got, the plight of the fisherman in terms of groups of people, and so on. Now, let me suggest that those factors are almost exclusively legitimately applicable incident to the transitional period. And let me shift, then, for a moment, to the long run side of the picture. On the long run side of the picture we think of it in terms of what are the most clearly legitimate objectives to be served. The list is surprisingly unconcerned with people as such. Let me put it in terms of the fish, for example. Traditionally, government has been concerned about the biological aspects of the fishery, preservation and improvement of runs, techniques for catching that are not harmful to those that you don't want to catch. I don't know, you don't want to catch--I don't know enough about fishing to say, but I assume, perhaps, there's certain sizes that you don't want to catch because they're young and so on, and you're going to want to leave them there to let them grow up, or something of that nature. Anything having to do with the technical quality of your fishery operation is, of course, quite legitimate and time-honored basis upon which you can devise legislation. Furthermore, I think that, clearly, government can be concerned with and take steps to insure more efficient operations from the standpoint of better gear, better techniques, encouragement of experimentation, new approaches completely.

I don't know to the extent to which it's feasible, for example, to rely on improved electronic gear to know where the fish are, or something like this. Any steps that are aimed towards that objective are clearly fine, legitimate in terms of legislative effort. And I suppose I needn't dwell on that. The more interesting thing, and the one that comes closer to home in terms of the real problems that you can see are embodied again, I think, a quite legitimate heading, but here we have to be careful. That is that I think there's no question in the abstract but that it's a legitimate objective for a legislature to say that there shall be a better economic position with respect to this particular economic activity in the state, that this is a product of the state to fish, and that steps that it takes to make this a better one in an economic sense, are legitimate. For example, you could take steps that would insure that the product is going to compete on world markets. In order to do so you must have a price that is in such range that people are not going to be resorting to other products that would possibly compete. I don't buy canned crab any more. It just offends me to pay that much for it. I suppose you could have that side of the concern in your mind in terms of how expensive have you made it, for this particular product. Are you fortunate in having something that is such a--in fact, indeed, all of your fishery products are of such high tempting quality that you could afford to let that one ride for quite a while before it begins to hurt you any. I just assume that's true. But it's certainly legitimate to take into account and devise schemes that's going to keep your product competitive. Quality, of course, is something you can control for that purpose,

too, even though it may hurt somebody to control quality, you're certainly entitled to do that on that basis. Now, in the process of doing this you can say that you want your fishery product to be good from these standpoints. Now, this in a sense is the product, not as it leaves the fisherman's hands, but as it arrives on the shelf in the grocery store or wherever. It's a little more difficult to translate that back one stage and say, well, we want this product to be in this type economic condition when the fish is delivered to the processor, because there you're beginning to introduce a purely business relationship that begins to stack as against each other, entities that are competitive within states, and I believe that you would have a more difficult time sustaining measures that are intended to make the fishermen well off as contrasted to the processor well off. Those are simply going to ask for trouble. I don't say that you can't, but that there is some less degree of assurance that I would have as to steps taken to achieve that particular objective. Now it seems to me that those three things are in a sense primary in terms of legitimate government objectives, the sustaining of the resource, the more efficient acquisition of the resource from the wild state, and the better economic exploitation of the resource in the terms of it's competing in the worlds markets for acceptance, and so on. Now, let me move then to something I would consider somewhat secondary, and perhaps incidental toward the accomplishment of the others. It's been considered to be, in certain fields particularly, a quite legitimate governmental objective as a means of getting into a different place, to take steps that insure the economic well-being of the persons who participate. This has been true,

for example, in the milk industry of dairy products, growing out of depression times, really. States, many states, it's persisted long beyond the depression, but growing out of that setting, and all manner of regulations that have really been price supports for the dairy farmer. The theory is that you want an economically healthy dairy industry because certain attributes flow from that that are for the social good. It isn't that you're interested in the dairy money per se, it's that you want a better product out of him, so you want something in that setting that's helpful. You want him to have enough money so he keeps his barn clean, and so on. He has good facilities, good milk cooling facilities, and on and on. Now, I take it you could translate that over to your fishermen by saying, if you looked at these primary things in terms of better gear, experimentation for new methods, more efficient operation, and so on, you could very easily say that the only way we're going to get that is to have a fisherman who can afford to do it. So, you want him to have a decent income. So, you want his--first of all you'd take the major step which is to limit the entry in the first place, but then you would shape your determination of who the particular participant is in terms of his capacity to produce these desirable effects, and you would want the groups as a whole to be economically good condition in order to accomplish this. Now you might notice that you could argue from that basic premise that that means we want a person who is not economically beholden to his immediate consumer, so that he will have this independence. Now, this in turn could bear upon what you decided, for example, as to the transferability of a license. If his entry permit is something that he can mortgage to the processor, and

thereby give the processor some economic stranglehold over him, presumably that would make him in a position where he's not able to bargain as effectively. That's not good, because that defeats the purpose of which you are trying to make him economically healthy, that is, to encourage the better operation of your basic fisheries. Now, in kind of moving down into these secondary levels, you see, you can start to pick up details, but they must be ones which relate to your ultimate objectives which you're trying to accomplish. I think another kind of subsidiary thing that you can do that also is somewhat in terms of making your fishermen economically in good condition is safety of operation, surely a better equiped boat and so on. Fine. You're not going to lose many people and so on, not as many injuries. A last factor of this sort has to do with what you might call administrative convenience, problems or considerations. Surely you can shape your entry system in terms of just being able to keep track, to make sure that your biological control system works, and so on. For example, I would suppose that if you permitted persons who were only part-time to fish, that you could say this would make it much more difficult for us to make our escapement, biologically speaking, work properly, because we can't predict when they're going to be there, or we can't control them as well and so on, and we've got an unpredictability factor in terms of how many fish are going to be taken, so let's just wipe the part-time man entirely, then we'll know that we have maximum effort all the time out of these full-time fishermen, because we require them to be full-time fishermen. Now, you putting that back in the context of what primary objective you're furthering you wouldn't have been carrying that out. You're doing it, and

that, you see, would make it a legitimate thing for you to do in deciding that only a full-time fisherman would fish. Now, that's pretty much all I have to say as what I would consider legitimate governmental objectives are--is concerned. And you'll notice I've excluded something that seems to me dominate in your thinking. I realize, at least I think I do, think accurately, that you're concerned for a class of people, that you've got a lot of fishermen that are most numerous and now on the whole terribly economically healthy, and they are persons in a sense who are locked into what they're doing, their families have been fishing for generations, they're not about to change, it's very hard on them to say you're going to let somebody else come in and take over your fishery right out from under you, because he's better qualified to fish, he can put more money into it, and we've got to take care of you. That's troublesome. You'll run into some Supreme Court law that says you can't do that. You can't take care of your own, and I'm sorry to tell you that, but you can't. If you do it, you do it indirectly. You do it because you've been tearing out these other things that I described first. Now, this leads me back to, then, to some of the detail. Let me emphasize the distinction I drew in the first place between transition and long run. Certainly instant to the transition that type of consideration for this group of persons is quite legitimate. There's no question but that the Legislature could address itself to hardship problems, ones that are incident to making substantial change in operative policy, such as to go to the limited entry system, but it's only transition. It's only incidental. Now, I would suggest, for example, or let me put it this way, if I'd been drafting the statute, I would have

been tempted to say part one defines who's what in the commission and so on. Part two says transitional period. Part three says long run. And in the transitional period I would have dealt with who gets the licenses in the first place, and under that, of course, you take into account economic dependence for a particular person on the fishery, how much he's got invested, his capacity to engage in other occupations, his aminability to training and so on. But once I got beyond that, and I was dealing with the question of who's going to have entry permits thereafter, or transmissability from one person who presently holds to another one, and so on, I would not let that enter in. That would not be a major factor. I would suggest that you all leave it out entirely. Now, at this stage I begin to lose confidence in my capacity to be practical, because it's an effect you have to--it's hard for you to take that out of your thinking in terms of the long run operation. I don't have any solution for that. I'm going to have to leave it to you as a problem. Now that's kind of the total picture that I see, and in terms of detail maybe we can talk about it, and I'd be glad to do it on that basis.

CHAIRMAN: Alright, let's talk about this part of it a little bit, then. Incidently, I'd like to introduce you to two members of our Committee here. This is Senator John Radar who is an attorney from Anchorage, and the former Attorney General for the State, and one of our--don't say that.

(Laughter)

UNIDENTIFIED SPEAKER: He's our expert.

CHAIRMAN: Anyway, Senator Hohlman from Bethel. Okay. In the Committee Substitute our philosophy, at least that of some of us, has been to

attempt to do this. To set up these five catagories of fishermen, we say career fishermen, consistent participation in this fishery provides a primary or substantial influence income source. Number two, career fishermen from a multiple fishery, consistent participation in this fishery, together with participation in other fisheries, constitutes the primary income source. Then number three, alternative occupation fishermen. Participation in this fishery provides a substantial income supplement. There may be some overlapping in number one and three of the concept there. Number four is avocational fishermen, irregular participation in the fishery provides a variable minor income source, an inactive fisherman, the paper license type. We have in Alaska, of course, widely varying conditions within the fishery itself. One of our biggest concerns, of course, is that Bristol Bay fishery. There we have in peak years the richest of the fisheries, in the minor years some of the most extremes of hardship, economically. We also have probably the most over-geared fishery in Bristol Bay of any of the fisheries, the most severe problems as far as too much gear, so we were considering this kind of an approach, that in the legislation itself we would attempt to guarantee in this transitional phase, at least, who was in and who was out, not leave it to the commission to decide, but to guarantee the legislation who was in and who was out. According to these categories and saying in effect that statewide, categories one, two and three, those people that can show as of the '72 season, again this is '73, but we would assume the effective date laws will be immediately upon passage, and therefore, the commission will be judging on the basis of what has happened in '72 past years. Based on those judgments, people that would go into one, two and

three would be guaranteed statewide they would be in, except for Bristol Bay where we recognize a much more severe problem exists, and in those areas, only categories one and two will be guaranteed, that anybody that does not stay in because of this would be compensated for his loss, the decreased value of his boat and gear, and as far as the entry permit loss, and the loss of right to fish, that's another problem. I don't know how we've come to state that, quite frankly. Well, let me stop at that point. Does that seem something that we can legitimately do as far your concerned in this transition period, that we can treat separate areas of the State separately?

PROFESSOR FLETCHER: Sure. I would have no question.

CHAIRMAN: You'd have no problem with this?

PROFESSOR FLETCHER: It seems to me the material I've gone through here makes an absolutely water-tight case for the proposition that you do indeed have varying conditions here. Your gear availability is enormously different from area to area, and economic condition of the present persons in it, various--I don't have any problem with that at all.

CHAIRMAN: Were you able--did you at any time, considering these five categories, did you find those in the stuff we sent you? It wasn't in the Governor's original file.

PROFESSOR FLETCHER: Yeah, I did.

CHAIRMAN: Okay. Do you see a problem of vagueness in our wording in that or is it--if we leave it...

PROFESSOR FLETCHER: Not in that particular area. I found some other places where I felt that you could be more specific, this less...

CHAIRMAN: This matter of consistent participation provides a primary or substantial source.

PROFESSOR FLETCHER: I didn't have any worries. The only that struck me about that was that it was not clear to me that this was purely transition, and my point would be that that type consideration, that is, the amount of dependence which that particular person has upon the fishery, from the standpoint of his own individual economic well-being, is legitimate incident to deciding who of the present people are to persist, the grandfather proposition, but I don't think it's legitimate in terms of what the long run operation is to be, although that may well carry over for some several years, the matter of biological endurance of human life, but in terms of what your long run consideration is I am much more skeptical about the legitimacy of whether the person is economically dependent upon a fishery as the determinant as to whether he gets a permit or not.

CHAIRMAN: Well, and yet I thought I understood you to say that grandfather rights, now only for the transitional, but for the long range, were reasonable.

PROFESSOR FLETCHER: No. No, I mean to distinguish--maybe it semantic here. When I say grandfather rights I mean to say to perpetuate only the person who's presently fishing. I don't mean it in the way the original clause developed. That was if your grandfather was entitled to a boat, you were, too. I don't mean to carry this down generationally, but only the persons presently in will--are entitled to protection as a means of making easier upon them incident to going to a new system.

CHAIRMAN: Okay, let me go further then. If we were to adopt a program here that as I've indicated for the initial decision of who goes in--or who gets in and who is not in. Combine that with a compensation and buy-back program where we can offer some incentive

for more rapid attrition, but depend on voluntary action of the fishermen after this initial phase, after this initial decision of two here and three the rest of the places, depend on voluntary action to get down to what we term optimum numbers. Do you see any difficulty with those people that are then left staying in the fishery on a long term basis and then coming up with whatever we come up with transferability at a later stage.

PROFESSOR FLETCHER: No, the only thing that I think that you should make sure to require of those persons who, by the combination of factors, are the ones that are left from the original batch is that their standards of performance should be roughly the same as the standards required of the persons that you let in on the new basis. In other words, don't give them special priveleges just because they were original fishermen. In other words, if you require full-time operation you should require it of them, too.

CHAIRMAN: I think that's a little different in our fishery. I think that anybody here involved is going to be pretty much full-time.

PROFESSOR FLETCHER: Well, I gathered that the legislative determination is in the process of being made that you really think that only persons who are full-time want to be fishing.

CHAIRMAN: Well, I guess what I'm trying to say is that even now about anybody that's involved is full-time.

PROFESSOR FLETCHER: I see.

CHAIRMAN: From--let me put it this way. For instance, in Cook Inlet where I live we presently have on an average only two 12-hour periods a week where the fishermen are allowed to fish.

PROFESSOR FLETCHER: Aha, but notice it's going to be different. We'll at least assume it is.

CHAIRMAN: Yeah. Okay.

PROFESSOR FLETCHER: Well, maybe not in the initial stages, because I take it you may be keeping so many people in that you're still going to have to say you can fish only two days a week.

CHAIRMAN: Well, perhaps, but even as we go further down the line the fishing period, the time the run is available, is short enough that most of the people that are going to be there anyway are going to be fishing all the time that's available. Now when we talk about part-time fishermen there, we're talking about a guy that is doing something part of the week, and doing--and fishing the two days that is available--that are available, or he's working in another job the rest of the year and takes off for the six weeks maybe that the fish are available, and fishes that part of the time, so...

PROFESSOR FLETCHER: So full-time doesn't mean full-time the way I've been thinking of. Now, full-time means economic dependence on it rather than that he's working any more hours or more days of the year than anybody else.

CHAIRMAN: That's right. I think that's it in a nutshell. John.

SENATOR RADAR: You see, we have a further complication, too, and that is the amount of gear effort that should be required to harvest a run in one year is vastly different than the next year, so it would require those in the fishery to be full-time every year, then we will require an over-gear in the off year because we'll have to have enough gear for the good year, which means that we'll be going backwards as to our basic goal of trying to make it so people can fish less gear, and of course, the real problem is in the bad run. That's really our biggest conservation problem, see? So even when we require full-time it begins to work against our basic goal on

every year except a peak year because we anticipate that we will have to have enough for the peak year. An additional complicating thing.

PROFESSOR FLETCHER: Have you resolved that one?

SENATOR RADAR: I don't know, I can't. I haven't yet in my own mind.

PROFESSOR FLETCHER: It seems to me that's a terrible problem, because it almost forces you to compromise by saying well, we can't afford to have this much gear around because...

SENATOR RADAR: You can't make full-time attempts.

PROFESSOR FLETCHER: That's right.

SENATOR RADAR: You have to get to something else, and then you get into, okay, then what's part-time and you have this time of problem, too, the class of people that we're concerned with, and that is our-- we really start with that. And you're right. We end up losing that concern here because we can't legislate if we want to for that class. First of all that class tends to be a marginal class, and any truly administered test of ability such as boats, and financial capability, you know, on--to handle the fish, and that sort of thing. A lot of our own fishermen, the ones, the very class we're trying to protect, will be marginal as compared with fishermen from other districts in Alaska in a particular area as, or from also outside of Alaska. And then we have the problem also that a fishery-- a man in some particular area where the fishery is, in anybody's definition, is not enough to give him an annual income from two or three weeks of fishing, and he really can't do any more than two or three weeks because that's as long as the run lasts, unless he fishes several different runs, and then...

PROFESSOR FLETCHER: Different areas.

SENATOR RADAR: Different areas. Then you have the problem of a man being able to do that economically, which then forces him into either

welfare the rest of the year, or else he's a part-time fisherman and has to take a job pumping gas in Anchorage or, you know, whatever other method he might have to obtain a living.

PROFESSOR FLETCHER: I was really quite skeptical of the proposition that--well, I don't know about the economics of it, but what you might call legitimacy of an argument that said you don't want the guy with another job to be out there fishing, because he is able to sell his fish for less, and that, therefore, drives down the price at which all people have to sell their fish, and so if you eliminate him and you put in only those persons who are wholly economically dependent, or substantially so, that the price will necessarily be higher and then it will make that group of persons better off economically. Even assuming that the economics of it would work that way, I don't know whether they would or not, but let's assume that it would, I don't know, really, that you can causalate relate that to some objective that I would consider that will pass muster from a constitutional standpoint. Can you spell it out in some way so that if you make this man who is wholly economically dependent upon the fishery, or nearly so, better economic condition that you will be furthering the objectives of better fisheries, and so on? I don't know. It would be pretty hard. Maybe on the broad proposition that the more money these fellows the better off your fishery would be. I think if you can get to that point that they are going to make a much better economic class out of these people, alright, but I'm just kind of skeptical of the whole thing. Maybe the point--maybe I'm worried about something that's economic rather than legal. Is actually going to work that way?

SENATOR RADAR: No, it won't, because you're quite right. The man will

have to supplement his--he'll have more income and, therefore, more economic independence if we has another job for six months out of a year, than if he is forced into idleness for six months, in a lot of instances, which would give him a superior ability, then, to withhold his fish, to bargain with the processor, or to have superior equipment.

PROFESSOR FLETCHER: I had trouble in the Governor's letter that tells of this point, and I... The main problem with the part-time avocational fisherman is not the multiple employment, it is that they can afford to participate in the fishery even when it's not profitable, but the effect of the average income for all fishermen is driven down to sub-marginal levels. Does that really...?

CHAIRMAN: I think what he's trying to say is that, to a certain number of people at least, it's a way of life, it's a vacation type thing and in some it's even a tax write-off, and that it's not because they're willing to take a lower price, but it's simply because the pie is dividing up--being divided up among more participants, and therefore, those who really depend on it primarily as a source of income have a smaller number of the fish and, therefore, a lower income, rather than the part-time fisherman being able to sell at a lower price in order to do so.

PROFESSOR FLETCHER: So you go to a limited entry system, what does that factor become?

CHAIRMAN: Well, we're assuming that through transition, or through attrition, many of those people over a relatively short period of time will leave the fishery and perhaps they'll not find it so attractive to buy in if they have to buy a license or a gear permit. I'm not sure what that becomes, quite frankly. This is matter of

transferability is one that just apparently has no solution available, or,at this point. That's the reason one of the things that I think we have to discuss today is also the advisability of the--the legality of this legislation, taking care of the transition period, but saying also, charging this commission, if we so constitute one, to come back to the Legislature in a year's time with recommendations for a buy-back program, and two years' time with recommendations for a transferability program. Now, recognizing that it's just too big a problem to try to solve all at once in a short period of time, and it does (indisc.)

PROFESSOR FLETCHER: I would be hesitant to jump in without having at least some program set up for long range operation. One of the places where I felt the present draft was quite deficient was the respect to long range where particularly certain standards were described only as those consistent with the purposes of the chapter, because the purposes of the chapter, at least to my thinking, are very sharply divisable into two functions, one transitional, one long run, and to lump them is a mistake, because many of the considerations incident to transition are not legitimate for long run, and I do feel that if you're going to set this thing up with protection for persons presently in, which by itself is fine, you have to have it as being transitional, and if you're going to have it transitional you'd better specify what it's transitional to. Washington's one effort of this way back in depression times fell flat on it's face, because they were dealing with an interim of urgency situation, and only with that. They just plain closed the fishery to everybody except those who'd had licenses, and they didn't set up a long run operating system at all. Well, that's

(indisc.) for trouble, wasn't it, because (indisc.).

SENATOR RADAR: What has experience been in other jurdictions with this--this type of thing?

PROFESSOR FLETCHER: I wish I could tell you I was up-to-date. I'm not. As I told Senator Palmer when he called me, I really had almost nothing to do with this since we made this initial study in 1963. As of that time there were very few places that had done it. It was attempted in Texas, Maryland and somewhere with respect to it (indisc.) fishery, and that was about all. You had some experience here in Alaska with some attempts to have dug into some problems, and I don't know of others. I did talk with Jim Crutchfield, one of the persons who worked on this initial study as an economist at the University of Washington, as to what had been done in Washington in terms of effect, and the answer is nothing, but he said that he had worked with the Department of Fisheries to make a proposal for carrying out a limited entry system. He thought the work product of that effort was still confidential and he wasn't about to tell me what's in it. I didn't follow up, and he was only working for them, and I don't know what the Department's attitude would be. They apparently got in touch with either a committee of the legislature or some legislators, but it stopped at that stage, so that--I know that the Washington picture has not made any substantial progress at all.

CHAIRMAN: We heard that British Columbia had some sort of a program going.

PROFESSOR FLETCHER: Yeah, I understand they do. I think I'm observing it from my sail boat in that I see a lot of boats that look to me as if started out like fish boats that somebody's bought up and made

into pleasure craft. They're buying them in British Columbia for that purpose. I think that's what's happening.

SENATOR RADAR: Would your comment still remain the same, or your evaluation of the situation, in view of the fact that the biggest single problem facing us, probably, is the relatively repid increase in gear year after year, and that our real need right now is to put a lid on that so that we've stopped the increase.

PROFESSOR FLETCHER: Yeah, I don't have any problems with this. The basic limited entry idea is wholly defensible and I've had no concern out of it. I'd say the problems are all incidental in the sense of operative ones.

CHAIRMAN: Well, this is the reason why, it seems to me that it might be in keeping with our purposes, if we were to take care of the transitional period, but still recognizing the long range difficulties, and charging this commission to come back with recommendations with us, in the meantime, we've declared this moratorium and we've stopped the build-up of this so that...

PROFESSOR FLETCHER: I would suppose that a tolerant court would be tolerant. That is to say, okay, we'll take you at your word that you're not just freezing things for the benefit of people who are not there, but you really do intend to come up with something that's going to operate in the long run, and what you're doing now is just to tide you over until you get the thing underway, and you do indeed, in this statute, end up with the last paragraph which says that the commission is charged with further study and report the next session, or something, that that would be taken at face value (indisc.). Well, we'd prefer to see it worked out now at least on the good possibility that indeed it might have to be

modified, but it wouldn't be right.

UNIDENTIFIED SENATOR: Well, Mr. Chairman, I'm no fisherman and I don't want anybody to get the impression that I'm more concerned about the fish than I am with the fishermen, because that's not true. I don't even like fish very much to eat, but I've wondered from time to time if, in our bill now, if it's sufficiently clear that one of our major goals, if not the major goal, is the conservation really of the fish stocks, and it would seem to me that we must be awfully careful not to lose sight of that, because obviously our concern is with who is going to be restricted and limited and thrown out, and I've wondered, too, again because perhaps I'm not a fisherman, that merely by limiting the amount of gear, is that still guarantee, really, that we're meeting the long range goal of conservation of the fish? I just wondered if you had any thoughts as to whether...

(End of one side of tape)

PROFESSOR FLETCHER: ...objective. In other words, I just assumed that that was the basic objective and went from there. If you sit the statute and read no further, maybe you've got a point. It may not be perfectly clear in the statute itself, but that's the essential concern. As a matter of legislative style fashions change. There was an era in which it was felt that every statute had to have as it's first couple of pages a complete recital of the reason why you passed the statute. This is changing, and indeed, recently it hasn't been done, and courts in considering challenges based on constitutional provisions have typically looked at legislative background, legislative history. This is easy to do in the Federal government, because committee reports are published and congressional

records exists. With state legilatures it's more difficult, because typically they don't make any record of what they do at all. You can't come up with anything that's stamped official document type of substantiation, and yet, surely, all of these studies and so on would be legitimately concerned--to be considered by a court on this, so I think that it's not--it's probably not a serious concern because, indeed, there is the scientific background to draw upon and the fact that it's considered this big report, most of the total pages are devoted to it, as a matter of fact, graphs and charts, and all this sort of thing. So, I think you would make the grade. Now, whether the statute makes it clear, as I say, I'm not so sure. It didn't occur to me that that wasn't the true purpose, and so I...

UNIDENTIFIED SENATOR: Well, Mr. Chairman, I'm just asking the basic question, I guess, whether gear limitation equals less fish being harvested automatically, per se, because I could see that this might be intrepreted as just another means of cutting up the pie, and if you have more efficient techniques in using a smaller amount of gear, well...

SENATOR RADAR: Fishing longer time, you catch more fish really.

UNIDENTIFIED SENATOR: Yeah, it seems to me it just has to be clearer somehow in here that we're really going to meet that goal.

PROFESSOR FLETCHER: One of the things which will be more telling than what you recite in the statute was to what your consideration were will be the operative effect of it, if all, in fact, you do is to say that everybody who now fishes is entitled to fish indefinitely into the future, you're asking for some trouble, because it does look as if you're simply freezing things, and saying, okay, from

here on in nobody else gets in. If, on the other hand, it's apparent that this contemplates in some areas particularly that you will in fact end up saying there are to be fewer people fishing than presently fish, I gather may potentially be the situation in Bristol Bay, then you begin to get legitimacy cranked back in, but surely, if it's simply a guise for perpetuating a presently existing class of persons and nothing else, you're in trouble.

CHAIRMAN: I think your point is very well made, because some of the effects that will be seen, I think, as a result of this really can't be spelled out in the legislation, but for instance, I think there's no doubt but as soon as these fish begin to have more value on the idea of a former husbanding the fertility of his soil, the fishermen are going to be more concerned about adequate escapement of the resource. For instance, right now there is nothing in the world to really say to a fisherman, don't go in and rob that creek if you're fairly sure you won't get caught, and this is exactly what's happening. They're seining the mouths of the stream and actually killing off the runs in many cases, simply because there's competition for those fish, but once this becomes a property right, and the man has his own vested interest that he's hurting when he robs the creek, because those fish are not coming back then two, three, four, or five years later, then I think there's going to be a very considerable change in attitude. So that's just one of the examples. It's very difficult to say that in the legislation, I think, but it's something that would definitely be the result of this, anyway.

PROFESSOR FLETCHER: I think that you could extentuate that point without actually saying it explicity if you--I don't whether you could make it apparent in the language, but somehow have a provision in there

that made it apparent that you did contemplate an immediate reduction somewhere, such as to provide in some paragraph for a present system for buy-back, rather than to say that's what's to be part of the study from two years from now, so that it's apparent you were planning to cut down, that you had a system set up for that. As one of these things points out, it might pretty expensive to buy it out to the point where you really had the ideal economic fishery. You can't afford to get there immediately, but at least to set up the mechanism for doing it and let the commission decide at what stage they're going to, and the Legislature as to how much money's going to be furnished for the purpose, and so on, something of that nature which would lend credence to the legitimacy of the project.

CHAIRMAN: Assuming then if we were to say, as an example, that the license shall be freely transferable, but we're also charging the commission to bring back recommendations in two years on transferability for as perhaps to modify that program and does this largely meet the objectives that you're talking about?

PROFESSOR FLETCHER: I have not been able to decide in my own mind which way the various things that you could do to transferability, which way they point. I noticed, I think common to every proposal is the proposition that this license is not going to be something that you can encumber, you can't reach it by process, you can't voluntarily encumber it, (indisc.) it in any way. That's going to be pretty hard to combine with the proposition that it's really transferable. It's almost inconsistent, not quite, but almost. Surely there are going to be some transfers to people who will not be able to pay full value right as of that time, and I would assume you're going

end up with some conditional sales contracts with some sort of long-term financing arrangements, but for instance, to quote free transfers that are not falling into this prohibitive category of mortgaging it, those are hard distinctions to draw, because to say what's permissible and what isn't. Now, assuming that you can get by with making that distinction, what bearing does that have upon the idea that you are first of all interested in protecting the persons who are presently in in terms of getting their investment out. Suppose on that it's a means by which they can, so if you let him sell it, that's one way in which you can get him out of the picture, and he's happy because he's sold. He's got his money's worth for what he had. Presumably the value of his equipment and so on would be reflected in what he sells. In terms of whether you're promoting a good fishery that's not directed toward protecting certain people, but simply in terms of having an economically healthy industry that's doing good for the State as a whole, transferability seems to me to work in conflicting directions, and I have to say I have trouble with deciding what the operative effect of it is. And maybe I'm not the guy to answer. It isn't a legal question. It's as much economics as anything else, I suppose, as to what the effect of transferability would be. If you can put it back in legal context I suspect the analysis simply has to be based on some hypotheses. If you can show that by free transferability you are encouraging the development of a good fishery, economic and good techniques, safe equipment, and so on, and the fishing escapement, biological control is better afforded, fine, then free transferability is great. If you can show that just the opposite is going to happen, then you can say, okay, it's legitimate to say no transfer. The one thing

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I didn't like in this whole business about transferability is the one that says that the guy can give it to his spouse, or his child, or some suggestion that when he dies he can give it by will to somebody else. That doesn't relate to an efficient fishery except in the most tenuous of reasoning processes. You could possibly get that one cranked in.

CHAIRMAN: I suppose that we really better cut this off now, and we go into session at 10 o'clock.

PROFESSOR FLETCHER: I understand.

CHAIRMAN: I planned on us getting back together at 1:30 this afternoon and continuing this as long as you have time for.

PROFESSOR FLETCHER: I'm on the 6:50 flight, so the rest of the time's yours.

CHAIRMAN: Okay. Good. If you don't mind, and some of these gentlemen that are not part of our Senate Committee, but are very much vitally interested in this thing, and have been a great help to us, if they want to stay and discuss this with you and you don't mind, why, it would certainly be fine with us. On the other hand, if you want to come over and observe the session...

PROFESSON FLETCHER: No, I'd prefer to stay right here and I would particularly like it if you had some suggestions or some particular points to which you think we might be devoting our attention between now and the time we see you again.

CHAIRMAN: Alright, very good. That's what I'd hoped you'd say. John, I'm sure you've got...

SENATOR RADAR: Well, I think that--I personally think, I'm like you, I hate to see us embark on this unless we, at this moment, can have some rational idea as to where we're going and how we're going to

handle it, and to go into it without some pretty good understanding, everything except the details worked out, and I really mean everything except the draftmanship and the concepts worked out solidly, and so from my point of view I think that the first problem of issuing the licenses isn't too difficult. I think the whole problem is how you make it continue to work.

PROFESSOR FLETCHER: Yeah, I do, too.

SENATOR RADAR: In the very message that we're talking about, whether or not you can even use time or full-time fishermen, whether or not that's a possible use, when you have a triple gear one year required and a third of it the next year, where is you push that (indisc.) three times the gear that should be fishing the weakest run, which exactly against Senator Thomas' point that we're doing anything for the fish. Those kind of tests, and yet I think that absolutely they have to be worked out, plus when I get down to it, remember we don't have to go into limited entry, and we do have a concern for a class of people, and if limited entry is going to affect that class adversely we at least want to do it knowingly so that we can try to do something else for that class. I don't want it knowing position, and I think you'd be real helful here if you could take some of the fellows from some of these areas that could describe the problem that we have there, because we're liable to take a group of people who depend on this historically and they'll get left out of this fishery, and although it's very bad now, it's likely to be so much worse then, or relegated to the situation of perpetual part-time, casual labor in the fishery that historically has been theirs, you know, so to speak. It's a very difficult problem, recognizing also that we think that the land claims has extinguished Native claims,

that that legislation, and that at this point all of our citizens are equal when it comes to our State government in these matters. That's the kind of thing that I get stopped on, because I thought for ten years this was the way to go and I finally, I get stopped because I can't resolve the very questions that you're mentioning here that I'm mentioning to you.

PROFESSOR FLETCHER: Yes, almost... Right, and I have no question in my mind at all but that whatever you come up it's going to have to compromise several factors that are really basically in conflict.

SENATOR RADAR: Yeah.

PROFESSOR FLETCHER: I see no other way to work this out and it's an evaluative thing that you go through as legislators, that some lawyer make look at the outer edges to see whether you've gone off the deep end somewhere and say no, but basically it's going to come right down to a policy determination.

CHAIRMAN: But we have several alternatives as far as this transferability is concerned, and I'm sure that Mike can spell it out very well for you, and these other gentlemen have a lot of input as far as the specifics and the differences perhaps in our fishery and some of the others. We've looked at transferability. You might call it free transferability which I think in this sense means the guy's, the holder's ability to sell, or someone else's ability to buy, but perhaps the one that's buying has to be qualified through an applicant pool, either through an experience or through a training program, or something of this nature. We've talked about one of the big problems here facing us is the so-called windfall that results from closing this more or less to a certain number of people, perhaps not a class of people, but each one of the number that is

left having a ten, perhaps 20 thousand dollar value left as a result of the closing, and the value attached to the permit. Maybe it's far less than that ten or twenty.

PROFESSOR FLETCHER: I don't worry on that, because it seems to me that the extent that you create new value, you are at the same time saying well, that is a rough equivalent, so what you would have if you took this whole thing away, if we closed down, in other words, we're putting you now in a category where you really were before and in the long run this is supposed to sort neutralize, work itself out economically. I just doesn't concern me quite as much beside these other factors we've talked about.

SENATOR RADAR: I don't understand your answer there.

PROFESSOR FLETCHER: As I understand, you were concerned that there was an element of unfairness that worked in favor of the persons that would be getting licenses as an initial proposition, because they would be getting them and presumably some people would not. Now, the some people who would not be getting a license, who are to some extent equally well committed, equally heavily committed, they've got gear and so on, or something, that you've got to buy out. You buy off those persons. You're going to have to have a fund to do this. Hopefully, you're not going to have to buy off too many, you're going to set this at some reasonably financially feasible level. These people who have the gear now are going to get something, which if they sell it within the next six months may bring them $10,000, or some figure that the market will determine. Have you given them any extra by doing this. My suggestion was that maybe it's not so much a windfall as it is a recognition of the past history that they have, that they've got

a lifetime of investment in this, and in a way we're treating them fairly. The only way you'd have to make sure that it wasn't unfair with respect to the person you bought out is that when you bought out somebody you have to reflect that he, too, has had a lifetime investment in his gear and so on. Now, if you could make that relatively (indisc.) you're alright. I meant--there's a little weakness in all this, because it may be that the market value of this thing is way above in excess of what you're trying to approximate.

SENATOR RADAR: Yeah, what if the lifetime investment you speak of is worth $10,000.

CHAIRMAN: Wait a minute. You're talking about the actual investment monetarily in gear and boats. I think you're talking about more the effort.

PROFESSOR FLETCHER: I'm kind of putting a sociological factor into dollars. I don't know whether it's wholly defensible to do it, but that's the idea, that somehow or other you're saying to this fisherman that, okay, you've got something that's really worth while here, and we're going to recognize it by giving you a license. Now, the guy we have to buy out, we may have to buy out him on the same basis, but we're not really giving you anything that you don't already have. Now, as I say, the weakness is that you may be able to turn that around and sell it for some astronomical figure, I don't really know.

SENATOR RADAR: Well, this is--I think I probably was the one that raised this argument, and here's the thing that bothers me about it, and I'm like you, I don't feel completely comfortable in either one--either your analysis or the one that I can make by saying that this

resource is worth, well it's worth ten billion dollars--it's worth a billion dollars every ten years in productivity at it's present level. How much is it worth in the future? So let's assume you divide that up against--between a thousand fisherman this resource, and you give it to them, and when they get ready, when their use of this resource is over with, then they will sell that. We will have given--and the second generation of fishermen pay for this billion-dollar resource, but they don't pay the State whose resource it is, they pay the fisherman who the State gave the resource to, you see? You see that argument? I'm not talking about gear or anything else.

PROFESSOR FLETCHER: It was just kind of the total picture that you're talking about.

SENATOR RADAR: Yeah, and that's what has bothered me in the free transferability with a gift in the first instance, and yet, we know there was no way to set a reasonable value now, and if we did that the class of people, again, that we're really working with here, and we have two purposes, one's the fish and the other's the class of people.

PROFESSOR FLETCHER: I suppose one thing you could do would be...

SENATOR RADAR: But we could handle the fish with fish traps if we were unconcerned about fishing as a way of life in our fishing communities. You know, there's a lot of ways to make certain that this fishery could come back, other than what we're doing here, so I think from the outset, in my mind, and I think it would be apparent from the legislation, that we are interested in a class of people, and legitimately I think so.

PROFESSOR FLETCHER: Yes. Yes, but you're interested in a class of

people, legitimately interested in a class of people as a kind of a large impersonal group.

SENATOR RADAR: It seems to be a closed class.

PROFESSOR FLETCHER: That's right, and it can't be their immediate family successors, and their friends and so on, despite this case about the river pilots which I'm very skeptical about, but anyway, it's simply--not to take on that quality if you can avoid it.

SENATOR RADAR: Medieval guild.

PROFESSOR FLETCHER: Right. And I just don't think you can do that.

CHAIRMAN: Well, this is the (indisc.)...

PROFESSOR FLETCHER: We could go on forever. I can see why you've been at it for so many weeks as you are.

UNIDENTIFIED SPEAKER: This sounds as tough as some of the oil legislation.

(Pause in tape - discussion with fishermen begins)

UNIDENTIFIED SPEAKER: Now, it doesn't fit the category of part-time fishermen.

PROFESSOR FLETCHER: I've got to stop a bit, because I've been laboring under a misapprehension as to what part-time meant, and I really haven't thought through in terms of what it apparently means, and that is simply it's a matter of looking at each individual fisherman and asking where his livelihood comes from. It isn't a question of how much he fishes, it's how much--what other things he has to do in life.

UNIDENTIFIED SPEAKER: This is pretty much the context that we used a bit. Why don't we ask Joel here to sort of continue as the moderator as Senator Palmer did to maintain a little order to our whatever we're going to do here, and then proceed as we were before.

UNIDENTIFIED SPEAKER: Roy, you have a plane to catch.

MR. RICKEY: Right, and I have about two more... Okay, is this alright, Mr. Moderator? One of the first things you said, I thought you said. There must be standards for transfer as well the limited entry. You didn't say this, but is this what you imply in that you couldn't let anyone in after if you made this group of people qualify and this one only buy in? Is this your point?

PROFESSOR FLETCHER: Let me restate in as few a words as I can of what my basic proposition was, and then see whether that fits in with what you're saying. You must, I think, make a sharp differentiation between what you do by way of protecting persons who will be hurt, or essentially can be hurt, by the impositions in this system, and I put this under a broad label of grandfather. Your protective mechanisms for them can cover a quite different range from what you would do with respect to once you've made the transition to what you then do in the future. Now, I think you have to look at this from a time segment standpoint. During your interim period you are indeed interested in making this transition so that the person presently are--who have got the total investment in the operation can be protected so that it's preserved or bought out, one of the two. Now, once you get past that and you have done that with respect to these people, then what you do in terms of letting either the person who presently has this position transfer what he's got, or somebody else come if you decide to issue a new permit, or you get one that forfeited in, or something, then your standards for that are quite different, and those are the ones that I said had to relate more to the kind of a scientific and economic aspects of what constitutes a good fishery than what would relate to how are you going to take care of a certain group of people.

MODERATOR: I think I understand what you're saying. My question is more particularly to the qualifications other than purchase of a permit, after you've accomplished the level.

PROFESSOR FLETCHER: Alright, we're talking about the long run operation of this scheme, now. Okay, and then what...

MODERATOR: Were you inferring that you must have standards for transfer other than sale in the long run?

PROFESSOR FLETCHER: Whether you must have standards, I don't know that I commented. I don't think I intended to. Whether you do, whether you must have them, I don't know. The question that I looked at was whether you could have certain kinds of standards, and as to that I think that if you are going to impose restrictions they have to be ones that are reasonably calculated to produce the kind of fishery you would want. In other words, you can't say that only Scandanavians are going to be the new entrants, see, you've got to relate it to promoting good fisheries. Now, on this, under my old idea of what a part-time fisherman was, I could see that maybe you could justify saying that you had to have a full-time fisherman, and only those, or that you had to have somebody who himself was going to fish as distinct from a corporation that it's headquarters were in New York. I suppose you could come to that conclusion, because that in turn is going to reflect upon the quality of the fishery, or at least legislatively you could decide it would, but... Now, whether you could operate in absense of any qualifications at all in terms of who was to be the new fisherman, and the new fisherman, the new entrant, I would suppose you could do that only if you didn't impose any restrictions upon the persons who presently had permits, and you just want to let anybody in the world out there

so long as you had only so many total permits. I suppose y u could have that. I don't think it would be legislatively a very wise thing to do. You might want to control who's out there in terms of qualifications.

MODERATOR: In the original bill the three general standards would, of course, only affect the transitional period. Now would you necessarily have to relate anything of this nature to a person who eventually gets the permit.

PROFESSOR FLETCHER: You wouldn't have to.

MODERATOR: You wouldn't have to.

PROFESSOR FLETCHER: I think it would be more a question of whether you could, because some of those were not, it seems to me, not legitimate except as transitional ingredients, such as how long have you been fishing in this fishery. I suppose that...

MR. ADASIAK: Well, in the original bill the only standard that would be applied when the commission reviewed transfers was whether the person was ready, willing and able to fish.

PROFESSOR FLETCHER: Yeah, that's fine. It seems to me that's a perfectly legitimate thing to have in mind, to ask. On the other hand, some of the modifications came up in terms of how long have you been fishing in these waters, or words to that effect. It seems to me to ask for nothing but trouble. You get a Puget Sound fisherman up here, he's going to say, I don't care whether I fish in these waters or not, I'm a good a fisherman as you are, and I daresay he'd qualify.

MODERATOR: I have one more question. You mentioned capabilities of a fisherman as a standard. You meant past demonstration?

PROFESSOR FLETCHER: I don't care how you measure it. You can give them

a test, but you could decide skill. I mean, you could take skill into account as determining, for helping to determine who was entitled to a license. I don't have any question in the world about it. Now, how you'd go about it, you'd better be careful so that it doesn't work out so that you favor only the guy who's been living down in so and so bay all of his life, but I assume that you'll avoid that.

MODERATOR: Dave.

DAVE: In relation to this, can the commission be given the job of applying this test?

PROFESSOR FLETCHER: Oh, surely. Yeah.

DAVE: And if it is stated that the commission can set up tests to determine who shall be granted these things, is this something that's going to leave it open to legitimate legal challenge which would probably shoot it...

PROFESSOR FLETCHER: You have to be aware of two hazards. One is that you must, within broad limits at least, specify the nature of the standards that the commission is to use. You can't just say, and the commission shall decide who shall fish. You'd better say, based upon those which will lead to an efficient fishery, or something at least as that specific, and I think if I were drafting it I'd add a few more which had to do with such things as capacity and willingness, and adequate gear, and various other things, whatever you thought was necessary, but I would be attempted to reduce it to that level of specificity. Now, in addition, the other hazard is not so much as to the validity of the legislation, but the actual operative policies, and such regulations as are issued and so on are likewise subject to challenge at any time, depending upon how

they carry them out. There's a very famous old case out of San Francisco where the statute was perfectly good, there was no problem about it at all, if (indisc.) heard about it, what they're really trying to do was to get the Chinamen out of San Francisco, and they were regulating the laundries. Well, the way they administered it was to say, I'm sorry, you're a Chinaman, and therefore, you didn't get a license. Well, you see, if your commission starts doing things like that, of course they're going to be subject to challenge. There's nothing wrong with their laws, just how they're carrying it out.

DAVE: Now, in this case, does the statute falls if...

PROFESSOR FLETCHER: No, the statute's perfectly alright.

DAVE: Right. It would be the commission. In our case, it would be the commission regulation...

PROFESSOR FLETCHER: The regulation, or indeed your regulations could be alright, it's in fact what they do. And you've got some sort of an injunction which says you can't do that.

MODERATOR: Roy, did you have any...?

MR. RICKEY: No, those were the only ones I can recall.

MODERATOR: Okay.

DAVE: In other words then, it may come down to how the the--well, the commission's actual record. What we're talking about here is non-resident versus resident, right?

PROFESSOR FLETCHER: Well, I suspect that this is in the background.

DAVE: I hope we can be candid.

PROFESSOR FLETCHER: Well, sure. I was warned this was the case of Alaskans.

(Laughter)

MR. ADASIAK: I want to take exception to that when you say what we're talking, because the Governor's task force is talking about resident and non-resident.

PROFESSOR FLETCHER: Oh, surely. But I didn't get the impression so much from that, except there was one reference to the fellow who came up from Boeing to fish in the Governor's letters. No, the place where this came through clearly was something I read where somebody had capitalized the word outsider. He's apparently some sort of a devil.

UNIDENTIFIED SPEAKER: But not individually, but collectively.

MR. ADASIAK: As far as I'm concerned, regardless of what a lot of the people in the general public want to believe or feel, we can't do anything that draws a resident non-resident distinction.

PROFESSOR FLETCHER: Now, you're speaking from the legal standpoint here?

MR. ADASIAK: Yeah.

PROFESSOR FLETCHER: Legally we cannot discriminate, and the Governor's task force has done an admirable job of avoiding this pitfall, however...

MR. ADASIAK: I just wanted to qualify the we when you spoke.

UNIDENTIFIED SPEAKER:Let's put it this way. In order for this desirable future goal to indeed be desirable from the viewpoint of the people who are enacting this legislation, namely the Alaskan Legislature, if this Legislature does not enable ultimately their Alaskan constituency to derive some benefit, it is sort futile.

PROFESSOR FLETCHER: Yes, of course it is. Well, you know, there's in a sense an inadequacy of our law here in that it does seems to me that on kind of a philosophical plane, that we are, in fact, concerned about the welfare of groups of people that we can point to and say,

all those fishermen over there are in terrible and I'd like to be able to do something for them. Our constitutional background, and theorizing, and indeed practical application in many cases, says, no, you can't do that, you've kind of got to treat everybody equally, you've got considerations of the mobility of the population, you've got to let people move in and out, you've got to let them do business where they don't live, and so on, and it's a kind of an overriding consideration that says, no, you can't legislate specifically to help out this little impoverished pocket here or there. Now, as I say, on a philosophic plane, maybe we ought not to be in that condition. There are a few signs that change on that, but they're rather narrowly confined. For example, we've had quite a bit of legislation that's aimed toward helping out the Negro and his terrible background and try to get him out of it, and in the process, in a sense, we're hurting the White man in doing it, because we're using money to do these things, whereas if we didn't spend it there we might have it elsewhere. Indeed, the University of Washington Law School is in a municipal lawsuit right now, because we, in our good judgment, decided that we were going to let a certain number of Black and other minority students into law school. In doing so, meaning that Whites could not get in with respect to the number that we've let in on this other basis. Well, can we do it? Well, we've got a big law suit about this. We decided it was a good idea. I still think it's a good idea, but that seems to me exceptional. We haven't reached that point generally in our total society where we will say that that conforms to ideas as to how government ought to operate, and as of now, and I think for a long time as I see it, you're going to find the

same reaction out of the courts, which says, no, you cannot do this. Okay, now, the only way you can look at it, you can either say I'm going to be in good faith or bad faith about this, and in spite what the law is, I'm going to try to protect these people in some way, or simply look at it from the standpoint, alright, let's just draft this legislation, and indeed decide that what we're doing is to promote what I've called the good fishery here, quite independent of who it is that's conducted the fishing. The practical fallout in terms of the details of how you set it up may indeed turn out, in fact, to be substantially protective of this groups of persons, as for example, the determination made here that you're going to license present types of gear. I take it if you were really interested in a good fishery as the fellow sitting over here said, you'd go to traps, but somehow we're just not willing to go to traps, and the court isn't saying that you must go to traps. It isn't that the government must be the most efficient possible, but that it can decide to become more efficient and take steps toward it. That's different, you see. But in taking those steps you can decide, as he's apparently worrying in his own mind, does he even want to take the first step. Maybe in order to protect this amorphous class of impoverished fishermen he wants them at least to be that impoverished instead of destitute, so he leaves the fishery the way it is without taking the first step toward efficiency.

UNIDENTIFIED SPEAKER: This is basically our problem.

PROFESSOR FLETCHER: Of course, it is a question of how far you're going to go toward efficiency, because the more efficient you get, I suspect, the less it is that you're going to be able to be confident that a particular group of identifiable, ethnically and culturally,

are you going to help, because I suspect they're going to suffer.

MR. ADASIAK: I think, though, that the information that we've developed indicates really the choice that Senator Radar is wrestling with, although he really isn't recognizing the other side of it, is the choice between which of two evils he wishes to accept, because the problem of the increasing number of units of gear poses another threat to that same class of people.

PROFESSOR FLETCHER: Yeah, it's a question of which one gets it first.

MR. ADASIAK: And it's a question of, you know, which--you know, status quo will not--or no action at least, will not address the dynamics of the situation.

UNIDENTIFIED SPEAKER: We have this situation already in Bristol Bay where this class of people whom we are concerned is already almost wholly on welfare, except perhaps in the rare big year, and yet this class of people is very concerned that they--that nothing is set up which could result in their losing their privelege to participate even at their present level which does not provide them a livelihood.

PROFESSOR FLETCHER: And, yet, in terms of what they do have coming in, it's probably a hundred percent if you leave out the amount that comes in because subsistence programs from the government, welfare payments of some sort.

UNIDENTIFIED SPEAKER: Yeah. What these people are hoping for, I feel sure, is--in fact, well, it applies primarily to Bristol Bay and to some extent in the Cook Inlet area, and perhaps Kodiak where we do have problems of too much gear at the present time, and in the other areas of the State where we may not have too much gear, but we do have predominantly resident fisheries. There we're

hoping for a maintenance of the status quo, but in Bristol Bay now, where we have a large non-resident participation, they look to this commission and saying, okay, we want to see legally constituted a commission which can, by hook or crook, insure that we--that our position is somehow bettered. Now, legally perhaps, you can't do it. Isn't it true that there are such commissions, perhaps in other aspects of our society, which indeed are going it, legally or not?

PROFESSOR FLETCHER: None come to mind. Maybe there are.

MR. ADASIAK: Being as a practical matter, the first time the commission tried to do anything like that, if the--assuming the statute itself was not attacked, and it will be, one of the cannery's is going to take a group of Seattle-based fishermen as plaintiffs and run in and sue, and then the whole thing goes down the drain again, and this is the problem, you know. If you want to put something together that's going to make the people happy, we can do it, and they'll be real happy and they'll read it and say, gee, that's great, and then it'll go down the tubes in the court.

UNIDENTIFIED SPEAKER: No, that wasn't quite what I was saying, I don't think. Let's take a hypothetical situation. Okay. The statute is set up, it's impeccable, it can't be faulted, it meets whatever charges may be made against it.

MR. ADASIAK: That's what we're after.

UNIDENTIFIED SPEAKER: Right. Okay. The commission set up--established by this statute proceeds to view the fishery and says, oh, we've got too many people here. We've got to cut this down. Alright, in doing this it reduces the fishery with complete impartiality. Okay, some people say, not so, you cut out ten non-residents, you've

cut out nine residents. You made a ten percent gain somewhere along the line.

UNIDENTIFIED SPEAKER II: I want to know how they came to that. Did they do it by law.

UNIDENTIFIED SPEAKER III: What kind of criteria are you applying?

UNIDENTIFIED SPEAKER I: Well, the criteria that are in the bill. The criteria themselves are impeccable, but somehow or other the commission applies them in such a way...

PROFESSOR FLETCHER: If you indeed can show in your commission that they did take this into account, applied them, and shall I say, just happened to come with a balance favorable to the residents, I suppose it's not challengable. Now, there has been some cases emanating primarily from the South in racial discrimination problems where, despite the application of decent standards, the fact is that no Negro has ever done whatever it is, served on the jury or some other thing, and pretty soon the fact begins to predominate over what they say they've been doing, and you don't believe them, but takes in a pattern, you see, before you can establish that as something that you can infer as a factual matter. Now, I would suppose if this persists for very long that you're going to get an effective challenge by the Seattle-based fishermen. He's going to say, okay, you're telling me you're applying these standards and they're great patterns, but I don't believe you and here's proof.

MR. ADASIAK:Maybe we could switch the focus to something I discussed with Senator Palmer and he encouraged me to pursue, that is that you said, you felt that the features of the various drafts addressing themselves to transition were fairly well developed, but that the

long range aspects were not. Could you expand a little bit more on what you think legitimate long range objectives of the State would be so that we might crank in a few fact situations and see how they'd work, so that maybe this afternoon when the Committee gets back there will be a little something that helps to fill in what you've identified as a whole in the bill so that they can see a few of the options that might be there.

PROFESSOR FLETCHER: Well, it seems to me that you've got, at least as I see it, three fairly well identifiable, and I've already mentioned these, but I repeat them. Three fairly well identifiable legitimate kind of basic objectives that you can be concerned about. Two of them are perfectly obvious, and that is to say you can be concerned about what loosely comes under the heading of conservation of the fishery. That is that the better existence, or at least conservation, of the fishery, the utilization of it, the physical-biological type thing, this has lots of subheads in terms of escapement, and I don't know, all manner of things. In addition to that you can look at and promote, take reasonable steps to get to, better methods simply to catch what's there to be caught. So, anything that promotes better gear or better detection of where the fish are, I don't know, anything of that nature's fine. The third one is the most important one because it seems to me to have most of the ramifications that pertains politically and different ways upon the people. That is, that as a legitimate concern of the State you can say, well, we've got certain basic products of this State, particularly producing states that have resources, as to which we can take steps to make sure that we have an economically healthy production system with respect to that. You've got a resource

that in this case is renewable. It's one that at the moment may be in...

(End of tape)

(Tape II - CSSB Work Session - 2/22/73)

PROFESSOR FLETCHER: ...product. I draw particularly on a very interesting Washington case that I discuss in this phamphlet here concerning apples here. Washington really was pretty rough on the people that grew red apples. They made them call certain apples culls that there was nothing wrong with them at all, but the reason it did so was that apparently what persuades the eastern purchaser to buy apples, particularly red apples, is how red they are, whereas if it's a yellow apple the color is not so important, so the yellow apple producers in Washington were permitted still to have certain apples grade B that they put in boxes. The red man had to take his second grade and call them culls, and put them in cardboard containers, or some darn thing. Anyway, the red man was suffering. The court said that's alright, not because you're promoting the health of the Washington people in any way, except economically, but this is just a better maintenance of a Washington industry. You're doing better in the foreign market, and I'm sure that Alaska could do the same with its fishery. It can shape it in such a way that it's putting out a good product, a competitive product, and so on. Now, I don't--I can't go any farther with my list. In the long run you've got to be furthering one of those. Maybe there's something I haven't thought about.

MR. ADASIAK: You mentioned also, I believe, although I'm not sure whether it was in connection with this list of basics or not, something about the safety of the fishery.

PROFESSOR FLETCHER: Yes, although I kind of put that into my secondary category. It's a kind of an incidental, that if you're going to have people out there fishing, obviously you can take steps to make sure that they do so as a manner safe to themselves, and of people who might be out there along side of them. So, surely. Now, notice that what flows really from many of these basic considerations is that you can take steps to promote the economic wellbeing of the participant, because if you do he's better able to do a lot of these things, and I mentioned the milk industry as the prime example of that, where you're not really so much concerned about the dairy farmer and how much money he makes per se, although maybe some legislators have dairy farmer constitutents. The legitimate government position is that we want a healthful product. Now here you've got a lot of things which will be promoted by somebody who can afford to do this. You can promote better gear by somebody who's got the capacity to buy better gear, and so on, or to experiment, buy a new wench, or whatever it might be. So, you can take steps to see to it that your fishermen make a lot more money than they make. You can do that by a lot of things. You can make them--if economically you think it's going to work, you can make them independent of the processor. I don't know how you can undo it, but let's suppose that you don't make them so much beholden there, because they'll do better if they've got a better bargaining position in terms of how much they're going to get for their fish, so you can set it up on--well, for example, you could set up a governmental bargaining system that said, the way we're going to decide how much the processors pay for fish is that we're going to have it governmentally prescribed. That wouldn't be

so (indisc.), politically we got there, but you could support something like that, or you could take other steps that were aimed at that. You could say that no cannery shall finance any fishermen. You may not get any fishermen to fish if you don't, but anyway, you could do something like this in terms of the basic law that's evolved.

MR. ADASIAK: That's all right?

PROFESSOR FLETCHER: Sure.

MR. ADASIAK: You've got to give the cannery grandfather rights for the debt that's gotten out, so that he can collect them?

PROFESSOR FLETCHER: I suppose you would, yeah. But in the long run I think you could take, I think, almost any reasonable step to say that this particular group of persons, because we want them economically healthy, is to have some protection or assistance in arriving at what their product is. I'm not proposing that you set up a commission that sets the price of fish, but I don't have any worry but that if you did it would constitutionally stand up.

MR. ADASIAK: Uh-huh.

UNIDENTIFIED SPEAKER: Professor, could I interrupt you. We have to leave and I'm very glad to have met you.

PROFESSOR FLETCHER: Well, I'm please to have met you. Hope it's doing some good.

UNIDENTIFIED SPEAKER: Maybe it could go up (indisc.).

PROFESSOR FLETCHER: Fine. Do that.

MODERATOR: Professor, I had two questions that I wanted to go over with you, and I'm mainly requesting an opinion from. I don't know whether you've really had time to really look it over or not, but on the transferability have you arrived within your own mind an opinion

as to which is the better way to go, free transferability or non-transferability, assuming that by either method you would legitimately further legislative objectives?

PROFESSOR FLETCHER: The short answer to your question is no. I wish I could have more confidence...

MODERATOR: I guess what I'm asking you is what in your opinion would be the most workable...

PROFESSOR FLETCHER: I don't know. I wish I could decide even that one. Liquor licenses, you know, have--I think this is fairly typical, Washington is certainly this way, have presumably no value per se, there not transferable, but you almost inevitably get into difficulty if you kind of defy economics, because the fact is that a person who has a liquor license to conduct a tavern does have something of value, and what's finally worked out, and it really didn't take all that long to work out, the person who wants to sell a tavern makes his deal, a broker and (indisc.) somewhere, like selling out you get an earnest money contract and so on, but it's all wrapped up in this proposition that, okay, now you the purchaser, you apply for a license for you, and there they actually transfer the licenses, not a new license in a sense, it's a transfer of the old license. And mind you, you've got to qualify so the liquor board will assume in good faith and comes out and decides whether the purchaser is worthy, but there are all kinds of actions held up on an escrow basis held up until the transfer's approved, and the dollars that are involved are reflective of the fact that that transfer's going to be approved. He may sell the fixtures, and he'll have another grand statement item under goodwill, but the relation of the value of the physical assets to what's the goodwill is all out of proportion

except as includes the idea that the new guy is going to get a liquor license, so you could come up with something which says the same thing about your fisheries' licenses and it would, in a sense, not mean anything. Now, whether you could obviate that by not allowing that type transaction, but simply tell the fisherman who wants to get out that his only option is to turn in his license, and then we in our good judgment and this great big pool of people over here, and we're not going to tell you who, we will pick out somebody who gets it and would hand it to him if he pays his modest fee for it. I just don't know whether that would work or not. I'm a little skeptical as to how you'd make that operate. If you could, maybe you would avoid this idea that this license has got all it's got. In a sense, whenever you go against a kind of reality situation, somebody's going to work out some way to approximate what's really at stake. I just wouldn't have any confidence in your capacity to say that they're not transferable, that's all.

MODERATOR: Well, this gets it right back to reality really quick, because we have some real fears on the part of the people who might be counted in at this time. They want to be sure that they can transfer this thing to the members of their own family who follow after them. Now, I think we're going to have to deal with this, because the bill is certainly not going to be approved, approved of, by the constituency if there's--if this thing were to return to the commission and be up for grabs by this vast conglomery system or something of that nature. They are not going to buy a lotter system.

PROFESSOR FLETCHER: Well, if that's political reality, then I suppose you'd better tackle the question as to whether you're going to permit that kind of transfer and not others, and as to that I've

got a fairly quick and fairly confident reaction that it's no. I don't think you can set up a system where it says that it's transferable but only to your son, or only to your grandchild, or something like that. As sure as shootin' as soon as you get that there's going to be somebody who comes in and says I want to transfer it to my brother. He's not on that permissible list and he's been a good a fisherman and, boy, you're in trouble.

UNIDENTIFIED SPEAKER: Have you discussed the 90 percent tax?

MODERATOR: No, we haven't got into the specifics. That what I was about to mention, under either system maybe we're losing sight of how it's actually going to reduce gear. In other words, how it's going to actually reduce the fishery, the entrants, the numbers of people that fish. If it's not transferable, the guy will just hold it until he dies. If it is, it will continue to be passed on. How is attrition to take place? One of the ideas that's been banted about is a tax scheme whereby there would be 90 percent tax on sales--on transfers to--with some other person, and setting a lesser tax on transfer to the commission, but...

MR. DANIELS: ...75 percent tax on transfer to the commission. Is that--someone just pointed out that might be called a confiscatory tax, I don't know. Is it, or would have any reservations at that level?

PROFESSOR FLETCHER: Well, the label suggests that besides it's confiscatory, you can't do it, so the real question is, can you.

UNIDENTIFIED SPEAKER: Could I ask a question. Could this be related to land, like the Homestead Act or is there some precedent for limiting the amount of acreage a person can own, like then you couldn't collect an over-abundance of licenses. You're talking about encumbering being a big problem. If a person could only own so

much, couldn't he only encumber so much as well?

PROFESSOR FLETCHER: Well, we succeed in restricting what people can do with respect to things they own, and we restrict them in very many ways, some of which are very severe. I earlier said I had some worries about saying to a person, you can't mortgage, you pledge, it can't be reached by execution, and so on, and yet, you can sell. I would suppose that probably that sort of restriction would hold up as against constitutional challenge simply because I don't see any basis on which the challenge would be successful except as a deprivation of due process and property without process, and it seems to me that we've got enough precedents that tolerates all manner of interference with ownership of property, that you can probably get by with that. That that would be alright, to restrict this person, and my concerns here would be more practical ones on which I'm no more qualified to speak, and perhaps less than the rest of you, and I don't know how it works. Maybe it would be that you'd get where you wanted to by this sort of thing. Here on the proposition of taxing, generally speaking, you can tax anything you want. Restrictions come from your State commerce clause which I don't see as being a major difficulty here. They come from the protection, but we don't know if we're going to be treating everybody equally on that. In a way all you're saying is that you put this much of a tax on this transfer, you're really saying that we'll allow you to collect only ten percent of what somebody's willing to pay a new license. We'll give ten percent to you and 90 percent to the State. I suppose that would be defensible in constitutional terms, but after all, the State has a great interest in this, and a great investment, and could charge

for these permits.

MODERATOR: What we're trying to get around there is Senator Radar's objections to this windfall to the first generation, and rather than have the windfall to the first generation of fishermen, have it revert to the State in the form of taxes.

PROFESSOR FLETCHER: I think that's all right. Suppose you said, for example, that don't put it in the form of tax at all. You've simply said to a person who's a license holder that any time you want to get out we will pay you ten percent of the fair market value of what you've got, and then you told the person who wants to get in, it's going to cost you a hundred percent of the fair market value to get in, so you just give us the money and we'll turn around and give ten percent of it to this fellow who's coming in. Now, you've worded it differently, because you're going to let the ten percent go directly, but I think you'd rationalize it this other way.

MODERATOR: Would it be advantageous to word it as you have stated it?

PROFESSOR FLETCHER: I think it would, but I don't know what... It's a kind of a spur-of-the-moment reaction, I think I would, yeah.

MODERATOR: Your response there put it in this probably much more acceptable language.

PROFESSOR FLETCHER: I don't really worry about the fact that the State might decide to charge people for these licenses. I think that would be all right, and if it can start from that premise, and thereby get to justifying this kind of a thing going.

MR. DANIELS: How do you determine who is eligible, and this is free transferable again, now, or does the State have anything to say?

PROFESSOR FLETCHER: Well, I think the State can take a wide range of

possibilities here, assuming you've got a limited number, you could take the position that you don't care. Anybody could them, first come, first served, or any person who wants to buy it from anybody else, that's fine. Your only questions that start creeping is when you start--when the State starts to say, well, no, only certain types of people, certain types of operators, and then you have to look at it in terms of, well, what are you legitimately trying to promote, and here then, you come back to this long range objectives that I talked about. As long as they're reasonably calculated to promote those objectives, fine, and I would exclude something that I think is presently in the minds of some of the drafts here. I would exclude whether the applicant is, or will be, or has been, economically dependent solely upon fishing. It seems to me that that's a pretty hard one to defend, so just because a crewmember, or something somebody called a second son, comes in and says, I want a license, and the reason I'm entitled to do it is that I don't have anything else to do in life, I don't think you can give it to him on that basis and exclude another guy who's just a good a fisherman as he is.

MODERATOR: You're talking here, now, just on the long run and not the...

PROFESSOR FLETCHER: This is the long run. I'm not talking about the transition.

MODERATOR: What's wrong with the idea that we're creating a property right, and the ones in a will are inherited or given...

PROFESSOR FLECTCHER: I don't think there's anything wrong with that as long as the same capacity is given with respect to intervivalist (sp) transfers, and in terms of whether the person to whom it's given has to meet the same standards as any person to whom it might be

otherwise transferred. In other words, incident to property, of course, unless restricted for some other reason you could say, sure, you could give it to your child by will and we'll be happy to have him have it if he has to meet at least as stringent requirement as anybody else, but you can't say that you're entitled to have it just because you're the son.

MR. DANIELS: I was wondering on the tax, the 90 percent, 75 percent tax idea, or as you put it, without using the term tax, what if somebody really wanted a license bad and they wanted to stimulate someone to sell their license and offered him money under the table? Is this something that's likely to occur under those conditions? Is there any way to avoid it?

MODERATOR: Well, Phil, we all know that it is likely that it will occur, and that's almost--that's getting down on the detail at this point.

PROFESSOR FLETCHER: It seems to me that this type of consideration points toward the desireability of a transferability system unless you're going to be willing to go completely the other way which says that the person who wants to in effect buy out a particular fisherman over here to tell him, look, you haven't got any more chance than a hundred other guys. Your name goes into the pool and we're going to draw them blindfolded, and if you happen to come up with it, fine. If you're willing to go that far, then you can avoid this type thing, but if you--I don't--it seems to me as a practical matter, if you fall very much short of that, you're going to get the under-the-table type thing, or the in effect fair market value attacked as between two individuals transacting business, and if you're going to do that I think you might as well let it be out in the open on some sort of a free transferability basis. Now, you might route it

through the commission so that the dollars come into the commission, and the commission gets a cut, because there is, in a sense, a State interest also, a dollar value involved.

MODERATOR: The biggest value of transferability is with free transfer, any form of free transfer, where these things do have a value, is-- it's been the Committee's concern, and their major concern, and primarily Bristol Bay, as an example, to try to balance some amount of paternalism on the State with free enterprise on the other end of the scale, and to try to protect these people that are really most dependent on the fishery from economic coersion, either directly from the industry, or from other individuals in terms of, oh, it's a long, cold winter, and this piece of paper is ready cash, and perhaps the person that has it doesn't fully understand that when he sells that he sells his right to the fishery. This has been the major problem, how to adequately, legally protect these people and still stay within the framework of a legitimate legilative objective.

PROFESSOR FLETCHER: I think there's some mechanical thing that you could do that would tend to protect, and that they can't sell it the way he'd sell a sack of potatoes, he's going to have to route it through the commission, you've got to get the new man to be approved, and your waiting period, and various other things that you could put upon the machinery side.

MODERATOR. Right. But if on the other hand, and it's something that hadn't even entered my mind and it hasn't really entered the Committee's mind until just the other day, is the fact that even though there's this waiting period there can still be a contract signed and the money can be presented right now, and he has sold his right, he does have instant money. And this is why--I know

Senator Palmer was, you know, asking the question because this is such a major problem at this point if we can essentially have a moratorium period on transfer...

MR. ADASIAK: That's the question I was just going to ask, is whether, as a transitional measure, it would be possible to, let's say not illuminate transferability, but restrict it to hardship cases and allow the commission sort of extra authority during the transitional period, the practical consequence of which would be that it might give you a year or two to allow the people who, because of their culture, aren't quite acquainted with the new value of what they have time to get a little bit of a sense of what it is. Is that justifiable as a transitional device?

PROFESSOR FLETCHER: I don't remember the man's name who just sat here just a moment ago. He's just left, but anyway, he asked me, I think, essentially the same question when he was talking about whether you could freeze, and I said as a interim device, but I would make that interim pretty short. In other words, have it made purposely apparent that you were doing this incident to getting your total operative system set up and going it might be necessary to hold, and say you can't get out of the situation, we're not going to let anyone in, and so on, but I'd make that as short as possible, but it seems to me that if you have that in the context of a spelled out plan for operation procedure, fine. Now...

MODERATOR: In other words, saying that this shall be the procedure for transfer, except that there will be a two-year moratorium on this because, of whatever period, because of the other administrative duties required of this commission.

PROFESSOR FLETCHER: That's right. Sure, and that by the next session

of the Legislature, the commission is to come in with proposals. I'd put that right in the statute that they're to come in with proposals for detailed regulation concerning--detailed specifications concerning transferability, or something like that. I'd pin it down as much as I could and still leave myself room enough if you felt that you had to have it to develop something you haven't really decided on yet.

MODERATOR: Right.

MR. DANIELS: By way of conceptually outlining what that would be, you would have the general outline of how you were going to handle transferability, because you're leaving a really practical detail out.

PROFESSOR FLETCHER: I think that's right. I think that--I think it would be an excellent thing to do to decide right now whether you're going to permit transferability. I think you ought to resolve that one. I wouldn't leave that up in the air, because if you leave it in the air then you're asking for trouble at the end of saying, you know, you're just protecting the people who are right there now, and everything else.

MODERATOR: How much latitude does the court give in this good faith area?

PROFESSOR FLETCHER: Well, you look over quite a range of decisions as to the context in which it comes out. The hazard here is very similar to the hazard that shows up in the way where the state's interested in some sort of protecting the local merchants type thing, where the argument is that it's an interference with interstate commerce to have this type of regulation, because all it's really done is favoring the local guy. The court's attitude has been in most of those to be fairly willing to assume good faith, that the

bad faith ingredients have to show through fairly strong like. If you can come up with some fairly rational like explanation that's on the legitimacy side, this has to (indisc.) for this reason, that your chance of success is pretty good. On the other hand, the moment you say that you have to realize there are going to be some cases, and I can point to three or four where the court has say, no, it's just perfectly apparent that you are protecting the local butcher, or the local whatever he was.

MODERATOR: Alright, well, it this case we're protecting a class.

PROFESSOR FLETCHER: A local...

MODERATOR: Not a local.

PROFESSOR FLETCHER: Not a local, but a presently existing class. Your problem is not localism here. Here it's classifications of persons that was causing the problem.

MODERATOR: Right.

UNIDENTIFIED SPEAKER: In this connection, I gather that you do feel that it would be wise to strengthen the whereas section, and develop a case to some extent as to the reasons why this legislation is being proposed.

PROFESSOR FLETCHER: I'm not sure that the statute itself will be helped to recite these things. It might be. The really critical thing is what the statute provides. In other words, what in fact is going to be the operative effect. What have you said as to transferability? And what have you said as to as to who's to be qualified? To be a new entrant, and so, or to be an eligible transferee. Those all point toward legitimacy, towards furthering what I listed here as three legitimate objects. Then you're in pretty good shape, and the fact that you had to have an interim period, it's all right.

If you don't spell them out and you leave--and the more and more discretion you leave to the commission without telling them on the basis they're to operate, the more you encourage the challenge that you're really doing the bad thing. You're protecting this local class of people or this presently existing class of people, so I would make sure of my detail, and I would be tempted to put in a fair amount of detail in my statute on that point. Recital business, I'm not sure that you help yourself. Maybe you do, maybe you don't. I think you should have your record made and have it available, and now, I take it your Legislature doesn't have official committee reports. You don't make a record, a legislative record.

MODERATOR: No, they do not now.

PROFESSOR FLETCHER: Then the sort of thing you've got to have is what's in this black covered--the Governor's report type thing. You've got to have a letter from so and so to so and so, something of this nature which comes through to say that you've considered this, and these were the factors that were important.

MODERATOR: Right. This can be done. It's quite common to have a legislative letter of intent that covers...

PROFESSOR FLETCHER: Whatever your mechanism is, that I think is just as good as a recital in the statute itself, but I don't feel strongly about it one way or another.

MR. ADASIAK: You indicated earlier that, if I interpreted your remarks correctly, that you felt some sort of compensation feature was essential to this bill. I don't know whether I'm restating that too strongly or not.

PROFESSOR FLETCHER: I'm kind of two minds about it. There's no question

but that compensation to the person who has to give up would be extremely helpful. It will avoid the argument of deprivation of property without due process. If you did not have that, I would still be willing to take the case from the government's side, that is to say that you can make a pretty plausible argument that says, no, this is just like a lot of other things the government where you just happen to lose, and of course, we do. We lose every day. They changing the zoning where I live and I can't certain things and I've lost. I don't get any compensation for that. This in a sense, too, may have some necessity or need about it look at how much you're talking about, how well are you going to compensate the person. If you give him, let's say, the value of his boat, and you value it as a boat without a fishing license attached to it without an entry permit, that probably isn't a heck of a lot of money, but that may get by, but gee, if you give him the equivalent of what the value is that you give to the fellow who gets an entry permit, then I don't have any question at all. You're clear sailing. Nobody's going to be able to challenge that one at all.

UNIDENTIFIED SPEAKER: Well, Professor, this brings up a very, very real problem and that is the money angle, where this money's going to come from. It's either got to be appropriated over there, or over a period of time those who receive this permit ante up to the kitty through some tact, and enable this buy-back, and if this is the case, then the amount of decline that the commission is going to be able to put into practice is going to be very, very slight, and it's going to create an interim period of many years, instead of this desirable interim period that you spoke of being rather short.

PROFESSOR FLETCHER: Right. I don't know that the concern for the interim period's being short is not met. I've got too many negatives. It seems to me, the problem with the interim period, and my feeling that it ought to short, is that it is those characterics of the interim period in which you say to the person he cannot tranfer or that nobody else can get in, or that we aren't start issuing new permits until three years from now. That's bad because it looks as if you're simply protecting the person who's presently fishing and saying nobody else gets in, but if you obviate those and provide for free transferability fairly soon, and set your mechanism for getting the new people determined as to who they're going to be, and so on, so that you can get to the long range system fairly quickly, then I think you've gotten around the trouble. Now, in fact, it may turn out that you don't get very many new applicants because you can't--or you won't get enough money from the Legislature to buy them out, to buy out the old. It seems to me that's a--unless, and I doubt that you could do it, unless you could label that as a part of a concerted effort on the part of the Legislature to do what they're not supposed to do, that is, a deliberate effort to keep the number of fishermen the same, and keep the exact people fishing and nobody else, then that it's all right. In other words, if the Legislature does the best it can and spares $200,000 every year to do this instead of six million or whatever it might do if you really wanted to get your ultimate objectives immediately, then I think you're all right. In other words, reasonable efforts toward getting there, even though they might have to be slow in the first place, they'll probably get high.

UNIDENTIFIED SPEAKER: Especially with the pipeline situation being what

it is.

PROFESSOR FLETCHER: Yeah.

UNIDENTIFIED SPEAKER: No, it just isn't realistic to expect much money right now.

PROFESSOR FLETCHER: Yeah, I suppose that...

MR. ADASIAK: Rather than apply the standards that were set up in the Governor's bill of past participation and economic dependence, and present ability and attempt to fish, if, in establishing your threshhold level for all of the people who got entry permits...

PROFESSOR FLETCHER: Now, we're talking about the long run.

MR. ADASIAK: We're talking, no. Right away.

PROFESSOR FLETCHER: Oh, the immediate. Alright.

MR. ADASIAK: If you were to take the approach that we are going to identify a class of people, all of whom will get entry permits, and then some of whom will be bought out down to your optimum level, what becomes--well, certain things are unworkable, I think, from a practical standpoint. For instance, if you were to take anyone who has fished two out of the last ten years. That becomes unworkable because, I think, you end up with something like 28,000 people, and your optimum level--well, your actual level of gear licenses right now is about 9,000, and so just to get down to where you are, you've got a long trip. The financial burdens are ridiculous. How close can you go toward the other end of that. The Canadians, in their plan, simply said, anyone who's fished in the last two years, and, or rather anyone who has fished in the two years, has a boat under construction, or can demonstrate special hardship circumstances. And those were their standards.

MODERATOR: Well, they had a standard you had to have landed so many

dollar value--or so much dollar value worth of fish, also.

MR. ADASIAK: Yeah, you had to have landed a certain amount of fish...

PROFESSOR FLETCHER: As a measure of whether they'd been fishing.

MR. ADASIAK: Yeah, you had to have landed fish in the last two years. They started out saying just salmon, but they had to get away from that, and they included halibut as well, but at any rate, as the Canadians also put in their whole limited entry program by fiat. They have sentences in law, which tells the Minister of Environment, do it.

PROFESSOR FLETCHER: They can get away with a lot of things we can't.

MR. ADASIAK: And, so, what I'm--my question is, could the Legislature establish an initial level, a threshhold level of participation from which a buy-back program would operate by taking a standard of, say, participation in the last two years, plus hardship and boats under construction.

PROFESSOR FLETCHER: Sure they could. I wouldn't be concerned about it.

MR. ADASIAK: But then, you know, it's--then you just get a practical question of how you're going to fund your buy-back program and get down to where you are.

PROFESSOR FLETCHER: Yeah, I think so. It doesn't--on the basic proposition which on this limited entry and the necessary concompetents of it, I don't really have concern. It's how you do it that's the problem, and it seems to me that if your proposition is that we have to get to a certain, and we have to get there within a certain time, and the statistical base tells us that the only way we're going to do that is to say that only those who meet these standards of past performance are entitled to the compensation as in terms of being bought out, that that's all right. Your only kind of

power limit is that I think an outer one, that eventually I suppose you run into this somewhat disappearing--if this had come up 70 years ago you'd have had a different problem--disappearing idea that government can't touch whatever it is that the fellow's doing because he has a kind of constitutional God given right to do it, and you have to pay him so many dollars if you tell him he can't. We don't take that position constitutionally speaking any more, and even when he's got property that's involved, it has to be a pretty aggressive, agreigous (sp), sudden total taking of property before you say that there has to be compensation, so I think any reasonable effort of made that somehow fairly measures a substantial degree of participation, as that type of system does, seems to me the (indisc.).

MR. ADASIAK: The Canadians also divided in their boats that they left in, they divided them into two categories, landings over 10,000 pounds and under 10,000 pounds. Those under 10,000 pounds they gave what they call a B license. A B license is good for ten years after which you're just out of the commercial fishery completely, and those boats are not eligible for buy-back, it's only the A license boats with the bigger landings that could be bought out. The others are just given a definite life span.

PROFESSOR FLETCHER: The Canadian system had a two-stage buy-back in the initial inception of the program, did they right then buy back any?

MR. ADASIAK: No, they took them--they classified A and B licenses, but they didn't really get around to buy-back for about two years.

PROFESSOR FLETCHER: Until they had a source of funding that was coming from licensing, or something of that sort?

MR. ADASIAK: Yeah, they set up a licensing fee schedule and used that as a source of funding for their buy-back, but is there any problem if, instead of compensation for some of the vessels in this class? I mean, we might--we run into a numbers problem after a while, depending on whether you to the last two years, the last three out of five, or whatever it is, is there any problem in defining a category for which no monetary compensation would be provided, but for which a fixed span of additional participation in the fishery is allowed. Is that a legitimate thing to do?

PROFESSOR FLETCHER: Seems to me that's the height of reasonableness.

MR. ADASIAK: So that we wouldn't have any problem there. The question is how you define that class of boats.

PROFESSOR FLETCHER: The concerns that you...

MR. ADASIAK: Or class of participants, rather, in this case.

PROFESSOR FLETCHER: That's right, the concerns you have, I think, are not in terms of sort of the total necessity of getting your total numbers down. I think you can deal with that with a fairly large amount of discretion, but with--in terms of different classes of people, I would--it gets a little sticky and hazardous to say that, well, the poor people are entitled to more, or the rich ones are entitled to more, or the Scandinavians are entitled--something of that sort. You get into problems of that nature, and if you can steer clear of them, then I don't see that there are any problems.

UNIDENTIFIED SPEAKER: Can I say here that apparently we could do legally what we cannot do socially.

PROFESSOR FLETCHER: This is very frequently the case. Constitutional law in economic matters is just generally speaking very tolerant. There's been a lot of judgment on these things. It when you get

personal that you get into trouble with the constitution.

MR. ADASIAK: I'm not proposing that we do any of these things. I'm just exploring different alternative possibilities which I'm sure this Committee and other committees might want to consider so that we get the benefit of some of your thought on it. Am I correct in my assumption that if the State were to follow the system of only those people who fished the last two years, et cetera, get in that it does that to the exclusion of the other set of standards of economic dependence, past participation, et cetera?

PROFESSOR FLETCHER: You say, would it be permissible...?

MR. ADASIAK: The one operates, but the other doesn't, is that... My assumption is that you'd have to make a basic choice and if you chose the last two years route, you could not use your other standards, whereas if you chose economic dependence, past participation, ready, willing and able, that gets you out of the last two years, or can those two be combined?

PROFESSOR FLETCHER: It seems to me they could combined so long as in the combining of them you make sure that you have not, in practical effect, some up with something that's in the depravitive zone of some sort of a personal preference, favoritism treatment, but I think that you could legitimately consider all of them. You see, what you've done in your first mechanism is really to come to some sort of way of evaluating present investment, and I think if you can look at present investment not just in terms of how valuable is the boat that's tied up at the wharf, but what he's been doing with it. If he hasn't used it for five years, I don't think that he thinks that's worth as much as a fishing boat. So, I'd pay the guy who's been fishing, pay him more because I'm compensating

for what he's presently got invested in that operating boat, then in addition, it's going to be harder on some than on other. The guy who's whole livelihood is derivitive from it, I think I'd be more willing to let him stay, and the first instance not. One of the purposes of grandfather clauses is to alleviate hardship, and as that varies among people, you can differentiate, so the guy who's got himself another job and can live without it, why, I don't worry so much about him, and legilatively tell him that he can't fish.

UNIDENTIFIED SPEAKER: You're allowing him the perogative of getting back in.

PROFESSOR FLETCHER: Oh, yes. Now, there's always the question of what your doing in terms of preserving status quo of taking care of the people who are not engaged.

MR. ADASIAK: Yeah, this just decides in the beginning who gets the chips.

UNIDENTIFIED SPEAKER: If I may. I may have missed something when I got the coffee, but you're saying that essentially, then, that we can determine initial entry criteria much as we have, based on economic dependence, past participation, this sort of thing.

PROFESSOR FLETCHER: And then crank in some sort of compensation specifically if you want in terms of what he's got invested.

(End of one side of tape)

(Committee members resume)

CHAIRMAN: Alright, yeah.

MR. ADASIAK: What he was exploring was the possibility--Tillion's proposal for buy-back ideally would be to establish a five-million-dollar, ten-million-dollar fund, which would work as a revolving

fund.

CHAIRMAN: Listen, don't let me screw up your conversation. I shouldn't have gotten into it.

UNIDENTIFED SPEAKER: No, this is where we were.

CHAIRMAN: Some son of a bitch that comes in after you're all through with it and puts you back where you started.

UNIDENTIFIED SPEAKER: We're just very glad you came back.

MR. ADASIAK: Tillion's proposal for buy-back would establish, say, a five-million-dollar fund and money from that fund would be used to buy people out of the fishery, and the people that remained with similar entry permits to the type that we've bought back would be assessed, what it cost to buy him out, and they would pay the money back into the fund, so the State would eventually lose no money. It would be just there to be handled around, and the general feeling that we've gotten is that the Legislature isn't going to set up five million dollars for that sort of purpose. There's just no chance the way things are financially, now, so Phil was exploring an alternative whereby through gear license fees, about a million dollars a year could be generated and that you could use that million to pay for debt service on about a twelve million dollar loan from a bank, and use the twelve million dollars to fund the buy-back program the same way, and I'm not sure but that looks like an end run, and somehow it won't work, but I'm quite clear why. This is generally where we were in the discussion.

UNIDENTIFIED SPEAKER: We have a prohibition against dedication of tax funds for a special purpose.

MR. DANIELS: Now, what if this weren't. I mean, is there any way if you have an assessment that a particular group of people, and in

case fishermen, were paying. It's an unusual tax in the sense that it hasn't been deemed necessary in the past. It's strictly for the purpose of buy-back. Is there any way that can be somewhere in the special fund.

SENATOR RADAR: Well, we have an exception. I was just going to say, in our--I'm not sure about this, but it kind of rings a bell, in our King Crab Association, I think that that association has the right to assess its members, and they use the funds themselves, and I think there is some State sanction to that assessment, sort of like a pact, they issue the proposal themselves, they use it themselves, but of course, it's very minimal compared to this, because all it's for, I think, is to put that fund into a little kitty to do some advertising on King crab or something, quality-- I don't really know whether that has a useable idea there or not, and I'm not sure that that's constitutional either. It's just it's been so minimal that nobody argued about it, that's about the size of it. That where we get into so much bad ideas here, they'll be doing this someplace else, well, I guess nobody's ever argued about it.

PROFESSOR FLETCHER: Do you get any problems here of, oh, the sort that comes up with our port districts, these blighted area problems, or solutions to blighted areas so-called where the government money is used to buy a land and then all they do is to improve it and sell it, or they will lease it to somebody else, the ports, for example. They'll spend a whole lot of money in setting up this beautiful land, and then they'll turn around and lease it to so and so company to put up a big building, and some people have argued that that's not legitimate use of state made, that we've made the

grade on it, of course, we've approved it, but there was always that concern that this was not strictly a government function to be doing these things. It seems to me, that perhaps is in the background of this whole that you're going to buy out the excess gear, but I just assume that it would not prove to be much of a hurdle, that you'd get past it. It seems to me it's a highly important government function to reduce the fishery, the amount of gear that's operating, and it's one way to do, and perhaps even a necessary way in terms of outer limits that you maybe have to pay something to these times, so it's legitimate.

SENATOR RADAR: Probably the easiest way would be to set up an additional tax on the fishery for some various ways that we think are equitable and just say, well, that's true, we're going to spend so much money but we think it'll--the proof is through the tax. It's not trying to make a direct transfer, you know, it would be in a separate fund, or...

PROFESSOR FLETCHER: The context in which this started out here was really that of how you might circumscribe or control or have money handled incident to transfer of licenses, that if you could anticipate the person who, let's assume a transferability capacity. A person who's about a license really would not be dealing solely with the immediate transferor, but would be dealing with the State. There's some problems with whether you could have under-the-table things in addition, but assuming that you could control that aspect of it, you could take part of the money, and part of it go to the transferor of the license, the previous holder, and then that part that comes in, I suppose, could be used for any purposes, and that incident to the total program, among which would certainly be the capacity to buy out other gear

that's presently out there operating if you want to cut down on it, but as I was pointing out, that may in the long run may be an operative system, but it doesn't put any money in the kitty right now, and you need kind of a start-up fund. At least in my thinking we'd arrived at where we were.

UNIDENTIFIED SPEAKER: You indicated that there are several areas of the bill that haven't--apparently haven't been discussed yet that you feel very queezy about.

PROFESSOR FLETCHER: There were a few points like that. Maybe I can look at them over the lunch hour. I don't think they were just terribly important, but there were a few places where I felt that something should be done. I did have the feeling that, oh, as I guess I've said, that we could do better, and ought to do more, with respect to some criteria for future holders of permits that are distinguished from who it is you decide to have it now. I think in both terms of selling out that you are going to permit new holders and basis on which ought to be better handled, and I would--as I said, the idea of who was a part-time fisherman, was something I'd gotten the wrong impression about and I would like to think about it a little bit longer in terms of whether that should be a criteria for who gets the license in the future. I'm having trouble seeing it, actually, as being rationally related to what I consider to be among the legitimate objectives (indisc.).

UNIDENTIFIED SPEAKER: This is something that I feel sure the Committee itself, when they come back this afternoon, would really appreciate hearing your remarks on.

PROFESSOR FLETCHER: It's going to be kind of spur-of-the-moment with us, because as I say, I had a misapprehension as to what a part-time

fisherman was.

UNIDENTIFIED SPEAKER: I don't mean necessarily that, but this business of the criteria for the long term.

PROFESSOR FLETCHER: Oh, yeah. Well, I've got some, I guess, fairly simple ideas on it. I think as long as they relate to what I conceive to be legitimate objectives that I've listed here, they're all right, but except as to them, I don't think they are unless you could come up with another objective I haven't thought about. So, ones that are aimed at economic well-being of the fishermen as such, I think we're all right. I think there's a manner of things that's (indisc.) that they've got a reasonable (indisc.). You can make them economically well of in terms of their bargaining power with the processor, for example. They could take steps that they're not beholden to them. I'm very, if I say it's upset it's the word, I don't know how you get around the cold, practical fact that apparently is the case in many instances that the cannery itself finances the fisherman, a kind of a grub stake operation. Is that pattern going to continue? Is that the fisherman's last destine to be wrapped up with him that way?

MR. ADASIAK: The canneries were protesting only yesterday to me that they really didn't want to be in this financing operation and would just as soon get out of it if they could, but that banks won't touch most fishermen, and as a result, this is what the industry said yesterday, anyway, they're borrowing money at eight and nine percent, and loaning it to the fishermen at six percent and less, sometimes down to zero...

PROFESSOR FLETCHER: And they get (indisc)by the fact they get the fish, and they get a contract from each fisherman, is that it?

MR. ADASIAK: Just a guarantee that they have enough fishermen to provide

them with the fish.

PROFESSOR FLETCHER: Have you ever tried to buy a fish from a man who's out fishing, as I have. You sidle up along side of him and say, would you sell me a fish. He kind of looks all around, okay.

(Laughter)

M R. ADASIAK: So there is a problem and part of the concern with free transferability is that the cannery may just tell us all, alright we'll buy your permit for you. We'll give you the money for that, but get a hold on him through his boat and a few other things.

UNIDENTIFIED SPEAKER: Yeah, the industry here has them pretty well tied up. If they don't own the boat they have a store account, and as part of the contract in the store account that boat is also there and it's...

PROFESSOR FLETCHER: Yeah, and if you don't break this I don't know what good it's going to do you to say that the license can't hypothecated, because you end up with the same practical result anyway.

SENATOR RADAR: Well, we've talked quite a lot about funding in the fisheries' loan fund. To try to make money more available in some of these areas, and that's to alleviate some of the problems, I suppose.

MR. DANIELS: I thought that was rather interesting. Didn't I understand you to say earlier that you could pass legislation banning the canneries from loaning money to fishermen?

PROFESSOR FLETCHER: I suppose you could. Whether practically you could and make it work, I don't know, but I think in terms of constitutionality you could say the economic plight of the fisherman as a whole, as an

industry, not because of the present people, but that their economic sense (indisc.) has to be added to.

MR. DANIELS: And didn't I also understand that you thought it might be possible to protect the fishermen by having a price control committee?

PROFESSOR FLETCHER: Sure.

UNIDENTIFIED SPEAKER: How can we do this when you're dealing with people from two different states, or three different states, you know, when somebody in Washington might loan somebody in Alaska money, or somebody in Washington money to fish in Alaska.

PROFESSOR FLETCHER: You mean how you could practically enforce this, or in terms of power, legislative power. I suppose the out-of-state lender does pose somewhat of a problem. Certainly if you had both an out-of-state lender and an out-of-state fisherman, you'd have some trouble. No, maybe you couldn't. Locally I think you can bring it within the reach of constitutional power, your problem is geographic.

UNIDENTIFIED SPEAKER: Would that be, then, hurting your local fishermen?

PROFESSOR FLETCHER: It probably would.

MR. ADASIAK: I have a somewhat related question, and I'm sorry but I have to leave. I've got another appointment. Some of us have been kicking around the idea of, in places like Bristol Bay, setting up fish brokers. Right now your fisherman deals directly with the canneries and there's no real price competition among the canneries. There competition among the canneries for the fishermen, but the fish all end up being the same price, or almost the same price, and we thought if there were a brokerage so that the fisherman sold to the broker and the broker to the different canneries, that

that would open that up and produce a better price for the fish. A couple of people from the industry yesterday, when I tried that on them, Jay Gage in particular, said that that would be a violation of anti-trust.

PROFESSOR FLETCHER: I'm not qualified to say whether it is or not. I don't know.

MR. ADASIAK: I was just wondering, because it seems to me that if you set up a broker, or if necessary, more than one broker to function on the bay, and run the tenders and collect the fish and do the same thing in other areas, that that might be one of the things that sort of loosens the economic bonds that presently exist between the fishermen and the canneries. I wondered whether you saw any legal problem with that sort of operation.

PROFESSOR FLETCHER: Anti-trust is something that I know almost nothing about, and I can't tell you what the laws would say as to that. I'd have kind of a gut reaction to it, but that's all.

UNIDENTIFIED SPEAKER: According to a marketing study that's been and the feeling, at least of Alaska Legal Services, apparently they're not going to remain viable for very much longer with the present O.E.O. cut, but if they do apparently they feel that there are grounds, even at this point, and they're not through with their investigation for anti-trust action against the canneries, so they're not in any position to cast stones, I don't think. They're terrifically, vertically integrated.

MR. ADASIAK: Also on the other side of that is a few opinions which indicated that there was still substantial competition between the companies.

UNIDENTIFIED SPEAKER: Well, that depends on what constitutes a company.

MR. ADASIAK: Which saved them from that particular problem, so I guess it can still be researched a little more.

UNIDENTIFIED SPEAKER: Allen, we'll see you later.

CHAIRMAN: One of our--maybe we haven't discussed this, I don't know, but as you know from reading the cases of the government of Alaska, that it would have no hesitancy at all to try to cut out the outside fishermen, and that's (indisc.) a little bit because we have Bristol Bay as example. We have people from Anchorage now who are really as offensive to Bristol Bay as even you guys are to Seattle, almost, you know, not quite because we finally come together in the Legislature. The Seattle fellows still don't have any reputation here, but--so you know, you can pick on Seattle with relative punity, of course.

UNIDENTIFIED SPEAKER: Even worse than Seattle is San Francisco.

UNIDENTIFIED SPEAKER: That really hurts.

CHAIRMAN: You know, we really--of course, all you have to do to develop that sort of prejudice in favor of these is to go over there and look at the absolutely deplorable straits that those people live in, and we all, when we get through talking, feel the resource has been theirs and their way of life, you know, and it isn't three or four generations ago. It's not like the Indians trying to take back over Alcatraz, for Christ's sakes, and it's still right there, you know. And it's still right there, you know. You have a lot of people that really English is a second language, and where you'll have complete communities where the average adult education is the third grade, and I'm talking about a Bush third grade which is likely to be barely first grade level, you know. You're talking about people who are not readily mobile, and yet they have all the needs of a cash economy, and all the desires for health and welfare and

palatable foods, and warm clothing, and not the subsistence way of life, you know, because it's a hard life and you die at the age of 33, and the third child or something, you know. I mean, it just-- and we have that group of people there which on top of everything else we get into this free transferability, we think that if by tests of interest, or certainly ability to handle the fishery, or a lot of things, they're not going to meet the test as well as their competitors.

PROFESSOR FLETCHER: That's right, and some guy coming up here with a brand new boat, and a lot of stuff, he's...

CHAIRMAN: Under any kind of a rational and fairly administered test the very people that we care the most about are going to be cut out of it almost as a certainty.

PROFESSOR FLETCHER: I was talking during your absense on a kind of philosophic level on this point that our constitutional law is, in a sense I think, behind the times a little, because we have... I'm going to take this opportunity if you'll tell me where the men's room is.

CHAIRMAN: Right behind you.

PROFESSOR FLETCHER: Oh, right behind me.

CHAIRMAN: ou open the door.

UNIDENTIFIED SPEAKER: Are we back to the point of admitting that we're talking about salmon.

(indisc.--simultaneous speech)

UNIDENTIFIED SPEAKER: When I was here last time you guys were talking about fishery resources and in planning them, and (indisc.).

UNIDENTIFIED SPEAKER II: What it boils down to, you know, it's up to the commission to designate those species, there concern about it.

UNIDENTIFIED SPEAKER I: All the criteria that we're talking about and all the figures that we're talking about, everything relates specifically to salmon.

UNIDENTIFIED SPEAKER II: Right, but you know as well as I do that there's going to be a legislative letter of intent that salmon will be designated first, and salmon will have the highest priority, and therefore, you're talking probably at least years just for the commission to implement a program for salmon, much less anything else, a workable program.

UNIDENTIFIED SPEAKER I: I'm just wondering if it wouldn't be easier to make the bill work for salmon if we designate it for salmon.

(Indisc.--simultaneous speech)

CHAIRMAN: One of the problems is that if you make it only for salmon, there's going to be a lot of...

UNIDENTIFIED SPEAKER I: But this is the big problem. The salmon is the biggest problem, isn't it?

CHAIRMAN: Right.

UNIDENTIFIED SPEAKER I: It just seems to me that this would be a lot easier to work with if we were talking--if we knew we were talking about salmon.

UNIDENTIFIED SPEAKER II: We do. We are.

UNIDENTIFIED SPEAKER I: (Indisc.) right on the sidelines.

UNIDENTIFIED SPEAKER II Yeah, we're talking about salmon even though it doesn't say salmon. Evidently, we can't do this without (indisc.).

UNIDENTIFIED SPEAKER I: Well, there's going to be some (indisc.) on the people who are going to want, you know, a herring fishery, or a halibut fishery, or something.

UNIDENTIFIED SPEAKER II: This is a big problem, it seems to me.

UNIDENTIFIED SPEAKER I: We ought to say, if we're not talking about these fisheries--if I'm talking about fishery resources and I want to do a lot of generalizing that I wouldn't do without talking about just salmon, it seems to me.

UNIDENTIFIED SPEAKER II: Well, maybe we've got time to do this in the future, because obviously, anything that the Legislature does this year is going to be upgraded when they come back with further reports.

UNIDENTIFIED SPEAKER III: Yeah, that's about all I was saying is that we're looking once this statute passes you're looking at a minimum of two years before the commission probably will even be able to establish entry levels, maybe in Bristol Bay. It may take them that long because.

UNIDENTIFIED SPEAKER II: Because of the extreme complexity of this problem, I'd like to see the thing regarded in its, perhaps its simplest terms here, because it's going to be difficult to, shall we say, sell to everybody, even at the very simplest in terms of reference.

UNIDENTIFIED SPEAKER I: I have a question of Dr. Fletcher here. On this grandfather approach, you mentioned in the transition only that, by saying such resistance to change, aminability to train. I work for the University here in the Southeastern area, somewhat in South Central, and I can pick out dozens examples of people who in 1968 were in other professions (indisc.), and with the fiasco we had on limited entry proposal then, that since kind of phased out their other interest, being totally, or more or less totally, fishermen.

DR. FLETCHER: You mean phasing from being fishermen into something else?

UNIDENTIFIED SPEAKER I: No, from being something else into being fishermen.

They already have the other thing, they already have the other capability for being in other sorts or employment, but through their own volition they are fishermen.

UNIDENTIFIED SPEAKER II. There's nothing wrong with that, but when we looked at the grandfather clause, we looked at that approach, resistance to change, aminability to train. At least in South Central and Southeast. I can't speak for the bay at all. It just seems that these are some of the best fishermen, some of them. They're some of the real producers.

SENATOR RADAR: Here's a man. What are you? You're a what? Phychology major, Master's Degree, Philosophy major? Came up here, got interested just like a lot of people do, thought that fishing was a hell of a way of life, and in three years, why, he's what they call a highline fisherman. Now, I'd say that man's a pretty serious predator.

(Laughter)

PROFESSOR FLETCHER: This brings us back to your description of quite a great many of these people.

SENATOR RADAR: Put a bounty on him, huh?

PROFESSOR FLETCHER: I was saying that our constitutional law really hasn't kept up with some of the thinking today. Every now and then we try governmentally to help out a group of people who've had a rough time of one sort or another. So, you appropriate some money, you set up a special training program. Up until recently the Federal government has been willing to spend quite a bit of money in the central area in Seattle, for example. A lot of the Blacks in there don't know how to do anything else, and one of the reasons is that they've never had any education in anything other than in how to

be a common laborer. Those have not been really challenged from a constitutional standpoint, because the rest of the society hurts only in the sense that it's using these dollars to do it, but as you carry programs like that a little farther, and I have a very personal one that's operated in and I was describing it before, as, for example, entry into law school where in our university we have space for only so many people to get in and we've got something over ten times as many applicants as we can take. We decided that the Blacks and the Indians needed to be lawyers, and that despite their not measuring up the standards that we use to the Whites who were applying, we were nevertheless going to let the Blacks in up to a certain number. I don't know whether you're aware of all the litigation we got into a law suit about, it's still pending, as to whether we can do this constitutionally. Well, in an abstract sense, we can't, you see, because we're favoring one group and we were clearly picking them out. We're hurting the White man and we're helping the Black man, yet I feel strongly that we're doing the right thing in terms of my conscience and how I want the government to be operating, and yet I must confess I've got a little constitutional law to worry about, and I think even on that point we can make the grade and sustain what we're doing, but it's troublesome, but it seems to me, broadly speaking, we're no where near so far on as we are with respect to racial matters in being able to do that. I can say to the Blacks with respect to treating the Blacks better than I treat the White man in one sense, but I'm really not, I'm just making up for my past sins that we've kept the Black is such terrible situation even since the Civil War that it's about time we did something to bring him up, and it's our fault that we've kept

him there, but that's an exceptional bit of argument that has to be brought to bear in order to come to that result. Our philosophy otherwise has not been that. We've had a kind of economic determinism that said that, you know, if you can't making a living fishing, get out. Let the thing be automatically determined and the government is not supposed to try to alter that, especially if you hurt somebody else in the process of doing it, and I'm afraid we're still in about that position constitutionally, even though it seems desirable to do it. You can start there.

UNIDENTIFIED SPEAKER: Well, it seems to me that on the face of this bill as it stands now, it's certainly fair for initial entry levels, but as applied, really when you start concerning economic dependence, you're--especially economic dependence upon that fishery, the Bristol Bay fishery, the area fishery, you are, you're very definitely favoring your local residents. Now, does this raise a...?

PROFESSOR FLETCHER: I don't know. I think your saved on this one because of the interim measure. I think you can do it, because it's been recognized many times that the hardships incident to change can be alleviated. You can do it in one way to pay somebody for getting out, and in another way you can say you don't have to get out. As long as you live you can stay in there. It's that you can't pass it--that you can it down to the next generation, we won't let you do that, but at least as long as you're around and you want to keep fishing, okay. (Indisc.) that sort about chain dentistry that I'd discussed in that... The same idea, you see. So, it doesn't mean that eventually you don't have to. In a way it's something like this ten-year business about the class B boats in Canada. Give a reasonable time, but figure okay, ten years

is all you've got and you'd better be getting ready to do something else. So, an interim basis, fine. I'd do all I could to help these people, particularly the ones who aren't in the position at the moment to do anything better, or different.

UNIDENTIFIED SPEAKER: So, then, we come right back to transferability and how do we, with a legitimate legislative objective, such as economic efficiency and such, protect these people that historically have been uneconomically, or inefficient economically...

PROFESSOR FLETCHER: If you want to live dangerously, take the bull by the horns and just say, we're going to protect this class of people, and see how far you get. I don't know whether you'll make it or not.

UNIDENTIFIED SPEAKER: That's almost kind of asking to be shot down.

PROFESSOR FLETCHER: Yeah. You might make it. No, no, that's right.

UNIDENTIFIED SPEAKER: We're great prospects for suspense.

UNIDENTIFIED SPEAKER II: Particularly with Land Claims just having gone through.

PROFESSOR FLETCHER: The what?

UNIDENTIFIED SPEAKER: The Land Claims Bill.

UNIDENTIFIED SPEAKER III: The Native Land Claims Act which theoretically extinguished all such...

PROFESSOR FLETCHER: I meant to ask you a quite collateral question. To what extent is your fishery affected by Indian treaty rights, and so on? Does that complicate the picture?

UNIDENTIFIED SPEAKER: No, we have had historically--well, practically no reservations

(Simultaneous speech)

CHAIRMAN: Well, but it's one-tenth of one percent. Minimal. We do have a couple.

PROFESSOR FLETCHER: Yeah, I see.

UNIDENTIFIED SPEAKER: One technical question. Now, here in the State statutes there's a severability clause. Does this apply--is there any--in other words, if this is tested on the Federal level we stand a pretty good chance, as I understand it, of losing the entire statute.

PROFESSOR FLETCHER: No. What gets tested--I'll have to qualify this later--but what gets tested is what is particularly being done to the particular litigant is constitutional for the State to do, whether it's unconstitutional, and he will be saying that I am being treated in a particular way that's different from somebody else, where my property's been taken, and suppose the State loses. What the State loses is to say that you can't do that to this guy. Now, you may take it as telling you something broader which says, that fellow over here who hasn't sued you yet is **not** much different and he'll probably win, too, so you'd better clean it up as to a little bit broader than just this one person, but it doesn't say, and your whole statute's no good. Now, once in a while you'll find a case that just kind of purports to say that the statute's no good, you might as well throw it all away, but it's a rare case. It comes up occasionally in some free speech cases, but this type of thing isn't likely to incur that type of a decision, so what you would get would be a determination that, well, insofar as whatever it is. Your scheme for deciding who gets to stay in. That is, the initial proposition is wrong. It doesn't mean that your long run thing is bad at all. Maybe you'd be all right. And nobody writes a letter to the legislature from the court saying your statute isn't good. That isn't what happens.

Your statute's still on the books, and your only proposition is that you've got a court decision that one man has won a law suit, and what people do here is just kind of predict the future and say, well, we'd better clean up our statute, because if we don't maybe somebody else will sue us and will come to the same conclusion. So, severability is in a sense kind of built into every statute whether you recite it or not. You aren't going to lose the whole thing unless somebody comes in with the kind of argued position which attacks the whole thing.

UNIDENTIFIED SPEAKER: Essentially which would be the framework and the legislative purpose and findings.

PROFESSOR FLETCHER: Well, suppose somebody were able to establish, which I think could not be established, that the whole idea of limited entry system was unconstitutional. Well, then, in that case your whole statute might indeed go down the drain, but I don't think they'd win on that one. Your only vulnerabilities, I think, are as to the implementing provisions, and as to them I think there's going to be some separably challengable and you aren't likely to get any one person in there that's going to be able to say the whole scheme is no good, unless he attacks the basic proposition.

UNIDENTIFIED SPEAKER: Very good, thank you. That puts up a lot of questions I had in my mind, because this has been kicked around and bantered around quite a bit.

PROFESSOR FLETCHER: Yeah. I think I'm right on that. I feel fairly confident of that.

UNIDENTIFIED SPEAKER II: Has the record been provided with the copies of the last attempt--all that.

PROFESSOR FLETCHER: Yeah. I must say I haven't read this last rendered

version as carefully as I might have yet.

UNIDENTIFIED SPEAKER II: No, I was speaking of the Hickle and (indisc.) limited entry and all that.

UNIDENTIFIED SPEAKER III: Oh, no. We have a '68 decision here in the State. We have copies of the court decision.

PROFESSOR FLETCHER: I was aware of it, and I was going to get over here early enough to ask you if I could read it.

UNIDENTIFIED SPEAKER III: We do have copies here.

UNIDENTIFIED SPEAKER II: Why don't we (indisc.) copy of that, then get in the time after lunch, perhaps.

UNIDENTIFIED SPEAKER III: Yeah, what happened is the--it was appealed to the District Court and the District ruled, and it was appealed and sent to the Supreme Court, and the Supreme Court sent it back to the State Superior Court, who found that it was arbitrary and capricious.

PROFESSOR FLETCHER: Under the State Constitution?

UNIDENTIFIED SPEAKER III: Under the State Constitution.

PROFESSOR FLETCHER: Yeah. And since that time you've changed...

UNIDENTIFIED SPEAKER III: We have had a constitutional amendment. But they still--the way the decision was rendered, I think even under the current change in the State Constitution, the Court would find the same way again.

PROFESSOR FLETCHER: Where the same statute in that?

UNIDENTIFIED SPEAKER III: Right. Right, because it was a limitation based on one or two years previous experience in the fishery, and it was questioned on the basis that, you know, an individual could be fully competent having not fished in that particular area.

PROFESSOR FLETCHER: And the Court felt that that was not sustainable?

UNIDENTIFIED SPEAKER III: They felt that it was arbitrary and capricious.

PROFESSOR FLETCHER: That's a little harsher than I would expect.

UNIDENTIFIED SPEAKER: I will make that--copies available.

PROFESSOR FLETCHER: This went--this was the Alaska Supreme Court?

UNIDENTIFIED SPEAKER: Superior Court.

PROFESSOR FLETCHER: Was it carried up after that?

UNIDENTIFIED SPEAKER III: No, that was the end of it. Now, apparently, there's a lot of feeling by various people here that the State didn't pursue the case as well as they could have, and perhaps the State could have won that case.

UNIDENTIFIED SPEAKER II: There was--this one statement when the Supreme Court remanded this back down, there's one statement in there--Mike I think we'll have you sent out in a minute--that bothers me where it's stated, the ability of the individual to go fishing was a fundamental right. What's that extenuating words...

UNIDENTIFIED SPEAKER III: No, this was not the Supreme Court. That language was the Superior Court. They believe, and they said, that they could not--this is District Court--Superior Court...

UNIDENTIFIED SPEAKER II: Where's the Superior Court decision?

UNIDENTIFIED SPEAKER II: Here's the Supreme Court. I'm almost sure it's not there, but the...

UNIDENTIFIED SPEAKER II: Okay, you're right. It was one of the other courts...

UNIDENTIFIED SPEAKER III: They felt that the State question should be answered first. Yeah, the Superior Court says the common calling of fishing is a fundamental right and cannot be limited arbitrarily.

PROFESSOR FLETCHER: Well, that's a kind of inconsistent assertion, really.

UNIDENTIFIED SPEAKER II: On this thing, it was very disappointing to some

of us who sat way back where we couldn't do anything, and just watched, that the second team was put in at the State on this thing. You weren't associated in anything so I can speak (indisc --simultaneous speech). The A.G.'s office down here has long had a tendency of throwing in guys in Fish and Game matters before they're able to swim. They're still wet behind the ears, and they send them up against the top legal brains available anywhere.

CHAIRMAN: That's not Fish and Game, that's every place.

PROFESSOR FLETCHER: A.G.'s offices have trouble, sure.

CHAIRMAN: Sure, they have a lot of young fellows, and they're up against well-paid industry guys that have 30 years of experience and it's just a pit of minds, you know.

UNIDENTIFIED SPEAKER: It's a tough position to be in.

CHAIRMAN: I doubt they threw it, although I have heard that accusation made, that they really did. But that frequently happens. I guess we could if we wanted to make ourselves a system which would give us a first class fishery, we could go a limited entry, have these transferable before anybody could even buy one of the licenses it had to show that he can financial ability to fish, and also to stay out in the three years of four that are bad. I just--I can't even get over that minimal hurdle in this problem, myself, is that we agree that we have to have enough fish, fishermen and gear, to harvest the big year.

UNIDENTIFIED SPEAKER: Well, we touched on this while you were gone John.

CHAIRMAN: Well, did you come to any...

UNIDENTIFIED SPEAKER: We've got a little difference of opinion here, in all honesty. The--we don't have to have so much more gear in that big year than you can get by with in the smaller year. This is

something that's been sold.

CHAIRMAN: Okay, what's going to happen if the economics enter the class that we're trying to protect here? You're going to keep the same number of people in it and they're going to have a third of the fish. Maybe they can still all fish then.

UNIDENTIFIED SPEAKER: I'm not sure I make the connection here now. Sure, they'll be there even in the poor year. What happens in the big year, their going to get these tremendous inflexes of speculators from back east, have no business...

UNIDENTIFIED SPEAKER II: Do you have any lunch plans?

CHAIRMAN: No, I guess not, why?

UNIDENTIFIED SPEAKER II: Would you join us?

CHAIRMAN: Oh, sure. Okay. Yeah.

UNIDENTIFIED SPEAKER II: Yes, he will.

PROFESSOR FLETCHER: Speculators. You mean, somebody comes out here. Where does he get a gear and boat, and stuff?

UNIDENTIFIED SPEAKER I: Oh, he maybe makes it in his garage and pulls it on a trailer from Michigan.

PROFESSOR FLETCHER: He's out there with the gillnetters, is that it?

UNIDENTIFIED SPEAKER: Yes, and his net's in the water and it's catching fish, because in the good year they're there. If this bill accomplished nothing else, it would cut out that sort of entrant.

CHAIRMAN: You see, in the sideline, we have this kind of a problem, too. From the point of view of the cannery workers, the business sense, and the economics of the operation of the cannery is to have a regular cannery crew which comes from Seattle or San Francisco that handles the year in the normal run, and then use your local people on the good year to fill in a surplus. To do it otherwise, you can't

bring people up for just the surplus year, you see. And, of course, that has just been a--just wrangle people, and they've tried to forms unions, and you know, all sorts of things. Here's a fisherman that can't make a living fishing and his wife can't even get a job in a cannery drawing the same wages as somebody in from Seattle or San Francisco, or some place like that. Historically, they're Philipinos, primarily. (Indisc.--simultaneous speech) For rank of discrimination, because they kept the Alaskans as the (indisc.). They never get into the main stream, but just to take the temporary expansion, and of course, they have a big, but they only need temporary help maybe for four days. Well, they're right there, see, so you don't use those people as your regular crew. And you have all of that built up in the history of this thing. It's understandable. (Indisc.) In some ways it's almost an explosive type of thing, and here these people, they can look at the catches, you know, the multi-billion dollar industry there, right here in our river, and there ain't nobody that gives a damn about this place except a week before that season that place fills up, and a week after it's gone it's empty, and the people here have been surplus labor to the excess needs of the cannery, and operating the third-rate boats, and money went South. But it's the competence of the South, and the economic abilities in the South, and the whole works.

PROFESSOR FLETCHER: Well, those are tough ones. The only alleviating possibility, it seems to me that's clearly within the range of constitutional validity, is that I see all manner of availability from the standpoint of constitutional limitations. There might be of mechanisms to improve the economic strength of the fishermen

as a group, independent of where they may come from. I was suggesting something that might not be politically feasible, but I would assume that the State could set up a commission which simply set the price of fish. (Indisc.) cannery (indisc.) or the fisherman, depending who got the short end of it.

SENATOR RADAR: Of course, you see our difficulty in that is, and I don't know how factual this is, but following our marketing trend, salmon is in competition with tuna and other fish, and the apparently the, I forgot what they are, the demand for--which means the price is very different, very important, and there will be a switch (indisc.) which means that you can't pass this thing through to the consumer. Now, salmon caviear has...

PROFESSOR FLETCHER: That's what salmon is that...

SENATOR RADAR: That's what I've been told.

UNIDENTIFIED SPEAKER: I thought it was in such demand you could get anything for it.

UNIDENTIFIED SPEAKER: This is what we are...

(End of tape)

(Tape III - CSSB Work Session - 2/22/73)

CHAIRMAN: The commission. That the commission can put it out of commission, out of operation, and we will have reduced gear. Therefore, the transaction is going to go through the commission. If you wish to sell to Senator Radar you can do so, but the State's going to retain in its possession 90 percent of the sale price. On the other hand if you sell to the commission, and the commission retires that permit, it's going to retain only 75 percent of the sale price or some such figure, therefore--

UNIDENTIFIED SPEAKER: Can they do that?

CHAIRMAN: Well, yes, that way we can't, and therefore, you'll come out with a bigger chunck of the money when you sell your permit if you sell it to the State so that we can retire it, rather than if you sell it to an individual and it stays in the fishery.

UNIDENTIFIED SPEAKER: Some tax break, essentially.

UNIDENTIFIED SPEAKER II: On that (indisc.). Is there a way, speculatively, a way to create this entry permit without creating a private property fund?

UNIDENTIFIED SPEAKER III: So that, in fact, the license has no value?

UNIDENTIFIED SPEAKER II: Well, I mean, it's $50 or something like that, but I mean no real floating value.

PROFESSOR FLETCHER: It seems to me that's an economics question, rather than a law question, but I can devise a scheme, I suppose, if the economist will agree with me that it's going to work that way. I'd be a technician rather than an economist.

CHAIRMAN: Well, isn't your lottery the perfect example.

UNIDENTIFIED SPEAKER II: I was thinking as far as transfering these around, or giving them to somebody, like (indisc.) if 90 percent was only 90 percent of $50...

PROFESSOR FLETCHER: All you have to do is make it of no value to the person who thinks he might get to fish. To make it of no incentive at all to somebody who'd like to fish, to be able to walk up to any fisherman that is now fishing, and say, I'd like to get your license, and that fisherman answers him truthfully, nothing I can do about it. The only way you can get a license is to go down to the commission and ask them. He says, well, I'm willing to pay you, and he says, there's no way I can get my license over to you. Now, in fact, you can put that into actual operative law,

then you've got to explain where indeed there is no market, except as he's willing to deal with the commission in which case the commission is about to give him a license or sell it to him. Now, mechanically we can set that up, and the idea of a lottery appeals in what you might draw, something of that sort, and a requirement on that fellow who has the license that says to him, look, if your license is going to be used at all, it's you who has to use it, when you die that's the end of it. If you want to quit you can hand us your license, but it has no value. You can't give it to anybody else, and in nobody elses hands will we recognize it. We'll arrest the first man who starts to use it to whom you may hand it. Now, in fact, you want to put your law on him in those terms, sure, there's nothing unconstitutional about doing it that way, but I think you have to decide the economics of it, if it works that way, and that you want it to work that way, but I think mechanically you could set it up, sure.

CHAIRMAN: And, of course, we get back to the problem, that doesn't provide any incentive to turn over, but may be natural attrition by itself, mortality, the transient nature of Alaskans residents, a large number of them, and some of these things, it may be a fast enough rate of attrition.

UNIDENTIFIED SPEAKER: I was just kind of under the impression before that there wasn't hardly a legal way to get away with this without creating some property right. This is what had me confused.

PROFESSOR FLETCHER: I don't think that necessarily you have to view the capacity to fish as something that has to be saleable, has to be compensable, if you do it, something of that sort. If you'd ask this to a lawyer in 1925, he probably would have given you a

different answer. In fact, he would probably give you a different answer to whether you could have a limited entry system at all, because in those days the general philosophy was, and the Supreme Court reflected it, that everybody had a constitutional right to engage in any so-called common callings, and you didn't dare take it away because it was hardly even restricted. And I think we're past that era. We're quite persuaded to take it in view of this tremendous biological, economic data that you can back up your ideas that a limited entry would put very substantial controls in the hands of the State could clearly pass, as against that type of argument, as I say, 50 years ago would have been a pretty persuasive argument.

CHAIRMAN: (Indisc.)

UNIDENTIFIED SPEAKER: I think this pretty well tells the State where to go this route.

CHAIRMAN: Which route?

UNIDENTIFIED SPEAKER: Of saying, okay, no, the thing has no value, and thereby the individual who holds it loses all control over who comes next. Don't you think that this thing is less palatable to Alaskans than perhaps going the other route and making--allowing a property value, and allowing the holder to determine, in some extent, who he can sell that to.

CHAIRMAN: Well, if you're asking me, I think, yes. I think the answer is yes. It's far more palatable if you do get a property value, and allow him so say into who it goes to, even though the State may step in and take nine percent of the value that it has. Do you feel that way?

UNIDENTIFIED SPEAKER: I agree.

CHAIRMAN: Do you feel pretty strongly that way?

UNIDENTIFIED SPEAKER: Personally, yes. Well, I would say this, that the people whom I represent would totally disown the idea that they had no control over who receives it. This is a sometime thing. In one aspect they don't want to see it go certain individuals, but they do want to be able to have a control that goes to another group of individuals. In other words, the ones who follow after them, rather than perhaps gradually an attrition that would accumulate in behalf of the non-resident.

CHAIRMAN: Well, and really, where is the difference between that and your liquor license situation, or your pinball machine franchises, and so on? There's no difference is there? At the present time...

PROFESSOR FLETCHER: The only substantial difference, really, is that in, I think most instances, with pinballs and various other sorts of franchising licensing operations, the State doesn't perceive that it has anything important to sell, it doesn't take any part of the proceeds. This way, now, we're thinking of it in terms that the State's actually contributing to what it is the new license he gets, and therefore, it's to be compensated.

CHAIRMAN: But I think you can think a little bit further on that, and I wonder if the State doesn't have something to sell here.

PROFESSOR FLETCHER: Oh, indeed, I say it does.

CHAIRMAN: In the terms of a liquor license...

PROFESSOR FLETCHER: Oh.

CHAIRMAN: ...the people itself, the people that are there as customers.

PROFESSOR FLETCHER: Yeah, well, sure. I'm not saying it couldn't, but I don't think they do.

CHAIRMAN: Yeah.

PROFESSOR FLETCHER: I don't know of any state that does.

CHAIRMAN: But they certainly do allow the fellow that has the liquor license to decide who he is going to sell it to, and they keep everybody else out.

PROFESSOR FLETCHER: They have to pass on him.

CHAIRMAN: It seems to me like there's a very strong similarity in the circumstances there.

PROFESSOR FLETCHER: Yes. As I say, the only distinction between that and this is that, and I think quite justifiably it's present here and could be argued to be present in the liquor cases, is the State has something of value and associated with it and can be expected to get some of the compensation that's involved. I don't think that changes the pattern any.

CHAIRMAN: In one case the State is offering the fish that they have available and so that's where the State's interest. In the case of the liquor licenses and the State actually in effect saying, here's a certain number of people that we offer to you as customers.

PROFESSOR FLETCHER: In a way, although...

CHAIRMAN: Is that carrying it too far?

PROFESSOR FLETCHER: Yeah, a little bit. Those resources have their own peculiar legal history. It started out, you know, with the king owning everything and then you kind of perpetuated what had originally started as fact and myth now, and we still think of it sometimes in those terms, so the difference in background would explain some difference.

CHAIRMAN: Yes, I understand. Allen. I'm sorry, Lowell.

SENATOR THOMAS: Bob, I was just trying to ask a question about the determination of fair market value. Do you think this really can

be done so that the fellow who wants to sell can't just get his friend to keep escalating the thing more and more, and making the commission always meet the cost?

CHAIRMAN: Oh, the commission's not going to bid. These people will arrive at a--at their own decision as to what it's going to sell for. Now, the buyer or the seller, and the State just takes the 75 percent of it or...

SENATOR THOMAS: Now wait a minute. Suppose the seller goes to a friend of his who's a buyer and says, look, you offer me X amount, because then the commission is going to have to meet that price, so you'll never have to pay it, and I'll just raise it up.

CHAIRMAN: I think we have the experience of the Bristish Columbia fishery to guide us a little bit there. I'm told that there are enough of these boats advertised in the paper--enough of the these things advertised for sale that they can make a pretty fair approximation of the market value simply because of the open market transactions and I think there would be enough of these being marketed between individuals that had arrived at their own price, that this would have--and any he sold to the commission would have approximately the same price. I can see no reason why one permit would have any greater value than any other permit. They all allow the buyer to do exactly the same thing, so each permit really should have the same value in a fishery at the same time.

PROFESSOR FLETCHER: Each type of fishery.

CHAIRMAN: Yeah. If it's a drift gillnet permit in the Cook Inlet fishery on July 1, of '72 they ought to all have the same value theoretically. Now, we need to do a lot of thinking. Yes, I agree with this.

SENATOR THOMAS: It would never do for the commission to fix that.

PROFESSOR FLETCHER: No, no. Presumably this is based on the market, and he's got his finger exactly on where he's prying the market. He just goes out and finds people who are dealing in arms-length and there you are.

CHAIRMAN: John, go ahead.

SENATOR RADAR: Well, but they're going to have different values depending upon what gear they're going to be fished with. Is this going to be a permit to fish the fishery or just a permit to fish particular gear?

CHAIRMAN: Gear. The permit is for gear, individual gear for individual areas.

SENATOR RADAR: So a man, once he gets a permit, he's limited to the gear that he buys a permit for?

PROFESSOR FLETCHER: Until he buys a different one.

CHAIRMAN: It provides that he can transfer, but there are--I mean, through the commission, but there are stipulations there. You can't go from a set net to a seine, which may have five times the harvest capacity.

SENATOR RADAR: Can he go from a seine to a gillnet or a gillnet to a seine, or something?

CHAIRMAN: Well, set net is a gillnet. You could--I imagine there would be very little difficulty in going from a set net to a drift net or for a drift net to a set net, but that's one of the details that we've been talking about earlier that we haven't fleshed out really. Allen, what is the Governor provide in his bill in this respect? What was your plan there?

MR. ADASIAK: Our plan was that the commission could put together regulations that would allow, within a given area, a relationship

to be established between different types of gear, so that essentially three set nets or five set nets equal one purse seine. Now, there is, in my own mind, a gap in (indisc.) in that there is no provision to explain how a man can hold more than one entry permit for the same type of gear in the same area, since he has to be the one that fishing, and theoretically he would have to accumulate permits for five set nets in order to trade them in on one purse seine, but I think there's a way around that. Excuse me.

PROFESSOR FLETCHER: Well, I understood that your system contemplated that the permit holder himself personally fished, so he really cannot accumulate any more permits than what anyone has for that one bit of gear, and if he wants to move from a gillnet to a seine and the ratio is one to five, I would suppose you're going to have to do it on some sort of a priority of sign-up so he gets on the list so that when five gillnetters have quit, or somehow you've retired five, okay, he's the next in line for a purse seine.

MR. ADASIAK: Yeah, we envisioned as I say--this is a rough spot because the intent of that section of the bill allowing for corresponding values and the different types of gear to be established is that a man could upgrade and yet the total efficiency of your effort would remain the same, and as I thought it through, what you would do would be to modify the bill so that although the man could only fish one unit he would essentially buy others and the commission would hold them for him, so that they'd be out of the fishery, but if he wants to use his capital that way in order to accumulate enough and trade it in for a seine permit, that that would provide a mechanism where he could invest his money and then switch to a different type of gear, and with this kind of mechanism put into

the bill, I think you have sort of a mar ·t incentive for what the Canadians call a rationalization of the fishery. Eventually, dependency is going to be for people who look around and see who's doing the best and try and move into that kind of gear, and you keep a level on actually your efficiency in a way, so that your total harvest isn't affected, but you switch into different types of gear that are most advantageous in an area. All of this happens over a period of years. It isn't done legislatively.

CHAIRMAN: Tell me something. In the Governor's concept, how many set nets does it take to equal a trap?

(Laughter)

MR. ADASIAK: I think that that's sort of like introducing the concept of infinity or dividing by zero.

CHAIRMAN: Val (sp) you're puzzled. Go ahead.

VAL (sp): I have a question on the whole idea of transferring from one type of gear, relevant here to the Southeast situation where I came from. We don't fish the same area and the same kind of gear. We fish a purse seine in a completely different area than we fish a gillnet.

CHAIRMAN: Well, there's nothing--okay, that's a different problem, and I think, isn't that approached from the standpoint that there is no reason why an individual if he wants to go into a different area can buy a permit for that area, he can do so. He can't fish them both simultaneously, but is he wishes to hold two different permits for different areas, why, no problem.

VAL (sp): But, why do (indisc.) purse seine, and then wanted to go gillnetting.

CHAIRMAN: Do you get three gillnets?

VAL: Do I get to run 900 fathoms of gear or...?

PROFESSOR FLETCHER: Well, you could just do it more (indisc.) money in your pocket is incident to the transfer, just surrender and get 75 percent.

CHAIRMAN: Yes. Phil.

MR. DANIELS: I'm a little bit curious about--there's been reference to the State's ownership of the fish, or that they're transferring property rights to the fishermen, and I was interested in the opinion that you had written me previously. I was just curious. I mean, are we talking about fishing (indisc.) of ownership by the State? In the Missouri versus Holland case I'd understood that...

PROFESSOR FLETCHER: No, I don't mean to suggest that that's a presently very durable, or viable, idea. I think you can realistically, assuming you want to give it those attributes, talk about owning a permit, and it's an intangible, just like you'd own a share of stock, but the State doesn't really have the fish to sell per se. I think the State, however, has the capacity to sell this license, this permit. It, I suppose, constitutionally would be limited at how much it could charge for it in some sort of a very rough measure as to what it was supposed to represent. Presumably we're within the ball park on that, and once you've met that I think your there, and I think you can, as we did a moment ago, perhaps distinguish between the background of natural resources as saleable and ordinary businesses that don't utilize natural resources, by saying that historically there had been a concept of ownership, and say this gives you a little bit more basis upon which you can assert that the State has something saleable, whereas it might not be able to take that position so much with respect to the liquor business, or

the shoe business, or something like that. It isn't a particularly useful distinction. Certainly there are all manner of licenses that the State charges very substantial sums for that don't have this same natural resource background, license fees for operating taxies are frequently very high. I guess others are, too. So, it isn't a particularly useful one. You'd have been better off not to have thought of the differences when you talk about liquor licenses. Someone's ideas might be better than mine on that.

CHAIRMAN: Yes, Joel.

JOEL: Professor Fletcher, this morning you seemed to indicate that throughout this whole concept and throughout the actual drafting of the bill, that it would be more of a comfort in your mind to have the final product as tight and detailed as possible. In other words, you favor of the idea of not giving the commission a whole lot of discretion in setting up and elaborating on this scheme further. Do you--a bill which would set out as clearly as possible the (indisc.) provisions of detail would be more appropriate and acceptable.

CHAIRMAN: Senator Sackett.

PROFESSOR FLETCHER: Insofar as establishing the legitimacy of what you're doing is concerned, I think that's probably true if, in fact, those details are ones which are reasonably related towards the promotion of the legitimate objectives. Of course, if you've got some bad ones in there, there could be equally strong going the other way. Now, this doesn't tell you, however, that in balance you necessarily want a bill full of detail. Obviously, many situations are going to exist in which it is better to have a lot of administrative discretion, and surely there will be several aspects of this program as to which it is better, and I wouldn't let this other consideration

lead you to the point of wiping out all discretion. That would be a mistake, and all I can say is that I think that the more detail that you have in there that does legitimately further the good objectives, it just makes it a little bit stronger from the standpoint of whether the court will perceive what you're doing as being all right as distinct from not being all right.

CHAIRMAN: What about this matter that we discussed just a few minutes ago about the movement from one type of permit, or one type of gear, to another. If this something, in relationships, that we could, without much difficulty, leave with the commission to come in with recommendations on that.

PROFESSOR FLETCHER: I would think so.

CHAIRMAN: It's not too vital to the...

PROFESSOR FLETCHER: Unless there's something I don't appreciate in the facts, it would somehow have some favoritism overtones in it. Short of that I can see no reason. It might be better to let the commission to develop it.

CHAIRMAN: Okay. Let's look at another method of transferability then. Let's try to put it all, I mean, the whole scheme into focus here. Suppose we did not have any property right. We depended on our attrition through natural causes, mortality, sickness, movements away from the State, and so on, to decrease the amount of gear. We've provided no incentive to increase that rate transfer. Do you see any difficulty with this requiring too long a period to get down to optimum levels, so that our transition period is too long? Let's say that the commission establishes an optimum amount of gear necessary on the basis of consultation with the Department of Fish and Game the Board of Fish and Game, those people setting up the

optimum amounts and the statute says, okay, we'll let everybody in that's in now effectively, and we'll depend on natural attrition strictly to get down to that point, but the thing has no value, you can't sell it anybody. After we get down to that point, then the commission will make those permits that subsequently become available through death, et cetera, available to members of an applicant pool through a lottery. Is this a viable...?

PROFESSOR FLETCHER: I think so. The only hazard I can perceive in it is one which would have to be pretty extreme, some such proposition as you really didn't mean what you said, that wasn't--that you weren't really interested in getting down there, and you let so many initial entrants in as if you didn't have the scheme in the first place, but short of being at that far end of the line, then I don't think you can see any trouble.

CHAIRMAN: John.

SENATOR RADAR: How shall we describe that point at which we're going to open it up, at which point we're going to quit relying on attrition and then have a free entry, so to speak, through a lottery or something else. How would you describe that point at this stage? I fear there will be a tremendous pressure on this commission to keep attrition going forever, no new entries coming in to the extent that they have political clout, economic clout, and they will have both of those in this State. Then there's going to be a constant narrowing so that finally this resource will be owned by a very, very few people, so to speak.

PROFESSOR FLETCHER: This would lead you to have set your standards for what was optimum as being very few fishermen, because you want to postpone that evil day as long as you can.

CHAIRMAN: The evil day of when you start letting new people in, you mean?

PROFESSOR FLETCHER: Yeah. Right. This assumes that whoever set this up really wanted to protect the people now in it, and I'm going to let anybody in only if I have to, and as far away in the future as I can get away with.

SENATOR RADAR: Well, that will certainly be the attitude of the fisherman who would end up with the rights there, you know, but from the point of view of the entry then of the public, selling the bill at this time to people, if there is no defined entry point with which we're going to say this will again be open to the public.

PROFESSOR FLETCHER: Well, I've got one kind of quick reaction from a mechanical standpoint. You might have some sort of a ratio system that for every two which you acquire through attrition, one becomes available to the pool.

SENATOR RADAR: Starting from the first.

PROFESSOR FLETCHER: Right from the beginning, so that you're making kind of half time towards your goal.

SENATOR RADAR: So that there's always some entry.

PROFESSOR FLETCHER: Yeah. That would certainly alleviate the problem, and not tend to insulate you from this charge that all you're doing was trying to protect the present fishermen.

CHAIRMAN: I'm sorry, I missed out on that. How did you--what was the solution to that problem?

PROFESSOR FLETCHER: Well, it's a very top-of-the-headish kind of a one. Suppose you set up a ratio which said that for every two or three, or whatever it is, number that come in by attrition you will have one available for immediate issue as to a new entrant.

CHAIRMAN: I see.

SENATOR RADAR: I think that's real important, too, because that means a guy right now who wants to get into the fishery knows he's not going to have to wait 25 years, or 10 years, that there will be a limited number available at all times, and then, presumably, when you get down to what we are going to call the optimum figures, then as there was attrition, one for one. Go into the applicant pool and up for a lottery. That would be open, so to speak.

PROFESSOR FLETCHER: Yes. The more I think about it the more it does seem to me that you might really ask for some trouble if you insisted upon moving from a very substantial number in terms of how many are presently you're putting in down to a very much lower number and insisting the only way you're going to get there is by attrition. That might sound too much like favoring the present people.

SENATOR RADAR: Now, again, can you think of any way to define this point as which you will be a hundred percent...

PROFESSOR FLETCHER: Oh, I think that's kind of a biological, scientific, economic figure. You're going to have to have the Fish and Game Department tell you what that number is.

SENATOR RADAR: Aren't we going to have to decide how much--what's the economic livelihood supposed to be of a fisherman?

PROFESSOR FLETCHER: No, no. The threat ought not to be your determinant. You're much stronger--well, I guess I'll back up on that. It should be a combination of at least three factors. Your biological escapement problems and so on, how many people you can effectively have out there and still get what you want by the way of sustained and increased yield, and so on, quality of your product, its capacity to compete on the market, how much is it costing you to catch fish and sell them compared to what it takes somebody that fishes for tuna to

compete for the same protein market, what your sort of economic health of the fishery generally is in terms of fishermen. Those, I think, all have to be fed in to deciding how many entrants you want actually in your fishery. Now, presumably, you can arrive at that today as to what you think would be right, although you might want to change it from year to year as new information comes in or as the facts of fish life and economic life change, but I think you should have a goal and one that's in a sense somewhat independently determined in the sense of being independent from the mechanism by which you're going to get there. It isn't that you're so much interested in the economic situation of any one particular person as you are of this sort of total welfare of the State proposition that really tells you how many units you want fishing.

SENATOR RADAR: I still have the problem of visualizing how we're going to say this in the bill. Presumably, we don't want to put a figure right now, do we?

PROFESSOR FLETCHER: Well, as I understood the bill, the proposition was that the commission was first to determine how many units were to be fishing as an optimum proposition. Am I right on that?

CHAIRMAN: Well, that's--under the original bill this is right.

PROFESSOR FLETCHER: Yes, and then they were going to issue that many licenses, and now...

CHAIRMAN: Yes, but we've...

PROFESSOR FLETCHER: But your modification was to say, no, we won't be there today or tomorrow and what we have to do now is to go back and probably let more people initially than we would really like to, but the goal will have been set, won't it?

CHAIRMAN: Yeah. I--the goal is set there by this consultation between

the Department and the Board and they arrive, using zero biological methods, statistics, et cetera, they arrive at this point, and I'm not sure that that necessarily changes. Now, is your point that it needs to be delineated specifically for each type of gear and each type of area in the original bill?

SENATOR RADAR: You're going to have a tremendous pressure from the holders of the permits to keep squeezing down the number of permit holders so that their income will increase, much as you have lawyers from time to time flunk out, perfectly qualified candidates, not as a matter of public protection, but as a matter of limiting entry and scarcity enhances their own value. You're going to have that pressure, and you could very well have that abuse. If you couldn't--if you don't define it pretty well as to when this point is reached, if we can define it. I don't know how to define it either. I think if you talk about the ingredients of the definition, you'd talk about the ingredients, the considerations, you have to work through to make that decision, but finally you get down to this, too. One of the primary functions of this is to relieve the economic distress of fishermen. Alright, we're going to have to decide then at what point have we decided that the economic distress of fishermen is relieved, and so I say to you, is that $20,000 a year? With a $20,000 investment, and $10,000 a year with a $10,000 investment, $50,000 a year with a $50,000 investment, or don't we--aren't--we have to decide when they're no longer economically distressed. In fact, it's bad enough that we can have some new guys come into it and share in this resource.

CHAIRMAN: The language that we have attempted to use in one of these proposals was that amount of gear necessary, fishing on the average

of a five-day-a-week basis, to orderly harvest the maximum run expected.

SENATOR RADAR: That regards the economic welfare of the fisherman.

CHAIRMAN: Well, I think that automatically follows.

SENATOR RADAR: I don't think it automatically follows. What you defined is the most efficient, or enough to harvest the resource. Our problem here is not just...

CHAIRMAN: In an orderly manner. In an orderly manner, and that becomes extremely important, fishing on essentially a full-time basis, five-day-a-week basis.

SENATOR RADAR: Well, let me ask you this. If 25 fishermen making $100,000 a year could harvest this resource, is that the ones that end up with it then? $100,000 a year each? Could orderly harvest it with the type of equipment they have? Is that what you're saying? You could very well be. You make the boat big enough so the seine's big enough and you can have ten people. You know, you could get back to fish traps basically. If the equipment was good enough, it wouldn't have to be a fish trap, but it could be a net that goes from here to there. One of the purposes is the economic distress of the fishermen. We've got to define when that distress terminates, or else it means that this class of people will continue to have it cut down by attrition or otherwise until they have an open-ended, they own the billion-dollar resource.

CHAIRMAN: Okay. Well, let's read this language then. The optimum units of gear for each type of gear, and for each administrative unit, shall be--or each administrative area, shall be established by the commission based upon: one, the number of units of gear that will result in a reasonable average rate of economic return to the fishermen participating in that fishery, considering time fished

and necessary investments in vessels and gear. Two, the number of units of gear necessary to fully harvest the allowable commercial take of the fishery resource during all years in an orderly, efficient manner based upon sound management techniques.

SENATOR RADAR: What was your first one again? Read that first one again.

CHAIRMAN: The number of units of gear that will result in a reasonable average rate of economic return to the fishermen participating in that fishery.

SENATOR RADAR: Okay. Eight percent on their investment.

CHAIRMAN: Considering time fished and necessary investments in vessels and gear.

SENATOR RADAR: A hundred dollars a day, or ten percent on their investment. It's a risky investment, you've lost 12 percent maybe on your investment, plus $100 a day, carpenter can make, what, $12 an hour, or $10 an hour?

CHAIRMAN: Now, let's consider the carpenter can work 250 days a year...

SENATOR RADAR: Well, then how much a day?

CHAIRMAN: Well, I don't know.

SENATOR THOMAS: Well, you've got very few days actually of fishing, too.

CHAIRMAN: That's the point. In a normal season any more there may be eight or nine periods.

SENATOR RADAR: Well, that's where you get difficult here is to what extent are we going to say then, that the economic distress of the fishermen. Does that mean that he has to work year round, that he has to go to Anchorage if he doesn't have anything to do for six months, that is he can sit on his duff and draw employment compensation and--or do nothing. Then he gets $20,000 a year for working in the summer.

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CHAIRMAN: Let's go to Don. He's got some help for us.

DON: This is a personal opinion perhaps, but I relate back to the time your put into the fishery, is that you work on your gear, and the fishery, you tie up three months in the fishery, well, maybe give the guy another month for a vacation or something, you know, but at the most that's only a third of the year. You shouldn't expect that percentage of a reasonable income. I mean, on your average of all your fishermen, I wouldn't think.

SENATOR RADAR: Well, then you won't have any such thing as a full-time fishermen, then.

DON: (Indisc.--simultaneous speech) there's lots of fishes to fish in the ocean besides, you know. Lots of other fishes to fish?

CHAIRMAN: Lots of other fishes to fish.

UNIDENTIFIED SPEAKER: In our area, John, they can go from one type of fishing to another.

SENATOR RADAR: Yeah, in some areas that's true, but, you know. In most areas you have the salmon run and that's it.

CHAIRMAN: Therefore, the return has to be greater I would assume, then, where you have only the one run that can't be fished, the return for that run greater than in another area where you have many runs that you can fish one after another.

PROFESSOR FLETCHER: One of the things which I think is easy to forget--let me start again. One of the principal bases upon which you can say that it's legitimate for the State to see to it that the fisherman has a decent income is that it leads toward a better fishery as such. You've got better gear, be willing to experiment, various other things that will improve the total picture, and indeed, I have trouble thinking of any other justification for devising a

program which makes it economically good for the fisherman to carry out fishing under this particular program. This excludes as being a good reason simply my desire that everybody ought to have a decent income. I think that there's just too much, there's no law standing in the way to say that our principal, or even a very strongly guiding factor that leads us to adopt a particular program, is that we want this group of people simply to have enough money coming in. We haven't reached that point. Our whole philosophy about what people do from day to day is each man, each person, for himself, sink or swim until you're really in trouble in which case we'll come in with some help by way of welfare or hospitalization, or some of these other things that are kind of in between (indisc.) such as Social Security, Medicare and so on, but you cannot devise your economic system on the basis of--well, for this particular industry because you want everybody to make a decent living out of it. I don't think the court will take that, and if that is as apparent--surely, if that is the dominant thing that you're doing I don't thing you're standing much chance of success of challenge. The other people are going to say, well, government doesn't take care of to see that I earn a decent living, and what are you doing it for these fishermen for, and I think that that argument might just very well strike down the program, and this leads me back to say then that you have to set this up as being interested in and promoting the welfare economically of the fishermen as that in turn leads to certain things that are good for the people as a whole. That is to say, Alaska's got a great product here that ought to be able to compete on the market, therefore they should have enough money that they've got--that they're developing a good fishery

technique, good systems, better boats, whatever it is, and they can do that only if they make a decent living out of what they're doing, because then they can afford to do these things that will improve the product--catch more fish, build up the fish runs, whatever it is, but it's got to be related to that broad basis. So, that makes it, it seems to me, an almost immaterial factor, although not quite, to say that you're going to stop in deciding when it is we've got few enough fishermen, simply to say, well, everybody's earning so many dollars a year. That isn't the point. The question is, are these fellows earning enough so that we are not promoting these other values that we want to a sufficient extent? Have they got enough money that they can expand? Have they got enough money so that they can have decent boats, so that they can have safety equipment aboard, and various other things, you see, that have to do with total welfare as distinct from just the bald proposition that he's making a decent living. Now, that rather tells me that--well, no. There are, of course, in addition these other things that are of the so-called scientific nature, the biological problems of escapement and so on. That then tells me that what your determining body must do in deciding what the total number of, or how few the total number of licenses really can be is really periodically. If you require them once a year to publish the figure, or to make a determination, or something like that. It's the sort of thing which will vary from time to time. They either find out more or as the fish increase in number, or as some disease wipes them out, or something like this, it's nothing upon which you can say today it either has to be 670, or anything else, and surely, you can't put it in terms of how many dollars income that a person's supposed

to be earning. It seems to me that's an illegitimate concern per se as such, you see.

SENATOR RADAR: Is it inherent, though, in this system then, that you will basically keep closing the system until all people within the system really own the big boats, that have the most efficient gear. I mean, does the day of the skiff and that sort of thing would be--mainly because it's inefficient, it's not as efficient as the other gear. Is that...?

PROFESSOR FLETCHER: No. In a way I have to weasely about this. Just because the State can go ahead and arrive at the most efficient way of doing something, doesn't mean that it has to. I suppose Alaska could go along here with no limited entry system at all, and it's certainly not unconstitutional, and you can do whatever terrible things that's going to produce by doing nothing, and you can approach cures to tha and gradations. You don't have to come to the optimum number, and indeed you may have some concern of whether efficiency is what you really want in life. Maybe you don't. There are a lot of societies that I think are almost deliberately inefficient so that they can have everybody out carrying rocks around in the shoe baskets, because it keeps everybody busy. It doesn't give them any time to think about how bad off they are, and if you want that kind of society, fine. You can stop shor of a hundred percent efficient, so stop short. That's what th s group--one of the things I would suppose this group ought to have in the back of its mind, saying well, the major improvement. This year we'll set the number at 159, not that we couldn't go down to 260, but that's just too far, so stop. We'll put all that in the statute, that would give them pretty wide discretion and not spell

it out in great detail and just let their common sense then them that there comes a point at which you don't say...

(End of one side of tape) (The following is apparently during adjournment)

PROFESSOR FLETCHER: ...take care of alleviation of hardship for the persons who are presently there.

UNIDENTIFIED SPEAKER: This looks to me like a tremendous advantage, or something that parallels what we're trying to do here.

PROFESSOR FLETCHER: That's why these grandfather clauses get attacked, but they manage to survive because they put in there the additional ingredients that the government can legitimately take into account, the hardship incident to transition.

UNIDENTIFIED SPEAKER: Are you soaking this all up so you can explain it?

PROFESSOR FLETCHER: But they have to be calculated to do that rather than calculated to perpetuate a class of people (indisc.) in the future. It has to be tied to that, and I say you surely must stop short of saying, and this guy can transfer his license to his son, or to his wife, or something else.

UNIDENTIFIED SPEAKER: Well, I'm in the unenviable position of working for the Bristol Bay Native Corporation here on this thing, and in all honesty, it looks to me as if the advantage that can accrue to them is greater than the disadvantage, and yet they're asking for the whole pie. They want the advantage without any possibility of being phased out through their own inability to compete.

PROFESSOR FLETCHER: I just don't think you can get there.

UNIDENTIFIED SPEAKER II: One question--specific question that's been brought up in committee discussion and there's a draft prepared, a proposed transferability draft, which includes a section which is to be a voluntary trust holding by the commission of these entry

permits, and I know Joel asked me--he's the fellow that's sitting here, and he's the attorney that will be...

PROFESSOR FLETCHER: A trust for what purpose?

SENATOR RADAR: Spendthrift trust, really, to hold the license so that they couldn't participate it or sell it.

UNIDENTIFIED SPEAKER II: We're not even sure it's going to accomplish what it needs to because it's in actuality a cooling off period. They may be afraid because of bureaucratic red tape to even put it in in the first place, and if they can get it out very easily, it's not accomplishing what you want.

PROFESSOR FLETCHER: (Indisc.) the piece of paper at the end, but it's an economically valuable thing (indisc.)

UNIDENTIFIED SPEAKER II: Contractual sales.

(Portion of tape indiscernible)

PROFESSOR FLETCHER: In the period after the Legislators left we talked about transferability, and I must say I was (indisc.) thought very much about it, but one of the, it seems to me, important realities (indisc.) attempt to say that you can transfer is that for something that indeed has a value, one way or another you end up with almost equivalence of transfer and such. I'm thinking of our liquor licensing system, and maybe yours is the same way. A person who buys and who wants to sell his tavern, of course, has of course got some fixtures that are worth a few hundred dollars, at least most of the value is in that fact that (indisc.). Well, he can't sell to just anybody. A new person has to get approved by the liquor board, and we normally say the license has no value, but the fact is that the tavern may sell for 25 or $30,000 and you've got $500 worth of fixtures, and so they set up on an escrow basis, (indisc.) and so you end up having

a sale of that license.

SENATOR RADAR: A franchise.

PROFESSOR FLETCHER: That's right.

SENATOR RADAR: The public utility company has one, you know.

PROFESSOR FLETCHER: Yeah, same idea, and it's often hard to avoid that.

SENATOR RADAR: It's almost carried on your books as goodwill or something like that.

PROFESSOR FLETCHER: You know darn well that's where the value really is.

SENATOR RADAR: No, you have essentially the same problem.

PROFESSOR FLETCHER: And maybe it's better to recognize that you've got an element of (indisc.), unless you take some real steps to say that it has none, and my only thought from a mechanical standpoint is how in fact you could say the thing has no value to an effective purchaser is to put him in a position where he has no confidence at all that he will be the prospective purchaser, and that's why making this pool idea really operates. If whether he gets it is determined by chance, whether his name is drawn compared to a thousand, maybe he won't pay, but unless you're willing to go to that it seems to me you are in fact, in reality, going to have a thing of value, and (indisc.) transactions.

SENATOR RADAR: Yeah, you discussed bring them back to a pool and then either by lot or otherwise, distributing out of the pool among the presumably qualified...

PROFESSOR FLETCHER: Right, but you're going to have to have a good pool there so that he, this individual that would like to get it, doesn't have--has no confidence at all whether he'll make it. I suppose even then he might wager what the odds are.

SENATOR RADAR: You say you think that the--I don't want to argue the

fact, because I don't know the facts like you do, but on this year if we have three times the run that you do in the other year, you don't think that's really a problem particularly? You mean if they don't make a good living every year, all the fishermen would, or what?

PROFESSOR FLETCHER: Well, I think if you could reduce the amount of gear where they would make an acceptable living every year and still not have to increase it substantially for the big ones.

SENATOR RADAR: So the acceptable living would be what? $20,000?

UNIDENTIFIED SPEAKER: Well, our runs are at such a depressed point right now it's going to be a good many years before we have to worry about this big year.

SENATOR RADAR: When you worry about this, what you going to do?

UNIDENTIFIED SPEAKER: Well, in the big year. Well, I'll stop. I have to take a little while. Let's say we've got a catch of 15 million and now...

SENATOR RADAR: It's two or three times. That's a small year.

UNIDENTIFIED SPEAKER: Oh, yes. The magnitude is much, much greater.

SENATOR RADAR: Well, my problem is this. If you're trying to avoid economic hardship in the off year, rather than encouraging people to fish in the bad years we ought to discourage them from fishing and they ought to be rewarded for letting their gear sit on the dock, or on the beach.

UNIDENTIFIED SPEAKER: That's a good enough point.

SENATOR RADAR: That makes for a part-time fisherman then. But you need--the fact this fishery is, you do need a glut of people and equipment for that big year that you don't need the rest of the time.

PROFESSOR FLETCHER: Isn't that a good idea? In other words, have part

of your revolving fund used for sort of a fallow land approach.

SENATOR RADAR: Yeah, I guess you could do something like that. Just pay a guy for not fishing.

PROFESSOR FLETCHER: You may not pay him quite as much as he would make if he did fish, but it's some kind of a compensation, even as to permit holders. On permit holders just say we're going to determine by lot this year who doesn't get to fish. Say we'll pay you 50 percent of what the other make.

SENATOR RADAR: Course, from a conservation point of view, see, that's really the critical time.

PROFESSOR FLETCHER: Yeah. Those years you'd like to build up the fishery.

SENATOR RADAR: Right, and all the arguments about gear and control and everything else are effective. They don't really mean anything in the big year.

(Committee work session resumes)

CHAIRMAN: The best thing to do would be to see if you have anything further that you'd like to lead off after your consultation since our meeting that ended about ten o'clock.

PROFESSOR FLETCHER: I think the only ingredient that got into our discussion after we adjourned this morning was more detailed discussion of transferability. As I mentioned, I think I came up here without having thought very much about the problems that were associated with it. I don't know that I'm any farther along really, having discussed it more, except perhaps to kind of define what politically (indisc.) as to the distinction of what's constitutional. The more I thought about it it seems to be almost devoid of constitutional problems, irrespective of which way you went about the transferability.

The only considerations that seem to me to bear in upon that from a constitutional standpoint has got more to do--might just turn out to be just incidental aspects of your transferability program, and perhaps I suggested some of those already. I felt, for example, that if you adopt a system for determining new entrants after you get into your long operation which measures persons by skill, or capacity to be good fishermen and who isn't just mechanical skill, (indisc.) and do not provide transferability generally that I think you could also not provide transferability for members of their family. I think that once you get past the initial stage of sort of taking care of the people against whom this might hardship in the exception, once your past the transitional stage, that you cannot be concerned--I hate to put it this way--for people as people. In other words, in terms of their kind of personal setting, and if you're going to have transferability at all you've got to have it on a basis that is calculated either to put into the qualifications that tended to measure the capacity of the people who contribute to the fishery, or to have it indiscriminable, just anybody. (indisc.) transferability system we want. When that (indisc.). I don't see any constitutional problem.

CHAIRMAN: Mike, do you have rather, concisely delineated the several different options of transferability, and we might take this opportunity to just ask about constitutional problems with the various ones so we would then have the option of, if they're all equally saleable, and which way we want to go.

MIKE: We have--each member of the Committee should have (indisc.) (indiscernible) (long pause)

CHAIRMAN: Well, okay. I'd be willing to look at the first one under

summary of comments. Free transferability through the commission. In this case we're not setting up an applicant, correct? Therefore, those who are eligible to buy do not have to meet any qualifications other than having the money to do so, or arrange the financing to do so, except that the commission does handle the actual transactions.

SENATOR RADAR: He's the recorder, is that all? Who's got...

CHAIRMAN: And I suppose the real reason for having the commission do this was to give them an opportunity to counsel to the unsophisticated, counsel with the unsophisticated, urging him to consider what he's doing, making sure he knows what he's doing before he even sells away his birthright, so to speak.

UNIDENTIFIED SPEAKER: Even more so--these were summaries from the previous work session. It was pretty much the feeling this would give the commission the ability also to make sure that the transferee has the ability and intent to participate.

CHAIRMAN: Okay, now, one question that has been brought up in the past was if we defined certain qualifications that an individual must meet initially to get into the fishery, what are we doing to our overall picture if we don't require some sort of similar requirements, or qualifications, for the fellow that comes in purchasing the license. Is there any problem there that you see?

PROFESSOR FLETCHER: If the basis on which you have determined those who are to participate initially and giving certain ones of those what I might call preferential treatment, although it happens to be a quote, if it was solely done in order alleviate what otherwise would be a hardship requirement, then what they did with what they got after that is in a sense of no concern of yours. If they want to sell that out and kind of give them present value for it by getting

dollars now instead of fishing for the rest of their lives, but I suppose that's up to them. But if in addtion to determining who got your initial entry permits you also said, well, we're not going to give you this permit just because it would be a hardship on you, but because you're a good fisherman and because you have a present intent to continue, then to the extent you were using the standards that determine who you wanted to be fishing I would suspect that you would have to apply those to the same people who would be coming in by purchase into the future, so that you'd have an equal application of standards as to all persons that would then be fishing.

CHAIRMAN: Well, this is not necessarily a case where you're applying different standards because it is the transitional period.

PROFESSOR FLETCHER: You would be applying different standards to give them, in a sense, compensation or alleviating consideration, because of their past, their investment, whatever it may be. Now, the only problem I see is that to the extent that your additionally requiring them to live up to certain standards for future behavior, that someone who could not meet those standards and therefore, didn't let in in the first it's plain that you didn't require the transferee from the licensee to have the same standards.

CHAIRMAN: And so if I may make it's sure it's clear in my own mind, the question has been before, we might have a constitutional problem if we tried to limit it to a group of applicants that we set up standards for. What you're really saying is that the reverse may be true. We may have some problems if we don't utilize the same standards to a certain degree.

PROFESSOR FLETCHER: Yes. I think, on the other hand, that it's what

you do. Suppose you said to yourself, and I don't know whether this is wisdom or not, but suppose you say, we don't care who fishes. Anybody who can put himself out there and fish is all right. All he has to have is an entry permit. How are we going to control how many we have? If we don't get any (indisc.) and we're out there being perfect novices it would be all right. If you take that position, then you could say, but as to who gets the license in the first place, we're going to measure that in terms of hardship and give it only to certain selected people based upon a lot of factors that have to do your (indisc.) situation, their background and considering their past, and if you let that be the only determinant as to who gets the first license, then you can have a quite open basis thereafter, but you've not, you see, insisted upon any present continuing capacity to fish when you decided who was to get that first entry permit. You want to go that route, then sure.

CHAIRMAN: Okay. Well, alright, now I'm at the bottom of the page, and I don't know that he's talked about moratorium right now. John, go ahead.

SENATOR RADAR: Make sure I understand you. If you require competency tests as an addition of an original permit, then you'd have to keep that if it's transferred?

PROFESSOR FLETCHER: So long as you had those original persons having to continuing to meet that, yeah.

SENATOR RADAR: How about (indisc.) make a part-time engagement in the fishery, a test for excluding people in the original go around. Does that mean that we have to continue using that sort of a...?

PROFESSOR FLETCHER: It seems to me that that's a measure solely of how

hard it is going to be upon the persons to institute the system.

SENATOR RADAR: What is the qualifications then that we can discard as to either continued holding or the second generation of fishermen, we would only have to do those which immediately rate the present hardship in instituting the program. That's the grandfather rights, so to speak.

PROFESSOR FLETCHER: Yeah.

SENATOR RADAR: Then we could discharge the rest of it. We can get rid of those qualifications. It's unreasonable, for example, that the second generation of fishermen to give a license based upon their previous fishing when they didn't have a (indisc.), they couldn't fish.

PROFESSOR FLETCHER: The more I thought about it, this, in terms of, the apparently the accurate definition of a part-time fisherman I think you'd have a hard time sustaining a distinction based on terms of present capacity, contribution of the economic welfare of the State, to exclude the so-called part-timer. He takes just as much time to fish as the guy who is out there that his livelihood is dependent upon. The fact that he's doing it in addition to another job, I think it's pretty hard to exclude him on that basis.

SENATOR RADAR: Well, are you saying then that--I think you are saying that in our initial go around we aren't going to be able to do it on the basis of part-time to full-time.

PROFESSOR FLETCHER: No, maybe I fairly (indisc.). I think in terms of deciding how hard it is upon some persons who have present association with fishing to institute a limited entry system you can legitimately concern yourself with the hardship in individual cases, and that one of those individual cases which seem to me a

harsh one is the fellow who's wholly dependent on fishing, so we as to him, we'll continue to fish. On the other hand, the guy who was not wholly dependent upon it you could justify as to him, sorry, you're out, just because it isn't going to be so hard on you as on this other guy that we're entering. But then it had to do with determining who got to be in a sense grandfathered in, but it does seems to me that with respect to persons thereafter who want to come in, but who haven't entry permits, that you can't use that distinction, because the only basis for using the distinction was to alleviate hardship. Now I said what I wanted to say.

SENATOR THOMAS: I'm glad you pursued it, because it finally cleared it up in my mind, too.

PROFESSOR FLETCHER: Only I didn't state it fairly the first time around.

CHAIRMAN: Well, alright. But, while saying that requirement can be done away with, those of experience and ability need to be retained. If we had them in the first then we need them in the second place to a certain degree.

PROFESSOR FLETCHER: At least if--well I'm a little uncertain here. Surely in the first year or so after you started this system, if as one of the ingredients in deciding who was to get an initial entry permit you included the test of present capacity to fish, skill and so on, that you see has all the characteristics of, well, who fish off in the indefinite future, and on that basis you said somebody who did not have that skill, even though in other respects he qualified, sorry, you can't fish, you don't get a license, then at least for some substantial period of time, I should think that that person who was excluded back there could complain unless you continued to apply that kind of a standard to new entrants. Maybe

there would come a time at which he could no longer complain, or as a practical matter would not, (indisc.) it seems to me for a while anyway, you'd have to adhere to using that, either that or say, well, we've changed it for everybody, but then what do you do about the guy that you grandfathered in on that basis. You can hardly tell him (indisc.). So, I think the practical answer would be that you have to continue (indisc.).

CHAIRMAN: Okay. Well, we may want to come back to that one later. Let's--you've indicated that there is really is no problem with a moratorium if we've got an overall scheme that shows what's going to happen on down the road. Is generally what your...?

PROFESSOR FLETCHER: Yes, and the closer you come toward actually having that scheme in greater detail and the permanency, the emminence of it, the greater you stand a chance of making that hold.

CHAIRMAN: Alright. The third one on this page then is where we're talking about free transferability through the commission, or limited transferability, but at least being able to sell to another individual, the individual of the owner's choice, but with a substantial portion of that market value, or that value of the permit going back to the commission, or to the State. Using this scheme as an incentive so that the person will sell to the commission he retains more of the value than if he sells to a private individual, and thus, again, have an incentive for voluntary attrition. We've talked about it in terms of a tax. Your thinking is, if I understand it correctly, that it would be better to get away from the word tax. It really isn't a tax. It's a value the State has contributed, and the State has a reason to retain some of it.

PROFESSOR FLETCHER: Yeah. I have kind of a gut reaction to it.

CHAIRMAN: Yeah, right. But you see no problem constitutionally with this approach that there could be this differential between the share retained by the State and it's sold to the State, and the share retained by the State and it's sold to the individual.

PROFESSOR FLETCHER: The only complication I can see is the one a few moments ago in a (indisc.) conversation about it. What you do with the gift.

CHAIRMAN: Well, I don't think you can have a gift.

PROFESSOR FLETCHER: Well, that's a question. Can you?

CHAIRMAN: Well, I don't know.

PROFESSOR FLETCHER: And if you did how would it measure up with the proposition that everybody else who wants to transfer (indisc.) some of this substantial slice that the State gets out of it.

CHAIRMAN: Well, I'm assuming that there would be no gift. That if a fellow wanted to pass this permit on to his son, why, the father would have to pay the same value for the permit or the value received if he were selling to anybody else, the same tax, or call it what you will, that this is the only way that it would be fair and equitable.

PROFESSOR FLETCHER: Would you permit the transferee to transfer (indisc.) insofar as the amount of money he would otherwise get to make it a gift. He could get around you, of course, (indisc.)

CHAIRMAN: You mean the ten percent.

PROFESSOR FLETCHER: Yeah.

CHAIRMAN: I don't know how you'd have any hold on that.

PROFESSOR FLETCHER: So in effect you could make a gift of his ten percent.

CHAIRMAN: Of his ten percent. That is, he could make a gift of any of his other property or value to his kinhood if he desired.

PROFESSOR FLETCHER: No, I don't see any problem with that. It seems to me it all right, because it seems to me the essential thing here is that what the State has is something itself which is of substantial value. It's what's led me to say that I don't think it should be viewed as a tax so much as a three-party transaction in which the State is selling something, the individual transferor is selling something, and the transferee is dealing with two fellows, really.

CHAIRMAN: On page two when we talk about restricted transferability through the commission to an applicant pool, we're really back to where we were awhile ago in number one, I guess. Item number three here says, depending on qualifications could create a closed class if not made of non-residents. Do you see any closed class problem with this requiring that anyone who purchases a permit be a member of an applicant pool through experience or a training program. I guess you already really responded to that.

PROFESSOR FLETCHER: (Indiscernible)

CHAIRMAN: Okay, and the last one then is lottery, and remember your analysis from the other study, I believe this was top of the list as far as ultimate fairness is concerned. Any other proposals under transferability? Anybody else have anything on transferability you want to bounce off us, our guest? Al.

MR. ADASIAK: I have a question on the point (indisc.) You referred a couple of times in talking about new entrants once your initial (indisc.) new entrance subsequent to that, being subject to some sort of test of skill as qualifying for what (indisc.) characterized as (indisc.). The other idea which is in applicant pool consideration (indisc.) is qualification by experience, not by skill, ten years (indisc except insofar as you might. Do you distinguish between those two

types of tests for qualifications...

PROFESSOR FLETCHER: Between the two?

MR. ADASIAK: Yeah. Is there any difference between the type of skill test that you're talking about and the requirement for an experience requirement for that applicant?

PROFESSOR FLETCHER: The question is not whether you could have some sort at all (indisc.) qualifying requirements. I assume that you can so long as they're reasonably (indisc.) as far as producing efficient, safe operating fishermen. Our only question is that (indisc.) gradations of likelihood on being viewed as contributing to this ultimate goal, particularly the ones that you're suggesting. How do they measure up. (indisc.) take the skill is clearly so. One of the hazards it seems to me here is one that factually can be at least alleviated. I would suppose that somebody who's sole goal in life was to protect the Alaska resident fishermen could under standard which was derived in terms of experience, in effect say that only somebody who has lived for 50 years has got enough experience to know how to fish. (Indisc.) this was given more credence although it was not upsetting our (indisc.) suggestion (indisc.) that our host was describing the vageries of the delta of one of the rivers 13 miles off shore (indisc.) I suppose that somebody who lived there all his life, he might very well be a better fisherman than somebody who's just come up from Seattle and every bit as good a gear and fished for as many years and been very successful in Puget Sound, and perhaps there's some legitimacy to say, hey, you've got to be raised in this river delta before you can fish here. There's a little hazard there, you see, because it begins to look as if you aren't really so concerned with (indisc.)

Now, you can't rule it out, because as I say if (indisc.) probably put forth and indeed entertain with good faith the idea that you really should have lived here all your life in order (indisc.). I just say that some people might not believe you, especially if you put in front of a judge in Washington D.C. and he's never been out here. He just can't imagine that that could be so, and therefore, your being (indisc.). So, it simply a hazard, it's an invitation to trouble. Alright, I would let my detail depend upon how strongly you felt about this. If you really felt that you wanted to (indisc.) every boat in Alaska and every boat (indisc.) fishing, why, alright, you've got a small burden on your hands, that's all. There's a very stainless case (indisc.) involving (indisc.) from the Mississippi River in which the pilotage commission (indisc.) consisted solely of pilots who over the years turned out to be (indisc.) get to be new pilots were their cousins and relatives and friends. The court sustained the State in running that system being the determining one on just this kind of (indisc.) showing. The only way to know how the Mississippi (indisc.) came down that delta was to live there all your life. (indisc.) the very tip end of the delta region and they knew about and so they were the good pilots. That's a pretty strong case. I mean, it's a pretty weak case in relying on future predictive decisions. It's kind of a (indisc.) determinative case rather than the mainstream (indisc.)

CHAIRMAN: Would you run into the same thing if you depended on a two or three-year experience factor. In other words, to be eligible for this applicant pool you must have worked as a crewman on one of these boats in that district with that kind of gear, for two, three years, something of that nature?

PROFESSOR FLETCHER: I think any time you require the experiences to be local, you would invite hazard, unless you lessen the period of time that's required (indisc.) your in better condition than if what you finally said was, well, if you've been on any commercial fishing venture, no matter where, why, you'd have no problems at all, and I wouldn't rule out doing it that way if you can sell the proposition.

CHAIRMAN: Do feel strongly that we need to have an an/or situation where it's experience in the fishery or an approved training course of some sort. Do you think that approved training course is an option, is a strong necessity in order to make this thing hold?

PROFESSOR FLETCHER: No, I think it would simply be a factor favorable towards (indisc.) not a requirement, so much as it's (indisc.) with respect to some areas (indisc.) a lot more local knowledge.

CHAIRMAN: It seemed that in the court's decision on the 1968 statutes, one of the things that they especially pointed to was the possibility or the probability of the skippers on the boats deciding who went with them and who did not and therefore, they, in effect, could limit who would eligible, and that this, by it's very nature, was unconstitutional. That's the problem (indisc.) I guess. I don't know.

PROFESSOR FLETCHER: I wouldn't want to be that absolute about it. These are (indisc.) These are all matters of degrees. They're so highly individualistic that I can imagine in some situations (indisc.) in the hands of somebody who had been raised as a crewmember (indisc.). About all you can say is, yeah, sure (indisc.)

CHAIRMAN: Yeah, I think we'll involve the rest of you in this, too. Dave, go ahead.

DAVE: (Indisc)

PROFESSOR FLETCHER: Sure, your chance of getting by this kind of challenge increases, particularly if you've broadened to include the entire Pacific Coast, why, no problem.

CHAIRMAN: Other questions?

MR. DANIELS: Would the courts, if this ever were tested in court, would they likely to use as one of the factors in their determination just exactly what percentage of outside fishermen were getting as compared witn Alaska residents?

PROFESSOR FLETCHER: In the initial stages I would just rather guess not. There are instances, and most of this is in quite a different setting, I think I was talking about it this morning, wherein some of the problems involving racial discriminate it's apparent that statutes of a particular state are particularly neutral and the recital of the administrators doing the job is also perfectly neutral, but it turns out that there's never been a Negro on the jury or there's never been a Black man do this or to that over 20 years. Well, that becomes pretty persuasive that, in fact, the state is administering a policy on discriminatory basis, so I think you can abstract from that the proposition that if, as administered, it turns out that your system without any apparent explanation somehow coming out with dominant participation by residents, you're incurring (indisc.). This could be persuasive after a while, but surely not for some time (indisc.) how you would come out in the first couple of years (indisc.) particularly because of the transitional nature that you're alleviating hardship. Most of that hardship is going to be local hardship, too, so you could rather expect a fairly strong dominant local (indisc.) in your initial entry holders. (indisc.) relatively immune (indisc.).

MR. DANIELS: If you take the two standards that are included in the bill in its present form in determining who's out or in during the transitional phase, past participation (indisc.) Do either of these qualify as standards that might be used in the long term by way of determining who would be eligible.

PROFESSOR FLETCHER: I think the first surely can be defended as such, but I think the second one is almost as surely not be (indisc.). The extent of past participation seems to me to be factually related to the objectives that are wholly within the range of legitimacy in terms of the biological controls and so on (indisc.) and actively fishing, and when you issue a license you expect him to participate, so his past behavior on that hand is some indication as to whether he's going to do so in the future, but I think you could use that, yes. (indisc.) contridiction in terms (indisc.) talking about down the line somewhere and a new applicant comes in and you ask him how much he's fished in the past (indisc.) but you might ask him, well, did you come Seattle and have you been fishing down there, or some ideas as whether he really intends to be a fisherman or not. The basic question is what your going to do in the future. Your evidence on that can range over the topic we're talking about.

CHAIRMAN: Okay, maybe are at this point then. You rather strongly suggest that we have some divisions in the bill, one of them relating to the fact that we have a transitional period and we're doing these things in order to gain our ultimate objective, and then we have provisions applying to that ultimate objective. Okay, I believe you've indicated that using our criteria we can apply various criteria, or different criteria, to different section of the State,

because of the different situations we have there, so if we want to lock in one or two in Bristol Bay we can do it. One, two and three the rest of the State. Alright.

PROFESSOR FLETCHER: I would want these, however--now we're talking about the initial...

CHAIRMAN: The initial, right.

PROFESSOR FLETCHER: I would want those fairly clearly related to what I perceive to be the primary legitimate objec...

(End of tape)

(A major portion of the second side of tape III was indiscernible due to background conversations on the tape)

SCOMM

#31:13

Dean Paddock?
Jim Beaton
Terry Gardiner?
Dave Jackson?
John Fleischman?
Phil Daniels?
Ray Peterson?

CSSB 39 WORK SESSION - IV 4

February 22, 1973

UNIDENTIFIED SPEAKER: Based upon our experience here in Alaska, we should have some standards. Now, I know, roughly, how many units of gear are required for one man to do a pretty good job of harvesting. And have "X" number of units of gear in a certain fishery equal one permit-one man, and then you wouldn't have to worry about whether he was making a real economic success out of it or not. Some would and some probably wouldn't.

UNIDENTIFIED SPEAKER: Can you just equate gear with the license, the permit?

CHAIRMAN: Jim?

JIM BEATON: The trouble, if I understand the facts of the situation (indisc.), and maybe I don't--in our fishery, as we've increased the number of fishermen and the amount of gear, we've insisted that the fishermen fish with one hand behind themselves because they are too efficient with two hands. By that, I mean that we insist on shorter boats--much smaller boats than might be the most efficient. We insist on gear of limited size as against one man might be able to handle three times as much gear, but it's just a fact that there's too many people, see, so we've built into our fishery here the very same thing we've talked about. In order to keep fishermen busy, we have insisted that they build the highways with shoe boxes full of rocks. Not because that's the way to build highways, but that's the way for everybody to have a job and that's what we've done with the fisheries. So, inherent in this thing is changing that whole idea of people out in skiffs fishing in an old-fashioned way. I think my big concern in this thing is if you do

increase it and if you do limit the number because you no longer have to build roads with rock boxes, it would seem to me like you're heading towards and maybe it's inevitable, a sleek, efficient fishery which involves very, very large capital investment to be operated much as any other industrial or semi-industrial enterprise which it would ultimately get to be like the Japanese do, for example. We don't have this problem. What have they done? They don't tie their hands.

UNIDENTIFIED SPEAKER: Finding the contrast we've done just the opposite of them in farming. We've gone to the efficient farm, not to the efficient fishery; they've gone to the efficient fishery, but not the efficient farm.

UNIDENTIFIED SPEAKER: Is it really efficient when they are out there on the high seas catching mature fish that have not really utilized the capacity?

UNIDENTIFIED SPEAKER: I don't know. We are talking about their equipment.

UNIDENTIFIED SPEAKER: Still, just because it allows the efficient fishermen to do better doesn't necessarily mean that everybody is going to switch over to that. I mean right now I think everybody knows you're better off having a fiberglass boat because there's less upkeep and all this, but a lot of guys won't switch over. Everybody knows that they catch more fish if they mend their nets and if they buy new nets and it's all just a matter of mathematics--anybody can figure it out. Everybody knows it. They know why that guy always catches the most fish--because he has the best equipment, the best nets and all this, but that doesn't necessarily mean everybody does it--some people just like that way of life. They don't want to catch that much so just because we change the system and make it more advantageous for more people to become more efficient, that doesn't necessarily mean everybody is going to do that. I just think, like oil companies, it doesn't necessarily mean that every oil company up Prudhoe Bay is making a

profit. Some are making more than others and that's because they're smarter, I suppose, and they can be more efficient, but maybe some of them have a different philosophy as to how much money they should be making today (indisc.). They're not willing to do the same thing as (indisc.)

UNIDENTIFIED SPEAKER: My point...I think I'd agree with you thoroughly. I think you could take Bristol Bay--you have a great number of people who would like to fish Bristol Bay and who really don't want except a limited amount from the fishery and who subsequently live and do other things and have no interest at all in becoming efficient business men, so to speak, with the fisher, but really want to live off the country out there and get $5,000 out of fishing and that's all.

UNIDENTIFIED SPEAKER: Why will they be cut out?

UNIDENTIFIED SPEAKER: Well, I suggest this: You're gonna affect life styles here if this Commission decides who gets in and who gets out.

UNIDENTIFIED SPEAKER: You can't, you can't just change people enmasse. People are gonna be the way they are for a long, long time to come.

UNIDENTIFIED SPEAKER: Let me restate this idea of the State's not necessarily having to be as efficient as it could be. From the standpoint of constitutionality, the test is whether--what it is that the State has done in (indisc.) infringes upon people--either from the standpoint of fairness and the concept of equal protection or some sort of taking away of property without paying for it. And it does not purport to say that the State either must or must not go ahead with a particular program...it's solely a question of testing what it has done. So, when they're deciding how far to go toward the road of being what I'll call 100% efficient which represents five fish traps in five rivers and that's it. All we're asking from the law standpoint is (indisc.) to the extent that you have done this.

ave you done it in a proper way that meets constitutional standards? And you can, in deciding how far you want to go, take into account which says--'Well, we would like to preserve a certain degree of inefficienty here--so let these guys stay fishing--we're somewhat inefficient. It's just that we can't prefer them over somebody else. But, we'll have a tolerant enough system that lets them stay in it. So, if you want to be relatively inefficient and let these relatively inefficient fishermen, if that's what they are, stay in it, Just make sure that you're not letting them stay in it at somebody else's expense.

UNIDENTIFIED SPEAKER: Suppose then that we were to reword number one in these standards so that we speak of it a little bit differently and say that the number of units a gear will result in a healthy fishery from an economic standpoint. Now, actually I think that we're probably saying the same thing, but I think they were saying the average fisherman in there earning enough so that he can compete, so that we can produce competitively on the open market, so he can equip himself as necessary and so on and so forth. It has nothing to do with a guy that wants to be inefficient and wants to continue with a skiff and some of them no doubt will. In the new entry coming in they want to get in on that basis. He may want to start on a skiff and 50 fathoms of gear basis rather than going to a $25,000 boat and 150 fathoms and that's his choice.

UNIDENTIFIED SPEAKER: If he wants to make that choice, that's his choice.

UNIDENTIFIED SPEAKER: Right.

UNIDENTIFIED SPEAKER: I think constitutionally you could tell him "no". But if you don't want to tell him "no", that's all right too.

UNIDENTIFIED SPEAKER: But, when we reach the point in numbers of units of gear so that the average man there is able to compete with the rest of the

world in this thing so that he can receive a reasonable rate of return that allows him to do these things, then we start opening it up to a one-to-one basis. Is that a reasonable set of standards to apply here?

UNIDENTIFIED SPEAKER: I would think so. I think I would kind of double-barrel it and come at it from the other direction at the same time. But, by asking this Commission on a recurrent basis to be evaluating the situation and setting what this figure is so that it isn't the kind of open-ended thing that's subject to abuse. An annual report to the Legislature or....

UNIDENTIFIED SPEAKER: Let the Legislature set it even?

UNIDENTIFIED SPEAKER: Maybe, I don't care...so long as I think you ought to come up with a figure each time.

(Indisc.)

UNIDENTIFIED SPEAKER: I was just going to ask Professor Fletcher if he could suggest some language along the lines of what you proposed a little more concretely...it would meet the explanation you gave of defining income in terms of say an average level of income necessary to allow the fishermen to whatever, you know, (indisc.) supply (indisc.) the legitimate ends that you had established. I wonder if you would assist the committee in coming up with the language.

PROFESSOR FLETCHER: Yes, although I'm very poor at extemporaneous composition of language for that purpose. Sure, it's something I'd do in my office.

UNIDENTIFIED SPEAKER: Fine.

PROFESSOR FLETCHER: Sure, we can come up with it.

UNIDENTIFIED SPEAKER: I feel that your remarks this morning during the initial part (indisc.) giving direction to the committee..as to what specifically you felt we should be doing (indisc.)...the criteria you used (indisc.) in

terms of the fishery and the resource itself, and I feel that if you're going to be talking of a committee of this sort, you would be helping them all (indisc.) the past committees might consider placing your (indisc.) criteria as the intent initially (indisc.) rather than purely on the economic portion of the fishermen itself--the emphasis on the fishermen. Too often we know what the intent is when we leave here and it gets misconstrued immediately after the session. It's very important to have that.

UNIDENTIFIED SPEAKER: There was some discussion, and I can't remember, Senator, whether it was while you were here or not, as to whether you want recitals in your actual legislation. In terms of constitutional validity as the court might look at it, I don't think it's that important whether you recite it there or whether you have it in your committee studies or something of that sort which will show up. On the other point though, in terms of what the public perceives, you're the one to say. It may be indeed appropriate to make it apparent if that's so.

UNIDENTIFIED SPEAKER: Well, Mr. Chairman, I had another question that goes back quite a little ways, but I'd just like to ask it before I forget about it altogether. On this matter of the attrition setup....would it be unconstitutional to provide that if the permit holder were to die and his family was really highly dependent upon his fishing activities that the son or the brother or something like that, might take on the permit? Or would we have to absolutely preclude that too?

CHAIRMAN: It would depend, it seems to me, in fairly strong measure, upon what your attitude was toward non-family persons who wish to get in. Are you saying that you're excluding him now? when this happens?

UNIDENTIFIED SPEAKER: Well, what I'm thinking about is whether that permit would

drop back into the pool.

CHAIRMAN: Yes, I see.

UNIDENTIFIED SPEAKER: And the family go on welfare. This would be a burden to the whole State.

UNIDENTIFIED SPEAKER: Are you saying then that it would depend on what we decided - whether it's going to be freely transferrable and have a property right or whether it's to go back to the lottery?

UNIDENTIFIED SPEAKER: Or also whether you're even entertaining issuance of new permits.

UNIDENTIFIED SPEAKER: Do you feel, sir, that we have to necessarily direct ourselves to answering that question at this point in time. Could we have a moratorium for at least a year? or two years and then direct ourselves to transferrability?

UNIDENTIFIED SPEAKER: Let me come at your question indirectly by talking about his first, I think it leads to it. The purpose of the kind of...to take care of a person in that kind of financial condition is legitimate only as an alleviation of hardship, as I view it at least, an alleviation of hardship incident to the institution of the program. And, it's a question of degree and I can do no more than simply tell you that as you get farther and farther out, it's less defensible. It's a question of degree to which you....in how far you go in being willing to protect that person in allowing him to continue to fish because it would otherwise be such a harship on him if you told him he couldn't. The grandfather thinking is quite legitimate and (indisc.)....and I would (indisc.) say that you could not have a system that said this is grandfather in the strict sense of the word, that if my grandfather fished then I get to fish...type of reasoning which would carry it down two more generations. I would say "no" you're not gonna make it.. don't think about that one. To move back up - I'd even be suspicious,

distrustful of the thought that you could make it on a basis of letting it go to the next generation if you did it across the board. Now, maybe you can start to crank in about that stage some exceptional circumstances such as extreme hardship, or death within two years after you start the program or something like that. All I would say is that as you move back up toward the line of saying - 'No, sir, it's guys with permit holder' that you're getting into better and firmer ground. Now, this then comes over to the question of whether you could at the same time say we aren't going to have any new people into the fishery. That, too, has to be a reflection of your concern for the otherwise existant hardship upon the persons who will be affected by this Limited Entry system. You're intending to try and relieve that hardship and one of the ways to do it is to let the guys continue to fish. But, of course, that's not gonna get you anywhere if you just let them continue to fish. You may as well not have a limited entry system if you're not going to limit the entry. So, you have to look at that as transitional and the hazard, of course, is to invite an evaluation of what you've done as not being really a good faith idea that you're going to limit the fishery in terms of total number of participants. But that you're really limiting this fishery in terms of who's currently fishing, we're gonna do the best we can by them.. which I'm sure if you came factually to the conclusion, that that's what the legislature was trying to do that that would not survive. That simply is too strongly violative of the ideas behind the equal protection clause. Now, then to move from the situation where you're inviting that kind of attach, what you would do if you simply froze the licenses and said, okay from here on in you're the only people who get to fish for the next twenty years. You've got to move towards the fairly smooth implementation of your ideas if you're going to have a broadly non-discriminatory system under which we're

going to limit the number of licenses. Now, the mechanics of that (indisc.) doesn't matter so much - lotteries, whatever..based on the capacity to fish, skills, etc. But you must move to it and move to it with enough showing of good faith about it that you aren't subject to the challenge that you're not really interested in getting there. The longer you make the moratorium, the more suspect you are. I didn't have any question at all but that you could have a short moratorium period, of course, but it would have to be (indisc.) to getting to where you wanted to be. I don't purport to tell you how long it can be - you just can't say that sort of thing. (indisc.)

UNIDENTIFIED SPEAKER: If you're predicting informational studies which can be used as a basis in furthering the limited entry program and (indisc.) the court that you are moving in that direction...

UNIDENTFIED SPEAKER: Yes, although in a way, it's impractical I suppose, to wish that sort of thing. I wish that State legislature did what Congress does...maybe they could spend more money...that's to have a kind of an official record...committee reports (indisc.), formal documents and they get filed away in the National Archives and all that sort of thing so that you can draw on them and you've got a congressional record that says it all..word for word...everything that goes on in all of the Congress, and you can come in and show the court that these were the facts involved. When you get to a legislative mechanism that doesn't have that type of a record--it just has a journal of who voted for what--you're a little more hard-pressed. But, I probably shouldn't speak for every State Supreme Court but I would assume that most State Supreme Courts would be willing to look at or to listen to testimony or to read testimony given in a trial court which said, 'Yes, we made these studies here in Volume 1-6 on the study we made and here are (indisc.), and we came to these conclusions'

which isn't necessary. So, in the planning, creative stages of it, surely the thing to do is to make the record. Now they say that you can't make an official record, but you can come fairly close to it. If you've got this big booklet here, it's very impressive. It's full of charts;people have studied it; they've analyzed the nature of the fishery, the incomes and all that sort of thing, and they have led to this conclusion. Don't let it support too many of the wrong things.

UNIDENTIFIED SPEAKER: Let's take care of our own.

CHAIRMAN: We've been going at it for a couple of hours now. I think that maybe we ought to take a break for 10 or 15 minutes and then come back with the idea of seeing if we can get the best direction possible as to where we go from here. Any specific suggestions you may have and/or any of the rest of us, or any questions that you have not been able to get answers to and think that they are important to consider. So, let's do that--let's break for about--well, let's come back at--all right 15 minutes.

CHAIRMAN: Professor Fletcher thought perhaps that he could be most valuable in the time that's left, to go back in now and get off by himself and put his thoughts in order and try to jot down some things, kind of block out what he would suggest the way we go as far as legislation, insofar as we've discussed so far...at this point.

CHAIRMAN: I have indicated that I thought one of the biggest jobs that we have to do yet, as a committee, is to decide what we're going to do in the way of transferrability...and perhaps we can be having that kind of discussion..we don't need his constitutional expert ise for us to make that decision. He's already given it to us on those matters. So, maybe we can be trying to decide where we're going on transferrability while he's doing this other work. So, if any of you have any thoughts on that, why lead off. We have this sheet that we put tog ether in previous hours that offer most of the

alternatives. I wish we had all the advantages and disadvantages listed on each one of them. Maybe that's what we ought to do. And I think that we can profit by the input of those that are with us perhaps on this matter.

UNIDENTIFIED SPEAKER: Mr. Chairman, why don't we take the one that you favor first?

CHAIRMAN: I don't know what I favor. But, at the present time, all right.....

UNIDENTIFIED SPEAKER: Let me take the one here. I think that I mainly favor the lottery from a pool. Attrition...with one-third going back in, for example, or maybe even half going back in, (indisc.), coming back into it. But, the new guy coming in doesn't have to buy in and pay for the privilege of harvesting a state resource. But, I'm not sure that I'd do that for the same reason you say because (indisc.) as yet I really don't understand this proposal of 75% tax on the fair market value and 90% tax on the sale of the entry program. Now, let me ask you...the 90% tax...does that mean also that if a guy turns over his permit to the State that the State has to buy his gear?

UNIDENTIFIED SPEAKER: I think that the individual can have the option of either selling it to the State or to an individual. But, if he wished to sell it to the State, yes, the State would buy it at an appraised value just as we presently appraise land, etc. And it would become part of the buy-back (indisc.) with remaining fishery, fishermen were assessed the value of that boat and gear taken out of the fishery.

UNIDENTIFIED SPEAKER: Of course, you can't do it like you would land because the land--the definition you use in a court on land--is a willing buyer and a willing seller on the current market as of (indisc.) certain. As the Professor observed, this would not be difficult to administrate the first year or two because you'd have the value that we have right now for the free

market. But as time goes on, and there is no free market, and somebody you can't compare to with your (indisc.) market will be forced into.

UNIDENTIFIED SPEAKER: But, I think you still have got two classes of votes, John. You're gonna have those that would have a market and those that would not. Those that were good enough and somebody else (indisc.) still in the fishery getting in and would be willing to buy and those that aren't good enough for anybody that's willing to buy. If they're good enough to buy, they can be, I think, compared with a new boat that's coming into the fishery, a new boat that's being constructed. You can arrive at a reasonable value for that. It it's not good enough to be sold, why I think that you can arrive at a reasonable value for that also. Having said that, let me go out to some of the other fishermen here and see how they would react.... Terry? What's your thinking on that specific question? Do you understand what we're saying? Do you understand what the question is?

TERRY: No, I was reading.

CHAIRMAN: Oh, I'm sorry. Well, maybe you don't want to respond right now. Phil, go ahead. What do you think about that (indisc.) Now wait a minute... wait a minute.

(indisc.)

CHAIRMAN: All right, John?

JOHN: Well, here we're talking about free transferrability through a commission with a substantial tax (indisc.) We say we're going to tax 75% of the market value of the permit if it's sold to the commission. We're gonna tax 90% if it's sold to another individual. My question was: if the Commission buys the entry permit, do they also have to buy the man's gear and boat? (Indisc.) inherent in this proposal? Or is it (indisc.) that you're gonna pay him for the permit and nothing for the boat?

CHAIRMAN: All right, we're gonna pay him for the boat and the gear if he wishes to sell it at the same time that he sells his permit back to the Commission. Now, the real question is, how do you determine 10 years down the line, what the value of that boat is that he's turning back over to the Commission? Do you think, Phil, that it can reasonably be determined by the price other boats have in the fishery, by the price of the new boat being constructed for the fishery would cost?

UNIDENTIFIED SPEAKER: (Indisc.) Ten years down if you make that price the market value, you're not giving him anything. Because that's what he'd get also by advertising it and....

CHAIRMAN: Okay, so we should say market value, but we should say a reasonable value or a rational value or an appraised value or something like that. But the question is, could a reasonable value be ascertained at that point?

UNIDENTIFIED SPEAKER: I have (indisc.) reservation on it for what it's worth. And that is, in my own case, I bought the boat before the Commission came into existence. And now you're talking about an assessment, an assessor-type thing which would determine the free market value and I would have some reservations about their making a determination because it might well be $4,000-$5,000 under what I think the boat's worth. And granted, I might not be able to get that out of an individual, but that's one thing that's (indisc.) against having a commission tell me that, you know, it's just a case of that's what the boat's worth. What do you do with it...I guess you just keep it.

CHAIRMAN: Well, but, I think that we could do this in such a way that the Commission is always (indisc.) on the side of leniency rather than the other. Because, again, we are trying to provide an incentive under this thing for the fishermen to sell out. There's certainly no incentive if you're not going to give a reasonable price for a boat.

UNIDENTIFIED SPEAKER: Well, let me ask you this. Would that proposal work if you didn't--how you gonna pay for this? for buying the gear?

UNIDENTIFIED SPEAKER: Okay, at the present time, it looks like the only way we can pay for it, the most practical way, is through assessing the remaining fishermen.

UNIDENTIFIED SPEAKER: How you gonna assess it....on the basis of fish caught per year or permit per year, or what? What if a guy doesn't use his permit one year?

UNIDENTIFIED SPEAKER: Well, you're asking a lot of hard questions all at once. They need detailed study.

UNIDENTIFIED SPEAKER: Well, that's the reason that I have trouble with this proposition, because I think it raises an awful lot of difficult questions.

CHAIRMAN: But all of them do. All of the propositions raise a lot of difficult questions regardless of which way we go. You can ask that same thing about the guy that retires. Now, you're saying what happens then to the three who die or who wish to get out or something of this nature...their vessel and their gear...do the heirs simply take nothing? They don't have a property value and a permit. Do they take nothing for the boat or the gear? And if not, you're right back to exactly the same question.

UNIDENTIFIED SPEAKER: You see, you've got this kind of a problem. I'm a lawyer. When I die, my family, you know, nobody gets to be a lawyer because I was a lawyer...or a school teacher because you're a school teacher or nobody's necessarily become a barber because his father was a barber.

UNIDENTIFIED SPEAKER: But that's irrelevant to this right now, isn't it? We're talking about the boat and the gear.

(indisc.)

UNIDENTIFIED SPEAKER: ...getting a law degree very similar to the investment in getting the boat.

UNIDENTIFIED SPEAKER: See, the point of it is, I don't think you can really keep these in the family unless you're gonna create a futile (indisc.) system.

UNIDENTIFIED SPEAKER: Well, I haven't said anything about keeping it in the family.

UNIDENTIFIED SPEAKER: What's the problem now? Let's say the man dies. The boat and the gear...he loses the permit right away then. The boat's still gonna have value because some guys are gonna have to replace their boat and their other equipment from time to time and it's a large fishery.

CHAIRMAN: So, if a man wants to..so if a man does not die, but simply wants to get out of it and sell it back to the fishery or sell it back to the commission, again it still has value--the same value even if he were to die. I don't see where that changes.

UNIDENTIFIED SPEAKER: You're suggesting that the Commission would have to buy all this fishing gear as well as pay for the permit? (indisc.) in order to retire..just move out?

UNIDENTIFIED SPEAKER: I would think so.

UNIDENTIFIED SPEAKER: You wouldn't just let him sell his own gear and stuff on the market?

CHAIRMAN: If he wishes to do so.

UNIDENTIFIED SPEAKER: Put a value on the permit alone....

CHAIRMAN: If he wishes to do so.

UNIDENTIFIED SPEAKER: Well, but, of course, you're not gonna, he's just gonna ask you what you'll give me for it and ask somebody what the market is and if it's more, he's gonna want you to buy it. And that's where you get into a terrible problem here. I would think you'd treat this like you would a license to do anything else...and that is that when I die--somebody sells my law library. If I just want to retire, I just sell it to somebody.

CHAIRMAN: Well, I'm not hung up on that. Let's get some more input here.

UNIDENTIFIED SPEAKER: I don't see any problem with regard to getting rid of the boat and gear except in the case where the Commission says we're buying you out whether you want to or not. Then, I think probably, don't you think, that the State has a responsibility...otherwise, the boat, you can determine what it's worth and he can do what he wants to with it.

CHAIRMAN: How do you determine? You men, let him sell it on the open market?

UNIDENTIFIED SPEAKER: Yeah, sure.

CHAIRMAN: Okay, well I'm not hung up at all. Allan?

ALLAN: The B.C. system differs in many respects from what we're considering because they license boats...not people. But, perhaps some of what they do is (indisc.) enough to be helpful here. Their buy-back program is voluntary. The man thinks he might want to sell his boat to the buy-back program. He goes to the buy-back program and gets his name put on the list. Two, independent, qualified assessors working for the government fo out and separate from each other, appraise the boat. The manager of the program looks at these two appraisals and evaluates them and adds a 5% incentive factor on to what the average appraisal is. From the two he gathers all sorts of background information on the boat and then this is all presented to the Buy-Back Committee...The committee's made up of about six major segments of their fishing indistry including fishermen. The committee then has the discretion to either raise or lower the price to be offered as long as they get a majority vote to do it that way. If one particular member has additional information for that particular boat or whatever...and finally they approve an offer that will be made to the fisherman. The fisherman then receives the offer and he can accept or reject it as he chooses.... deciding that he can get more on the open market than from Buy-Back. If he feels that he has been seriously discriminated against and that the appraisals are way off, he has the option of getting a bonafide independent

appraisal for the appraiser to come in and say - Here, look it's that different. In any event, if there's a significant gap, the government then gets two other appraisers to go out and play the game again and see what they come up with and then they make the guy a final offer. But, then in B.C. - that's the system that they use.

UNIDENTIFIED SPEAKER: As long as it's a free negotiation for a vessel, you have no difficulty. You have a difficulty if you have it written into the law that the State has to buy something back at a value. Because then it's no longer free negotiation. See, the guy can sue the State and say I just want more is all. And I don't think--I'm afraid you're gonna get an impossible situation when you get to the rest of the State about how many millions of dollars worth of gear we're gonna buy back at inflated prices.... old fishing gear..when really the only thing you can do is just say 'take that gear and sell it to the fishery like anybody else that no longer has any use for their gear'.

CHAIRMAN: Well, let's leave it at that. I see no problem with that, really.

UNIDENTIFIED SPEAKER: And it simplifies a lot of assessment. It simplifies tremendously what we're doing here. If it doesn't work too big of a hardship and it doesn't seem to me like it would.

UNIDENTIFIED SPEAKER: The argument on the other side of that, and I'm not advocating either position, is that if you sell your entry permit and you still have your boat, the market for your boat, at least in Alaska, is going to be somewhat restricted because most of the other people with entry permits have boats. And unless your boat is the kind that will allow somebody to upgrade from what he has, he's not gonna be interested in buying it. You're gonna have a very depressed market for a boat without a permit.

CHAIRMAN: And you'll have much less incentive for the individual to sell out in

the first place, and I think the main reason that I had included the purchase of gear and boat in it is that there would be so much less incentive if it hadn't anything to do with his investment. The market is going to be greatly restricted and he may have to keep on fishing simply because ther's no way to get rid of the thing.

UNIDENTIFIED SPEAKER: I think that you brought out the point that the only people that are going to be heard are people that have junkers. Right now, if you look at the system--what happens to junkers? And that always goes to the guys that are really part-timers and they really don't care about what kind of boat they do want==anything to get out there. And, so through the system you're talking about that will be effect. Those people that have the junkers right now for some reason there is just gonna be some kind of cut-off point that boats below a certain value just aren't gonna go anywhere. Boats above that probably--they won't be effected. They'll probably be bought by other people because people are always trying to upgrade and they just don't like the boat they got. There's a lot of buying and selling of boats. But, I think that what will happen in this type of set-up of rules below a certain level - they just won't find a market and end up on the beach (indisc.) like you see all over Alaska.

CHAIRMAN: Will they continue fishing, though, considerably longer than they might otherwise if they did have a market for them...don't you think they probably will?

UNIDENTIFIED SPEAKER: .....Then the second thing here, point number two-- which says - does not pass the cost of utilizing the common resource on to the second generation of fishermen. As I read it, it would pass it on to the second generation of fishermen and that's the biggest disadvantage. Because it's going to, the second generation of fishermen is going to have to pay $5,000. for the permit. Now, it's true, the State's gonna get 75% of that in

instance or 90%, if it doesn't go to somebody else. If someone buys in, for example, he will have that investment just for the permit then...which is a disadvantage, it seems to me.

UNIDENTIFIED SPEAKER: Okay, I think one of the things we were talking about was that there would be less speculation because the thing's going to have less property value. So, you've done two things. Well, actually what you've done is lowered the price of the permit, I believe. It would be less cost and then there's free transferrability. The thing is going to have less value and so there's going to be less speculation. There's going to be less assessment back to the fisherman.

UNIDENTIFIED SPEAKER: Actually, your tax deal really does this, I think. I think that it effectively prevents the first generation of fishermen from receiving a windfall and in effect selling the resource to the second generation. But, under this proposal, the second generation has to buy it. But, the money goes to the State, see? instead of to the fishermen.

UNIDENTIFIED SPEAKER: But, again, he buys it at a lesser price than he would under a straight free transferrability.

UNIDENTIFIED SPEAKER: I don't see how it would be any different on that. The only thing we're talking about is, we're taxing the windfall from the first generation of fishermen. The price of the permit would be the same.. to the second generation. It's just a question of who gets the money...either the State or the fisherman for the right that we gave him now. See, he didn't pay for that right. And, yet, he would be selling it for $5,000. So, we're gonna tax that $5,000 because that's an unreasonable windfall. He's merely selling the State's resource.

UNIDENTIFIED SPEAKER: Well, I agree with you. I don't know what we had in mind at that point when we said this, do you?

UNIDENTIFIED SPEAKER: Well, it was more (indisc.) what it actually does accomplish. You're negating the windfall in the first generation.

UNIDENTIFIED SPEAKER: But it does pass on the (indisc.) of utilization.

UNIDENTIFIED SPEAKER: In the meantime, also, the resources become--or the ability to utilize the resource--has become more valuable theoretically because of the limitation of gear. In other words, you have an expectation--the second generation has a greater expectation of going out there and being able to make a substantial income from fishing.

UNIDENTIFIED SPEAKER: That's certainly ambiguous, to say the least, I think. Go ahead.

UNIDENTIFIED SPEAKER: Now, I would think that under any of these programs we could just appropriate whatever the State Legislature would want to do based upon the revenues that we're getting from fish taxes or whatever general policy (indisc.) appropriate 3 million dollars this year for the reduction in fishery here and go out and buy equipment on a freely negotiated basis and try to buy people out. But, I don't want to see in here (indisc.) where you treat every fishing vessel, or every net, or every piece of fishing equipment, which may be hard to define, too, the same as if you were condemning a piece of my property to build a road, see? I think that there's expense involved in that and problems of abuse and I think that the open-ended nature of that committment would not be acceptable to the legislature and the only way you could make it acceptable would be with this assessment, and I'm afraid that when you go to the assessment you're gonna take the marginal fisherman who wants to fish as a way of life and only wants a small amount. And if you assess him in the same way as you do a big man for this, why, you've got all sorts of problems involved in that assessment procedure.

UNIDENTIFIED SPEAKER: You eliminate a lot of those problems if you measure

assessment, and that's one of the questions I think we ought to ask Professor Fletcher...if you base your assessment as a percentage of a value over the investment of the fisherman. We've talked about this before but I think it does answer a lot of that problem. Whether it's constitutional or not, I don't know.

UNIDENTIFIED SPEAKER: That would involve an appraisal of fishing gear every year, to determine at what level you had to pay your assessment, see?

UNIDENTIFIED SPEAKER: If you paid a percentage of your cash....

UNIDENTIFIED SPEAKER: It may have to be a percentage of cash.

UNIDENTIFIED SPEAKER: (Indisc.) I mean if you're gonna assess the guy who's more involved in the fisher more than you do anybody else?

UNIDENTIFIED SPEAKER: But by the same token, he's gonna benefit more. Isn't he, Phil?

UNIDENTIFIED SPEAKER: No.

UNIDENTIFIED SPEAKER: If I'm out there with a $40,000 boat, top quality gear and so on, I'm certainly going to benefit more by a reduction of the fishery and having more fish available per man than I am if I'm out there in a 17 foot skiff with a twelve-horse kicker.

UNIDENTIFIED SPEAKER: That's not true. I...My boat's worth three times the boat I had last year and I made the same amount of money, and I think that I was about in the same position with everybody in. I really don't think that it would be directly related. There is some....

UNIDENTIFIED SPEAKER: They are in our fishery. Your fishery, no doubt, is different.

UNIDENTIFIED SPEAKER: I think that it probably cost me $8,000 to buy an engine that would go a little bit faster but I'm not sure that...I might do it for the convenience as much as anything, not necessarily because I was

making more money. I think...I'd start looking at it . If I was gonna have to pay $500 more taxes, I'd think twice before I'd up that radar. Because maybe the most reason I'd buy that radar is because I think it's safer not because I catch more fish.

UNIDENTIFIED SPEAKER: All right, what fair ground can you come up with for doing this? What is more fair? Take a look at Cook Inlet fishery for instance. At the beginning of the season you're running 40-50-60 miles from a cannery to get to where the fish are. The tenders may not be down there. You may not be able to deliver right to the tender so your efficiency is greatly affected by the capacity of your boat. If you can pack 3,000 reds in that thing, you're a lot better off than the guy that can only pack 200. Plus, the fact that the guy that can only pack 200 can't get out there in the first place in that kind of water across that expanse. He simply can't go there. He's limited to fishery right along the beach, more or less. If he's out there in a 15-17 foot skiff. There's a definite correlation between what the two can do in that fishery depending on investment. Now, it doesn't follow all the way through because there's not that difference perhaps between a $20,000 and a $30,000 vessel. Go ahead..

UNIDENTIFIED SPEAKER: I just see a much fairer standard and I'm not sure I want to say that this is what I recommend...but a much better standard is based upon the percentage of fish that you catch. That's what the real criteria is. I mean, if you go out there with a small boat and catch $20,000 worth of fish and you've got a $50,000 boat and catch $10,000 worth of fish--that's certainly not equity.

UNIDENTIFIED SPEAKER: No, but aren't you then basing that on something that's even more perhaps unwise, and that's on the effort of the individual. The guy that catches 20,000 fish may simply have worked harder than the

guy who caught only 10,000. Do you want to penalize....(indisc.)

UNIDENTIFIED SPEAKER: I still say that that's a lot fairer than the other out. (indisc.) somebody for having good equipment. I know one case down here where a guy's got excellent equipment and he's just a pathetic fisherman. But I gues...(indisc.)

UNIDENTIFIED SPEAKER: Yes, David....

UNIDENTIFIED SPEAKER: It goes back to the question of Professor Fletcher--I think that's his name--was talking about--is how great efficiency do we want? To me, I think the greatest inefficiencies are the excess number of boats (indisc.) and we'll be goind a great service just by cutting them out. And, do we want to create such an efficiency that we drive out the guy who wants to take a bit easier. I think, I like (indisc.) tax the fish because it's the simplest among...(indisc.)

UNIDENTIFIED SPEAKER: I agree that if you bring out anything and try to talk to the public if it isn't based on the size of the catch, you're gonna have a whale of a problem.

UNIDENTIFIED SPEAKER: Mr. Chairman, the only reason I mentioned this..... I think this is the type of problem that we can eliminate. And the way we eliminate that is by not have anything where we have to assess a fisherman, you see? That means then that we don't have this (indisc.) to buy back at exaggerated prices. (Indisc.) I'd rather leave it to legislative appropriation as to the purchase or permits, of permits alone, to the extent we want to extend State funds as (indisc.) purpose for that. And that probably again might be based upon the amount of processor's tax or something else. Rather than to try and distribute this back over all the fishermen and the rest of it in some other manner. Now, as I, if we can get away from those arguments then it seems to me like, it's down to the lot in a qualified pool and how we want to qualify that pool...gets to be the tough one.

UNIDENTIFIED SPEAKER: Unless you want to make any qualifications on it.

UNIDENTIFIED SPEAKER: (indisc.) necessarily down to a lottery at that point.

UNIDENTIFIED SPEAKER: You wouldn't have to be.....

UNIDENTIFIED SPEAKER: If we decide that the market of salmon will permit another 10¢ per dollar's worth of value tax that would produce another 18 million dollars. And, we decide that we can tax the (indisc.) which is going to Japan now, which is no taxes at all. And we decide in the legislature that we go ahead and impose this tax and just appropriate 5 million dollars this year which that tax is gonna produce, for the purpose of buying back permits, not equipment, just permits...in particular areas.

UNIDENTIFIED SPEAKER: That makes a lot of sense...and then you still have the attrition plan (indisc.)

UNIDENTIFIED SPEAKER: That's right. But you see this leaves it back to the legislature. In other words, instead of making this problem a fisherman's problem, of possibly redistributing this cost and reassessing and trying to figure out how that guy can get his money out without keeping the guy that's coming in out also, we leave it in the legislative hands here to impose the tax and to put that bill for the fishery. And I'll tell you, I think simplicity is greatly to be desired in this thing--if you don't, you people are gonna end up, I can't answer these problems that we've raised satisfactorily.

UNIDENTIFIED SPEAKER: I just had to throw this out, I mean, I think that's a pretty good way to go but being from southeast where we're not going to be cutting our fleet down and maybe we have, we catch say one-third of the salmon in the State or top Southeast Alaska, we're gonna be paying for everything that's gonna be going on in Bristol Bay and everyplace else though we're not directly benefiting from it as much. I'm just saying, personally, I'll go along with it but you've got to allow other, other

legislatures in Southeast Alaska oughtta be able to sell that to their fishermen. So that is a problem. We've got a problem no matter what we have so this is probably a lesser problem.

UNIDENTIFIED SPEAKER: Of course, you've got a problem with the guy in Anchorage too. He thinks that he owns a part of this resource and if you've taken general fund monies to buy out the fishing (indisc.) half the income of other fishermen, see?

UNIDENTIFIED SPEAKER: I would never advocate taking this out of the general fund. But I, one way or another, fisherman have got to pay for themselves.

UNIDENTIFIED SPEAKER: Well, that's the difficulty all right.

UNIDENTIFIED SPEAKER: Terry, I don't quite follow that, because surely there must be some fishermen in Southeast who would like to (indisc.) if they had this opportunity.

UNIDENTIFIED SPEAKER: Yes, well the thing is, we're talking about Southeast right now...(indisc.) The number of fishermen we've got now is probably okay. Any cutback one way or the other wouldn't make that much difference. We're probably okay where we're at but it's just that (indisc.) trend that's going right out the window. Where we'll be five years from now is what we're trying to stop right in Southeast. So we're not going to try to cut down the size of the fleet in Southeast. So in other words, they won't be doing any buy-back in Southeast, but we'll be paying the raw fish tax or some type of tax here in the (indisc.) like everybody else will be, but all that money will be going to buy-back in Bristol Bay which in turn is benefiting the Bristol Bay fishermen and doesn't directly benefit us unless we happen to go fishing (indisc.)

UNIDENTIFIED SPEAKER: Of course, if you wait for natural attrition you don't have to buy back. You wait til people die or decide they want to change

their occupation . And put them back on a basis of two out and one in. You wouldn't have this problem.

UNIDENTIFIED SPEAKER: My impression, in talking to fishermen...the fishermen are perfectly willing to pay the bost of buy-back because they are interested in seeing accelerated attrition and so I don't think--as a matter of fact, I've heard reservations expressed by one of the finance chairmen to the effect that (indisc.) this buy-back program dipping into the general fund. I think there might be some problem there (indisc.) some of the people (indisc.) are willing to pay. It seems to me it's something that is not altogether unreasonable, for fishermen to better themselves by using their own money. And, of course, the simplest formula which (indisc.) flat fee. That's the simplest formula. Whether it's the most equitable is another question.

(indisc.)

UNIDIENTIFIED SPEAKER: What's wrong with John's proposition here in putting the tax on (indisc.)?

UNIDENTIFIED SPEAKER: I've interrupted Allan a couple of times here...

UNIDENTIFIED SPEAKER: Allan and Dean both (indisc.)

UNIDENTIFIED SPEAKER: I was just kicking around the idea of assessing the fishermen, at least when we've kicked around the possibility of buy-back, it's always been an assessment by area and type of gear so that if you remain a purse seiner in an area, the other purse seiners who remain in and benefit from the reduction in gear are the ones who pay for the reduction. So that in Terry's example, if gear is removed from Bristol Bay, the people who remain in, pay for the benefits they receive. If they use their pay for (indisc.)

UNIDENTIFIED SPEAKER: Allan, don't you see, maybe I'm wrong on this factually--

but, okay. So, you're gonna assess the purse seiners. But, it's other people fishing that fishery besides the purse seiners. Aren't you also gonna tax the set netters then, too? And, then let's assume that you tax only one of them--the purse seiners--because you're eliminating another purse seiner; then, that means that you're going to have an argument every year that the purse seiners then are entitled to the same catch that they got before--percentage-wise, even though they have their numbers reduced now. And, by God, they paid for that and now they're getting screwed on it and you've got to convince them that they're not.....

UNIDENTIFIED SPEAKER: The argument about the difference in the relationship (indisc.) catch, as far as I understand the situation, and I'm not a Fish and Game Biologist, (indisc.) perhaps the argument that doesn't arise. Because in setting your optimum limits of gear, the adjustment is going to be a proportional one among the types of gear that you have in the fishery at the time you begin this. It just wipes out all of one type of gear and that does it, but that's not equitable. So, if there's going to be limitation in an area, it will be spread over the various types of gear that are there so that then any reduction -- any people who are removed through buy-back or whatever -- the assessments will be proportional on the remaining gear holders of a particular type and a particular area. So, that the (indisc.) position of the different types of gear remains approximately the same. And Fish and Game people te[illegible]me that w[illegible] can re-verse the amount of gear to the number of units. But, th[illegible]t through management techniques of the catch efficienty--the remaining g[illegible]ar can be modified so that this balance is still maintained. But that's [illegible] regulatory matter for the Department of Fish and Game and the Board rather than one for the people who will be limiting entry.

CHAIRMAN: Dean?

DEAN: My concern is really very similar--that, for instance, the Bristol Bay fishermen, the Bristol Bay drift netters, would pay for buying out the Bristol Bay drift netters and wouldn't be getting into the southeastern seiners or drift netters, as the case may be. And, I think that within an area it would probably be possible for the Commission to carefully review the situation, determine if they want to split it up between say the Bristol Bay set netters and the Bristol Bay drift netters; and a different rate of assessment....and possibly there'll be different rates of attrition. I think this is within the authority of the Commission to keep (indisc.) in the House.

UNIDENTIFIED SPEAKER: You see the difficulty though is that you give a fisherman and a group of fishermen who have been assessed a certain arguing base for the continuation of that type of gear or this type of fishery or the distribution between gear. It seems to me like it gets to be a really difficult tangle. It's one of those things--you know we can make government work, but if we can make it work with the least amount of friction then our citizens waste their energies the least in fighting each other and their commission like they do the Board of Fish and Game. Which, if we could get away from this assessment thing - and perhaps you say that southeastern doesn't want to pay for the assessment some place else, I think that's an absolutely valid objection--then maybe you get down to this--if you froze a level and let attrition take care of it, and didn't assess--and those that were more overpopulated now, it'd take them longer to get back, right? Those that are about right, right now, would be about right. And, at least we stop this influx that everybody's talking about--we stabilize it where it is--we absolutely guarantee there's not gonna be

anymore coming in and at the same time we're having a free entry and we haven't closed this class (indisc.) any income.

UNIDENTIFIED SPEAKER: How are you getting free entry?

UNIDENTIFIED SPEAKER: By one out of three of the attrition or maybe 50-50 on the attrition.

CHAIRMAN: Allan?

ALLAN: I don't have the precise statistics (indisc.), but my recollection is that the average age of the Alaskan fisherman is something like about 34-36. It's 39 (indisc.) figured the averages two different ways. Whereas most of them grouped them in mathematical (indisc.). But just looking at average age alone--if you're planning on people growing old and dying -- interms of an average age of 40, say it's easier to figure, it's a hell of a long way to 65 when a guy gets (indisc.). And I think the fishermen would be a very slow way to go, if that's the only factor you're going to rely upon.

UNIDENTIFIED SPEAKER: Let me ask you this. Isn't there quite a turnover in fishermen and particularly outside fishermen, who come up here and fish for 3 or 4 years and then don't?

UNIDENTIFIED SPEAKER: My figures show a turnover, and again I'm just recalling roughly what that pattern was of approximately...well, over the past couple of years the trend was at about 2000 people who dropped out and about 2100-2200 new ones would come in. Only how many of those new people are actually people who, three years ago, had also fished--we haven't been able to quite separate out. But, there's approximately 2000-2200 per year figure

UNIDENTIFIED SPEAKER: (indisc.) total number of fishermen, what are we talking about?

UNIDENTIFIED SPEAKER: 15,000 commercial fishermen.

UNIDENTIFIED SPEAKER: That's a pretty rapid rate of attrition.

UNIDENTIFIED SPEAKER: Well, it's not attrition though, because once you establish its turnover, and once you establish entry permits--Hell, I'm not gonna drop out if I have my entry permit...you betcha. Why should I? It's valuable.

UNIDENTIFIED SPEAKER: You will if you're not making a living at it. And if you can't sell it - if it's not valuable. You see, you will drop out if you're not making a decent living out of it. It's like you drop out right now if the permit goes back into a lottery and you can't sell it.

UNIDENTIFIED SPEAKER: But for the first time you've got a real element of hope injected into this whole thing. That something is going to be done. And (indisc.) rehabilitation we are going to increase the fishery and I've got something to look forward to. And (indisc.) the attitude of everything.

UNIDENTIFIED SPEAKER: Another thing...like Allan said..that's commercial fishermen. And I'll bet you that if 75% of that turnover is among crew members rather than among skippers....

UNIDENTIFIED SPEAKER: No, this is gear. This is gear holders.

UNIDENTIFIED SPEAKER: Is this gear? Oh, he said commercial fishermen--that's why I (indisc.)

UNIDENTIFIED SPEAKER: I don't think we should even be considering the problem you talk about. About the conflict between gear and who should get what share of the fish because I know, I think that if we get into that we're trying to solve too many problems in one bill. And we've got that right now. It's terrible--I mean--the seiners want (indisc.) the gill netters. The possibility you're talking about wouldn't make it any worse than it is now.

UNIDENTIFIED SPEAKER: Well, the only reason -- I hate to see assessment based on that and get involved in that. (Indisc.) getting complicated with assessments (indisc.).

UNIDENTIFIED SPEAKER: Even if you did that, I don't think it would create it any worse because right now it's mostly just psychological. I was born a seiner and I hate gill netters. Whatever...(indisc.).

UNIDENTIFIED SPEAKER: I don't know whether we can focus in and decide on the basic philosophy of transferrability or not. Apparently, we've got completely free--transfer where you can sell to the individual at whatever market price you can work out with him or rather than a straight lottery... this three for one thing--that's almost a lottery. Well,I guess it is a lottery, really, isn't it? If every three that gets out - one gets in. But he gets in on lottery basically. And, then we've got the modified free where we're providing an incentive for him to sell out to the commission but he can sell out to the individual if he wants to and simply not make as much money when he does it. Now, do you have some other alternatives that we really want to look at?

UNIDENTIFIED SPEAKER: Let me make one more argument...in favor of the attrition, plan 3 and the lottery. And that is, that when we talk about the class of people...we talk about class of people...I think that that class would have a better change of getting into fishery the second generation if they could get into it by a lottery rather than having to buy their way in. Because, under the other system, under every one of the other systems, the second generation of fishermen is going to have to pay for his permit. Well, because I think that this ought to be of particular concern to you. (indisc.) I'm talking about the resident fisherman in Bristol Bay.

UNIDENTIFIED SPEAKER: Let's examine that. Now, that's one of your big points, Sam, and if we go to a lottery we take the financial requirement out of this thing. Now, I said at lunch and I'd like to see, maybe I'm wrong, but it seems to me that as soon as this fishery becomes something that is

limited, the reasonable expectation is to make a living out of it. If he has to buy a lottery ticker or buy a permit and that permit has value, then anybody with a decent credit rating or anybody that's a decent fisherman--if he has a decent credit rating-- can go to a bank and borrow the money he needs. Therefore, he doesn't have to be, doesn't have to (indisc.) himself. If he's simply a darn good fisherman he can go to a cannery. He can get cannery backing to buy this permit. Therefore, I don't think that simply because that permit has value, it's gonna close it to the guy that doesn't have the money but is a good fisherman. Now if I'm wrong, why....

UNIDENTIFIED SPEAKER: Let me make one other argument in favor of this system.

UNIDIENTIFIED SPEAKER: Well now, wait a minute. Let's examine this point. Let's see if we can come to some agreement on this point.

UNIDENTIFIED SPEAKER: I was gonna say something back to what you were saying just before that. In the fishery that I'm in, assuming that I were still in it, a lottery would be beautiful because I would assume that half the people who were applying wouldn't be the skilled fishermen. They'd be easier to compete with. You know, so (indisc.)

UNIDENTIFIED SPEAKER: The lottery coming out with that pool?

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: (indisc.) have an experience factor.

UNIDENTIFIED SPEAKER: Well, the only way to learn fishing is to do it.

CHAIRMAN: Allan?

ALLAN: I think that I'd like to recall what Professor Fletcher said this morning when we were talking about freely transferrable permits. And that was that it seemed to him that the concept of freely transferrable permits

within the system was provisionally a bill prohibiting the (indisc.) high cost, etc., of the permit. And that does, it seems to me--that set of conditions prohibit going to the bank and getting the loan for that permit. Because essentially they might be (indisc.) because you've got a house that they will loan you money on. But it seems to me that it does put limitation on sources of funding that a person could obtain in order to get a permit.

CHAIRMAN: Dean?

DEAN: Back to this changing a permit by lottery, we also want to remember what we said about continuing to maintain the criteria in the long term approach. And if we fail to do that, well, this wouldn't necessarily make the thing appear legitimate before the courts.

UNIDENTIFIED SPEAKER: You couldn't maintain the economic dependent. In other words, your lottery, as I assume, would be among your qualified (indisc.).

UNIDENTIFIED SPEAKER: Your qualified applicants, right?

UNIDENTIFIED SPEAKER: There's one other advantage of a lottery. There's no way for somebody to buy out a man's right to fish. We were worried about, under an economic distress situation of canneries, or guys from Seattle or some place else, buying out the local resident's right to fish...and getting control of it. If it goes back to the State and is going out with the lottery, there isn't anybody who can pay anything for that to buy it. Which means that the local resident isn't going to be deprived ot it during a particular distress (indisc.). There's one other point that I thought (indisc.) in favor of that system. It doesn't come to me now.

UNIDENTIFIED SPEAKER: The other side of it is that--say I wanted to get into commercial fishing. Say I've even got the money to buy the permit or whatever--how can I plan on whether I'm going to get into commercial fishing if I just have to wait until they draw the little light bulb with my number on it?

UNIDENTIFIED SPEAKER: You're not gonna buy a boat until you get your number.

UNIDENTIFIED SPEAKER: Yeah, I can't—that's it. Say I'm already in the fishery and I've to a permit for a particular kind of gear and the area that I'm in if I got another entry permit to fish another type of gear--the pattern of the migration of the fish would allow me to do that consecutively. How am I going to apply the expanse and better myself in the fishery if I have to wait again until they draw a little slip of paper with my name on it (indisc.) random water? If it had a deadening effect on anyone seeking to improve himself within the profession.

UNIDENTIFIED SPEAKER: I think the Professor was right. And that is...the price we want to pay for efficienty here on taking people out, you know... now I think that the most efficient fishery would be an absolute free transferrability like a piece of farmland and the devil take the highmost. You know. I think that's the most efficient. But I do think that we have an interest here in a class of people...and the entry of people (indisc.) you don't have a lot of (indisc.) in the fishery on a continuing ongoing basis. And it seems to me also that the lottery would tend to favor Alaskans a little bit over non-residents because it seems to me like the attrition in Bristol Bay for instance, you would have a lot more guys that came up and fished two or three years than you would a bunch of guys that make their residence in Bristol Bay, and want to fish. That is, they'd have a lot better chance of being selected. Now, I'm not sure that's true anymore. I don't know the facts out there, but ....

UNIDENTIFIED SPEAKER: Why does a lottery protect that class of people you're talking about?

UNIDENTIFIED SPEAKER: Well, it protects them from selling the right. We were talking about....what are you gonna do in a bad season?

UNIDENTIFIED SPEAKER: Yes, but it gives us absolutely no protection as far as the second generation of the fellow that's really out there, that really there's nothing else to do in that area except fish....

UNIDENTIFIED SPEAKER: Don't we agree? That if the second generation has to pay to get in that they may very well...that the control of the fishery will move away from the importunateness (sp) residents of say Bristol Bay-- is it going to go to the people that have money in Anchorage, Fairbanks, Kodiak....

UNIDENTIFIED SPEAKER: No, I don't accept that at all.

UNIDENTIFIED SPEAKER: You don't, huh?

UNIDENTIFIED SPEAKER: No.

UNIDENTIFIED SPEAKER: That wouldn't happen, huh? Why?

UNIDENTIFIED SPEAKER: Well, because again I think that a good fisherman who has grown up in the waters and we're talking about second generation now-- grown up in the waters reading no (indisc.) known to the cannery as a good fisherman and if he can't get credit elsewhere I think in all probability he can get credit through that cannery to buy that permit.

UNIDENTIFIED SPEAKER: Well, the canneries control him then, don't they?

UNIDENTIFIED SPEAKER: What?

UNIDENTIFIED SPEAKER: That's one of the things we're trying to get away from--- cannery control aren't we?

UNIDENTIFIED SPEAKER: Not necessarily. I say they do not necessarily control them to a certain degree.

UNIDENTIFIED SPEAKER: I suppose.

UNIDENTIFIED SPEAKER: But the thing is that the Anchorage, Fairbanks, Kodiak fishermen -- not so much in Kodiak -- and I'm not sure about (indisc.) the thing is that bank loaning policies are different throughout the State. You can get a loan for various things much easier in Anchorage than you can in Kodiak. And so the opportunity for people of equal qualification

in Anchorage is different than it is in Kodiak and definitely different from the Bristol Bay area. Now, if you narrow down his field for financing for instance in Bristol Bay (indisc.) fisherman's case where it is only the cannery because that's what it will come down to because my experience is that you just can't get money out of (indisc.) with the branches in a small town unless they had (indisc.) secured to at least 100% and what you (indisc.) that particular resident (indisc.) fishing record (indisc.) the opportunity to sit down and he can only go to the cannery, I don't know how they will do it now, but I feel certain that the canneries will control that man. The way they (indisc.).....

UNIDENTIFIED SPEAKER: In the first place, I think Dr. Fletcher made (indisc.) rather interesting. He did (indisc.) the fact that (indisc.) would preclude the canneries being able to loan the fishermen money at all and that is the only way you're ever going to be able to make sure that the canneries don't dominate the fishermen because in spite of who owns the license and who loans the money, you're going to have to (indisc.) to keep the man from going to the cannery in a lean winter and borrowing money from the cannery. They are going to their (indisc.) handle (indisc.) to see that you are actually accomplishing the end keeping the fishermen out from under its domination. And second, the CEDP (?) people that were in here the other day were extremely concerned about transferability within the ranks of their own family which, of course, is going to be completely precluded on a lottery basis. And you have got a gain-I think I've used the term before--but if you've got 50 men and 5 licenses, you can go back every year for 30 years and never get a license on a lottery basis. And to use the analogy--if you had to make entry into being at a cannery on a lottery basis, a guy just wouldn't be able to (indisc.).....

UNIDENTIFIED SPEAKER: That's about what it is.

UNIDENTIFIED SPEAKER: If I could say one other thing...only one single exception every fisherman I've talked with, and I've been talking with a lot of them, when they start talking about lotteries they just absolutely can't (indisc.) If there's anything that's going to defeat this bill from the fishermen's point of view I think the lottery would because they just can't.....

UNIDENTIFIED SPEAKER: Now, we're not talking about the existing fishermen..now we are talking about the second generation fishing gear.

UNIDENTIFIED SPEAKER: Everyone I've talked to has extreme reservations about it.

UNIDENTIFIED SPEAKER: One thing I think is a misconception is to think that the lotteries get away from control by the canneries...If I had a cannery--what I'd do ... (indisc.) ...they're writing letters to guys who aren't (indisc.). If you want to go fishing, we'll give you the deal, my friend, and that's exactly what they are going to do. They are going to go out and find people to file for the lotteries.

UNIDENTIFIED SPEAKER: And for every unattached fisherman there will be ten cannery fishermen in there in the lottery -- so the chances are ten to one that somebody connected with the cannery will wind up with a ticket. Let me go on to Dean.

DEAN: I'm with John on his viewpoint till we get up to the lottery. I think I agree with Phil there (indisc.) viewpoint of the fishermen. They want to control who gets...they are going to want to be able to spell their--through the commission perhaps, with the commission approving everything--but this is about the only way they are going to be able to determine who follows them from their family and many fishermen are concerned with their (indisc.) Even so, I'm still not sure that we are going to be able

to sell the concept of free transfer because of the fear of domination by cannery interest, money interest or whatever.

UNIDENTIFIED SPEAKER: Mr. Chairman, would you explain to me exactly why you feel we have to consider the aspect of transferability at this point in time?

CHAIRMAN: Well, I didn't think we did prior to today but after the time we've spent with Fletcher here it seems to me that this is such an integral part of the whole thing so that you would give a court an opportunity to look all the way down the road to see that we are not simply creating a interim period here and that we're going to (indisc.) the details of the ultimate objective later and in doing so extend the interim transitional period year after year after year and in effect create a closed class. It would seem to me that he was pretty definite that we had to do more than that. We had to put forth the (indisc.) plan but maybe not (indisc.) but at least in pretty substantial outline before the court would be able to find in our favor.

UNIDENTIFIED SPEAKER: What I hear is that we've been going around and around (indisc.) and we have to do something and I'm just wondering how important at this point in time the matter of transferability is. If you can guarantee it (indisc.). John, we can have a moratorium for a reasonable period of time, but the court is going to require that the legislature act in good faith and Dr. Fletcher feels that to undergo a constitutional test which would stand a constitutional test, that we do have to have something in the bill regarding transferability. And, in any case, you know the legislature is a good thing (indisc.) assuming that you do have a moratorium here. I'm concerned about time schedule (indisc.). Another possibility would be to make out a (indisc.) that vehicle in the next year (indisc.).....

Let me ask John. John, if you knew absolutely that the (indisc.) got the highest bid--every guy wanted to go--would you vote for the bill? If

you knew that was going to the way it was going to work, would you vote for it?

JOHN: I don't know.

CHAIRMAN: Well, you see here's the problem. I don't know either. But then the question is, do you want to vote for a bill which is gonna to lead to that? You need to know now what that plan is to know whether or not you want the bill, don't you? Well, maybe you don't (indisc.) well, maybe so..In my mind I'm not sure that I want limited entry unless I think I understand how it is going to function. You see that't how I look at it...this is the most basic part of the functioning of it, really.

UNIDENTIFIED SPEAKER: (Indisc.) completely transferable or not the basic assumption of having gotten into limited entry will be of benefit either way.

UNIDENTIFIED SPEAKER: If it would stand, but I think that the problem. Now when I came in here this morning I had though that that's what we better do in view of the time element and the rest of it charge the commission to come back within no more than two years to present recommendations to the legislature on the transferability. In the meantime, we've done a two year moratorium. We can do what needs to be done with transferability at that time. And I believe I understood Fletcher to say that this bill wasn't satisfactory in terms of the law.

UNIDENTIFIED SPEAKER: You asked him and he couldn't give any (indisc.) I was thinking about a year to guarantee that we participate to make sure that we were (indisc.)

UNIDENTIFIED SPEAKER: If it's any help (indisc.) similar question during break this morning and Fletcher was a little bit more definite (indisc.) two years. The Professor sort of backed off and though..well..Price said, "How about a year?" The Professor said, "Well, we will be far better off with

six months". amd tje general indication was that it was his feeling that you could probably get away with a moratorium for about six months but it had to be justified with a temporary transitional device that you needed for administrative purposes while you were getting through whatever it took you to get on with the business of your limited entry program.

UNIDENTIFIED SPEAKER: Course, there's no way that could be..just six months.. because the legislature doesn't meet for another six months.

UNIDENTIFIED SPEAKER: That's right. I think (indisc.) the power to offset (indisc.) and also that it should be covered with a detailed legislative letter of intent in other words to document as being indicated (indisc.) they can do it. In various ways they do it presently, but there was a need to document. It seems to me that regardless of which way we go on the transferability we're not going to be able to solve the problems of the class of people that we are most interested in. It's not a legitimate legislative objective under this bill if you're going to have to go outside of this bill with another piece of legislation making avilable loans or whatever to really accomplish what we are trying to do in transferability. (Indisc.) my initial thinking would be to (indisc.) bill rather than wait...

UNIDENTIFIED SPEAKER: Yeah, that's right.

CHAIRMAN: Dave?

DAVE: (Indisc.) ...that's the feeling I get.

UNIDENTIFIED SPEAKER: Yeah, I think we are going to have a lending program and something like that. To my mind, I think we need to solve this question as a part of the key "part of our problem" here.

CHAIRMAN: I do, too. I think we have to really and maybe the best way to accomplish that is to (indisc.) an awful long time today and I don't know whether we're going to accomplish a whole lot more now. Maybe what we

had better do is to understand as best we can the various transfer proposals...you can go back and take each one of them and draw up your list of plusses and minuses for each one of them. I'll do the same. Everybody that's interest, do the same, and let's find out then which ones are valid advantages and which ones are valid disadvantages. What I may put down as an advantage, after discussion, we may find is not an advantage and vice versa, and so on. And maybe we can come back then and make some sense out of this thing.

UNIDENTIFIED SPEAKER: Mr. Chairman, (indisc.) hear from Dr. Fletcher again?

UNIDENTIFIED SPEAKER: It's about the politics of this thing...talk about the fishermen (indisc.) You really have to have the people in Fairbanks and Anchorage (indisc.) and there is one thing about a lottery and that is it (indisc.)....

CHAIRMAN: I don't know whether it is or not, John, I'm not sure.

(Indisc.)

UNIDENTIFIED SPEAKER: Here's the thing about it. If you don't have a lottery, then you (indisc.) the accusation about you gave away the fishing resource.

CHAIRMAN: Well now wait a minute.

UNIDENTIFIED SPEAKER: To who? To a particular group of people...would be like giving away the timber resource to the timber users and the oil resource to the oil people, and the rest of it. But as long as there's some way for other people to enter and they probably won't -- but to some extent they will -- it had to be given away because all citizens and everybody else has an equal access to it and rich or poor you don't have to buy your way--you're not going to do nothing. It's a public resource..you're going to be harvesting a public resource...ther's not enough resource to go around

for all the people who want it so flip a coin and the guy that's lucky gets to harvest the resource and the guy that's unlucky gets to be a (indisc.).

UNIDENTIFIED SPEAKER: I don't see how (indisc.) use the legislators (indisc.) (laughter)....

CHAIRMAN: Do you really think there is that much difference in a liquor license...do you rellay think that, therefore, a liquor license owner should be able to really sell that to anybody he wants to..to his son.. pass it on in the family, generation after generation, where it's a franchise -- a public franchise again...that's limited where only a certain number of people can get them that he can transfer his down the line to his own kin....

UNIDENTIFIED SPEAKER: You know if I thought liquor licenses were really the important (indisc.) as this, I guess it would be worth the hassle.

CHAIRMAN: Well, now wait a minute...it's the principle that's important.

UNIDENTIFIED SPEAKER: The principle is different because.....

UNIDENTIFIED SPEAKER: Well, one is a resource and the other....(indisc.)

CHAIRMAN: The opportunity is certainly being given over, is it not? Otherwise, why do you limit them to one to every 2500 people?

UNIDENTIFIED SPEAKER: Well, I think it's sort of a privilege to have a license for booze.

CHAIRMAN: Well, I do, too. Very definitely.

UNIDENTIFIED SPEAKER: I just don't see how the two can possibly fit together... in the same package.

UNIDENTIFIED SPEAKER: It's difficult because one is a resource and you can't say the people are a resource.

CHAIRMAN: If you didn't have the people you wouldn't have any (indisc.) to drink it.

(Indisc.) (Laughter)

UNIDENTIFIED SPEAKER: I think we are getting closer...you'll never please everybody, that's for damn sure.

UNIDENTIFIED SPEAKER: Well, I was going to say this, Mr. Chairman. You're going to have to plan to get down to where we are going to have to do on this committee what you do on every committee and go down the room and vote.

CHAIRMAN: That's right.

UNIDENTIFIED SPEAKER: You know and the majority is going to control.

CHAIRMAN: Let's be as intelligent and well-informed as we can before we reach that so.....

UNIDENTIFIED SPEAKER: Something I would like to know....to what extent can we load the deck in terms of the applicants in that lottery? Surely, we can have some basic requirements, have some experience in that it won't just fall to anybody--especially somebody who's on the outside and just wants to take a chance. They'd have to be here in Alaska at least.... (indisc.) (laughter).

CHAIRMAN: We have these three things as of right now....(indisc.)

CHAIRMAN: Lowell, the thing that we do at the present time under one of these work drafts is we set up priorities for that applicant pool based in a mixture of these three things -- the extent of past and present participation in the area of fishery or in similar fisheries, approved training program pertaining to commercial fishery, ability when intent to participate actively in the fishery and a mix of those three things would determine where an individual went in his ranking in this applicant pool. And then the highest ranking is eligible.

UNIDENTIFIED SPEAKER: The past reliance he said was not...that was a grandfather right to determine original entry. He said that after you once got into it.....

CHAIRMAN: We're talking about experience and ability factor. We're not talking about economic factors. The extent of past and present participation (indisc.) area fishery when similar fisheries -- not reliance on...

UNIDENTIFIED SPEAKER: It's a matter of education--experience, skill, etc....

CHAIRMAN: Then, that's what you're talking about, Lowell. This type of thing.

LOWELL: Yeah.

UNIDENTIFIED SPEAKER: It's unfortunate we can't put a resident's requirement in there...

UNIDENTIFIED SPEAKER: If we could do that, all our problems would be solved.

UNIDENTIFIED SPEAKER: We need a lottery among this type of pool.

CHAIRMAN: A lottery (indisc.) this pool?

UNIDENTIFIED SPEAKER: This is why I don't understand the difference between a lottery and property right in that we're going to have more people... in other words, I assume everyone in that pool would be desirous of a license and I don't see where we're going to get more people because all of a sudden the licenses are ...(indic.) made the argument that if you have a pool, then all these extra people to come in there but they've got to be qualified, you know.

UNIDENTIFIED SPEAKER: Well, would your canneries bring in people who are....

UNIDENTIFIED SPEAKER: But, he said we couldn't limit it to a certain year. We couldn't say just those who fished in 1972 are eligible.

UNIDENTIFIED SPEAKER: No, but I mean some sort of qualification of enough experience...

UNIDENTIFIED SPEAKER: You could go back over a period and pick up all kinds of people that have fished who might not be fishing now--they're actually

qualified and could get into the pool.

UNIDENTIFIED SPEAKER: I see. I don't know.

UNIDENTIFIED SPEAKER: Isn't he saying that there would be an incentive under this scheme for anybody other than really interested fishermen fishing in Alaska or even applying in this lottery? If he gets a permit, he can't sell it--he can't transfer it--he's only interested in using it so it's certainly going to favor the Alaskans.

CHAIRMAN: Oh, I don't know. Why do you think so? You've got this very large number of (indisc.) residents who come up every year and a half for many years as helpers on boats if nothing else..not the gear fishermen...not the gear holder, but the helper and all of those would certainly be members of this pool.

UNIDENTIFIED SPEAKER: There are probably more of them than there are resident Alaskans that are (indisc.) to qualify and their (indisc.) of the lot comes around you just figure its probability there will be more of then than in the fishery than the Alaskans (indisc.).

CHAIRMAN: And they continue to hire outsiders as their helpers on the boat so they continue to be come eligible for (indisc.) pool or the applicant pool....

UNIDENTIFIED SPEAKER: There's a reason for hiring outsiders. You get a lot better workers on a lot...

CHAIRMAN: Now, careful, (indisc.) (laughter)

UNIDENTIFIED SPEAKER: I think--I have also felt maybe we could have different ways for different types of gear, different types of situations--and it seems like my impression -- I didn't hear everything that was said -- but we have a lot more flexibility and we could, in other words, how do you get experience on a set that size if you don't have a permit? Now, there's

differences as similar sort of things with trollers or gill netters-- since you don't have the opportunity for experience there could be more of a (indisc.) whereas you have maybe three or four crewmen on a seine boat which brings up this -- some of these constitutional -- (indisc.).

UNIDENTIFIED SPEAKER: Maybe this is something we are going to have to write in. I don't know what the mix should be.

CHAIRMAN: Okay. Very good. Appreciate your being with us this long while.

UNIDENTIFIED SPEAKER: Maybe we ought to check the tape and find out how it's going along.

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SCOMM

#31: 14

CSSB 39: LIMITED ENTRY WORK SESSION (I/1)

March 2, 1973

CHAIRMAN:.....our secretary and she says the air mail, special delivery information from Professor Fletcher has just arrived and he's sending it right over so we should have his efforts available in a few minutes, so go ahead, Dave.

DAVE: Well, I have, of course, been kind of working between both the House and Senate version trying to relate one to another and there's lots of similarity and some marked differences but I have made a few comments on your version of the bill if we could just work perhaps through it because you explain things to me or maybe I can let my (indisc.)

UNIDENTIFIED SPEAKER: You don't have a folder.

DAVE: No, I don't know where my folder is.

UNIDENTIFIED SPEAKER: Do you have any extra copies of the bill?

DAVE: I need one also.

UNIDENTIFIED SPEAKER: Is this essentially the same thing as what's been said before?

DAVE: No, that's an old, old one. This is one that we really should be working with here.

UNIDENTIFIED SPEAKER: Okay.

DAVE: All right, you've got on page 6, standards for establishing the optimum units of gear. Now, under Number 2, Line 12, in other words, of Page 6, you're saying the number of units of gear necessary to fully harvest the commercial take of the fishery resource during all years. Now, the all years would presume then the highest years possible. In Bristol Bay again you've got such a fantastic fluxation between high and low years going from

twenty five million down to one (indisc.) anticipated next year, but you'll accomodate as your optimum enough gear to harvest twenty five million, you're probably talking about 1500 units of gear. Two thousand units of gear would harvest 20,000 per unit--now wait a minute, 10,000 per unit. I don't know how you're going to do that. You're talking about their capability, physical capability, no matter what the take is. If you can catch $100,000 worth of fish with twenty units of gear, but the inhibiting factor against processing the Bristol Bay ....of catching fish in Bristol Bay is process, lack of capability of processing fast enough to accomodate all the fish that come in from numbers of fishing boats which I'm sure you've experienced. But what my concern is--let's say that they determine we want enough gear to harvest the largest run that's likely to occur in Bristol Bay. If you do that and accomodate on (indisc.) amount during an average year and the low years you're going to have far too much gear accomodated and you won't essentially cut the gear at all. I note the House version has done something different. They say we are going to use the average four year average to determine what the last four years...in other words, instead of coming up with the amount of gear you can harvest twenty five million fish, you come up with the amount of gear you can harvest ten million.

UNIDENTFIED SPEAKER: What would you propose--how would you see it happen in the big years? What would happen to the fish, then?

DAVE: Well, maybe I'm getting into things that should probably be left to this commission to determine at a local level and for regulations. But, I think you could alleviate some of my concerns that this might occur if you go down to Line 16 where it says the commission may increase the optimum number of units of gear for type of gear area and increase or decrease. I would

think you would want a provision where they could decrease...in other words, if you're going to suddenly go from the past history which indicated a much greater amount of gear would be allowed in Bristol Bay than perhaps the future history would warrant our past history an average of six to eight million fish a year. Suddenly, we're looking at perhaps the next 12 years an average of two million fish a year. I think the commission should have the discretion of decreasing those amounts of gear when you have a depressed fishery that...what I'm fearful of in any of these bills is ending up with a situation which, though the bill was inspired by the situation in Bristol Bay, really impacts every place but, because to cut it in Bristol Bay effectively, you're going to have to either draw such stringent criteria that you're going to screen out half of the guys who live in the area of fishing or you make them so broad and all-encompassing that you draw back the compurpose (sp) of them screening anybody out. You may simply reapportion who fishes and still number of incidental fishermen standing on the beach. But my concern -- I don't mean to be confusing this issue -- but, maybe I'm not understanding what you mean by optimum and maximum for units of gear.

UNIDENTIFIED SPEAKER: You understand it very well. We've discussed it and don't have a solution to it. You can't start in saying that you're going to squeeze it down to where you can't have a harvest, or big harvest. That's the difficulty. We have also discussed taking a guy's deal away from his depending upon their system of transferability. You know, you may deprive people of licenses if after a certain period of time they don't use them, but then we might--you know a lot of this gear shouldn't be used except on the big year. It ought to be a very (indisc.) item.

UNIDENTIFIED SPEAKER: Well, why can't we accomplish that in these two areas he's talking about by changing this to maybe average over a four year period.

That's the optimum level and then allowing them in here not only when there's an established long-term change in the biological conditions or maybe you consider that these peak years are established long years, long term change. Maybe by change of definitions.

UNIDENTIFIED SPEAKER: (indisc.) that the fish weren't here then?

UNIDENTIFIED SPEAKER: No...No, No, No.

UNIDENTIFIED SPEAKER: What are you going to do the first time you get a big run?

UNIDENTIFIED SPEAKER: I didn't understand what you were saying at first. Look, the last time we had runs there in 1970, everybody knew there would be a tremendous run, everybody thought there was at least. The first year I ever fished at Bristol Bay (indisc.) prior to that time the Bay looked far better than the Inlet. (indisc.) fished at Bristol Bay for two years--the big run--and that can happen in the future. Sure, one or two years with a permit for one of those big years. No reason why that couldn't work. You move fishermen from other parts of the State who desire to participate in a big run so that you have enough to harvest it. Is this essentially what you're talking (indisc.)? I mean, it could work that way?

UNIDENTIFIED SPEAKER: Yeah, I would....Again, maybe these types of things should be left up to the commission dealing in an area-by-area basis--I think they should be empowered to take those peculiar situations which prevail in the fishery such as we have in Bristol Bay and perhaps more consideration than....

UNIDENTIFIED SPEAKER: Yeah, but we'd have to change this language if you're going to establish long-term change in order to give them the power to move people like that.

UNIDENTIFIED SPEAKER: Well.....

UNIDENTIFIED SPEAKER: Don't you think?

UNIDENTIFIED SPEAKER: I think you would, yeah, I think you would.

UNIDENTIFIED SPEAKER: Then, we'd have to change the number of (indisc.) fare or you're going to have that many people in right from the beginning, as you were saying, because here we provide for enough people in the beginning to harvest (indisc.) in these peak years. So it's all that kind of thing, but it's all one of the problems we had (indisc.).

UNIDENTIFIED SPEAKER: Well, you'd have to create two different kinds of permits, one a permanent, one a temporary and issue temporary permits for your big years.

UNIDENTIFIED SPEAKER: Well, I don't know.

UNIDENTIFIED SPEAKER: Then, does a person ever have a right to get a second temporary permit? You know, did you develop any interest right there? Is that a property right to fish the big years and only then?

UNIDENTIFIED SPEAKER: I have a question here. I always have so many, but I'm trying to figure out wha't wrong with giving the commission the power to decrease as well. And when you talk about the units of gear, John, you're not necessarily talking about the (indisc.)...aren't you talking about how many fathoms of nets that the fellows can use..one year, maybe next year's going to be decreased.

UNIDENTIFIED SPEAKER: Hey, couldn't you do it that way?

UNIDENTIFIED SPEAKER: Why not?

UNIDENTIFIED SPEAKER: Handling your temporary permit by providing for that decrease saying the commission may either increase or decrease providing, however, in those areas in which a decrease occurs, is there any way you can relate those who are-Cook's Inlet a low year you want to get half these boats out of there and put them in a high year at Bristol Bay. Somehow that commission ought to have the authority to be able to take those guys who are decreased in one area and put them into the increased area. And I

wonder if simply providing that authority to increase or decrease would give them enough latitude.

UNIDENTIFIED SPEAKER: Rather than spelling out all this permit business, let's see if they can work something out to accomodate it or not, and let them deal with that. I don't think that it's something the committee ought to try to work into the bill.

UNIDENTIFIED SPEAKER: Well, I didn't get an answer to mine. It seems to me, John, what you're saying is that the number of units of gear is equivalent to numbers of people. But the definition of unit of gear is something else again.

(indisc.)

UNIDENTIFIED SPEAKER: The maximum amount of the specific type of gear which can be fixed under a single gear license. There's the guy with a single gear license. Don't you have enough flexibility by controlling the units of gear?

UNIDENTIFIED SPEAKER: I thought that we did, but I thought that we ere trying to figure it out so that the fishermen in the bad years could still make a good living which would mean that if we cut down the number of fishermen, they'd all be fishing a lot of gear (indisc.) and you cut down the number of fishermen and if they are going to be fully employed, you can't make it the same way , if you're going to be fully employed in the bad year and also fully employed in the good year with the same number of people, see. You hear what I'm saying?

UNIDENTIFIED SPEAKER: Yeah, I hear what you're saying.

UNIDENTIFIED SPEAKER: In one year these (indisc.) employees (indisc.) are going to be under harvest or over employed or something or other, you know. Three times as much one time as another time.

UNIDENTIFIED SPEAKER: Well, all right. Tell me why it's not reasonable, Howard, to go under #2, Line 12 and change that language so that we are talking about maybe the average of four years and like that so we do have a smaller amount of gear in the first place and simply provide another paragraph that the commission may issue temporary permits when boom years were defined at somehow--that's what we're talking about--so warranted that we would have to figure out on what basis they awarded them to whom, but they could still be temporary permits when the biological factor so warranted for a boom year or two or three of a cycle. When there's not enough gear under #2 to adequately harvest the fish in a year, then there may be temporary permits issued to do so. Is there any reason why that concept wouldn't work if we can work out the details of it? I'd do what you're talking about.

UNIDENTIFIED SPEAKER: Yeah, I would think it has some merit. I think you could put it down at the bottom of this...you're talking about increasing permanent permits in the language - the way it's got now - you wouldn't want to decrease permanent permits but you would want to be able to provide for a temporary....

UNIDENTIFIED SPEAKER: You would want to provide for a temporary permit, right? That way you're not..that way it's definitely not a decrease then later--it's just that the temporary permits run out.

UNIDENTIFIED SPEAKER: But, my concern is not so much for the need to bring more gear into an area because of the high run as it is to assure that they don't get more in during the low periods in order to accomodate a high run. What's the difference in figures between the number that's required to harvest on the high cycle? On the four-year average? I mean what gear licenses are we talking about?

UNIDENTIFIED SPEAKER: On a four-year average would be much smaller. On a four-year average you can harvest with one-half the amount of gear it would take to harvest during one of those big runs. The trouble is with the doggone situation today--you have such an intense run for such a short period that if you had a much more expanded period of time to fish, a much smaller amount of gear could harvest the same amount of effort, but you have to have a number of boats that are really going to fully harvest a big run. You have to have an awful lot more boats than you really should have fishing that intense 3 or 4 days while its coming through than is logical to have during years of average run so I'm just concerned if we go in and say, "Hey, we've got to have 2,000 units of gear to harvest a twenty million run." So, that's what's authorizing Bristol Bay and once I think we have established this..... you're going to find those 2,000 units coming back here. Right now we only have 1800 units coming here. You might actually increase it.

UNIDENTIFIED SPEAKER: What we could do is cut it down to wherever you have just enough for the off year and just set a fish trap upstream.

UNIDENTIFIED SPEAKER: Oh, come on, John.

UNIDENTIFIED SPEAKER: You're being logical, John.

UNIDENTIFIED SPEAKER: Well, now wait a minute. The fishermen ought to prove that because otherwise they are going to end up with twice as much gear as they want during the off year. At least they don't have any competition in the bad year.

UNIDENTIFIED SPEAKER: (indisc.) harvest the surplus with a (indisc.).with a trap.

UNIDENTIFIED SPEAKER: I think what we are saying, though, is that the situation that you're talking about probably applies far more Bristol Bay than it does anywhere else and we ought to set aside certain sections and treat it

separately. I think we can. I think Mr. Fletcher made that very apparent. We can find there can be a legislative finding that the situation of Bristol Bay warrants special consideration and instead of number of units necessary to fully harvest during all years in an orderly efficient manner, the average necessary over a four or five year span and provide for temporary permits for the other years.

UNIDENTIFIED SPEAKER: If you did make a note of it and consider it, than I think it would warrant....

UNIDENTIFIED SPEAKER: I think we have to provide to bring in these extra people at least in the law whether they do it or not in order to meet the exemptions of what are you going to do with all the fish. If you've only got enough gear to harvest the average in four or five years, what's going to happen in the peak runs. You've got all the fish going to waste and I think we have to have this other proviso to counter that, don't you?

UNIDENTIFIED SPEAKER: I think you've got to really harvest the peak year or you're going to have trouble.

UNIDENTIFIED SPEAKER: ..some provisions for them. I know that what you say is true, but processing capacity is a limiting factor, not the catching ability. It was conceivable that that they can build additional canneries to--if things go up so that they warrant it. Excuse me, go ahead.

UNIDENTIFIED SPEAKER: Well, they tell you the drift unit can catch probably about all he can handle---5,000 fish a day would be an awful lot. So, okay, 5,000 fish a day and your run is going to sail through there pretty much for a week and a week in a bigger year, you know--that's 25,000 fish or well it could be 35, but so we are talking about a twenty million harvest...course we are not talking twenty million...we are talking half of that but.....

UNIDENTIFIED SPEAKER: Certainly was worth it.

UNIDENTIFIED SPEAKER: Well, we have had, yeah. So, you are going to have to have 1200 units of gear which is far too much in a year like this year.. far too much..and I suspect that once these people acquire these things become more oriented to fishing, they are going to be certain--much more inclined to go fishing cause they are going to feel like they have some sort of exclusive right. Now, presuming several bad years coming up, you're likely to end up with really not effectively cutting the gear at all and you might...well, anyhow, it's just something to bear in mind.

UNIDENTIFIED SPEAKER. If you manipulate this around to discourage outside fishermen from coming in--that is the transferring in from (indisc.) Cook Inlet or other fishing areas. Wouldn't that be...

UNIDENTIFIED SPEAKER: I don't know (indisc.) ...the big years or what?

UNIDENTIFIED SPEAKER: Whenever the licenses are going to have to be transferred in the big years, right? If it's decided that there's going to be a big fish run and you're going to have to, in order to harvest that run, bring in additional gear licenses and they are going to come in from the inlet, and that notification of transferring privilege is given late in the season, local guys would be able...that isn't what I'm asking...wouldn't local resident fishermen be able to move into the fishery easier on shorter notice than the...

UNIDENTIFIED SPEAKER: Where would they get the gear? The boats and stuff?

UNIDENTIFIED SPEAKER: They've got the gear. They are in Cook Inlet. New boats in Cook Inlet who want to come over.

UNIDENTIFIED SPEAKER: I thought you meant residents in the Bay.

UNIDENTIFIED SPEAKER: No, I meant residents of Alaska.

UNIDENTIFIED SPEAKER: I thought you said discourage Cook Inlet people from moving in.

UNIDENTIFIED SPEAKER: No, discourage non-residents.

UNIDENTIFIED SPEAKER: Oh, I see.

UNIDENTIFIED SPEAKER: Well, I would think a one year temporary permit transfer would be.....

UNIDENTIFIED SPEAKER: We might give the commission authority to -- special authority or something -- to transfer all these peak years from areas where (indisc) is not expected to be good.

UNIDENTIFIED SPEAKER: Of course, you're going to run into a problem. Then what will happen....Okay, we've got room for five more boats in Bristol Bay. You've got 45 guys wanting their own....(indisc.)

UNIDENTIFIED SPEAKER: I think you're ultimately going to end up with a lottery somewhere along the line here with people coming down here picketing the Capitol and attacking you guys with clubs till you dump that commission. That's the thing that worries me, too. And while we are talking about that, I really think somehow or another you're going to have to provide some insulation for these guys. Now I know this is a dirty word, but "PAS type" philosophy ... and I find a little irony... in this administration with whom we fought dilligently as you recall over the Board and Commission concept "Thou shall have the (indisc.) executive type heading the heap, you remember (indisc.) our Board problems with the Fish & Game we wanted to give them some protection--say you can can them only for cause and then here I see, by the Governor, a commission to handle the fishery that can only be canned for cause. I thought we have come a long way twenty years ago, but be that as it may, what are you going to do? These guys on that commission I think are going to turn over like hotcakes unless you have some assurance that regulations that they promulgate have at least...I don't think the Legislature should have to

pass on directly and in the law, but I think, to protect that com..'ssion to some extent it might be worth considering that you act as you do in the local boundary commission and unless they are negated they pass into their promulgated. That way, some arbitrary action of a single committee chairman, House & Rules, of course, might...you know, a guy that's offended by one or two of his constitutients being offended is not going to be able to kill the thing dead even if it's in the best interest of the State. If it's outrageous proposal, sure it will be negated, I would suspect. I wonder if that isn't worth considering.

UNIDENTIFIED SPEAKER: Did you read our proposal on removal?

UNIDENTIFIED SPEAKER: For cause? Do they mean much though as an attorney?

UNIDENTIFIED SPEAKER: Incompetence, neglected duty or misconduct and the Commissioner to be removed for cause shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense for not less than 10 days notice. If the Commissioner is removed for cause, the Governor shall file with the Lieutenant Governor a complete statement of all charges made against the Commissioner and his findings based on the charges together with a complete record of the proceedings.

UNIDENTIFIED SPEAKER: It may be. It's something maybe you'll want to change later on.

UNIDENTIFIED SPEAKER: It's just like our present Fish & Game Board--people claim they have problems, they don't respond, they make these terrible mistakes. You don't throw them out.

UNIDENTIFIED SPEAKER: On Page 7, Line 10, a person may hold more than one entry permit issued or transferred pursuant to this Chapter for any of the following purposes. Well, while it's implied we mean for only the following, I wonder if there's any wisdom for spelling that out so a guy doesn't .... what if, for example, I asked Jackman about this and he

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felt that while the concerns I expressed were not particularly valid instances and problems, he felt that the inclusion of the word "only" would at least tie it down a little tighter. So, there are not all sorts of people saying, "Hey, I've got this reason for transfer or this reason for having more than one entry permit issued and while it's not on that list, it doesn't say you can't.

UNIDENTIFIED SPEAKER: Is it our policy that we don't want them to have a whole bunch of permits or that they do want them to?

UNIDENTIFIED SPEAKER: I don't know what your policy is...what you're trying to accomplish. Near as I know, we haven't solved that ...have we?

UNIDENTIFIED SPEAKER: What if I wanted to go down, for example, and buy six permits this year all under a little bit different names that might have had a Jay Hammond fish that he's experienced--he's landed fish. J. S. Hammond has (indisc.) ...Do I get permits for all of these as a (indisc.) basis?

UNIDENTIFIED SPEAKER: Do you go on to Bristol Bay and you want to go crabbing off of .....

UNIDENTIFIED SPEAKER: No, but I wouldn't qualify for that one....I'm all for the same area.

UNIDENTIFIED SPEAKER: ....and the same gear? (indisc.)

UNIDENTIFIED SPEAKER: Well, but I can't fish more than one gear ... I'm just talking about getting additional entry permits for speculation; surely I can't fish more than one unit of gear but .... and I only do fish when (indisc.). I go to the Commissioner here I want to get an entry permit for this unit of gear. Well, have you ever fished? You bet. And so I get it. And I come in later as J. S. Hammond and I realize this may be reaching pretty far but, wait a minute, sure I'm entitled to an entry permit and here's my unit of gear to go with it.

CHAIRMAN: I don't know. There's a lot of guys who thin.. t they ought to be able to hold permits for different areas for different times of the year only he's not disagreeing with that. He's saying "same kind of gear, same area, more than one permit at the same time", so maybe we could take care of that problem by a simple statement. Though a person may hold more than one entry permit for the same type of gear or the area at any one time so that makes it an obvious statement. That the problem you're trying to get to?

UNIDENTIFIED SPEAKER: Yeah.

UNIDENTIFIED SPEAKER: Well, then you could hold one for set netting and also one for drifting with different kinds of gear for the same area.

UNIDENTIFIED SPEAKER: Well, that's gill nets. That's still gill nets. You could hold one for gill net and one for seining.

UNIDENTIFIED SPEAKER: No, You shouldn't even do that in the same area.

UNIDENTIFIED SPEAKER: Well, look, all right I drifted two years ago. I'm eligible for a drift unit of gear and a drift entry permit for Bristol Bay, and I'm eligible for a set unit of gear and entry permit. Now, I don't know what the Encounter Committee is. Is that what you want to accomodate? That is, of course, a nice windfall for me and you bet your boots I'll go out and get myself another.

UNIDENTIFIED SPEAKER: You talked about the same thing people down here that have done a little trolling with a little rig and then they want to move into a bigger rig and then they'd like to go into some other expensive rig, you know, in the same area. Well, are you going to be able to trade up like that or will they only be limited to the kind of gear they come in with? And so is the guy perpetually frozen into that type of gear? If he sells his gear, if it's really saleable, can you take a little

two-bit trolling license for a southeastern area and turn it into a fish (indisc.) in Juneau?

UNIDENTIFIED SPEAKER: We're just talking about the things we've been wrestling with.

CHAIRMAN: Well, I think what we're talking about here and it doesn't have to be this way but no person may hold more than one permit or any (indisc.) at any one time.

UNIDENTIFIED SPEAKER: Right now we're only talking about salmon, but if you specify that into the bill then you've also included all other fishery resources.

CHAIRMAN: Well, all right, so we'd have to bring that in (indisc.) more than one permit for any one species.

UNIDENTIFIED SPEAKER: What about this--a person that has several (indisc.), how many are they going to be able to fish?

CHAIRMAN: Whatever the law allows as far as ....

UNIDENTIFIED SPEAKER: As o...350, well, I suppose it varies from area to area..

UNIDENTIFIED SPEAKER: Hey, wait a minute, Bill. I think you want to accomodate this guy who drifted in (indisc.) -- let's say they have a situation--man, you could really have a devestating situation in a place by the bay because setting nets many times over the past few years they have maybe closed down an area to set netting .. or drifting...

CHAIRMAN: The worst thing at any one time if they close down setting nets, then a guy can shift it and go on drifting simultaneously.

UNIDENTIFIED SPEAKER: No, he can't--not if he doesn't have an entry permit for set netting or drifting.

CHAIRMAN: He could at any one time.

UNIDENTIFIED SPEAKER: Well, you have to have the entry permit..(indisc.) in your hot little hand. You can't suddenly go running to the commission in the middle of July and say I want to shif to drifting and I need an entry permit to accomodate me.

CHAIRMAN: Well, now let's go back. (Indisc.) the entry permit even tied to a type of gear.

UNIDENTIFIED SPEAKER: Sure, it is. You bet it is.

UNIDENTIFIED SPEAKER: An individual could have more than one type of gear (indisc.) for an (indisc.) area.

UNIDENTIFIED SPEAKER: I don't think you'd better pool that..really I am...but my major concern was that here you've got three things that say you can have more than one type of one entry permit on the basis of these three things, but I'm saying, is it limited then only to those three factors? It's (indisc.) implied that its limits only that, but would it be wise to make certain it's limited by putting an "only" after (indisc.).

CHAIRMAN: Okay.

UNIDENTIFIED SPEAKER: The next page we've got these five -- the regulations to establish specific qualifications (indisc.) in similar situated potential applicants in the following priority classifications.

UNIDENTIFIED SPEAKER: Are we back to page 8?

UNIDENTIFIED SPEAKER: It's on page 8, the top of it there, lines (indisc.) through 5.. Those classifications I would suggest then classification one: consideration of a little different language -- first place. one and three seem to me to be almost the same and I don't know what substantial income source really means by definition--maybe not intending to define it -- maybe that's to be done by the regulations that the

commission makes, but if you are going to give a certain category -- if you said on one hand we're going to create categories one, two, three, four, five--categories one and two shall be issued permits. Now, I suspect that categories one and two, in a place like Bristol Bay, may well exceed the total number of permits available. And, yet, you've locked into law the obligation that they shall be issued permits and I'm wondering if it might not be smarter to tie down to maybe just one category--something that you know will not exceed the number of permits available and I'd like to suggest some language which might accomplish that and that is simply to say that Page 8, Line 5, Category 1, would say "fish fishermen where participated consistently and exclusively in the singly fishery for which their entry permit has been granted", and then I've got another "deelybob" in there that may cause some problems -- "and for the major portion of such particiaption, have either derived more than 50% of their earned income from said fishery or have been domiciled in an area in which the cost of living index is tied up at least twice the national average" -- which may not be the figure to use, but would just indidentally take care of (indisc.) everybody lives in the bay or a guy who is, infact, primarily dependent upon fishing. Now these are Bristol Bay fishermen who have really a very modest impact on that fishery insofar as gear is concerned. We're talking about -- I may have mentioned to you before -- do you know what the - for example in the Bristol Bay Borough, the amount of fishery participation on the part of the Borough residents compared to the outsider? Three percent only insofar as pay days are concerned. So 97% of it is elsewhere. Outside of the Bay, it's about 80% so really if you accomodated everybody in Bristol Bay, it would incidentally accomodate your people who fish in Bristol Bay because of the cost of living differential or anybody else who happens to be

UNIDENTIFIED SPEAKER: Give me that percentage of gasoline...the cost of gasoline that goes out of the bay. Is that part of the pay day you mean to slow down the bay. Pump the gas and stop the supplies and all that sort of thing?

UNIDENTIFIED SPEAKER: The amount of money that's paid from processors to fishermen for fish -- three percent of it goes to the resident, 97% goes to the forewinds which opens up some very interesting areas for perhaps utilizing our taxing potential.

UNIDENTIFIED SPEAKER: We're going to freeze those people into the fishery, huh?

UNIDENTIFIED SPEAKER: Well, I'd say you ought to at least freeze that 3$ into it because....

UNIDENTIFIED SPEAKER: We are freezing both into it.

UNIDENTIFIED SPEAKER: The 97%?

UNIDENTIFIED SPEAKER: Sure, we are.

UNIDENTIFIED SPEAKER: No, you're not. No, you wouldn't get the 97%. What you do -- actually, we're talking about 60% are outsiders by outside of Alaska -- 40% are Alaskans, but only 20% are Bristol Bayites -- only 3% are Bristol Bay Boroughites. Now, I'm saying we ought to accomodate at least that 20% which includes the 3% within the Bristol Bayites, preferably to accomodate the 40% Alaskans but you can't do that through a cost of living differential type of thing but we can accomodate all our villagers very easily.

UNIDENTIFIED SPEAKER: You're taling about bodies there, you're not talking about percentage of the catch.

UNIDENTIFIED SPEAKER: Yeah, I'm talking about percentage of the catch.

UNIDENTIFIED SPEAKER: How about in terms of bodies?

UNIDENTIFIED SPEAKER: In terms of bodies, you have a different situation. You have more bodies, you have something like Alaskan bodies are about 60%, no about 55%, and non-resident bodies are about 45%, but non-resident bodies catch many more fish than (indisc.). Roughly 45% Alaskans, I mean non-residents, 55% Alaskans.

UNIDENTIFIED SPEAKER: And the 45% non-residents catch 80% of the fish?

UNIDENTIFIED SPEAKER: Right. No, No, I beg your pardon...45% of the non-residents catch 60% of the fish.

UNIDENTIFIED SPEAKER: 40% of the non-residents catch 60% of the fish.

UNIDENTIFIED SPEAKER: Yeah.

UNIDENTIFIED SPEAKER: And the other thing was that 3% of the fishing payday is retained in the confines of Bristol Bay Borough made by persons who are residents of Bristol Bay Borough. 97% goes to the forewinds, but, of course, part of that goes to Alaskans as well.

UNIDENTIFIED SPEAKER: 40% of it is Alaskans, you say, so 37% goes to other Alaskans outside the bay.

UNIDENTIFIED SPEAKER: Right.

UNIDENTIFIED SPEAKER: 3% of the money, the payday, stays in the Borough. And then 20% is another thing you say...20% goes...

UNIDENTIFIED SPEAKER: 20% goes in the bay in general (indisc.)

UNIDENTIFIED SPEAKER: And then 40% ...

UNIDENTIFIED SPEAKER: Another 20% goes elsewhere in Alaska. 3% is part of that 20% that's in the bay, of course.

UNIDENTIFIED SPEAKER: Okay.

UNIDENTIFIED SPEAKER: Then 20% goes to other places in Alaska?

UNIDENTIFIED SPEAKER: Yeah. Like it seems to me that you could...here's the

thing that's got a lot of people down there concerned...we really have incidental fishing..we don't have professional fishermen...and we're not going to have professional fishermen.

UNIDENTIFIED SPEAKER: That's quite a substantial part of your income (indisc.)

UNIDENTIFIED SPEAKER: Well..I had a meeting a while back and all these guys worked for limited entry and yet the way the Governor's bill originally was conceived, the premise was we were going to establish esentially a professional fishery from which persons could make their livelihood primarily from fishing..well, that guy-for-guy...nobody in that room had the desire to cebome...sure I'd love to make all my living from professional fishing but then they are not gonna follow the king crab to Kodiak and the halibut someplace else and come back to Bristol Bay... you're not going to create a professional fishery in a one stock species in Bristol Bay in a short term...nobody's going to tolerate you making your living - 20,000-30,000 a year every year off of three weeks out of the year. It isn't the intent of desire for those people who become professional fishermen so if you're not very careful, you establish a situation where you haven't done anything really to cut very much gear.. all you've done is screen out all the non-professionals in the area and supplanted them with a professional fleet that moves in, harvests a run and away they go, and I really don't think that's what we are aspiring to. Do we really want to get that school teacher or that pilot - that guy who's doing something else - out of it completely and he's going to stand on the beach and watch it all go by. Man, you're going to have a shooting war if that happens. And I say we better try to accomodate first those guys who are more or less traditionally dependent (indisc.) John, the thing that I'm bringing into this which is a new concept insofar as discrimination is concerned. We've made our pick on residency and

non-residency, but isn't there a factor for potential discrimination that we haven't touched. It's not illogical because let's consider it the national level and that's that cost of living differential. We have a tremendously high cost of living differential in Bristol Bay--almost double Anchorage, which (indisc.) one point up above Seattle. Isn't it perhaps a possibility that we could say (indisc.) tremendously high cost of living differential and I suspect that you could do all sorts of things and get special dispensation in regard to that cost of living differential and its impact obviously to the financial detrement of the guy that lives in that area as compared to the guy who doesn't. You're going to (indisc.) find a guy for what I'm talking about. You set up all these qualifications related to historical experience, percentage of income. I'm all invested in gear--here I am two guys--one of them lives in Seattle and one of them lives in Eek--we both earn $10,000 a year fishing--we both have $10,000 invested in gear--we both have fished for 10 years. Now, there's no relationship at all insofar as their dependence on fishing for a livelihood--the guy who lives in Seattle compated to the guy in Eek and yet on paper under almost any type of criteria formally drawn, they are going to appear equal. And I don't know how you're going to work in these other little factors unless you relat e it against the cost of living and I would like to see the cost of living consideration somehow or other weighted very heavily in this bill and I again would like to have you bounce that off of your friend, Fletcher.

CHAIRMAN: Why doesn't this simply do it in itself, Jay...persistent participants in that fishery has provided a primary income source substantially during all of the three years prior to January 1, 1973.

UNIDENTIFIED SPEAKER: It does for the guy that doesn't have the pilot's job, so on and so forth, but it doesn't bring in (indisc.)

UNIDENTIFIED SPEAKER: No, it's almost not the primary circuit income for anybody and the guy who is not working for the last few years--the guy on welfare--has a primary source of income that far exceeds his fishing pay day. When you're making 3-4 hundred bucks, if that, fishing, and on welfare giving you maybe a couple grand a year, you can hardly figure (indisc.) But I would like to have you bounce that cost of living concept off of Fletcher and say "see how far you can go". If you could do this, you'd really accomodate everybody that fishes in Bristol Bay who resides in the bush, without question. Now, you'd accomodate the professional fishermen who resides elsewhere and makes the bulk of his livelihood from Bristol Bay which I don't think there is such a thing in existence. There's nobody that's making 50%--well, there might be.. 50% of his earned income, if he's really dependent on it and he's only making peanuts.

UNIDENTIFIED SPEAKER: To many of these welfare people, there is no alternative available.

UNIDENTIFIED SPEAKER: It's just like your friend, Bill Baldwin, he's living in Anchorage and working there in the winter so (indisc.).

UNIDENTIFIED SPEAKER: Well, yeah, but what do you say about his village? (indisc.)

UNIDENTIFIED SPEAKER: Where is he from? (indisc.)

UNIDENTIFIED SPEAKER: (Indisc.) Bay.

UNIDENTIFIED SPEAKER: But, I'm concerned about these rural areas. Really, there's less and less reason for living in them. To begin with--now, we ought to establish do we really want them to dry up--we are artifically sustaining them. I think it's ridiculous...I think we ought to provide what assistance we can to allow them to sustain themselves from whatever

can be done in the area and I think this type of concept leads to it. You go this professional fishermen route--guys coming in--let's say we in Bristol Bay, a few of us, do want to become professional fishermen, we know we can't do it only on Bristol Bay Reds--we go into other fisheries--that guy ain't going to be living in (indisc.) or Bethel or EEK, he's going to be living in Seattle and I think you're going to depress these communities even further if you (indisc.) very carefully assure the guy who's living there now even if he's an incidental fisherman. He's gotta be allowed to participate. But if there's a legal way of giving the guy who chooses living that country some sort of (indisc.) I think you ought to do it. And I say the cost of living differential is a means that should be explored as a possibility, but the legal problems on the ...

UNIDENTIFIED SPEAKER: (Indisc.) see if you can get Fletcher on the phone now.

UNIDENTIFIED SPEAKER: I tell you, it's all so jumbled up in my head I couldn't...

CHAIRMAN: Well, didn't you have a good (indisc.)?

UNIDENTIFIED SPEAKER: I just wanted to give it to you for consideration and let you think about it.

CHAIRMAN: Let's go ahead, then, and not get all....

UNIDENTIFIED SPEAKER: Well, then, it seems to me that #3 on that page is the same as 2--you've changed the term from career fishermen to alternate occupation but unless you - alternative single fisherman -- are you going to define or again, how are you going to determine what's substantial income supplement? Are you going to set percentages?

CHAIRMAN: Fletcher really didn't think that we asked him that if this language is too vague and his response was "no". And I see this stuff that we're just looking at could be more refined than what we had.

UNIDENTIFIED SPEAKER: I don't even know what policy we want to follow on this.

UNIDENTIFIED SPEAKER: Well, that's one of the big problems we (indisc.) I don't even know what I want it to say. I don't know what I am trying to say here. Well, this is what you may be saying if I knew what I wanted to say, but I get into this thing...do you want to penalize a guy now that he's been forced out of that fishery and he's got substantial income some place else...if that's what he'd like to do. You know?

UNIDENTIFIED SPEAKER: I though our policy was he didn't want to. We didn't want to force him out.

UNIDENTIFIED SPEAKER: Well, then you can't rely upon substantial income then or whatever hell...

UNIDENTIFIED SPEAKER: What are we really trying to do? We all know what we'd like to do. We'd like to say, you damn non-residents can't come fish. But, you can't do that. Now, is there any way to approximate that though? And I think there is. But, you're not going to do it by establishing the type of thing which tends toward the professional fishery in Alaska.

UNIDENTIFIED SPEAKER: If we do it on the basis of experience, it isn't going to work; if we do it on the basis of capability, it isn't going to work; if we do it on the basis of ability to harvest fish which means equipment (Indisc.) it isn't going to work. If you're going to go on the basis of who caught the most the year before, it ain't going to work

UNIDENTIFIED SPEAKER: That's right.

CHAIRMAN: Well, that's the reason we need to get back to the idea of..... cost of living.....

UNIDENTIFIED SPEAKER: I'm trying to think of how we tie that in..that's new, I'll admit that and it's something that would work the further away you got from the bay it would work evenly right on back to Seattle. If you

tend to give it all an advantage, you tend to give the Anchorage guy an advantage over Seattle (indisc.), but less than the bay (indisc.) which is exactly what we wanted.

CHAIRMAN: Would it work? (indisc.) What is it--a matter of 200% or nothing? If you (indisc.) 200%, you're eligible--if it's less, you're not.

UNIDENTIFIED SPEAKER: I would think you'd have to stagger it dependent a guy one and a half times the national average was not quite in the high prior y category, but I took twice the national average here because I think that clearly establishes only the bush (indisc.). I don't think Anchorage is placed in national average (indisc.).

UNIDENTIFIED SPEAKER: Fletcher gave us a pretty good lecture about the difference between the qualifications to enter fishery and then after you once get that established in the first instance who gets the license I start with? Who gets the second generation of licenses? And he said you could do a lot because of the grandfather situation on giving the original licenses that you won't be able to do on a second go-around. For instance, the cost of living is such a personal thing you could say "blue-eyed guys" or you could say a lot of different things. What's that got to do with the fishery? What's that got to do with conservation resource-if the guy's cost of living if he comes from Seattle, that's one thing; if he comes from California, it's another thing; and if he comes from Kodiak, it's another thing. That has nothing to do with conservation of the fish. It has nothing to do...

UNIDENTIFIED SPEAKER: Financial dependence does (indisc.)--historial participation doesn't either...

UNIDENTIFIED SPEAKER: Well, but he says you can do that on the basis of

hardship--the first go-around.

UNIDENTIFIED SPEAKER: Well, I'm just talking about first go-around here.

CHAIRMAN: (Indisc.) separating between two people that has the same grounds for the rights otherwise.

UNIDENTIFIED SPEAKER: Yeah, that's right. And one of those lives in the highest price place and one of them in a low cost place. How do you justify that? Unless one of them caught more fish, you're going to have to consider how much they cost you.

UNIDENTIFIED SPEAKER: I thought you said you could do any of this initially.

CHAIRMAN: When you're treating all of these guys who are (indisc.) in compared to all of them out then you can do many things from the Grandfather's Clause which, if you do not allow them to stay in, creates a hardship on them. (Indisc.) so now you're taking those who have been in and all are together as far as the grandfather's right in distinguishing between fishermen...

UNIDENTIFIED SPEAKER: Obviously, the harder impact is on the..harsher impact.. is on the guy who lives in the less costly area. I don't know. I'm just throwing it out for you to chew over with Fletcher. I'm not prepared to say whether it has any.....

UNIDENTIFIED SPEAKER: If we can figure out a way to work it in there you see that has the shading that we want because you'd take....

UNIDENTIFIED SPEAKER: I don't care if you live in Timbuctu or Madagascar--if you happen to be in this -- I think it should relate again to domiciliation--it don't say anything about residency. But, if you were in fact domiciled during the major portion of participation and really hit because of these expenses, you obviously have a greater dependency on that fishing income

than the guy who is not similar. Now, again, can you possibly have a chop-off? I doubt it. We've got a 49% above not eligible and a guy 50% above eligible. I think it opens some interesting vistas for (indisc.)

UNIDENTIFIED SPEAKER: It may take a combination of a lot of these things to eventually do it.

UNIDENTIFIED SPEAKER: Or, if you could take into consideration the guy's dependence upon the fishery, economically, then it seems like you've taken this consideration how far that money as a matter of dependence took him that he got from the fishery.

UNIDENTIFIED SPEAKER: It's not too big a step there.

UNIDENTIFIED SPEAKER: Well, you know, John, I've pretty well concluded while I have always been more an ardent advocate of (indisc.)limited entry, I tell you after looking at these 3%, 97% differentials, to me, clearly the way for us to go in the Bay is utilizing our tax authority. Shoot, I don't care if it comes...I'll be delighted if they hit me between the eyes with a tax if I know for every three bucks I pay, we're getting 97 from outside, and we can funnel it back in services and all manner of goodies that...perfectly legal, right?

UNIDENTIFIED SPEAKER: Yup.

UNIDENTIFIED SPEAKER: And that to me.....

UNIDENTIFIED SPEAKER: (Indisc.) you have your own burough welfare program.

UNIDENTIFIED SPEAKER: You bet. And we could end up conceivably with a situation the non-resident fishermen fishing for the Bristol Bay Development Corporation for example or as I've said many times, this guy instead of concerning ourselves maybe with who fishes, fellows come on in, we could care less you're going to pay the price of admission and it stays behind...maybe that's our problem.

CHAIRMAN: That increases your tax base.

UNIDENTIFIED SPEAKER: That's right.

UNIDENTIFIED SPEAKER: Your (indisc.) property because you've had more boats in there.

UNIDENTIFIED SPEAKER: That's right. Not only on a local level but I think there's a lot in this at the State level and incidentally we're trying to do something on this at the local level...I think we'll dramatize it, but that's something else again cause we're still looking at limited entry but I was kind of cooled a lot on limited entry because of this.

UNIDENTIFIED SPEAKER: We just screwed ourselves because we haven't utilized the tools available to us..sitting there whining the depressed economy in Bristol Bay with a five million dollar pay day right off the (indisc.) it's ridiculous.

UNIDENTIFIED SPEAKER: Ok. Let me ask you something here, we've been wrestling with this matter here of transferability on that part. Have you discussed that with anybody?

UNIDENTIFIED SPEAKER: Yes, I have. I sure have.

UNIDENTIFIED SPEAKER: What do you think of that?

UNIDENTIFIED SPEAKER: Well, OK. Let's work on in to that.

UNIDENTIFIED SPEAKER: The trouble with what we are talking about here is—if I knew the policy questions, I would be interested in what you are saying.

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: But, I'll be Goddamned if I'm interested in worrying about language when I haven't even figured out a policy.

UNIDENTIFIED SPEAKER: I know what you mean there.

UNIDENTIFIED SPEAKER: I just--you're talking into detail...a lot of these things

that have...if you have a policy.

UNIDENTIFIED SPEAKER: Well, let me tell you what my policy is--that I'm talking on--that I'm working on. My policy is to exclude the non-resident fishermen.

UNIDENTIFIED SPEAKER: OK, I got the same policy. But, I don't know how we are going to do that.

UNIDENTIFIED SPEAKER: Well, this is why I'm talking about ...things like.. area domiciliation, costs of living differential...I think it could be used to do it.

UNIDENTIFIED SPEAKER: That would be in the first instance of giving, granting the first bunch of permits.

UNIDENTIFIED SPEAKER: Right, right...No, No, the first bunch. But, okay, let's...you've got it and I've probably overdone it and I'm sorry, but you know...and you've got it in the back of your mind..

UNIDENTIFIED SPEAKER: Let me ask you a question--what's the difference legally between the domicile and the resident fishermen?

UNIDENTIFIED SPEAKER: Oh, sometime resident fishermen is where your boat is, where you pay taxes, or something...where t he domicile is where you eat your bread, put your shoes, or where you sleep.

UNIDENTIFIED SPEAKER: A domicile is usually your residence, but you might strictly say that a guy on a military base--to keep the residence there--where they render their services and pay their taxes back there, and vote on an empty ballot. It's inevitable..Fort Rich..to pay him a domicile.. if he lives off base.

UNIDENTIFIED SPEAKER: We seem to have a difference here. We are saying that residence and domicile is the same thing. But it doesn't have to be. Because residence means more of legal things, legal situations, domicile means where you sleep.

UNIDENTIFIED SPEAKER: Here I guess so. Just show me fact.

UNIDENTIFIED SPEAKER: Are you really going into the real estate business.. in Bristol Bay?

UNIDENTIFIED SPEAKER: That is a little domicile. (Laughter) Ya.

UNIDENTIFIED SPEAKER: We may be looking for a (indisc.) of attorneys.

UNIDENTIFIED SPEAKER: Would you like to buy a domicile?

UNIDENTIFIED SPEAKER: What you do is to get a boat job and..(Laughter)(indisc.)

UNIDENTIFIED SPEAKER: Well, let's see. Yes, about transferability...I don't really have much more in your bill. I did a lot more on the House bill in the amendments that would fit into and relate to that.

UNIDENTIFIED SPEAKER: I don't care what the (indisc.) I just want to know what the idea is.

UNIDENTIFIED SPEAKER: OK. I'll tell you.

UNIDENTIFIED SPEAKER: ...transferability...

UNIDENTIFIED SPEAKER: I don't want to talk about words..I want to talk about ideas.

UNIDENTIFIED SPEAKER: The big problem there..the big concern..is that guys are fearful that particularly these villagers which we know we got to try and accomodate somehow or other ..and should be worked into the fishery are going to be the first to sell their licenses...under pressure. Pressured out of the fishery under one means or another. They are hit with a fifty dollar a year assessment fee and the 7% of the catch assesment on top of that whether they fish or not which could amount to a substantial amount of money. That guy (indisc.) with two kids in the (indisc.) with his wife and himself, maybe as much as 12 years...500 thousand dollars a year. The pressure is on him. Assuming the fisheries are good, and will make that up is fine, but it is going to be a long time before that. He

is going to be the first to be looking around..and will be vulnerable to selling his license, but where is that license gonna go? It goes to where the cash is most available for purchasing...and that isn't going to be in New Halen..it's not going to be in Naknek, and it's not going to be in Anchorage...ultimately maybe in Seattle, or what have you...or the processors will most easily come up with the funds to bid for these licenses. And there is a fear that ultimately they will control a very substantial portion of them. I think--one, you could dimish that pressure on the gut at the local level to get rid of his license by putting a destitution clause in it. Rather than hitting that little guy with fifty bucks a year and a 7% assessment, why don't we say...provided how ever if you made less than "X" you pay 10, 5 dollars, what have you. I think it would diffuse that to a financial extent. Now, I don't know.

CHAIRMAN: I think that just the $50 permit fee for each year itself is going to be quite effective in getting rid of some of these licenses.

UNIDENTIFIED SPEAKER: And it's not going to be the sophisticated white man. He ain't gonna part with his, but that little guy in the bush is gonna say, "Holy Cow--a 500 buck bill? For Me??" I think that the first guy that comes down the plank with a check for that license, he's gonna be hard-pressed to want to hang on to this Albatross around his neck.

UNIDENTIFIED SPEAKER: Incidentally, you know (indisc) Naughton went home last weekend and we had a meeting with fishermen, and there was only one guy out of the whole bunch that wanted to see free transferability.

UNIDENTIFIED SPEAKER: Is that right?

UNIDENTIFIED SPEAKER: How do they want to have you handle it? What was their alternative?

UNIDENTIFIED SPEAKER: As I understood it, through the commission.

UNIDENTIFIED SPEAKER: How? How do they decide (indisc.) effect the generation?

UNIDENTIFIED SPEAKER: Well, we haven't got that far.

UNIDENTIFIED SPEAKER: That's the guff...ya, that's the problem.

UNIDENTIFIED SPEAKER: But, they didn't want to see them sold.

UNIDENTIFIED SPEAKER: That surprised me because they are a much more sophisticated group than the Bristol Bay bunch.

UNIDENTIFIED SPEAKER: It doesn't mean anything what they say until if you know they are following through.

UNIDENTIFIED SPEAKER: Because they will change their mind when they (indisc.) during the second half of this thing. When they see what the alternative is..they will say, "Look I voted for those sons-of-bitches--I voted because I w. s one of them...Hell, we didn't know you would put them (votes) in a hat. Must be guys from Anchorage drawing them". You know?

UNIDENTIFIED SPEAKER: You've got to thin these people out...

UNIDENTIFIED SPEAKER: That's why I don't want to see us go into this thing.. until we get it pinned down. Because I think that if it should turn out the way we don't want it, and I don't know that anybody is going to figure this thing out any better than we are. And if we can't figure it out, we have really got to look at our whole card and delve into it.

UNIDENTIFIED SPEAKER: I was much more apprehensive frankly before I came down here than I have become--maybe I've been lulled into thinking these things can be handled with a great deal more input at the local level to the commission to take care of some of these things, than you guys can possibly consider at this date and time.

UNIDENTIFIED SPEAKER: We can always turn this over to God and eventually...

UNIDENTIFIED SPEAKER: Oh, but John.. you tell me that the literal framework that that c mmission is goin to formulate regulations...that's going to be fair, and is going to ac omplish something.

UNIDENTIFIED SPEAKER: Well, that's it, John. I think you'll find out in many instances they'll go into these areas and attempt to do this and they'll be totally incapable coming up with regulations and know why. I don't think that they will be able to do it. What I think they can be.. I think in other inst ances they will be relatively simple. But I don't think we should cast aside limited entry on the simple fear that you tell me what you are gonna do with transferability.

UNIDENTIFIED SPEAKER: All right now. Transferability is...you got the two alternatives and nothing is any good unless the alternative works.

UNIDENTIFIED SPEAKER: Can you tell me what you think of this?

UNIDENTIFIED SPEAKER: Now, the one that's a concern as I say is people fearful that processors will end up with all...I don't carry that to the ext ent that some people do. It's a little paternalistic to concern yourself with protecting people against themselves and is that fellow, in fact, who does peddle it to the highest bidder worse off than the guy who chooses to get out of it for the same reasons whatever they may be... and it simply goes back to the State. He, on one hand, you have given him something of value, on the second stance, you have given him something that really has no value. Other than...once he gets rid of it.

UNIDENTIFIED SPEAKER: (Indisc.) totally using it. If he has nothing to sell in other words.

UNIDENTIFIED SPEAKER: So, I...if you don't give free transferability, what if you gave a restrictive transferability?

UNIDENTIFIED SPEAKER: This has been proposed and not my idea. It may have some merit--have you seen that proposal? Simply says for the first ten years you may opt to either have a freely transferable or a non-transferable permit. You're not familiar with that?

UNIDENTIFIED SPEAKER: In other words here is what happens. Some would have it free and some would have normal transfer. Well, here is the difference. If I want one freely transferable, I have to pay the assessment. The $50 and I'm not too sure about the 7%. But the $50 I have to pay. I want it freely transferable.

CHAIRMAN: And the buy-back assessment?

UNIDENTIFIED SPEAKER: Yes, If I want one that is not freely transferable, I am not charged the $50 and I'm not charged the buy-backing.

UNIDENTIFIED SPEAKER: What about the transferable one...?

UNIDENTIFIED SPEAKER: The guy died, what would happen?

UNIDENTIFIED SPEAKER: Well, it would go to the State, I suppose.

UNIDENTIFIED SPEAKER: Okay. If he gets sick, and if he can't fish? Tough. If he decided that he wanted to sell....

UNIDENTIFIED SPEAKER: That's right. That's the consideration a guy is gonna have to bear in mind. Is it worth $50 a year?

UNIDENTIFIED SPEAKER: Now, I was talking to Jackman about the possibility--he was interested in the possibility of melting the destitution clause with transferability. Just exactly how he was gonna do that I don't know but would it be any merit to do certain things if you're really concerned about that guy who's got a very low income. Either he is sick and can't fish at all, or the dependents that he has got. He should be allowed to transfer.

UNIDENTIFIED SPEAKER: That's the only time the other guy is gonna want to transfer his too. When he gets through and it's used...(indisc.)..that's when it's most convenient..he's sick or dies or wants to move on.

UNIDENTIFIED SPEAKER: Well, the nice thing is--if you can put it in the (indisc.) but you can't do that. That's getting into unconstitutional (indisc.) But, I mean, let's say, limited transferability-you can't sell it outside the

family - that type of permit if you opt for it. The second type - if you want a freely transferrable one (indisc.) - limited transferability would be perhaps something else. I don't know. I have mixed feeling about transferability. On one hand, I think I don't like the idea of (indisc.) property right (indisc.). On the other hand, what really is injection to it? The idea of it being unfair - that certain persons who are qualified so that they have a eindfall that's going to advantage them financially.. rellay doesn't turn me off because it isn't anything out of my pocket in the process. So what if we can benefit a group of persons and give them something that's totally valuable without taking it from somebody else.

UNIDENTIFIED SPEAKER: (Indisc.)...take it from the second generation of fishermen..... you're gonna have to pay the first generation..

UNIDENTIFIED SPEAKER: ...to secure the (indisc.) rights...

UNIDENTIFIED SPEAKER: Which means that they're the resource then..the billion dollar resource. You're giving it to the first generation, they'll sell it to the second generation and if it's gonna be sold and the second generation has to pay to get in...they ought to be paying the State. Not the first generation who had it given to them. See the problem?

UNIDENTIFIED SPEAKER: Yeah. Well, you're saying that the only transferability should be back to the State is the alternative.

UNIDENTIFIED SPEAKER: I was trying to read this through the other day and I am absolutely convinced that this thing has to be simple and understandable (indisc.). Every time that we begin to make a special provision to handle the problem that we've got, we develop an internal revenue code..is what we are doing.

UNIDENTIFIED SPEAKER: I really think, if we do it, we are gonna get down to a lottery deal -- where a guy holds it -- he holds it as long as he wants to -- and when he gets through using it, he doesn't use it for, say, four

years or five years or a cycle and it automatically goes back or he leaves the fishery or (indisc.) and then they reissue those on a lottery and they issue maybe two out of three, you know. And so they keep squeezing it down you know. So, the next guy gets it for nothing. Everybody's got an equal chance on it.

UNIDENTIFIED SPEAKER: I want my first proposal (indisc.). Let me just (indisc.) The first proposal I had begun on Limited Entry this year was simply this - All right, create a moratorium, which is I understand a bad word around here, but if you can't go back and say, Okay, we're gonna issue no more licenses than were issued in each area for each type of gear that were issued last year. If you can't do that and I understand that there's some question whether you could...say, instead we're gonna issue anybody who wants a license this year in that particular area for that type of gear. Con on in. Everybody that wants one can get one. Then, we are gonna lock it up. That's the end of it. You're gonna revalidate that license each year and until such time as you no longer revalidate that license by paying your fee...it shall be yours. (Indisc.) to pay, what have you, that license is no longer in the fishery. Now, each year you are gonna have some unclaimed licenses. Let's say we initially start out with 2700 licenses issued in Bristol Bay. Through death, attrition, failure to pay -- we are down to 2500 the next year. We've got 200 unclaimed. Well, to provide for some slow attrition to the amount of gear you simply issue again by lotery, 50% of them. Now, that's the simplest way you can handle this thing and I think it's the fairest. But...

UNIDENTIFIED SPEAKER: Everybody would understand it...

UNIDENTIFIED SPEAKER: Everybody would understand it, you haven't excluded anybody. The only guy you're offending is the person not yet born...because I can get my kids -- a little baby that big is entitled to get a gear license.

And you're tremendously increasing the amount of gear licenses issued, certainly. You're gonna tremendously increase the State revenue. Now, are we gonna increase the effort, the participation in the fishery... I don't think so. You're not gonna diminish it to any extent notably, to begin with certainly. You know..you have 4000 licenses issued for Bristol Bay. You'll have as many people as ever fishing there except for one thing. And again, in the bay, and this is a funny thing because you know for years I've tried to do certain things through regulations to dissuade people from coming. We finally got it through. And that's that sliding gear scale. We said, come on fellows, if you want to. But, brother you're gonna get cut accor.. ngly if you've got 5 or 6 times too many fishermen...you get cut down to 1/6 the normal amount of gear. But a t errible year coming up; hopefully, that would dissuade all sorts of people from coming. But if they do come then, I say utilize your taxing potential to make them pay for the privilege. And you'd automatically dissuade person after person from coming. And I know it would work in the bay and it's the simplest way possible. But it isn't applicable perhaps to ot her areas. But, nevertheless, I think at the, if you could go back one year, Al, you're an attorney, do you think you could do this.... Do you think you could go back one year and say - "we had 2700 licenses in Bristol Bay last year, that's all we are gonna issue and we're gonna do it on this basis; we're gonna issue to those who had maybe a history of fishing two years out of ten or something...?

UNIDENTIFIED SPEAKER: Well, Fletcher says you can do it maybe for a year or so while you are getting organized..but it would only have to be enough to freeze it - just to get a handle on it, but then you're gonna have to have it processed to where there'd be some entry and some departure and there;s be some (indisc.). You can't freeze it for the benefit of the

class that used it before as an ongoing proposition.

UNIDENTIFIED SPEAKER: But we start out--we say the first priority goes to those initially, that met certain criteria, about 2700. And we got--maybe we'll have 3000 that meet that criteria.

UNIDENTIFIED SPEAKER: You know what you could do? Take the number of people in the first (indisc.) year, put them in a hat and issue licenses for two out of three of them.

UNIDENTIFIED SPEAKER: Yes, but politically, it kills ya. Forget it.

UNIDENTIFIED SPEAKER: But, I'm saying accomodate everybody who fished last year. If you want (indisc.) But if that's vulnerable...go into this coming year and say anybody can get a license. And, I'd like this because it gives you such a tremendous (indisc.).

CHAIRMAN: (Indisc.) anybody that shows participation over the last 3 years ....we could still do that ...(indisc.)...the manpower clause..(indisc.)

UNIDENTIFIED SPEAKER: Well, the, say, Okay, no more licenses than were issued last year or just those persons who met this, that number shall be it initially. And as long as you revalidate your license. Now this is the thing that has occured to me in Kodiak and I tried to do something interesting on it and fell flat on my face. But, we've always thought about, gee, year in and year out, you've gotta get a new license. One of our concerns, and I know it's yours, particularly as it is mine--so many of these guys are fearful of somewhere down the line a grandfather thing being established like we're looking at now or some sort of a Limited Entry... that he gets his license every year and he goes and participates even though he knows he's gonna fall flat on his face...for fear that he is gonna get screened out of the fishery. Now, somewhere down the pipe, you say, hey, you didn't fish in 19___, and therefore you now want to qualify. So he goes into the area, falling on his fave even to keep his brownie

points up. Now if we did what I'm talking about, you eliminate that (indisc.) in this manner. Forget the idea of issuing licenses year in and year out. Let a guy who is qualified get his license. And that's it, brother. He has nothing more to worry about. He can fish it or not as the case may be...Make him pay for it every year. The minute he quits paying for it--that's the end of it. That one comes out. Then couldn't you, when you have the gear down to the point where you can afford more new entries, then you can provide by lottery or whatever system you want. But you get this attrition--you've applied for limited entry along the way by half - 50% - of the unavailable licenses.

UNIDENTIFIED SPEAKER: We can do that. Our problem though, again, is how do you transfer this thing and how do you distribute the new ones, you see? You're just exactly right, that's one way to do it. That would work.

UNIDENTIFIED SPEAKER: To me, that seems the simplest way and then you're not getting bogged down in all the details and expenses. What are we trying to do with this thing? What we're really trying to do...

CHAIRMAN: Now, wait a minute. Aren't you saying just exactly what we've been saying all the time (indisc.)? In essence, you put the lid on where we are now (indisc.) participation in the past two years, okay, and then by attrition, you slowly work your way down to these standards we're setting up, whatever it takes to harvest the Bristol Bay--a four year average or something like that--and then you have to provide for the long run then, as far as new entry. Either by lottery, transferability, or something else. Is that where we are? Is that where you are right now?

UNIDENTIFIED SPEAKER: Well, yes, but it's such a simpler way to accomplish the same objective. You can do it on a one-page bill.

CHAIRMAN: I know.

UNIDENTIFIED SPEAKER: Here, I've got it for you. I never pursued it any further...I bounced it off of the...I'll give you copies of it. This is very crudely drawn and it's just a work copy that I made up for the Borough Assembly and I bounced it off of those guys and they said, Hey, that's exactly what we want.

UNIDENTIFIED SPEAKER: (Indisc.) just tell me what it does. It just merely says (indisc.)

UNIDENTIFIED SPEAKER: Here we go. The Department of Revenue may not issue a greater number of salmon gill net gear--I'm relating strictly salmon gill netter here--than the greatest number of such gear licenses issued during the previous year for given fishing area. Licenses shall be issued first upon application first to those licensed for the given area or district during the previous year. Now, you can bring that around to whatever you want..3 blah, blah, blah. If, by the registration date deadline, there remains some unclaimed gear licenses, the Department of Revenue shall determine by drawing those new applicants who shall be issued one-half the number of licenses unclaimed. (Indisc.) established a small (indisc.)

CHAIRMAN: Yes, but now wait. What you're saying though is that the guy who came in last year and fished for the first time is more deserving to come into that fishery than the guy who has fished for twenty-five years up to last year and for some reason didn't fish last year.

UNIDENTIFIED SPEAKER: No, I gave you a variable. I said, do what you want. (indisc.) I'm just establishing (indisc.) You don't have to be last year's number. You establish an amount of gear that you want. Then you make it first available to (indisc.)

CHAIRMAN: Well, why don't we accomplish the same thing? Instead of saying a number (indisc.) why don't we (indisc.) have been able to that (indisc) have participated over a period of years here dependent on this for their

primary, substantial income. That category. We're right back where (indisc.)

UNIDENTIFIED SPEAKER: I don't care. Then when you get these applicants down, you'll get a number. You'll find out how many are qualified. Maybe it will be 3000 in Bristol Bay. You give those guys licenses--then you say, Hey, you've got your license forever more. Until you no longer pay for it and then it's dead. It's as simple as that. It's dead.

UNIDENTIFIED SPEAKER: If you want to enter another fishery, you're gonna have to stand in line and if there's any spare ones, half of them will get one by lot -- if you're lucky to get one, if you don't, you don't.

UNIDENTIFIED SPEAKER: Now frankly, the simplicity of it would make the (indisc.) work.

UNIDENTIFIED SPEAKER: But, John, if you're scared about going back a year.. now Fletcher says you can do all sorts of things first time around.. but let's think of it even more clearly legal, to say, and that is to go into this year. Say, Hey, look, we're gonna issue the number of licenses for a given area in an amount equal to the number of gear registrants for this particular year. Now what's gonna happen in Bristol Bay--you'll have a vast increase. You'll have 4000 licenses or maybe more issued to Bristol Bay. You haven't got any gear now but then you go into this bit of establishing the idea of buying a lifetime license as long as you validate it each year. The idea--we've always been locked into the idea--you go down and you make application for a license each year. The outside fisherman who now goes to the Bay and fishes and gets his license each year and fishes it, fearful of the Grandfather Right thing, will have it in his hot little hand. He's not gonna worry about whether he comes or not. He's got it for as long as he pays for it.

UNIDENTIFIED SPEAKER: Or we could just say licenses will be issued first to the person who held it the year previously and second to the lottery-- so 50% of the ones that are unclaimed to those who have applied for them.

UNIDENTIFIED SPEAKER: Now, the worry of what I'm talking about doing and you know I, on the basis of how many apply for this year, and not even fool around with their qualifications at all. You're gonna have a tremendous increase in the paper register, admittedly. You're probably not gonna make much difference in participation really. I don't know--although you might when a guy pays--what does he pay for a seiner? One hundred and seventy five bucks. I don't think it's gonna be introduced for a guy from Seattle paying fifteen bucks for gettingthat license to come to the Bay simply because he paid fifteen bucks.

UNIDENTIFIED SPEAKER: You know, I really think that maybe you could make the thing fly.

UNIDENTIFIED SPEAKER: A one-page bill and (indisc.)

UNIDENTIFIED SPEAKER: Let me read the whole thing. This is anticipating a freezing of licenses at the level of last year. Now, that, of course, is variable. You can freeze it next year. The Department of Revenue may not issue a greater number of licenses than the greatest number issued during the previous year for a given fishing area. Licenses shall first be issued upon application of those licensed for the given area or district the previous year. Now, Bob, you're gonna have to change that. But, let's start out with it. If by the registration date deadline there remains some unclaimed gear licenses, the Department of Revenue shall determine by drawing those new applicants who should be issued only 50% of those unclaimed licenses. We had 2700 licenses issued last year. We say this is what we're issuing in Bristol Bay this year. 2500 are claimed.

UNIDENTIFIED SPEAKER: First come, first serve?

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: We might do that, too. Just have a lottery..you just say..shall be registered. Well, but how are you gonna sign the (indisc.)? It's like on an oil lease. You know, if you have--if a guy stands in line for four days so he's there on Monday morning when they open up, then they get him on the list or what?

UNIDENTIFIED SPEAKER: The only guy we're offending under this is the person not yet born. Anybody that wants to get in on it..you don't have to worry about lottery. If you've got kids down the line, you buy them all licenses right now. And, of course, what happens. What would this do? One, you would vastly increase the State revenue for fishery, initially...a tremendous increase which would be sustained for a long period of time. Two, you have accomodated everybody now in the fishery. Three, you have provided for slow attrition of gear.

UNIDENTIFIED SPEAKER: Now, wait a minute. How you gonna get the attrition?

UNIDENTIFIED SPEAKER: How would you get the attrition? Because you only issue half the unclaimed licenses each year.

CHAIRMAN: All right, now what do you mean by unclaimed? I thought you did not have to renew the permit. Just buy the fishing license each year and that keeps it going.

UNIDENTIFIED SPEAKER: You have to buy it each year. You have to buy it each year. I die somewhere along the line--that's no longer claimed. That is one (indisc.) back to them. Ultimately, you're gonna get down to the point where, Hey, suddenly you're down to where you've got a manageable amount of gear. Now, admittedly, it doesn't do anything dramatic but I think it's

UNIDENTIFIED SPEAKER: This is really the second year after the first (indisc.) First we open it up and say anybody can come in the first year. And there may be 4000 issued...

UNIDENTIFIED SPEAKER: Just like it is right now. Anybody who wants to can come in.

UNIDENTIFIED SPEAKER: But really, I'm talking about the second year. So then you can't issue any more (indisc.) issued this year (indisc.) Bristol Bay and that's it.

UNIDENTIFIED SPEAKER: And there's gonna be some of the unclaimed. They are not gonna pay that "X" dollars.

UNIDENTIFIED SPEAKER: According to the study there, they have a turnover rate of about 20% a year - something like that.

UNIDENTIFIED SPEAKER: Then, we say, well I have done other things here.

UNIDENTIFIED SPEAKER: But really that's all there is to it.

UNIDENTIFIED SPEAKER: I tell you what. (indisc.) an awful lot to come into. Everybody would know exactly where they stood. Everybody was in it now and you could say that - what am I gonna do about my kid? And you're gonna say, well, he's just like verybody else's kid. He's gonna have to stand in line.

UNIDENTIFIED SPEAKER: Well, but John, you know, I don't mind standing in line, the original concept I like real well. But I don't like that lottery because you can draw year after year (indisc.)

UNIDENTIFIED SPEAKER: I know it (indisc.) but maybe we can provide some other apprenticeship (indisc.)

UNIDENTIFIED SPEAKER: But the number--when you register to get a gear license when one opens up.

the simplest and in long term as effective as any other route you could go with offending the least number of people--least complicated. You don't have to provide a tremendous, expensive, complex commission which I think every dossier on every applicant will be that thick. By the time these guys get through (indisc.). How do I weight five year's participation against 85% dependency against $1000 invested in gear. Holy Cow. And you're gonna end up if you draw up broad guidelines to determine criteria and for establishing priority. You'll have it so broad that you have far, far too many people in that (indisc.) plant class of priority than you have to accomodate with licenses. You have to draw lottery anyhow there. It's going to be so tight you're gonna wipe out half of our incidental fishermen, inefficient fishermen who happen to be Alaskans. And to plant them with other persons that...

UNIDENTIFIED SPEAKER: Of course, we don't dare increase the fishing licenses too much after we do that.

UNIDENTIFIED SPEAKER: What do you mean? (indisc.) an increase in what?

CHAIRMAN: In cost, in price.

UNIDENTIFIED SPEAKER: Well, let me tell you about another little "gismo" in there related to cost.

CHAIRMAN: (Indisc.) force people into fishing, I'm afraid.

UNIDENTIFIED SPEAKER: Okay, well here's what I did to that which would force them out of fishing during incidental years. I would suggest that you make a sliding scale license fee. (Indisc.) that license. In other wrods, the guy that--if I want to buy a license and pay into the State coffers and non-adversely impact the fishery--fine, I should be allowed to do it and the State should desire me to do it. But on the other hand,

I suggest special salmon gear license fee. Should the best available evidence indicate that the anticipated catch for a given salmon fishing area district not be sufficient to provide income equal to or exceeding that (indisc.) national poverty level. Each of as many fishermen as registered in a given area during the previous year, the Board of Fish and Game unless opposed by the local advisory board shall designate such as a distressed fishery. This is something else again. In areas or districts so designated a special salmon gear license fee shall be levied. This fee shall be in addition to regular fee, shall be equal to 1% of the value of the salmon sold by the resident, 3$ sold by non-resident. I know you'd never get away with that. Even though we do have a three to one differential in the...but forget that.

UNIDENTIFIED SPEAKER: Now you're cording it up. Your first idea is clean, clear and straight.

UNIDENTIFIED SPEAKER: I'll tell you why this is in here, John. What happened. These guys took all the bills that have been put in over the years and tried some things like this on for size and they said, Hey, I like this. And I put them all down on a piece of paper and this is what these guys like. The idea of no conflict limited entry thing. Keep it simple. Now...you're not...the guys in the Bay are arguing against, at least in the Naknek Borough (?) are arguing against the limited entry bill. They initially wanted me to come down here and (indisc.) - Hey, we don't want any part of that. The very guys that stood up in '67 and fought me on this sliding gear scale at the local level which I wanted to have as a dissuader against the (indisc.) of entry are now militantly defending it. What are those guys screwing around? We've got something here we

think is gonna keep these guys home (indisc.). Here they come up with a bill that those guys are gonna look at and say, Man I better get in on the action in Bristol Bay this year--even though we're gonna try to preclude that you know that's gonna be the response. We've gotten calls from people that - they are going down there now trying to hire kids. The non-residents are paying $100 to a kid to get an additional license.

UNIDENTIFIED SPEAKER: I know this would work in Bristol Bay. With our regulatory powers and (indisc.), we've got it whipped in Bristol Bay. We don't need any of this stuff but we are gonna, I know we could do it. Bob, I think is is great,,,you know.

CHAIRMAN: We could use it in our Borough..taxing authority.

UNIDENTIFIED SPEAKER: You know the thing is..it's really clean, it doesn't get involved in all of this stuff that we've all gotten bogged down in.

UNIDENTIFIED SPEAKER: We're talking about any individual then could buy as many of them as he wants to. This takes care of those guys like Phil who wants to get in the seine fishery in Kodiak in addition to where he fished this year.

UNIDENTIFIED SPEAKER: He buys it this year and as long as he keeps it from now on....

UNIDENTIFIED SPEAKER: If he doesn't buy it this year, forget it.

UNIDENTIFIED SPEAKER: If he wants to speculate on it, he can.

UNIDENTIFIED SPEAKER: The only thing you gotta do is provide (indisc.) so that if he wants to get (indisc.) sometime in the future...gonna have to pay $50-$100 a year.

UNIDENTIFIED SPEAKER: You don't have to worry about transferrability, but the thing you've gotta do is sit down and ..what are our objectives? What are our real objectives? If you can get more money for the State, if you

can provide for an attrition of gear down to the point where suddenly you've got a manageable amount and if you can not offend the resident Alaskan, and it's legal...the only thing you haven't done is provide immediate and dramatic reduction of gear...and you haven't done one other thing...you haven't been able to guarantee that the guy who wants to get into the fishery in the future, can get into it. But you just can't guarantee that at all. You're just gonna have to say that's right, it's a matter of luck if you get in.

UNIDENTIFIED SPEAKER: You could say, John that 50% of the licenses each year shall be made available to individuals who (indisc.) - you don't have to go to a lottery. You can do it by purchase from the State. Sure, (indisc.) special entry, I don't know, but I still say that that's offending only persons now yet unborn.

UNIDENTIFIED SPEAKER: Well, or not in the State.

UNIDENTIFIED SPEAKER: Is that bad?

UNIDENTIFIED SPEAKER: No.

UNIDENTIFIED SPEAKER: What I wanted to do, this will kind of interest you, I think, when this idea of not licenaing or given a permanent license and just revalidating year in and year out. First, I though about--how do we do this? (Indisc.) determine how long he wants his license. Make him pay for it initially--right now. If I want it for 10 years, I gotta come up with a stash for the whole package. And then, an outsider, look what he'd be looking at. (indisc.)

UNIDENTIFIED SPEAKER: This is getting pretty far out. But then I get to thinking, the way we'd do it..Holy Cow. If we could do that, we won't iddue any licenses this year. Nobody gets a license this year. We're gonna revalidate last year's licenses and make it good for (indisc.) and that way you wouldn't have any new entry, no new guys getting into it.

UNIDENTIFIED SPEAKER: I've got some other committments...

UNIDENTIFIED SPEAKER: I frankly think just off the top of my head.. the only thing I've heard of that'll fly is what you're talking about.

UNIDENTIFIED SPEAKER: You know the funny thing, John, at the beginning of the session, this is one of the reasons I should have come down before, I suppose. And I went to legislative council meeting and I made a noise in the paper. You guys didn't read my letter. I said in the paper, esentially, I think, the only thing in the final analysis (indisc.)

UNIDENTIFIED SPEAKER: I don't know, I'm sorry but I should have (indisc.)

UNIDENTIFIED SPEAKER: ...stay around now and help us...

UNIDENTIFIED SPEAKER: Hammond, got any more of those?

UNIDENTIFIED SPEAKER: This is so terribly (indisc.)

UNIDENTIFIED SPEAKER: Could have a moratorium until they get down to a certain point.

UNIDENTIFIED SPEAKER: I'd rather do this. I'd rather say that they'll re-issue one out of every five that's turned back. I think there ought to be some constant entry. You see, I don't think (indisc.) absolutely froze to a certain class. Now, you remember when....(indisc.). It would be so much easier to say that we'll reissue one out of five that's turned back instead of 50% of them, see. One out of three, see, that's much better. You handle that legal problem, it isn't a closed in class, everybody in the damn world has an equal right to it. It would be legal, it would reduce the gear and it can't possibly hurt a guy that's presently in the fishery.

UNIDENTIFIED SPEAKER: What then (indisc.) windfall for the State?

UNIDENTIFIED SPEAKER: You put the damn thing on two sheets of paper.

UNIDENTIFIED SPEAKER: But what are the canneries gonna do?

UNIDENTIFIED SPEAKER: Under this sort of thing?

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: What do you mean?

UNIDENTIFIED SPEAKER: Well, buy in their brother and some cousin and everybody else...(indisc.)

UNIDENTIFIED SPEAKER: I think you could prohibit...

UNIDENTIFIED SPEAKER: But there again, John, the thing is, the irony of all this is this whole thing was engendered as much as anything by the situation in Bristol Bay. Bristol Bay is the only place and they say, Hey, we don't need it. Think about it..I know that this, plus the sliding gear scale, plus (indisc.)...shoot, we can cut that thing down in no time at all.

UNIDENTIFIED SPEAKER: Right again I was.

UNIDENTIFIED SPEAKER: John, come back.

UNIDENTIFIED SPEAKER: I was hesitant about even bringing up that contest because I though you'd go so far down the pipe (indisc.).

HAMMOND: I think they're dedicated to something much more complex though than this. You'd have a hard time selling it But I though that everybody's gonna have to wrestle with all these things and bog down and bang their heads against walls and go up blind alleys and maybe at that time there would be some interest (indisc.)

UNIDENTIFIED SPEAKER: Get desperate enough to accept the "Hammond" idea.

UNIDENTIFIED SPEAKER: You'd be interested in also...

SCOMM

#31:15

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

I-1 3-6-73

Jay Gage

Senator Bob Palmer

Dave Herrnsteen

Mike Whitehead

Senator Lowell Thomas

Senator George Hohman

Senator John Sackett

: This is one of the big advantages of this idea of Jay's.

Herrnsteen : I haven't studied this.....

Palmer : It has no value, everybody is in to begin with, but as soon as you don't revalidate one year, your out. Rights for new entry on a rate of 10% or we could make it 20% or 5%. Course the question is, does it do anything quickly enough. When you let everybody in in 73, and you really haven't done anything towards cutting gear? And I don't know whether you have or not. I just can't assess the impact accurately.

: How would you be able to tell how many people are going to lapse? Not re-new their licenses?

Palmer : You wouldn't till after the fact. When they had not at the end of the year.

: There is no history.....

Palmer : Well, there is, this one shows that out of the 20 some thousand a year, we have had around 2,200 a year.

Whitehead : About 20% turnover. 20.7 but I'm not sure that those figures are valid at all because once you put a freeze on, it's just like the entry permits, you don't have the slightest idea,

what attrition or turnover rates are going to be once these pieces of paper are issued. We have actually, in going through the Governor's data, and everything else, there is just no way to assess the impact of any piece of limited entry legislation. Two other considerations in regards to todays comments on transferability; I know that there are members of the industry that are very involved in the banking industry also in Alaska, and I'm not sure that it is a valid assumption that the individuals would be able to get financing from a bank. They may have some sort of policy that cannery Fishermen would be financed. And that also if Jay Gages comments are all relative in that there would be any change in the relative placement of processors in regards to the number of fish that they buy, any processor that got cut short on his supply of fish because for some reason there was some bias in the number of entry permits issued on the basis.. those processors, I'm sure would be in a position to, would want to bid entry permits up very high, or would be willing to bid entry permits up very high to insure their supply of fish.

Palmer : Why don't you call Fish and Game and find out if you can what kind of an increase they are seeing right now in purchase of licenses. We have had some indication that there is a very great increase this year involving people wanting to get in under the wire. All I have heard is rumors, I really don't know.

Whitehead : I'll call Katie Conn.

Thomas : A thing like this might have to be tried before you really know.

Palmer : It is a little like Russian Roulette. You gotta be pretty sure of what you try. Otherwise you can really hurt yourself if it is the wrong thing.

Thomas : Like Jay said (unintelligible) and it doesn't seem to me, we've lost very much except time and maybe some of the fish, whereas if you tried this other thing, with the commission and all, it might be a little harder to back out of.

Palmer : That's true.

Herrnsteen : It seems to me that if we got something going, anything, in my mind, anything other than being transferability, something like Jays, then we would in that years time, we would get the data on the applicants. Then we could begin to see how classifications might set up and how, what kind of system we might have later. I tend to think, you know a lot of people say well I'm afraid of a lottery, for I might never make it. That is a very ligitimate fear. Of course the more you narrow down your classifications into some sort of point system like, which has its drawbacks too. And of course the more you narrow down your classifications by giving more experince, you know you narrow down your constitutionality. Your getting into weak grounds. Thats my interpretation of Fletcher. But we wouldn't have to do that for a couple of years, but maybe when we find, when we actually see the data of the applicants, there will be a way to

look at that data and say, well look, this kind of system and this kind of system might be legal and it might be the best for the Alaskans too. Because we not only want to put a lid on the fishery but we hope to encourage the Alaskans and work for their benefit and with the time of having the data there might be a, the commission might be able to come up with something. I can see free transferability working for instance with trollers because their fish are more closer to the real market value and being a one man operation, they have, you know, a lower gross value per boat.

Palmer : Can I help you?

: We were looking for Senator Thomas.

Thomas : Right here. What can I do for you?

: Do you have a minute?

: We are breaking up the meeting right now.

Thomas : Well let's see,

Palmer : Go ahead. That is alright.

: We can wait.

Palmer : We aren't going to do much more.

Thomas : I'll this along then, Thank you.

Hohmen : Sure hope you settle this one Bob.

Palmer : Yeah, thank's fells. Read the darn thing will you. (unintelligible)

Whitehead : A dramatic increase? (on phone)

Hohmen : You have to have gear before you apply for a gear license, right?

: I could just go down.

Palmer : Go down and buy a gear license.

Herrnsteen : One of the interesting problems that came up Saturday, is the fellow, Chris Christenson, from Petersburg, who is in the same position as Ernie, he's been crewman for 20 or 30 years, and they have been fishing halibut, salmon, and seining a lot as crewman, and now they sort of want to semi-retire and get trollers and gill license.

Whitehead : Is that right? (on phone)

: (unintelligible)

Herrnsteen : He said my whole life's been into it, why should I

have to go buy one off some part timer who gets in under the gun, you know. It's a problem. But one way of possibly changing that would be, the way it presently reads 126, it says all applicants must have previously held a gear license. If you take out that requirement that they must have held a gear license, it would increase your applicants coming in. Maybe then, you say, well maybe a guy who has been in for 30 years but who never held a gear license maybe he should qualify over someone who has held a gear license for 2 years or 1 year, I don't know what the answer to that is.

Palmer : Well you know, we could always change this thing, the very first paragraph, not in anyone, not in 1973 anyone would be eligible, but anyone would be eligible who had previously held a g... a license in a area. Now we substantially reduce getting away from something like evidently what he is coming out with. It wouldn't serve to the interest of some of the guys who want to be able to switch to other areas. But, again, we can't have the best of worlds for every person.

Whitehead : Do you have that in memo form? Could you route a copy to us, please? Thanks very much. Better hang onto your hats gentlemen. Through March of 73 compared to March of 72, there is an aoverall increase of 82.88%. Drift gill net is up 82.47%. Troll is up 163.93%. Long Line is up 291.66%. Vessel Licenses are up 77.88%. Set Gillnetters are down 48.6% because everyone is changing set gill nets to drift. Especially the minors that have been registered as paper licenses for set gill net. Beach Seine, no change. Purse Seine is up 55%. Beam Trawl is up 85.71%. Otter Trawl is up

3.77%. Shell fish is up 55.68%. Clam diggers are up 66.67%. Resident commercial fishermen are up 96.92% and non-resident commercial fishermen are up 83.44%.

Hohman : What was the resident thing again?

Whitehead : Resident commercial fisherman is up 96.96% over through March of last year.

Hohman : Non-resident figure?

Whitehead : Non-resident is 83.44%. This is over, this is as a result of present deliberation.

: (whistle)

: Jeez.

Hohman : The overall percentage increase is, 82.8...?

Whitehead : 82.88. Most of them seem to be much higher than 80. Your Beach Sets are down or what ever you call them?

Palmer : Yes. Down 40.

Whitehead : Down 40 and one other very small change.

Hohman : More beach sets.

Whitehead : Right, they are going from set gill net to drift gill net.

Hohman : Must be a hell of a percentage of the gear license that are beach sets, in order to hold the 160.%.

Whitehead : Yeah, Troll was 163.93%

Palmer : They didn't destinguish between hand troll and power troll.

Whitehead : Probably not. I could call back.

Palmer : I think an awful lot of that must be this local hand troll, fishery, don't you?

Whitehead : Could be.

Hohman : Gotta watch those clam diggers.

Herrsteen : The long line increase could be legitimate reasons.

: (unintelligible)

Palmer : You can see that increase in price of Halibut, why... Okay, thank you George. Come up with some good ideas. Put that subconscious to work.

Whitehead : I'll get a copy of all these packages to Senator Rader and Senator Poland. And I'll type all of this information up and Katie's gonna write a memo up, I'll make copies for everyone. It would appear that perhaps participation in 72 would be advisable criteria.

Sackett : It would appear so, huh?

Herrnsteen : I wonder how many of that increase, people had, course there is no way of knowing, but I wonder how much experience they have.

: Hard telling.

end tape

I 3-6-73

: This is one of the big advantages of this ~~side~~ idea of ~~your tapes~~ Jay's.

Herrnstein : I haven't studied this.....

Palmer : It has no value, everybody is in to begin with, but as soon as you don't validate one year, your out. Rights for new entry on a rate of 10% or we could make it 20% or 5%. Course the question is, does it do anything quickly enough. When you let everybody in in 73, and you really haven't done anything ~~to where its gotta~~ gear, and I don't know whether you have or not. I just can't asses the impact accurately.

: How would you be able to tell how many people are going to lapse? Not re-new there licenses?

: You wouldn't till after the fact. When they had not at the end of the year.

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: Yeah, there is, this one shows that out of the 00 some thousand a year, we have had around 2,200 a year.

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Thomas. Right here.

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: Go ahead that is alright.

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: Sure hope you settle this one Bob.

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: Well you know, we could always change this thing, with a very brief paragraph, not in anyone other than in 1973, anyone would be eligible, but anyone would be eligible who had previously held a gear license in that area. Now we are substantially reduced, getting away from something like evidently what he is coming out with. It would serve to the interest of some of the guys who want to be able to switch to other areas. We can't have the best of worlds for all persons.

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: Probably not.

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: The long line increase could be on a definite bases.

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: Okay, thank you George. Godd ideas that should work.

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: It would appear so, huh?

: I wonder how many of that increase, people had, course there is no way of knowing, but I wonder how much experience they have.

: Hard telling.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

CSSB 39: LIMITED ENTRY WORK SESSION - I/I

March 6, 1973

CHAIRMAN: What do you think ought to be done?

UNIDENTIFIED SPEAKER: Well, Mr. Chairman, I don't think I can really give you an intelligent answer until I spend some time reading....

CHAIRMAN: Okay.

UNIDENTIFIED SPEAKER: And I suspect the way I go on these things, it will take me at least an hour to get through (indisc.) and compare it with the other things....making notes and things.

CHAIRMAN: Yeah, I think probably that would be the best way to go...

UNIDENTIFIED SPEAKER: And I don't know what the House is doing.

(Several unidentified speakers (indisc.))

CHAIRMAN: Do you know or do they...which one of you would rather telephone the House? However, we don't really have to pay that much attention to it because apparently they got a large number of people there each with their own concern and amending a bill of another elaborate fashion to take care of each little problem as it comes up -- this is what I've been told.

UNIDENTIFIED SPEAKER: We have here a summary of what they did in the House (indisc.) committee report and I can read it if you'd like.

CHAIRMAN: All right.

UNIDENTIFIED SPEAKER: Committee Substitute for House Bill 126--to change the basic structure and objective of House Bill 126 which was essentially the Governor's bill--so there's just that one change in five members of the Committee. What would require the Limited Entry Commission to u lize the voluntary buy-back program in order to reach optimum levels

of gear in the various commercial fisheries. The Commission would still proceed area by area and would deal independently with each type of gear; however, instead of making initial reduction to the op imum number of use of gear, the Commission would issue entry permits at the present level of fishing effort and reduce the amount of gear to optimum level through a voluntary buy-back program. In those fisheries where the present level of gear is acceptable, no buy-back program would be required. The only acception to this freeze (?) at the present level, our effort will be three specifically innumerated distressed fisheries when initial reduction is 75% of present gear levels would be permitted. The distressed fisheries innumerated and Committee Substitute for House Bill 126 are the Bristol Bay drift net and set net fishery, the Cook Inlet drift and set net fishery and Prince William Sound drift net fishery. The Buy-Back Program would be self-financing. It would be funded by assessments of the holders of entry permits based on a percentage of the value of their annual catch. Separate buy-back funds would be administered for each area and type of gear as required and assessments will be made only on catch values attributable in the entry permit for the given area and type of gear. The Commission would adopt regulations providing for the purchase of entry permits and vessels and gear as necessary until the number of units of gear was reduced to optimum levels. Once the optimum gear level was reached, the buy-back program would terminate for that area and type of gear. Committee Substitute for House Bill 126 also made special provisions for establishing the initial number of entry permits in the troll fisheries. Rather than issue permits at the present level as with other types of gear,

anyone who is licensed and fished troll gear at least one out of the last three years would receive an entry permit for troll gear at the outset of the program. After entry permits have been issued for the troll fishery, it would come back under the general program and be reduced to optimum level through a voluntary Buy-Back Program. An amendment to the definition also makes it clear that the Commission is to treat power troll gear and hand troll gear separately for the purpose of issuing entry permits. A new section was added providing for the emergency transfer of entry permits which will allow the temporary transfer of a permit when sickness, injury or other unavoidable circumstance temporarily makes it impossible for a holder to fish his gear. During deliberations on House Bill 126, the possible problems resulting from the transfer and sale of entry permits were considered at some length. Concern was expressed that the free transferrability of entry permits might result in a pattern of economic coercion and against fishermen holding permits. Fear was expressed that the general act of adequate financing for fishermen particularly in some areas of the State might make it possible for those providing financing to indirectly control the entry permits to some degree. Certain safeguards against the abuse of transfer provisions were contained in House Bill 126 that had been retained in the Committee Substitute. Entry permits cannot be held by corporations and can be only fished by the holder. Entry permits cannot be pledged as security for loans or taken (indisc.) judgment. To these provisions Committee Substitute for House Bill 126 has added a special provision for low income fishermen. When a fishermen whose family income is below federal poverty guidelines receives an

entry permit, he may avoid the $50 annual fee for five years by electing to take his entry permit (indisc.) to a five year prohibition on transfer. These special fee provisions should help low income fishermen in two ways. First, it will remove the opportunity for economic coercion into taking their entry permits away from them. Second, it will remove the direct economic burden of the $50 annual fee. One more major ammendment was included in Committee Substitute for House Bill 126. House Bill 126 applied only to the salmon fishery. The Committee Substitute will allow the Commission to designate the specific fishery resources to be subject to limited entry. This would enable the Commission to extend limited entry to other fisheries such as crab and shrimp fisheries without additional legislation. In addition to the regular changes discussed here, Committee Substitute for House Bill 126 contains several clarifying and consolidating amendments t hat shall improve the basic approach and procedures set forth in the initial bill.

_____, Cha rman, House Resources Bill.

CHAIRMAN: What do they do about establishing initial entry?

UNIDENTIFIED SPEAKER: Pretty much at the present levels.

CHAIRMAN: But, who gets in--how does that depend?

UNIDENTIFIED SPEAKER: Okay. Back to the Governor's .....let me find it here.. Entry permit qualifications for the following establishment of maximum number of units (indisc.) such and such the Commission shall adopt Regulation 34, the qualification for entry permits for each (indisc.) and for each type of gear. The regulation shows upon a reasonable priority classification that similar (indisc.) applicants based upon reasonable (indisc.) of the following, there is a preference. One--degree of economic depends upon the fishery including but not (indisc.) to percentage of income derived from the fisheries, derived from alternative

occupations, the availability of alternative occupations and investment in vessels and gear. And, two--extent of past participation in a fishery including, but not limited to, the number of years participation in the fishery and the consistency and character of the participation during this year--pretty much the two we are working with.

UNIDENTIFIED SPEAKER: What do you think about Fletcher's....Have you had a chance to hear his (indisc.)?

CHAIRMAN: Yeah, I think it's pretty good, really. I didn't think so at first. But, the more I read of it the better I like it. It seems very lengthy and all, but maybe this is necessary in order to have it do the job and be legal.

UNIDENTIFIED SPEAKER: I certainly like his approach in his setting up the categories. He gets away from just talking to a specific class and talks, you know, as far as hardship is concerned (indisc.)

UNIDENTIFIED SPEAKER: How can you say about Jackman's constitutional problem....

UNIDENTIFIED SPEAKER: Well, you see, they let in gear...Dave hasn't had the opportunity to .....

UNIDENTIFIED SPEAKER: But what did he change?

UNIDENTIFIED SPEAKER: He changed all the way through beginning right from the Purposes and Findings..he broadened that whereas the fishing gear (indisc.) the fishermen (indisc.) the economic welfare of the State. And then we worked a majority portion of the Bill.

UNIDENTIFIED SPEAKER: Joel is reviewing it and would be glad to accept him as a committman.

UNIDENTIFIED SPEAKER: I got a question -- I don't know about some of Professor Fletcher's language. It seems to be, perhaps--I don't know--it might be a little too academic in legal language--perhaps more than

requires, but Joel can evaluate that.

UNIDENTIFIED SPEAKER: That sort of thing is pretty easy to iron out.

UNIDENTIFIED SPEAKER: It might be...he's got the best document right there.

CHAIRMAN: It certainly....

UNIDENTIFIED SPEAKER: ....having problems with transferrability.

CHAIRMAN: Why? You mean under the (indisc.)?

UNIDENTIFIED SPEAKER: You didn't have an effective....

CHAIRMAN: Well, it certainly would be wonderful if we could have anything as simple and short as this thing of Jay's.

UNIDENTIFIED SPEAKER: Do we have that?

CHAIRMAN: Yeah. Does everybody have a copy of that? Sure gets away from a lot of problems with this one. (indisc.) I'm sure it would over a period of time, but it doesn't do it quick enough.

UNIDENTIFIED SPEAKER: I just see the position that is somebody fails to re-purchase for any year, then he's out. Is that the way it goes?

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: Just attrition.

UNIDENTIFIED SPEAKER: Bristol Bay licenses are open for sale on the first of April or closed?

CHAIRMAN: All gear licenses are open January 1 and closed April 15.

UNIDENTIFIED SPEAKER: Something to keep people from buying in t hat wouldn't ordinarily be there. There's nothing to keep people from buying into the Bristol Bay fishery anticipating limited entry.

CHAIRMAN: That's correct, however, our stated position was with the sliding gear scale (indisc.) they're going to be able to do as far as taxation over there--why they could take care of the problem.

UNIDENTIFIED SPEAKER: Do we meet tomorrow after we've read these? This material.

CHAIRMAN: Yeah. I think so. What are you planning for tomorrow, John?

UNIDENTIFIED SPEAKER: To continue (indisc.) the fishery tax.

UNIDENTIFIED SPEAKER: Joel, we also have that NCER (?) thing John had.

(SEVERAL UNIDENTIFIED SPEAKERS (INDISC.) (C.B. OR VHF RADIO INTERFERENCE)

UNIDENTIFIED SPEAKER: Then after that (indisc.) were expected, as many of us as possible, to go and join these people. Well, it's on this whole rural school and this is the sort of combination of all that's gone on for the last almost 60 days now.

CHAIRMAN: OK.

(SEVERAL UNIDENTIFIED SPEAKERS (INDISC.) (C.B. or VHF RADIO INTERFERENCE)

CHAIRMAN: Oh, might as well and can we get a copy of this thing from Fletcher to John so that he can have time to look through it and study it carefully.

UNIDENTIFIED SPEAKER: (Indisc.) expect to pass a law having a ninety day limit...we don't even have time to look at (indisc.).

(CB OR VHF RADIO INTERFERENCE)

CHAIRMAN: Dave.

DAVE: If you're getting ready to adjourn, can I take a couple of minutes to explain why I think House Bill 126 wouldn't work.

CHAIRMAN: Yeah.

DAVE: To me, the key of the whole bill is that the market value of the permit (?) will reflect what the fishermen can earn with that permit and (indisc.) (VHG RADIO OR CB INTERFERENCE) which means I can attach my boats (indisc.) (VHF OR CB RADIO INTERFERENCE), but you can't drive a (indisc.) without permits or liquor license permit -- the value would

be placed at what the liquor license could make that permit and, you know, I've had the feeling all along -- though it was intuitive and I wasn't able to say in dollars and cents why it would happen, but I feel that -- well, I started looking at it this way -- if a seine boat, okay, in 1971 there were $59 worth of salmon purchased and when the salmon left the cannery, they're worth 147 or almost 150 million dollars. So, when you get down in the reality of this situation working, let's say, 10 years from now -- let's say a cannery has a fleet of 25 boats and there's a permit up for sale--the processor is going to be thinking how much would I gain in increased profits if I could secure that that catch would come to me. Now, let's say that purse seiners would have grossed $50,000 worth of fish--when those fish leave the cannery, they are going to be worth $150,000 -- the processor is going to say -- is likely to say -- what are going to be my marginal costs in processing those fish? How much additional labor, how much additional cans is processing these fish going to cost? Maybe I don't know what the real figure is--whether it would be ten or twenty--but even, let's say, $50,000 (CB OR VHF RADIO INTERFERENCE) that means he is going to - if he could secure that (indisc.) even if he gets that (indisc.) he would have an extra (50,000. In other words, fifty thousand for the fish, $50,000 marginal expense, plus an extra $50,000 marginal profit. And so, the value to the fishermen of that permit is how much he can make off of his $50,000 gross stock over a period of years after he pays off (?) 60¢ to the crew (indisc.) (CB OR VHF RADIO INTERFERENCE).. (indisc.) processors can finance fishermen to bid on the permit. The price of the permit won't be (indisc.) at the level that the fishermen could legitametly earn to pay for that permit--they will be set at the

level that the processor can earn off that fishermen;s catch. If we had (indisc.)price competition like in farming, if the fish were sold on the exchange like grain is sold on the exchange, then it would work but we don't have that--we have repressed prices, because of the lack of competition and because of the present hold and this financial hold is (indisc.) out to the canneries, the strings (?) are through the present financing system, the cannery (indisc.) them necessary and this is why I felt that committee yesterday or Saturday couldn't understand and even Dave Jackman got up and said, "well, look, we are talking about credit", and they were making it look like fishermen just want to go on welfare or something, but Jackman stood up and he said, "Look, if a guy's a good farmer, he can borrow money to buy a farm; if a guy's a good fisherman, he's gonna be able to borrow money to buy a permit, but that's only assuming that the permit's going to be at a price level that the fisherman could legitimately borrow money and pay interest and everything else for that permit--otherwise the way the bill is now coming out, I see it absolutely--will not absolutely, but very, very likely that the processors, particularly some of them--well, this bill doesn't try and cut anybody out, so it's going to be the status quo to begin with and then as people change later then the processors will bend one way or another. Ed Naughton (?) (indisc.) walking the docks a week ago in Kodiak and got the impression that the Kodiak people are--he said everybody (indisc.) buying and selling the permits was a mistake--but anyway yesterday I called up some people and will be calling up more and I asked this one skipper, Jim (indisc.) and I fished with him last year and he doesn't hesitate to tell me if he disagrees with me on something, so I said, "What do you think about this buying and selling--they're beginning now to have enough information to think about it. When

the State first went there, they didn't know anything about it, so it was all starting from scratch. And he said, I don't like the buying and selling. I said, "Well you're almost certainly going to get a crab permit and you're almost certainly going to get a shrimp permit". He's an independent fisherman, he's well-heeled, he's done well with his boat and he's the kind that has worked up through the years and I said, "You're going to get a permit--you probably won't get a salmon permit because it's been so many years since you've fished salmon". I said, "You'll get a crab permit and a shrimp permit and they are likely to be worth a lot of money". He said, "Well, I'm not worried about something when I retire". He said, "I'm worried about how much I can make now while I'm making a living"and he really feels that you have to get your prices. That's only one person, but if you start off with a level of licenses like that and have to cut down to that--to give that license a value--we are going to have to buy every guy out--guys that are going to be hanging on to stay in there and even if they can't make money off the permit, they will pay their money because they are speculating on the value of that permit going up. And, if you just tell a guy--look if you want to fish, you can keep on fishing--when you get tired of fishing, then your permit goes back. If we could set something up about transferrability, you'll get more natural attrition because guys will give up their spot of "Gee, if I just hang in a bit longer then I'm going to get a big windfall someday. So if you can work with the natural attrition....

CHAIRMAN: That's one of the big advantages of gifting (?) a date. It has no value....Everybody's in--to begin with--but as soon as you don't revalidate one year, why then you're out. Price for a new entry on a

regular 10% or it could make it 20% or 5%. Of course, the question is: does it do anything quickly enough? When you let everybody in in '73 have you really let it do anything towards cutting gear? I don't know whether you have or not...I don't know whether you have or not... I just can't assess the impact accurately.

UNIDENTIFIED SPEAKER: How would you be able to tell how many people are going to last? Not renew their (indisc.) licenses?

CHAIRMAN: You wouldn't until after the fact. When they had not paid for the year.

UNIDENTIFIED SPEAKER: There's no fishery to pay off?

CHAIRMAN: Well, there is.....(indisc.)

UNIDENTIFIED SPEAKER: It'd be different....(indisc.)

CHAIRMAN: Entry shows what...out of the 20 some thousand a year we've had around 2200 a year...

UNIDENTIFIED SPEAKER: About 20% turnover. 20.7, but I'm not sure that those figures are valid at all because once you've put a freeze on, it's just like with the entry permits you don't have the slightest idea what attrition or turnover rates are going to be once these pieces of paper are issued. We haven't actually, in going through the Governor's data and everything else, there's just no way to assess the impact of (indisc.) of limited entry (indisc.). Two other considerations in regards to Dave's comment on transferrability, I know there are mavericks of the industry that are very involved in the banking industry also in Alaska and I'm not sure it's a valid assumption that individuals would be able to get financing from a bank. They may have some sort of policy that (indisc.) and then that also that if (indisc.) comments are all relative

in that they are being changed in a relative placement of processors in regards to the number of fish that they buy, any processor that got but short on his supply of fish because for some reason there's some bias in the number of entry permits issued on the basis of (indisc.--telephone ringing). But those processors I'm sure would be in a position to (indisc.) with lots of dead entry permits up very high. Or would be willing to get entry permits up very high unless you're there to buy fish.

CHAIRMAN: Why don't you call Fish and Game or find out if you can what kind of increase they are seeing right now (indisc.). We've had some indication that there's a very great increase this year because people wanting to get in under the wire--all I've heard is rumors--I don't really know, and I don't know if it would be pertinent....

UNIDENTIFIED SPEAKER: I'll call Kate Kleinbeck (?) and she'll know.

UNIDENTIFIED SPEAKER: A thing like this, Bob, might have to be tried before you can get it off and running.

UNIDENTIFIED SPEAKER: But, it's a little bit like Russian Roulette...you've got to be pretty sure of what you try. Otherwise, you can really hurt yourself. If it's a known thing...

UNIDENTIFIED SPEAKER: You mean...like Jay's (indisc.) sometime and maybe some of the fish whereas if you try this other thing and it would do it.

CHAIRMAN: Yeah, that's true.

UNIDENTIFIED SPEAKER: It seems to me that if we got something going--well anything other than free transferrability--something like Jay's--then we would, in that year's time, get the data on the applicants--then we could begin to see how classifications might set up and what kind of system we might have later. I tend to think--you know a lot of people say, "Well, I'm afraid of a lottery so I might never make it", and that's a

very legitimate fear and, of course, the more you narrow down your classifications into some sort of point system which has its drawbacks, too, and, of course, the more you narrow down your classifications by getting more experienced--you know you narrow down your constitutionality--if you're getting into weak ground (indisc.) interpretation, but we would not have to do that for a couple of years but maybe when we actually see the data of the applicant, there will be a way to look at the data and say, "look this kind of system might be legal and it might be the best for the Alaskans'. Because we not only want to put a lid on the fisheries but we hope to encourage the Alaskans and work for their benefit in which the times of having the data we might be able to come up with (indisc.).....

UNIDENTIFIED SPEAKER: I can see free transferrability working, for instance, with trollers because their fish are more closer to the real market value and being a one-man operation, they have a lower growth value per boat.

UNIDENTIFIED SPEAKER: (Indisc.) (Laughter) I sure hope you settle it somehow....

UNIDENTIFIED SPEAKER: Okay, you have to have gear before you can (indisc.) proper gear license, right?

UNIDENTIFIED SPEAKER: One of the interesting problems that came up Saturday--a fellow, Chris Christenson from Petersburg, was in the same position as (indisc.)--he's been a crewman for 20-30 years and they've been fishing halibut and salmon and seining a lot as crewmen and now they sort of want to semi-retire and get troller and gill net licenses. Why should I, after 20 or 30 years of my whole life time..why should I, have to go buy one off some part-timer who gets in under the gun, you know---it's an interesting problem. But there is one way of possibly changing

that--the way it presently reads - 126 - it says, "all applicants must have previously held a gear license". Now, if you take off that requirement that they must have held their gear license (indisc.) options coming in (indisc.) say, well, guys who have been in for 30 years but have never held a gear license--maybe he should qualify over some of the fellows who held gear licenses for one or two years. I don't know what the answer to that is.

CHAIRMAN: Well, you know, we could always change this thing--the very first paragraph--not in any one -- not in 1973--in '73 anyone would be eligible, but anyone would be eligible who had previously held a license in the area. Now, we very substantially r educe getting away from something academic he's coming up here with. It would(?) serve some of the interests of some of the guys who want to be able to switch from other areas.

UNIDENTIFIED SPEAKER: Bob, do you have that in memo form? Could you route a copy of that to us, please?

CHAIRMAN: We can't have the best of all the rules for everybody.

UNIDENTIFIED SPEAKER: You'd better hang on to your hats gentlemen. Through March of 1973 compated to March of 1972 there's an overall increase of 82.88%. Drift gill net is up 82.47; troll is up 163.93; long line is up 291.66; vessel licenses are up 77.88; set gill net is down 48.6% because everyone is changing from set gill net to drift especially the minors that have been registered in paper licenses for set gill nets; seining, no change; purse seine is up 55%; (indisc.) trawl is up 85.71%; (indisc.) trawl is up 3.77%, shell fish is up 55.68%; clam diggers are up 66.667%; resident commerical fishermen are up 96.92% and non-resident commercial fishermen are up 83.44%.

UNIDENTIFIED SPEAKER: What was the resident figure again?

UNIDENTIFIED SPEAKER: Resident commercial fishermen is up 96.92% through March of last year. Non-resident is 83.44%. This is as a result of present delivery.

UNIDENTIFIED SPEAKER: The overall percentage increase?

UNIDENTIFIED SPEAKER: 84, 80 to 8.

UNIDENTIFIED SPEAKER: Most of them seem to be much higher than 80. Your beach sets are down or whatever you call them.

CHAIRMAN: Down to 40 so that (indisc.)...

UNIDENTIFIED SPEAKER: Down 40 (indisc.)..very small change.

UNIDENTIFIED SPEAKER: More beach sets than...

UNIDENTIFIED SPEAKER: Right. They are going from set to gill net to drift gill net.

UNIDENTIFIED SPEAKER: But there must be a helluva percentage of the gear licenses that are beach sets then (indisc.) the 160 percent...

UNIDENTIFIED SPEAKER: Yeah, troll was up 163.9(?).

CHAIRMAN: You didn't distinguish between hand troll and power troll.

UNIDENTIFIED SPEAKER: Probably not.

CHAIRMAN: An awful lot of that must be those local hand troll fisheries, don't you think?

UNIDENTIFIED SPEAKER: You gotta watch those clam diggers.

UNIDENTIFIED SPEAKER: The long line of (indisc.)

CHAIRMAN: (Indisc.) you see that increase in price in Halibut, why...

Okay, thank you, George, you've come up with good ideas--put Cox to work.

UNIDENTIFIED SPEAKER: I will get a copy of all this package to Senator (indisc.) and Senator (indisc.) and I'll type this information up or get Kitty to write a memo up. I'll make copies for everyone.

UNIDENTIFIED SPEAKER: It would appear that perhaps participation in '72 would be advisable criteria.

UNIDENTIFIED SPEAKER: It would appear so.

UNIDENTIFIED SPEAKER: I wonder how many of those increased people have -- of course, there is no way of knowing -- but I wonder how much experience they have.

UNIDENTIFIED SPEAKER: It's hard telling.

End of tape.

SCOMM

#31:16

CSSB 39: LIMITED ENTRY WORK SESSION - I/i

(Fletcher Proposition)

March 9, 1973

UNIDENTIFIED SPEAKER:....there are a number of years and that would be the beginning of the longevity thing, wouldn't it?.....Unless all applications are thrown out each year.

CHAIRMAN: Why?

UNIDENTIFIED SPEAKER: Well, I mean, when a person who's applied five years ago has preference over one who applied three years ago.

UNIDENTIFIED SPEAKER: I would think so.

UNIDENTIFIED SPEAKER: Fine with me.

UNIDENTIFIED SPEAKER: Wouldn't you feel that way if you were applying and every year you were thrown in the hat with all the new ones and....

UNIDENTIFIED SPEAKER: Yeah. Okay. Is it generally agreed that this is desirable if we can do it this way? Joe, can you look at the constitutionality of that question at this point? I mean, do you have any judgment on it?

JOEL: I think it sounds reasonable to do it the way you're talking about.

CHAIRMAN: Okay. 229 .....

JOEL: I think either way is legal.

UNIDENTIFIED SPEAKER: 229 is a new section which requires that those receiving initial entry permits pay the fair market value determined by the commission.

CHAIRMAN: Not the initial but a new entry permit? It doesn't apply to all those who are going to have initial entry permits from the very beginning.

UNIDENTIFIED SPEAKER: I don't know...that's the way I read it.

CHAIRMAN: Well, let's go on to Section 227...that subsequent issue.

UNIDENTIFIED SPEAKER: (Indisc.) prior to the receipt of the permit as a condition of receiving the permit.

CHAIRMAN: Okay. Shall as a condition of receiving.

UNIDENTIFIED SPEAKER: Right.

CHAIRMAN: The permit, pay the commission to use the State fair market value determined in Section 310.

UNIDENTIFIED SPEAKER: You said you're going to (indisc.) regulations.

UNIDENTIFIED SPEAKER: What does that mean? How much do you think fair market value will be?

CHAIRMAN: That's what I'm having discussions with the people about. I don't know. I think a reasonable price or a prospective price may be anywhere from five to twenty five or thirty thousand dollars for gill net---the seine could be much more than that, I suppose. Maybe it's not going to be over four or five or ten. Now the best information I suppose we really have is the British Columbia experience in supposedly a drift gill net fishery there--it's in the neighborhood of about $10,000 now after what--four or five years in operation.

UNIDENTIFIED SPEAKER: Now that includes the vessel?

CHAIRMAN: No, I'm told that this is in addition to the vessel.

UNIDENTIFIED SPEAKER: Why do they have to buy it?

CHAIRMAN: Why do they have to buy it?

UNIDENTIFIED SPEAKER: Yes, the original ones don't have to buy theirs.

UNIDENTIFIED SPEAKER: The originals are also being taxed or giving benefits to the State when they sell in a section here that we are coming to.

UNIDENTIFIED SPEAKER: I thought they got new entry permits for the same price they usually gets permits for .... $10, $60.

CHAIRMAN: Well, let's go on and look at the whole thing. Joel?

JOEL: What does that "for the use of the State" really mean there in the last (indisc.) (Several Speakers....indisc.)

UNIDENTIFIED SPEAKER: I was thinking of that too. We've never used that language anywhere that I've seen, have we? "To pay the commission for deposit in the general fund (indisc.) fair market value".

UNIDENTIFIED SPEAKER: Is it superfluous? It probably is.

UNIDENTIFIED SPEAKER: ...to pay the general fund.

UNIDENTIFIED SPEAKER: ...or pay to the commission.

UNIDENTIFIED SPEAKER: (indisc.) pay to the commission.

CHAIRMAN: ...to pay the commission. I don't know any reason we need...

UNIDENTIFIED SPEAKER: When you're (indisc.) the market value and I don't know what they are and I don't know what they pay in Canada, but insofar as this (indisc.) there could be process of financing behind the permit. A gill netter in B.C. might be less than a gill netter in Bristol Bay because there may be more repressed prices in Bristol Bay. That would have to be taken (indisc.).

CHAIRMAN: Well, let's take a look at 230. "Except as herein provided in this sub-section, the holder of a currently renewed entry permit must himself be at all times present and actively engaged in the operation of the unit of gear for which the permit was issued". "The commission shall adopt regulations for alleviation of hardship caused by illness, incapacity or death of the permit holder prior to or during the fishing season whereby another person may be issued a temporary entry permit to operate the gear for the remainder of the season; or in the case of illness or incapacitation for the duration thereof if that be shorter than the remainder of the season". Okay, well that answers one of the earlier

problems that people have had. What happens to the crew in case a captain who has a gear license gets sick.

UNIDENTIFIED SPEAKER: Doesn't he really mean that type of gear up in the third sentence instead of a "unit"? Couldn't somebody have more than one unit of the same type of gear? The permits are being issued for a type of gear, aren't they?

CHAIRMAN: Well, what unit of gear is.....150 thousands of gears of net is a unit of drift net. Must, at all times, be present and actively engaged in the operation of...why don't we just say "the year for which the permit was issued". Take out "a unit of operation of the gear" which could (indisc.).

UNIDENTIFIED SPEAKER: What's the new language? Line 3?

CHAIRMAN: Line 3. So it reads: "engaged in the operation of the gear for which the permit was issued". Okay, now on up to the third/fourth line of the bottom of that paragraph..."the commission may adopt regulations whereby in extra-ordinary circumstances the holder of a currently renewed entry permit may act as crewman or other assistant in the operation of gear by another permit holder in order to alleviate hardship of that other permit holder".

UNIDENTIFIED SPEAKER: I'm wondering if that whole sentence is necessary.

CHAIRMAN: I don't know why it would be. It seems to me that we can do it anyway, can't we? Joel, do you see any reason why that's necessary?

JOEL: Well....

CHAIRMAN: Why don't you check with Fish & Game, Mike?

UNIDENTIFIED SPEAKER: In view of the previous sentences?

UNIDENTIFIED SPEAKER: "(Indisc.) currently renewed entry permits must themselves at all times be present and actively engaged"....then he goes on

in this last sentence and says..."a holder may act as a crewman which he could do anyway.....

CHAIRMAN: Whether he has a license or not.

UNIDENTIFIED SPEAKER: And/or other assistant in the operation by another permit holder..

CHAIRMAN: Actually, what it's saying, as I see it, is that I've got a gear license and I'm fishing gear out here but you've got a gear license, too, and you are fishing gear and if you get sick, then I can come over and act as a crewman for you to alleviate hardship on you because you got sick.

UNIDENTIFIED SPEAKER: I can do that anyway....

UNIDENTIFIED SPEAKER: And then for a lengthy illness, the provide for ...

CHAIRMAN: ....transferring that permit temporarily to somebody else so that you don't have to be on the boat.

UNIDENTIFIED SPEAKER: Yeah, right, right.

CHAIRMAN: Okay, well, let's just check and see if that last sentence is necessary. Let's check with the (indisc.). "B". Due to the extent that the commissioner of Department of Fish & Game authorizes in individual cases pursuant to 15 of AS 250..that's on down, is it?

UNIDENTIFIED SPEAKER: That's an adendum right at the very back...and it's the wrong Statute number. It should be, I think, 15:05050. Right (indisc.)?

CHAIRMAN: 050 instead of 250....

UNIDENTIFIED SPEAKER: "050" and then it (indisc.) page 11 and that back page should be changed to 15:05050.

CHAIRMAN: Well, are you saying that 15 should be changed to 11?

UNIDENTIFIED SPEAKER: Yeah. Right, and the Statute #12 shall be changed to 15:05050.

CHAIRMAN: "To the extent that the commissioner of the Department of Fish & Game authorizes in individual cases pursuant to 11 of 05050, a holder of an entry permit for any type of gear for any administrative area may on an experimental basis engage in commercial taking from any fishery resource in the State". Well, then 11:05050 is what then?

UNIDENTIFIED SPEAKER: It's a new section--should be the very last page authorizing any holder of a currently renewed entry permit under Chapter 1643 engaged on an experimental basis in commercial taking of fishery resources (indisc.) gear (indisc.) not presently suitable for or qualifying for licensing under any of the licenses specified in this chapter. Same standards therein for the commissioner to follow in determining fish entry permit holders bestowed to be authorized in (indisc.) of the objective to develop a better fishery both biologically and economically and (indisc.) the issuance of such authorizations and such number of duration if there are no more than blank entry permit holders (indisc.) anyone fishing.

CHAIRMAN: Well, all right. Now, I wonder if we don't have a problem though because we've now brought in all fishery resources if we adopt the House version of this thing and, therefore, that would cause some problems here. I think the idea is good that when any resource is not presently being utilized.....

UNIDENTIFIED SPEAKER: Or the resource is presently being utilized but on an experimental basis...

CHAIRMAN: Okay.

UNIDENTIFIED SPEAKER: (Indisc.) by the department and by the commissioner.

CHAIRMAN: Right. Well, will you work on that one?

UNIDENTIFIED SPEAKER: Sure---you're saying it's not necessary then if we don't cover it all (indisc.) ...all fishery resources.

CHAIRMAN: Not necessarily written like this but it may be necessary to have a provision here to allow for the experimental fishery by these people. Okay? We're down to "C" then, right? "The holder of a currently renewed entry permit must have a permit in his possession at all times when engaged in commercial picking from a fishery resource. Each entry permit is issued for from one year to (indisc.) holder (indisc.) and renewable as long as he remains qualified. A permit holder may fail for one year to renew the entry permit, but on renewal the year thereafter shall pay all accrued annual fees. Failure to renew an entry permit for a period of two years from date of last renewal shall result in forfeiture...except as waived by the commission for good cause. May adopt regulations (indisc.).....what good cause is, Iguess.

UNIDENTIFIED SPEAKER: Okay, then....

CHAIRMAN: Okay--no prescribing terms of renewal. Okay. Transferability--both voluntary and involuntary of entry permits--is governed by the provisions of Section 250 to 280 of this Chapter, surrender and return of the entry permit as governed by Section 9...forfeiture of entry permits governed by Section.....

UNIDENTIFIED SPEAKER: If it does these things, is it necessary t say it...

CHAIRMAN: Make some question marks and we'll ask that very question. Okay, annual fee is $50 for the issuanc...now, what did the House do to that? Did they change that? Do we still need a $50 fee on this thing?

UNIDENTIFIED SPEAKER: I believe it has been changed.

CHAIRMAN: I can still see that....

UNIDENTIFIED SPEAKER: At least the House Resources...I'm not sure where House Judiciary is going.

CHAIRMAN: Last year in Bristol Bay the high set net sights, I believe, were approximately 300 fish and they may have had two or three gear licenses they use there. So many of these are a family operation with the man, the wife, two or three of the kids all licensed and if each one of these is required to pay a $50 permit fee in addition to his commercial license, his gear license, his skiff license...then on a year like that...you get the point?

UNIDENTIFIED SPEAKER: What's the breakdown?

CHAIRMAN: I'm just wondering about the $50...

UNIDENTIFIED SPEAKER: What about $50 then with a hardship clause at some poverty level?

CHAIRMAN: Well, okay, we wanted to ask that question so...what do you see the problem with saying, "$50 except in cases where the gross income is less than $6,000, it shall be $10". Any problem with that?

UNIDENTIFIED SPEAKER: No. That's what Fish and Game does with their (indisc.) concept.

CHAIRMAN: I know they do. Well, if we can do that there then let's do it here, too.

UNIDENTIFIED SPEAKER: Again, I'm not sure, but the House (indisc.)$100 to 300 breakdown on these licenses.

CHAIRMAN: One hundred to three hundred dollar....

UNIDENTIFIED SPEAKER: A one to three breakdown after that...exactly what I'm not sure...seems like I remember when a non-resident was 300....

UNIDENTIFIED SPEAKER: That was just....

UNIDENTIFIED SPEAKER: Oh, was that Jay's?

CHAIRMAN: Yeah, that was the one that we had then.

UNIDENTIFIED SPEAKER: Can't we do that here also?

UNIDENTIFIED SPEAKER: In the prior year...

UNIDENTIFIED SPEAKER: The only basis you have for the elevated fee for non-residents. It would be administrative policy.

UNIDENTIFIED SPEAKER: Well, no, the three-to-one differential for licenses is based on rehabilitation, increased enforcement costs, not paying their fair share of taxes and this sort of thing, and it's not applicable. The same reasoning is applicable.

CHAIRMAN: Let's do that to licenses, not to permits. Well, okay. The commission may adopt regulations with the revising of the amount of this annual fee to reflect the cost of administering this chapter including those incurred under Section 29. These collections shall be paid to the general fund. Is that superfluous? Paid to the general fund?

UNIDENTIFIED SPEAKER: Well, we deliberately didn't say it before, did we? Before it was just paid to the commission, remember? We ought to be consistent.

CHAIRMAN: If we don't say anything here, it has to go to the general fund.

UNIDENTIFIED SPEAKER: That's what my understanding is. I'll check that out.

UNIDENTIFIED SPEAKER: Why not put it in and be safe?

CHAIRMAN: Put it in?

UNIDENTIFIED SPEAKER: God knows. The commission might figure out someway to use it.

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CHAIRMAN: Maybe they should. Let them use it in the Buy-Back Fund.

UNIDENTIFIED SPEAKER: That might not be such a bad idea.

CHAIRMAN: Okay...Entry Permit Transfer: Entry permits transferable through and by the commission. Let's do it through 60, 70 and 80. (Indisc.) transferable are not capable of voluntary or involuntary transfer by any means whatsoever, including, without limitations: Sale, (indisc.), mortgage, lease, rental, gift, possession of (indisc.) and death, whether by will (indisc.)

UNIDENTIFIED SPEAKER: Died without a will?

CHAIRMAN: Attachment, distraint. Define destraint for me.

UNIDENTIFIED SPEAKER: Distraint?

CHAIRMAN: What is distraint? How does it differ from restraint?

UNIDENTIFIED SPEAKER: Get your dictionary....

UNIDENTIFIED SPEAKER: I think it's one that is in (indisc.). It's not exactly a forfeiture, but it's a temporary holdsing.

CHAIRMAN: Two or three years ago (indisc.), but I don't remember now. I haven't used it since.

UNIDENTIFIED SPEAKER: I don't recall the word yet...if I could have used it, it must be good.

CHAIRMAN: The provision for this session shall not, however, present or otherwise restrict forfeiture brought about by violation of the provisions of this chapter as also sweared and testified to herein...or by violation of laws and regulations pertinaing to (indisc.) epartment of Fish & Game or by violation of any other State laws...State income tax (indisc.). Why don't we include all that in there? They can lose their licenses by violation of laws or regulations including the income tax law.

CHAIRMAN: Joel, do you thi.. y.. can work up some language there? All right. Eligible Transfer. "The holder of any entry permit whether it's currently renewed or not, may apply for transfer pursuant to Chapter 2, Section 280. In addition, if at the time of a death of a permit holder he was eligible to transfer his permit and his application be made within one year of the death of the permit holder, his personal representative may likewise apply." The commission may adopt regulations for the determination of a person entitled as a holder's successor and interest to apply for such post-death transfer instead of the personal representative if none has been appointed. The term "transfer" or "permit holder" is used in Section 280 and gives all eligible transfer orders described in this section." Now, Joel, as you read this...does this allow the personal representative for the holder's successor in interest to apply for transfer after the death of the permit holder of the permit to him?

JOEL: No.

CHAIRMAN: It allows the successor in interest to sell the permit, not to simply have it transferred to him.

UNIDENTIFIED SPEAKER: That's my understanding, yes.

UNIDENTIFIED SPEAKER: Under 5 of the previous section?

UNIDENTIFIED SPEAKER: What?

UNIDENTIFIED SPEAKER: Under 5 of the previous section.

UNIDENTIFIED SPEAKER: It's interesting that we haven't spoken about the man with his family and he wants to transfer within the family.

CHAIRMAN: Well, I think you can see when we get on through here that we allow this, but it akes a payment to do it.

UNIDENTIFIED SPEAKER: There may be that question about other people that it may be valuable to include that phrase in there which (indisc.)

but not to sell. Also, that last sentence probably should be in 280 referring back to this one...rather than the other way around.

CHAIRMAN: I see. All right. Will you work up the language then? 270...any qualified person who is permanently able (indisc.) in the fishery is an eligible transferee including one described in Section 180, Subsection b, c and d. Let's go back to 180.

UNIDENTIFIED SPEAKER: (Indisc.)

CHAIRMAN: Well, who is eligible to get a permit?

UNIDENTIFIED SPEAKER: Eligible holders now. (Indisc.) pursing for fishing all one type of gear, fishing one (indisc.), fishing for (indisc.) for which separate entry permits are issued, partnership or corporation.

NIDENTIFIED SPEAKER: What's the other question of any qualified person who is presently able and who presently intends to fish to engage actively... does "presently intends to engage actively" mean this season or is he required to fish this season to be an eligible transferee?

UNIDENTIFIED SPEAKER: If it's going to be under this way, where it will be strictly a property right, it might take a guy another year to get up the bread for a boat after he finigeld (sp) the bread for the permit. I don't know.

CHAIRMAN: Well, why do we say anything about him being presently able and intending...I thought we talked earlier about an applicant's pool. There's an approved course of training or something like this (indisc.) -- are eligible transferees going to come from that applicant pool?

UNIDENTIFIED SPEAKER: (Indisc.)

CHAIRMAN: Well, all right...let's make a big question mark there, and consider an applicant pool from which these transferees would be drawn.

UNIDENTIFIED SPEAKER: On one major part—not knowing what would be the Committee's concensus, I tried to pick the most likely (indisc.) the value attached transferability would incorporate in a monetary enticement (indisc.) 19-25% differential between transferring...

CHAIRMAN: (Indisc.) the matter of who is eligible (indisc.). Cost to the Transferee: "(Indisc.) to the commission for the benefit of the State for the transferor or permit holder issuance of new permit. Transferees: "shall pay for each transfer fair market value thereof except as the transferor, permit holder may, as a gift to the transferee, waive the payment of any and all of his share of the transfer price as provided in Section b and c. So you want to sell yours to your son and a fair market value has been established...part of that is paid to the commission, part of it is paid to you--you may waive the payment to you. Your son still has to pay the payment to the commission. In all cases except those in which the transfer or permit holder waives the payment of any or all of his share, the fair market value shall be determined by and be equal to the total amount paid to the commission incident to the transfer pursuant to Sub-section "b" (indisc.).

UNIDENTIFIED SPEAKER: Isn't it really then you're saying the value shall be equal to determined by and "b" is superfluous? There's no determination at all. Just equal to the amount paid the commission.

CHAIRMAN: Well, now wait a minute.....

UNIDENTIFIED SPEAKER: No, there isn't a determination. (Indisc.)

UNIDENTIFIED SPEAKER: Under section....

CHAIRMAN: The value of determined (indisc.) there gives you (indisc.)--gives the commission the expressed authority to determine the market value. Isn't that what that language says, Joel?

JOEL: As I understand the subsequent issue 227, 229 reads "applicant to who a new entry permit is to be issued per Section 227 with a subsequent issue, shall pay the commission the fair market value determined in 310 and then 310 says the commission shall adopt regulations for determining the fair market value for the purposes of Sections 280 and 290 in this chapter, so the commission is determining (indisc.)

UNIDENTIFIED SPEAKER: I understand that (indisc.) be equal. It doesn't make sense.

CHAIRMAN: All right. What's your thinking now, Joel?

JOEL: This sentence doesn't make sense. I can read that the commission shall determine the fair market value but then why does it say right after that ..."and be equal"? Is it understandable to you--that whole sentence?

UNIDENTIFIED SPEAKER: What about in the case of a waiver? Wouldn't that (indisc.) be equal to the amount determined by the commission that would be equal to the amount paid to the commission?

UNIDENTIFIED SPEAKER: Right.

CHAIRMAN: In all cases except those in which transfer or permit holder waives the payment of any or all of his share, the fair market value shall be determined by, be equal to the total amount paid to t he commission incident to the transfer. In any transfer which the transferor waives the payment of any or all of his share, then the fair market value shall be determined by the commission pursuant to Section 310. Let's go on and see if that makes sense...see if we have the whole picture. The transferred price, in its entirety, shall be paid to the commission at the time of transfer. After deducting the share for the benefit of the State as determined in Section C, the balance shall be paid to the

transferor or permit holder. In all transfers, the share from the transferor or permit holder shall be determined as follows: a share for the benefit of the State to be retained by the commission at the time of the transfer shall be the balance. 1.) for a transfer of an initial entry permit, 100% of the fair market value, if the transfer application is submitted within one year of the time of the issue of the permit...

UNIDENTIFIED SPEAKER: That's what I thought...(indisc.) 100% goes to the State?

CHAIRMAN: If you're going to transfer within a year after you get the thing, then you don't make any windfall. If during the second...What?

UNIDENTIFIED SPEAKER: I was going to say it sure sounds like that's the transfer or permit holder's share.

CHAIRMAN: Say that again please.

UNIDENTIFIED SPEAKER: It sure sounds, the way it's written, that that's the transferor or permit holder's share rather than the State's.

UNIDENTIFIED SPEAKER: Yeah, if you read to the first comma "in all transfers the share of the transferor or permit holder shall be determined as follows: 1) for transfer of initial entry permit 100% of the market value".

CHAIRMAN: Go back to "C" again--in all transfers, the share of the transferor shall be determined as follows: "and the share to the benefit of the State to be retained by the commission shall be the balance".

UNIDENTIFIED SPEAKER: (Indisc.) shall be transferor or permit holder shall be the difference between 100% and what is left as specified in 1-5 of this section. So in that case of one, let's say it would be nothing--

in the case of 2, it would be 10%. In the case of 3, it'd be 20%--something like that to clarify it somehow.

CHAIRMAN: Well, again, you get the idea, so let you and Mike work out what we are trying to do. Don't want to get stalled too long here. Now, the House put in a clause saying that six month's notice was necessary prior to any transfer of a permit so that there would be no, well to help this matter--if a guy gets drunk and sells his permit in a bar some night. I don't see anything wrong with that do you. And I'm not so sure but what we shouldn't have a two or three, four year period here where none are sold anyway. None are transferred anyway. And then we have less 100% and 9¢ thing starting at the end of that time.

UNIDENTIFIED SPEAKER: How long? What period?

CHAIRMAN: Oh, I don't know...2, 3, 4 years ..moratorium before any of them can be transferred.

UNIDENTIFIED SPEAKER: Aren't they entitled up to the amount of time that in this (indisc.) to get (indisc.) to get to that point?

CHAIRMAN: No, not during this transitional phase. As long as we show what we are going to do when we get down to the desired maximum level and we're doing that here...

UNIDENTIFIED SPEAKER: (Indisc.)

CHAIRMAN: You'd be in favor if we could do it.

UNIDENTIFIED SPEAKER: Yeah.

CHAIRMAN: Dave.

DAVE: What's the purpose of the declining percentages? Is it to encourage people not to drop out or not to sell out or is it just to discourage speculation or what?

CHAIRMAN: It's to discourage speculation and windfall gains and recognizing that in all probability they will be assessed for buy-backs over the years and the longer they are in the more they will have paid in buy-back fees and, therefore, there's justification for greater retention of the value of the thing after having paid a lot more into a buy-back fund.

UNIDENTIFIED SPEAKER: Plus the fact that the fishery over a period of, in this case ten years, or nine years, theoretically would have improved to the point that the value of the permit is not so important (indisc.).

UNIDENTIFIED SPEAKER: Does this whole section mean that if a man gives a permit to his son, he has to pay....his son has to pay the State three-quart ers or whatever?

UNIDENTIFIED SPEAKER: No, not if he gives it as a gift.

CHAIRMAN: It means...that's what I was saying a while ago...if you give yours to your son, then he still has to pay the State share, you can waive your share.....

UNIDENTIFIED SPEAKER: Oh, but your share...you mean during the first year your share would be zero?

CHAIRMAN: Yeah, during the first year your share would be zero. Well, there's just no way of getting around that one. That's the thing that we do here. I think there is a real tendency to keep the price lower through this thing because there's not going to be so much speculation..we're just not gonna have so much windfall value.

UNIDENTIFIED SPEAKER: ...a windfall to the son.

CHAIRMAN: A windfall to whoever is going to sell it.

UNIDENTIFIED SPEAKER: (Indisc.) he's giving it to the son.

CHAIRMAN: That's the reason, yeah.

UNIDENTIFIED SPEAKER: The guy that's giving the (indisc.)

CHAIRMAN: This is true.

UNIDENTIFIED SPEAKER: Isn't this going to tend to raise the price insofar as a person would rather wait a year before selling it so if a guy wants to buy in, buy one from someone who wants to get out of the raised price (indisc.)

CHAIRMAN: All right, go ahead and do some (indisc.). All right...a big question mark about that whole (indisc.).

UNIDENTIFIED SPEAKER: Yeah. If a guy who's been fishing three years, and so he would have to give 70% of it to the State, he might say, "Well, I'll fish one more year and sell it to you next year because then I only have to give 60% to the State and I get 40".

CHAIRMAN: On the other hand, the seller may have decided he wants to go elsewhere too by that time. Especially if he's got a guy to buy his boat and gear and so on. So, I don't know. I think, gentlemen, that maybe that section is not so important to us at this time. And what one legislature does, another may change. And this is not going to be operative for two or three years anyway. So it may very well be something that we can put in here...have something that does stand together constitutionally..and then it's something that we can look at next year or the year after when we have better information and more time to look at the specific features here.

UNIDENTIFIED SPEAKER: Yeah..I agree. Would you recommend, Bob, that you keep the whole thing in?

CHAIRMAN: Yes, I would. I think that you keep the whole thing in because it does show the courts what you intend to do. And I would go ahead and put in this idea, I think, of no transfers for the first two, three,

four years...whatever we can get away with. And, then, this type of value and sale after that point.

UNIDENTIFIED SPEAKER: By that time (indisc.)

CHAIRMAN: With the idea of us coming back then and looking at it and seeing what we can work out. Okay. 290: Retirement of Entry Permits. Price paid by the Commission---I know it's late and we don't have a great deal more to do and I assume that as long as we've been at this thing, as many days, you'd just as soon go ahead and finish up what you can. 290: Retirement of Entry Permits: Price paid by the Commission - "The holder of an entry permit whether currently renewed or not, may surrender to the Commission for retirement at any time. In addition, if at the time of death, the permit holder was eligible to surrender his permit, and if surrendered within one year of the death of such permit holder, his personal representative may likewise....that sentence doesn't sound right.

UNIDENTIFIED SPEAKER: ....change that all around....

CHAIRMAN: You changed that all around? How did you change it?

UNIDENTIFIED SPEAKER: In addition, if at the time of the death of the permit holder he was eligible to surrender his permit, his personal representative may surrender the permit for retirement if he surrenders it within one year of the death of the permit holder.

CHAIRMAN: Okay, You're saying the same thing, it's just.....(indosc.).

UNIDENTIFIED SPEAKER: The first sentence says it...he can retire the permit at any time and then in the next sentence, if he was eligible...

CHAIRMAN: Under what terms would he have not been eligible? If the first sentence says that he can retire at any time or surrender it at any time, why would there be any conditions under which you would not be eligible to...do you see anything in that respect, Joel? Why they said that?

UNIDENTIFIED SPEAKER: I agree...it's also mentioned under Section 260--Eligible transferors. .....issue at the time of death the permit holder who is eligible to transfer his permit.

CHAIRMAN: All right, well, make a note of that Mike, and let's ask Fletcher that. The Commission may adopt regulations for the determination of the person entitled, as a holder successor in interest, to effect such post-death surrender instead of a personal representative if none has been appointed. I assume that you reword that too.

UNIDENTIFIED SPEAKER: Well, all I did was--to make the post-death surrender instead of the personal representative.

CHAIRMAN: Okay...may adopt regulations for the determination of the person entitled as the owner's successor in interest to effect such post-death surrender instead of the personal representative, if none has been appointed. All right...so the thing has value, in effect is dying (indisc.) and now the Commission is going to decide who it is that can surrender the thing and receive the value. Is that what we're saying? (Indisc.) for retirement, the Commission shall pay the surrender or that part of the fair market value determined as follows: 1) For surrender of initial entry permit, and entering the first three years after issue, 100%. In other words, you get nothing.

UNIDENTIFIED SPEAKER: No, he get's 100%.

CHAIRMAN: He gets 100%.

UNIDENTIFIED SPEAKER: That's the way the other one reads, too.

UNIDENTIFIED SPEAKER: You know, it seems backwards to me...

UNIDENTIFIED SPEAKER: It's a declining thing because you're assuming the value of the permit initially is relatively low as the fishery proves the value's going to increase.

CHAIRMAN: Yeah. That's just rewarding..Well, all right. That's the incentive though for them to get out early, isn't it? That's the incentive for them to get out -- 100%, the first....

UNIDENTIFIED SPEAKER: They don't have much choice if they're dead.

CHAIRMAN: No, No....that's the truth. That's for you if you want to surrender. Let's turn it around...from what we're talking about a while ago. You've got a permit and you just got it this year, gonna pay you 100% of the value if you want to get out this year. If you wait two years, only 80% and so on.

UNIDENTIFIED SPEAKER: This is (indisc.) three year....

CHAIRMAN: All right, 100% for the first three years.

UNIDENTIFIED SPEAKER: Right...75% for the next and 50 for the next and then 25.

CHAIRMAN: We'd better think this thing through a little more, hadn't we?

UNIDENTIFIED SPEAKER: We'll all be absent...(lots of laughter)

UNIDENTIFIED SPEAKER: In .80....the Cost of Transferee--the previous section, in all transfers (indisc.) transfer or permit holder would be 100% for the first year...and then decline by 10% each year...to a minimum of 10.

chairman; All right. The price paid by the Commission. Upon such (indisc.) of retirement, the Commission shall pay, if (indisc.) the first three years after issue, 100%, the next three years 75, the next three years 50 and the next 25. ..the surrender of all of the entry permits - 25. What others would there be?

UNIDENTIFIED SPEAKER: One that's been transferred.

CHAIRMAN: One that's been transferred, that's right. That's where...okay. Yeah, Line #1--is the surrender of an (indisc.)

UNIDENTIFIED SPEAKER: ....felt that they hoped that we would include them in....

CHAIRMAN: (Indisc.) areas...any problem, Joel, or Mike or anybody?

UNIDENTIFIED SPEAKER: No change.

CHAIRMAN: Termination of desired maximum standards.

UNIDENTIFIED SPEAKER: This section's (indisc.) specify a quote--financially healthy fishery in Paragraph One and curtailement of economic opportunities available to all persons in Paragraph Three. It essentially just broadens it...in the same way that he broadened (indisc.)

CHAIRMAN: But in Number 2 here we have this matter of number of units of gear necessary to fully harvest during all years. Now, I think we have improved the concept when we were talking the other day about it being the number necessary to average--to harvest the average of maybe a four year run and then (indisc.) temporary permits to increase (indisc.) years when we need it. Can you work that language into it, Mike? I think we've got that somewhere. Is there any objection to making that change in (indisc.) and then we'll...Okay. (indisc.) of numbers?

UNIDENTIFIED SPEAKER: This is one thing...if I'm not sure if you want to require the Commission, it says the Commission shall annually review the previous determination which is the number of desired (indisc.) maximum units of gear. They'd have had a helluva job just determining that... then to require them to annually review that might be a burden on them--administrative burden.

UNIDENTIFIED SPEAKER: I don't quite understand the last sentence in "B". I put a question mark on that one.

UNIDENTIFIED SPEAKER: And also, well, provided that the Commission shall annually review this determination of the desired maximum number of gear units based on the standard in the previous section rather than:

1) long-term change in biological condition of fishery, and 2) long term change in the market condition. Those were the standards under the Committee Substitute.

CHAIRMAN: Suppose we were saying a two-year (indisc.) instead of annually?

UNIDENTIFIED SPEAKER: It's almost sort of a reasonable requirement for the Commission to do it anyway...certainly it's necessary to have "A".

UNIDENTIFIED SPEAKER: What about "may" rather than "shall"?

CHAIRMAN: That may need it, too.

UNIDENTIFIED SPEAKER: Because I would think that the maximum number of units of gear is going to be a relatively (indisc.) thing unless there is a change in the -- a biological change in the fishery..or something in market conditions. There are optimum units of gear for a given area.

UNIDENTIFIED SPEAKER: What do you mean by long-term change? the fishery itself?

CHAIRMAN: In 160, the previous page, the desired maximum number of entry permits shall be established - the number shall be established. It doesn't say anything about making the regulations that there shall be no more (indisc.). Isn't that the value of "A", then? Determination made under 160 shall be immediately promolgated(sp)? so it becomes locked. In 160, you're talking about establishing the number, determining the number.

UNIDENTIFIED SPEAKER: Determining by regulation, I assume...since the Commission can't determine anything, really, without....

CHAIRMAN: Well, they don't (indisc.) they establish, don't they? in 160? Maybe we can look up the definition of establish.

UNIDENTIFIED SPEAKER: I would assume that meant by regulation.

CHAIRMAN: Well, there's a case where it would be better to have it and not need it than need it and not have it? in number "A"?

UNIDENTIFIED SPEAKER: Well what the Commission can also do is they can go through and establish the areas, each area, it may take them two years to do it...and here you're saying as they do each area, it immediately goes into effect.

CHAIRMAN: All right, well, we'll make a question mark there...and let's go on. Permits required: After January 11st, (indisc.), no person may operate gear, engage in commercial taking of a fishery resource designated under Section 145, and we may have to change that if we're going to include all of them...without a currently renewed entry permit, temporary or permanent, issued by the Commission. A crewman or other person assisting the holder may not himself hold an entry permit. The person may hold more than one entry permit issued subsequent to this chapter only if for any one or more of the following purposes: more than one type of gear, or (indisc.) area, fishing for species for which a permanent entry permit is not issued.

UNIDENTIFIED SPEAKER: Okay, up to that point, it's the same as the Committee Substitute. These two provisions have been included (indisc.) partnership to beneficially hold entry permit and a corporation (indisc.) beneficiary hold an entry permit if an individual is designated the principal operator. Now, I'm not...

UNIDENTIFIED SPEAKER: ...you have a catch-all statute that entitles that the prime person as the (indisc.)....but I think in this case where you're talking about the partnership and a person within it--holding it...that it's okay...this clarification is good. And put down "B" that the 50% or more (indisc.)

CHAIRMAN: Would this allow the person that's named...the language you said.. if in a writing submitted to the commission and signed by all partners,

one of the partners is designated as the principal operator, such person shall be considered the applicant and the holder of the entry permit for all purposes of (indisc.). Can it be conceived that this would allow that designation to be changed from one partner to another over a period of time. That once it's done then that one for the life of the permit is the designated person? Actually, all this would do would be to assist in the technical operation of a family perhaps that had incorporated and some do for tax purposes...and so on.

UNIDENTIFIED SPEAKER: In other words, you're saying it can't be transferred within the partnership.

CHAIRMAN: Well, I was asking that question first. You're saying the answer to that is No. So then I'm saying the other benefit is that if a family had incorporated then, this is simply a technical matter to allow them to operate as a corporation and really doesn't hurt the idea of the concept of limited entry at all. Now, in "D", I suppose that this would apply to any of the canneries, too. Except that, who of the canneries' partners are actually gonna get out and operate the gear?

UNIDENTIFIED SPEAKER: And also who has 50% or more of the voting stock of the corporation?

UNIDENTIFIED SPEAKER: ....question him further on those two and ask him why he thinks.....

CHAIRMAN: Yeah. Let's do, let's ask him specifically why he thinks that's valuable. 190: Pending the initial issue of entry permits for a particular fishery, the Commission shall issue interim use permits for that fishery to all qualified applicants who are presently able and who presently intend to participate; in other words, as I interpret it, if they get entry permits, they've got an interim permit also, (indisc.)

they might have used other entry permits, but they've got to fish that season under that permit. Other language that had been suggested was, you know, presently able and who intend to participate...presently intend to participate.

CHAIRMAN: Why would you issue an interim permit unless they didn't intent to participate...I can understand that for a permanent permit...but just an interim permit...

UNIDENTIFIED SPEAKER: Right, I have the same notes on that page...

UNIDENTIFIED SPEAKER: They're gonna fish under an interim permit...

CHAIRMAN: Yeah. There's no reason for them to apply for one unless they do intend to fish.

CHAIRMAN: Okay. All such interim permits for any particular fishery shall expire upon initial issue of entry permits for that fishery...under Section 220. Now, does that mean that if there are 500 entry permits out, initial entry permits, and consider the first one of the permanent permit was issued, then all the others, all the initial entry permits are expired?

UNIDENTIFIED SPEAKER: I don't think so. I don't think initial in this case would be that specific because on the next page he says "entry permit standards for initial issue".

UNIDENTIFIED SPEAKER: In that last sentence, I think it's pretty clear that they would expire...

CHAIRMAN: Yeah, but I think that all of the permanent ones are going to be issued for that first year, together, in a batch, so I don't know--I don't think there's much problem there. And, in any case, it does give them an out, gives the Commission an out, with that last part of the sentence - "except as may be extended pursuant to..."

UNIDENTIFIED SPEAKER: ....that extension is 255 "B" is the alleged compensation. In other words, if they continue fishing until fully compensated.

UNIDENTIFIED SPEAKER: I've done some pretty drastic re-writing of these things..adding--particularly reorganization, changing format in some cases (indisc.)...

CHAIRMAN: Have we come to any of those places where you've changed yet? Okay, well, when we get there, holler.

UNIDENTIFIED SPEAKER: But, back in 170 where we agreed the questions marks should be put, I think long-term change should be further clarified.

CHAIRMAN: Entry Permits - Standard for Initial Issue: Following the establishment of a desired maximum number of entry permits for a particular fishery, pursuant to Section 160, the Commission shall adopt regulations for the selection from among qualified applicants, who are perfectly able and permanently intend to participate actively in the fishery. Those who would suffer hardship, should they be excluded from the fishery, by the imposition of the Limited Entry System described (indisc.) chapter.. using the following standards: 1) The extent to which this fishery constitutes an income source to the applicant in decreasing order of importance as follows: a) Consistent participation in this fishery has provided the primary income source during all, or substantially all, of the 3 years immediately prior to January 1, 1973. So, there's our first big question...do we leave it all at 3 years, 2 out of the last 3 years, or what?

UNIDENTIFIED SPEAKER: I would take 2 out of the last 3 because if somebody had been sick or...

UNIDENTIFIED SPEAKER: (Indisc.) wouldn't it decrease the amount that we're (indisc.)? Now, these are the initial primary criteria that fit into the (indisc.).

CHAIRMAN: Pretty insignificant factor that we're reaching right now, because we've got this group of people that maybe just fished for the first time last year or they're new in the fishery and have fished in the last two years. If we required all three, fished up to the last three years, why (indisc.) two out of the last three years...it's a very fundamental basis for all the rest of these things in "1" and "2" in determining hardship. It doesn't do any good to go down here and include one, two and three if we base it all on consistent participation over the last four years, or five or ten...still, that's a lot of time and it's an important factor, so I don't know, what do you think? Do you think two out of three, George? What do you think? Important to you?

GEORGE: No.

UNIDENTIFIED SPEAKER: I'll take two out of three.

CHAIRMAN: You'll take two out of three. Okay, well, let's, at this point, adopt two out of three.

UNIDENTIFIED SPEAKER: I don't know why, but I just think...

CHAIRMAN: Yeah, well, again, our contest has been to try to not cause any more hardship on those people who've really been in than necessary...and we're still gonna be causing some on those who just started a year ao. But we're saying that starting in '72 (indisc.) and up...which means we're starting in '71, (indisc.) to be able to be included. All right.

(b) Consistent participation in this fishery, together with participation in other fisheries, has come to the primary income source and all, or substantially all, of the three years immediately prior to (indisc.). (c) Participation in this fishery has provided substantial income supplement to incomes from sources other than fishing during all, or substantially all, of the three years immediately prior.

UNIDENTIFIED SPEAKER: One objection that Jay Hammond had...you could favor residents very much bey putting "c" up one step. Put "c" in place of "b" and move "b" down. You're speaking of single fishery participation.

CHAIRMAN: Yeah, but it doesn't make a bit of difference if you're locking all three units.

UNIDENTIFIED SPEAKER: Now, are you locking all (indisc.)...the best fishery areas?

CHAIRMAN: Well, I don't think we need it..with Jay saying that he can take care of it through the sliding scale..plus the fact that...

UNIDENTIFIED SPEAKER: (Indisc.)

CHAIRMAN: (Indisc.) sale in gear. Where you (indisc.) the amount of gear an individual can fish on the basis of how many individuals have registered. In other words, a thousand units of gear are what the fishery can have. If you have 1000 people fishing, why you're gonna have one fathom each--you're gonna have one unit each. Okay.

UNIDENTIFIED SPEAKER: They could have, let's say, one of thos three years or two years--they could, all right, if they only had gear license one year but (indisc.) their income for the past three years (indisc.) -- how is that working under this thing? You say the income came from operating gear license...is that the way this is...?

UNIDENTIFIED SPEAKER: (Indisc.) fishery is to includ them (indisc.)

CHAIRMAN: Yeah, we've gotta go back and (indisc.)

UNIDENTIFIED SPEAKER: Back to the sliding gear...it's a choice of either having more people in there by eliminating one of these categories for Bristol Bay where a lot of people (indisc.) same thing now...they're cutting less gear and all of them making less money.

CHAIRMAN: This is true, except if you, this sliding scale thing, so assists

the resident, because the fisherman can have his family with him there so that all of the additional income from adding several units of gear to go to one family just as it would if the man of the family himself were fishing 150 fathoms. The non-resident is not going to be bringing up a bunch of kids in order to...

UNIDENTIFIED SPEAKER: The other two areas that were mentioned in the House Bill (indisc.) that fishery were Cook Inlet and Prince William Sound.

UNIDENTIFIED SPEAKER: Copper River area.

UNIDENTIFIED SPEAKER: (Indisc.) particular type of gear (indisc.)--gill set in Bristol Bay and Cook Inlet and I think there's drift gear in Prince William Sound.

CHAIRMAN: Okay, we've got to get into this though because this is applying to those people that have...the gear holders--not just (indisc.)

UNIDENTIFIED SPEAKER: License holders that have actively...

CHAIRMAN: Gear license holders. Well, maybe we need to go to "A". Consistent participation in this fishery--have a gear license holder, as provided--the primary...And each time we think consistent participation in a fishery, we need to have that phrased...as a gear license holder. Okay?

CHAIRMAN: I'm sorry, wher?

UNIDENTIFIED SPEAKER: In "A" - for instance, "desired maximum number"

CHAIRMAN: Where are you? Oh...

UNIDENTIFIED SPEAKER: ...200...circled several different things...

CHAIRMAN: Okay. Why don't you mark up a...tell you what we better do. If you've got a copy that fairly clean showing your changes, then we can look at one versus the other. And we can talk with Dr. Fletcher about the reasons for the language, if there are any...okay? I think we can go to the next page now. "E" (indisc.) Participation - participation no more than one year out of the three years prior. Okay. (Indisc.) the extent

to which alternative livelihoods are (indisc.) available to the applicant, either permanently or (indisc.) available for training. Did you take "realistically" out there?

UNIDENTIFIED SPEAKER: Well, I would favor reasonable course of training as including both one that's reasonable in it's nature and one that's reasonably available type (indisc.). Either that, or leaving "realistically available" and then (indisc.) "reasonable course of training". Of course, the training...

CHAIRMAN: Okay, well, that will be covered anyway...your opinion...(indisc.) the extent that the applicant's investment in vessel in gear, I suppose that for set nets we ought to include some other prhasing there. Investment in vessel, gear or set nets...(laughte)...I don't know... What's the difference?

UNIDENTIFIED SPEAKER: (Indisc.) Depending on the kind of gear (indisc.)

CHAIRMAN: But gear site is kind of...okay. Next question (indisc.) Regulations shall establish five categories of decreasing (indisc.) of hardship (indisc.) applicant, based upon application of the foregoing standards as follows: extreme hardship, continued (indisc.)...that's another question...essential to who? I hope that's clear enough. Hardship (indisc.), some hardship continues (indisc.) minor...

UNIDENTIFIED SPEAKER: I think it clears it up if you put extreme hardship making continually essential instead of - semi-colon - is (indisc.)

CHAIRMAN: All right, now let's see. The Commission may adopt regulations establishing sub-classifications of the priority classifications in "B" of this section. When (indisc.) necessary in this application, the standards stated in "A" in order to prduce groups of applicants similarly situated for each administrative area and type of gear...(indisc.) "B" - the Commission may adopt regulation to obtain information on which

to make a determination whether the applicant is perfectly able and presently intending to participate actively in the fishery.

UNIDENTIFIED SPEAKER: Taking that "shall" there (indisc.)

CHAIRMAN: Instead of "may", huh? I don't know--it makes me think the whole thing is rather superfluous though because we've previously given them the authority to make any rules and regulations necessary to carry out the purpose of (indisc.). Aren't we just spelling that out again?

UNIDENTIFIED SPEAKER: Well, theoreticaly, yes, but it's helpful to do it...

CHAIRMAN: It's helpful to do it, huh? Okay.

UNIDENTIFIED SPEAKER: Yeah. In the Committee Substitute (indisc.)...

CHAIRMAN: Now, have any of you seen anywhere that we can plug in (indisc.) this matter of filing Alaska Income Taxes?

UNIDENTIFIED SPEAKER: It's in the section that we're coming to.

CHAIRMAN: Do you think that "may" ought to be "shall" at the bottom of the page, Joel?

JOEL: Yes.

CHAIRMAN: That "may" ought to be "shall"....sounds great, huh?

UNIDENTIFIED SPEAKER: Familiar with the emphasis that we've placed on that distinction (indisc.).

CHAIRMAN: 210 - Entry Permits - The Commission shall establish the opening and closing date and places (indisc.) and a form of application of initial issue of entry permits for each type of gear in each limited area. The Commission may...yes?

UNIDENTIFIED SPEAKER: There's no change here. the Committee Substitute (indisc.) different sections of the Committee Substitute all in this one area.

UNIDENTIFIED SPEAKER: That other bill, incidently, had a yearly minimum a year...within a year from the perspective day the applicantion had to

submitted by the fisherman....That's the way the House Bill is now. Okay, any questions about any of that? We'll have to take a look at the House language and see what we want to do about it, and (indisc.)

Initial Entry - Issue:

UNIDENTIFIED SPEAKER: Two major changes - one (indisc.) the Commission shall promptly notify each applicant (indisc.)

CHAIRMAN: Which we have now changed... Okay. All right. After the closing date for applications established by the Commission, the Commission shall assign the application of each qualified applicant to the appropriate priority classification (indisc.) under 200. Based upon the evidence established pursuant to 210: Promptly notify each applicant by mail or (indisc.) that the applicant (indisc.) whether he's (indisc.) qualified and is qualified for classification to which that application has been assigned. The Commission shall issue entry permits for each administrative area (indisc.) to all qualified applicants (indisc.) specifications... whet her or not the total number of permits issued exceeds the desired maximum number of entry permits (indisc.) Each administrative area, each type of gear...All done, huh?

UNIDENTIFIED SPEAKER: Yeah, we finally wound it up. (indisc.) and now it's up to us to sit down and go over those and put them in Bill form. Get somebody like Joel, over the weenend, to draft these (indisc.)

CHAIRMAN: If for any administrative area and any type of gear (indisc.) permit holders permit (indisc.) issued does not exceed the desired maximum number the Commission shall also issue entry permits successively in the next lower priority classification (indisc.) until the total issued equals the desired maximum. If (indisc.) in the lower priority classicication of qualified applicants (indisc.) ought to be issued, there are

more applicants for (indisc.) non-entry permits be issued, the allocation of (indisc.) permits within (indisc.) classification shall be by lottery.

UNIDENTIFIED SPEAKER: It's supposed to be...the last two paragraphs ...pretty much identical to (indisc.)

CHAIRMAN: 220 continued: If at the time entry permits are issued and applicants are still appealing, okay, well, we can hold off..(indisc.) All right..225: Denial of Initial Issue: Right to compensation in certain cases. If an entry permit is denied, the qualified applicant through application (indisc.) Section 3, well. We have already changed that so that would not be applicable. We locked in one, two and three.

UNIDENTIFIED SPEAKER: I'm sorry, I'm lost...

CHAIRMAN: Okay. 25-Denial of Initial Issue: I think that the whole thing can be wiped out.

UNIDENTIFIED SPEAKER: We had to go to three as well as one and two.

CHAIRMAN: Yeah. Well, you know what Jay was saying (indisc.) take _____for an example...from Pedro Bay...

UNIDENTIFIED SPEAKER: Well, some of these people are being forced out of the fishery.

CHAIRMAN: Well, all right. We were earlier thinking that one and two would catch most of the people in Bristol Bay. And, we were told that there's (indisc.) that there's a very large number of them that are free classification people.

UNIDENTIFIED SPEAKER: Some hardship (indisc.) id desirable but not strongly needed...

UNIDENTIFIED SPEAKER: You're gonna have to (indisc.) resource fishery committee...

UNIDENTIFIED SPEAKER: (Indisc.)

UNIDENTIFIED SPEAKER: (Indisc.)

UNIDENTIFIED SPEAKER: (indisc.)

CHAIRMAN: Anyway, having done that, 225 becomes null and void because it's only talking about people in categories three who are forced out and we are not forcing out anybody in three so....

UNIDENTIFIED SPEAKER: Wouldn't relate to four or five then?

UNIDENTIFIED SPEAKER: No...

CHAIRMAN: Now, we have a question --category 4 - can include people over- that got in as sincere fishermen one year out of the last three. They may have a significant investment in a boat and we're saying that they may very well be out. Now, do we have any obligation to compensate to those people?

UNIDENTIFIED SPEAKER: No.

UNIDENTIFIED SPEAKER: You're also (indisc.) a slight hardship making continuance (indisc.) mildly desirable, but not needed.

CHAIRMAN: Well, I suppose we can say that if they've got a boat that's worth buying, we're leaving enough people in in Categories one, two and three that they'll have a market for the boat.

UNIDENTIFIED SPEAKER: (Indisc.) and they'd have known this was in the offing.

CHAIRMAN: Yeah, that's right. They didn't get in except as a result of (indisc.) license intent including gear.

UNIDENTIFIED SPEAKER: Could this possibly be fishing may have (indisc.) - five years and the last year was the first time they bought their boat and (indisc.) income was entirely from fishing - they wouldn't be compensated?

CHAIRMAN: Yeah, you're right.

UNIDENTIFIED SPEAKER: Now Sutton, as I understand it...we're gonna have five categories based on hardship. And then ...there will be sub-classifications based on this income participation criteria.

CHAIRMAN: Because that income participation thing all goes back in the previous participation all go to make up the five categories of hardship. If a mix of the two types of consideration will determine a hardship.. Well, okay. We should consider then in that 225, Denial of Initial Issue--we might consider language like this: If an entry permit is deniee, a qualified applicant whose application is assigned to priority classification 4 as established in Section 200 of this chapter, full and reasonable compensation must be made for - and then we skip clear down - for direct economic loss resulting from a drop in the market value of the applicant's vessel and gear which is attributable to regulation under this chapter. I don't think for entry permit, the value of the entry permit itself, would, for the cash (indisc.), because of the lower value of his vessel and gear. Is that a reasonable approach?

UNIDENTIFIED SPEAKER: Sounds reasonable.

UNIDENTIFIED SPEAKER: So 225 would be back in there (indisc.)...

CHAIRMAN: All right, reasonable compensation must be made for direct economic loss resulting from a drop in market value of (indisc.). And I guess we need to leave "B" in otherwise the Commission could put off paying that compensation year after year after year.

UNIDENTIFIED SPEAKER: Change "full" to "reasonable" though...

UNIDENTIFIED SPEAKER: Yeah.

CHAIRMAN. I don't know. I think there's a better way to attack that.... once you say that the Commission shall make compensation within three years (indisc.) or something like that rather than leave them all in fishing. "B" would say that until the Commission got around to paying them that they could continue to fish...maybe it'd be better to simply say the Commission shall make payment for such compensation within two years

from the date of (indisc.) Okay, you ready to look at 227? Entry Permits - Subsequent Issue: For any given administrative area and type of gear therein, after initial issue of entry permit and for as long thereafter as the number of entry permits outstanding exceeds desired maximum number, the Commission shall, upon each annual renewal of outstanding entry permits, and also issue new entry permits to qualified applicants. Upon a ratio of one new entry permit for every ten entry permits that have been (indisc.) or forfeited. Since the last previous annual renewal date. Now, if we want to (indisc.) down to the desired level..I would think we would want to use maybe as large a ratio as we can. Now, I don't know whether one to ten is reasonable, but let's...is it all right if we investigate that figure? It it is constitutionally sound and is that a figure you'd be willing to buy?

UNIDENTIFIED SPEAKER: (Indisc.) House Bill...

CHAIRMAN: Yeah, but they were going on a different basis. They're cutting 25% from last year's gear level right in the beginning, too. So, they have made a much larger cut...in the beginning. Okay. "B" If at the time of annual renewal, the number of outstanding entry permits is fewer than the desired maximum number---particular administrative area and type of gear, the Commission shall issue new entry permits to qualified applicants up to the desiredmaximum number...Any problems with that?

UNIDENTIFIED SPEAKER: How are they issuing them....by lot?

CHAIRMAN: Yeah, well, let's see. Let's go on to "C". New entry permits shall be issued first to those applicants who have submitted a Notice of Intended Surrender under Section 300 of this chapter. If there be more such applicants than there are new permits of issue, the applicants shall

be issued permits in order of their respective date of filing such notice. If after issuance of permits to applicants who have submitted such notice, additional permits are to be issued to other applicants if there are more such applicants than there are new entries--new permits. They shall be allocated among such applicants by law.

UNIDENTIFIED SPEAKER: 300-Section 300 (indisc.) is giving preference to people who changed (indisc.) fisheries. In other words, an individual already had an entry permit, filing notice and would have (indisc.) in obtaining an entry permit for another fishery in another area.

CHAIRMAN: That's what this intended surrender is. He can't surrender his permit from one area when he's applying for another area. Those people get first choice.

UNIDENTIFIED SPEAKER: I don't know what the answer is, but we have tried to get in that way for years.

CHAIRMAN: 229 - Entry Permits - (indisc.) to issue. The applicant to whom a new entry permit is to be issued pursuant to Section 227 shall prior to the receipt of the permit pay to the Commission for the use of the State the fair market value as determined under Section 310 of this chapter. Yes?

UNIDENTIFIED SPEAKER: (Indisc.) Did Professor Fletcher come up with any other recommendations (indisc.)

CHAIRMAN: Yeah. This is not really transferability here we're talking about. This is just reissuance where there is a larger number of permits to put out.

UNIDENTIFIED SPEAKER: Could we not--do you suppose (indisc.) transferability?

CHAIRMAN: Well, but these are the ones that have been turned back to the Commission.

UNIDENTIFIED SPEAKER: I'm thinking in terms of preference (indisc.).

CHAIRMAN: Or where new ones have become available because of change in the fishery.

UNIDENTIFIED SPEAKER: Yeah, well, that's what I'm thinking of...the new ones that become available purely - if Lowell had applied last year and George had applied last year and I didn't apply til this year.... they should have some kind of a preference...

CHAIRMAN: Well, that's what I said. If there be more such applicants (indisc.) surrender. All right?

UNIDENTIFIED SPEAKER: (Indisc.)

UNIDENTIFIED SPEAKER: (Indisc.)

CHAIRMAN: All right for the last line; we have an alternative there of saying--a new permit shall be allocated in order of the respective date of application. This is what you're talking about?

UNIDENTIFIED SPEAKER: Yes. Same language as above.

CHAIRMAN: It's a possibility.

SCOMM

#31:17

UNIDENTIFIED SENATOR: I have a couple of other commitments this afternoon, so I'm going to be coming in and out. I wanted to say that at the start, because I didn't want anybody to think that I was uninterested or walking out in the middle of their testimony, so if I walk in or out, why don't take it as a personal affront. I'm not trying to comment on it or insult it. I just have some other things I have to do.

CHAIRMAN: If some of you fellows that are in the back would rather take some of these chairs here along the wall, feel welcome to do so. I apologize for having this expansive table between us. I'd much prefer we had less table here, but we've got to work with what we've got. We're missing...

(Long pause in tape)

CHAIRMAN: ...Senator John Radar from Anchorage. As I indicated Senator Lowell Thomas and John Sackett are the other two members of the committee, and our aide, our administrative assistant, without whom we would have been lost all this time, Mike Whitetail. And Mike, have you--do we have a list of people that would like to talk or should we start that around now?

MR. WHITETAIL: No, I think we'll probably start that.

CHAIRMAN: Alright. We'll just send a list around and if you'd like to talk, why sign up and then I'll--we'll go from there. Now...

UNIDENTIFIED SPEAKER: Could I comment, Bob, on this?

CHAIRMAN: Yeah. The purpose of this meeting is to hear from you today, so--alright, go ahead.

UNIDENTIFIED SPEAKER: I think everybody was--at least the U.F.A.

members, there are people that are not members of the U.F.A. that are here, too, that might want to testify, but I think they wanted me to lead off, mainly, and then, have comments.

CHAIRMAN: We normally take--we normally give an opportunity to people from out of town to talk first, since we can always hear from these guys that are in town, but we'll make an exception for Bill, and...go ahead, Phil.

PHIL DANIELS: Shall I set here?

CHAIRMAN: No, why don't you go ahead and sit up there, and--it's not a round table, but then it's...

MR. DANIELS: Well, I've--you've heard me speak before so I'll try not to dwell on anything for very much of what I've said before, but the delegates of U.F.A. did adopt in concept the bill that's in the House, and they didn't want to, by any means, slight the work that's going on in this committee by doing that, because we are well aware of the fact there's been an enormous amount of work go on here. We did have that bill before us, and of course, by endorsing it in concept we don't want to be locking ourselves absolutely into anything, but we are very concerned that some of the concepts in that bill be entertained in whatever the Senate may come out with, and I think I'd like to start out by saying that I think one of the big problems is faced--at least the people in the Attorney General's who were initially concerned with presenting the Governor's bill with the idea of selling--or convincing,or persuading the fishermen themselves that limited entry was something that they needed and could live with and I think the action by the board of delegates of U.F.A. has indicated now that they are interested in limited entry for

themselves and as it might affect them, and I think that's coming a long, long way from where we were back down the line a couple of months ago. I think there was an awful lot of reaction, and of course, part of our ability to accommodate ourselve to some of the concepts in this bill is based on the fact that it does reflect some of the interests that have been enunciated by the fishermen in these meetings that have been held around the State. It's unfortunate, and we know the reason why, due to the fact that there's a time problem here, that we couldn't--I know that you didn't express the interest in holding committee hearings all over--among the fishermen around the State. We understand why that was not possible, and of course, now, we don't claim to represent fishermen's interests universally, but we are, we hope, a cross-section of fishery interest that is faced across the State, and so we would hope the committee would consider some of the ideas that we are interested in. I think we'd also like to indicate that the fishermen feel that they are, in some ways, imposing limitations on themselves. If--in the fishery that we had in the past, anybody could get into any kind of gear or any kind of fishing area simply by going and buying a license, and of course, we're now voluntarily placing restrictions on ourselves for reasons that we're all well aware of, and we feel that it's something due to the biological nature of the problem that we have, the shortage of fish which are down to a third of historic levels, due to the economic problems we have, it is necessary. I think we're aware--perhaps we agree with Henry David (indisc.) when he said the best government's no government, and we realize that's

not possible, and we also realize a wide open fishery hasn't solved our problems in Alaska. Now, by way of adopting some of the concepts that are in the bill in the House, I'm sure the committee members are familiar with that bill, so I won't labor that, or go through what's in the bill, but we are particularly concerned, of course, about initial cuts, how they will be accomplished, and I believe the--there've been many fishermen who have even expressed support for the initial bill that the Governor's committee sent out and it called for a lot more drastic cuts than are in the present bill as it's now written. We do support the bill as now written. I think we're aware of the practicalities of the matter, that from a political point of view, this may be best the way to make sure we do get limited entry this session. Now that bill, of course, calls for modified cuts, up to 25 percent in drift and set nets in Bristol Bay, up to 25 percent in Cook Inlet in both of those categories, and up to 25 percent in the drift category in Prince William Sound. We were very interested in seeing a buy-back program used to achieve the additional reductions that are necessary, and again, we're placing something on ourselves as fishermen. According to the way that bill's presently written, we could be assessed as much as seven percent of the value of our catch per year. I have reservations on that seven percent figure. I understand it's rather an arbitrary figure, and it might be reduced. By way of illustrating that, if we use the seven percent figure and took the gross value of salmon in Alaska, you'd come up with about five point five million dollars that could be used for buy-back. Now, we would hope that that would be used to

serve as a loan program, so that you could start out with a bigger buy-back program. If you did use the five point five million dollars to service that loan and you could come up with a buy-back program--as I understand, a million dollars will service a $12 million loan, so if you multiplied that, you would get a--with a five point five million dollar initial figure you'd come with something like $60 million for buy-back. That's probably more than is necessary, and we would hope that the buy-back will be based, as we have been informed that it would, that the commission would go to various areas areas in the State and talk to the fishermen, and ask them how fast you want the gear reduced in your area. In some areas it doesn't need to be reduced as quickly as others, and we hope that whatever assessments are made, they'd be made as reflected of the desires of the people that live in those areas. We've been very concerned about transferability. The fishermen are pushed--when we consider the alternatives, we've come up with the idea of free transferability. That's not to say completely unrestricted. We are certainly willing to see as in the bill in the House, it calls for transferability, you have to go through the commission, there's a six months' waiting period for approval before someone can transfer their license. We see this as protecting people from making a spur-of-the-moment decision or selling out in a bar some night, or just making a foolish decision. I think we favor that idea very much. We also are favorable of the idea of two categories of license and that again is built in to protect people in low income situations. On the one hand you'd have the five-dollar license, which is available

to a person in the low income bracket, if he wants it. If a person who wants to have a license that is transferable, it would cost him $50 to maintain that license. The person taking the $5 license, of course, would have a non-transferable license for a period of five years. Again the idea being to protect people from making a foolish decision or to discourage them from transferring their license and seeing those license migrate to moneyed interest. We're also extremely concerned, if at all possible, to encourage the State to consider if this license is made freely transferable, to consider the possibility of the State's setting up loan programs to help people in low income brackets and perhaps also crewmen who've had years of experience in some other area in the fishery, to be eligible for these loans so they can be encouraged--we can encourage the license to end up in the hands of these persons. Now we feel like it's in the long-term best interest of the State to see those licenses end up in Alaskans' hands, and it's one of the ways you can legally, as we understand it, actually discriminate in favor of Alaskans by way of requiring Alaskan residency, also by way of putting in economic requirements, before you could qualify for this loan assistance, and optimistically, perhaps naively, we think that over a long period of time you might see an actual increase in the number of Alaskans who are made eligible--or who end up with these licenses. Now we're aware of a lot of the problems involved if the license becomes a transferable property right, but we're also aware of the enormous problems that can occur if the license is not a property right, and it you end up either in a lottery

or an apprenticeship pool. One of the biggest concerns we have is with the fisherman's being able to hand his license back into the ranks of his own family. We think this would be horrendously complicated by way either of an apprenticeship pool, or the lottery-type system, if you had it as a leasing right instead of a property right. We had initially hoped that you could have apprenticeship pools for specific areas around the State. It might be able to favor the Alaskan resident this way. One for Bristol Bay, for example, one for Cook Inlet, one for various other areas. We understand, after Dr. Fletcher's testimony, that the apprenticeship pool would be stronger constitutionally if it were based on something like nautical experience and included fishermen from all over, including fishermen from outside as well as Alaska State residents. We feel that people in areas like Bristol Bay, where they had a short-term fishery, would be put at a grave disadvantage if they had to compete against people from, say, Washington or Oregon, who had an in-depth fishery and were able to fish many months of the year. These are some of our concerns, some of our worries, if the transferability is moved from a freely transferable property right to some other formula. We have also taken up in a very smattering form, the idea of a deferential tax that has been discussed. The fishermen reacted adversly to that. You can get their comment on it. There may be some explanation from--that hasn't been touched in the way I presented it, but the thinking is, that the fisherman who would really achieve a windfall gain is the fisherman who comes into the fishery, let's say ten years from now, after you've

reached your optimum level. He has no assessments to pay, and yet he gets into the fishery for, say, maybe five or ten thousand, and yet--and then he gets that money back when he sells his permit, so he also is for a possible recipient of a windfall gain. Now, we've touched on a lot of these ideas, and I know a lot of this you've already heard and that the fishermen themselves will have, perhaps, some comment to make, and I could go on with quite a few other things that we'd like to see in the bill. I think the biggest things we're after, we want to recognize the validity of the concern of people who say that the license might tend to migrate toward money interests, and by that we'd love to see some kind of loan program established to help get away from that problem. Our thinking there simply is that as long as a fisherman, on a lean winter, may end up borrowing money from a cannery, then the cannery, of course, if going to have his hands on that fisherman, regardless of whether this is a leasing right or a freely transferable property right. So I think by making it a leasing right you will not have solved the problem of getting the fishermen out from under cannery domination, whereas if we are able to make low-interest money available to the fishermen, perhaps we can solve that problem. If we had enough money available from those sources, it might be in order to pass a law forbidding canneries to loan fishermen money, but I think we're a long way from that point.

CHAIRMAN: Thank you. Before we go into questions--why don't you stay there for a minute, Phil. People may have questions of you. Before we go into that, however, I'd like to state something that I should have stated earlier, perhaps. There's been

some concern that this committee was dragging its feet for one reason or another, and that there was a question about the bill coming out, and so on and so forth. I'd like to use the opportunity to assure you that while action, perhaps, did slow down, I think there probably were good reason for it, but that it has nothing to do with not passing the bill this session. As I've told Newt over the phone a few days ago, I feel the chances are at least 95 to 5 that it will be passed this session. Certainly, I'm going to make every effort that I can to make sure that it does and I think the rest of the committee feels the same way about it. I think we need to recognize the fact that in the House this bill was referred to three different committees. In the Senate it only had one committee referral, and part of the procedure here was because we felt, if it looked to the House that their's should pass first, and it had three committees to go through, then it might get hot and act on it a little bit faster. We might not get caught in that last minute crunch. So, that as soon as the House bill comes across to us, and it's in Finance know, as I'm sure you know, that's the last committee, and the speaker has said as early as today that he does expect to have it out yet this week, then in the Senate we expect to be ready for it, and it will be on the calendar, I would say, within a matter of just a very few days, in the Senate from the time it passes the House. So, if you are concerned about the time element as far as the Senate's concerned, why, please let me reassure you there that there is no problem. If we get the bill this week from the House, we'll have it on the calendar, definitely, next week, and so, we are,

I think, all of us, committed to doing everything we can to get this bill out this year. And, now, if I speak incorrectly, why, correct me, or any of the other committee members. Okay. If anybody has any questions on that, why, we'd entertain them at this point. If you want any clarification, if I've not made it clear enough. Okay. Bill, you didn't mention anything about a moratorium on transferability to individuals for a year or two. Is, then, something that you've discussed at all? Do you have any position on that?

MR. DANIELS: We discussed it, and we discussed it, as I recall, Dr. Fletcher's testimony, and I'd understood that without transferability a moratorium is not likely to succeed in the courts. Is that incorrect, or?

CHAIRMAN: I think his position was that we would have no problem with moratorium if we showed what we were going to do when we get--after we get this moratorium, period. Now, Dr. Fletcher--Dr. Fletcher's point was that to have a moratorium, without showing what we were going to do with the licenses when we got down to--or with the permits when we got down to optimum levels, would appear to the courts to be simply a trick to buy time and that we really didn't intend to do anything about making these available to other people in getting around the closed-class problem. However, he said that if you show in your bill a definite transitional period, and then what you're going to do when you get to the number of licenses that is desirable, then you can do almost anything in this transitional period, and there would be no problem with a moratorium.

MR DANIELS: Again, I'm recalling, only from having said in that day, and

you may have this off on tape, and trascribed, which I have not had the opportunity to look at, but I was recalling--I believe he was speaking with Mr. Adasiak from the Attorney General's office, and he said he felt, as I recall, that a six-month moratorium would be the lot stronger...

CHAIRMAN: No.

MR. DANIELS: No?

CHAIRMAN: No, you're talking about a separate thing. At one point we saw this transferability thing as so involved and so complex that if there's any way possible we could give it to the commission, charge them with the responsibility of coming back in a year or two with recommendations on how to handle transferability, that's the way that I, personally, would have liked to have gone. And this is when he says, no, you can't do that, you've got to show on the bill what you're going to do as far as transferability is concerned. That's where we asked him--well, okay, it wasn't two years, how about if we had them come back within a year. And he says, you're in better shape. Six months would be better yet, but that's doing nothing with ultimate transferability, but making recommendations to the Legislature. That's the question he was speaking to.

MR. DANIELS:Could I ask then, how long a period of time are you thinking about as far as a moratorium is concerned?

CHAIRMAN: Oh, I'm--I don't have anything in mind. We've discussed the idea of a couple of years, and I don't have any position on it. I was just wondering if you did.

MR. DANIELS: Could we ask the fishermen for their reaction?

CHAIRMAN: Sure.

MR. DANIELS: We didn't bring this up.

CHAIRMAN: Well, Jim here wants to talk right behind you.

JIM: I really don't want to talk right now, Senator. I just wanted to ask you--I wonder if you could elaborate a little bit. I don't quite understand your position on this moratorium bit. Do you in effect--are you in effect saying that you establish certain people that are eligible and they're frozen into it with the intent...?

CHAIRMAN: Yeah. Well, again, please, I don't have any position on it.

JIM: No, I don't mean a position. I just mean, if you would tell me what you're referring to.

CHAIRMAN: Right. For those that have just--haven't met Senator Thomas before, why, Senator Thomas has just arrived, and Senator Radar, of course, has not. Well, the idea, I think, that was put forth at one time was that it might be desirable, after the initial--after the entry permits had been issued, that it might be of value to have a couple of years moratorium before they could be transferred to another individual. Now, we might want to retain--if we did that, we might want to retain the option of the commission buying them out, transferred to the commission, but not to an individual. There were some advantages that were expressed. I don't know whether there's anything that's very important or not, but I just wondered if you did have a viewpoint on it.

MR. DANIELS: There might want to be someone else who'd want to comment on it. I...

CHAIRMAN: Well, if your group has not discussed it, maybe it would

be better for you to discuss it...

MR. DANIELS: Well, I would guess that the reaction would be something like this: that if this made the bill more, you know, include the bill and safeguarded some of the abuses that might occur, that some kind of moratorium might be considered. I do think that many of us might have reservations on any lengthy moratorium, because what you're talking about is the pluralities of the fishery by way of anybody switching gear types, or anything of this nature. This is one of the prime items--prime considerations that has moved the fishermen in the direction of free transferability, is because it leaves the fishery somewhat liquid as it has been in the past, but still keeps the lid on the number of units of gear in each area. It allows people to move from one type of gear to another. We're very, very fearful of anything, I think, that would tend to freeze fishermen into their gear types, and especially for any long period of time. That's one of the big considerations we've had when talking about free transferability and one of the reasons people have been favorable to the idea of free transferability.

CHAIRMAN: Any questions of Mr. Daniels, committee members?

UNIDENTIFIED SENATOR: Well, I would like to ask, can you give us some of the advantages of a moratorium of that type?

CHAIRMAN: Not at this time, I wouldn't. I don't know what they might be. It was proposed, and I was simply asking if you people have a position on it. Just a minute, Clancey. You don't have any questions of Phil?

SENATOR THOMAS: No. I'm sorry I missed testimony. I was pretty interested in what I heard.

CHAIRMAN: Alright. Clancy.

CLANCY: I would just like to ask a point here. This moratorium means there would be no licenses issued as such...

CHAIRMAN: No, no.

CLANCY: ...for instance, I'll give a demonstration. I'm going out this Spring and do a thing that I've gear for for several years, but I haven't bought a license for for the last three years. Would this stop me from doing this particular thing?

CHAIRMAN: No. No, no. Maybe I didn't make it plain. The proposal that was put forth, and maybe it's not important enough to spend this much time on, but once the permits had been issued, simply a moratorium on the sale of those from you to somebody else who wants to buy, for a couple of years, to an individual, however, still allowing you to sell to the commission if you want to get out. One advantage might be to, again, to provide a reduction of gear, some incentive for reduction in gear, so the guy that's selling out could sell to the commission which might retire than license, rather than to somebody else. Again, just for a couple of years.

CLANCY: Yes. Thank you.

CHAIRMAN: Alright. Phil?

MR. DANIELS: I just wanted to comment. I think the way we understand it, although we could be in error on it, that it will be--let's say the bill were passed this year. It would probably be two years or so before anyone would be issued a permanent permit, so, in effect, you'd have two years already. Now, if you added two years on to that, I think that might complicate the matter in some people's mind, because you'd be talking about four years

instead of--but you already have two years, probably, in which to consider some of the problems involved in transferability.

CHAIRMAN: Okay. Yes, go ahead. Would you identify yourself for the tape, please.

UNIDENTIFIED SPEAKER: Well, I didn't want to--I just wanted to say something about that, if it's okay. However, I'll be glad to have a question (indisc.).

CHAIRMAN: No, go ahead.

UNIDENTIFIED SPEAKER: One complication might be that there would be some permits available after this two-year period you spoke of. Maybe just right now, while this is taking place, somebody may have invested in a boat, you know, substantially, and would like to buy one of those permits, and it's possible (indisc.) in that respect, if I understand it right.

CHAIRMAN: Yes. Okay.

UNIDENTIFIED SENATOR: It's my feeling that any moratorium that's been presented so far, a moratorium seems to endanger the bill as far as constitutionality--the length of the moratorium. On this grounds I would be hesitant to support anything that would possibly cause this bill to be rejected under constitutionality terms.

CHAIRMAN: I'm glad you brought that up. That is one of the reasons that our progress has not been any faster than it has been. I feel, personally, that it's absolutely essential, that when this bill comes out, that it be constitutionally solid. That we cannot afford to go through what we did in '68, when we passed legislation that went to the courts, was found to be unconstitutional, but as a result of that legislation many

with the first major one. The second is the extent to which alternative livelihoods are realistically available to the applicant either presently, or following a realistically available course of training, and through the applicant's investment in vessel and gear. Then using a meld of those things, the regulations show established five categories of decreasing severity of hardship for grouping similarly situated applicants based upon application of all those standards that we've enumerated. The five categories should be, one, extreme hardship making continuance essential. In other words, if he's pushed out of the fishery then it would cause extreme hardship on him, making his continuance in the fishery essential to him. Number two, hardship making continuance strongly needed. Number three, some hardship making continuance desirable, but not strongly needed, and this generally is your part-time fishermen. Number four, minor or slight hardship, if he's forced out, making continuance mildly desirable, but not needed, and number five, no hardship. So, those are the five categories we're talking about at the present time and the way we arrive at them. And then later we say that statewide we will lock in one, two and three. Now, that's a big difference. Your--in the House bill, why, they're cutting in some of those fisheries to 75 percent. We're saying that the guy that's been a bona fide fisherman, even as a part-time fisherman, recognizing that Bristol Bay to a very large degree is now made up of part-time fishermen. Cook Inlet is to a very large degree, and so on. Those people shall be in in the beginning, and we provide incentive for them to get out--buy them out, and so on. So, that's one area. The

other one is transferability itself, whether it--I think we have no--no, I shouldn't say that either. Some of the committee members may be in favor of something other than free transferability. I know some members desire free transferability, but even after you've said free transfer, then you have to ask the question, what about the property right, to what extent should this windfall go to the individual, and to what extent should the rest of the State share in that windfall. And, so, that question has not been decided here, but as far as I can see, these are the only two differences at the present time. Yeah, Phil.

MR. DANIELS: I was just curious. Does the committee have before them any figures that would give an indication of how many units of gear, if you handled initial entry permits in this way, how many units of gear you might end up with in a particular fishery? How many people would be recognized?

CHAIRMAN: We're not looking at that right now, no.

MR. DANIELS: Our concern--I don't know, now, somebody correct me if fishermen themselves disagree with this statement, but one of our concerns is, I think, one of the reasons we rather liked what was in the House bill is that it does put the lid on it. I believe it's stated in the House at the level not to exceed the high year out of the last four years. In other words, you're not--you're not allowing a lot more people to be qualified for entry permits than what we already have, and I know several approaches that we considered would have allowed a lot more people to become eligible for licenses. I think this would be one of the concerns the fishermen would agree with.

more people got into the fishery than would have, probably, without the legislation, and so, I think that whatever we do this time it has to be right constitutionally, and that's the reason we have Professor Fletcher in and that is the reason that there's been some slow downs, because working with him and the mail going back and forth, telephone phone calls and so on. You know, we've had him up here once and we expect him probably again next week. And...okay. Any other comments or anybody else that would like to have their say before the committee? Today has been reserved to hear what you people have to say, so... Newt.

NEWT: Has the board made any decision on what they think of the House bill?

CHAIRMAN: Has this group?

NEWT: Board of Fisheries. (Indisc.)

CHAIRMAN: Well, now wait a minute. You're talking about our group, or are you talking about the Fish and Game Board?

NEWT. No, I'm talking about your group here as far as the fisheries commission.

CHAIRMAN: And your question, again. Have we made any decision about how we feel about 126?

NEWT: Yes, sir.

CHAIRMAN: No, we have not. What we have done, Newt, is to go through ours, and try to make ours jive wherever we could with 126, and try to narrow down whatever differences we might have. Now, as I see it, there really are only two basic differences at this time. One, and I'm not sure how important that is, is the initial level of entry, and at the present time, we looking--well,

let me read what we have to say. Do you have that page handy? Okay. Is that it right there? (pause) Okay. Well, let me just say, basically, maybe you're already aware of it, but in our bill we are using. Alright, let me say first of all, I guess, that we have operated from the beginning from the concept that we should try to hurt as few people as--of those that have actually been involved in the fishery, as few as necessary in this initial cut here, and then try to achieve maximum or optimum levels of gear by providing for an incentive for them sell out and so reduce numbers that way. And we say the commission shall use the following standards: number one, the extent to which this fishery constitutes an income source to the applicant in decreasing order of importance as follows: consistent participation in this fishery has provided the primary income source during all or substantially all of the three years immediately prior to January 1, 1973, or as an option, two out of the last three years, of those three years prior to January 1, 1973. B, consistent participation in this fishery together with participation in other fisheries has constituted the primary income source for that same period of time. C, participation in this force in this fishery as a gear license holder has provided a substantial income supplement to income sources other than fishing during all, or substantially all, of this same period of time. And, then, D, irregular participation in this fishery during this period of time has provided a variable minor income source. And, then, E, little or no participation. In other words, paper license holders. And then, a second major type of criteria is used in conjunction

CHAIRMAN: Yes.

UNIDENTIFIED SPEAKER: Those criteria there, does that apply only to initial entry, or to new entry when it's...?

CHAIRMAN: No, it's initial entry.

UNIDENTIFIED SPEAKER: I kind--I, from, you know, attending hearings and studying the bill I understand this is in no way (indisc.) part-time fishermen in the Senate bill, and...

CHAIRMAN: You mean the House bill?

UNIDENTIFIED SPEAKER: Yeah.

CHAIRMAN: Yeah, okay, except that under that 25 percent cut in those several fisheries would be a rather large number, I think that would...

UNIDENTIFIED SPEAKER: It already was brought out, too, that there are pretty much optimum levels, or what we could accept as optimum levels in (indisc.) places.

CHAIRMAN: Did I see another hand over here? Yeah, Clancy.

CLANCY: I would like to just to make a statement on this windfall type of thing.

CHAIRMAN: Okay.

CLANCY: ...that's been bandied around some.

CHAIRMAN: Yeah.

CLANCY: I've fished every year in Alaska since 1939. I have no retirement. I have to pay my own bills. I have to buy my own boat and things like this, and I don't see this as a windfall of any kind. I'm gonna have to fish for a living till I get too old to be able to do it, and it's never going to do me, personally, any good, except to be able to fish. I just wanted to bring this out to point that there is a few people in this

State that has to operate under these conditions, so I can't quite see how you can classify it as any windfall in my sake, except that the fact that I'm still going to be able to fish.

CHAIRMAN: Well, the question has been raised, if, when you're ready to retire, the thing has appreciated in value to where maybe it's forty thousand bucks worth in the permit itself, and I don't think that's impossible. Does it then become a windfall?

CLANCY: Well, you put 30 years, or 35 or 40 years of fishing in, ain't you entitled to a little something? You know, on a Federal job or a State job, or any other job--I mean, look at it in this light. This is what I'm trying to say. So, I don't really look at it as that. The same guy that buys one ten years from now and fishes 20 years, he's probably going to be--his so-called investment is going to be worth more than when he paid for it, so he's a windfall at the same time, even though he bought it. Just a point, that's all.

CHAIRMAN: Yeah, fine. Thank you.

UNIDENTIFIED SPEAKER: Speaking along those same lines, don't you feel that through the buy-back program, we will actually have that money invested, then, in the permit, and that it--that way it isn't a windfall?

CHAIRMAN: Well, I don't think that anything that has been considered here would subtract anything from what you have invested as far as the buy-back is concerned, any assessments or anything like. I think there's complete agreement with everybody that anything you do have invested, certainly that--you're entitled to that back when you sell your permit. No question about that.

UNIDENTIFIED SPEAKER: So, you're talking about the moneys that the

permit might be worth, other than the...

CHAIRMAN: The appreciated value over and above anything you put in, yeah. Yeah.

UNIDENTIFIED SPEAKER II: If you're going to take advantage of the fisherman, why don't you--we have a windfall right now in liquor licenses. Why don't you go up to that one?

CHAIRMAN: Yeah, we've talked about that quite a lot, but then the other side turns around and says, well, hey, if you're going to treat fishermen that way, then why don't you open up the forest around here and let the first one in, or divide it up among people without any stumpage, or the same thing with the oil lands, so, there's good arguments to be made on either side of that question. I agree with you a hundred percent.

SENATOR RADAR: Yeah, to add a little further on that. I believe if you look around the State and saw how many fishermen that do have families that they would pass these licenses on down to, there wouldn't be nobody changing hands there.

CHAIRMAN: Yeah. I think Senator Radar has raised a point that's a very good one, though, that we're not--this is not something that we can agree upon ourselves and then just automatically assume that everybody else is going to accept it. You do have a rather Anchorage delegation that feels that this is a State resource and that they've got to have a say so in it, too, to a certain degree, but it is a pie that is being divided up, and it's not the pie that involves some fishermen. The rest of the State does have some say so in it. Now, I don't want to be putting words in your mouth at all. Why don't you go ahead, and...

SENATOR RADAR: Well, you get this problem, too. And that is if we take a billion dollar resource and divide it up between ten thousand people to harvest it, there's no objection to that, but when they get through using that and there's another generation of fishermen come along, should they have to pay, then, for what was given to the first generation for nothing? You see the difficulty. We're talking about the ones--the next generation of fishermen. Your sons and my sons and the people's sons who aren't here, and so on and so forth. And that's--and, really, what you're talking there is if you get back your assessment that you paid into it then you will have had the privilege of harvesting the resource for your lifetime, as long as useable to you, then you'll get back, I would think with interest, any assessments that had been levied on you, to enhance that. And the difference, then, is what the resource was worth, what you really got by having a one-one-thousandths share, one ten thousandth share in this industry, and unless we were to charge you for it now like we would charge an oil company for harvesting a resource, or a timber company for harvesting a resource, or we charged a man who wanted to graze cattle, we would lease him grazing land and charge him a rental fee, instead of--we could do that with fishermen, too, but it's thought that the fishermen can't afford, and shouldn't have to afford that, but if you don't charge them a use permit or a use fee, so to speak, or make them buy the resource, then when they get through with it, whatever that value is has to be passed on to the next to the next generation of fishermen. If that's to be sold to anyone, then the money should go to the State. If it's to be

used by fishermen, as long as they're able to use it, then they should be able to get the money that they've invested in it, and that would be all they'd be entitled to. That's the problem that we're into, and of course, you have to recognize this, and I recognize that those that use the resource have a prime and first interest in it, but by the same token, you know, we wouldn' think about giving to the oil companies the oil resource, because they wanted to use it. It belongs to all of us, and it belongs to the fellows who are fishermen just as much as it does to the people that live on the North Slope, or some place else. This is a State resource, and the benefit from that resource has to inhere to all the people of the State, and we're not able to divide up for one group of our citizens, one particular resource, and say they get it to the excluse of other groups of citizens, but we can, I think legitimately, try to control and to make sense out of the harvest of that resource by those people who are harvesting it in the past and who will harvest it in the future. That's the nature of the problem. And as I say, it isn't necessarily what you would like, necessary to this committee, but you have a whole lot of people in the State who do consider this to be the most important resource the State has. I'm one of them. I think it's more important than the oil resource. I think it's a greater value than the oil resource, and, for that reason, you have to be real careful about an accusation that it's a giveaway of this resource to anybody, rather than a harvest permit that's useable, and that's--if you get the idea that this is a giveaway of a resource, the biggest and best resource this State has, then this bill will die. It

won't happen, but if we can put it on some other basis, then I think that we could move forward to everybody's benefit.

UNIDENTIFIED SENATOR: I believe the prime concern right now is what is happening to this resource.

SENATOR RADAR: You're absolutely right.

UNIDENTIFIED SENATOR: Cause the way we looked at it, speaking just for our area alone, having the influx of gear that's coming in, you let it go for another five or ten years, we'll be all part-timers, and I can also see that if we have a limited entry program which is successful, you look ahead in the neighborhood of ten years, when build this resource back up, I think it's only fair then the fishermen are going to have to put more into it. We really realize how much money the fisheries is putting into this general fund right now, compared to how much we're taking out, but once this thing is established I think your going to find that the fishermen are going to be willing, also, to put money back into the State to help fisheries.

CHAIRMAN: Alright, Jim, we'll start here and go around the room.

JIM: Yeah, I'd like to make a statement to Senator Radar there. I--course, my mind probably don't work quite like his does. I seem to have kind of gotten lost there in that mental excercises we was going through. First of all--I mean, it's quite obvious. Newt made the point there that the resources terrific jeopardy, Phil gives elaborate testimony about the fact that it's down to a third and everything. It looks to me like we're sitting here talking when we're literally cutting off our nose to spite face, or something. We're going to sit here and grapple with

the problem, what's just and unjust about it, and forgetting about the fact that it's--to me, it's almost like it is a point of war at this point. Genera : do a lot of things that maybe aren't extremely fair, or a..en't, you know, a hundred percent the best decision, but they just have to be done, and this is what I feel we're facing right up to now with the fisheries issue. As far as my own license is concerned, I probably would be eligible for a type of gear license, although as Phil has pointed out, I'd simply out on most of the other fisheries, which I have a high degree of past experience at, such as crab fishing and every other type of fishing in Alaska, except for scallops. However, I'd certainly be willing to take that in order to save the resources as we've talked about here, but if we don't do something right now and do it fast, why, we're just literally going to completely lose the resource. I certainly wish I was in a position, or all of us were, of willing this landfall, as you guys call it, to the legislative retirement fund or some such thing, to try to help this thing through, because if we don't do it and do it right now in this session, it's--there's no question, I think, in any of our minds that it's all over with, and we're still grappling with these problems about, you know, whether it's fair or just or who's going to get this big landfall. I fail to see, you know, this type of reasoning at this point in time.

UNIDENTIFIED SENATOR: Mr. Chairman. If you'll do it my way we'll have no problem.

(Laughter)

SENATOR RADAR: Well, I don't know what your way is either,

that's why I don't know what your saying, because I'm not against what you're saying, but the difficulty here is just exactly that. It's not that we don't have the same desires here. It a question that we have a lot of people involved, and it's more difficult than just taking care of the guys in this room, or one bunch of people, you know.

JIM: Well, yes, I'm sorry. I should have--I should have--I didn't quite get the--just from your stand there, just what you're--maybe we came up a day and a half (indisc.) because we don't really know really what your position is or anything is. Well, Phil had elaborated that we could live with this type of a thing as was put out, and House Bill 126, I listened to your dissertation there, and I never did quite get exactly what you were in favor of. Maybe we didn't have a starting point to begin with, and I mean, are you in favor of a lottery, or a free transferability, or a commission to completely controlling it or what. I guess I maybe missed your...

SENATOR RADAR: Well, I haven't made my mind up as to what position I want to go on. The only thing I was talking about, though, in this particular instance, was if you have free transferability and if you do sell the license, then the question is, to what portion of what you sell it for belongs to you, and what portion of what you sell if for belongs to the State, because it is a share of the State's resource, and that's the difficulty here. Certainly, part of yours because you will have put money into it and investment into it. Part of it belongs to the people in the State, though, because it's their resource, and if you're selling an exclusive right to harvest, or a franchise, so to

speak, the second generation of fishermen really should not have to pay for what you're receiving for free. That's really the basic point.

CHAIRMAN: Let me make this one, too, if I may, before we go on, and that is that, for instance, Jim, we're not--this is not slowing things down at all. I figure that we've got, oh, till probably Monday or Tuesday of next week before the House bill gets over here, and so we've got that amount of time to have this kind of discussion and make our decision on what we're doing, what we're going to do, and it doesn't affect the ultimate timing at all, because we're still going to take that House bill when it gets here and work on it, and so, we're using that time to get ours into shape so--to substitute for theirs when it gets here, and so, this kind of a discussion doesn't slow us down at all. Our bill is close enough to the goal, and as soon as we solve this kind of a problem, and perhaps the other one on initial entry, why, we go right on.

(End of one side of tape)

MR. DANIELS: I'm curious whether there's any possibility of talking about some of the alternatives that might be under consideration on transferability, because I think this is what's got everybody curious, because we don't know, really--many of the fishermen may not know how to react until they understand what you and I have under consideration.

CHAIRMAN: Fine. Okay.

JAY STEVENS: I just wanted to say--comment on Senator Radar's statement there. I think it might have many good merits, but I do know, sitting through many committee meeting with U.F. of A., the delegate from Yakutat, that we have seriously gave

thought to future investment in this fishery ourselves, as farmers, you might say, like buying the seed and the fertilizer and tilling the ground. We do realize that the State hasn't been able to put a lot of money back into this industry to develop it and manage it and possibly it has been so called rape instead of perpetuated by reinvestment, and we didn't want to dwell into it too heavy right now because of limited entry, but I think it's one of the subjects that will come up in the future years, and any fishermen is in disagreement with me that we do feel a responsibilities to our fisheries, then I would like for them to say so here.

SENATOR RADAR: Well, Mr. Chairman, let me make something...

CHAIRMAN: Wait a minute, John. Just for the purpose of the tape and the record again, can we get you name on the...

MR. STEVENS: Jay Stevens from Yakutat, Alaska.

CHAIRMAN: Alright. Thank you.

SENATOR RADAR: Mr. Stevens, I want you to make something real clear to me. I'm not opposed to limited entry.

MR. STEVENS: No, I realize that.

SENATOR RADAR: The problem is how to do this to be fair to everybody, and how to make it an acceptable bill not only to fishermen, but to the other people in this State who have an equal ownership in this resource, see. That's the difficulty.

MR. STEVENS: Well, the point I was bringing out, we kind of feel possibly that we're going to get something for nothing, but in talking from the fishermen from the different organizations, we do hope to perpetuate this industry through our own money in the future, like taxing ourselves, to make this industry a

strong industry again so that we can pull a full living out of it, so actually, we're not going to be gaining anything for nothing if we put money back into it, is what I'm trying to say, sir.

SENATOR RADAR: You understand, also, that I'm saying that under any circumstances it's agreed that whatever you put into the fishery you get back. We're talking about what if you--what you should get back in addition to that if you sell a permit or if it's saleable and has a value in addition to that. If this is a billion resource, and if we divide it between ten thousand people, you see, should you be able to sell that to the next generation of fishermen? That's the question, see. You certainly should be able to get your money back that you put into it. We don't argue about that, but the question is, how--what should you get in addition to what the money you put into it, should you get back. See, that's the difficulty.

MR. STEVENS: Course, if you're going to have a rise in the dollar all the time, how are you going to determine how much is really--can come back to the fishermen? What (indisc.) his?

SENATOR RADAR: Take you assessments and interest on it the same way you do any other debt. It's the best you can do, I think.

CHAIRMAN: Okay. Further in the back, and would you indentify--no, that's right, and would you identify yourself.

RON BALANGER: Ron Balanger, Petersburg.

CHAIRMAN: Balanger?

MR. BALANGER: Balanger.

CHAIRMAN: Balanger.

MR. BALANGER: Petersburg Fishermen's Union.

CHAIRMAN: Okay.

MR. BALANGER: Now, we're going to add one thing here. What you're talking about, Senator, is going to be completely in my favor. I'm a deck hand. I'm, you know, work on--as a crewman. Now, we've been talking about 10,000, 20,000, 30,000 dollar value of our license. Now, if these boat owners had to sell that license--I mean, had to pay 90 percent back to the State or 75 percent if the State buys the license--I mean, the permit, don't you think it's going to keep the value of that license way down? About a thousand dollars maybe? Because somebody will not like paying, you know, $9,000 out of $10,000 or anything on the point. They'll just say, well, heck then, I'll sell it for a thousand dollars and you'll only get 900 or--(indisc.) 50 persons.

SENATOR RADAR: I think that you make a real good point, and the point that you also make is that maybe the guy says, well, if you give me for my boat and I'll give you my license. You know, type of thing. It's going to be pretty hard to regulate, because that's been pointed out to us. It's been suggested that what we're suggesting is not feasible. Then you get back to, then how should it be transferred then? That's where you get into the problem of free transferability. The second thing that's wrong with that suggestion that I made, it's been noted by other people, and that is, the second generation of fishermen are still going to have to pay it even if it goes to the State, which means the only people who are going to be able to get in the fishing business, besides this generation, are going to be rich men. They're not going to be a guy that's a deck hand.

It's not going to be a guy who worked his way up, because he's not going to have the 10 or 15 or 20 thousand dollars that it takes to buy his way in, and most of us feel that the fishermen in this industry, most of them are going through their pockets when they went into it, and that doesn't make them bad guys. We're, you know, that's the where most of came to Alaska that way, one way or another. But the problem is, how about the next generation of fishermen? What are we going to do about them? The deck hands, the guys who's in high school now that want to go fishing. How do they get into this fishery? And who do they pay and how much? And that's where you get into the problem of whether or not you should have a lottery or an apprenticeship pool, so that people can get in. The other suggestion is this: that people would use this franchise as long as they could use it. Any human being that's here today and is using the fishing--the fishery can harvest fish, but when they get through using it that that license would go back to the State then, and the State would reissue maybe half of the licenses that came back to it, you know, to cut down the number, but they would reissue them. Then the question is, who gets those new licenses on the second generation of fishermen? How're you going to let a guy get into the industry the same way that you got into it? And then you could say, well, you could either--you could have a lottery or you could sell them if you wanted to, you could bid on them like you would on oil or timber or land, State land or something, or you could have an apprenticeship pool and try to give them back to somebody who had an interest in the fishery someway, had some experience

with it, or something like that. But that's a very difficult thing to figure out how to do that. So, you have to--what I'm for, I'm very much for limited entry, but I'm convinced we have to solve these problems or else we're all going to be sick of limited entry in three or four years, and it's going to work to benefit or a very few people and to the detriment of a great many.

UNIDENTIFIED SPEAKER: Senator, I've been saying the same thing the whole week.

CHAIRMAN: Well, that's a perfect example. It depends upon whose ox it is being gored. We find that (indisc.) we're going to do.

SENATOR RADAR: That's pretty human. I don't--I'm not mad at anybody for wanting to protect their own situation. I want to protect mine, too, you know. That's perfectly human, but there's--as senators, we're here, really, to protect the interests of the guys in this room, but also the guys that aren't in this room.

CHAIRMAN: Alright. Next in line, and again, if you'd identify yourself for the tape.

MR. CLAUSON: (Indisc.) Clauson from Pelican. Well, in the first place, I think maybe to answer the first part of Senator Radar's reservation argument would be that this permit is not really selling the resource, it's a permit to fish for it and at the beginning it wouldn't have a great deal of monetary value, nor should it. It may require--it may become valuable. So, if becomes valuable through a man's efforts, then when the man that does buy it, he is buying something of value, where at

the beginning it's--we don't know the value until it's determined by the market. Now, I don't see how that is unfair or that it gives a man a right to a specific part of the resource.

SENATOR RADAR Well, Mr. Chairman, if I have the right to harvest the crops on a piece of land, I don't care who owns it. If I have the right to graze cattle on that land, I don't care who owns it. If I have the right to fish the free fishery, I don't care who owns the fish when they're swimming free. The only valuable thing on the resource is he who harvests it, no matter who owns it, and if you give the exclusive right to harvest it, you have effectively divided up that resource among those people who have the exclusive right to harvest, see. Which is alright. You know, we're not complaining about that, but we're only saying that....

UNIDENTIFIED SPEAKER: ...monetary value to begin with, though.

SENATOR RADAR: Well, now, I'm not sure that's true. If we cut out half the people the moment we go into a fishery this year, if we gave a fishery permit to everybody who wanted one, they'd have no value, but if we cut out 50 percent of the people who have applied for licenses this year--who have taken out licenses, as we've hoped to do, it's going to have a value the day that this thing goes into--the law is enacted. There's going to be an immediate value to that thing. I don't know what it's going to be.

UNIDENTIFIED SPEAKER: Without seeming to argue, I mean, cause this is kind of an argument, this thing, this type testimony, it would be open to speculation on whether it would have a value because in some fisheries you can cite examples, it has become

a thing of no value, because the fishing time this fishery has gone, cause this is why the problem of limited entry comes apart. It comes up. That was really all I meant to comment on it, on that one thing. I'd like to comment on your second point.

SENATOR RADAR: Well, let me comment on that. If you have two thousand people apply in Bristol Bay for licenses and you issue a thousand of them, don't you think that license is going to have a value? There's going to be a thousand guys there that's going to be wanting to buy a license from somebody, and they're going to buy them from the guys that's got them. If they--I don't know what the value's going to be, and it's going to be hard for either the seller or the buyer to know, because the value of that thing is going to depend upon what the State does in the future, whether or not they really limit the resource. If they don't limit entry in the future, it isn't very valuable. But if you cut out half of the guys that are there standing line for a license, half of them get a license, half of them don't, the guy that's got a license can walk to the guy that didn't a license and say, what'll you give me for my license if you want to fish this year? And he's going to get a...

UNIDENTIFIED SPEAKER: The bill that we've approved in concept would neither be that theory or...

SENATOR RADAR: Well, that's what we hoped to do. If we don't do that, why, it won't have a val.

UNIDENTIFIED SPEAKER: But my only comment was on the--you know, we've analyzed it on the hearing, and so on, and so have you, of course, that possibly that monetary value would just amount to later transferring it, the thing that does become valuable.

On the business of--I don't quite remember how you stated it, but--the second part, but it amounted to saying that, well, the fish belong to everyone in the State, which of course, they do, or even everyone in the country. The economists argument, as I understand it, on this is that--now, most people aren't fishermen, especially due to the whole country, and they have a right to this fish, just as we have to an oil resource, and all--you stated this. Now, the argument from the point of the economy, as I see it, is none of this value is accruing to the State simply because the fishermen are putting into equipment and gear just to gouge each other and the devil takes the hindmost, because of this wide open situation, and the thing is designed to alleviate that.

SENATOR RADAR: I agree with that point. You're right.

CHAIRMAN: Mr. Clauson, then it doesn't really make any difference to you whether you get a permit or not?

MR. CLAUSON: Doesn't make any difference to me? Well...

CHAIRMAN: ...has no value. If it has no value, then it doesn't make any difference to you whether you get one or not.

MR. CLAUSON: Well, I didn't...

(Laughter)

CHAIRMAN: Well, how much are you willing to give for one then?

MR. CLAUSON: Okay. You've made this...

CHAIRMAN: How much are you selling yours for today?

MR. CLAUSON: Now, wait a minute...

(Laughter)

MR. CLAUSON: He's playing with words now. Things are wide open now.

CHAIRMAN: No, no, I just...

MR. CLAUSON: No. I said that the permit itself wouldn't have a monetary value that I could sell--it may have, but it wouldn't be--it certainly would increase as it got more valuable to me. In other words, it--presumably if this program worked, and if it didn't you might as well repeal it later on, but if it worked, then unless that permit becomes more valuable to me, and unless other than fishermen benefit slightly from my contribution to the State as a result of it, then it--you know, it's value wouldn't increase. Presumably it would. That's what the program is designed for.

CHAIRMAN: Oh, I have no argument with you at all. I agree with you a hundred percent, that if we succeed at all then the value will increase, but I do think that probably it has some value the first year, too.

MR. CLAUSON: Well, I think your point was apt in humor, but it's distracting, you know...

CHAIRMAN: Well, I don't think it was humorous at all. I think it does have value now and I think that your reaction proved that.

MR. CLAUSON: No, I won't accept that (indisc.). After all, we're serious about this. It isn't a battle of wits, although it is entertaining.

CHAIRMAN: Alright. Then we'll start back again. Phil.

MR. DANIELS: I was curious. I've heard the--heard reference made about giving away the resource several times, and I've always felt a little reservation about that. It seems to me you're regulating a person's ability to enter the fishery and no one's giving away the resource, and again I'd like to refer back to the decision made by--in the Holland versus Missouri case where

it was pointed out that wild game belongs to no one until it's actually in someone's possession, and I think it does maybe prejudice the situation a little bit when you talk in terms of actually giving it away. In this respect, that it seems to me that it's very parallel to what you do in liquor license and also in insurance. When you've issued those your issuing a license that allows a person the right to earn a livelihood and it seems to some of the fishermen, perhaps, that this is parallel to what your doing when your talking in terms of limited entry, and I think what we're curious about, I don't know what type of tax structure you have in mind, what type payment. I know the analogy was used the way was used the way the oil companies operate. I think they pay a 12 percent severence tax. I have heard cost figures on the license that were way in excess of that. I just wondered whether there was any justification, if you are going to draw that parallel between what the oil companies pay and what the fishermen would be doing, whether there's a justification for talking on one term of a 90 percent tax or a 75 percent tax, and then on the other term of a 12 percent tax, say, on the oil companies. Would anybody have a comment?

SENATOR RADAR: Mr. Chairman. First of all, the idea that nobody owns the fish is true in the situation where everybody has an equal right to catch the fish, and you say that all the public has an equal right to go catch the fish. Nobody owns them until their caught.

MR. CLAUSON: You're not quoting me, are you? That isn't what I said.

SENATOR RADAR: No, I was just trying to go with what Phil's saying

here, but the sense that no one owns the fish is presupposed that everybody has an equal access to it. Once you decide that only certain people have the right to that fish, then you're taking the fish that were owned by all the people and you're letting certain people harvest them, and there you are giving something, you are giving a franchise. And again, I'm not objecting to that, but I think that that factually is what it is. And we're not talking about a 90 percent tax. The only thing we're talking about is, after you, as a fisherman who have used this resource for your lifetime, and you get back the money that you've put into it in terms of assessments plus interest on that, that if there is something else left over there, that that is really the resource, and that's the public's right and the public's interest. And you should no more have the right to sell that nor the next generation of fishermen have to buy it from you than we should today. If you're going to do that then we should sell it to you today. If we're going to do that we've got to put up 10,000 fishing licenses and sell them to the highest bidder.

MR. CLAUSON: Well, Senator Radar, everybody can't be fair...

SENATOR RADAR: And then when you get through with that you can sell it to the highest bidder. But if we're going to give it to you...

MR. CLAUSON: Everyone can't be fishermen, though. Everyone can't be fishermen, and if the rest of the people are to benefit then there has to be something in it, so that the fishermen's profit is going to accrue to the State also. Otherwise, we'd all have to take turns being fishermen.

SENATOR RADAR: Well, let me ask you this. What's wrong with my theory that says you get to use the resource and we're going to limit the entry into it and you get back all the money you've put into it? What's wrong with that? Why do you think that you should be able to get, not only all that you put into it and the exclusive right to fish for 20 years, but also the value of the resource when you get ready to sell that to the next guy that's coming along.

CHAIRMAN: Let's wait a minute. Let's go through the chair now, and we've got several people that haven't been heard so we'll let them answer the questions if they'd like to. And we'll start over here.

UNIDENTIFIED SPEAKER: Can I answer that one?

CHAIRMAN: Yes. That's what I'm asking you to do.

UNIDENTIFIED SPEAKER: ...testify later.

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: What's wrong with it is that you do not do this in any other license or franchise that you issue. We feel that we're being discriminated by--against by this proposal, and that's what--the basically is that the animosity generated on this. That--since then you don't do this in other fields of business when you sell a law, then, to transfer their license from one person to another and don't tax such transfer and whatever--money they've made off it, capital gains or whatever else you want to call it. When you don't tax that why should you put a charge on our transfer?

CHAIRMAN: Go ahead.

SENATOR RADAR: Because you're using our resource. It isn't your

resource. It's the public's resource. That's what...

UNIDENTIFIED SPEAKER: ...liquor license people are the resource.

CHAIRMAN: Wait a minute. We're going to go through the chair.

SENATOR RADAR: You're right, and I suspect that that's a mistake, the liquor license, but I want to say this. I'm a lawyer. I don't have any right to sell my license. When I die that license dies. The next guy gets one and he gets it independently of that. Most of the things of your license to do are like that, but when you're going to give someone a resource for property, the use of it, you're into a different ball game. Then you're into grazing land. Why don't we do this grazing land and the rest of our resources, see? We're not talking about harvesting people or lawyers' licenses or doctors' licenses, you're talking about using the greatest natural resource this State's got. The most important one in my view.

CHAIRMAN: Let's answer Phil, too. Phil said, why 90 percent on this versus 12 and a half percent on oil. You've said that you don't do this, or the State doesn't do it, on any other resource. Well, I think that's probably mistaken, because, for instance, where did the 900 million come from? I think the 900 million is a much better, and the oil leases are a much better example of this same type of thing than a liquor license, though we use that so often. In each case, with the oil and the fish, it's the State's resource. In the case of the oil we have said to companies, you bid on the privilege for using that land to drill on. If you strike something, fine. If you don't , that's too bad. So, the bonus bids, when we lease land, I think, is rather a good analogy of--same thing holds true, I think, to

the--for the timber. We've put a certain tract of timber up for lease to a company, and the guy that bids the most is the guy that has the opportunity to use that timber. Now, after that lease bid for the oil has been accepted then they turn around and pay 12 and a half percent use tax for the oil that they take out, 12 and a half percent royalty, and another about eight percent severance tax, or about one-fifth of the total. And that's on top of the original permit to go in and use it. So I think if you want to use a comparison of oil and fish, you'd better take--that's a more accurate comparison.

UNIDENTIFIED SPEAKER: It isn't a renewable resource...

CHAIRMAN: Wait a minute. We're going to go one at a time now.

MIKE GROSS: My name's Mike Gross and I'm from Sitka.

CHAIRMAN: Okay.

MR. GROSS: Personally, I don't think that they can gain on this (indisc.). What I do want to seek is, since more than likely I'll be eligible for one permit only and one (indisc.) in several fisheries, that I will be able to--through my ability, get a hold of one of these other permits some way, and I guess it's going to take a dollar value to do it, and I want to be able to bid competitively, or what have you, to be able to get a hold of one of those permits, and I don't want to get a landfall gain in my pocket.

CHAIRMAN: Mike, I think that we could say that the committee is pretty well in agreement that the advantages of transferability, as far as the kind of thing you're talking about and the other people have talked about are substantial enough that we favor this, too. The question is, whether or not the individual should

or shall have the total value when he is through using it, or whether he should share that value with the rest of the people. I think that's the real question that we're asking primarily. Okay, next.

BOB BISHOP: I'm Bob Bishop from Ketchikan. I think we more or less asked Phil to represent our feelings on limited entry. I'd like to say, as far as my group is concerned in Ketchikan, that we feel that anything that is fair and equitable that can be worked out, would be satifactory. We'd like to see it as uncomplicated as possible, and especially we want to see it legal. I don't think anybody really wants it, the windfall gain at the end of their fishing time, although if we could realize some gain to pay us back for, especially the expenses of limited entry which are going to be considerable on the fishermen themselves, but what we want to see is limited entry, and we want to see it this session and we'd like to see it as simple and as fair and as workable and as legal as possible.

CHAIRMAN: Alright. Thank you very much. Alright.

UNIDENTIFIED SPEAKER: (Indisc.) from Petersburg. That's one thing I cannot, you know, swallow, I mean--your comparison between oil companies...

CHAIRMAN: Okay.

UNIDENTIFIED SPEAKER: And I mean companies, and us single fishermen. This 20 and a half percent you're talking about--royalty and severance, this--that doesn't bother me. They just turn around and pass it on to the public. That power, you know...

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: ...what we have to (indisc.). We can't pass

it on to nobody.

CHAIRMAN: You're not paying it either.

UNIDENTIFIED SPEAKER: Well, you're talking that you want us to pay it.

CHAIRMAN: No. No, I was--I was trying to make a comparison between what the State sells the privilege, the permit, to oil companies to go and drill, comparing that with the State having some value in this permit for you to go out and fish it. That's the comparison I was trying to draw. Okay. And maybe it's not valid either, and please believe me, we're--there's no decision here. We have not made any decision. We're trying to explore this with you. That's the reason I called this today, to get your viewpoints on these things, and any new ideas that we hadn't already heard. That's what we're here for. Sincerely.

SENATOR RADAR. Jim, let me ask you a question here. If we have free transferability, ten years from now who do you think's going to own the permits? What do you think the fishery will look like ten years from now? You know, things going as they do, and let's assume we keep cutting it back, who are they going to be, where are they going to live, what are they going to do? I'm interested in what you think about that.

CHAIRMAN: Okay, we'll start here again.

UNIDENTIFIED SPEAKER: The answer for that...

CHAIRMAN: Identify yourself...

UNIDENTIFIED SPEAKER: The best answer for that and the only example that we have is what's happening in Canada, and I believe Phil can elaborate on that a lot better than I can. I'd appreciate it if you would tell the group what's happening in the fishery

there.

CHAIRMAN: ell, let's go to Mr. Clauson and then back to...

MR. CLAUSON: You asked what the fishery would look like, and I certainly (indisc.) look better, but I don't think anybody proposes to make a fishery better by limited the entry. I mean, if we could bring it back to anything near what it was, for instance. And, thi is going to take money, and it's going to come from everyone in the State you might as well say, and I'm sure you have an orderly way without everything wide open and an oil analogy has been made in that, too, and you know, the leases were so small that they had to harvest--or drill wastefully, and this (indisc.) renewable resource. Well, certainly we wouldn't be sitting around just cutting down the fishermen every year. Certainly assume that the State would then better be able to manage the fisheries, and I belong to several organizations who have recommended and urged and put money into salmon rehabilitation, so that's just as important a factor, but the two go together.

CHAIRMAN: Well, let me ask you this. Is that any reason to think that many of these permits, or more of these permits, won't be held by Seattle fishermen than by Alaska fishermen ten years from now?

UNIDENTIFIED SPEAKER: Well, I don't know about more of them. Course, there are--we did talk earlier there. There are ways that we feel--for instance, the loan program, that possibly eventually it would end up with more resident fishermen and thus advance the State and so on. Of course, non-resident fishermen that have fished have the same right as everyone. We all belong

to the same country, but either way it was done for the State, and with limited entry and with rehabilitation and enhancement programs it would improve the fisheries, you know, ten years from now.

SENATOR RADAR: Well, to be more specific, we have a great number of fishermen in different parts of the State who fish with a skiff and, you know, maybe only a couple of thousand dollars worth of gear or som thing other, you know. And do you think that in ten years they'll still have their permits? Do you think those permits will have gone to the hands of guys that live in Anchorage or Petersburg or Juneau or Seattle or some place else?

UNIDENTIFIED SPEAKER: It depends on whether they want to hang on to it, or transfer (indisc.), system used to transfer.

SENATOR RADAR: What do you think would happen if they were freely transferable?

UNIDENTIFIED SPEAKER: Well, I don't know--now, I fished, you know, I'm a troller, too, although I fish with a conventional troller. I don't know why their permit would be any different than mine if they--you know, it would be whether they wanted to keep it or not. Maybe I don't understand your question.

SENATOR RADAR: Well, you're right.

CHAIRMAN: Let's go to Phil and let's just talk about that.

MR. DANIELS: I would say that what the fishery's going to look like depends a lot on how seriously the State of Alaska were to take the idea of trying to make this fishery into an Alaskan fishery, and the only way I've understood so far that that might be done is ocmpletely out from the--from out from under

the context of the limited entry bill by way of providing loans. If the State of Alaska says we recognize that it's in our long term best interest to make these licenses end up in the hands of Alaskans and provided them low interest loans, I think you could see that transition take place. Right now the fishery is in many areas in grave trouble simply because the only possible source of funding has to be the canneries, and you go to the canneries and get that funding and they've got you from the standpoint of price negotiations, they've got you from a number of other points of view, and I haven't understood yet, by way of a lottery or an apprenticeship pool or any of these other alternatives, how that's going to work to benefit the Alaskan resident, so I don't see that free transferability is necessary the--necessarily the evil influence. It's going to end up putting the (indisc.) in the hands of the outside fisherman, but I do say that without the loan program you might have trouble, or (indisc.).

CHAIRMAN: Let's make sure that we consider this. Suppose you're from Anchorage and Fairbanks and you really don't have much interest in fish and you've sure though more about it than you want to hear anyway. Now, assuming we go ahead and limit the entry so that the guy from Anchorage and his constituents can't get into the fishery anyway, not only that, but we give them a property right which he's going to characterize as a windfall, and now we're also going to put money in Finance Committee in a loan program to help somebody buy these things and provide that property right knowing that historically fishing loans have been very high risk loans. Now, my only thought is

that you ought to consider how willing these people may be to do that. We don't have a very good history of fishermen from the fishing areas winding up as chairmen of finance committees. Usually it's an Anchorage or Fairbanks man that winds up as chairman of the Finance Committee, and he's the one that's going to have to approve that loan program and putting the several millions of dollars into it, so you have to ask yourself how reasonable this expectation is, that all three of these things will happen and it's just a thought for you.

MR. DANIELS: Well, may I respond to it?

CHAIRMAN: Yes.

MR. DANIELS: We had--this came up over in the House in the Resources Committee and we talked with several of the people who are in--some of them have been in influential positions in the Finance Committee, they had suggested that we might be able to amend the loan act that was passed last year, the advantage of it being, of course, that you can specify Alaskan residency and also economic qualifications can be built in there. Now, I grant you that we realize the State's problem as far as money's concerned, but we would also want to argue, and I think we can argue legitimately, that people--when those licenses end up in Alaskan fishermen's hands, that money goes back into the State, into the local economy. They pay the income tax, and I think the State's going to benefit tremendously.

CHAIRMAN: Oh, I'm sure they would.

MR. DANIELS: And I grant you that it's not simply saying to convince people of this, but it seems to me a legitimate argument.

CHAIRMAN: I'm sure it is. Very legitimate argument. The question

sometimes is getting legitimate arguments listened to. That's pretty difficult.

MR. DANIELS: Could I comment on that?

CHAIRMAN: You're making an awful lot of comments, but go ahead.

MR. DANIELS: This is one of the things that worries me about what's done with transferability because right now I think we can have the fishermen behind something in context of free transferability. I think if there's anything that could defeat this bill, it could be this problem, because if it's changed enough so that it paralizes the fisherman, or even let's say we talk about a tax on the permit. Sure, we might be able to touch bases with everybody in this room, but whether we can touch bases with the fishermen all across the State of Alaska in time to get them also in agreement is another question. This really does worry me from the practical point of view.

CHAIRMAN: Okay. Clancy.

CLANCY HINKINS: Clancy Hinkins from Douglas.

CHAIRMAN: Okay. Thank you.

MR. HINKINS: I would like to make a comment. I think that this question that Mr. Radar and I don't think it was that clarified on. This loan thing we're talking about is being pretty broad and what we were talking about was a revolving fund in the already existing loan program to buy permits only for Alaskans, and not sponsor a bunch of vessels or this type of thing. I mean, this is not our intent here in this loan program we're talking about. It's to make money available which is unavailable to canneries, banks or anywheres, to buy permits.

CHAIRMAN: You mean the buy-back program.

MR. HINKINS: No.

CHAIRMAN: To retire permits?

MR. HINKINS: To buy permits for Alaska fishermen, to be able to get money in a revolving fund. It isn't a thing where your going to put up millions of dollars. It's just a revolving fund and I think this is where this loan thing got out of hand here.

CHAIRMAN: Well, let me raise a problem, and I do this because, again, I want the benefit of your answers, not that I'm opposed to it at all. In fact, I think this idea of the loan program came up in our committee. But the question has been raised since then, and I don't have an answer to it at this point and I hope that you do. If the loan were to buy the permit what--and we've already said in House Bill 126, and we see it in ours also, that a permit cannot be attached, is not for security, et cetera, et cetera, et cetera, et cetera. This is almost a necessity that we say these things about that permit, then what does the lending agency have if it loans money to buy a permit? What does it have for security? This is true and this is one of the reasons we thought that the State itself might be able to carry and hope to recover it's amount this way, where you would never get it through a cannery or a bank or any other way, and we're not proposing that this same person borrow money from this same thing to buy a boat and all the rest that goes with it, but if he comes to the point of needing a permit and can't produce the money because he doesn't have the collateral and this and that, this is one way to keep Alaskans in there fishing, and as Mr. Radar says, not all to go to somebody's moneyed in the State. This was

our hope anyhow.

JAY STEVENS: Jay Stevens from Yakutat. I'd just like to comment on the point that if a past fisherman haven't paid their loans back very well. One of the main reasons, there hasn't been any fish and through limited entry we hope to see some money back in this game to where we can become businessmen again instead of paupers, and I don't feel any problem in that that we couldn't repay our loans.

CHAIRMAN: I didn't say...

MR. STEVENS: That's all I'd like to say.

CHAIRMAN: Yeah. Okay. I think my statement was that they are high risk loans, and we have a lot of them. I mean, not fishermen, but a lot of others.

MR. STEVENS: Yeah. I've had this problem, but I think that this problem would decrease with limited entry.

UNIDENTIFIED SPEAKER: Mr. Chairman?

CHAIRMAN: Yes

UNIDENTIFIED SPEAKER: If you had a $10,000 license, I need the money to, you know, to borrow for this license. It's worth $10,000. It might even be worth more. Maybe I've made a deal of my own where I can get one for $10,000 without anybody else bidding for it. If the State gets that license they could put it on a big--put a minimum on it.

CHAIRMAN: No, but my point was that both of these bills have said that the license itself and a permit itself cannot be used, cannot be restrained, cannot be used as collateral, and there's some very good reasons for that. That's the way it appears in both bills, and if it's not used for collateral then what security

does a lending agency have? Maybe it can be boats, other equipment, that's put as as security against the loan for the permit. That's a possibility.

UNIDENTIFIED SPEAKER: Well, you of course, answered part of that question yourself there. Say on the--as far as to what to secure that loan with, being that it cannot be attached or anything else it would seem obvious it'd have to be some type of guidelines built in to where a person did at least something on it or pay it back after a given period of time. It would probably fall into delinquency to the point where you'd have to take it and reissue it. Somebody else with the idea of getting money out of it eventually. I mean, like you sold to a person, say, it had a monetary value of $5,000 or whatever, for a ten-year period of time, they'd obviously have to start making some type of payments on that thing to the State, you know, if it was issued over--through a loan type operation. Hopefully you could recover your money that way. You know, have an incentive to get them to paying you something anyway, or if they just completely ignored you on everything, take it back and reissue it to somebody else who would pay better. But that wasn't the question I was going to bring up anyway. I'll make a brief statement about this flexibility bit to Senator Radar there. I think I understand where he's at now and I just wanted to reiterate where I'm at. As far as flexibility, he's very concerned with the windfall aspect of this or the State literally giving the fishermen something for nothing or however you want to put it, but--and I'm not at all concerned with that because I'm not interested in getting something

for nothing. I really don't care what you do along the lines of assessing me or anything else for my right to enter this fishery in the first place, but the transferability part of it that allows me to be flexible is the thing I'm really vitally concerned with. I have aspirations of changing into different fisheries from time to time and different areas from time to time, and I feel it would be ambitious intent involved here that this is good. If I want to go into crabbing or anything else, I should have an avenue open to me to do that. Now, if you freeze yourself into this category whereby you are reviewed by a commission and whatnot, it becomes very unpalatable to most fishermen who think in those terms that the commission can literally control your life. You could be froze off the mouth of the Taku River literally for the rest of your life, so to speak, and that doesn't smack much of professionalism which I'm vitally interested in in the fishery. So, as far as what you people, this is personally speaking, not through U.F.A or anything, it's my personal position. I really don't care that much about what you do as far as getting this--getting value back. If you want to assess me or charge me a thousand bucks a year or whatever, I don't really care. I just want to be able to be flexible enough to go into other fisheries in other areas and the whole bit and be a professional, which I am.

SENATOR RADAR: Mr. Chairman. I think that from your point of view you're exactly right. The basic thing here is not that little bit that we're quibbling about there, and yet, that's pretty important in developing something that you can sell statewide here. It's--what we're doing there, if you have a right to go

in, if you have that flexibility, if you have a right to use this as long as you want to, you're absolutely assured that when you sell that thing you're going to get back every assessment you put into it, plus interest. Then it seems to me that you've got most of what you want there.

UNIDENTIFIED SPEAKER: But the problem is and the real crunch as I see it, though, is this thing about the flexibility bit. Without a monetary value of it, I don't see how I'm going to be able to do that. That's my switch. I don't care what the State wants to assess and everything. I just want to be flexible and monetary seems to be the only standard we can go by here. That's my whole point of this thing.

CHAIRMAN: Well, suppose you had a program that would do what you want to do as far as being able to buy from somebody else, it would have this flexibility you're talking about, but again, it did have a declining percentage that was shared with the rest of the citizens of the State? And we've talked about ten percent a year, starting at a hundred percent and going down to ten percent. We could even change that. Suppose you had a program that said, alright, if you go to sell out, Jim, to Phil and and if you do it the first year after you receive your permit, you'd get a hundred percent of the value. A hundred percent for two reasons. First of all, you're in in the first place because of hardship. That's the only basis for grandfather rights, is hardship. Secondly, the price is low these first years. It is not appreciated. So the first year if you sell to Phil you get a hundred percent of whatever the price is. The second year the State gets ten percent of

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that and you get ninety percent. The third year the State gets 20 and you get 80 and we drop it ten percent a year till we get down to the 40 or 50 percent mark, so that the State and you are sharing about equally with the appreciated value of that permit. On the other hand, if you sell the first year back to the commission, we'll pay you a hundred percent, the second year back to the commission, and the third year, also. You still get a hundred percent. So after the first year there's an incentive to sell to the commission and get you out of the fishery and reduce gear. In the next three years we'll--the commission that you sell to the commission is 75 percent, the next three years after that, 50 percent, always providing some incentive to the commission instead of to an individual, but leaving you the flexibility to sell to an individual if you desire to do so. So now we're down to the point where whatever this windfall gain is, it's shared about equally between the individual fishermen and the rest of the citizens.

JIM: Well, yeah, you--I think I followed you on that as far as--in other words the State itself would literally get this thing that Senator Radar and I were talking about, back out of--on these terms. I mean, there would be this initial thing in the beginning there where if you want to get out of it, of course, you could sell right back to the State, but I mean, in a sense they would be sharing this resource with you along in terms of what you're talking about there. It--well, you were kind of flashing on me pretty heavy there right in the beginning and I've never really heard this concept in detail like that, so I couldn't give you a real qualified answer. I'd have to

digest it for awhile, but as I stated, flexibility is kind of a 54-40-or-fight. With me that's the one thing that I have to stick with and that's one thing that all the members in my organization and whatnot, can't, you know, lose, and that is the fact that they're negotiable and being flexible.

CHAIRMAN: Well, the only loss in flexibility that you have under this, as I can see it, is that the commission would have to be involved in such a way that they knew that they were getting market price and it wasn't an under the table deal. Now, you might lose a little bit of flexibility there in justifying the figures that were involved in the sale price, so they knew the thing was a fair arms-length transaction and not a sweetheart contract. But except for those complication, and I don't think they have to be that significant, you'd still have all the flexibility you're talking about under the previous thing. I think we're in essential agreement on the need for flexibility and free transferability. You only question, again, is whether the fisherman gets it all or if he shares part of the windfall with the rest. Phil.

MR. DANIELS: One of the things that concerns me about that formula is that it's going to produce just the opposite of a flexible system for at least ten years, if everybody's honest and if everybody likes money. They're going to sell their boats, or until you reach optimum levels anyway, they're going to sell their boats to the commission. That means there will be no licenses available. I can't imagine a fisherman taking a 15 or 20 or whatever percent loss and selling to an individual when he could sell to the commission and get that much more for

his permit, so you're going to produce a situation, and correct me if I'm wrong. It seems to me you might produce a situation where for a number of years there would be no licenses available for anyone.

CHAIRMAN: Well, except that it would allow you--the guy that is real hung up about being able to transfer this on to his family, his son, he would take advantage of the ten percent differential and keep it in the family.

MR. DANIELS: Could do that, but I'm talking about somebody like Jim who wants to change fisheries and he'd like to go to Kodiak and get a license out there and that license is not going to be available to him as long as he's honest and the other guy's, the guy's going to sell to the commission.

CHAIRMAN: That's right, and you're correct, I suspect, that until you got down to these optimum or maximum levels, yes. But that overall, I think, would be a relatively small price to pay for everything else that is gained.

MR. DANIELS: Could I ask one more question?

CHAIRMAN: Yeah.

MR. DANIELS: How would you hold these people at arms-length from one another, because I think that's one of our big concerns. We don't want to be put into the position where, by way of being enterprising, we might have to be dishonest. You know, some people are worried about that.

CHAIRMAN: Well...

(End of one side of tape)

MR. DANIELS: ...like to get into that fishery. It seems to me it might provide an enormous incentive for someone to go under the

table if it's at all possible, and I really would be concerned about that because what you might end up with is fishermen getting caught as they might or might not get caught, or being dishonest, which I don't is necessarily a virtue, but I do think people when looking at that kind of a price tag, back to the State, would have a tendency, is possible, to abuse it.

CHAIRMAN: Kind of like leaving your keys in the car, isn't it, on certain streets?

SENATOR RADAR: Sir, well, let me ask you another question. Is anybody here not in favor or free transferability? Have we reached a consensus that--I see Mr. Hernstein and some other people that have been testifying on this in the past. Have you changed your views on that or what are you.

MR. HERNSTEIN: I'm not in favor of free transferability.

UNIDENTIFIED SPEAKER: I'm not in favor of free transferability, and (indisc.).

CHAIRMAN: Wait a minute. We've got too much noise out here. Let that be (indisc.) and then repeat. Alright, try it again.

UNIDENTIFIED SPEAKER: I'm not in favor of free transferability or (indisc.), either one.

SENATOR RADAR: Well, then let me ask you this. How would you--how would the next generation of fishermen get the license, then?

UNIDENTIFIED SPEAKER: Well, as far as we're concerned, unions, we turn it to the State and let them beg for it.

CHAIRMAN: Do what?

UNIDENTIFIED SPEAKER: Let us beg for it. Qualify--you know, your qualifications.

CHAIRMAN: Bid to buy the license, in effect. Bid to buy the license.

Do you think we ought to use the same method right now to determine who gets a license?

UNIDENTIFIED SPEAKER: Well, I could answer that but I'd be in trouble.

(Laughter)

CHAIRMAN: I don't think either one of us would get out here. But that's the problem, see. You know, why--what are we doing here? Are we going to make that generation bid to buy in, is that right, too? I don't know. I really don't know. I don't want anybody to misunderstand. I'm pretty flexible on this, although I've argued pretty strongly a particular point of view. I recognize very well that there are a lot of unanswered questions in what I could say.

UNIDENTIFIED SPEAKER: I'm not representing the new generation.

(Laughter)

CHAIRMAN: I'll get back to you. Your name, again, please.

MIKE McNIVEN: Mike McNiven. I'm from Juneau. It seems to me that all points of view expressed so far, that the fishermen that these permits are going to be running out on trade in like Persian rugs or something. I don't quite see it that way. I think we're all interested in the fishery, and without a permit the fishery, of course, is of no value to anyone. Also, I think the second generation and also the third generation, should they be so lucky to have any fish left, are also going to want to eventually sell these permits or retire out of the fishery. I really think that if we're talking investments and being reimbursed for investments, I think this follows on down the line. Unless you're going to presuppose that it's some date in the future this whole thing will come to a screeching

halt. The fishermen who initially get the permit under free transferability is going to sell it, the person that buys it is also conceivable that he will also sell it eventually. I really don't see any value of this permit as far as trading stock. It seems to me that Mr. Radar here takes the opinion that as a fisherman gets this permit he's going to run around and see how much he can get for it. I don't really see this as being a valid argument, because if a person is going to go to the trouble to get one in the first place, why would he turn around and sell it?

SENATOR RADAR: Mr. Chairman. There's one thing I'm absolutely sure of--absolutely sure of, and that is that everybody that ever gets one of these permits is going to want to transfer it sometime. Cause he's going to die, and he's going to get out of the fishery. And without exception, everybody who has a permit is going to want to transfer it sooner or later. Some guys are going to want to do it today and some guy's going to want to do it tomorrow, and that's the problem, though. And it is a problem. If it's not a problem, let's just say it's not transferable and it goes back to the State when you're through with it, if you don't think it's a problem. You know. You see that it's a problem and you know good and well it's a problem, and I do, too.

MR. McNIVEN: I can understand the situation here, but I feel as far as this windfall thing being kicked around, you seem to place the windfall in the arms of the first holder, and I don't necessarily see that as being true.

SENATOR RADAR: The second guy has to buy it and pay full value, see?

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MR. McNIVEN: Yeah.

SENATOR RADAR: The only way that would--if we were to apply the same rule on the first group that we apply on the second group, the first group would have to buy them also, see?

MR. McNIVEN: Well, it seems to me that in essence through a seven percent assessment, I'm going to be buying that permit.

SENATOR RADAR: Well, you may view that, but if you think so then why don't we just buy it by putting them up for auction then? Right now, see? If it is. It really isn't that. It's a different thing. The guy who follows you is going to be paying the seven percent, too, perhaps, but in addition to that he's going to have to buy his permit from you or somebody, you see? That's the difficulty.

CHAIRMAN: Alright, let's go on back here with our questions. You know.

UNIDENTIFIED SPEAKER: Part of my question was asked--answered already. What about, then, you say the man that buys it the second generation, he will in turn, when he sells it there'll be money coming back to the State again from him, too. Right? That's what I was wondering.

SENATOR RADAR: Well, he's going to have the--he'd be under the same condition that you're under. He'd get only back what he paid for it or what he put into it in cash, and the rest of it, that overage, would go back to the State as the State's interest in the resource.

UNIDENTIFIED SPEAKER: I, personally, I'm like Mike. I'm not looking for anything extra than what I put into it. I want the flexibility like Jim to be able to move around in a monetary value, but I

do want free transferability.

CHAIRMAN: Did you still want to--you know.

PHIL STORMICK (sp): Phil Stormick from Douglas. I am for free transferability on licenses. As far as the State, for the people in your area, like Senator Radar's case, getting anything out of this renewable end source, or resource, I just wonder if the raw fish tax, if that is not enough (indisc.) for your constituents, or would you want more for every pound of fish that I catch on this renewable resource.

SENATOR RADAR: My difficulty is, and it really isn't just my constituents, but the difficulty is that we have the same problem here as if we turned the oil resource or the timber resource to somebody and only charged them a royalty and didn't charge them to go into it, see? Or if you turned over the land and when you sold the land you didn't charge anybody for it some way or another. It's just--as long as everybody can go into the resource, there isn't any problem with that, but that's what we're trying to prohibit, is everybody going into the resource, and the moment you start stopping people from going into the resource, then it seems to me like that you have this difficulty we're talking about here.

MR. STORMICK: I don't think we've stopped anybody from going into it. We've put a limit on who can go into it, and how many can go into it, and then another thing is, by buying these permits and paying an annual fee on these permits, plus up to seven percent of your catch year assessments for buy-back and so forth, I think we are paying adequate amounts for the use of this--or fishing on this resource, plus the fact that everybody in the State gains from this raw fish tax when you catch a fish and take it to market.

CHAIRMAN: You know, the Legislature...

SENATOR RADAR: You've got a good point. You've got a good point, a good argument.

CHAIRMAN: The Legislature did do almost exactly this same thing with a group of people a few years back that were trying to get the value of oil leases for practically no input themselves, and I don't know how many of you remember, I think about 1968 when we went through the dirty oil bill, and here a group of, people had put in ten dollars apiece per lease simply on the speculation that they'd be given the lease then, that they could turn around and sell for literally hundreds of millions, the group of them would have had at least that, and that certainly to them would have been a windfall, and the Legislature said no, that is a resource that belongs to all of the people and we're not going to let you have those leases. You're not validly entitled to them. Now, don't get me wrong. I'm not making a flat-out, across-the-board comparison here. I realize it's not a comparison, but in that case there was an opportunity for those people to get a windfall in a State resource, and we said no, we're going to save it for everybody, and there's a little bit of comparison here as far as the ultimate value of the permit itself, and that being shared with the rest of the State.

UNIDENTIFIED SPEAKER: We would not have to drill, have a permit to drill and drill themselves.

CHAIRMAN: Alright. Let's start back over here again.

MIKE GROSS: This is Mike Gross from Sitka again.

CHAIRMAN: Yes, Mike.

MR. GROSS: Mr. Radar, if we took your route and only gave the permit over--back to the value that we had in the permit, be it 500, 10,000, what have you. For example, if Phil had a permit and had $800 invested in it, and that's all he could realize on the sale, and Jim and I both wanted that permit, how would we bid back and forth for it? How would Phil determine who he was going to give it to?

SENATOR RADAR: Well, I assume that we've--the proposal that Senator Palmer made was that the--you'd be able to keep a certain percentage of that and only a certain percentage of it would go to the State, so you'd have some interest in maxi izing that.

MR. GROSS: So Phil could realize a gain on...

SENATOR RADAR: So he could realize some gain on it. He wouldn't realize a hundred percent of what he got on it, though, see? A portion of that would go back for (indisc.). He would still, even under the--what I've been arguing here, he would still recognize some benefit and some gain on it. I have to admit to you that that is--that's not a satisfactory solution to me. It only gets around the one argument that was presented to me by some people, and that is, if you're going to give away the resource you're going to have to charge somebody for it like you do any other resource, or if you're going to give away or whatever you want to call it--the right to harvest it, you see? And it's only trying to handle that argument that we came up with this as being a reasonable way of doing it that would not hurt the fishermen. You know, it wouldn't take a lot of money out of their pocket, and if the thing ever gets to be worth something, why, they get what they get out first and the rest

of it can go back to the State, but I agree with you that it's got real problems in making it work.

MR. GROSS: You'll have to come up with how much it's worth it's now to start with.

CHAIRMAN: Phil.

MR. DANIELS: One of the considerations. It's very likely that I'm going to switch areas, and I have no (indisc.) participation in another fishery, so it would end up that I'll have to buy a permit and I don't mind buying that permit because I think it's the best investment I ever made in the fishery in my life and I figure if that limited entry bill does work, and you do have reduced gear through buy-back and initial reduction in areas, then I'll make that money back in about two years, and I think this is something that a lot of people haven't kept in mind. If you're talking about doing all these things to enhance the fishery, plus the person, of course, as has already been pointed out, is going to get that--the money for their permit back when they do sell it, so I just wanted to throw that in, and I also was curious, are you getting a lot of reaction? I was just curious if anybody is getting a lot of mail on this problem and the idea that we are giving away a resource supposedly here. I--we're having a hard time getting letters from fishermen just supporting limited entry or supporting free transferability, so I was just curious whether much is happening on that level.

CHAIRMAN: John.

SENATOR RADAR: I haven't received a great deal of--because people don't understand what's going on, you know. You're quite right, but I'm certain of this, that once this is done people are

going to understand what happened, and...

(Laughter)

CHAIRMAN: Alright. Dave has been trying to get the floor. Dave.

DAVE: I just wanted to speak very briefly about the point that the seven percent assessment would be in a way paying for the permit because that seven percent assessment is very likely, almost absolutely going to come out of the crewman's pocket as well as the skipper's pockets.

CHAIRMAN: The who's? The consumers?

DAVE: The crewmen.

CHAIRMAN: Oh, the crewman's.

DAVE: The crewman's pocket. In other words, you don't tax seven percent of your gross stock without the crewman paying part of it, even though the law says the permit holders pays that. It's just like when unemployment came down on fishermen in Kodiak this year for the first time. Not only does the crewman pay his share, but the skippers raised the boat share one percent to compensate for what they had to pay. So in other words, you know, even though we would be benefiting from the limited entry insofar as we would have better earnings, we would also be chipping in on inflating the value of these permits that later we're going to have to buy if we want to have them. And so, there is ·t--I don't want any misconception that this seven percent i· totally different and he's paying for his permit that way.

JAY STEVENS: I'd just like to--Jay Stevens from Yakutat. I'd just like comment on that point that the chair made earlier about us and the dirty oil deal. I know you weren't really comparing

us, but I'd like for us--for the Senators to realize that we didn't come into this fishery for a gain. We've been here for quite a while and we've been taking a lot of abuse and some of us even became moonlighters so we could feed our families.

CHAIRMAN: I understand that very well.

MR. STEVENS: I didn't come fishing--I came fishing because I love the ocean and I love that way of life, not so that I can get a gain.

CHAIRMAN: My only point was that at that time the Legislature said no, we're not going to give away that resource, and as far as the permit, there is a similarity. Now, as far as the limited entry, there is no similarity. I understand that. Yes.

UNIDENTIFIED SPEAKER: Well, I would like to say that right now we have the right to fish, so you're not giving us that right now, and the people in the future who are not getting this right to fish are being paid to be bought out of this fishery, so they're receiving a compensation, and you will have some areas where there are people literally being kicked out, but this law that you're passing here is for the whole State, not just these areas where there are people being forced to be eliminated, so in effect you're penalizing everybody throughout the State because of these other areas, and this also creates a hardship on us.

CHAIRMAN: How are we penalizing? I don't understand.

UNIDENTIFIED SPEAKER: Well, in many fisheries right now it's wide open. There aren't enough fishermen...

CHAIRMAN: Okay. There's no need for limited entry?

UNIDENTIFIED SPEAKER: No need for limited entry.

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: And yet when somebody gets into this gear and area he's going to have to pay through the--permit, and it's going to be an inflated price because the original owner is going to jack up his price that much to get what he thinks his speculative value is worth in that permit.

CHAIRMAN: If there's not enough permits yet to reach the optimum level, then he can go to the commission for a permit. He doesn't have to buy from somebody else, and the initial entry permit would be issued at no charge. He's not going to...

UNIDENTIFIED SPEAKER: Well, for $50.

CHAIRMAN: Well, $50 for the permit, but it wouldn't be a...

UNIDENTIFIED SPEAKER: Okay, what about the next man down the line, though?

CHAIRMAN: Well, again, you said somebody was being penalized. Who is it that's being penalized? The next man down the line?

UNIDENTIFIED SPEAKER: The way I feel is the people in other, in the depressed areas, are being penalized to pay the right to enter--these few people in Bristol Bay and Cook Inlet and that are--pay to kick them out of the fisheries is what it amounts to. In most circumstances, everybody who now has the right to fish will in the future still have the right to fish, so you're not giving them something new, and only in these depressed areas will you be kicking somebody out of the fishery who is not being compensated for being--no longer have the right to fish.

CHAIRMAN: Okay. Yes, sir.

MIKE McNIVEN: Mike McNiven from Juneau. Mr. Radar, well, arguing against the free transferability on the grounds that it would be giving a windfall to present fishermen hasn't offered any

alternatives as to how these permits are going to be transferred. I would be receptive to some other type of transfer if I understood exactly what it was. I don't really feel that it's going to be easy for me to get into some other fishery, particularly let's say a king crab fishery where we're talking about a good deal of money changing hands, a good deal of investment. Under the free transferability clause right now I can see how I can do it--get a lot of money. Under what Mr. Radar is suggesting I'm not really sure how he's going to allow me to enter this fishery. Is he going to do it by putting my name in a hat? Is he going to do it by requesting that I work on a crab boat? Is he going to use some other criteria for this? I'd be interested to know.

SENATOR RADAR: Mr. Chairman. First of all, I'm not at all certain that we shouldn't have free transferability, but I'm pretty certain, I believe, that if we do have free transferability that the value of that license, over and above what the fishermen put into it, probably would end up a percentage of that going back to the State, so don't have this argument of the windfall, you see? I don't know if you get that or not, but you can have free transferability and still have the portion of the license which exceeds the assessments that you put into it paid back to the State when you sell it, when you get through with it. That'd still be free transferability. It has been suggested, and as I say, I'm not--don't put me in a position of being against free transferability, but I'm only talking about the windfall aspect of that, and we can handle that in the manner we suggested here today. The other suggestions were

that--the other testimony that we've heard is that you should try to limit the fishery when a guy--when a license turns up, when a man gets through with his license because he gets sick, or he dies, or he wants to retire, or he wants to go do something else, or just tired of fishing, and his license goes back to the State, but then the State could issue that, it's been suggested they could issue--try to issue to people on an apprenticeship program, people that have been in the fishery, crewmen or something like that, and try to--but you'd have--that's very difficult, too. Who you going to really give it to, you know? What if you've got a whole lot of crewmen? Suppose you have five licenses and 50 crewman that want them. Well, then I supposed you'd have to draw names or something to see which one of the 50 crewmen got the five licenses and they'd get them free just exactly in the same way that the guys today are getting it free. The disadvantage of that, of course, is that you can't necessarily insure that your son's going to get, for example, if you want to, but a lot of licenses are not connected by blood anyway. You know, that's a medieval guild really, where if your father was a carpenter you can be a carpenter and your son can be a carpenter, but nobody else can be a carpenter. It was inherited so to speak, and you can turn fishing into a guild in this State if you wanted to to where, you know, if you were one of the families that had a license, why, it could be passed from father to son or something like that, but other people couldn't get into it.

MR. McNIVEN: Not by law you couldn't.

SENATOR RADAR: Well, it's very difficult to figure out whether or

not you can do it by law. That's right. I think that the only way that you could--I agree with you. You couldn't do that, and therefore, the argument that we're doing this so that you can pass them onto your son, you can't make a law that'll do that in this country, as where you can't pass it on to anyone else. I don't believe you can. But you could--if there were 50 crewmen that wanted to get the licenses and five licenses, you could draw one out of the hat, or you could bid for it if you wanted to. You could sell it then if you wanted to. I don't know, there's a lot of other things that have been suggested here.

MR. McNIVEN: One thing that bothers me is that when I came into fishing I did it because that's what I wanted to do, and I was able to, through my own initiative, gather about me the equipment that I needed to go into this fishery. I was able to do that unhampered, relatively speaking. A lottery would cause me, if I wanted to move from one type of gear and expand it to another type of gear, possibly a complimentary types of gear, on where seasons wouldn't overlap, something that would get me broader employment, I would be pretty much at the mercy of luck as to whether I would be able to enter into this or not, and the question would arise in my mind whether I had more rights to enter into this particular gear than a person that's working as a crewman in this type of gear. I feel that because I've fished one type of gear doesn't necessarily indicate that I have absolutely no knowledge of any other types of gear.

SENATOR RADAR: I think--I think you make good points. I'm not really--I don't have a satisfactory answer for those--those

points.

CHAIRMAN: Phil, and then this gentlemen, and then we're going to talk a little bit.

MR. DANIELS: I just wanted to say that I think that some of the fishermen have testified that they don't mind so much seeing that they are paying back to the State something by way of acknowledging their use of the permit, or however you want to put this thing, by way of getting the fishermen to put something back into the State coffers. Many of the fishermen, when we were having these meetings all over the State indicated they wouldn't mind seeing themselves taxed somewhat more heavily if they could see that go back by way of improving this very sick industry, but I think one of the things that really concerns me in my mind is the nature of the tax. If the tax is at that very high level, it's the fear that it'll be abused, and if you're asking for a reasonable recompense to go back to the State, then I would say this is something the fishermen might very well adjust to, so it's not so much that we're not willing to pay. It's a matter of that we don't want to be forced to be dishonest.

JAY STEVENS: I'd just like to comment--Jay Stevens from Yakutat. I'd like to comment again on the free transferability. I don't see how--any other way we could have professionalism in the industry if we don't have this right of free transfer, because such as the gentleman here beside me stated, he might be kept out of utilizing a full year or a half of year because he couldn't pick up another type of gear, and I think this is part of what the Governor was looking for, was for a greater

professionalism in the industry to where we could be more competitive with other nations and states.

CHAIRMAN: Okay. Let me try to pose a couple of problems. Alright, I'll take you since you haven't had an opportunity, and then I want to talk--pose a couple of problems and get a response from you.

NICK GREGORY: Well, I'm Nick Gregory. I represent the (indisc.). I'm not much talk here, but I'd like to have the Senators and yourself read what the people up in Bristol Bay, want me to deliver these personally to you.

CHAIRMAN: Alright.

MR. GREGORY: After listening to all these fishermen here, I know several of them, I still take this stand I have here on these papers. Thank you.

CHAIRMAN: Incidentally, you might tell your people in Bristol Bay that just before I came into this meeting I was at a Finance Committee meeting dealing with the budget, and we were dealing with the public protection source--or section of the budget, and we added a footnote to the weights and measures section. I added it, the Committee approved it, saying that the Weights and Measures Division budget included two men being in Bristol Bay from June 23rd to July 23rd to travel around those tenders and the rest--wherever you find a scale with 50-pound weights adding up to two thousand pounds, so they could load a scale up with two thousand pounds of lead and check those scales out. I fished Bristol Bay for a couple of years myself. I know what some of you are going through there, so your drift fishermen out there might be interested in that.

MR. GREGORY: Yeah, thank you. I'll talk to them about it.

CHAIRMAN: Alright, apparently from what everyone has said, that the majority opinion of the U.F.A. is in favor of free transferability with a hundred percent--excuse me, with a hundred percent of whatever windfall--call it whatever you will. I use that word because you all know what I'm talking about that way. With a hundred percent of that going back to the fishermen. Now, is that correct? Is that the majority opinion of... Alright. Now, let me ask a second one. If that is unobtainable, then would you be willing to take a program that did work as we've tried to indicate earlier, and let me run through it again. Say that...

SENATOR RADAR: Mr. Chairman, I have to leave...

CHAIRMAN: Alright, fine.

SENATOR RADAR: I think I know what you're going to say.

CHAIRMAN: Alright. If Jim were going to sell out, and if he sold to Phil the first year, he'd keep a hundred percent of it. If he sold to the commission the first year, he'd keep a hundred percent of whatever the price of his permit was. If he sold the second year to Phil, he'd keep 80 percent--I'm sorry. The second year, let's add another factor in, if he has paid any assessments then he is able to keep 90 percent above whatever assessments he's paid so that he's not being penalized for those assessments. The--if he sells out to an individual the third year he gets to keep 80 percent, and you reduce it ten percent a year, but again, it's what's left after the assessments, so that he doesn't have to take the assessment out of his pocket. On the other hand, if he sells to the commission,

there's an incentive for the first few years, maybe it doesn't have to be five or ten, but an incentive the first few years to reduce gear by being able to keep more of it if he sells to the commission. And again, we'll put a ceiling on this, done at 50 percent, so he'd always be able to keep at least 50 percent of the value of the permit, and the other 50 percent shared with the people of the State. My question is then, under that kind of an arrangement, if you understand it now, if that's the best we can do, is this acceptable to you? And I think what--alright, let's have some talk about it, and then we'll have a show of hands. Jim, go ahead.

JIM: I was like to see if that's the case, that that money went back to the State it would go back into the buy-back program.

CHAIRMAN: Alright, good. I'm glad you brought that. Your buy-back assessments would be reduced by whatever did go back into the State, yes. This is one other advantage of that system. It might tend to keep the values down a little bit, plus it would certainly keep your buy-back assessments down.

UNIDENTIFIED SPEAKER: Personally, if I want to gain another permit within a five-year period and it would severely limit me, in fact I would probably be financially bankrupt, so on that point I would have to argue against it.

CHAIRMAN: You say another one. Does that mean that you would one and you wanted to go get into another fishery?

UNIDENTIFIED SPEAKER: Right.

CHAIRMAN: In addition to or instead of?

UNIDENTIFIED SPEAKER: In addition to.

CHAIRMAN: And staying in the one fishery for that period of time

would bankrupt you?

UNIDENTIFIED SPEAKER: If we had some way to get free transferability there the first year so that I'm not having to--under this program a man would be crazy to sell it to me. It'd be money out of his pocket.

CHAIRMAN: No, the first year is not. It's a hundred percent either way.

UNIDENTIFIED SPEAKER: One year grace.

CHAIRMAN: Yeah. Alright, Mr. Clauson.

MR. CLAUSON: It seems like that any money accrues to the State, if accrues the right word, should come from normal taxation of the industry, and I don't understand why would it maybe necessary to have this other program rather than just free transferability? I mean, who would insist on that?

CHAIRMAN: Well, as Senator Radar, I think, has made very obvious, there's a large number of the people who are not involved at all in the fishery that do see this as a giveaway of a state's resource when they've created that property value.

MR. CLAUSON: He also said that they didn't understand it, and of course, like he's says he's rating these questions to feel out how it would work. And, of course, we've done the same thing fo. weeks now and we always come back to free transferability.

CHAIRMAN: Well, that's what I'm doing. I'm say if that's the only thing you could get or the best you could get, is that better than nothing at all?

MR. CLAUSON: We don't want to see this die because of this.

CHAIRMAN: Well, let's have some other questions, first discussion before we...

UNIDENTIFIED SPEAKER: This still doesn't answer a question that bothers me. I don't mind paying--it doesn't bother me to pay a portion or whatever type of assessment the State feels it must have from these permits in order to take away what we've been calling a windfall. That doesn't bother me at all. That's not my primary interest. One of my primary interests is, however, how I am going to diversify, and so far this hasn't been answered. All--it doesn't bother me if I have to--if I'm taxed on my permit, that isn't the point. The point is, how do I--how do I spread out into another area, or how do I change areas, or how, if I'm not a fisherman now, do I enter the fishery? This is what I'm curious about.

CHAIRMAN: Well, and again, the first year it would be equal. There would be no incentive to sell to the State because the individual selling out would get the same amount whether he sold to an individual or the State. Now this is not time for you to buy into a another fishery?

UNIDENTIFIED SPEAKER: What I'm getting at is this. If I make a deal with Joe Dokes who wants to retire, am I going to be able to make that deal personally, am I going to have to go through a lottery, or a list of priorities?

CHAIRMAN: No. No lottery, no priority involved. No. You can make it personally.

UNIDENTIFIED SPEAKER: And the amount of money that must exchange hands here, is that governed?

CHAIRMAN: The commission would have the authority to determine that it was a true arm-length transaction and not a sweetheart deal. Of course again, the first couple of years they wouldn't have

any concern about it, bacause it's going to be a hundred percent going to the seller, regardless, of the first year.

MR. McNIVEN: I understand.

CHAIRMAN: So, the only privisos that we we're considering here, or at least I was, would be that of giving the commission the authority to make sure that it was not an under-the-table deal, that it was the true price that was involved in the sale.

MR. McNIVEN: And this you feel can be done and still maintain this freedom of negotiability?

CHAIRMAN: Yes.

UNIDENTIFIED SPEAKER: I'd like to speak again to the fact that I want to be able to diversify, and like Mike, I'm concerned--you say, well, if only one year it'd be a hundred percent, but I don't--probably couldn't come up with that money maybe that first year, so then if I can't come up with it the first year, then I'm going to be jeopardized for the next three or four years until that reaches the optimum level. Financing isn't that easy to come up with right now as a fisherman.

CHAIRMAN: Well...

UNIDENTIFIED SPEAKER: Unless we have a loan program.

CHAIRMAN: Yeah, I agree.

MR. BALENGER: Why don't you simplify the whole thing and make it easy, down to 50 percent and State gets in the bidding themselves?

CHAIRMAN: So the State gets in the bidding? Well, of course, then you're back to the same thing, aren't you?

UNIDENTIFIED SPEAKER: You're bidding against yourself.

MR. BALENGER: Well, I'd be willing to bid more than $5,000 for a license, and not forget this, if you're buying him out of the

business you'll have to buy the boat, also, so maybe the State will be very reluctant...

CHAIRMAN: Yeah, right. Newt?

NEWT: (Indisc.) interesting (indisc.) of that boat on it, but I don't believe in that game, also, and a decision of this type, I'd like a chance to kick around.

CHAIRMAN: Fine. I have no problem, but I think we would like to...

NEWT: Hypothetically, now, if this--excuse me for my inability to speak, but if this one solution is worth putting other solutions (indisc.), what are you basing this on? Do you think this could possibly happen if we wouldn't get the free transferability any other way, what would cause this?

CHAIRMAN: Well, very often when we get to the floor with bills, we find that they have to be amended before they get up enough votes to get passed. For instance, I'm simply saying if, for instance, this went to the floor and it's free transferability, and there were enough of the type of debate that you've heard here this afternoon so that it became obvious that the bill wasn't going to pass that way, then if we have an amendment prepared to go the other direction, or even if happens in this Committee, that we couldn't get out of this Committee, without that kind of an arrangement, so this...

NEWT: I think we should have a debate and roll this around...

CHAIRMAN: But when you do, why, be sure that you're getting both sides of the ramifications.

NEWT: We have been.

CHAIRMAN: Yeah. Floyd.

FLOYD: I don't know how I could even think of (indisc.) because I

was (indisc.) told me that it definitely happened (indisc.) free transfer, so I couldn't make a decision because this is all up and down the Cook Inlet.

CHAIRMAN: Well, I would...

NEWT: I don't think there's any problem with them wanting to pay something for that, but they'd rather do it some other way than have that item (indisc.) again. Transferred. (Indisc.) get taxed some way or other.

CHAIRMAN: How do you see that this would not be able to be transferred freely?

BEWT: Well, I don't know. I wouldn't want to make a decision for them.

CHAIRMAN: Well, I wouldn't be asking you to make a decision for the rest of your people, only you felt about it personally. Jim.

JIM: I don't know. I certainly don't want to get too deep in this either, because it's awfully hard to make a statement off the top of your head like this, as you well know, but it would appear to me, you know, that it would be in order that who (indisc.) endorse the concept at least, in House Bill 126. Now, if, in fact, we have another type alternative solution to it, I'd certainly like to look at it in depth, think about it awhile and say I endorse one, or I endorse the other, or I endorse a marriage of the two, which I married myself, and tell it to you in that fashion, and then if you don't want to take, you know, either mine or U.F.A or any individual groups or whatever, if you want to say well, I don't get it, we don't think that's in line with what's good for the State and us--and you Senators have decided, why, that's your perogative. And as far as input

I think that that's--that would be kind of the type of determination that we would make, it would appear to me. Maybe I'm sort of line there, or something, but I mean, we like one or, you know, the other, or a combination of the two, which we would determine, and then if you didn't want to take that as input I guess, why, we'd have to settle with whatever happens. We don't make the laws, we realize that.

CHAIRMAN: I think exactly the same thing has happened to the State employees' pay bill. Their first choice was 14 percent, the pay raise. It became obvious, I guess, that they couldn't get that, so they went down to eight. They didn't get that so now they're willing to take an $85 across--per month across-the-board raise. And that's all--this is the thing I'm trying to put to you. What are your first, second and third choices, for instance, you see? What are your fall-back positions if the best won't fly, what's next best, and so on and so forth...

UNIDENTIFIED SPEAKER: What is the alternate of the first test. I mean, is it something other than--I don't see anything in writing.

CHAIRMAN: Well, I just tried to lay it out for you here.

JIM: My guys told me, is all I'm saying, they were a hundred percent behind this deal. They were a hundred percent behind the transferability bit. They liked the whole package so to speak and everything, and then, I guess they didn't realize...

CHAIRMAN: Well, as a fisherman I think I would, too, and I am... Well...

JIM: I realize your position. I not trying to begrudge you your share.

CHAIRMAN: Well, hey, I didn't mean that the way it might have sounded, as if I had been a fisherman. I think we've probably got about four of these licenses and these permits in our family, and I said eight to Phil the other day, but we got to figuring up a little bit, and I'm not sure some of those people are going to qualify, so that's--that's immaterial.

JIM: I just meant that some people might feel that it would weaken their stand. It's obvious that they've all stated they want something. I mean, this is pretty much common knowledge, but, you know, I don't know, it's a question sometimes of weakening your position.

UNIDENTIFIED SPEAKER: If you really think something's right, too.

UNIDENTIFIED SPEAKER II: Didn't you give us an alternate earlier, that was another one earlier, besides this one that came up here just at the last?

CHAIRMAN. I don't think so. I think it was the same thing I was talking about earlier, except that I made it a little bit better this time when I said it would be over and above whatever you'd paid in in assessments. I hadn't considered that the first year the license, or first couple of years, the value of the license might not be any greater than the value of the assessments you'd already paid.

UNIDENTIFIED SPEAKER II: I thought I heard--I thought I picked up something completely different from this a little earlier than that.

CHAIRMAN: Well, you may have. I'm not aware of it. I don't remember it at this time. Let's go back in the back. We haven't heard from you.

SIG McGESSON: Yes, I'm Sig McGesson from Petersburg.

CHAIRMAN: Yes.

MR. McGESSON: And the way I see it, if I want, say, 10,000 for my permit under this second situation that you discussed, well then I'll have to sell it for 20,000, because if I sell it after a certain number of years, because I'll be paying 10,000 in taxes. So the person that's going to want to buy a permit from me is going to have to pay twice as much as they should have in order for me to get my 10,000 out of it, or whatever I want.

CHAIRMAN: Well, that's assuming that what you want will set the market price, and I'm not sure that's a valid assumption.

MR. McGESSON: Well, whatever it is. I'm not--I don't--I'm not particularly for the speculative prices anyway, but if that is the case and I want to sell a permit and 30 or 40 people are waiting around wanting to get one, well, I'm certainly going to think about selling it for what I can get for it.

CHAIRMAN: Now wait a minute. If there were 30 or 40 people waiting around wanting to buy that thing and you could get 20,000, even though you were going to get all of it and weren't going to pay any in taxes, why would you go ahead and get the 20?

MR. McGESSON: Why wouldn't I?

CHAIRMAN: Yeah. Why is it that you would only want ten in the first place if you can get 20?

MR. McGESSON: If I could get 20, well, that'd be a different thing, too, but the--I think that what's going to happen is there will be a set price on what a permit is worth, and it won't be because of one guy wants more and one less. It's going to average out

that a halibut permit is going to be worth so much and a seine permit is going to be worth so much, and if you want the amount of money that you're--you feel that it's worth and the buy--or this tax program is set up so you only get 50 percent, well--that's what I think.

CHAIRMAN: Yeah. Well, okay, I... Alright, and it's getting--it's almost 5:30. We've been here for a long time so we'll take a few more here and then cut her off for this time.

UNIDENTIFIED SPEAKER: Now, I was going to say one thing there. The value of the permit is more than likely, you know, some ratio, the value of it will correspond directly with the earning value of that permit.

CHAIRMAN: (Indisc.)

UNIDENTIFIED SPEAKER II: We're talking about the...

UNIDENTIFIED SPEAKER I: We don't know, you know. With the limited entry and a good rehabilitation program the price could step higher up, but without that rehabilitation program it might not. But what I wanted to ask you was, it goes here seven years under this last little deal you placed down before us. I could bid competitively against the State, like seven for the first year.

CHAIRMAN: Well, we might even sweeten that up and make it first two years.

UNIDENTIFIED SPEAKER I: First two, huh?

CHAIRMAN: There's lots of arrangements that can be made. It's the concept that we're talking about.

UNIDENTIFIED SPEAKER I: I'm just like Jim. As long as I can bid against Jim and in some (indisc.) way get a hold of that permit

I'll go for it:

CHAIRMAN: Well, you see, you're concerned about being able to transfer into another area, but other guys that are not fishing at all but want to get in, they might be concerned about trying to get in at all, you see?

UNIDENTIFIED SPEAKER I: Right. They have the same problem I would.

CHAIRMAN: Exactly.

UNIDENTIFIED SPEAKER: If you wanted in and want to buy a permit, you have to have some way to convince me to sell to one or the other of you.

CHAIRMAN: Which only gets down to the point that if this thing is to be effective at all, well, I'd be hurt a little bit, probably. And that might be the price that you have to pay. You might have to delay for two or three years or transfer into another area.

(End of one side of tape)

CHAIRMAN: Phil.

MR. DANIELS: I just wanted to say thank you very much for your (indisc.) and patience for being able to testify in front of the Committee and we'll bring up these issues and talk them over and hope to come to some kind of decision on it. Thank you very much on behalf of U.F.A.

CHAIRMAN: You bet. Mr. Clauson.

MR. CLAUSON: I feel the same way, and I'd like to point out I don't feel we're negotiating for something, or as much as we can get, so much as we're trying to participate constructively in something the administration and the Legislature has given a high priority to.

CHAIRMAN: Good. Well, we feel that way, too, I'm sure.

TONY GUGGENBICKLER: I'm Tony Guggenbickler from Wrangell, and I was interested in other of the qualifications that you have set up there. Under this second portion--I understand you have your own set, so...

CHAIRMAN: Yeah.

MR. GUGGENBICKLER: ...criteria.

CHAIRMAN: Yeah.

MR. GUGGENBICKLER: Under the second portion, and I may have understood it wrong, is being an ec--would the fact that you are economically depressed give you a higher priority under your system?

CHAIRMAN: Well, it would be one of the factors added to the whole mix. The availability of other income would be one of the factors added to the whole mix, but remember that we've also said then, later, that regardless of the number of permits optimum for an area, we're going to include in the initial entry all of those is categories one, two and three. The only ones that would be left out were those where not continuing in the fishery would be only a minor hardship on them. In other words, most of the full-time fishermen--I mean, the guys that had been fishing, even as part-time fishermen, that had the--excuse me, consistently, they would be left in at the initial go around. Yes. Okay. Well, alright, thank you very much for your...

(End of tape)

SCOMM

#31:18

NO TRANSCRIPTS AVAILABLE (JUNE 1983)

LIMITED ENTRY FILES. SPRECIAL COMMITTEE ON FISHERIES CCSB 39, PUBLIC HEARING 3-20-73

TAPES 21 & 22

SCOMM

#31:19

would not do that.

If you ~~couldn't~~ didn't do it that way wouldn't you be faced with a situation where depressed hardship case fishermen from one fishery would then be more eligible than another category fellow from another. In other words, lets say in Kodiak, or in Bristol Bay you can't accomodate only category one, but in Kodiak you accomodated categories one, two and three, uh? Could the category two guy from Bristol Bay go over and supplant a guy in category three in Kodiak. That's what's suggested here.

Probably.

If that had a pattern of fishing in the past not too many people do, do they. That fish in both fisheries

I'm not sure that you, I ~~distress~~ distrust letting any measure of qualification for engaging any particular fishery be dependent upon whether he fished that particular fishery in the past. I think that is -

This goes back to my concern that you might merely supplant a group of the same amount of gear in the water, just moving other persons over to distressed fisheries from lower hardship categories

Well, I think what you would do would be to move people out of distressed fisheries into less distressed fisheries.

Right.

Hammond

Fletcher Maybe that's good, but supplanting people who live there who fall in a lower hardship category, polically--(indisc)

Palmer

Fletcher I think that's what we should do. That's what we have done, that's what we would do. That's the problem we would take care of if we go this way. We allow everybody in the same range of hardship in whatever fishery they are in. Suppose we went to No. 4 and changed the language a little bit. Instead of saying, "minor or slight hardship making continuance highly desirable but not needed". Suppose we said "negligible hardship making continuance unnecessary".

Fletcher That's a better differentiation. There might be some (indesc)

Palmer Still different than no hardship.

Yes.

Jackson I still can't see how an individual is going to feel that he knows which one of those categories he fits in. I just can't understand that. He won't know anything he doesn't know under the broader more flexible standards.

Fletcher He would have some idea. Till its made a determination.

Jackson Because nobody is going to admit that's it negligible hardship

as to him. He might say I only made $200.00, but this is my whole life you know, and I only fished for two years, but it means more to me than anything else in the world. And, you know, he isn't going to know if he fits.

How was he under the other one?

He isn't going to know either, but its a more flexible standard in terms of being able to deal more intimately with each separate fishery. Actually what I've been talking about doesn't really go to the five standard as much as the the A,B,C and D and E, which talk in terms, well you know, the things above for deciding how you get into those.

Those measured the economic dependence?

Yes. From the income standpoint.

The others measured investment gear and availability of other

But they tie income in with past participation rather than separating the broader notion of economic dependence from the notion of past participation which I just thought was more flexible. You can have some people that have fished not many years but they are totally dependent, and others who are long on history but of late they are not very dependent, you know, and there may need to be a balancing of those factors. You see what I mean.

This may be, and I don't know that one set of descriptive categories under that first one is better than the way the house bill has it or not. It seems to me the Commission could work with either one.

That's what is (indesc.) about either one of these categories, is that there is no way that anybody can look at this and have any idea where they stand, you know.

Look, compare the two. When you take, alright, Bristol Bay 1600, if that's the average, still we have our records that show that each year there has been something like 22% or better

In and out.

O.K. Is it possible for an individual to look at that knowing that has occurred and knowing where he's going to fit in that 1600. I think he is much less able to tell where he fits than if he takes these five rankings of hardship. He knows whether its negligible and really not necessary for him to stay in compared to "some hardship making continuance desirable but not strongly needed." I think there's enough gradation in there that most people would be able to put themselves in category 3 or 4. Certainly compared to the difference of knowing how many applicants there really would be that would be eligible to go into that 1600.

Dave, could you tell us how many there might be under that.

Jackman How many applicants?

Palmer Yes, how many applicants considering all those that have gone in and out.

Jackman For some of the in and out it is repeated. In other words you may be right. There may be as high as 20% ~~from~~ nothing one year to the next, but some of those people that layed out come back in, so the total turnover.

Palmer So its one other unknown factor.

Jackman That's right.

Palmer We don't know actually.

Jackman In terms of some of the responses we got in presenting this in the different areas there was a tremendous feeling of uncertainty in the original Senate Bill which said that the Commission can both decide how many permits there are going to be on some rather vague standards and can decide who comes in first, second and third, they didn't know where they stood But most areas if you go out there and look them in the eye and say, we're going to issue 1600 permits here next year and those people most dependent and have the longest histories are going to get in, there are very few people that feel like they are on the fence. They just come up to you, and some of them come up and say, listen, I know I'll be cut out because I fished halibut up until

last year and I'm just now fishing salmon. But, I don't care, we need it you know, we got to have it, and I can get back in or something. But that removed the largest measure of uncertainty when you said instead of having an initial cut you are going to stop it at the present level of gear. And the fishermen know who's been fishing, you know. They know what the fishery looks like.

Fletcher Would you be willing to set these numbers high enough so that you were sur down through category 3.

Let me go another direction first. In our bill we have language written in that may cause ~~fault~~ problems, I don't know. Its something we haven't talked about or needed to. Or page 11 we say, the Commission shall issue the entry permits for the three highest priority classifications regardless of how many there may be. And then we said, and to all applicants who have held gear licenses and actively fished with gear so licensed during at least two of the last four years prior to January 1 of 73. Now that certainly locks it in. They certainly know now whether they fit into that or not.

Fletcher Just a minute, I'm -

Jacobsen That's right. Your question is the legality.

Jacobsen? Yes.

Fletcher Right, that's what I want to get to, is the legality of that.

I think its the one you have there, yeah.

Too many, page 11.

It would be up at the top there, lines 5 and 6, some handwriting in there. It's a little hard to read. I think you can barely make it out at the top. It's cribbed in between the lines there. Billed in between the words, chapter and whether on line 5.

I don't think its in there.

It isn't on this sheet.

No, I don't think it's in there. It may be impossible to read (indesc.)

And to all applicants who have held gear licenses and actively fished the gear so licensed during at least two of the four years prior to January, 1, 73.

I missed that the first time out

It's something we ~~(indesc.)~~ just put in last week

It wasn't in the copy I got for you

My reaction is quite negative. I'm not sure I can articulate

it, but.

Palmer — I guess the only justification is to whether you can say reasonably that anybody that has fished at least two of those years rating would be adversely impact (ph).

Hutchison — You've kind of done an unneat thing. You've got a nice system all set up for hardship ranking and all this stuff and then here you suddenly come along and have one very specific little delineated standard by which somebody gets in almost independent of hardship you're saying you don't mean to say.

Palmer — Doesn't it answer this question of how does anybody know whether he's in or whether he's out.

Hutchison — Yeah, I think you get somebody mechanical. I think you can come up with a mechanical formula like that, independently, and then just leave hardship behind. But there are two different -

Hutchison — I think I had better leave hardship hardship in there.

Jacobsen — I do too, but they are apples and oranges. I think its hard to mix them, you know.

Hutchison — Well, this is why I asked the question I did a moment ago. Are you willing to settle for a system which says that the maximum number shall be, and then have a prescription there where you know for sure that would respect every fishery in the state that that

number is going to be higher than your total ranking of persons down through category 3 would include.

Palmer — Well, I think politically its less desirable from the standpoint that it would have less appearance of accomplishing anything as far as limited gear.

Fadman — Yeah. Although in the moratorium sense it would tend to do that. You have at least established a maximum that has some relationship to what's been done at sometime in the past (~~indesc.~~)

Fletcher — I suppose part of the problem is that you've had an honest fluctuation in those numbers in the highest number in the last

Fletcher — Wouldn't you say there was a peak five years ago that we're just missing with this four years. Is that the idea?

Palmer — Yeah, but Iguess that peak was not. The canneries leveled that peak off rather substantially by refusing to take new fishermen, more fishermen.

Fletcher — I see.

Palmer — Where the harvest was a great peak the numbers weren't.

130 Fadman — You can see that what it does in terms of four years. You look at Bristol Bay which is the most radical in terms of fluctuation. You see, register is one thing, the second line is fished.

Fished is more correct (ph)

So there is a pretty close.

Yeah. Actually 1710 would be your high.

This was an abnormally low. Is when it happens.

Well, I think where we come down is the extent that there is any worry out of this, I'd dare say, somewhat arbitrary line drawing has to be done when you are ranking people by hardship and unpredicability factor, although it seems to me in the long run you are going to come out with a better proximation of what we are supposed to be doing. Whether you can live with the uncertainties that that produces as contrasted to going to a system which sets a number high enough that you will be sure that you are not cutting out people that would otherwise be qualified under your hardship ranking fairly high up since its in category 3.

O.K. If we forego to a number like that and were in excess it would have to be in excess of 1, 2 and 3 in order to accomplish an objective, then does that automatically let in 4's also, so that we have more of a problem as far as buying out.

I think you do, I don't see how otherwise you can do it.

Hammond

Put a poor, have no buyout, or no transferability at all. She's dead when they're through.

Kubby

That's a good idea. David put that in, I noticed in this present version, as to category B you had somewhere down there where you had negligible--.

Jackman

Negligible hardship.

Kubby

Those people suffered some further restriction upon transfer-ability different from the others. That is to say as to them you require that if they transfer at all it had to be to the Commission. I think that you can take persons who are not suffering under hardship and do as our previous draft here did, start working up from the bottom and posing more and more restrictions on them. As our No. 3's had, they had to sell to the Commission and No. 2's and No. 1's could sell to anyone. I think you could adopt that and make that as the basis upon which you anticipate that you would start cutting down from the number of initial entry permits towards your optimum. We hope fairly rapidly.

Palmer

Let me interrupt a minute. Mr. Fleshauer (ph) I'd like to have you meet Chancy Croft. Senator Croft is an attorney from Anchorage.

Kubby

Nice to meet you.

Palmer

Chancy is going to come over and get in at the apex of all this.

Capt

Thank you again for coming back up.

Hammond — **Could you that (indesc)**

not only what David suggested through transferability in one category, transferability only the state but another category and maybe those with the very most modest negligible interest economic no transferability at all.

Hetzel — **Sure.**

In fact, I think one of our early drafts here we had it expire when the guy was unable to fish any longer himself, died or sick, no matter what.

Have it expire in five years.

Hammond — Failed to pay his assessment.

Palmer — How do you feel about those Dame (indesc.)

Jackman — Well, I think sure, you can do that. I think

Palmer — That would certainly take care of situation

Jackman — The more complex the problem becomes though, again I think the more difficult it becomes to both implement and defend just the sheer, you know, the more special categories and alternatives and, you know, I'm wary of it. You know its a very complex program anyway.

Rader

It used to be a Luke Goldberg program. When every little thing you could think of you build another little appendage here to try to handle it.

Maybe its become its because I'm not as familiar with it as some of the other fellows, but the fabric of thing grows in a manner that I'm sure that we could spend another week on this and would end up with eight more ~~opinions~~ privileges, and I really for the life of me think you have to develop a sytem that's more rational, more easily explained, more understandable. I don't think there is any way to make this thing quit growing. I honestly don't. Don't ask me what it is, but at this point every time we hit a leak here we stick a finger it it, well we've only got five fingers and if we stay with this boat long enough we're going to end up with six holes.

Palmer

Except that one of our thumbs went into this hole and we wrote in the requirement that this is only a privilege and that it can be modified and revoked so that we have taken care of the problem of that property right being vested in an individual and we can't come back later and change it. Secondly we're saying to the Commission, we understand that there are corrections and additions that are going to be necessary. You come back with recommendations to us for additional legislation to modify this next year. We know that in (indesc) as complex as this one we can't do the ideal job on it in one year. There have to be corrections necessary, just like there were in

your Borough Act or Community Regional Affairs program, and so on. Time is running out. We've got to do something this year and we've gone this far down the line and I think that we've got something we can live with for that period of time or we can come up with something here that we can. Maybe its complex, yes, but the point is still that we have to show the entire program. We can't just. Fletcher I don't think you can stop in the middle. I think you can simplify it by seeing it as three different stages.

Fletcher And launch it

And within those I don't, and two different sort of sociological consideration. Two sociological considerations are the people aspect, the presently existing fishermen and what you think about how widely used the resourse should be. And the other is the biology and economics of the fishing industry (ph) that so strongly tell you they ought to have fewer (indesc) people. The staging of it seems to me almost a necessity to require legislative treatment in these three stages.

What are you going to do as of the moment the bill passes? What are you going to do to get transition? And what are you going to have in the long run. Now I agree that the simpler you can make your system within each one of those stages the better it will be, I do wish (ph) you have to tackle the problems that are inherent in it whether you can come up with

a good solution and a simple one is perhaps up to our ingenuity, and I must say I think we're a little bit diffused now because we've had so many different ideas coming in all from different sources, and I think maybe after the afternoon wears on we will be able to sit down with a pencil and paper and reduce it to something that is a little more logical and primarily from chronological standpoint a bill that will read more simply. I think at the moment we're a little stirred up with some of our ideas and don't have them thoroughly enough differentiated. The numbering system for example has gone astray in several places, and things like that. And it will finally come out in an article and section bill that will be understandable. I don't think its going to be so bad, I do believe that the topic is of necessity complex enough that you can't pick it up and read it through once and expect to have the thing under control.

Palmer — Well, O.K. Dave, then you feel that if we were to go the route of setting this number high enough so that we have brought it in all these people we could defend it, we could get them out as far as the transferability without any property right attaching to it at all (indesc.) and the license is simply dead, the permit's dead when they quit. This is the route that you think it could go, you could defend.

Jackman — How would you go about setting your maximum? You wouldn't set it at the present level then, you'd be setting it at a set percentage above the present level.

Palmer — The concept was that we set it high enough that we are sure

that we have covered these people in categories 1, 2 and 3. What that would be I don't know.

Jackman

You can look at the percentage figures. In every fishery there's about 35% of the fishermen that catch about 4% of the fish. I don't think that there's a fishery in the state that you are going to exclude if you stop at the present level that you are going to exclude anybody that's subject to some (indesc.)

Palmer

You can't prove on those figures, Dave.

Jackman

No, but in your setnet situation is the worst one, and I think we all recognize that they are in the single set net site that's going to be abolished under either of these bills. It just isn't going to happen, you know.

Palmer

Why.

Jackman

Because that that they already have which amounts to limited entry because each one of those sites has been fished for a number of years and that is the present level of gear and you are going to maintain it at that, you know, under any bill, and there is multiple gear units that, you know, the worst that would happen under any bill is that you might lose a couple of nets on a given site, you're not going to wipe the site out.

Palmer

Take your figures from Cook Inlet driftnet figures would you please.

Jackman — Well sure.

Palmer — What do they say as far as

Jackman — Well they say Cook Inlet driftnets fished would be, the highest the last four years would be 625.

Palmer — Yes, but your percentage. The percentage of fishermen catching the

Jackman — Alright. Cook Inlet the driftnet fishery 27, the bottom 27% of the fishermen only catch 4% of the fish, and there is in almost every fishery is a group of fishermen at the bottom with a very, very marginal participants is all it indicates. They don't and they haven't for a period of time made much money from the fishery.

Hitchcock — How did they rank in terms of economic dependence?

Jackman — It's impossible to say. Some of them in some areas, some of those people will be, over in Bristol Bay area some of the Natives are move dependent. Make not much money and not many landings I'm sure. However, they're likely to still wind up in the fishery, you know, on the economic dependance hardship criteria. All I'm suggesting is that there certainly is somebody there that's marginal. There are people that you could cut out of the fishery now that arn't going to be hurt much. The hobby fishermen or the. I tend to get the feeling that we're almost, I don't think that there's anybody coming out under

either of these bills that's going to be hurt very much. I can't see what fishery, where it would occur. You know, the Governor's ~~initial~~ original bill which would have made it initial cut, yes, that would have stung some people I admit, because you would have moved directly to the optimum levels.

Hammond — Still there is one clearcut category the state demonstrate. The only guy that can demonstrate absolutely no hardship whatsoever being cut out is the guy who's never ~~done (gear (ph) much~~ had a gear license, right?

Jackman — Well, you're going to have a lot of people that think they're hurt. I suppose everybody's going to think they're hurt.

Hammond — One of the major concerns of opening it up for this year is a lot of people grab gear licenses to try to get the grandfather.

Jackman — Yeah

Hammond — What if you give that category absolutely no transferability?

Rader — What would we have then as long as we live.

Hammond — That's right. It seems to me the only distinction if you were ever going to go nontransferability you are never going to be able to make a subcategory distinction of mild hardship and modest hardship and incidental hardship on any other basis, and I don't think we would want to go that route.

Jackman — You are talking about opening it up as a free-for-all for one more year, letting those people.

Hammond — No, I'm not suggesting that. I'm saying that would be if you were going to establish one category that had no transferability at all. That would be about the only way you could do it, wouldn't it? I don't know how you'd shake down the bottom of the list otherwise. Well excuse me I

Palmer — So you feel that either system would be quite defensible.

Hatcher — I think so.

[illegible] — Maybe John's point is the one we ought to look to next. Which one would be the simpler, both to specify and to carry out.

I don't know that you can approach that yet without looking a little bit ahead in terms of the suggestion that was made here about the extent to which you crank differential obligations upon these people, including what they want to do when they want to transfer. Do you want to have that sort of thing, or to put the question more broadly, how are you going to go about getting your number down to the optimum.

Palmer — As we had it in here Bill, in this bill as we had it when you left today.

Hatcher — On a formula (ph) basis.

Palmer Yes.

Ketchum Would the formula basis have some sort of differentiation among permit holders and as to some of whom there would be a requirement if they wanted to transfer at all it had to be to the Commission. That is when they got ready to sell out they had to sell to the Commission.

Palmer Yes.

Ketchum Yes

Palmer Now, our formula said that a certain number of new entries would be available, a percentage of those that were bought out by the Commission would be available for new entry, and that basically the number would be whatever ratio was determined necessary in order to get the fishery down to the optimum level within approximately ten years. O.K. But then we want to add and crank in this thing that in no case should there be fewer than 20% of those that have been bought out made available for new entry. Now do you still think that 20% figure is something that is pretty important and needs to be maintained?

Ketchum Well, I must confess it's a kind of favorite idea of mine. Whether it would withstand attack (indesc) My reasoning is simply that we must present a system which cannot be characterized in oversimplified terms simply preserving the fishery for the people presently in it, and I think we have to avoid all the characteristics which might identify as being we are just now closing it out and nobody else gets in, and I

will want to see in it something that provided for new people to come in to it one way or another, and it just seemed to me this was a method by which we could get them in without substantially defeating your objective to get down to optimum levels. In other words for every five steps ahead you are going back one. So you're making progress at a fairly decent rate towards your optimum, and yet I think that one step back is a fairly important one because it tends to work against the other attack that's made that seems to say you just want to keep that fishery up there yourselves and you're not going to let anyone else in. The fact is we are letting sombody else in. There's a way to do it.

Fletcher So, it's a kind of a gut reaction thing. I haven't got much more to go on than that.

Jackman Professor isn't what you are really saying that clearly we have to keep an open fishery. We have to allow for new entry. We can't close it off and make it a local monopoly.

Fletcher Yes, at least you want to avoid the

Jackman And the '68 bill was open to attack on that basis because it was a 2 our of 3 year apprenticeship requirement and that kind of thing and it was held by the people in the local area.

We discussed this Sunday, and the point that I felt strongly about is that we've gone to bat on this free transferability

in terms of saying that if these permits go to the fishermen, not on the vessel but on the fishermen, that they are freely transferable, and that's an open fishery and It unrealistic to assume that the fisherman, well it would be illegal for them to band together, you know, they're going to, it would be the same thing as saying property ownership in Juneau is open even though you have to buy from somebody that owns property now. It's a free and open market and any citizen of the United States can come up here and bid and operate on that market, but it's my feeling that if we are wrong on that, if we're wrong in saying that transferability keeps this an open fishery then we're going to lose the bill even if a very small percentage of the permits come back through the Commission, and we should have done the whole thing that way in the first place.

Into the Commission, bid or lottery.

Because it's only going to be a very small percentage that would come back, 20% of those that are resold to the Commission, and of course that's only going to be, say, 10% in any year at the outside, so

(indesc.) on what you've done on the transaction.

That's right. Right, in other words in the Committee Substitute Bill that we looked at Sunday in categories 1, 2 and 3, their permits are, no 1 and 2 are transferable. 1 and 2 are transferable. 3 has to sell back to the Commission. Only 1 out of 5 of those would be reissued through the Commission. In any given year most

of the turnover is going to be via transferability of categories 1 and 2, and only a rather small percentage of the other, back through the Commission.

Palmer — You're assuming that the majority of fishermen are in 1 and 2. I think that's an erroneous assumption.

Jackman — Well at least it would vary from area to area. Some areas they would almost all be purse seine fishery as an example, almost all those fishermen would be in 1 and 2.

Whitehead — You are also assuming that those persons in 1 and 2 can sell either to the Commission or to the state, or to the Commission or to another person. In dealing with the Commission you have ready cash right there, bang, and I think that this is probably going to encourage some sale to the Commission.

Jackman — Well, O.K. All I'm trying to say is

Ketchum — I'm not sure how worrisome your worry was that a free transferability system invited some sort of invalidity on the theory that since the fellow is a free agent in deciding to whom he wants to sell that he controls who gets in.

Jackman — I think that's

Ketchum — I had a terrible argument in this case (indesc.)

Jackman — I thought that was a very poorly reasoned opinion, didn't you, in terms of value (ph) and it doesn't make any sense. (Bazanich)

Fletcher — I can't believe that that's going to be the Waterloo of the system.

Jackman — No, I don't think so.

Fletcher — It just doesn't concern me.

Hammond — It's another one of my unconstitutional bills.

Hammond — That's what I like to hear.

Whitehead — At least you lost the bill in the wrong (indesc.)

Hammond — Yes, that's one comfort.

Palmer — Of course we've done that on several wrong grounds.

O.K. Now, so you're both in accord insofar as I can see then about the transferability as far as free transferability not offering any real problems as far as keeping this thing constitutionaly honest. Professor Fletcher feels that its even better as I understand you're position then. You feel it's even better if some of them are coming back through the Commission

Fletcher — Yes, I do.

You may not have any hangup on the other but it makes it that much better that.

Palmer

That's (indesc). I must say I was thinking of this in the context of an operative effect in which perhaps there was not a great deal of outside transfer, in other words that this might be a more major factor than we're predicting that it might be, that is the fact that one out of every five goes out of new issue. That might constitute a fairly substantial source of new entrants.

Fletcher

Jackson

How would those permits be reissued, the one out of five?

Fletcher

Lottery, applicant pool or bid.

Fletcher

I don't think it makes much difference.

I thought this 50% compromise was a pretty good one.

Jackson

It seems like the only reason though to have that is if you felt you were really weak on the transferability; otherwise, every permit that comes back to the Commission if you're above the optimum well we ought to retire. I mean that's the object, isn't it?

Fletcher

That's only one of the objects. There's another negative object. That is that you do not want anyone to get the idea that this is a closing of the fishery for the benefit of the

people now in it, and I think you've got to have it look as if it's not that.

Jackson — But you just said that you didn't think there was any problem if you've got free transferability.

Hutchinson — No, that's right. And as I say, my thinking in terms of having this one to five available for new issue was in the context of not having much by way of outside free transferability.

That would not constitute a very major factor or, for some reason you restricted it.

For example, this morning I was playing with the idea on the way up here of a system that would be even more restrictive toward getting toward the optimum numbers.

I'd set it up on a five year basis. I don't know that that's so critical, but pick your years - some reasonably short time in which there was no differentiation among persons at all in terms of hardship categories. Simply saying with one exception and I'll pick up a [illegible] that's essentially a very hardship hardship case. Simply saying that if and until within each 12 months' period the Commission has achieved its schedule of how many it gets to buy, or gets reacquired that there shall be no outside transfer, but if within any 12 months' period they have got in the quota that they have set for themselves for that 12 months' period, well accumulated over so that

their total reacquisitions are up to schedule, then for the remaining of that 12 months' period they'll have free trans. but then stop it again and the next 12 months' period go on again. Now then, under that type of system, for example, it would be to my thinking more important that you have this kind of a new supply of new permits becoming available on some kind of a ratio basis as for example when to buy (ph).

Because of not having not done all this on free transfer. (ph)

I was cutting down on that free transfer because I wanted to make this reaching of the goal really a realistic one to get down to the optimum number.

All that you could issue, you could start out and issue to everybody.

Yes, that's right, that's what we've been talking about. (ph)

Completely get away from this.

Yes.

Issue to everybody and then don't transfer them until you get to the level.

And maybe under you're hardship rankings this was facetious when it first came up, but maybe as to some of them just make it a five-year permit, period, it's over with.

Let me carry this example through. If we said no transfer and issued them to everybody, and then had only new entry through the Commission and reissue by the Commission, then we'd be right back in the fire in terms of insuring that reissue was done fairly and squarely with no discrimination to non-residents. In other words, then the reissue would be the only thing that could possibly save the program, right? Otherwise it would be a closed fishery. In other words, that would be the only place new entry could come from.

Yes, that's right. That's why I say you want to be sure that you had some new entries available and that you prescribed them.

O.K. By the same token with free transferability if it works, you know, like we expect it to the new entry problem is going to take care of itself through the market place we would assume. Right?

I suppose we could assume that, that if ~~need~~ indeed you have very little restrictions that the hazard that you run, I think, of this free transferability stuff is that you're not realistically going to be approaching your optimum numbers. You're going to be riding along on high numbers all the time and I think you've got to have something that's got a lot of teeth in it to make sure that you get down to the optimums.

Why can't the Commission, like under the buyback programs in both these bills the Commission just comes on the market and every permit they buy up with the buyback assessment is retired.

They just operate like any other bidder for a transfer permit. You know, granted that may be more expensive but it's purely voluntary and if you could raise enough money you could get down to the optimum level, right?

I suppose you could. I don't know whether you'd want to go on the open market and buy them but

Haven't you effectively closed the fishery when you do that?

When you do what?

If you're offering a premium, bidding in other words. All these are completely transferrable and the state says they're bidding for every one of them, then what opportunity do you have ~~to~~ for new ~~(indese.)~~ entry

When I say bidding that assumes that the Commission isn't going to. You know, certain permits come on the market. Some are going to go to private bidders and some of them the Commission will bid successfully on. They aren't going to get every one. They wouldn't want to. Then they'd be the whole demand. Buy back from them wouldn't work. If the Commission is buying every single permit that's offered because then they're going to be the only component of demand and it's just going to go sky high, the price of the permits, so it would only work if they came on to the market and bought a nominal percentage, 20% or ~~50~~ 15 or established. And then they'd come into the market

without disrupting it and buy some of those permits off at a slower rate. That's why I think the suggesting in the substitute bill was really valuable, because if you create a class of permit holders that can only sell to the Commission at what amounts to a pegged market price, fair market value, then you're not going to have the buying up by the Commission push the value, you know, push the price, the market price of the permits up as much, you know, as it would if they had to come on to the market and bid against private bidders for every single permit they took back.

Fletcher I suppose you could work it out mechanically. I would assume that even on your purely purely private sale if you tolerated it you would, at least I would set it up so that you routed it through the Commission, maybe not the money go through the Commission but at least they had to be party to the new issue process and incidents of that I suppose you could give the state the opportunity to up the bid by 5% and buy, or 1% or something.

Rodda Wouldn't you also simplify it if you're going to depend upon the buy back on the voluntary market, in entering the market then you could do away with this provision here where it says that we're going to pay people for not getting in in the first instance.

Let them in. Let the market be established and start buying it back. This idea of paying people, you see, there isn't any market value on this thing here of paying people for not getting in, for reparations.

No, it calls for an assessment of the value.

Rader — But why would the way to do that, to find out what that value is worth is to let them all in and then start buying back then.

Palmer — But basically The ~~places~~ where you're doing that if you follow the 1, 2, 3 category here, the only ones that you won't have in will be the No. 4's and 5's. The 5's (indesc.) license. They won't have anything anyway. The 4's primarily is going to be the fellow that's just doing it as a hobby and he's probably not going to sell his boat anyway, he probably has very little of any gear to sell, and so I don't see that you're going to have much in the way of a buy back of those 4's.

Rader — Well how much are you going to pay him for this? This (indesc.)

Hammond — His permit is

Palmer — Well, I don't think you say you are buying his permit. You're just compensating him for the direct economic loss resulting from loss of value of investment.

Hammond — You mean if a guy is squeezed ~~is~~ out

Hutchison — He doesn't get one (indesc.)

Palmer — Yeah

Hutchison — This is not what John's proposing. John's proposing to issue him a permit.

Palmer — But the price is going to be the same, John.

The price the Commission pays to this guy who has little in transferability is going to be still the market price determined by those free transfers by whatever bids come into the Commission so he is going to have the same value as far as receiving his value for this permit. It's not going to be a different.

Rader — I see, you're going to pay him the same price.

Palmer — You're going to pay him the same thing.

Rader — The idea is though that he can't hold for his children like the other guy can.

Palmer — Because there is not as much hardship involved in the first place.

Jackman — He can though. He can pass it on to his children.

Fletcher — Well, we haven't talked about that.

Jackman — He doesn't have to, but under the substitute bill and the one we drafted up last night if he wants to hold on to it he can pass it on to his children. It's the same kind of an entry permit. It's just if he, the only restriction on his transfer is during the period of time when you're getting down to optimum levels if he wants to get out, he can only get out by selling to the Commission.

Roden — This doesn't make any economic sense because if you're paying him the market value, then why the hell don't you buy them from the other guys who are selling out too at the market value.

Palmer — Well, you can. / Roden — You insist that there's a market value there and that's going to establish it, what you're going to pay him. You're going to pay him the same thing you paid anybody else.

Palmer — That's right.

Roden — Then why don't you just buy permits?

Palmer — You do. / Roden — It doesn't make any sense.

Palmer — Ah, wait a minute John, it does. If 1 and 2 want to sell to the Commission the Commission will buy. You're offering that market to 1 and 2 people also.

Roden — Let's assume they're selling for $4,000 in a particular fishery. If 1 and 2 are trading in the market. It's establish $4,000 is what a permit is. So a guy is a No. 5. He gets ready to sell.

Palmer — Oh, you don't have any 5's.

Roden — Or a 4 or whatever the hell it is.

Palmer — Go back up to 3, that's where we're

Rader — 3, alright, No. 3. He wants to sell. You're going to give him $3,000.

Palmer — No, we're going to give him 4,000, if 4's the market price we're going to give him 4.

Rader — Well $4,000, the same as the market see. Well what's the difference between buying it from him and buying it from one of the other fellows at market.

Palmer — If 1 and 2 want to sell to the Commission the Commission will buy but you're giving them the added advantage of selling directly within their family if they wish to do so, which is one of the big hangups of the professional fishermen.

Rader — But, you've got a free market of $4,000, then why don't you buy them out of the free market of $4,000, why does it depend upon anything else than that? Just buy them out of that free market at $4,000.

Palmer — 1 or 2 or 3, what are you talking about? (who?)

Rader — The free market that you say is going to exist. The transfer of the permits.

From 1 and 2.

Well, I guess it's 1 and 2 then.

Palmer — Alright, fine, you do buy them out if they will sell to you, but if they want to sell to somebody else for that same money

Rader — But we don't understand it being a free market then. Free market means that you offer to anybody that will pay you the $4,000.

Palmer — You do offer that.

? If it's a free market, right.

? Then what difference does it make where it comes from?

Tillion — Well, in a small fishing community the free market isn't going to be the same as you're thinking because none of these fishermen in a village are going to put that license up to any buyer. In other words they might require that any buyer meet the going price, but they're going to sell it to their neighbor's kid and to their friends. They're not going to sell it to the state if they can keep it in the village.

Looks like what you're doing is you're saying this category that are part-timers, not necessarily, you know, ~~in business~~ indigenous to the fishery have no choice when they want out. They have the choice, they can hang on until it becomes theirs or they can just sell out, but they have to sell to the Commission. It'll take it out a little bit quicker. Is there anything unconstitutional about it.

Well, you're not describing a free market then. We got a free market or haven't we. A free market means that poeple go in to it and they sell generally speaking to the buy that will pay them the most money

Rodn

Fletcher His is just as good as anybody: elses.

? Then you start buying them back (indesc.)

Fletcher ...is going to be more valuable.

Roden The problem of treating different citizens here with transferability really bothers me. It's going to treat one of them differently than another one. One of them is going to have a $5,000 bonanza in five years and the other one isn't when in both instances it's a public resourse. Neither one of them paid for it.

Palmer Which case are you talking about Where's this going to apply? Not under our bill, it doesn't

Roden Well, if you change it though and if you put that a guy under 4 or 5 doesn't have any transferability and 1, 2 and 3 does.

Palmer If he's in he doesn't.

Jackman Under this if he's in 4 and 5 until you get down to optimum levels he can transfer only to the Commission but if he holds it until that time and lets the voluntary buyback run its course, then he's got just as good a permit as anybody. He can sell transferability (ph) He can't sell his permit.

? He can't. Anybody else could sell it at any time.

Fletcher ...to a point in time after your initial issue, considerations that pertain only to initial issue circumstances, in other words once you've got past the initial issue times, then I'd think you'd have to treat everybody pretty much alike.

There haven't been any other (indesc.) that people be measured by what they have done in the past. All they have to do is be presently able and willing to fish.

I would suggest not having that requirement upon those who participate in the lottery.

Palmer You say we have'nt at any other time (indesc.) Of course we did in initial entry.

Fletcher That's right but I think with respect to initial entries the reason that you're justified in doing that has to do with the hardship aspect ~~respect~~ of instituting the system.

Palmer I see.

Fletcher You don't have that operating for you anymore once you're past that point.

Palmer Well, of course we are faced with the problem of the number of crewmen that have operated for many years and are not eligible

under this thing and believe they should have some advantage over others.

Kind of a priority system.

Some sort of a priority system, and that was the reason for it.

I can't think of any way that I would feel comfortable giving them any priority, unless you go to a system which requires or specifies rather details standards for whose to get your permits, and I don't think you really want to do that.

O.K.

How do you feel about that aspect of it Dave?

I'd agree pretty much with, precisely with what you said, really. After the initial issue the only thing you'd be doing with past participation is preferring crewman, is about all you'd be doing. I think you're on real dangerous ground to do that.

How are you.

Hi, it's good to see you.

Take off your coat and stay awhile. You've got a chair right

down there I guess, and have you got bills available for him. Really it just ... (indesc.)

Palmer This is the redraft.My question to Mr. Fletcher was our draft as of about Friday or Saturday, Friday I guess it was,

Fletcher Saturday.

Palmer Saturday. What difficulties surrounded that and in one case we said as far as subsequent issue that a certain number of those that came back to the Commission and would then be made available to the public on a 1 to 5 basis or something like that, but half of those would be available under the lottery, and of those available under the lottery system, we said they should come from an applicant pool where experience was a factor,and the response has been that there is a problem there. That we're treating them differently than we do other people and ~~the reason why it is so~~ finally split wise and it (ph) probably should not remain in the bill, to provide for that applicant pool the experience factor in those who would be eligible for the lottery.

Fletcher Well, what if you had just a lottery without the qualifying

Palmer No problem there.

Fletcher No problem in that.

Fletcher What's the purpose Bob, well I don't want to interrupt. Where

were you here, you go ahead?

Palmer — Well, (indesc.)

Well, what was the purpose here of breaking into these different this transferability, your 1/5th, do you propose to have some of them on a sealed bid.

Palmer Alright, let me tell you overall then what we were doing as far as we're going is concerned.

Palmer Jay, you haven't met Professor Fletcher.

Palmer — No, Bob Fletcher, Jay Hammond.

Fletcher Glad to know you.

Palmer He was past president of the Senate last year. He's going to loaf this year, so he's on a busman's holiday.

Hammond Excuse me for disrupting.

Palmer No, no, we just got through. He is a set net fisherman in Bristol Bay (Indesc.) ~~Bristol Bay~~, guide and all round trouble maker.

Hammond I'm not an attorney. I won't bring that up.

Fletcher That takes you out of the category of trouble maker.

That's right.

Who else were we expecting now.

(Indesc.)

O.K., here's what we were doing. We were saying essentially as far as transferability is concerned that we have two groups of people that we're letting in. Those who are very dependent on the fishery and whose who have less dependency. We're told not to let them in, but when it comes to transferability then we are going to keep them in. (indesc.) those categories 1 and 2 over hardship is real great (indesc.) we allow them free transferability at this time. ~~and~~ Now we've always got this modifier in that says we can go back later to revoke and modify as we see fit, as experience dictates. But in the beginning category 1 and 2 were hardship as the extreme then we allow them free transfer. It does go through the Commission but essentially it's still a free transfer. Category 3, those part-timers, part time fishermen, who can sell only back to the Commission. They can sell at a fair market value as determined by the Commission and a portion of those that sold back to the Commission then become available as new entry permits so that the fishermen themselves on the boats, the fishermen wherever they are cannot control who gets into the fishery by simply refusing to sell to others other than those whom they desire to sell to (indesc.) and brother and such if they wish to do so. We're insuring that the thing is available to the general public by the Commission themselves selling a portion of these.

(Indesc.)

Palmer one out of five of those that are ~~(indesc.)~~ funnelin ...

We said that of those that are going to be made available to the public, half of them would be made available on a lottery basis, and half of them would be made available on a bid basis, on a sealed bid basis, and that's where we are at this point. The fair market price would be determined by the Commission and would be a combination of the two factors, the bids they receive and their monitoring of the free transactions taking place between the other group of people, the extreme hardship cases where they are allowed to sell theirs as a free market.

Palmer O.K. You mention this was one place where you had problems.

Hutchinson The only place.

Palmer Really that was the only place that you had problems.

Hutchinson There might have been a punch here or there like a word or so but I really didn't read it with that much care.

Palmer O.K. I think, Dave, one of the things, well why don't you go ahead and talk then about the things that you and Dave discussed on the phone yesterday I guess it was, and well, alright.

Hutchinson Well, we were talking about the initial issue and the problems

associated with deciding who's to be given that permit in the initial proposition. Dave had some concern about the workability from the standpoint of the individual fisherman looking at the system before it operated on him out of the five hardship categories and those categories do indeed take on considerable significance because its where you fall in those categories that determines whether you get the permit or not. Now his system worked a little differently although I don't know that the result reached would be any different. He would pick out as a first step a so called maximum number of entry permits to be issued for each fishery based upon some just figure, number, taken out of the past usually I guess

Palmer Enough to hire the people that are normally fishing?

Hutchins No, how many gear licenses

Palmer This is different, it was the highest, no less than the highest in the last four years.

Hutchins In fact I'm not even sure you'd say no less than, I would say it would be better if you just said, it shall be the highest.

Jackman Well, that's to take care of all the fisheries where we're away below the maximum. You see we've got some fisheries that were below the maximum level and we don't want to shut those off prematurely. So, no less than, accomplishes the same purpose.

Hutchins I have another remedy.

O.K.

There was this idea of fixing a maximum and then that was impersonal and then taking all your applicants and ranking them in order of severity of hardship that would be imposed upon them but without by that ranking committing them to whether they got a permit or not, but then taking for each fishery that group of persons and feeding them into this maximum until you've reached it and whenever that hit on your list of people that you've ranked according to priority and hardship aspect that's where you'd cut off. And I gather that if you have picked that maximum to be equal to the number of permits the highest number you'd issued in the past four years, any one of the past four years, that you will be pretty far down your list of hardship people before you hit it, before you reach the maximum. I don't know but I would assume that to be so. So that you may come out with the same number of people approximately receiving initial entry permits. It just seems to be a different mechanical way to arrive at it, and I can see no objection to his method as addressed to the method we have here. I don't that his is any better. They're both going to get to the same place and I think both accomplish the same thing. There are a couple of points that come up of a sort of a minor technical nature of draftsmanship perhaps over some little possibilities of altering here and there such as the fishery that's already below the optimum, but I had some ideas as to how you might approach that, but the basic proposition is as I describe it and it was simply a difference in approach

I think. I didn't really feel that one was good and one was bad. Both seemed to be quite workable.

Let's consider it from this standpoint. If you say that your maximum that you are going to allow in the initial entry is going to be the highest number that have been involved in the last four years, then its certainly conceivable that because of the turnover we have that we'll reach a point, we're setting an absolute numerical figure then, and it's certainly possible that we'll reach a point where that last man on the list that gets in will be very little different really than the next man below him, and we're drawing an arbitrary line then because of the number that happens to pertain to the situation. On our approach, however, we said that anybody within this field of hardship, and perhaps when they have a defined amount of hardship concisely enough, all those people would be allowed in ~~that~~ and there there would not be this very fine dividing line, or we didn't intend it to be. Rather we intended a dividing line where it was a substantial amount of their income and it was, O.K., the line which is there, strongly needed, alright, desirable at least, not strongly needed. O.K. And maybe we can argue terms and maybe that's the problem here, is just how we interpret the difference between 3 and 4. But we meant 3 and 4 to be a rather significant division in the two wherever there was a substantial amount of income and substantial amount of hardship that then would result in them not being in and all those people would be in. The ones we leave out are those where it really doesn't make a great deal of difference and there has been no substantial amount of income derived from it. Now,

again, that seems to me a rather significant difference between going that direction and setting up an arbitrary number and saying this guy gets in because you're a tenth of a point above the next guy and we had said there were only going to be 2,000

Hutchins I think the mechanical way in which Dave had done this was to say that in his ranking of people it isn't an absolutely smooth continuing of each person on a scale of numbers but groupings as you move down, and when you hit the last group without specifying what those groups consisted of, how you described them, that whenever you got down there you ran out of or could see that you were going to use up your maximum within the last group you chose that, the persons who received by lottery.

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Rodda Well, but even so

Hutchins You're point's valid. I have not objected

Jackman Let me just add to that because I think under either system there isn't going to be a dimes worth of difference between the guy on one side of the line and the guy on the other side of the line. The guy who is the last man chosen, or the last priority classification chosen and gets it by lottery under this system or between the last man at the bottom of category No. 3 and the first man of category No. 4. And that's precisely the reason I think it's legally significant to tie the number of permits to be issued, which is going to decide who gets permit s and who doesn't, to a determination as to what are we going to do. Are we going to stop the gear at the present level or are

we going to stop it at an optimum level and then say we're going to issue permits as fairly as we can to that level of gear rather than trying to say we're going to look at people which are arranged on a continuum and decide just that some of them deserve permits and some of them don't, and I think it's the weakness of the, I mean the fact that there isn't much a difference in the guy on one side of the line and the other that makes it important to tie the initial issuance to the level of gear rather than to a decision that some people more deserve to be in the fishery than others - and just to say that we want to hold things at the present level, and in order to do that some people who have fished sometime in the past are not going to be able to qualify for permits.

The thing that worries me about that is that as far as I can think of it at this concern I believe that the only reasons you say that particular people are entitled to have initial issue of permits in any fisheries where there are too many people fishing or too many units of gear is that it is a personal thing and we've looked at each person and said, as to you it would be too hard on you to be booted out by the legislative enactment of this system, so therefore we'll let you stay in, and that seems to me a very direct measurement of the very thing which makes it within constitutional bounds to have this limited number, and if you measure directly I don't know how you can be wrong, even though you may have to distinguish between person A and person B when you finally get down there and say, I'm sorry these are the categories you fit in. On

the other hand if you go at it by setting these maximums it seems to me you do get into difficulty of being somewhat arbitrary in deciding what your maximum is going to be, and the only, I don't know how I can say that you're sure that its more than the total number, you don't have to make sure that it is. You can make sure that in some instances it is less ~~(indesc.)~~

Mr. Mikkelsen: No. I don't come up with anything wrong with the maximum system but I do defend the other system.

Mr. Jackman: The place where I think that the other system tends to break down, if we were dealing with just one fishery it would be fine but we've got 12 different areas and very, very different kinds of fisheries and some of them were way above the maximum or optimum level, I mean away up where we should be. Other places were closer to the optimum and the fisheries were also different, very different in terms of consequences in terms of hardship. In other words, in some fisheries nobody is 100% dependent on the fishery; in other fisheries 50% of the people are almost totally dependent on the fishery and other fisheries almost everyone is totally dependent on the fishery, so if you were dealing with one fishery you know, I follow you, there would be something less arbitrary about saying, let's rank ~~take~~ these people and decide on the basis of hardship we shouldn't knock anybody out above here, but in terms of all of Alaska's fisheries it seems like the only thing to peg on is a legislative determination that we need, its the moratorium concept, we need to stop growth at the present level and then assess the optimums/and levels in those

fisheries where we've got too much start working back in the other direction.

I don't know that either system contemplates not doing that.

No, both do it.

I was suggesting though that under the hardship categories in some fisheries there would be people in category 4 that are harmed much more than some people in other fisheries in category 2, because unless you're going to wind up in a given fishery most of the applicants lumped in only one category you can't really compare a set net fisherman in Bristol Bay with a purse seiner in Southeastern. Who would be within this category No. 4 in both those fisheries. It would be only relative determination.

Relative to what though?

Relative to the other people in his fishery, not

But these are standards that are tentative whether he fishes with a hand net or anything else.

They can't be because each one of these is developed as to the particular fisheries and so if you have purse seiners in 4 and 5 they won't compare in any sense with drift netters in 4 and 5 in terms of the very hardship standards that you use to put them in those categories.

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Why shouldn't they?

Well, I don't understand, if you're making hardship out of both it wouldn't matter what the fellow who fished

Well, what I'm suggesting is you can compare relative hardship within the driftnet fishery or within the set net fishery and say these fellows fish in the same fishery, they face most of the same economic problems and they fish the same fishery, so you can say some of them will be harmed more and some of them would be harmed less, but you can't compare hardship in that fishery to hardship in the purse seine fishery.

? They all are being (indesc.)

That's precisely what we're purporting to do. You may come up with variations from fishery to fishery as to how many people or portions of the total people had taken part that fall within a particular category of hardship. In some particular fishery you might have 100% of them falling in No. 1 category, in others you may have very few there, most of them farther down the line, but you have set up standards that are independent of the fishery. You're talking about the individual's economic dependence. I could compare people who were engaged in wholly dissimilar occupations in terms of economic dependence upon their occupation.

O.K. Then I'd say that there's this difference, just to sum up our discussion. In this creates hardship standards which are

independent of the particular fishery, whereas the design in the other approach is only to compare likes with likes, to say who is harmed more and who is harmed less within the given fishery, not to set up some sort of overall.

Well it seems to me that that gets into problems because the excuse, the reason, that it's permissible for a state to say, well you get a permit and you don't incident to the imposition of the new system is that we are being humane and saying to the one fellow who gets the permit, that as to you it would be a terrible hardship on you not to get it. This other guy over here, it isn't any hardship on him at all. So we'd give it to him on the basis of hardship.

Well, it's a hardship to everybody who doesn't get a permit. The only way you can justify it is that you have a legitimate state purpose to reduce or stabilize the level of gear, and I think if that falls then you can't justify parceling out the right to fish on some other basis.

Maybe we're disagreeing on fundamentals. I don't have any question at all but that the state is wholly justified in having the system of limited entry. I persuaded myself of that ten years ago and really don't have any concern about it anymore. The only problem seems to be that we face has to do with the institution of the system to get it underway, and its with respect to that we're getting into all kinds of problems. And as a premise here I start with the proposition that reasonable steps taken to grandfather

people into it are tolerable and unreasonable ones are not. And our only function now is this latter one, to decide what it is that's reasonable by way of sort of moving from the past to the new system, and it's upon that it seems to me that the only significantly measurable factor is this idea of hardship. I don't know any other factor that you could legitimately take into account that would differentiate among people except that you might insist upon a skill for operators or something like that which would not be instant transition any more than it be to the long run operation.

Jackman I follow you, and I agree, but what would happen if in fact when you implemated these five categories in some fisheries by letting in all of the top three you work above the present level, and other fisheries will run below the present level, so what I'm suggesting is, you would making the initial decision as to who gets in based not on the legislative ~~process~~ purpose of stabilizing gear at some particular level, either through not letting an increase or a decrease but on the idea that some people have the right to be in the fishery and others don't have the right.

Uchida By legislative grace its permissible to be exercising (indesc.)

Jackman Well, I agree with you, maybe both would work, maybe either system would work but what has made me nervous is seems like if the state gets into the business of on down the line deciding that only a red headed Irishman have the right to fish, I mean

whenever they start deciding that some classes of people fish and not others it's heading toward trouble.

Hetcher I can agree

Jackman And the more that they can focus on their objective of stabizing the level of gear, you know, getting off the classification of people as soon as possible.

Hetcher O.K. But then you see, first of all to repeat, the only reason I think it's tolerable at all to let presently fishing people in is to ~~leave the~~ alleviate hardship ~~item~~. I don't see any other justification for it.

Jackman Well the justification is in preventing economic waste and promoting sustained yield management.

Hetcher No, no, no, I'm saying in determining who gets in.

Jackman Who would be harmed the less and who would be harmed more.

Jackman That's right.

Hetcher No. On the bald proposition that you can say that we're not going to have any more than so many fishermen, as I say, I've passed that one a long time ago. I think they're all on good grounds on that, and our only problems I think are the who of

it, and if you don't want to grandfather anybody in I'd go home happy.

Fuhrman The fellow that worries me is the guy that is in category 4 and fairly high up on the list in one fishery, and he gets cut out whereas in another fishery just because the, you know, just because the level was different. You're gonna ~~You don't~~ let in people in 4 and 5 and create a viable right. So, although it might not be as valuable if its the kind of a fishery that will stand some more fishermen, maybe it isn't all that remunerative it's the reason it hasn't had any more fishermen in it.

Palmer But now wait, there's a difference. We have guaranteed 1, 2 and 3 in everywhere. We haven't guaranteed that 4 and 5 would get in. Whether they get in or not is a function of the amount of gear in the water.

Fuhrman Well, it seems to me like the better guarantee would say among whoever gets in the people that are most dependent get in first and so on down they continue, but to lock in 3 categories seems more arbitrary than the other system. That's all I'm saying. I don't think either of them, I don't think we disagree basically. It seems more arbitrary, ~~as~~ because in some cases you're going to let in more than that, yet you want to

Weber I don't. On the proposition that a particular fishery is more overfished than another one, it seems to me that's one of your givens, you have to work with that. Another given that you're

working with is the proposition that you're going to alleviate hardship. Now those won't not necessarily coincide at all.

But if you're going to take both of them as factors that you must adapt to and provide some legislative solution to get to where you want to be, O.K, all that'll mean is that in that fishery that's heavily overfished and as to which as it turns out there may be an awful lot of people soley dependent upon your're going to have to put up with the fact that you got a lot of people going into it as initial entrants. The only thing that you've got to follow it up with, I think, is a fairly severe, rigorous schedule reduction system to cut down that number, and then that shows that you really meant you said, that you're after an optimum number of fishermen rather than passing around the livelihoods.

Yet in the very fisheries that are most destitute under this system would be the fisheries where you'd let the most people in at the outset and that buy back program would be the most expensive and onerous on the people that remain in the fishery.

It would not as expensive in the sense that the gear or that the value of the permit which you are going to require (ph) may not be worth much as much.

And that there are a lot more of them.

on the state's part to let more people fish next year than fished last year. So and then the problem becomes, how do you decide of all the people that have fished in the last number of years who gets to fish next year and who gets kept out.

Hebert I think I could defend either system and I think you've essentially got a legislative judgment really to chose where you want this to hit among all the people of the state (ph). I think to take a heavily overfished area where we'll assume probably, I guess the facts are the proportion of the persons who fish in it are probably the ones highly dependent upon that fishery, and to take that kind of a fishery if you set this number in such a way that you, as one draft had it, the one I got in the mail as contrasted to the ones before me now, where you'd said in respect to three particular areas, Bristol Bay and I forget where else you said, that it shall be not less than 75% of a certain figure, implying that you might come up with a number less than the maximum otherwise would be. You may very well cut across right about in the middle of category 2 of our hardship category, something like that, and what you'd have to tell those people in that category, in that geographic area, those participants in the fishery, that it's just tough, that the other demands on the state were so strong that we had to do this to you. I think I could defend the state doing that, whether I would vote for it as a legislator or not.

Palmer Do you agree that either one then is defensible very largely.

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over there, if you let 1600 fishermen in and anybody who had fished in the past could apply, and your thinking of, you know, now you've got what, about 2,000 or 1,900 in terms of drift gill net.

Hammond

Well they had 1800 actually last year. 2,700 registered, but I suspect among that overage up to 2,700 there are numbers of persons that are just as qualified as persons who actually participated last year. I don't think you're going to cut out many in the truly hardship cases, but you are going to cut out in number 3 where I think a number of people that, most of the people in the villages are, you know, Dillingham and Naknek are not really when you get right down to it, hardship cases. One of the major reasons is it would be awfully hard to demonstrate whether or not you made that $2 or $3 or $400 in the last few years contributed substantially to your wellbeing. It's been so small that it hasn't done so in the last few years. That's one of the problems. So they've all had to hustle around and try to do something else, and many of them, particularly in Naknek are doing something else, and a lot of those guys are going to be left on the beach if you cut (indesc.)down a little way.

Johnson

If you cover hardship categories like this you're going to have apply them equally to the guy in Anchorage or the guy in Seattle (ph who only gets 2 or 3 hundred dollars. So, you know, that's with the broader more flexible standards I thought at tne outset you'd be able to cut in favor of those Natives more, cause even though

Kelley The individual unit won't be so much more. It won't be as much I suspect.)

Kelley But I don't see any other way than to approach that and take that as part of your given problem there. You do have too many people in these fisheries. The ones that are heavily fished are also the ones where you've probably got heavy economic dependence. You've got to do something with these people. You can let them in as I think you probably are going to let them in initially, then I think you have to combine with that a fairly tough system for getting them out. You don't have to get them out the first year, but there has to be, as I would prefer to see a schedule attrition rate, somehow that building (ph) up. We came up with a formula basis this last time, something like that, I don't know if we have to have that particular one but some sort of an ongoing, constantly rechecked system that would combine some sort of either first refusal or required if transfer at all transfer to the state, something of that sort cranked into it to get them out of that situation that you unfortunately inherited as part of your given facts now.

Palmer Let me ask. I have difficulty with the comparison of reasonableness here. It seems to me that given a ~~fisherman~~ fishery if you could draw these five categories, and maybe we haven't defined closely enough between 3 and 4 that doesn't mean that we can't, so that you do have a fairly definite distinction between those down here who were less and those up here who were more, dependent more, more hardship if these are left out than these. And you say,

alright recognizing that we'll let all of these people in regardiess of how many there may be. We're doing this in the first place because of hardship. That's the only real basis that we can use to decide, so everybody that's in these top three categories or this top one, call it what you will, a certain amount of hardship at least, they are in. It seems to me that if you compare that with a system that sets up an arbitrary number over here, and I think its got to be arbitrary even through you say its the highest of the last four years, its an arbitrary number and it's going to hit not down in here but it's going to hit up in here, so how do we say that those that are left out down here, will the one guy that's next to him ~~him lie~~ when that arbitrary figure has been reached. How do we say our information is good enough that this number, 1,005 or whatever it is, is so accurate that we can't let you in. How do we know, how do we prove that that 1,005 is so accurate that we can't let 1,006 in, even though you're so very close to him in hardship still you're next in line and therefore you're out.

The only magic in the 1,005 is the decision cannot let the problem get worse before it gets better and the whole concept of moratorium which is what the legislature is really trying to do is stop any further increase and then in those fisheries where it's necessary figure out a way to turn around and work back toward an optimum. It's just where we are now is . the only magic in it. There isn't any constitutional obligation

Palmer If not then that's what we

Jackman ~~You'd go on~~ in broad terms. I think there is another consideration, that is workability. If you did a commission at least at the outset, figures to work with, maximum numbers defined in the bill. They'll be under less pressure than if they're trying to fit somebody into category 3 and out of category 4, which unless the categories would be considerable reworked would keep them under the gun all the time. In other words, I don't think you'll get many arguments from people within a given fishery that, yes, he is more dependent than I or I am less dependent than he is.

Palmer Why couldn't you give exactly that argument

Jackman Well, I think people will accept the notion of ranking in priority classifications and then if you only have so many permits to issue the people at the top ought to get them first and then down. But if you're thinking of locking in X number of priority classifications, then everybody over there is going to say I belong in that one.

Palmer What the pressure is going to be, you say, well hey I'm really more dependent than he is if we've got to be put in this list and they're going to chop of one, one, one, one, one. There is going to be immense pressure I would say to be up in this category that doesn't, within your 200 or 2,000 or whatever it

is.

Rader — I would agree that maybe this wording should be reworked so that the distinctions are greater, but if that were done I'd think you'd have a much better position. Jay what

Hammond — Well the only thing is I don't think you're that far apart. In Dave's language of yesterday you accommodate not only 1,005, you accommodate 1,006 because you said no less than. So you can actually go above this ~~fixture~~ fixed figure. The only thing he is saying you can't go below, so you draw your distinctions more clearly cut. Let's throw it all in that pot and whatever it comes out as, if its

Jacobson — Now, that's a possibility. In other words, in the last priority classification rather than doing it by lottery you say in the last priority classification everybody gets in even though that drives it above somewhat.

Hammond — You could, you could.

That would be your language. You could do that. The way it was I'd ~~threatened~~ written (ph) yesterday.

Jacobson — Of course the design was that the Commission would look at the fisheries, and those fisheries that it knows are in trouble, the maximum level is going to be the highest of the last four years, and the no less than is to allow the fisheries that arn't in trouble to

go unattended and continue to grow, you know the Dungeness fishery.

Hammond The inherent of no less than is the possibility of more than.

Jacobsen That's right.

Hammond So you haven't fixed

That's right. That's good

Hatfield That was one of the points I'd made a special point of, it was the phraseology of no less than. It seemed that we had some openendness there that wasn't particularly desirable Somehow you had, and that puts ~~feeling~~ threading in there in some way or another.

Would we be able to work out a little different way to come to the same result if you could be assured that this maximum number was fairly carefully related to or at least above the number that would be comprised if you totted up everybody within the first three categories of our hardship list, Would that be feasible?

Take his illustration that the maximum number of gear licenses that you (indesc.) in any of the immediately preceding four years. If you took that number and went all around through all your administrative areas and all the different fisheries

they only made 2 or 3 hundred dollars I imagine that's a much greater percentage of their income.

Hammond If they actually made it, it's right. (ph)

Jackinsky And the fact that they live in that area, they don't have the alternatives. They're stuck there so to speak.

Hammond What I'm fearful of in this accomplishing perfunction (ph) is the fact that (indesc.) making a vast population and (indesc would simply take essentially a lot of gear that's going in the water and reapportion in such a manner as to offend this category 3. Most of the people in my hometown of Naknek are not above category 3. There are very few with the exception of the women and (indesc.) kids. Almost all are working somewhere else Good jobs I agree, and they would be more likely out of category 3 than guys from Seattle, except the pro fishermen. Most of those companies Jackinsky would show them probably in a higher category

Jackinsky Well this is why standards like this scare me because the fisheries are totally different. In that fishery almost everybody is a part-timer. Everybody works something else. Not any full time fishermen out there in that fishery, whereas another fishery like the crab fisheries in Kodiak, very professional fisheries, you're looking at a completely different set fishermen, so you can compare who is more or less dependent within that one fishery, but trying to develop a set of classifications that can be applied to the Kodiak king crab fishery and to the Bristol Bay

set net fishery

Palma

First/it's (ph) going to be that within your Kodiak king crab fishery you're going to have more of a total number being up in 1 and 2 and in Bristol Bay you're going to have much more of the total, Cook Inlet you're going to have much more of the total down in 3. But in any case you have included in all of them.

Jackinsky

Of course you're still, even under either system. Let's say that you wound up in Bristol Bay with everybody in 3, 4 and 5, which you could wind up with. You're still going to have to make a cut somewhere down there in the middle of number 4.

Palma

If there's only negligible haraship then you can make that and justifyably. This is our (indesc.)

Jackinsky

Well, I don't disagree with that in either system, but what Jay is suggesting is you're not going to have very many people out there locked in.

Palma

Well, sure you are. You're going to have all of 3. You're not going to have many of 4 down there. 4 is a negligible hardship.

Hammond

No, the most of them will fall in 3, except the true Native who will fall 1 and higher. Except again, how do you relate this, the guys in the village make 2 or 3 hundred dollars and $2,000 welfare. You see, what's his relationship from the hardship point of view.

Hutchison I've got that noted in the margin to bring up for discussion.

We didn't define what we meant by income. Do you want to define it in terms excluding Government assistance of various sorts.

Palmer Probably should.

Hutchison That would be my impression as to how to go about it.

Harwood "Josh"

Johnson Well, you ask what constitutional objections I have and the real constitutional objection that I have, and I agree with the Professor, you could sure make a good effort to defend either system, but if the regulations, if the hardship categories are essentially spelled out in the regulations so that they are developed looking only at a single fishery and at the conditions in that fishery they're going to be tuned and developed in terms of the situation in that fishery whether it's the Cook Inlet setnet fishery or the king crab fishery in Kodiak, or whatever and are going to make more sense in terms of that fishery. If the hardship categories are defined through the whole state and all the fisheries of the state I think they're much less workable when applied to the individual fisheries.

Palmer But you've got to define appearance (ph) it seems to me, hardship as it relates to an individual, not to a fishery, and that's where I can't see why there's any difference (indesc.) regardless.

Hutchison Well, it seems to me what Dave has cranked in here he has used

a different label on it, is that he's affecting his treatment of people on a hardship scale by considerations of biology and economics with respect to the health of the fishery in an abstract sense, that is, some fisheries need more drastic treatment than others, and I would wholly agree with that and there are going to be wide variations.

Jacksman What I'm saying is lets do it in the regulations in terms of getting to the specifics, you know, in terms of spelling out exactly what does hardship mean in this fishery. I think that got to be done at the level of the regulations. (indesc.)

Nelson When you say what it means in a particular fishery arn't you saying that, well, even though looking at two different people in two different fisheries we might say that each person is going to suffer hardship in the same amount. The circumstances of this fishery over here are such that we really don't want this guy to fish, whereas over here we're willing to tolerate hime.

Jacksman That's exactly right.

Nelson Then, what led you to that differentiation though was not hardship as to the person by but the nature of the biology in the economics of that fishery.

Jacksman That's right.

O.K. that's ~~the first thing~~. a fair statement.

And if that is what we're trying to do here then I say you can defend it if you can defend it politically to differentiate people because it does seem to me that the fisherman who fishes in a heavy overfished fishery where the economic health of the thing as a whole is terrible and you have to do something about it you can afford to be harsher over there if you want to. And I would defend you in being able to do that. And I think you just have to make up your minds to whether you want to or not, because you could decide that involves example. In the draft before the one that's now here he'd said that certain ones were going to have 75%,or not less than 75%, and that it was going to be something less than all of those that might otherwise have gotten in because of the terribly depressed area, distressed nature I think was the way he phrased it And that would be a tolerable system. There's nothing as far as I can see that constitutionally is terribly threatening about it, even though you have on my scale of hardship differentiated between the fellow who's excluded there and the fellow who's not excluded from a fishery that isn't in distress. It just that he happened to be in the wrong fishery.

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II/6 Side 1

3/26-27/73

Senator John Rader

Senator Bob Palmer

Rader : You see, there's a great merit if you could issue these permits to the people that bought licenses this year. Start buying them back, assess the people that are keeping them, pay for the ones you're buying back and you do it on an open market. There's no bureaucratic definitions of hardship and what you think is hardship to me and what I think is hardship to you, and your value to a way of life, and as against somebody elses value to a way of life, you go on the open Market and start buying them back. And then there will be some people end up with it but those people will pay for it as they go along by their assessments. Protect the people who are poor and who can't pay, and can't pay the assessments with this poverty thing that you got written in there, or some type of forgiveness of the assessment if they are below a certain poverty level. And start weeding out your fishery in that matter. And then there can't be a thing of fairness. There can't be any claim of discrimination. And there can't be any claim of you've taken away my God given rights. There can't be any claim of yes, but fishing is my life to me, although I am brand new to it, and just fresh out of New York and only done it one year and I've worked with somebody else as a crewman at that time, or something else, you know. Let them get in there and scramble for it and start buying them back. And the guys that want to sell and get out, get out, and presumably that is the least hardship. Cause they want out. When you first start into the program, it's going to be absolutely fair, because there will be the market value of these things. And the commission, with the amount of money that they have got from time to time, will get

in the market and buy them. And you just keep working it that way. You can't claim, nobody can claim, yeah but you cut me out or yeah, but the hardship was different in Bristol Bay than in Prince William Sound and that was a different hardship than it was in Southeastern. And Christ, in Southeastern, why they got everybody fishing whether they got a hardship or not. Here I am up here, gonna have to move up to Anchorage now and pump gas and I can't get a license.

Palmer : John, there is one thing wrong with that. That is that you can't sell it at this time. I think that it is pretty much the concensus that something does have to be done to put a lid on now. I agree with you that this may very well maybe the best solution, and the one that we will ultimately adopt. But I don't think that we can get it through this legislature at this time. The fishermen are violently opposed to it now, I think primarily because they don't understand it and they are locked into something else here.... now wait a minute. And I think it is something that we can go ahead and live the first year with what ever we come up with now and something fairly close to what we have got. We may want to come back and review the whole darn works and go to this simplified system that we can write in a page or two. But it is the practicality of the thing that I am talking about, the political reality now, getting something done. To start all over again, with that approach at this point, which the fishermen have already looked at and rejected, on the basis of as much as they understand of it now,

it is just not on the cards for getting it done this year.

Peter: You see there's a great merit if you could issue these permits to the people that bought licenses this year. Start buying them back, cause the people that are keeping them pay for the one you're buying back, and you're in charge of the market. There's no limit to the definition of hardship

And what you think is hardship to me and what I think is hardship to you, and your value to a way of life, and then against somebody elses value to a way of life, you go on the open Market and start buying them back. And then there will be some people end up with it but those people will pay for it as they go along by their assessments. Protect the people who are poor and can't pay, and can't pay the assessments with this poverty thing that you got written in there, or some type of forgiven of the assessment if they are below a certain poverty level. And start weeding out your fishery in that matter. And then there can't be a thing about fairness. There can't be any claim about discrimination, and there can't be any claim, about you have taken away my God given rights, you can't give any claim that if the fishing is my life to me, although I am brand new to it, and just fresh out of New York and only done it one year and I've worked on somebody else's boat as a crewman at that time, or something else, you know. Let them get in there and scramble for it and start buying them back. And the guy that just want to sell and get out, get out, I presume that is the least hardship. Cause they want out. When you first start out in the program, it will be fair, because it will be the market value of these things. And the commission, with the amount of money that they have got from time to time, get in the market and buy them. And you just keep working it that way. You can't claim, nobody can claim, yeah but you cut me out.or that the hardship was harder in Bristol Bay than in Prince William Sound and that was a different hardship than it was in Southeastern. In Southeastern, they got everybody fishing whether they got a hardship or not. Here I am up here, gonna have to move up to Anchorage, and gonna have to pump gas

and
because I can't get a license.

Palmer : John, there is one thing wrong with that. That is that you can't sell it at this time. I think that it is pretty much the a concensus that it does have something that does something that does have something that has to be done to put a lid on now. I agree with you. Hal This may very well may be the best solution, and the one that we will ultimately adopt. But I don't think that we can get it through this legislature at this time. time. The fishermen are violently opposed to it now, because because I think primarily, because that they don't understand it and they are blocked into something else here now,,,, now wait a minute. And I think it is something that we can go ahead and live with the first year, with what ever we come up with now and something fairly close to what we have got. We may want to come back and review the whole darn works and go to the over a simplified system that we can write in a page or two. But it is the practicality of the thing that I am talking about, the political it is a critical reality now, as far as getting something done. To start all over again, with that approach at this point, which the fishermen have already looked at and rejected, on the basis that as much as they understand of it now, it is just not on the cards for getting it done this year.

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II/6 Side 2

3/26-27/73

David Jackman

Professor Fletcher - University of Washington
Department of Law

Jay S. Hammond

Senator John Rader

Senator Bob Palmer

II/6 Side 2

3/26-27/73

Jackman : Why do that? Why have 2 or 3 different kinds of permits floating around, I mean you know.

Hammond (?) : Cause you want to get a whole bunch out of the fishery in a hurry and not have a bunch of people hanging out, your big concern is of these guys that will flood in this year, right?

(?) : I think that you could just as well keep them out without....

Fletcher (?): Let them in on a 2 year or 5 year basis...

:I think that you can just as defensibly keep them out entirely as you could by letting them in on a very short basis.

Hammond (?) : How? Well I mean taking the approach that he is taking, how could you do it? You say that you can't go back and lay out, I mean on the experience factor.

Fletcher : If you make the distinction between the types of licenses that are out in terms of the restrictions upon the person who holds them, transferability and so on, or the life of the license or something like that. Then those distinctions have to be measures of some ligitimate concern that the State would have, and the only distinction that I can perceive between the person who comes in this

year to get any license and those who have been in in the past is, the very fact that we are talking about, is it's associated with the Grandfather clause and when you do that then you have got to have something which is a reasonable approximation of a ligitimate concern about Grandfathers. Then you are right back where you were.

Rader (?) : That is true of zoning. Its just the difference is that they are just later, that's all. They just weren't there when the law changed.

Fletcher : It's a more restrictive, a more severe thing you're imposing upon these people than you would be upon the land owners.

Jackman : But if you get back to your hardship standards, rather than trying to tie down the same 5 classifications, to every fishery in the State, why not just put it a general one sentence provision in the bill, nobody with significant economic hardship shall be denied an entry permit anywhere and be done with it and then.... let it go to regulation and fight it with more flexible standards developed for each area. Cause you know that only about 3% of the fishery is that going to be relevant, because everybody is gonna get in who is suffering a significant degree of hardship.

Fletcher : By putting it in the negative, it is not afirmatively said who gets a permit.

Jackman : Up to the maximum level and if you have got any

people left over who claim a significant hardship, then you let them in too.

Fletcher : In other words, you would set a maximum.

Jackman : Present level.

Fletcher : That would be a number.

Jackman : That's a number.

Fletcher: : How would you determine who came within the number?

Jackman : You would rank them in priorities in terms of hardship standards and you'd issue entry permits to everybody up to that number.

Fletcher : That's what your House bill is now, isn't it?

Jackman : No, except there's one difference. If still there weren't enough permits left over and you still had a group of people that would suffer a significant hardship, in that particular fishery, then you would let them in. But in all the other fisheries, the only people that you are going to have left over at the tail end of list are the marginal participants; then you just stop because you'd issued permits up to the maximum level.

Fletcher : That's why I say it's defensible if you've arrived at your maximum number in some fairly rational fashion, that you

could make that a combination of both the nature of the fisheries, the particular fishery as to whether it needed the maximum... not whether but to some extent

Palmer : So you are suggesting that we take the numbers that we, that you had before, the maximum number, the average, or the peak, which was it, for the last 4 years, the highest number for the last 4 years, that is the maximum. But as we said later in our bill, you would say in this one, regardless of that, anyone with a significant degree of hardship, if they are cut out, they will be allowed in. That is what you are saying, David?

Jackman : That's right. You know, you can do it in a one liner. Leave the thing flexible so that in regulations you can set up your priority classifications. But in those fisheries where all of a sudden there is a big lump of people that would suffer significant economic hardship, if you only issue the maximum number of permits, then you let in that next priority classification of people who suffer hardship. But that way you don't have to classify in terms of significant hardship every single fishery because you're not going to even have that problem in a lot of the fisheries.

Palmer : Well that is essentially what we have done here, except that we have tried to determine, we have tried to define what we meant by significant in these 5 categories.

3/26-27

Jackman #: Why do that? Why have 2 or 3 different kinds of permits floating around, I mean you know.

Hammond ?: Cause you want to get a whole bunch out of the fishery in a hurry and not have a bunch of people hanging out, your big concern is of these guys that will flood in this year, right?

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Palmer : Well that is essentially what we have done here, except that we have tried to determine, we have tried to define what we meant by significant. in these 4 categories.

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But that is not an open market.

Call it an appraised value then, if that will help you out.

John, my land isn't on the free market, is it?

1 and 2 can sell back and forth on a free market.If they go to the Commission they get an appraised value, fair market price.

Why don't we simplify it and just say you're going to buy permits at the price at which they're being traded and you'll enter that market and from time to time buy permits. What the hell difference does it make from the point of view of a citizen at a public resource that you're going to let one of them,that you're going to handle it differently? What difference does it make? If you're going to pay the same, its going to cost the same amount from the state?

The only situation in which it won't, and I agree with Senator Rader, that if, in fact, you're going to pay him fair market value you might as well everybody go on market place and buy them off the market place. What you're really doing is not paying fair market value. You're really saying, let's say there would be ten permit transactions of $4,000 and the permit wanted to buy off three off the market. Now if the Commission came on the market with the ten private people that are trying to buy permits that would be 13 bidders, and the pressure of that demand might drive the price up to $4,500 a permit. What the Commission

is going to do is say, we'll look at the ten market transactions which will keep the price down a little lower than that observe because there won't be as much demand. We're not going to come in and bid against other private people, which really, and then we'll turn around and pay to this special restricted class of transferors that peg price, which isn't as much as they could get on the free market if the Commission came out and bid with everybody else. They'd bid the price up.

You're complicating it to no avail. You are because you're requiring that those people sell back to the state and you're retiring licenses that way that you might not be able to retire otherwise. You're ensuring that they're going back to the state and you're getting them out of the market. If you allow free transferability then you have no assurance at all you're going to get . (indisc.)

Is it a constitutional problem if you provided that anybody with a permit could dispose of it however he saw fit, by Will or inheritance, or devise, and otherwise there was no free transferability that they had to sell to the Commission?

You mean the only thing that you would allow him to do would be to give it away inter vivos or by Will.

Just by Will, not inter vivos. You couldn't, the only thing you could do is let it go by Will. Otherwise he's got to sell to the Commission and they are the ones to determine how many are re-

issued and what. Is it constitutional?

I wouldn't want to exemplify (ph) them.

Economically it would be disaster.

Well, that wasn't the question.

Really discriminate.

You could probably think of some reasons why you wanted to do that, but I don't think they would bear up.

Well, the big reason is that you're giving away a public resource for free and it's going to build up to a value, it's going to increase each year, and presumably nobody is going to kill themselves to give a $10,000 permit to somebody by Will, and so you take away the economic incentive.

But, you solve the political problem of the fisherman who wants to leave

I think I have to start back a little bit. I'm really not giving you people anything. I don't think I am. The only reason that I'm giving a person an initial entry permit at all is that it would otherwise be so hard on him if I didn't, so I'm really kind of keeping in the status quo as distinct from giving him the plum(ph). Now, having done this to him, then

I think the only measures that I could take to protect him in that situation are ones which tend to prevent my doing this for him on one day and taking it away the next, so I might say for a period of five years or so that in case he gets incapacitated or dies that this can be given to a member of his family or to whomever he may designate in his Will, or something like that, and otherwise restrict him in his (indisc.)

I would do that, I think, only for a limited period, a few years, and then expect him to have in a sense gotten himself out of the situation than simply having gotten this as a recompense or avoidance of hardship, now he's on the same basis as everybody else, so at that state would treat him as I did everybody else. Now, how I treated everyone I don't think matters a heck of a lot. I could make these permits ones that expired at the end of a person's lifetime or his phyisical capacity to engage in the fishery, or you could go the whole hog the other way and have a completely open transfer system, and I think either of those would stand up (indisc.)

But you don't think the other would?

I would find a difficult time justifying the distinction, except as I say some incident to some initial transitional stage in which I tried to protect the fact that I was compensating him for his hardship, because otherwise he'd be out in the cold. You see there's a great merit if you could issue these permits to the people who've bought licenses this year, start buying them

except the people that are keeping them, and pay for the ones you're buying back, you do it on an open market with no bureaucratic definitions of hardship and what you think is hardship to me and I think is hardship to you, and your value to a way of life against somebody else's value to a way of life. You're going to the open market to start buying them back, and there'll be some people end up with it but those people will have paid for it as they go along by their assessments. Protect the people who are poor and can't pay the assessments with this poverty thing that you've got written in there. Some type of a forgiveness of assessment if they're beyond, below, a certain poverty level. And start weeding out your fishery in that manner. There can't be any claim of unfairness, there can't be any claim of discrimination; there can't be any claim of you take away my God given rights; there can't be any claim that, yes, the fishing is my life to me although I'm brand new to it fresh out of New York and only done it one year, I worked with somebody else as a crewman at that time, or something else, you know. Let them get in there and scramble for it and start buying them back. And the guys that sell out and get out are going to get out, and presumably that's the least hardship cause they want out. As a fishery when you first start into the program it's going to be absolutely fair because there will be a market value of these things, and the Commission with the amount of money that they've got from time to time get into the market and buy them. And you just keep working it that way, and you can't claim, nobody can claim that, yeah, but you cut me out, yeah, but the hardship was different in Bristol Bay than it was in Prince William Sound,

and that was a different hardship than it was in Southeastern, and price (ph) in Southeastern, why they got everybody fishing whether they've got hardship or not. Here I'm up here going to have to move to Anchorage now and pump gas and I can't get a license.

John, there's one thing wrong with that.

What?

And that is that you can't sell them at this time, I think it's pretty much a consensus that something does have to be done to put a lid on now. I agree with you that this may very well be the best solution and the one we will ultimately adopt, but I don't think we can get it through this legislature at this time (indisc) the fishermen are violently opposed to it now, I think, primarily because they don't understand it and they are locked into something else here. And I think it is something that we can go ahead and live with for the first year, whatever we come up with now and something fairly close to what we've got. We may want to come back and review the whole darn works and go to this simplified system that we can write in a page or two, but it's the practicality of the thing that I'm talking about as far as the political reality now of getting something done. To start all over again with that approach at this point which the fishermen have already looked at and rejected on the basis of as much as they understand of it now, it's just not in the cards of getting it done this year.

Wait a second Bob. Did you say that the licenses were not to be transferable?

Well they would be immediately transferable.

That's what the fishermen endorsed. What's the price?

But you're talking about the, where it wasn't transferable at all.

No, no, no.

You're saying immediately transferable.

Well, start over again then with what you're saying.

Basically what Hammond came in with here with his first, as I understood his initial presentation. Issue licenses this year to everybody.

Oh, no.

The only difference is he's making them immediately transferable. That's the only difference.

No.

And issue license to anybody that wants it. It's immediately transferable. There will be no more issued, and the state starts buying them back in.

That's 22,000 licenses, John.

Well, who gives a hell, how much are they worth then? If they're worth $5.00 a piece, you buy them back at $5.00 a piece.

No, no, no.

Until you're down to where you have run out of them. And what people have the least hardship will leave the fishery.

John, but you will decimate the fisheries for the next two or three years when you have the chance to go to January 1/73, which is when this started. You know, they won't sell out. They'll wait. You'll have a great mass of licenses.

Just say, stop at the present level and then

Stop at the present level and then start buying them back. Use your assessment figure.

(indisc)

But how would you be willing to move it one year, in other words, don't take the present year, 74 or 73, but stop January 73.

Take last year, that will cut it down 60% or

You see it's 263% increase in (indisc) year, 200% increase in

O.K. Let's take it back to last year. I think it's so much easier to do it the other way, but if you want to go back to last year then lets do it that way.

Nobody has been hurt going to last year, John, because nobody has now fished that wasn't fishing last year because the season hasn't started, and so you're not really denying somebody something that he has already used by going to January 1 of this year.

Plus, if we issue all of those licenses to the few people who are already committed to boats and who can't get one from last year, I'll be able to buy one pretty cheap.

Yeah.

You see, they can hold it and stay in the fishery if they want to, alright.

But these people who come in and out of the fishery, casually do it, they are going to have to pay their assessments every year unless through the poverty situation which means they can't hold them and not use them too long, which is (indisc) to sell them then, and you don't have this terrible charge here of unfairness in your administrative what's hardship, you know, whose hurt, what's pain (ph).

Alright, go back and start again now in some lines you're proposing.

O.K., let's go back to last year. We'll say everybody who files before July 1 of this year, or lets say the next month of this year, who fished last uear shall be issued a fishing license, a gear permit, for a particular fishery if they fished last year. I think we could work out a hardship hardship (ph) for the guy who was sick and fished in the fishery consistently and who might be, you know, one kind of a deal here that a guy didn't fish last year.

It isn't going to make much difference anyway because (indisc) to be worth much.

Let's forget that.

O.K. You take last year, you say you have thirty days to apply and you're issued a permit. No more permits issued until it gets down to the optimum level in any fishery. The permits will be immediately transferable for $1.00, $5.00, $500.00, whatever a guy can get out of them. We'll take and put up an initial appropriation from the state to start buying back permits at whatever the market value gets to be, and we'll use assessments of the remaining people who are in the fishery then to replenish the buyback fund, and you just keep buying them back, and you just keep assessing every year. If a guy doesn't pay his assessment he's out. He loses his permit. If he pays assessment he keep his permit. Those who are at a poverty level don't have to pay their assessment. Everybody else does. You can take it and hold it/speculate as long as you're willing to pay your

assessment. You don't have to use it. The guy who is coming up here who have an investment in the boat or want to go into the fishery for the first time, I don't care whether he's from Seattle or Bristol Bay or where he's from simply goes out there and buys a permit.

What is your basis, though, for limiting use in the first place? Still hardship?

There really isn't any, (indisc). You're just going to say the guy did it last year on grandfather basis, is what you're doing.

Well, I thought grandfather basis had to be based on hardship though.

Why? I think it's a reasonable test that we said that anybody that had one last year can have one now and they can sell it immediately. I don't think you even have (indisc.)

That's just exactly what we said earlier, only we were a little tighter. Two out of the last four. That's where we were a while back,remember.

Not necessarily the last four.

Two out of the last four is looser, not tighter.

Well, it requires more. He would have a fewer number.

Wait a minute Clem. I'd like to respond.

Well, I think the moment should go toward identifying the persons to get these permits as distinct from saying how many there shall be. You're right up against challenges that need to be protected and you have to justify the distinctions you make between them, and the only justifiable distinction I can make other than the capacity of a person to fish in terms of (indisc) I gather you're not insisting on anything other than just a present ability to fish. There has to be, I'd think, one based on ordinary grandfather clause type thinking, and that's one that gets it in my opinion down to hardship.

Well a grandfather clause for a zoning exception or something else is if it existed as of a certain date.

That's right, that is one definition of it.

It's sort of prima facie. That is, if you had a license last year to be denied one this year is hardship.

Yes.

And we're going to use that as a test of hardship. Anybody can fume about it that wants to, but that's the way we do zoning ordinances, that's whether or not your building conforms to a new zoning change or something. If its already built as of the date of the change you get to continue it.

I think the spelled out considerations the present drafts call for to measure this are more refined and more precisely tailored for measuring what you're measuring, but your measure is certainly a time honored one in terms of whose grandfathered in whatever the scheme may be.

There are going to be great groups of people who are absolutely convinced when this is over with that they were screwed by a political process unless you do it just about in some way that I'm talking about.

John, we all see it and understand it, but what is hardship when we can't define it ourselves.

Well, but look, suppose Dave had fished for five years up until last year. He decided the year wasn't good enough he wasn't going to fish. There's something else he's going to do, and suppose Joel came in last year for the first time, he just had some extra time and he had a vacation and wanted to do it, His hardship is greater than his.

To be real honest with you let me tell you what I think they should do, so that you don't have that problem when you really get back to what you did.

But we do have that problem .

Let me make the argument as to what you should do. You should give them to everyone this year that wants one, and they are going to pay the assessment. If you sell 50,000 of these and have assessed them at $300 a piece or $500 a piece, you're going to weed out most of them, you're going to get rid of the whole problem, and going next year you'll have a limited entry program that's functioning, working and legal, and it'll be reducing the gear entry. It may take you a couple of years to get it down, but you're going to have something that there cannot be any charge of gainsmanship or unfairness, or anything else in it.

This is exactly the proposal that I gave the fishermen a couple of weeks ago and which they violently rejected. My question to you would be then, Do you think it's realistic at this point of a Session to think that we could get such a thing through the Senate and the House and voted on the last ten days

I think we're closer to that than we are with this because this is so complicated.

It's not a great deal more complicated than what the House did, when the House passed it 35 to 4 last week.

I would object to that. I think it's considerably more complicated and I think, did you mean people that fished last year, that bought a licenses last year and fished it, or that just bought a license. Did you have the requirement of having fished it?

I don't know.

Because in a sense that's why I thought the highest of the last four years present levels standard is one people can understand, it's simple, it's direct. Sure, it's somewhat arbitrary, but it's like saying, we're going to take it starting last year and it's a different form, but it's still one that's immediate, direct people can understand, and then you say, you know, you can be as simple or as complex in terms of deciding who gets that may permits. If you want to just say who held it last year, or if you want to say those people that have fished at sometime and who are highest on the priority scale, at least it's still simple. You give them the permit then and then you have a buyback program, and that's essentially what the House bill did. Its just, you issue permits at that level and then you have a buyback program to get down to the optimum level and then you're done with it, and there's no more complexity.

This is what I was trying to get at before and didn't make it clear. There is one absolute clearcut distinction that nobody can say there's a hardship imposed on cutting them out of the fishery if you never had a gear license and fished it before. Now, if you modified what John's starting about to say that, hey, anybody that ever had a gear license and fished it before comes in under this procedure, why aren't you then re ating (indisc.)

You really ought to resurrect--the only objection I'd had to that is I think the only way the program will add anything in the immediate future to a better situation is that if we don't

let it grow bigger before we make it grow smaller.

Now, and you're going to let in about twice as many people at the outset.

But there's presumption, your concern is what goes in the water, isn't it? This is the thing you have to be involved in a specific fishery (indisc). You could do this in Bristol Bay and not put one extra length of web in the water. But what about the troi (indisc.) tremendously fast errosion of effort through assessments, make them good high assessments, buyback, I think it would take her down so fast that you're going to be two or three years off before these qualifications actually apply and hit. I'm convinced that what this Commission is going to have to screen hearings, goes into the Courts and probably won't be applying them for two or three years when during that interim I think this other one might bring you down to that.

You say anybody that has never held a gear license and fished it and is presently able to participate in the fishery could get an entry permit.

It would be with free transferability along the lines John said.

I'd rather see,at least it's simple. I think it's still going

to be letting too many people in.

But, I say, I agree, it's simple enough to be much preferable to any complicated formula. I say that because if we have this poverty level the reason we were worried about assessments was because of the poverty level.

How many people are you going to be buying out that live in Seattle now and used to fish in Bristol Bay and would get in under that assessment.

Oh, hey, I suspect your assessments, if you put a $100 assessment on there, I'll bet you the initial cost of these things for purchase and transfer, the market is going to be flooded with them. There isn't going to be any big price paid for these things. You've accomodated virtually everybody that wants to stay in the fishery.

I don't think so. I think that there really will be a significant speculative value to the things to hold on to them. If you're a guy that hasn't fished for five years and has no intention of re-entering but all of a sudden you can come in and get an entry permit and for paying $50 a year plus an assessment of we'll say $100, you can hold on to it. There are going to be a number of people that will hold on to it, speculate, because they know its something of real value.

Especially I think this is true when people see the changes that are being made in the fishery itself as far as rehabilitation impact efforts and so on. They are going to say, hey, this thing

may be much better in a few years than it is now.

And where's the attrition

That's why you want to put your assessment in such a position that the guy's going to think very carefully before he hangs onto that, paying, I'd like to see the assessment, frankly, $500 a year, with a destitution clause. I realize that's unrealistic, but if you moved it up to, say, $200 a year I'll bet you these guys would drop so fast. They die off, they'd refuse to pay their assessment, the thing comes down.

The guys in Seattle would be more easy to pay the assessment than the people in, have an easier time than the people in Bristol Bay. I'm really worried a distitution clause on the assessment because it's not a tax, and you can, you know, have a progressive tax, but if it's a tax it's a dedicated fund, and if this is an assessment I don't think you can create a forgiveness.

A license fee then.

You know, it's like a sewer assessment or something like that.

Can you give a destitution clause on sewer assessments?

What you meant is a license fee.

Well, I think that putting in the poverty clause is awfully important in this thing in our discussions.

The poverty clause is the only thing that would even work in that manner.

Why would it do that.

Well because it would relieve them of the (indisc)
but they may say, very well, we'll sell out (indisc)

No, no, we'll watch(ph) them getting out of the pulp (ph) businss because of the fact that you can't jerk the man's boat out from under him and put another man on. They have no control, you see, by making it

What have you got?

The guy can be absolutely bankrupt. You can't take that license away. The canneries won't be buying.

(Indisc)

... ten years ago, handle that one of three ways, either not let the canneries hold any permits, they (indisc) let them hold permits directly (indisc)
I can't see, except in some cases how in the long run

may take years, cannery domination that couldn't be put in (indisc) That's what you got an antitrust law.

(Indisc)

Right, but you could attack it that way.

Let's go back to this a minute. Again, if our only reason to be able to do this is hardship, grandfather him in in hardship, how do you indicate hardship? When you say anybody that's held it in the last ten years or anybody that's held it and fished it in the last five years. Suppose he quit fishing four years ago, he's gotten into another line of business. How do you say it's any hardship on him if he's denied a permit, and if this is a basis for letting people in in the first place, then what basis do we have under that system.

You've asked my question.

Well the only thing I would say is that you'd be making only one determination that somebody who has never fished and never held a gear license as a class is less harmed than the class of people made up of all the people who have fished at sometime or held gear licenses.

You know what you begin to look like is you haven't really measured hardship. Then you've lost any basis upon which to

close the class at all. I don't think you can close the class by giving it to all persons who have ever fished in the past if that's a gross mismeasure of what you're trying to do.

If you've got to close the class I'd agree with you 100% but the assumption from the beginning has been you are not going to close it, you're going to open it leaving them freely transferable.

Well close in a sense that these persons as initial entrants are the only initial entrants and they're the ones who are being given something of value. Now I say you're not giving it to them if in fact it's the equivalent of not taking away something from them. That you have to have it in terms of not taking away.

I like that. I mean that's why I've always wanted some sort of

This means to say that I don't think you should be as sweeping as to say, well anybody who fished in the past, or anything quite that broad. I think you have to come back to the idea that the function of picking out certain people to receive these permits in the first place, short of going to everybody who applies next year also, has to be a measure of some kind of the underlying idea of grandfather clause. And I don't want you to get away from that. I think that asks for trouble.

Like recognizing the appropriation of water in terms of the

past pattern of beneficial uses.

Yes, something of this sort and you better come somewhere near to measuring the very thing that you're supposed to be measuring.

(Indisc) to assume that nobody will transfer a permit for purposes of looking at the legal facts. Is this in the works.

Well, if that, I don't think so at all. I think that if you, you're going to have to show the Court the real world, and if the real world is going to be a world in which some permits are on the market and are transferring at a, you know, like in B.C. you can pick up a copy of the paper, in the back of the paper you would see six or eight boats with an A license, and that's the real world and you're not going to have a closed fishery and the Court's going to go with it, if in fact everybody that got a permit held on to it for 50 years. I think you've got to go in to the Court and say that's not what's going to happen. I don't think it is.

Well what kind of a value does that permit have down there. Does it have one in excess, we've gone through these so many times I forget. O.K., the value attaches to the boat, the permit attaches to the boat, what about the value of the permit per se.

It's impossible to tell because the permit is one with the boat. On the other hand you can look, you know you can buy a gillnetter down there with lots of equipment for 10/15,000 bucks, so, you know. (Indisc)

Alright, you could go down to Washington you buy the boat itself without a license, so what's the comparison of the value.

I don't, I think.

That would be a measure of the value of the permit, wouldn't it

I think 3 to 5 thousand dollars, from looking at those adds over the last three months.

The permit you think would have 3 to 5 thousand dollars in value, something like that.

Something on that order.

And this is a fishery that's already gone from 7,000 to 5,000, so it's pretty well recovered, you know they's fishing 4 days a week. It's 50% to being at its peak value. I agree with you on the point that you're going to have to have something besides just ever having been in the fishery, but I'd say you don't have to pin it down to last year, John, because you have people in the fishery that rotate from species to species, and still keep major investments in this waiting for that cycle year to come back, and you cut out a cycle year what you've done is made a starvation year every fifth year.

How do we take care of that problem?

But, all you'd have to do is say has ever held a fishing license and still holds a major investment in the fishing industry, but then you have to be careful what you do about the guy who never owns anything, he always just fishes another boat for somebody else. You have some problem. Actually your's is the cleanest, John, if you can just solve this one other little question of how do you prove how much of an investment you have in the fishery.

You see if you don't do that this idea of buying out people's investment in the fishery and all the rest of it really gets into a (indisc)

If you could make a nice clean system, no let me start again. I've always thought of this in terms of what it is the Commission buys as being to buy the permit, nothing else. Now, cranked in the last couple of versions, maybe only the last one, there is a separate treatment of the actual gear both net, and I don't know what else, but the essential thing about is the permit. That's the thing that I think the State is interest in, and its only that the state ought to buy unless for some reason it's conscience gets to them and here they're going to buy the boat also. But in terms of making the system work it's the permit that you want to get out of the way. You couldn't retire that. Now if you concentrated on only the acquisition of those permits, then I think the only thing that you must be sure to do is to have a system that both looks at its inception as if it going to do this and, in fast, works toward it, and that's cut down those

those number of permits that are outstanding. And any way to do that is alright. I don't care whether you put the state under the oath of market and give it all kinds of money to start it out with as an initial bang with an assessment system to keep the fund replenished, I don't think it matters. But you must have the appearance of wanting to do it and you must do it. I don't think it matters how you do it just so its feasible.

Alright, let's take the case then when the state is in the open market bidding on all, all permits are going to have equal free market value then, and in every case the state could go in then and bid up until they've got every permit. O.K. What have we have done as far as closed class then, as allowing people in?

I don't think you've hurt it, if these people come in, unless you charged the Commission with the obligation to see to it that it (indisc) a successful bidder every time, or something like that.

Describe a factual situation where it occurs. They would buy all of them. They can't establish a market unless they have independent sales. You don't know what a market is, the definition of a market.

Alright, so we're back to where we were a while ago.

And what you said that if they were all freely (ph) transferable it would be alright. You thought if we went to apportion (ph) of them back to the Commission and made available 1 to 5 why it would be perhaps a little better.

Particularly if you go to a system that imposes restrictions upon permit holders to make outside transfers then I think you have to supplement that or make up for it by having the Commission issue new licenses, but without that it would fully freely transfer the system

I don't think you (indisc)

...open market that's available to you.

That's correct, but the only thing you must be sure to do that you haven't lost in the interim is both the planned for and in fact operation of the acquisition by the state to get those things down to the optimum.

O.K. now, this acquisition of the state, you raise an awfully good point there and I've thought about it. I never verbalized it, and then you mention it, and makes me, we better get into it. And that's what (indisc) in the difference between assessment and tax. Everybody was talking about assessments here, but I'm inclined to think that it should be a tax that's placed on the license that is calculated in the same manner as an assessment would be on the amount of fish that license caught

with poverty exemptions. If you make it a tax it's deductible to the big man who is catching a lot. As an assessment it's not. It's a business expense.

No, wait a second. The assessment's legal.

(Indisc)

Now wait a minute, you've got a tremendous fly in the ointment of either one of them, and I think it's a tremendous defect in your Bill unless you cover it in some other way and I'm not aware of what it is. But under that kind of a program what's to prevent me from simply, if I'm eligible, getting the darn thing, holding it with my $50.00 fee each year and all the time these things are appreciating in value.

If I never fish that thing and the assessment is only a percentage of the catch.

No, no. I have, you may be averaged in the year in which you're holding it. It's in there alright.

O.K. Then I didn't see that.

You already pay cash for that.

Well, I think it has to be a minimum floor, so that you can force the guy, in other words if you're going to speculate with the permit it's going to cost you some money to do it.

It's in there, John, it's the average of (indisc)

At least we can work that out. That's very easy to be worked out.

And have your (indisc) exemption and make the tax instead of an assessment.

What do you mean by the taxes instead of / assessment?

(indisc)

It would be levied by the state legislature or it will be collected through, like any other tax and it's a little bit like our revenue sharing we have now for raw fish, you know, we have a policy of appropriating out the raw fish receipts back to the community in which they originated. But it's not a dedicated tax because it isn't segregated into a fund that automatically does it, you know, and really what we'd the same way here.

What's the tax based on? Is it a flat tax, applies the same way to everybody?

It's a case tax.

It's the same thing as an assessment then, it's a percentage of your gross.

You're right. It would be the same thing as an assessment. It

would be no more onerous than an assessment except it would be a state tax.

So you're really changing only the name?

No, no, You're going to change a great deal more than that. You take a look in Chignik right now, which is at optimum. There would be no assessment in Chignik. There'll be a hughe assessment in Bristol Bay. There'll be no assessment in a number of fisheries. Now, I would like your like your something that said, but that the minimum assessment shall not be under 5% for all fisheries and anything not necessary for the buyback will revert into the general fund because I think the fisheries should pay more taxes. But that's a different thing. If you're talking about assessment, the assessment will vary according to the fishery, and do you want to charge those same Chignik seiners to buyout a Copper River gillnet that has no impact on their fishery whatsoever? If you do, this is the route to go, but the thing is that if you want to make the impacted fishery pay out the impacted fishery

Well, let me ask you this. Why should a Chignik gillsetter feel any more reluctant about paying the tax , the (indisc) of genera: fund tax and have it go back into the fisheries of Southeastern or to buy out the boats in Bristol Bay than the Anchorage man does? I think he may object to it but I think the Anchorage man may object to it too by

What Anchorage man? What Anchorage man is going to be doing so?

Cook Inlet.

Well now, I'm saying, you're talking about a tax now on a hell of a resource that we're imposing, and we're going to use that money we say to go ahead unless the state starts buying these things back wherever it's needed. We rehabilitate the fishery wherever it's needed. We're going to raise the tax on the most valuable resource we've got in the state of the fisheries, and we're going to, as a matter of policy, declaration without a declared fund, reaping (indisc) avoid the constitutional problem here by a statement of policy that is intended, that the funds imposed by this tax the legislature shall appropriate into the reacquisition by the Commission in the free market of fishing permits wherever they're most needed, that's what you say.

What we're saying here is that in Cook Inlet if it costs X number of dollars to buy out the drift boats there that are necessary then we're going to assess a percentage of that each year against each of the remainder remaining boats in the driftnet fishery in Cook Inlet and continue that until whatever expenditures have been made by the state to buy those things out has been repaid. Now, the setnetter in Cook Inlet is a completely different creature and not going to be impacted in the same way that the rest of the drift fishermen are, and he's not going to be paying that same assessment. He's going to be paying a portion of the assessment each year whatever is necessary to buy out the set net

fishermen in Cook Inlet. And the same thing is true of set net fishermen in Bristol Bay, (indisc) set net fishermen, or driftnet fishermen in Bristol Bay. Each one is going to be buying out similar gear in its own administrative area.

Alright then, lets get back to Jackwin's problem here. Do you think the poverty thing will work on the assessment.

No, but I still think, I honestly don't because it is like an assessment for the benefit of the property owners of those other permits and if they retire a permit that value accrues,the fishery is more valuable, there is fewer slices of the pie, and it accrues directly to them just like a public improvement or something like that. So I don't think you can have a poverty exception in the assessments.

But I didn't balk on the proposition of the annual fee.

No.

I think that's fine. I think that's a different proposition. But when you're improving the value of the guy's permit I think he has to pay for it. I would be hard put to exempt him.

Why don't we shift then and make the, instead of the $50 assessment why don't we make it a license fee, across the board, and then put the poverty thing on there and

Well, the only point I'm trying to make is that you're buyback

is really going to be a local option where you come into a given fishery and you sort of say, this is for the improvement of your fishery and we're going to assess this fishery alone to buy out permits in this fishery, and we're not going to tax the state at large or other fisheries to get you down to the optimum level, then, you know, the funds that you raise can't have such a mechanism built into it, your way of raising those funds.

Taxes, or the fee, I've got to problem in terms of a poverty exception for that, but taxes, there's no reason to invent a special tax, no know, fisheries are going to be subject, you know, these are subject to property tax, capital gains tax, the income of the fisherman goes up that's going to be taxed.

Can you have a sliding scale license fee, registration fee?

I don't think there would be any problem

Related to your catch? And if you did, could you put the poverty provision in that?

Yes, I think you could have as complicated a system to the $50 fee as you wanted.

I mean, you're license fee shall be, not

Not permit, license

X dollars plus a percentage of your catch the previous year.

Well, the thing that

Where's your money coming from to buy out the other permits, though, out of some general fund to which this contributes.

That's where it's all going to go, to the general fund, anyhow. It would have to.

But your accounting is going to be indiscriminate, in other words the fellow in Southeast Alaska is going to pay to be buying out permits up in Bristol Bay?

Well, that was the thing. If you did it on the basis of a license registration fee in Bristol Bay area you would have maybe 1% of your catch appended to that license fee. In another area no percent, in another area 2%.

You're mixing severance tax with license fees, but you could say that the license

Let me hear from an attorney, alright?

I don't understand, what you want to do, you don't care where the buy back money comes from, that can be set within (ph) part, you want to put a differential hardship on people that live outside the area, you want to put or basis of catch on percentage

You would package your assessments as you have them now by area into a sliding scale license fee.

No, I don't think so.

You couldn't do that?

That would then go to buy back the permit?

It would go to the general fund and you just have an account in the general fund, course

You're doing indirectly what you cant do

O.K., then it's not an assessment. You just levy a tax on a sliding scale based on the percentage of the catch.

License fee.

O.K. You're doing that with your license fees now aren't you?

The $50 fee the way it was drafted in the original bill wasn't intended to supplant the notion of buying fishing licenses or licensing different types of

I'm just putting it into one package that can be treated as a license fee with your destitution clause and everything on it It goes into the general fund to provide you enough money to buy back. It gets you the same amount of money.

I don't think you can do that. I don't think you can tax for buy back.

(Indisc.)

It does seem to me that you've got first a legislative question then, and that is, who's going to pay for it. Won't the state as a whole, the fishermen of Alaska as a whole or all salmon fishermen, or do you want the prices(ph) confined to the fishery.

Under what I'm proposing the individual fishermen pay precisely the same amount as they would under this other one, precisely the same. But he's doing it as a license fee, sliding scale license fee rather than an assessment on top of his license.

Two fishermen catching the same amount of fish but in different areas would pay a different license because different amounts of money were needed for the buy back program?

Presumably, yes, could be. In one area you'd assess them 1% because was adequate and in another area 7%.

You can't change it by calling it something different. It's basically an assessment to buy back permits. You can't discriminate on it. It it's basically a tax and it just all goes into the general fund and then you have a separately funded buy back program, then it's fine.

But you could set it evenly across the board. Everybody pays 3% across the board, and then we come out of another account with the buy back, so we don't relate it to the area buyer. Then we're back to Clem's

When we're done I have a real blitz with some of the non-salmon fisheries and some of the non-impacted fisheries. Now, I don't object to having a 3% severance tax, or a, you know, I think when we (indisc) we should have at least a 12% severance tax, but that's just a straight tax that should go into the general fund for any purpose, like any major industry would pay. I'd say you're going to have to keep your assessments fairly low and if you wanted to you could have, maybe make the license fee, in other words make the license fee revert back into the buy back so that to a certain percentage every fisherman is paying to the buy back, but you'd have your gillnet license in Bristol Bay to be $300 because you need to buy, you know. But then you'd also have to have a $100 license for a seiner and that goes into the buy back, you know.

I got another problem with buy back, and I think it's, to some people it's going to be darn important. You got a channel of here, take Cook Inlet. This is where it applies best as I know it. The fish are travelling north into the spawning grounds. Down here is the beginning. There's no fishing below that. O.K., take this first setnet fisherman down here. If he's paying assessment fees to buy out these people up here it has absolutely no impact whatsoever on his fishing.

It does have an impact.

How?

For the very simple reason that you must close the seasons to allow an escapement to go through the whole thing, and as you limit those numbers up there his season gets longer.

(Indisc)

That's not the problem. It's not closing it, it's a matter of opening, and he's being hurt by that very thing right now, because the season isn't being opened until they're already up there and in and they're already past him.

That's bum management. That has nothing to do with this.

The fish that he pays out money to buy these guys out up here will have nothing to do either with his fishing

It does have to do with the fact that it's being mismanaged by Fish and Game has nothing to do with it.

Well, he could make an awful good case. Anyway it's rather minor in the overall scheme, but then he could have some concern.

Let me ask you this, the buy back thing bothers me a lot because of what do you do when you want to make an adjustment between

a recreational fishery and a commercial fishery in some area, where somebody has been buying back for ten years?

Keep going, I'm with you.

Well, I

To come up to the optimum you mean

No, there's no point in cutting out anybody now for a couple of years till you get around to setting an optimum. If you're not, you know, if you can let everybody in at your initial level.

As to some fisheries it should be apparent right off the bat that by using (indisc) 1, 2 to 3 categories you have not exceeded an optimum number.

Well there you're going to have to make a lot of intuitive judgments about what the optimum number is before you ever get around to setting it. Under the other mechanism you're going to say, we'll let in everybody we can up to the present level, everywhere and in every fishery until we even start worrying about them.

Isn't that a kind of rough approximation brought to them right then.

What?

By setting this maximum.

No.

When you set any ceiling you're saying that we're fairly sure that we don't want any more in.

That's correct in that sense. You don't know what the optimum is until you set it.

But you've already set a maximum.

But you never fish anybody out in yours.

Probably not in those except somebody what wants to start up now

I just know that one of the key features of this bill from the beginning is that we're going to treat the different fisheries differentely and we're not going to try to put the same ruler up to the seiners that we put up to the hand trollers, and hopefully that's what you're trying to do with these categories, is put the same ruler of hardship, not to say we'll apply the same standards of hardship within each separate fishery, considering the unique conditions of that fishery, rather than take one ruler, statewide ruler and put it to all the fishermen in the state and say, what it will mean is that 98, 100% of the seiners will get in at the outset, 5% of the hand trollers, 25% of the setnetters, 60% of the drift gillnetters, and from the very beginning we've been trying to avoid gear fights and avoid any system where people will think that you're going to advantage the purse seiner, or the, you know, oen type of gear over another, and that's what that will wind up doing.

Can't see it, Dave.

We seem to have lost most of our constituency here.

What happened to everybody.

They'll be back shortly.

I don't know, Bob had something that was happening.

I doesn't say you can't.

Until, you said, the optimum low.

But that's completely disorderly because the optimum / level doesn't come, isn't something that you set until you have initial entries so you know where you are at the outset.

You're already going to have your interim entry taking place next year. You got two years in which to come up with your optimum level, with the optimum number. And if you can level (ph) all the existing interim use permits that are issued, yes (ph) as initial entry permits because taking all of them you still are not above optimum level, then you let them in.

That's the way it's supposed to work.

Alright, but there are too many fisheries in which you've got to let some 4s and 5s into initially to get your

I haven't done enough research on it.

Well you'd just have to find some source of cash money to work with and so you'd need to get some money coming in.

The best thing would be if they could figure out a way to finance their buy back and do it fairly quickly because then the benefits will start to accrue. And then they can finish paying it off.

Maybe you should work at 10 or 15 years which your constituency tolerated, maybe you should have the assessment start at a higher rate than the buy does for the first few years. Have the assessments come in right away but dont start purchasing for a year or so, a couple of years, three years, for a slower rate of purchase, until you build up a little bit of money.

Of course the ability to pay assessments increases as the buy back (indisc)

That's right, yeah.

As far as I'm concerned I don't think it makes a heck of a lot of difference as long as you in a sense mean what you say. If you're going to do it, why fine.

I don't think you could let the people in the area set the optimum level You got to set that and say you're going from here to here unless you can tailor it and make it flexible to fit them.

Well this is somewhat off the subject but could a Commission, empowered the way it is in these bills,use the assessment to amortize over a longer period of time an early lump sum loan or, in other words, if you could set it up so that an assessment of X amount per year would amortize a given amount of money over, say, 20 years, but get that money in the first five years to buy the boat (ph) out.

We had that in one version, the idea that these assessments could be put on

I think put your sewer assessment and pay it over ten years.

I think it would be possible.

The Commission would pay out assuming the legislature would give it money to work with. The Commission pay out, but the assessments to recoup might take them a little while to get in.

But the idea was that there wouldn't be any appropriation to start the buy back. That would only start as these assessments begin to come in.

You've got a dollar cash flow problem that you'd have to solve, and I don't know how you'd solve that one.

I think you've got to have some realism though in the sense of working toward the optimum.

Yes, you can't make it a 100 year proposition.

Well, that's perhaps true except, that's correct. In other words you're saying that you can't have the optimum set and then never attain it.

That's right, and I think you've got to have a realistic

(Indisc) that there's some flexibility.

Sure.

I like to think in terms of 5 years. Somebody else thinks in 10. You'd start to raise eyebrows if you get much above 10.

But in the fisheries, like in your crab fishery, maybe 20 years is a sufficient horizon, Bristol Bay driftnet maybe 5, you know, you can move as fast, you know, at different rates.

At the risk of running foul of John's problem I'd suggest forumulas that had a differential at a curve ratio prescribed instead of going on a linear relationship. Start slowly but build up and about your 7th and 8th 10th years why, wham, you're going to be out there buying a lot,but give them a while before you really get (indisc) Kind of snowball.

I don't think this is going to hurt your property people if you have/assessment an that was low enough because they're going to catch a little of something every year.

And if they fish at all they can't be charged above that percentage of their thresh.

That's right.

(Indisc)

Our bill say that that (indisc)

up to 7%, you may not be,in one place,that you may not be charged more than 7% of your catch, and we wrote this in for these little back bay gillnetters that maybe catch $800 worth of fish a year, but it happens to be the only cash that they might have. Fine the assessment might be terrific, but they're fishing and it can't exceed 7% of their catch. Now if they sit it out the assessment might be $300 or $400.

You know, when we went out and discussed in public meetings this notion of buy back, the way we tended to explain it was it is a local program for this fishery. Now, you've got these choices, you can have a high assessment and quick buy back or low assessment and slow buy back and it's sort of up to you. The idea would be Commission would come out there and, you know, set whatever kind of a buy back program up they thought the consensus was, and it didn't scare people so much. They felt the buy back program would be tailored to their fishery and their circumstances.

What it's going to do is say, Mr. Andrews, it dont make any difference whether you're in the same fishery or in the assistant (ph) fishery, if you're not really dependent on this thing, or if you don't have a certain degree of hardship involved, we don't guarantee you in. Now, if you do have that amount of hardship, we do guarantee you in regardless.

You're only making it harder on the setnetters here than the other bill does, a lot harder, because most of those guys are going to be 4s and 5s.

How can there be any 5s when a 5 is only a paper license? How can a setnetter or anybody else

There are
a lot of people come up for a vacation, but that's no hardship. It's a little privation.

(indisc) a paper license. He doesn't even actually fish it.

That isn't what it says. It says no hardship. That isn't concept of paper licensing, that's the concept of economic hardship. I'd say that a person that was vacationing, a hobby fisherman suffers no hardship if he's taken out of the fishery.

On what basis do you

Well, that's my point. I don't think you can make cross-fisheries

comparisons. That the only way you can convince people you're fair is when you say, we're not going to compare you with purse seiners, we're not going to compare you with somebody else, we're just going to look at you within your fishery and ask of all the set-netters in this area who is least dependent and who is more dependent. Not to say how dependent are you in relation to the purse seiners or in relation to the crab fishermen at Kodiak or something like that.

(Indisc.)

But most of those guys, you know at the outset the hand troll fleet and the setnet fleet where everybody acknowledges we're going to let everybody in, you know, and under any bill that's essentially what's going to happen, but those are the very fisheries that will have most of their people down in 4 and 5, and they're the ones who have been causing all the problems. In the purse seine fishery everybody's in No. 1, most of them, 100%. You see when you get back to this again, I get back to trying to be simple on the damn thing but you're going to let everbody in anyway, why not just say we're going to let everybody in and start out from there.

The only reason you wouldn't then is because of the drift net fishery, really. Because that's a fishery where you'd had, if you look over how many people that fished over the last ten years

it's about twice the number for the present level. The purse seine fishery has been stable, the setnet fishery is stable.

Let me pursue something here. The only reason I want to pursue it is, I don't want to pursue it too far because I don't want to take up all your time because of a hangup that I've got, but to me, it seems to me from the grace of the grandfather rights that the classification of those who fished in the previous year or two years or something like that, the grandfather clause being based on hardship and use, zoning ordinances or anything else, use or whoever did it, that that's prima facie of hardship when you change the law and you give them the exception to it. That's a duplication. And if we just use that simple test with the 100 statements , saying, having fished once in the last two years, having fished in the fifties (ph), you know, the last two years, one of the last two years, shall be prima facie evidence of hardship if you're deprived a fishing license. And then make out a special one for the guy that is, plus anybody else who can show that because of illness or service in the armed forces or something else was prevented during the last two years from fishing one of the last two years. And open it up and let them all in.

I have no quarrel with you as to principle in this operation. The only difference I begin to observe right off the bat between what you're doing here and what you're doing in a zoning control system, something of that nature, is that you're dealing with a limited resource as to which you're going to say only certain persons take part. It isn't that I can't buy a piece of land

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in that neighborhood, it's just that if I do all I can do is put up a residence, I can't put any more apartment houses or whatever. This I think is a more severe governmental system being instituted. Severe in terms of the next people who might get into it. Now that --

Particularly in terms of our constitution provision of common use.

I didn't hear you, Joe.

I said, particularly in terms of our constitutional provision of common use in public resource. That is a little different.

Yes, now I think that's a difference of degree rather than in kind and all that tells me is that you must be leary and wary of the accusation that you really would like to keep this very valuable thing that you're now going to limit to certain people to a select few that have been selected on some illegitimate basis and the basis on which you can make that selection and avoid that accusation completely is one which is tailored factually (ph) to the idea that if you were to take this person out of it, say he can't take part in it there's a bill that imposes a hardship on him. Now, one way to go about this is either wait for the present draft that the Senate bill has which simply says hardship and try to measure it now. Let's concede all the difficulties and complaints that we have as to that. The question is are there some more detailed specifics, objective type measurements of the same thing. And I think the answer to that is, yes. And I think you can do it in a way that

in a way that's acceptable. You might end up with something that's a little more complex than what you've prescribed, but surely those who've taken part in the past, those who would have taken part in the past but for the fact that they were in the military service or that they've had a temporary illness or something of that sort (indisc.)
Write them all down and then maybe you have it. (indisc)

You haven't quite confined yourself to the precise measure of the exact thing which I think is the sole justification for having the grandfather clause, but you've come reasonably close to it and you've avoided by some other mechanisms, by some other attributes of your system, if you once get it going, that prevent the person inferring that you've really done just to favor this particular little group of friends of yours. If you can avoid that by having transferability aspects cranked into it, a real determined effort made to cut down on numbers and get to your optimum in a reasonable length of time, and so on, then surely. That's fine. I think (indisc.)

You haven't put any more hardship on those that are left in to buy out (indisc)

But you're going to pay for them anyway.You're going to pay for everybody that doesn't get in and everybody else you're going to let in. Your bill pays for them.

Not really.

It does. You're going to pay for denial, right to compensation, denial of initial

May, may, may

(Indisc) you would pay would be for the difference in value over equipment based a market, your fishery and a market that's restricted now because you

And its still discretionary

(Indisc)

We're getting away from our problem here when we start buying people's cabins and property rights and boats and things like that because of these part-time fishermen, do we split (ph) it out because it wasn't any hardship on them?

We've assumed the Commission may make the decision not to buy them at all. We think that's something for the Commission, to not buy

They can't adopt at their whim different standards of compensation

No, I don't think they would.

Let's say that they adopt the regulations that were sub categories of 4 and say this/the sum that they would buy out is

(indisc)

Why not let them all in and then buy the permit back on the market?

Is there enough money to do it?

Well, if we've got enough money to do this we've got enough money to do that. It's the same thing.

Why is it the same thing?

Well, because if this is open ended so is that.

That's what the market is going to be.

When you let them all in I think that you've got to come back to the sort of things that we're using.

Right.

With some reasonable proximation of the hardship category.

But, there's nobody can complain about hardship here against hardship there, or something like that

I agree, because the (indisc) of free entry

The more objective your standards the less oportunity there is for creditors (ph).

What we have here basically, as you know, is whenever you have resource, whether its oil lease, a noncompetitive oil lease, or something else, when you have more than one guy that wants it, you put them all in the hat and everybody has an equal right at the start. In one way if you started out with this and you have your assessment and the guys have to pay for it every year if they don't use it What the hell are they going to do holding those licenses, they're going to forfeit them. You're going to get them out. Let's assume 50,000 people took the god damn licenses and they're going to pay $3, 4 $500 a year into the buy back fund, something like that.

They're not going to do that (ph), the people who are using those licenses are the ones that end up with them.

Well, no, you're entirely wrong..

Well, I don't know either. There's going to be a substantial number I think that will continue to hold on to to them for two reasons, one, speculation, the value increases they figure that the buy back, the value is going to appreciate greater each year than whatever buy back there is is set (ph). It certainly won't increase that much but it's going to increase/something in addition to the buy back. Secondly there'd be the changes, the rehabilitation effort that are being made, fishing is going to be better, if I wait for two or three years I can get in and still be a good fisherman. And you're going to have more people in by quite a lot at the end of five year's time than you will at the the beginning. (ph).

The thing of it is Bob, I think that regardless of what's happened so far, I think that the reason you haven't had a single fishing license (ph) in the United States is because of this difficulty, and somehow we're saying that it's not going to exist here, and god damn, they are.

Now wait a minute, (indisc)
Are you sure nothing like this has ever happened before and, if so, where would it have happened

RADAR: Well, we don't know if (indisc.) has happened.

PALMER: Alright, and where do have certain circumstances that are much this much similar?

RADAR: The East Coast is fishing--they go up through the fishery there for a century coming and going, and in and out, and...

UNIDENT: Course you're dealing/with (usually) more than one state.

PAlmer: You're dealing with more than one state, and you're dealing--you've never had fishing before on the verge of the improvement through rehabilitation...

HAMMOND: I can't agree with the word you mean, but what--but there's a group that John's talking about bringing oil in, what if again he's going to be the guy that came in this year, no transferability. What if you did that, and then you wouldn't have this business of a whole slug of new people hanging on to licenses, keeping your potential pool away up high. There'd be no reason to, you'd never...

FLETCHER: On the other hand, I think before you could go to something like that you would have to make some distinction. Well, maybe you could make the (indisc.) into the ones who came in this year compared to those who had been in in some prior year.

RADAR: You know, why do that? Why have two or three different kinds of permits floating around? I mean, you know, because you wanted to get a whole bunch out of the fishery in a hurry and not have a bunch of people hanging it out--your big concern is these guys that would be flooding in this year, right?

FLETCHER: Well, I think you could just as well keep them out

(indisc. -- simultaneous speech)

FLETCHER: ...let them in a two-year or five-year basis.

RADAR: Is it alright, do you think?

FLECTCHER: I think you could just as defensively keep them out entirely as you could to let them in on a very short basis.

RADAR: How? Well, I mean, taking the approach that he's talking about, how could you do it? You say you can't go back and lay out a (indisc.) of experience, actually.

FLETCHER: Well, if you make a distinction between the types of licenses that are out in terms of what restrictions are upon the person who holds them, transferability and so on, or the life of the license or something like that, then those distinctions have to be measured of some legitimate concerns the State would have and the only distinction that I can perceive between the person who comes in this year to get a new license, and those who've been in in the past, that the very fact that we've talked about is that it's associated with the grandfather clause, and when you do that then you've got to have something that's a reasonable approximation of the legitimate concern about grandfathering, so you're right back to where you were.

RADAR: That's true of zoning. The only difference is that there just later, that's all. There's a point there that the law

(indisc.--simultaneous speech)

FLETCHER: ...more restrictive, you know. A more severe thing you're imposing upon the people than you are the landowner.

RADAR: Well, if you get back to your hardship standards, rather than trying to tie down the same five classifications to every fishery in the State, why not just put a general one sentence provision in the Bill, nobody with significant economic hardships shall be (indisc.) entry permit anyway, and be done with it, and then let it go into...

UNIDENTIFIED: Provide it by regulation.

RADAR: Then let it go to regulation and fight it with more flexible standards. Get on up through each area, cause you know only about in three percent of the fisheries is that even going to be relevant because everybody is going to get in with some degree of hardship.

FLETCHER: By putting it in the negative we've not affirmatively said who gets the permits.

RADAR: Up to the maximum level and then if you've got any people left over who have a significant hardship, you let them in, too.

FLETCHER: In other words, you would set a maximum, and we're talking about what part of the maximum would they get?

RADAR: Present level.

FLETCHER: That'll be a number.

RADAR: That's a number, yes.

FLETCHER: I would determine who came within the number?

RADAR: You can rank them in terms of priorities, in terms of hardships, but if you issue entry permits to everybody, you know, to that number...

FLETCHER: That's what you have to weight now, isn't it?

RADAR: No, because there's one difference. If you still had--there weren't enough permits left over that if you still had a group of people that (indisc.) significant economic hardship in that particular fishery, you'd let them in, but in all the other fisheries where the only people you're going to have left over at the tail end of the list is the marginal participants, then you just stop. Issue permits up to the maximum level.

FLETCHER: That's why I say, defensible if you arrived at your maximum number in some fairly rational fashion that you could make that a combination of both the nature of the fisheries--the particular fishery whether it needed the maximum--not whether, but to

what extent.

RADAR: Well, the maximum there, yeah, okay.

PALMER: So you're suggesting that maybe take the numbers you had before, maximum number, the average or the peak, which was it, for the last four years. The highest number the last four years, that's the maximum, but as we've said later in our bill you would say in this one, regardless of that, anyone with a significant degree of hardship if they're cut out, will be allowed in. That's what you're saying?

RADAR: That's right. You know, you can do it in a one liner. Lea the thing flexible so that in regulations you can set up your priority classifications, but in those fisheries where all of a sudden there's a big lump of people that would suffer significant and economic hardship if you only issued a maximum number of permits, then you let in that next priority classification to people who would suffer hardships. That way you don't have to classify in terms of significant economic hardship every single fishery, cause you're not even going to have that problem in a lot of the fisheries.

PALMER: Well, that's essentially what we've done here except that we have tried to determine, we've tried to define what was meant by significant in these prior catagories...

RADAR: But you applied it to all the fisheries, and you wouldn't even need to apply it to the fisheries where by the time you go to the (indisc.)...

PALMER: ...same thing to a man here as it is down there. It would have to be called significant.

FLETCHER: But the practical difference in terms of operation is that he's going to have some fisheries under this system in which some persons are going to come in because they're less than

the maximum of the set, without any showing of hardship particularly at all.

RADAR: Right. Right. (Indisc.)

FLETCHER: I don't either, unless you've got this maximum set at figures that's not defensible, and I want to know how you're going to set it now.

RADAR: Maximum would--alright, let me be a little more detailed about that. We know that we've got--most of the salmon fisheries are either at or above the optimum level, so in order--but that's something we know intuitively before we get around to setting administratively the optimum level.

(indiscernible--simultaneous speech)

RADAR: Alright. That's right.

FLETCHER: You know if these people have been telling you that.

RADAR: In almost all the problem fisheries the minute the commission was established they would adopt a regulation under this bill, it's still the commission that sets the maximum level, but it says the maximum level shall be no less than the highest number of units of gear...

FLETCHER: It could be no more than, too, because I don't want you to get it so high that you're running afoul of the idea that you're protecting everybody who might have any relationship to this fishery.

RADAR: But there are a lot of fisheries that are experimental fisheries or developing fisheries. There's no reason to pin the Dungeness crab fishery in Southeastern (indisc.) and so the commission just wouldn't set the maximum level amount until it gets on down the line.

FLETCHER: You have to differentiate now between one fisheries in which you don't have any problem, and those who (indisc.) do.

RADAR: Well, you do that--the commission is given jurisdiction to act and in all priorities to attack the problem fisheries first and to do that using its own good sense. Now, it's going to set the maximum immediately for all the problem fisheries, where we're at or above where we should be, but why should it have to do anything with longlining for black cod. Any of these fisheries that's (indisc.) in the future require limited entry. If they don't, you know, if there's not a pressing need now. That's four or five years down the line, and they can let those grow and not even set a maximum level, and they'll monitor them and if they see them getting up to that point then they'll set a maximum level, come in, and adopt an optimum level formula and issue entry permits, but the only reason we said no less than is that, you know, for all those other fisheries that we can't handle. It's just a workload problem.

FLETCHER: It's so untenable to say--to make it perfectly clear that in those situations in which you do set a maximum that it's being set every rough (indisc.) of this hardship business, because I do believe that you're vulerable if you let things to--there's got to be a limited entry fishery. Persons that in one fishery don't show any particular degree of hardships in another fishery have a big (indisc.) system that (indisc.).

RADAR: You're right. The only reason you can get hardship is if you have to cut somebody out. You don't even have to consider hardship if you're not going to deny a permit to some and issue it to others.

FLETCHER: Well, if you're not going to set maximums, then why are you--I mean, if you're not going to have any hardship categorization at all, why are you setting that?

RADAR: Now, one thing is in the fisheries where you don't have to

exclude anybody, there isn't an issue or grandfather rights at all. You don't have to even--you don't even have to broach the the question of who is suffering hardship in that fishery if you're going to let everyone who wants in in, and if you're going to deal with the fisheries separately, all I'm saying is that you seem to imply that we have to use the hardship categories in every fishery regardless of whether they're above the maximum or above the optimum, or below it, you know. And I think you only need to use the hardship if you have to cut somebody out and let somebody else in.

FLETCHER: I see.

RADAR: And, so, this would enable you to use the hardship every place you had to exclude somebody, but then to just let it float and ride and not even get into it if you're below the level, and don't have to get into it.

FLETCHER: That's alright.

RADAR: Okay.

FLETCHER: All I'm doing is objecting to not less than. I think if you're going to have some fisheries in which they don't feel the need of a maximum, you'd better tell them the reason in which we're not going to set any figure, but if you're going to have a maximum figure, then I think it has to be tailored to what it is you're going to accomplish.

RADAR: Well, there would be a maximum figure that would at some time be adopted. I mean the idea that was idea that was developed in the House was that they wanted the jurisdiction of the commission to extend to all fisheries, even those that don't need limited entry now, so that they wouldn't need, in fact, additional legislation, so you would empower them to at sometime set a maximum, and that's the only reason for the no less than,

you know, like...

FLETCHER: As I say, it's a (indisc.) thing. I think I would simply differentiate so that--don't put it all in one sentence. I was getting somewhere close to this on the airplane.

PALMER: How would you then define significance?

RADAR: Well, you would just have to make an effort at defining it. I don't know. In other words, all you're trying to do there is to say, I think that it's alright to ask who is more harmed and less harmed, but statewide we want some affluent standard that if somebody is harmed more than this degree they aren't going to be kicked out, right?

PALMER: That's what we say in our bill?

RADAR: Yeah. So all you want is a minimum to be cranked in in those instances where somebody in that category would not, you know, would still be waiting in line when you issued the maximum number. Then you'd want to guarantee that he gets a permit. So I think try and make one definition of significant, or substantial economic--you know, I see that as just a way of--I don't like that necessarily, but it's a way of keeping it simple and accomplishing the same thing, I think.

FLETCHER: Dave, look at what I did here. This is scratch paper. I've got an (indisc.) called determination of the maximum number of the initial issuances, not an all time maximum, but (indisc.). Now, as dealing with your specifically listed areas, because of that (indisc.). I had the one in front of me that listed those, but I'll ignore that now, and then, as to what would be the first category would be distressed fishery. This would have called for an initial determination that the optimum number, when finally set will be smaller than some prescribed number. Okay, whatever it is. Your previous license holders measured

in some rational way. (Indisc.) But, anyway, as for those you'll come up with a maximum. Now all of the fisheries--maybe you're not worrying as to what the optimum is. On the other hand, I see (indisc.). I can say, well, I can use some factor like 150 percent of all those in Alaska, and the peak number in five years will limit the new entries to 150 percent of those, or something like that. In other words, don't--

RADAR: How are you breaking it out? Let's see what kind of a formula you come up with on that.

FLETCHER: Oh, I don't know. I (indisc.), but not too many. For example, 157. In other words, if in fact you do scare people out of one fishery and they all go to another, don't let yourself immediately get into a bind, (indisc.) yourself over there, and put a tap on this one, even though you haven't labeled the fishery as presently distressed.

RADAR: Why not leave it totally discretionary for the commission to (indisc.).

FLETCHER: But I just felt that you might like to leave it here.

RADAR: Yeah, that makes--in other words, what you're really making them do is make an initial finding that for certain fisheries the optimum number will be smaller than the present number.

FLETCHER: And if they--that's all they have to decide is that they have to tell you what the optimum number is, and if they know that then they can (indisc.) the maximum. Yeah, sure, I thought that, and then down below you could set your standards for the people who will fit within these last ones. You want to rank each fishery separately, I don't think you have to worry. You can have some trouble over here, but rank each one separately so long as you don't come up with a terribly indiscriminating, well, even (indisc.) fisheries so severely impressed that you

may have to cut out (indisc.) first.

PALMER: Do you think you could come up with a uniform, or a threshhold, a minimum cutoff (indisc.)?

FLETCHER: Well, (indisc.) such an idea (indisc.) said, okay, so you've used this and you've filled the maximum but you've still got some people severely (indisc.--simultaneous speech) if you think that you're going to find that to be a real problem.

RADAR: In other words, rather than saying all ones, twos and threes get in, just say fours and five can be kicked out. That's what it amounts to.

FLETCHER: I--I don't...

(Laughter)

PALMER: (Indisc.) We got a long ways (indisc.)

(Laughter--indiscernible).

UNIDENTIFIED: To restate what you were saying, Dave, and not less there, what do you say (indisc.) districts where significant hardship can be experienced by unsuccessful candidates, the maximum number of units shall be no more than the highest of the previous five years.

JACKMAN: Yeah, you could do it that way... your allowed for the possibility of changing that number.

RADAR: That would leave--course, that would be better in a sense cause it would leave more discretion to the commission. They'd just be instructed to set the maximum level at which would in no case exclude anybody who has suffered significant economic hardship, whatever that is.

UNIDENTIFIED: Then those ones that ~~the question~~ Professor Fletcher was concerned about, that there not exceeded (indisc.).

RADAR: I still think you'd be on firmer grounds if you'd just set the maximum according to the finding that he has here, and then say

that what you really acknowledge that what you're doing is issuing entry permits above the maximum in those particular, you know...

PALMER: For a harship.

RADAR: Yeah, when there's a special hardship then you issue permits above the maximum

FLETCHER: How far have we come toward (indisc.) stated by John that the open market is the only way to go?

PALMER: Well, how far are we to be (indisc.) that we have a substantial reduction in gear by that method and maintain our position constitutionally as well?

FLETCHER: Well, I think those two are substantially the same proposition. That is, I feel very strongly that your system must contain both visually to the reader and in practice an operative mechanism for getting down your optimum numbers within the recent time. And I don't really care how you do it, but I feel very strongly that you've got to have it, because you otherwise look as if you're doing the wrong thing.

PALMER: Well, you know, your suggestion that we just put in here is almost called eye washing. If you wanted to we could say the commission is hereby directed to reduce entry permits by the buy back so that they will reach the optimum level in five years.

RADAR: Put a time limit in, you mean?

FLECTHER: Well, the only practicality is, do you really mean it? Are you going to furnish the money for them to do it.

PALMER: Well, we could maintain our buy back fund as it's written, to apply to each district and each fishery within the district, and the assessment, and so on and so forth. We could say that the commission will enter into the market place and buy as it

sees necessary and return a portion of those as it sees necessary on a ratio so that--or on a formula, so that within ten years, why, we're down to where we want to go. I guess we could work that in just as we have before.

RADAR: I think it's pretty mandatory in this language that's been developed, and I would argue strongly against an arbitrary year standard. We say, when the optimum number of units of gear is less than the maximum number of units of gear, the commission shall establish and administer a buy back fund, and then we say for each buy back fund it shall adopt regulations and annual assessments, and that the commission shall adopt regulations providing for the purchase of entry permits, et cetera, until you reach the optimum level. It doesn't leave, you know, you can't all of a sudden decide not to, you know, abandon a buy back. You know, you've got to move to that optimum level.

FLETCHER: Well, they can adopt regulations that would be (indisc.) as it was against it.

RADAR: If they did that, but then you can only be attacking the regulations, and certainly, the law isn't weak if they actually move towards those.

FLETCHER: Well, the law would be stronger if we're told that it was to set a system that were calculated to reach optimum level within five years.

RADAR: But you can't do that in some areas. You know, you're going to have to be (indisc.).

FLETCHER: You can't just take some areas and say approximately.

RADAR: But why say approximately? Well, I just don't agree. I think that as long as you have to move to the optimum, that it's perfectly reasonable to take fifteen years of the (indisc.)

FLETCHER: It may well be. I'm not saying that I would be unhappy with

the fifteen years. I would be less happy with fifteen than with five, but it might indeed depend upon certain things. You know if you spell it out what factors they should take into account, that's alright, too. Okay, I think it would be better if you made a (indisc.).

RADAR: You say a reasonable standard would be different for each fishery. (Indisc.)

FLETCHER: Yeah. Sure.

RADAR: You can still set an outside (ph.), I guess, and no periods less than (indisc.)

FLETCHER: Yes.

RADAR: But, you see, this is also enabling that guideline to allow-- it needs to be future buy back program.

FLETCHER: Yes, I...

RADAR: It might crop up 20 years in the future. What I...

FLETCHER: That's my second (indisc.) says that if after optimum is reached, any change in the optimum should produce an imbalance, the commission is authorized to direct and reinstitute the (indisc.) program. Sure, I think that ought to be there.

RADAR: But if they were in fact moving, you know, just constantly for the optimum level of gear. Do you really think (indisc.)

FLETCHER: It just depends on how soon somebody can get himself damaged and gets in and litigates, and how sympathetic the judge is going to be.

RADAR: But at least you'd have it...

FLETCHER: If I had the statute before me which just exuded good faith, why, I'd feel happier (indisc.), that's all, and if can find in it the type of description that tells the commission to go ahead and do this, you're stronger.

RADAR: Dave, what (indisc.) the time you say you can't do it in five

years. What time is it, ten years?

JACKMAN: All I'm suggesting, it seems to me that it ought to be a different period, depending on the fishery. Some fisheries would be slower, some faster, so if you wanted just one outside limit, then it's fine with me if you want to put it in there. The only thing where that doesn't fit, and when we were discussing that you have to put in a special new provision now when you want to crank up buy back 20 years in the future like when you have a new change in your optimum level, and that starts the buy back program up again. There are only a few situations in which that would occur. But it might occur, you know.

FLETCHER: Line number 275 says that you may reinstitute--no, I can't read it--at any time (indisc.) by lowering the optimum so that there then exists an excess number of permit holders. You take about one sentence which would direct them to start up the program again if they needed to.

JACKMAN: Well, I don't have any objection to putting a number of years in there, I just think--I don't see how it would make that much difference in the bill.

RADAR: Well, I agree 100 percent with the Professor if, in fact, the buy back program is a sham, and you're not moving toward optimum level. The court's likely to strike it down, but I don't, you know, I don't think it looks like a sham here if they do try to buy it, you know.

JACKMAN: (Indisc.) a few words (Indisc.) five years from now (indisc.) give them another three years.

RADAR: Well, do you think it would have to be that short, or do you think 10 years is better?

PALMER: Well, 10 years is what we used.

FLETCHER: I don't know that I remembered. I wrote five this morning, but I think any reasonable figure is alright.

RADAR: Actually, in wording it you could fit it in so that when the buy back program is reinstituted the 10-year period would immediately--would automatically apply to that buy back program. See what I mean?

FLETCHER: I suppose in the reinstitution you'd have the same general (indisc.), so then you'd have another 10 years before (indisc.) whatever (indisc.) was in effect.

RADAR: Just have it saying so it wouldn't be 10 years of the Act, it would just be 10 years from institution of the buy back fund, that is, setting the optimum level of gear, or something like that.

FLETCHER: You've got to--I visualize that the commission ought to periodically, whether annually or not, but ought periodically to review these optimums that have been set.

(Indisc.--simultaneous speech)

FLETCHER: I don't care whether it's annual, but I want it to be (indisc.). Whether you could put in a substitute for it.

PALMER: (Indisc.) annual. We just said that they shall review, and we'll let them determine it.

FLETCHER: Yeah. That's alright, but I do believe that to be willing to settle for not less than every five years, or something like that.

JACKMAN: But the implication is that they have to make the changes (indisc.)

FLETCHER: No, no. Review. (Indisc.) That's alright. That's my idea. And my reason for doing this is that it's a bolstering thing. It's to reinforce the idea now of what you're trying to do.

PALMER: Our language says the determination, and the determination

was applied to the number of new entries that would be available--be made available out of what they buy back, shall be made by using a ratio which will result as nearly as possible in a reduction of the number of entry permits to the optimum number of entry permits for each type of gear in each of the (indisc.) areas within 10 years after the initial issuance. The permit number is set. They just come up with a formula themselves based on how many they buy back, only a portion of those...

UNIDENTIFIED: Where are you now on this?

PALMER: Page 12. Course, this is the content that all number threes have to sell back, which we've largely discarded. Do you feel that--suppose we went ahead and said, alright, all those who come in have the same transfer right and we gain our reduction in numbers simply by the commission being in the market place and bidding against dealers, buying out when it needs to buy out--okay, do you think that of those that are buyed out that we should substantially strengthen our case by making a portion of them back available to new entries? Is there any need to do this at all?

FLETCHER: I think the only conflict you would have to think about doing it, would be if the commission buying was so (indisc.) that you were in effect cutting out a free market. I can't imagine that the commission could be that active, unless you get into the situation where nobody's willing to sell. John predicts that's not going to be so. I don't know.

RADAR: There will always be people going broke, dying, changing hands, wanting to quit, to make money.

PALMER: Now wait a minute. Are you considering the fact that what the House has in its bill, and what we've retained in ours, the 6-month waiting period?

RADAR: Well, I don't think that makes that much sense (ph).

(End of tape)

SCOMM

#31:21

CSSB 39

LIMITED ENTRY

FINAL DRAFT MEETINGS

3/26/27

III/6

more on tape

... to sell them in a bar some Saturday night, be short of money. This gives him time to think it over, receive some counsel and advice, etc. On the other hand, if you sold to the Commission, you sell this without being taken place in a bar, I'm not sure whether the 6 months applied for a sale to the Commission.

It did, every sale requires application to the Commission. There isn't any sale that can take place in a bar.

This distinguishes between who had to be the transferee. (indisc.)

The Commission on the one hand and

I don't think that's right. There just the same argument. Say they want to transfer it in mid winter and they want some, I mean, that was the argument. The guy gets in tight straits in the winter and he's going to sell out. I don't think the policy in that was to keep him from selling to anybody. It doesn't make any difference whether its the Commission or somebody else. It's the same evil. The evil was to give him six months to change his mind. 'Cause you could have a guy who on the spur of the moment decide he'd sell to the Commission and he'd be out, you know, he would have made the same mistake.

But, you still require him,even if you eliminated that six months, still require Commission approval.

You still require application to the Commission and Commission

approval of the transfer

What would be the standard for withholding approval, set some more standards. You just can't say Commission approval.

No, it say, shall approve if the transferee is a fisherman. I mean if it's going to a fisherman.

He has to be euqally qualified, ready and able to fish.

Well, that's a very minimal standard. Just so it's not going to some speculator in Denver or something like that, you know.

Well, it can be a speculator in Denver who's ready and willing to fish.

Sure, it's virtually.

But he has to be ready and abole.

He has to be alive. He can't be dead.

Yes, it's just to keep, it's just really to keep them in there monitoring the transfer so you know who the permits are going to.

Well, as you say, I think it's in a sense to head off the by persons who simply want to hold licenses. It's

one way to nip it in the bud rather than to forfeit for nonuse.

I take it that the Commission can have a form that says for the transferee to sign here, and one of the questions is, are you ready and able to fish. Yes. Do you own a boat. Yes. Or, no I'm going to buy one, but I will have one by next March.

I've got friends.

Yes.

That's enough. I mean there was never a design to make him own a boat.

No, no, I understand, but the Commission, I dare say is going to want to know. They're going to ask some questions that will help them decide. Is this guy able or not.

The biggest use would be if the legislature wants a report on what's happening when you transfer a permit so it's a point at which you can collect information as to where permits and going and what's happening to them.

Well, I think there's another advantage too that we can build in with a single sentence. And that was when the Commission approves the transfer that it issues a new card (ph) that it doesn't endorse this one over to the next guy because you've got a new entry holder now.

Incidentally, has anyone read George Rogers' analysis.

Which analysis page or so (ph).

(indisc)

He just started it.

(Indisc.)

On my desk there's another 20 pages or so.

One of the points that he makes too as far as I've gone is that in one place we say that the permit is a privilege that may be revoked and in another we say it's a personal right.

Intangible personal property?

Yes, right. And he's indicating that those are rather conflicting.

Well, I thought David had a good idea there. Put all of those in the same sentence and then it would be perfectly apparent that you're getting a rather limited nature of a property interest. If you want to call it property you can, but you have to realize it's very vulnerable.

Well, they are one right after the other, it's d and e

Yes that's right.

You still want to call it intangible personal property.

I think you're purpose in doing that was to suspend property taxation on it, wasn't that so. Wasn't that your idea.

My idea is we're going to be able to wipe these things out without paying compensation. If it's personal property we can't do that.

Sure you can. All you're doing is saying that it's just like a grazing permit on federal lands. It sells with the ranch, it does everything like property but if the sovereign ever wants to take it away he doesn't have to pay a nickel for it.

Can you tax him for it. (ph)

Sure.

(indisc.)

Maybe you should say what you mean. That is, to say these permits shall (indisc) personal property taxation. Period. And capital gains taxation. That's what you really mean. Isn't that what you're after.

Actually the wording was in there and Donna Sprague recommended taking it out because she thought it was a little, just, weill it could go either way. We had, purpose of property and capital gains taxation, and then we said, no, that ought really to be property and income taxation because capital gains is just a subset of income taxation. And then we said, forget it, why don't we

taxation. But, if

I don't think it makes any difference.

I think you get probably over this hurdle of this kind of vested property right problem and compensation and so on if you specify what you want. And if all you want is to be able to tax it, then I'd say that.

Yes, but we want to go a lot further than that. We may want to throw the whole system out here in the next session of legislature on the basis that it's screwed up, and we don't want to call this a personal property right.

No, no. I don't mean to that.

If we do that we're going to have to compensate for it.

You say, shall be treated as. You don't say, is intangible personal (indisc).

(indisc) I don't think you can even say, shall be treated as. Why don't you simply say that the holder of the permit shall, the entry permit shall be subject to personal property taxation.

What are we doing this for? Who's assessing property taxation on the permits?

The local boroughs.

They're not doing it on bank accounts. I went into this one time when I was city attorney. I don't think there's a borough or a city in the state that's assessing property tax on intangibles, are they?

I'm not, I don't know. I thought you had to pay taxes on leases

(Indisc)

How about your capital gains?

I got into the thing because I thought, a lot of people were making the point that this is some sort of a windfall, some sort of a property value that's being created and the state doesn't get anything from it, and it seems entirely consistent with creating a valuable right that, say if you buy it at 4,000 and sell it at 10,000, you pay capital gains on it. And if it's going to trade in the marketplace as property it ought to be subject to taxation. And if that's a way to

(Indisc) like this you begin to make it property rights.

I think you can have it both ways, don't you? If the (indisc.)

(Indisc)

Particularly if you're not taking away something that's already in existence.

Well, but we're going to confer rights to fish.

But it's a highly limited one.

Do you tax liquor licenses?

It's the property right that we're conferring. We're going to pay for it if we take it away.

It's not a property right, it's a use permit.

Well don't call it personal property.

It should be treated as intangible personal property. Now intangible personal property, if you take, if the government takes my intangible personal property they got to pay me for it.

That's right, but its.

Well then let's don't call this intangible personal property.

It's the legal consequences that flow from it, not what you call it that counts. I think you can have something that can be modified by the legislature and not compensated for and at the same time have something that you can tax as long as you let

it stay in existence.

Maybe you ought not to put it down. If you're personal property taxing people are not going to be taxing intangibles anyway, maybe you ought not to put it on that basis, if you don't want that, but I do think that you can tax the realization of gain on sales from it.

I think that income tax laws would automatically have it (ph). You don't have to (Indisc)

Alright.

O.K. Leave that out.

Let's black out, the personal property, shall be treated as personal property.

Incidentally, George brings up two or three points here. I don't know whether we want to go through those or not.

If they're legal, yes, if they're not, no.

Well, one, it's a matter of the language, and I don't know enough about the language to know

Which version is he addressing this to?

I don't know which one he has.

To the one that we said (indisc) last weekend.

Well, he has this problem of who are participating fishermen. In one instance, he says, you apparently mean gear operators, crew members, net handlers. In the other instance he says that you apparently mean vessel gear operator or the holder of a gear entry permit. And, as he says, the first two standards, I mean the first definition which is everybody involved, gear operators, crew members, net handlers, and then the third standard you apparently mean the last one, which is not crewmen or crew members but only the vessel or gear operator.

That ought to be cleared up. Does he cite sections?

(Indisc)

I think we've already cleared some of that up in this other re-draft (Indisc)

I didn't know there was any ambiguity.

No, I thought it was pretty clear even in this one.

Well, we can, that can be left out.

Well, he has difficulty with, reasonable average economic rate of determining. Determining the optimum number eventually healthy, he had difficulty with that.

suggested changing it to economically healthy. Is there any particular reason to put financially healthy.

I don't see any reason why we couldn't use economically. Economically, I guess is a little broader word.

The main attribute is financial.

Your talking about fishery vs. fishery resourse.

Yes, types of gear and

Incidentally, I was rather fond of my other standard (ph) in there about setting the optimum number. It's worked in the opposite direction.

Let the biologists get working too.

That is to say that there seems to be more of these things that the Commission is going to consider, is how far to spread the work around.

That's (ph) terms of the economical term too.

No. Time vested is a kind of a negative from that.

Make work (indisc)

Yes, that's right.

(Indisc)

Well I agree with you, but you're not going to carry it to the point of putting a net across the mouth of every river, you see.

Yes, but that's left to the Board of Fish & Game and broader policy making

It seems to me that that's a highly critical factor that this Commission is going to consider too.

They're not going to change the type

That's a integral part of it. They can't make the other decisions without making that one.

Well, it seemed to me that was

That's right, Don.

If you don't want them to think about it you can tell them.

Well, what I can't see is in reaching this optimum they're going to be guided solely by the biologists and the economists. Those two guys are going to tell them to cut this down to the bare bone.

All that (indisc) to say is that they're going to accept as . givens ' . . a certain established type of gear in fisheries and not try at the outset

Now wait, that's at the outset. Are you talking about optimim?

That's I mean. They're going to be setting an optimum for an established fishery and if there's a proposition to phase out the driftnet fishery and go 100% to electro shocking (ph) the mouths of streams, that's something that the legislature or the board's going to have to do.

I agree. (indisc) you've told them so far, is you don't crank this other one in tells them, gee, that's great, let's do it.

No it doesn't. It says they've got to start with administrative areas in existing fisheries and they have to be compatible with the regulations of the Fish and Game Board. As far as gear conflict, that's still the jurisdiction of the Fish and Game Board.

Well, maybe, I

Because, you know, there are feudal wars fought up here.

(Indisc)

From our public reception at some of the meetings we've been at.

I felt (ph) this is something that these fellows are going to be thinking about and they will take into account. It's something they should be told, there's a legitimate concern. I don't think it's a bad thing to decide that you want to inefficient.

A good many civilizations that we know that are deliberately inefficient and they get along alright.

We still want to make it a role of the Commission to make recommendations on it.

No, I think they should. (Indisc.)

Did we retain most of your language in this copy that you've got

I think so.

And was one of them the number of entry permits sufficient to avoid serious curtailment of the economic opportunities available to all persons.

Yes.

Resident or nonresident, considering the other economic opportunities reasonably available to them. Is that what you're talking about now?

Yes.

I vote strongly against that. It is going off in another direction. I think it's completely irrelevant to the point of economic efficiency and avoiding economic waste.

That is true. It works in the opposite direction.

Well, I just don't think it belongs in this bill for that reason. Because we've got too focal points, management of resource and prevention of economic waste through overcapitalization, and they're both really conservation standards. One's a conservation of social wealth, don't waste, you know, don't invest $100,000,000 when you could do the job for $25,000,000, and the other is conservation of the resource, to(ph)limit gear where it can be conserved, where the resource itself can be managed.

And that goes off in a third, different direction, you know.

Well, what I'm saying is, if I were a legislator I would say that those two things taken alone would lead me to a conclusion I don't want to come to.

Well the thing is if you've already got built-in limits up here, because the Board of Fish & Game has already defined what kind of fishery we're going to have when they say you're going to fish gillnets there and purseseines there setnets there, and there is a make work scheme, natural make work scheme going

No, there isn't, there's a natural make work scheme only because it came about and exists and you're trying to get away from it,

and you're setting an optimum, and then you're going to work toward the optimum, but you're optimum is something which you are getting there because you want to get away from the (indisc.)

One step at a time.

Yes, fine, but to say what your optimum should be determined upon, I'm just saying that I know a good many legislators who would say, Well we ought to have at least several thousand people fishing. O.K., so we're going to have several thousand fishing.

I think what you're suggesting is if you wanted to ask what should the fishery look like 20 years from now, should it move in the direction of more efficiency or should it move in the direction of more labor intensive fishery, or something like that.

Those are policy assumptions that this bill. I mean, these are givens (ph) for the purpose of this regulation. They assume a type of gear and a given administrative area as adopted by the Fish & Game Board. They don't have any authority to change that or make any recommendations.

Well, suppose you, that if you considered only the two factors and given the present limitations on gear it would be much better if you had a fishery in a particular area that had only a tenth as many fishermen as there are there now, but you went up and looked at that fishery and decided, no, we can't do

that, we ought not to do it, let's cut it in half instead of a tenth.

You don't want the Commission to be able to stop at a half. You want them to set a

Well, of course they can, but that's a

How can they. They're told to

No. The criteria is number 1 and number 2 (indisc) to go down to a hundred.

Alright, in the initial bill there were other kind of general fudge factors in there but economic return to the fisherman assumes that you've got a certain type of gear being fished and economic return. You're going to balance those factors in considering the economically healthy fishery. You don't have to automatically cut down to the only, only the number of units that would give you, it doesn't say to give you maximum economic return, it says reasonable rates of economic return.

If this is all within the word reasonable, why, you've won your argument. I just felt that you should spell it out.

The policy, and I don't see anything wrong with it. I don't see that you hurt your bill.

Could you spell it out. I'm not sure that I understand your argument.

Read it to me.

Page 5.

This is one of the factors that enter into determining the optimum.

Well, alright.

This is what Dave was talking about. The number of units of gear sufficient to maintain a financially healthy fishery, or economically healthy fishery that will result in a reasonable average rate of economic return to the fishermen participating in that fishery. No. 2. The number of gear units necessary to fully harvest the average personal take of the fishery resource in an orderly efficient manner based upon sound management techniques, and perhaps during the five years immediately preceding. No. 3 The number of entry permits (and this is what (indisc) talk about adding), the number of entry permits sufficient to avoid serious curtailment of the economic opportunities available to all persons, resident or nonresident, considering other economic opportunities reasonably available to them.

Let me read you what Rogers said about this. He talks about our changing the word maximum to optimum. Because the three stands are related to different purposes the number of units of gear (indisc) will differ, the best, not highest, results being the optimum to be used as a basis of issuing permits. The determination, at best, will be on simple arithmetic exercises which

this analysis left at Number 1. The first standard is that the number of units of gear be sufficient to maintain a financially healthy fishery, and "result in a reasonable average rate of economic return" to participating fishermen. Fisheries is defined in terms of species, type of gear and area,(e.g. Bristol Bay salmon drift gillnet fisheries). There is some ambiguity, however, as to the meaning of participating fishermen as used in the ISGER [(indisc) thing I was talking about a moment ago]

Yes.

Then he goes ahead, for present analysis,the last meaning gear or vessel owner is accepted for the first two standards, and the first meaning all persons including crewmen is employed by the third standard. It should be noted that the conclusion arrived at however would be significantly different if the broader definition were used in all standards. A financially healthy fishery is one, if find, in which the participating operators are financially able to maintain and improve their gear and vessels and are free from economic pressure to violate laws and regulations. The first element of this definition can be established by the Commission on the basis of surveys of participants or a sample of participants in each fishery to determine the actual cost of maintaining and replacing their vessel and gear and their judgment as to how much more would be required to afford a margin to cover the risk of experimentation with new and possibly more efficient gear. The resistance to

the temptation to violate law and regulations would be approximately the total economic wellbeing of the participants in the subject fishery. A basis for this could be provided by the Department of Revenue and form a compilation (ph) of each fishery of of pertinent data extracted from state income tax filings made by all persons holding entry permits or gear licenses. It is assumed that in reference to "reasonable average rate of economic deterent" (ph) means adjustment up or down of average actual net income received by all gear operators in each fishery required to equal the combination of a reasonable rate of return on investment in vessels and gear, and determined by the current commercial interest rates or similar measure, and a reasonable return for labor expanded as determined by current wage rates in comparable employment. The Commission will be exercising an element of subjective judgment as determination of what is reasonable. Once appropriate interest and wage rates are selected the remaining calculation can be made and daily compiled to meet the other standards of this section.

What does he say, Don?

Well, he's really saying the very same thing that the professor just said, that is that ultimately a redundancy in the fishery may be a socially desirable thing, and that a maximization of gear and conservation are not the only two things involved.

Well this is from the assumption

Is that really what he's saying?

Is that a subjective analysis for the Commission? And you're suggesting that we recognize that, state it in here that they have that subjective right to make that analysis in order to at some point close off the argument for efficiency.

But what people have not seen is that the whole program was never directed just to efficiency and the thing that scares me in this is that it becomes an excuse for tinkering around every year with complex calculations and really socializing the fishery, you know, and trying to decide governmentally exactly what people will make in a given fishery and exactly how many people do we want employed in the fishery, and it becomes a pretext for all that kind of thing. And I think it's a totally different program. The idea is just to kind of get it down to something like a rule of thumb sensible level and then let it all even out and not to come back in all the time and make, you know, which is what you do if you want kind of the crutch feel (ph) approach, to be pure economic efficiency or the social welfare approach of Rogers is, let's see how many people we want to employ. I think they're both equally bad because you're making, you're trying to fine tune the thing.

It seems to me you force yourself into that position the moment you decide to establish an optimum.

There is (ph) a reason for doing this

Isn't that the definition of optimum is?

I don't think so. I think the only reason for doing this to get, it's sort of like we're away up here where everything is totally distorted, management, economic return. Let's get back down in the ballpark and then leave it alone, and issue the entry permits and let them become like property, and not just because all of a sudden you discover 50% of the purse-seiners in Southeastern making $25,000 a year don't come in decide they only make an average of $23,500 and rechange the system around, you know.

That's why when the revisions of optimum numbers we didn't provide for annual review and (indisc), but said an established longterm change in the condition of the fishery resource, and what that is meant to imply is only when things get really out of kilter again do you come back in and readjust.

Here's a problem. Let's take a Bristol Bay guy who lives upriver and wants to come down and catch $2,000 worth of fish and then go back upriver.

Well, now, an average rate of return on his investment, time, what are we going to talk about. Are we going to try to weed that guy out.

No.

Because he has an operation there.

No.

That's exactly what we are not going to do. In other words you're going to look at the fishery and you're going to say, we're providing for a thousand units of gear and we know that if a guy wants to work one week he can take 500 bucks back upriver. If he wants to work three times as hard he'll be able to make more.

If he's an inefficient fisherman and using inefficient gear.

But not necessarily

We've stated in here our purpose

If you drive it to the extreme but I don't think it's phrased that way and I don't think it's intended that way. I know that's not, you know, what the Governor wanted us to work on.

Well, because, that may be your intent. But without something like No. 3 in here it's not the intent of the law, even though we may be thinking this way but it's not being established. Now if you include 3 then you give it the legal basis for considering this other aspect. Otherwise, I think you are right back to the point that John's talking about. This guy is inefficient and he's in excess of what the optimum would be

would be there.

O.K. Then (indisc)

Alright, I won't fight 'em up here.

Right.

'Cause I agreed wholeheartedly, you know, with the objective but not to say to everybody that you have to be a superefficient fisherman to say in the fishery. Just to get it to manageable levels (indisc)

I think you could get (indisc) by what you prescribe by way of review and what you say by way of

O.K. (indisc)

I quarreled a little bit with some of the faces upon which the change could be made because I felt they were'nt exactly dovetailed with the standards that you'd set up for determining the optimum number, because you had something about market in it or something (ph) and there was part of it that I

Rate of return fits in with

Well I felt. Wouldn't you feel that it would be better,

perhaps only from a mechanical standpoint to say simply that, if, because of the factors that entered into the intial determination of optimum there were changes perceived of a long term nature.

(Indisc) have change

What I didn't want to happen. What scared me about that third standard is it seems like when we get in court with this thing one of the big things we're going to be arguing is that we have a legitimate state purpose to prevent economic waste and make the fishery more efficient. And if we work in another standard that seems to be going in the other direction of sort of spread the wealth, lots of economic opportunity, make work scheme, why wouldn't the court look at us and say, what you're just trying to do is replace the, you know, just have different people in there, but wind up with the same thing you have now. You're not really making a conscious good faith effort to move in the direction of economic efficiency. You're just muddling everything up.

That would be true if you didn't set any optimums less than what you already had.

You know, Dave, I think, I'm thinking about my own attitude on this bill, and I really don't know what my attitude is, but I think if we write a bill here that doesn't within it contain the standards for administrative decision making which will absolutely go in the face of efficiency and everything

else in favor of the Bristol Bay fishermen, or let's take the guy who lives in Kenai and, frankly, doesn't want to fish very much but he wants $2,000 worth of fish, that's all he wants, but he wants it in any g__ d__ way he wants to and he's done it for a long, long time. He could head for someplace else, you know. I really think that's an essential part of this, and if we're really going to ignore that in terms of economic efficiency then, b.s., the way to do this is to build fishtraps and the state take them over and hire a few guys to run them. That's the way to do it.

I think the conservative, I think where you've protected that is by not giving the Commission the power to change the nature of our fisheries, the types of gear, the fishing areas, that's the very conservative pull in our fisheries. As long as you fish with drift gillnet boats and setnets in Bristol Bay you're going to have that kind of a fishery.

But here's the problem, really. This is really more their problem than the Fish & Game Board. You're talking about the relief of economic distress of fishermen, so we have to decide what is economic distress.

But, all I'm suggesting is we, I admit we copped out of that by narrowing the purview of what the Commission does to give, accepting the rather conservative, inefficient nature of the fishery where the fishing would, you know, instead of having fish traps and trolls and all sorts of more efficient technique

you're locked into a fishery with drift gillnet boats and setnets and Alaska limit seiners and all those limitations and that those should be enough to protect, you know, the character of the fishery. And, you know, if a decision's to be made to move away from that that it ought to be done by the legislature in a separate bill by the Fish & Game Board or certainly not by the Commission, because the Commission can't come in and say, all of a sudden we're going to let entry permittees put in fish traps or, you know, electoshock fish, or go off in this select economic efficiency direction that far.

(Indisc) in what you do with it, but I have suggested that you change your Fish & Game authorization clause that would authorize commercial experimentations with other types of gear (Indisc)

Yes, good, because it does seem to me that that lends more credence to the proposition you are indeed interested in cutting down and then if you want more efficient operation , maybe this is collateral to what you're talking abo now, but I do think that would incorporate (indisc.)

There's ar ther variance on this efficiency factor you ought to be awa e of, I don't know whether it doesn't cloud the issue a little further but one of the assumptions is that, you know, bigger gear, bigger and better boats and what have you automatically improves efficiency and yet through your regulations you can vastly increase the efficiency of say

a setnet or a skiff with 50 fathoms, you can make that skiff with 50 fathoms much more efficient than the best boat going if you give him much more time and let him fish in areas where, one of the worst things that really happen I think in the Bay is that a bunch of residents got involved in big expensive boats and therefore now they have to pay for them with seasons that are large, and if they'd stuck with little skiffs, and maybe if they'd put a limit say 50 fathoms and a skiff is all that you can use in Bristol Bay, and we're going to fish them right up to the river mouth and we're going to enhance the setnet by allowing certain things to happen. Shoot, you could harvest that whole run on paper far less efficient gear, and it's just another variable in this screwy

It's an important one, though, because that was something that came out in the first meetings we had out in Bristol Bay, the most efficient, economically efficient type of gear might be the skiff because, you know, it represents very little capital investment but it can harvest just as many fish.

Yes.

And there's an awkwardness I take it that's almost insoluable here and that is that the sort of divided functions among your departments of the state, too.

Yes. I don't know how you'll

That really doesn't make any sense. That ought to be straightened out.

Yes, with regional boards and (indisc.)

(Indisc)

This really scares me because, you know, it is a socialization one way with your fishery. Here I thought that you could even do this. Take the Bristol Bay situation. Maybe the best way to make certain that your residents of Bristol Bay get a part of the fishery is to let the state go out there and harvest it through fish traps and hire the people to can it, and make the people employees. Maybe that's the way to do it.

I think it can stop

Is they're going to lose out anyway

I think it can stop short of socialization if what you're doing is just trying to rationalize some of the objectives of where you're trying to go and creating small businessmen out of the fishermen, which is sort of what you're doing, you're just saying, we're going to have this size of harvesting units, you know, and that that somehow makes sense in Alaska to have, you know.

I tell you what we're really going to do out there. We're taking,

in the long run, I think, we're going to make small businessmen out of the fishery and it's going to add stability to it but I really think that who's going to benefit. You're going to be the well financed, educated small businessman who's going to be successful and the marginal one is going to go, and we're going to end up with the people in Bristol Bay standing there on the beach and watching one of the greatest resources in the world harvested right there in their back yard and they're not going to participate in it. That's where we're heading today.

Why do you think that is going to happen?

Because I think that they're going to lose their permits.

How are they going to lose them?

The same way they lost their land in Kansas and every place else.

The permits finally gravitate to those who can make the highest and best use of them.

O.K. But they've already lost them in that case. Because what do they do when they harvested $30 worth of fish this past season. (indisc) this same type of thing.

That's the problem. If those people are on welfare they might

be just as well off to have a $1,000 season and break the welfare chain. They're not doing anything anyway, so the fact that you have an inefficient resourse doesn't mean anything to them. Again that's part of the Rogers argument, is that if the result of this is that your marginal fisherman is put out of business doing absolutely nothing, you haven't really saved human, or your other resources at all. What you've done is you've let certain types of people who end up on the top of the resourse.

But he's out of business now for all intents and purposes for the next few years.

You're going to license him out with this, though, finally.

But the other side of that coin is that if in some of the other areas you let fishing become so much of an avocation so much as something the people are willing to subsidize themselves at by coming rich people that already have money, doctors and lawyers and so forth, coming into the fishery and not having to make a decent return off of it and crowding the fishery to such a point so that the people that have to make a living off fishing can't make a living off fishing. At that point it's just a hobby to the other folks, you know, they're just writing it off. They don't have to show a profit. And by the same token, you know, without limiting entry that's what you're going to get in other areas.

But then you get down to a real basic argument and that is, if people enjoy doing this so much that they're willing to do it for nothing, the people who really can't make a living at it could go into something else, and the fishermen you're talking about are mobile.

But you're driving them out.

They can go to Anchorage and get a job. They're not really in such tough shape.

But all I'm suggesting is it's the same point Rogers makes. It's true that if worse came to worse at least there's a theoretic possibility the people in Bristol Bay losing those permits, although I think the state could do a lot of things to make sure they held on to them or help them get them back. But by the same token if you let the other fisheries be taken over increasingly by part-timers and hobby fishermen you're driving the same kind of people out of the fishery without limited entry in some areas of the state as you claim you may be in Bristol Bay with limited entry. The people that don't have the alternative, that need to make money off fishing, you know, that are kind of locked into a local type economy. They'll all wind up selling their setnet sites to rich vacationing people from the lower 48 or something who want to come up here and fish on a lark.

Well, let's see if we can have it summarized where we can only go

so far.

We talked about initial entry. Did we kind of reach a conclusion that it would be reasonable to set some numbers as maximum? I'm not sure how we came through that as far as you're concerned about how these numbers would be established, but anyway the thing about setting numbers as maximum, say no less than this many.

Nor more than.

Well, we've got it worked out. We don't need any (indisc) on terms of this.

O.K. Then I'm happy with this (indisc)

Well, are you going to say, or no more, except that?

Yeah, yeah, except and except for your hardship

No less than and no more than except that

Now, wait a minute. We're going to have no less than and no more than except in the fisheries that are not above the optimum, and then they can do

We're going to have an initial sort of seat of the pants determination by the Commission of those fisheries as to which

the expected optimum number to be set will be fewer than this formula that we come up with. And the formula we haven't specified will have something to do with total number of permit holders in a certain area. As to those in which there will be that discrepancy, which you want to work down, then that number will be the maximum as to that fishery as to limited entry permits unless having looked at all the applicants you find some, you've filled up the maximum, who still would suffer significant hardship by not being let into it, they will be let in. Otherwise it is a maximum and it's by ranking people you haven't yet used up your maximum, I suppose you'll let anybody come in and vie for an entry permit in that fishery, although I would want us to have arrived at a figure at which the chance of doing that is relatively small.

Now wait, would there be any harm

Just a minute. One big issue is the handtroll fleet here in Southeastern, you know,

Well, as to the one in which your optimum is not going to be less than you, and I suggested having some kind of a top limit, but at least it would be very top.

But if you set the maximum for a fishery and you can let in as many people as you want even if it's some people that suffer no hardship, it's only to make sure that you don't kick anybody out that would suffer significant hardship. You know, as long

as you don't go above the maximum, I mean except in those hardship cases. I think that all could be put together.

O.K. We're more or less in agreement.

Go to transferability and then we're generally saying that then under this any party that comes in would have the same kind of transfer rights that the, in order to reduce gear down to our optimum level then it would be by means of the Commission going into the open market and buying out permits. Buying out as many as it saw fit, perhaps under a formula necessary to reduce down to optimum levels within ten years, or some such approximate.

Within a period to be fixed for each fishery, not to exceed ten

(Indisc)

O.K. And so it could simply determine its rate, its agressiveness in the market place would be determined by the number of units it had to buy out within that period of ten years. And it could be more aggressive in some areas than in others because it had been reduced further in the same length of time, and we make no provision then for new entries other than these are freely transferable and that everybody has an equal opportunity to get in. This is what we're saying basically.

That's right. And the only worry I have is whether in fact

the operation is such that there's no real opportunity for new entrants. But I can't see the state's going in and bidding so much but that there wouldn't be a realistic opportunity. I don't know for that.

Well we could write it, put a clause in here saying that they shall not go into the market to such an extent that they destroy the free marketability of it.

Of course on the other hand that might, there may be so few available that in order to even approximate your 10% reduction each year you wiped out all those who want to sell, therefore there is no real opportunity for anybody else to get in.

Shall purchase no more than 10% a year

(Indisc)

The economic distress of fishermen if nobody wants to sell

It's impossible to relieve the economic distress of fishermen if nobody's got a permit, nobody wants to sell it. It's not going to (indisc) very good shape.

But when you do you (indisc.)

You can't conceive of the buy back working unless there is a

market price, and a market price implies that there's going to be other transactions than transactions just with the Commission.

Well, now wait. When you say you can't conceive of it working that's the very thing we're worrying about isn't it, as to whether it's going to work.

Precisely. And I don't know whether it's going to work or not. John has one impression and Bob has the other. I don't know whether it's going to work. What if it doesn't work. Suppose you sit around for two years and there isn't the slightest indication that anybody wants to sell and yet the Commission's got a target laid down there for (indisc) the fishery five years from now. Something better happen darn quick.

You better report a need for new legislation. (Indisc)

Well, that's the thing that's long concerned me, that you will never rote, or for a long time, from maximum to optimum. And if you do have this type of a, you might say, contrasting bid, he wants to buy my permit and I go to the state and say, what are you going to pay me, and they'll give me, well we'll give you five grand. Then you say, Dave, I got 5 from the state, how about 6 from you, and you're going back and forth and ultimately if there's somebody wants to come in he's got to beat the state, or the state, conversely, has got to pull him out.

Yes, that's exactly what's being designed here, but. I don't disagree that, nobody knows exactly how it's going to work, but it's conceivable that it will work, you know, that you will have

That's going to continue to increase in value and unless I have to sell it I'm not going to do it because it's going to be worth that much more as prices build in subsequent years. That's the thing that worries me because really

If not many people sell there won't be very much assessment, therefore the cost of holding won't be very great before there's even more.

No, if not very many people sell. But what Jay suggests will happen, the first thing that'll happen is the price will start to go up because you'll have not very many permits available, and the price will go up and that will raise assessments, and that should.

It won't raise it that significantly I don't think because you're going to have fewer of them to buy and more people to spread it among.

I suppose that if the Commission takes this seriously and says, now look, we've got to there within X years, and the only way to do that is to buy, the price that they're willing to pay

will go up, and pretty soon they'll be paying $10,000 for a permit. They'll say, well we can afford it. We'll assess everybody else around here enough to bring us $10,000, so we'll buy 5 at 10, or 100 at 10.

I suppose this is one of those things that we're not going to be able to answer until we've had it in operation for a year or two and, as you say, come back and change it as we see necessary.

It did in one of these versions have a requirement that the Commission report to the legislation and be specific

We still have it

on that one, particularly as to the progress of reduction.

In fact, I guess that's the way the thing is worded now.

It would seem to me that if you were going to create a standard for the rate at which the Commission should move toward the optimum it really would be that level of buy back which will not result in the Commission's purchases materially inflating the market price of permits in a given area. You know, you could see the Commission buying, you know, 5 to 20% of the transactions and not materially inflating the price of permits, but that's the standard you'd want to set up because if you set an unreasonably accelerated rate of a buy back program that you in-

flate the price of the permits, all you're really doing is putting a tremendous additional burden on the people in there to get down to the optimum within your ten year limit.

Are you sure you want to exclude that. In other words, if the permits are all that valuable that people aren't going to sell then those who decide not to sell ought to be willing to finance the state's purchase on a few of them.

No, I agree. It just seems to me that the buy back doesn't need to be quite that frantic a type of thing, if it's going to be a voluntary buy back instead of a

I don't think it ought to be wholly voluntary if it doesn't get you there.

Well, I think you've got to get there. I don't care how you get there, but I think you've got to get there. I'm just worried deeply about the tack if you're not serious about it.

Then we're back to varigated degrees of transferability.

You're not happy with it (indisc)

Well, do you want to just leave it on plain open market?

What if you had, well--you couldn't have it a variegated assessment relating to whether you wished, let anybody have an option on whether or not he wants to sell back or not, and if I don't want to transfer, of course this in inherit in one of these bills. If I don't want to have free transferability I pay no assessment, but the guy who wants it pays a fat one and maybe have a--what would you be into now?

You mean particular fisheries make up their minds collectively, or each individual permit holder.

I think you'd find each individual permit holder whould somehow declare himself. I suspect that way the guy who really wants to transfer to his kid, transfer to somebody who's the pot of gold (indisc) why not pay for the privilege. The guy that doesn't care about that's going to be out of the fisheries as soon as he quits, or

That's going to make the price a lot steeper on those that have to pay, and a lot of those people that are going to pass it on are the natives or of the poorer people in the fisheries. They really want to hold on to it and be able to transfer it.

That's right. But you're going to put assessment on them anyhow.

Yeah, but not as high a one because it would be spread out over a larger number of people.

They would pay according to their catch.

Well now wait a minute, what would we need an excess (indisc) open to one limit (ph).

Yes. You have to, otherwise everybody would like to do it.

They'll be selling on the open market. You wouldn't have a buy back then would you.

You wouldn't have any reduction either.

But you can try the buy back and if it doesn't work you can always come back in

Yes, I think you've got a year or two of grace. (Indisc) assessed every year or every two years.

Sure you'd have a reduction.

(Indisc.)

You'd have a reduction. It would be slow but your normal attrition, you've got the lid on and anything you do after that is going to reduce gear. When you do nothing you're going to gradually

gradually reduce gear.

Well not if all the licenses are sold to new people.

No, no. I'm not going to allow that certain category that's been paying assessments sell to anybody. Or maybe a reduced

That's one of the problems that come up assessing the person who doesn't want to sell is the permit is not getting much more, his permit is increasing in value.

To himself.

To himself, and maybe he ought at least pay something

Certainly catching more fish.

You could have variations in that easy enough under modest payments and inspections (ph). And then maybe put a fixed value on it that the guy who will sell back to the state pays a midway assessment that he's assured of the next fixed (ph) value.

That's where we were when we came in.

Oh, O.K.

We had a nice system all worked out. Somebody sat on it pretty

pretty hard.

Well then, let me ask you this, are we agreed that basically the transferability of this thing is going to have to be free transferability to work.

(Indisc.)

I think you could set up a defensible system and have almost no transferability to it.

Describe how to do that.

That was one of the initial versions of this thing that the (indisc.) permit was personal to the individual recipient and was good as long as he himself could fish, and that was the end of it. No transfer by Will, no transfer by gift, no transfer by sale other than back. We didn't quite make it that but we strongly encouraged it by this differential tax. I think you could go whole hog on it. Simply have all new licenses issued by the Commission.

How would they issue the new licenses?

On the basis of (indisc) of application, bids,

The applicant pool.

The applicant pool couldn't create classifications that work.

No.

Discriminatory.

That's right.

It would have to be completely neutral about it. I think you could insist on qualifications in the sense of being able to fish but not do anything more than that. I think you could do that. The only

This would be an awful lot easier in terms of getting down to your optimum number, that would work pretty rapidly. Incident to that I would have a fairly substantial issue of new permits going on all the time because your others, particularly after a few years, would start feeding in fairly rapidly as your fishing got older.

One implication of not letting it survive death, even though you can encumber the permit itself, if a fisherman dies, you know, somebody who's lending money even to his boat to better his equipment and so forth, you're going to want to know that his estate is going to be worth something. The minute he dies whether by accident or natural causes or anything else. The permit the minute he dies evaporates, and there is all that gear with no

permit attached to it

We ought to have a provision the personal representative had a year within which to (indisc)

But that assumes transferability.

Well, transferability only to the state.

To the state,

The state has to pay but

Alright, that's still not, that's not the pure nontransferability

No, that's not the pure expiration

That's what I was talking about.

That has a modest aspect of transferability to it, but transferability only to the state.

That's, 50% of those who die (indisc)

Of course, the big objection there is the guy who doesn't know whether he can pass it to his son. The woman is likely to die or her husband die and leaves her a $250,000 crab boat. Of course she's out from the standpoint of selling her out back to

the state if you have the type of thing you were modifying to do there. But if you went into the future like John was talking about, that guy could cover his debts to the state by, hey, I'll buy one for my son right now. I'll get one this year. You know, if you gave him advance notice that this was the end of the line as of January what this next year.

But these permits, I think all the way through now they have to be used. You can't buy off and put your

Well, how are you going to ever check that out?

Its fair (ph) to take it that the Commission's going to do that. I hope so.

Well (indisc)

No, but there was a grace period of one year, two years.

That was only on licenses. Because of this problem in Bristol Bay when even though you have an optimum number in bad years the optimum number is far and above, away far above the amount of gear that you really want there and if you didn't require this

Didn't we require actual use?

No I guess the problem was solved by not letting (indsic) Was that it.

Right. I take it all back.

That's our big problem for excessive gear in a place like Bristol Bay. The concern this guy's going to lose his Brownie points. We don't want to force him to fish. In fact, I'd just as soon not force him to fish ever as long as he pays his assessment.

Let's talk about that optimum level again. I think there was a basic difference in our approaches there. (Indisc) how to approach the optimum, whether the amount needed to harvest the peak run in a cycle.

All runs (ph).

Well, alright, which would be the peak.

In our proposal we said the average, only enough to harvest the average run, and then in order to take care of that peak we'll issue temporary permits, so that we have enough to harvest the peak run when it comes.

There isn't any place where you need that. The average people, you know, you can take the, a thousand boats can take the average run and the peak run. Right? Or even 800 or 700 out in Bristol Bay. That's what they've been telling us. On the management people are adamant that you look clear back to the golden age when there was only 500 or 600 and they could harvest those huge monstrous runs and its the processing capacity that's the

limiting factor.

But there is a difference to this extent. A thousand boats are probably required for the maximum year at Bristol Bay, but three or four hundred could do it during the normal year. Now are you better off to license 1,000 across the board, or are you better off to license 300 or 400 right now and then allow temporary transfers.

One of the big conservation arguments towards conservation and economics that the fishermen like is what they've hated in the past is they tighten their belts during the lean years and then when the big runs come the outsiders come in and skim the cream. They want to know that the 300 or the thousand people in the fishery are going to be the same thousand people in the lean years as they are in the fat years, and not to see the cream get skimmed by the special condition entrants. And I think that has real conservation implications because it makes them conservationists all the time.

But 300 can't do it see.

No, but the thousand can.

That's right.

A thousand's much too much in the other years.

The other 300's still coming in on the peak years, Dave, they could. You would have the same situation where, you could have the same situation

(Indisc) I think the difference is this, on the house plan it's all except the peak years that would be on skim milk and maybe one out of five years they'd have some cream. Under our plan they'd be on whole milk all the time, and whole plus a little cream added to it perhaps in the big year.

Well isn't it true that the long term projective is to rehabilitate the Bristol Bay fishery so that they're. In the 30's there were four out of five good years instead of one out of five, and that's a very peculiar fishery, the only one in the state that varies that much. The other vary every other year, you know, the pink salmon fishery, Southeastern and Prince William Sound. Kodiak you don't have that phenomena to the same extent.

Not to the same extent, no.

So Bristol Bay, you know,you can make a special, and even though it's true that it's still lean pickings for a thousand boats it's not nearly as bad as two thousand, and, you know, we've been talking about how long it's going to take and that the optimum level is going to be set. I can't conceive of an optimum level being set for 300, to buy out three fourths of the boats in that fishery.

Well, I think you're right, particularly in view of this correction (ph) 3 relating to that economic system. You're going to keep it at 1,000, you're right, but, mechanically, biologically, and what have you, 300 could do it most of the time. But you're right, they're not going to go to that so probably. I think Dave's correct.

We have some questions about this language on page 14 of the last version of our bill, transfer of entry permits and the

Transferable through and by the Commission only (indisc) not be voluntarily or involuntarily transferred by any other means, including but not limited to,sale of any kind, conditional or absolute, (indisc.) all the details here. These are in our bill. They're not in the house version though the intent I believe is probably the same.

This was tailored towards their being more restrictions upon transferability than we're presently talking about, so that this would be an effective mechanism to make sure that those restrictions were observed, but it does seem to me that all you've said even if you keep this one section that you're talking about is that, you're still saying that transfers must go through the Commission even though going through it will in some instances be an ordinary sale, or in another instance a purchase by the Commission, or I shouldn't say, well in the third type of circumstance it would be (indisc.)

But I think even all of those ought to go through your Commission (indisc)

Read you're language, would you?

Well, in terms of transfer.

Yes, in terms of the condition of transfer

(Indisc)

Yes, that's the only place that page 10 has any

(Indisc)

10, Let's turn to the conditions in it.

Oh, wait a minute. I'm sorry I'm

The conditions upon which entry permits survive the death of the permitee (g)

Yes, that's right. The Commission shall establish terms and conditions upon which the entry permits survive the death of the permitee.

Here it says they cannot / succeed. In our bill it says they cannot

succeed at or upon death whether by Will, intestacy, or whatever it is, or otherwise.

How about intestacy.

Intestacy. Very good. Thank you.

Now what's the difference. On one hand the Commission shall establish and on the other hand we're saying that they cannot suceed.

(Indisc)

The scheme that Bob has before him now is one which guarantees that any change at all goes through the Commission. That's all it does. It's specific in listing all of the things that are not to be done outside the Commission.

But isn't it much easier just to require to go through the Commission and not list the things that aren't to be done.

It's a matter of legislative policy. I don't know whether it's wise or not. If you have a provision which you know will work which says, any transfer of any sort must be made through the Commission, that's fine. (ph)

We also wanted to make sure the thing couldn't be mortgaged.

That's in here.

That's the part I want to compare with this.

O.K. In the mortgaged pledged part, I don't know that they differ very much, I included gifts and other sales just to make sure that there wasn't any transfer of any sort outside the Commission.

Well it seems that you want a transfer section that require application to the Commission to transfer which, you know, was melded together in this modified version based on the house bill and what we had before. But then in the terms of the entry permit you've got two explicit conditions that it shall survive death of the permit holder and that it can be pledged, hypothecated, you know, subject to

That's not what you're saying, Dave, you say, except as provided by the Commission, and that is the problem.

Alright, except as provided by the Commission an entry permit may not be pledged or hypothecated and is not subject to attachment, restraint or sale on execution of judgment.

Do you want the Commission to be able to do that, to allow it?

I think it's wise, but I don't think they'd exercise it for a long time, but I think ultimately some fishery in certain types of situations that would be a very desirable thing, but

that's something I think can be taken up later.

(Indisc)
six months. People that are coming in here and saying, well the Bank will loan me money to buy a boat if they can attach the permit (indisc) And the banks will say the same thing, that, you know, they can loan money on a boat as long as they've got a permit tied with it. If they foreclose it they can sell to another fisherman, boat and permit.

Well, I come out two ways on that.

I could too, I

I think that there's, in a sense and I think it raises too many dangers in people's mind, but in a sense the ability to borrow money on that permit is going to help the little man more than the big man.

You're absolutely right.

And it's the real thing in there that could save the little man in this fishery because all of a sudden he's got a valuable right as long as he's borrowing money from the right people.

What are you going to do when the lender forecloses on a permit. What's he got then.

That's the whole point.

Well you can't borrow money unless you've got the permit too, so that's why

You come in and you mortgage your permit and then you don't make the payments and the lender forecloses on it, bids it in and are you going to recognize the bank now?

What had been suggested was that like in real estate would be a, let's see, a foreclosure - what is the procedure - foreclosure sale so that you know that the guy is going to get credit for the real value so that you don't have the thing happening that used to have where a guy'd get down to the last payment on his house and he'd default and the bank would take the whole thing and give him no credit for it, where you had a judicially monitored process of sale, foreclosure sale on the permit.

(Indisc.) inadequate to raise money. You never get anything out of them. The lender will be in for the amount of the debt and nobody's really willing to come up with the total of that unless by chance these things have established a very substantial value, but if they're in that kind of a condition I doubt if they will have.

Leaving this in there would mean a general provision

My problem is, O.K., so you've got one lender in a particular

vicinity that's got loans out on 500 permits and you get a very bad couple of years and so they foreclose and now they end up with the bank of so and so owning 500 permits. Is that what you want?

No, they wouldn't own them. What they'd do

(Indisc)

They'd be glad to hold them.

They'd have to be reissued. I mean you know that you could have the transaction taking place where the bank would foreclose, but what it would do, you'd have a judicial sale which would sell the permit to another qualified transferee.

And you'd prescribe at that sale that only qualified purchasers could bid?

Well, only, there's not many qualifications. Only

Well, they'd have to be able to fish. Which banks can't do. So the bank would never be the holder of the permit, but you could set up

The bank would be the lender. The lender can never bid in unless he himself is a qualified purchaser.

But, boy, they'd sure gravitate (indisc.)

Well that's the evil that everybody has been afraid of. That's why the prohibition's in here. What would let the Commission do on down the line people get established is selectively take it off. It seems to me that what people object to in the canneries isn't so much the fact the canneries lend people money on good interest rates but the fact that the canneries ultimately in some areas control the fishery.

I think we have something of an economic value and it's freely transferable, that that economic value, to wit, the permit is going to gravitate to the person who can make the most out of it, which is probably going to be in some sort of a vertical (ph) integration of the cannery, either a group of fishermen banding together in a coop, or some form of organization that's going o be tied in, and the canneries desperately have to have the fishermen, the fishermen desperately need the financing and the staying capacity that the canneries have got, and that's where we're heading here. I think that's the price of limited entry. I wish I could avoid that, but I don't see how

Alright. Why can't you. It seems to me the fishery's been in transition away from the fishermen being employees of the cannery and toward more independent fishermen who at least have the option of selling to someone else even though it is a matter of economy that they continue to sell to a given cannery, and if you get to that point you could solve that problem by, I mean

it's an antitrust problem more than anything else. If there gets to be vertical integration in a given area, I mean, this is certainly a step in the direction of creating independent intrepreneurs, that kind of a model of what fishermen should be, rather than employees

Why antitrust? Right now they have their own boats and that's not antitrust.

Well it's probably only antitrust because we don't have, we really don't have any antitrust legislation, number 1, and number 2, it's sort of an existing state of affairs. They're not monopolizing any more than just kind of it's the status quo.

I don't know whether they're vulnerable (indisc.)

I read that a some point it's something you could attach with good antitrust legislation if

Yeah, in Bristol Bay, I don't know, Flavin (ph) indicates that they're vertically integrated now (indisc) his grounds for antitrust out there.

But it's going to

Vertical integration isn't the reason for necessary antitrust (ph) is it.

No, not unless there's a monopolizing act of what's happened.

They were totally vertically integrated, were'nt they,where the fishermen were really employees of the canneries. And the movement has been for more independence.

Having the Commission in that language or leaving it out is not a constitutional matter anyway. It's a policy matter on our part and I would have more faith in a legislature giving the future Commission that power (indisc.) show that was necessary than I would of a legislature taking it away when somebody tries to show it's being abused or when it is being abused, but anyway we don't need to

(Indisc.)

Let's stop at this point then and consider where we go from here.

Well, given what you've covered here now just by way of recital I think it's time somebody sat down with pencil and paper and tried to put together a cohesive statement of it in the form of a draft statute.

Like, could you suggest perhaps we could just sit down with both copies of the two drafts we have before us and start through page by page.

If I had my druthers about it, I find myself more productive if I work alone with my own thoughts for a while.

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Do you want to spend, each of us spend the evening as we see fit and get together with what we come up with.

The only request that I would make is since some of us spent considerable midnight oil trying to meld the two together, to the extent that it's possible you know, to fit it into the structure here which is drawn from both bills, just because it's cleaner and shorter, it's briefer, to pull everything that's been discussed into that because at some point, you know, there's got to be a structure for getting down to the end and

Well I think it's about time we could do that because it does seem to me that you're melding here is a step toward finality that then

Perhaps changes in numbers and a few odds and ends like that, come up with a fairly

I found that one reason that this looks so much like it was taken from the House bill was when I got sitting there with all our discussions of yesterday out, you know, you're driven to one structure or another and the House bill is broken out into articles and,you know, it's just easier to work with in terms of what follows what. But I think, you know, these are drafting more than it is substance if everybody is agreed on what they want in the thing.

You mention one thing, Professor, just before we go on (indisc)

You're talking about transferring through the Commission. Now this is a mechanics involved in any approach in that (ph) the Commission. You mentioned sometime earlier that you had considered the possibility of no transferability until it got down to a certain point, in other words . Could that Commission assign certain degrees of transferability either to the state only or free transferability on the basis of some feature like hardship? If they could do that, what would be that basis for assignment? In other words, I turn my permit back to the state, sell it to, they can either buy it out or they can allow me. If we give that Commission that authority to determine whether an individual had f[illegible]ansferability, what would you hinge that on? Hardship?

I suppose a first distinction I would make would be whether this was during a period of working down toward the optimum or not. If it were during that period then any limitations put upon entry holders about transferability that would calculate, further that objective, I think would be reasonable, and whether you legislated them or told the Commission to adopt some standards and some broad guidelines about(ph) how they wanted to work that out, I (indisc) that those would be alright. If you're beyond that point, and you're now talking about the longrun operation where you're down to optimum and it's just a question of how you're going to handle transfers from there on out, it would be pretty hard to justify some

I was talking about getting down to it.

Getting down to it. Maybe you could draw some distinctions in terms of

What would be the most valid grounds, on the basis of a hardship, the basis of interfamily transfer type of thing or, what would be

Well, I think only if you've gone into a differential basis upon issue, the initial issue of these permits, on some kind of a hardship measuring, and used that same sort of a measure in determining who had the greater restrictions upon him in terms of transferability, but you don't have that approach very thoroughly incorporated in your initial system, differential classifications of people and so on, then that would be a little harder to do. If you do, as the House bill does here, to rank all these people in terms of their getting in on a gradation of hardship but then you end up letting them all in, I don't know whether you could make the ones who were last to get in more restricted in their transferability or not. Maybe you could.

If they all had to go through the state, we're concerned about the guy passing it on to his kids. Let's say the Commission said alright. The Commission's got theirs, they look at this guy's application, he wants to transfer to his kid and we strung out (ph) that criteria that this shall be an allowable transfer.. The hardship of the widow whose husband dies with a crab boat, the Commission is going to buy that permit anyway, she doesn't care how she gets the money for it.

I don't. I am dubious about measuring hardship as of the time of the proposed transfer is made.

Yeah, that's what. I don't see how you do it either.

I think only as you ight take your initial hardship ranking and use that (indisc) would you really be on very good ground.

But you're always hung up on this transfer to the kid business.

People want to have their cake and eat it too.

That's part of the problem and if you're willing to go to free transferability, fine, then you can include gifts and passage upon death and so on without problems. But to restrict it in differential terms along those lines I think you're in trouble.

What would we,I, isn't the sense here of you guys claim, Bob, that free transferability is the way we've got to go, that we couldn't go this other way.

Which way?

You know, no transferability at all. Have them all go back into the Commission and then the Commission reissue 25% of them as they go down, till they get down to the optimum level and

then let people get into that on the basis of apprenticeship and lottery and time and the rest of it.

Free transferability is the only acceptable route for people with major life investments.

The only way we can go now, John. We may be able to come back

Well, let me ask you this. If we abandon the idea of the taxation on that.

I think that we've abandoned it as far as this bill at this time is concerned, but that's exactly the reason we put the language in there saying we could come back and do it. We're not giving them a right that we can't revoke or amend, or modify as experience dictates. I think it's too (indisc) now. I just don't think we can do it now. We reserve the right to do it.

You're never going to be able to do it later on if you can't do it now because this is

Oh, I think we have the right.

John, the thing you have

Well, what we've done is, there's going to be an organization here protecting themselves and if you think we can't do now in that regard is never going to be done.

Well, no, it's a matter of explaining to them what we really need. For instance I

It means money to them.

No.

But that's not all. Right now I have people calling from Kenai up there that have heard about this thing and they believe, people that own their own setnets worth 40,000 bucks, sites worth 40,000 bucks, and they thought that the percentage was a percentage of that value of that setnet also, not just the permit, that a percentage of the value of the setnet would go back to the state. This is the way things have got so screwed up because people have been getting out pieces of information and never anyone getting the true story or (indisc) how it would work.

My point is I think over a period of a couple of years you can do a good enough education program that you could get (indisc.) to most people.

Most people are not unwilling to share when they understand it's just the value that attaches to this thing that is really a result of the state's action. And when we sit down and talk to them most of them will go along with that.

I don't want to put it in if they aren't.

The problem that you have, John, is that you've pretty well covered the setnets, all the kids (ph) have the license anyway, but many of your major fishing operations is a family fishing operation of which only one person presently will be eligible for a permit, and that might be the patriarch of the family, who might be 60 or 70 years old, and everything that the family lives off, you know, for years to come in that village or area is dependent on keeping the right to fish in the family boat, and you're going to have that license come back to a Commission. Forget it, that's absolutely unacceptable to them.

Well, he's talking about having a portion of the value when it's passed on to the son, let it be passed on to the son, with the son paying a portion of the value back to the state.

Capital gains taxation will take care of that. Capital gains taxation will take care of any increase.A guy that gets the thing for nothing is going to have a zero basis and he's going to pay capital gains tax on everything in terms of his transfer.

You'll (ph) have a stepped up basis

It's a windfall he's going to pay taxes on. That's

Well, now if you want to have a tax on a transfer, just a transfer tax, I think you could probably make it stick. Now you're going to get, again what you have to watch is your welfare area. I

don't mind paying a thousand or two thousand dollar transfer to give the license to my son as long as I'm able to, but now my license isn't going to be worth any more than Peter Anokanok's (ph) down in English Bay, and that entitles him to enter (ph) the fish, and if his son has to pay $2,000 for the transfer you're flat going to wipe him out. That's a decision you have to make. I don't feel that strong about it. I'm willing to pay as long as I know that all the investment I have can be kept in my family, and you'll find that in Petersburg, for instance, where they've got what, $3,000,000 worth of boats in the harbor, this is a real important thing. They must be able to hand it to their son because the son has nowhere else to go. He's been fishing all these years with the old man.

If you trade it freely on the market, he goes to the market like anybody else does, you know,

I've got a law library, so I quit practising law. What do they do with that law library, do they sell it to someone else.

No, no, no. I'm just saying as long as it's freely transferable, and I can give it to him at a price. You can have the tax and I can survive that just so long as you don't put any barrier between that transfer other than money. You know, he can live through the money transfer.

Well, the first thing about it is that if you just tax it you end up with a very difficult situation. If you make the permit terminate on a man's life, then, or whenever he gets, like a

personal privilege, you say what's he do with his investment afterwards. Whoever buys that investment goes and buys a fishing license or they don't buy one.

Well, what do you do with law books when the old man dies? Do you sell them or use them? You use them if you can, and if you can't you sell them to somebody that can.

Yeah, but those law books don't revert to the state.

No, but my license to practise law doesn't go on to my son, so he can use my books.

John, how many

There are a lot of people who think their son's ought to get into law school when they don't make it.

The fishing law being down here/at this point one man, most years none. Take a look at the Senate or the House, either one, and try to determine how many of those seats are determined to any great degree by a fishing boat, and then consider that in the past we certainly have come in against a 13, 14, 18 man oral lobbyist an increase (indisc.) I think that when the case is made in the future we'll do it here too. I don't think that what we do now is final. I think that we very definitely can come back and do what needs to be done with this

pot of gold if it so evolves.

If we're going to keep a public handle on the pot of gold you have to do that at the time you create the right to the pot of gold instead of giving it to them and then taking it away.

Well, if they want to pass a tax at the same time for a certain percentage of the catch this I could go, John, if it's what you want, but what's, just look at your Native population at the present time which is, what, approximately 30% of the state population, or is it that much.

Yeah.

It couldn't be quite that much. Well say it was. Right now that 25% of our population owns probably 50% of the licenses. If they can pass it to their, freely transfer it to their sons and to their villages it will remain about that percentage. If it goes into a kitty, no matter how you parcel it out, you know who'll own 75% of the licenses in a very short time and probably would just, if you know anything about gambling, probably 100% eventually, and I don't really think that, you know. You're better off to let it go freely transferable and tax the product, John. Don't worry about

Well, maybe so.

Well, you're back to the other question, uh, that of a windfall

for the first generation of fishermen. The second one pays for it.

But, my God, look at how rough they've had it.

John, are you saying that notwithstanding this language, when we say an entry permit constitutes a use privilege which may be modified or revoked by the legislature without compensation, even with this language we're still going to be vesting the right in them that we, that this doesn't mean what it says.

No, I'm saying that politically once you set this thing up and create the very valuable $10,000 permit, whatever it is, whatever, if we issue 5,000 of these permits and its a billion dollar industry they're worth X number of dollars a piece some day, that you don't set up the ground rules of what that is, who gets what when that's transferred now, you're never going to be able to get it once you give it to them and then try to take it away.

Well, John, you probably

I don't get it.

You might even be right at that point, but now the feds, that once the oil company got to be a major force in Anchorage and on the early days we'd never be able to raise the severance tax. Remember I fought with Wally Hickel over that one and

and bled. Now I find out that we could very easily raise the severance tax even though if they become a larger portion of the state, and I say that when you have fishermen making big paydays we're going to be taxing them on a severance tax basis per specie. I would like, you know, if you read my article in the National Fisherman, I want 2-1/2% royalty on fish. It just goes into the general fund, that's the way to reach your taxes. What the Professor is saying is that you're taking away something and giving something back, and it's almost an even argument at this time.This first generation knows (ph) that 78% of the population voted for limited entry because of the fact that where else do you have such destitution as you have in some of the fishing areas of Alaska. I don't see that it's that big a round.

Professor, you indicated you could, if you established it related to initial hardship, you could impose some modification of transferability on that initial hardship basis, right?

I think you could.

Well, now, one of the concerns in all these approaches is that you're going to have a maximum number away up here too high with free transferability, and how are you going to get it down to the optimum. And politically we know we can't start at the optimum and give them, but why couldn't you take and boil down to the optimum level and give only those guys right off the bat free transferability, on the basis of hardship.

On which ones?

The basis of hardship.

Only which ones would you give it?

On the basis of hardship.

Only to those as to whom the hardship would have been greatest?

Well, that's what you're ultimately going to do anyhow. Under the terms of your bill you're boiling down to certain groups of people on the basis of hardship.

But as I understand it, we're really including everyone who is suffering any (indisc.) hardship, so you're not really grading them at all. Among themselves. (Indisc.)

Well let's say you did grade?

Well I take it in getting there this calls for ranking people but the practical effect is that they all get in.

(Indisc.) we said to the Commission, the Commission you set up, we're going to let all this same number of people get in, whatever it may be.

But you rank them just the same.

But we're going to take the optimum number. Say that optimum in Bristol Bay is 1,000, and we're going to boil down the top thousand and we'll get free transferability.

And we'll leave in only those who would have been affected the most hard, the most severely, had they been told to get out.

Right.

And everybody else has to get out sooner.

Sell to the state.

They don't have to get out sooner, it's just that they have more limited transfer rights.

(Indisc.)

They didn't have to sell. They could hold on to it.

That's right.

But if they do want to sell the only customer they have is the state.

You're suggesting kind of a Class A, Class B permit where the

Class Bs would just expire. They wouldn't be transferable.

No, I wouldn't think so.

No, I'd make them transferable to the state. Charge them assessments, do everything else, but they sell only to the state.

But you someday have it run out, Jay.

But if they didn't sell to the state would they be able to actually get a transferable right.

(Indisc)

Yes, when you get down to optimum.

Would the state pay them.

The state would pay them.

But there would be no time limit on that. If a man is in the Class B you're not saying that after a specified number of years he has to get out.

No.

No, you're simply saying when he is ready to get out he sells back to the Commission.

But if he dies he can't pass it on to his family, right?

Right. Because you're not going, you're going to have to screen out a group of persons one way or the other that aren't going to be allowed to do that anyhow. I'm just saying (Indisc.) take a hard core professional fisherman and give that guy a knowledgeable free transferability. A much lower number than what you're going to have to do politically otherwise, which is away up here at a maximum level.

This essentially what the other scheme would have been.

Yes, you just have an A and B instead of three different groups.

You see, if you did that, then you could do what he's talking about.

It's not what the other scheme would have been though because what Jay's saying is put a ceiling on the number of transferable permits at the optimum level, number.

Right.

Not on the basis of hardship but at a number of permits, and then give those to the guys who are most affected, you know.

But in ours we have the ceiling at a much lower number than that, because in all probability your 1 and 2s, for instance in Cook Inlet and Bristol Bay and the other distressed fisheries, the 1

and 2 categories are composed of a smaller number of people to reach your optimum, therefore you have a smaller number with free transferability.

Well, I don't think it makes a heck of a lot of difference which way you go as between the two. I do think that the day is ripe (ph) that they differ somewhat as Dave described them from what the 2 Cs (ph) system would do it. I gather that you're saying that in order to reach the optimum you simply sell off, you tell the persons on the bottom of the list that you're more restricted in what you can do.

You sell only to the state.

But how far you go up that list and say from here on in you're not subject to that restriction would be in terms of some proportion between total number and the difference between the total number issued in the optimum number?

(Indisc.)

(Indisc) is saying if optimum is set at 1,000 and with our significant hardship category we let in 1,500, we're got to get down 500, then the first 500 up

Have got this restriction on.

Now aren't you going to have bit

(Indisc) 1-1/2 to 1 or some such thing. Because you might not get all of that 500. I guess you'd get it sooner or later.

You'd get it sooner or later and besides that you'd get it if you kept the buy back. You'd be bringing optimum down from this other area that was freely transferable but decided to sell it.

Because somebody in there would like to sell to the state.

Some would sell to the state. You know, just because they didn't have an heir, but the big problem

Then it does come down substantially (indisc)

The big problem that you have if you say the optimum in Bristol Bay shall be 1,000, aren't you going to have a court case between the man who is number 1,000 and the man who is 1,001, and there's no appreciable difference between the two.

Presumably you minimize the chance of success of that lawsuit by making your category system fairly sharp as you move from one group to the next although you can't avoid the argument entirely. But this is characteristic of every time you draw a line. It's always the guy who is just barely under and the fellow that's just barely over.

Would it be more defensible if you had a time limit, a reasonable time limit in which his license be cancelled, transferable, like your's originally had, that this is for ten years, the license fee is nontransferable, so that the real professional that stays in ten years knows that he can--. The big thing you're going to have if it isn't transferable is it's going to be pretty hard for an older man to make an investment knowing that there's no way for him to amortize this investment, which means that the leaky old tub, he'll have to fish it till the end, but if there's a ten year thing this gives him a chance to

Or you could make some exceptions, I think, and simply say on hardship basis that you would allow his successor in interest to enjoy it for the five-year period or something of this sort.

For that ten years he sells only back to the state? Could you do that?

Well that's exactly what we did. We're going round in a circle

This is the part of Bob's bill that I like. That part that, you know, for ten years, that the guy that wants to tough it out for over ten years, therefore if he's finished eight of those and wants to make an investment for a boat he knows that he's going to be able to buy a boat and be able to sell it. He won't be stuck with third-rate equipment in his declining years just because there's no way to get his money back out of it again.

SCOMM

#31:22

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_____: ....they were five years down the road.

_____: Back in 1973, I got one and he got a different one.

_____: But you both be getting the same value basically out of both of them, so where's the real discrimination of....

_____: Well, since you will be getting the same value out of both of them, then why don't you just buy them out of the .....that was my argument.

_____: If you are really getting the same value, there is no advantage to that system at all.

_____: There's no advantage to the State.

_____: ...is that you are probably not getting things done.

_____: You're going to be getting less than fair market value....It won't be fair market.

_____: It will . . . The thing that you can justify on it if you want and I'm perfectly willing to come back to where I left it two hours ago when I had to go to a committee meeting and that's just, figure this level, give them all a transferable license and forget about it. But if you want to, it will take this 10% down alot quicker. I mean this ten years will take that lower half down a lot quicker even though they know they can

hold out because the thing is that what you've graded it to "B" category are those people who probably,.... the bulk of them won't have any long range investments in the fishery. That's why they're in deep. And the bulk of them will, within three to five years, which is the turnover here in this state, be putting their license up and selling and willingly moving out. And they wouldn't sell that license to the State otherwise. They'd sell it to a friend. someone they work with, or a friend they work with or something like this, so you will get that category out of circulation alot quicker and you won't really have robbed anybody. And, hey, I don't think if you left the rest of the bill, is that one bad, is that system, do you mind A and B?

_____: We worked it into this in all the drafts. ...we put in there.

_____: I didn't get to go through all that. Can you buy that John?

_____: I think .... a few confusions ...

_____: John is gonna take a walk that day anyway.

_____: I don't want him to take a walk. I just want him to shut up and vote yes.

_____: He will probably shut up and vote no.

_____: Don't do that because eleven votes, do you know your vote is worth twice what mine is.

_____: Why do you think we have spent all afternoon with you here for? Let's... ...and take a copy of each of these drafts and, as you say, just work on our own this evening.

_____: That's what I'd like to do.

_____: Indiscernible

_____: What two drafts?

_____: You've got the one that I did.

_____: The amalgamated draft and the one that we requested.

_____: EFJ.

_____: Yeah, the one with the draft.

_____: Is yours much different from his?

_____: The last version that I got was one that was sent to me in the mail of Senate Bill whatever it is.

_____: That's the one that I and Joe worked on here...

_____: And we couldn't come to an agreement.

_____: Well, I thought we had come to an agreement.

_____: No, I don't think so. We kept setting aside all the hard problems.

_____: I think we worked it out pretty well. We only had one trouble....(tape off and turned on again) .

_____: I believe it was the final determination yesterday that under optimum predetermination, under the determination of optimum number of units of gear that we were going to include that number three criteria allowing for, or is this a hard spot?

_____: It's a very hard spot.

_____: Okay, they have discussed that with me and there are a number of implications that follow from that that I can't ...

_____: Okay, the only thing is that on page one, if indeed, depending on what happens with that one, we are either going to delete or add some language.

_____: Umhum

_____: Right, Nothing on page two of your draft. Joe, did you have anything here?

_____: No.

_____: Okay, under qualifications we discussed it with Bob this morning, Senator Palmer, and he would like to see in 050, production or management included back in there with a definition of vested interest. I realize that there is a common law definition but if we can statutorily tie this thing down and give the fishermen some comfort exactly as to what they can and can't do.

_____: Okay, then explain to me what a vested interest in the management of a commercial fishery would be. Who would have the vested interest in management?

_____: The commissioner of Fish and Game.

_____: He doesn't have a vested interest. That's not the definition of vested interest. He doesn't have any economic investments, or he may or not have, the assumption would be that he ....

_____: We are discussing vested interest and I don't think that it's proper to imply that a Commissioner of Fish and Game, assuming that he has no monetary investment, that's (indiscernible)

_____: Well, how about interest, vested and otherwise?

_____: Vested interest is a commercial interest.

_____: Well, I sure as hell hope that they have the otherwise kind. That's what we are appointing him for.

_____: Indiscernible.

_____: Okay have a commercial interest vested.

_____: Take a property loss ... feasible about it that ..... take it away...quality

_____: Ownership, stock ownership or ownership in a company or something, but not vested professional interest ...could be a management biologist or something.

_____: What happens if you say he has economic interest instead of vested? If they do mean to include those people?

_____: Then I would object to that because I don't think... Anybody who is an expert on the fisheries is going to have a vested professional interest in the management or the success of any program having to do with the fisheries and the only thing you could hope to be excluding would be someone who has a vested property or commercial interest.

_____: What about instead of vested say economic interest? Isn't that what you're talking about?

_____: Let's drop back then and say, has a vested interest in the commercial harvest or production of the fishery resource.

_____: But then you are automatically precluding any management biologist who has had experience in Alaska.

_____: In the commercial harvest or production?

_____: Production. Production is ambiguous in that particular sense.

_____: Indiscernible.

_____: You've got two different issues floating around. Let's tie it down. Is the intent to get at something other than a commercial interest, to get at something like a professional interest or political interest?

_____: No, I ...

_____: The intent was not to have the Commissioner of Fish and Game on this. Whatever he represents, it's not commercial.

_____: Right.

_____: Why? I mean it wouldn't be conceivable that he could hold two full time jobs. What about past commissioners or potential future commissioners? What about a past commissioner of Fish and Game? You intend to not have somebody like that on there?

_____: Well, at that point, I, in sitting through and the committee discusses that at great length, I had no

no feeling that it was anything political or that type of consideration. They just want it tied down very very tightly if the three people that are the commissioners do not have a vested interest.

_____ What's meant by vested interest? Ownership in a cannery, a fishing boat?

_____: Right.

_____: And professional owners.... It's a commercial ownership type interest in the fisheries?

_____: Right, that was the way that I....

_____: But then, what,.... A cannery owner has a vested interest in the harvest of the resource. You don't add anything by saying harvest and production. I don't think.

_____: Would the economic interest in the fishery broadened...

_____: That's what I wondered. Is where you get rid of vested and say anyone who has a economic interest in the commercial harvest of the fishery resource.

_____: Why don't they say vested economic interest and that sort of thing?

_____: The only reason I think the notion vested is important is for the reason the professor pointed out. Every body has a potential of economic interest in the fishery or someone who has fished in the past or might want to fish in the future, or might be living in a

community which is very much effected by fishing. What if I own a part ownership in a hardware store that sells nets or something. Am I precluded from being on the commission? Let's apply it at Kodiak, the Cold Storage, the guy that has stock in a cold storage company.

_____: Right, he would be.

_____: He probably would be. What about a guy that going to be more indirectly impacted, like a merchant in Kodiak?

_____: The problems you are facing seem to grade off gradually and I don't even know why you are going to stop.

_____: I would have read that just to have prevented say a board member of the processing company from, "A", number one, serving the commission.

_____: Maybe you better spell it out. Any interest, "an economic interest in the fishery through ownership of" and then specify the things you are concerned about, vessels, gear processing equipment, or plant.

_____: I'd go for that. "Vested economic interest through ownership of," and then list the things that you think are coefficient of any ineligible... (Indiscernible)

_____: Ownership or any interest in...

_____: Indiscernible

_____: What did you say... "and shall not have an ownership interest"...

_____: Partial or full ownership.

_____: An ownership interest would include partial.

_____: That's right, an interest.

_____: An interest in vessels, gear, processing plant, or entry permits or you could have a series of things here, commercial fishing.

_____: Can we go back again to Palmer's original proposal?

_____: The original proposal was "the commission shall have a broad range of professional experience." Now, we've gone through and we've taken out this permit holding thing in the Senate draft. We didn't feel that that was necessary because that automatically is a vested interest, period. And we've already taken care of it so it would read, "Broad range of professional experience, none of whom have a vested or commercial interest in the harvest, production or management of the commercial fishery resources. For the purposes of this section, vested interest means a present or fixed interest or right of present or future enjoyment of something of value, the nature of which could consider this chapter, reasonably be considered to conflict with the public interest."

_____: That's pretty good.

_____: Now if we'd just said, "none of whom have a vested economic interest in the fishery resource," with this definition, will that do what we want it to?

_____: Read the definition again.

_____: This is it, page three.

_____: Why don't we just stick vested interest in there?

_____: I don't like that at all. I think we just ought to say, "shall not have an ownership interest in any commercial fishing vessel and gear or any commercial fishing processing company," or something. Tie it down because you've gotten completely nonspecific at the end of that. You say, "which could considering this chapter reasonably be considered to conflit with public interest."

_____: It all hangs on "reasonably" then.

_____: If my second cousin has a...

_____: But that's not reasonable, Dave.

_____: Well, it looks reasonable so far but you're not tying it down and making it clear. You have a governor kick a guy off for some pretty arbitrary reason if you leave it that way.

_____: It seems like one of the purposes somewhere else that would try to insulate this guy from, the commission from changing it every administration.

_____: How would it be written then?

_____: "Shall not have an ownership interest in any commercial fishing vessel or gear or in any commercial fishing processing, something - something.... processing company, or...."

_____: How about this? "Shall not have an ownership

interest in any commercial fishing vessel or gear or any commercial fish processing business."

_____: Now you got into the guy who might have an interest in a boat building company.

_____: No, it's not commercial vessel or fishing gear.

_____: Well, we'd probably let him in.

_____: Yeah, I wouldn't worry too much about the boat builder.

_____: All you don't want him to be is a fisherman or a processor, right?

_____: Right.

_____: How about a marketer?

_____: Processing or marketing commercial fish, processing or marketing business.

_____: Okay.

_____: It's my understanding that the Senate didn't want anybody involved in management biology, commissioner of Fish and Game, or any of that type.

_____: Well, as David says,...

_____: I'm completely impartial. Completely disassociated...

_____: ...from a practical matter, if you've got a guy who is a full time commissioner of Fish and Game, it is logically impossible to also have him as a full time Commissioner. That's automatically excluded.

_____: The Department of Fishery, University of Washington hired a Professor of So and So, a fish biologist, would he be eligible for the commission?

_____: Indiscernible

_____: Well, why should he not be?

_____: That's what I want to know. I want to know if there are any objections.

_____: There are certain kinds of professional confidences that you might want to seek on this commission.

_____: If you want to prohibit anybody who had ever been involved with the Fish and Game Department in Alaska, I think you ought to do it under a different subsection because its not the notion of vested commercial interest. It's an entirely other kind of notion.

_____: If the assumption is that somebody who has worked for the Department of Fish and Game is going to tinker with the entry permit system in some way that will influence fisheries management decisions made by the Department and the board, then you ought to identify that and treat it separately. I think that has certain problems if you want to pursue it in that you are eliminating a whole sphere of professional confidences that you might want to include at some point.

_____: Indiscernible

_____: I'd like to put back in the word, "have a vested ownership interest," I think that would make it clear.

_____: I'd dump the word myself.

_____: Alright, then . .

_____: Vested has caused no end of trouble in future interest law and I don't know whether it would here or not.

_____: Okay, Dave can you give me the read through?

_____: And shall not, alright, "The Commission members shall have broad range of professional experience and shall not have an ownership interest in any commercial fishing vessel or gear or in any commercial fish processing or marketing business."

_____: Okay, pick it up at interest again.

_____: It's inelegant isn't it?

_____: That's alright we can clean that up later.

_____: And ownership interest.

_____: "In any commercial fishing vessel or gear or in any commercial fish processing or marketing business."

_____: "Gear or in any," I'm sorry, I wish I took shorthand.

_____: Why don't we do this, maybe, if it would speed things up, David's handwriting is generally pretty legible. Why don't we let him run a master copy and we can xerox it.

_____: No, I object.

_____: No? You object, you want Mike to run a master copy. Alright.

_____: I'll run my own copy.

_____: Alright.

_____: I might get lazy that way.

_____: Indiscernible

_____: We haven't explicitly included entry permits.

_____: That's true.

_____: So what?

_____: No, they were very definite about that.

_____: I just want "comma entry permits, comma or in any commercial fish processing business or marketing business."

_____: Right.

_____: Indiscernible

_____: Here is page three

_____: Okay, page four. Number five. "Designate, when necessary to accomplish the purpose of this chapter, specific fishery resources for which separate entry permits will be issued. We know what you mean but it wasn't clear to us that that's what you are saying, Dave, and we are suggesting, "Designate, when necessary to accomplish the purposes of this chapter, subcategories of a fishery for which separate interim use permits or entry permits will be issued." We had trouble with specific fishery resources. I know that you are trying to get to the difference between tanner and dungeoness.

_____: You realize that you changed the definition of "fishery" back here?

_____: Right and we are working within that definition.

_____: Commercial taking of a specific fishery resource in a specific administrative area by a specific type of gear.

_____: But you are saying specific...

_____: I'm not objecting. I'm just trying to talk it through.

_____: Right. My question is then that when you say specific fishery resource, does that reflect this definition that you have in the back?

_____: This was written before the definition, but we were trying to make a definition.

_____: In other words in most fisheries you aren't going to have to refer, in your entry permit, a specific fishery resources, cause in some you are.

_____ : Right.

_____: So the definition of fishery ought to be inclusive of both those....

_____: Right, because, I started through it and in a number of places you do mention "fishery resources" and if the term "fishery resources" does reflect that definition, there's going to have to be some cleanup.

_____: Not "fishery resources," "specific fishery resource."

_____: Did you change the idea of what a fishery meant?

_____: Not really, we just made it more specific. When you speak of the fishery, we want to make it clear that you are talking about the area and type of gear and, where necessary, the species. Now in most areas you don't need to add the kinds of species.

_____: Okay, _____ gear will self define that.

_____: Right. That's exactly right.

_____: Indiscernible

_____: Suppose that gear is salmon, you don't need to say salmon. But in some areas shellfish pots is a type of gear. Shellfish pots catch four different types of crab and shrimp. There you would have to designate shellfish pots for king crab.

_____: We were suggesting that sub categories are specific fishery resource within all commercial fisheries to clear up maybe a possible ambiguity that entry permits be issued only for certain fishery resources. In other words to get the idea across that they would be issued for all.

_____: David, shouldn't the way the definition reads, this thing go, "Designates, for purposes of this chapter," according to their thought, "sub categories of fisheries resources for which separate entry permits will be..."

_____: That's what we were, it seems like specific fishery resources . .

_____: Or rather, pardon me, "sub categories of fisheries," resources has got to be out of there because resources is included in your definition of fishery in the back. In other words, "Designate specific fisheries sub categories for which," isn't that the idea.

_____: Well, you say, "Designates specific, designates certain fish," I mean why don't you say, "species" if that's what we mean? And we've already said you don't have to do it all the time.

_____: Designate a species within a fishery, specific species within a fishery,...

_____: Why do you need that? You get into trouble now if you start using the word "fishery." You mean anything other than what you just got through saying it meant. Indiscernible

_____: The only notion is to designate species within an area.

_____: It doesn't really matter does it?

_____: No.

_____: I mean they could designate them for the whole damn state or for any number of areas that they wanted.

_____: Which, _____ the intersection of all three, species, the area and the type of gear.

_____: Right.

_____: And all you are trying to do here is make it clear that they can go by these species specific if they wanted to.

_____: Right and we didn't feel that specific fishery resources wasn't ..... Can we say, "particular species for which separate entry permits"?

_____: When they see the word "fish." You know you can speak, can you really speak of fishery resources and include crab but can you really speak of crab as a fish, I don't think so.

_____: Come up with a better word?

_____: Yeah.

_____: Designate certain species for which separate entry permits will be issued.

_____: There also ought to be a comma after designate.

_____: What about the idea of within the broad catagory?

_____: They are never going to be not subject to their area and gear type. Everything has to be issued by area and gear type. Now, I am not following you, Joe.

_____: Tanner crab within the basic definition of crab.

_____: Tanner crab or separate species ....

_____: There is a difference between genus and species.

_____: Species is specific, yes.

_____: How does it read now?

_____: Designates when necessary, to accomplish the purpose of this chapter certain species.

_____: I like particular better. Maybe its just a nigling thing. If it is just forget it.

_____: No it certainly ..... the particular species.

_____: Yeah particular species, for which separate interim use permits and we talked about interim entry and interim use and I'm not sure its a big thing but we just feel that we don't want it confused with entry permits and we don't there to be any implication by the furthest stretch of the imagination that because an individual gets interim use permit or an interim entry permit that he will hopefully get an entry permit.

_____: I don't see that as a problem.

_____: I disagree, I don't think that's a problem.

_____: The same people that would think that are going to think it no matter what you call it.

_____: The people who would think that are the same people who would think that if they get a temporary drivers license can get a permanent drivers license. That's their problem.

_____: Anyway there isn't any need to repeat any of these terms in every one of these things is there? I don't care.

_____: I was with Mike on the terminology here but I think it's a mechanical matter to make sure that there is no confusion. As long as you are clear I don't think it makes alot a difference.

_____: Do you want to call it interim use permits? We'll call them interim use permits.

_____: (indescernible) ... some places where you talk entry permits then somebody is going to say well that does not specifically say the entry permit, therefore ...

_____: Okay, call it interim use permit? We just have to make sure that the entire bill now says interim use permits, right? Wherever we talk about those things?

_____: I've gone through and marked most of those spots.

(Irrelevant text omitted.)

_____: Okay, particular species for which separate interim use permits or entry permits will be issued. Now you are going to run through here and and stick in the interim use permits where ever we also have interim entry permits, right?

_____: Right. In some of these it's going to be a long time before we get around to issuing initial entry permits so we are going to be operating under these interim use permits for a long time. It's a mechanical thing ....

_____: I'm sure you guys really caught me when I tried to slip in on you too. We didn't get around to discussing that section. We didn't have time. Interim use permits because ....probably....

_____: Now, number seven, it reads through issue entry permits to qualified applicants for each administrative area. Number seven on page four. Now does that mean that because he's qualified he gets, well we suggested changing it to "issue entry permits to applicants for each administrative area for which they qualify."

_____: .....eliminate all status for whether he in fact is qualified he then gets a permit for each administrative area.

_____: The problem is that if you started to describe the basis on which you issue, and not giving all the details, maybe you just better stop to say .....to issue permits.

_____: Issue permits to qualified applicants, semicolon.

_____: (indescernible) going to be the persons to qualify.

_____: Because you've got a section on the issuance of entry permits later on that explains in detail what the hell it is.

_____: Right, is there anything wrong with going through applicants or .....entry permits .....

_____: "qualified applicants semicolon." Okay, number eight, Entry to use, interim use permits. In twelve now, you are providing for, is this a gear to gear transfer ratio?

_____: You bet you.

_____: No, you aren't going to slip it in. The way it was worded I wasn't exactly sure but I had a damn good feeling.

_____: Like the professor says, we've got to have flexibility on ....

_____: We'll conceed too. You do have a transfer system, or don't you.

_____: We did have a transfer section in there back later and left it out (indiscernible)

_____: What does it say?

_____: Provides for transfer and reissuance of entry permits for alternative types of legal gear in a manner consistant with the purposes of this chapter.

_____: How are they going to do that, any idea?

_____: The ideal is this, way on down the line on it, and this is one reason for leaving it out, it's not an issue that we want to surface because there is alot of animosity between people who fish different types of gear. Working in conjunction with the board and the Department and maybe some additional encouragement from the legislature, you might want to make it possible for a guy, who let's say in Southeastern. had a purse seine boat or a gillnetter, let him get into purse seining, but you have to, because of the fishing power, the fishing effort isn't equal. You'd have to establish transfer rates, you have to say like order of gill net (indescernible).

_____: But then you get into this awkward situation, you are not wishing that person to be able to have more than one permit unless it happened to be for varied fisheries, something of that sort.

_____: Well, now we wouldn't get into that because the guy is still going to be trading one for another. He's only going to be fishing one type of gear (indescernible) ...

_____: We have five guys who want to go from gill net to seine, one out of five gets there because the ratio .... (indescernible)...

_____: Now wait a minute David, what we lost, we lost in the redraft here I think. We had under the conditions for which a person could hold more than one permit, we had a provision in there which allows for the accumulation of permits for such a transfer.

_____: You could also have it happening this way... (indescernible)

_____: And they'd have to do that.

_____: You would have four gill netters and the four gill netters who decided "we could make more money if we went into partnership on a purse seine boat...." It would just empower them eventually to allow that kind of thing to happen without getting into the details of it right now.

_____: If you think they could work it out why that's fine.

_____: The charm of it to me is that the Canadians right now are going through, and they have been for the past couple years, an attempt at what they call a rationalization of the fisheries. They've tried various drafts and proposals and everything gets shot down by one participant or another, one interest group or another. What they want to do is figure out what the most efficient type of gear is in each area and arrange it so that that is where you end up. And the way we view this particular provision, this allows sort of the engine of economics to gradually bring about the same thing. Because if it turns out that guys are making more money fishing purse seiners than they are gill netters, eventually people are all going to want to convert. If it turns out that purse seiners are impossible in Bristol Bay because it's too shallow, then they are out and you end up with just gill nets. Naturally over a period of 20 years, 30 years, you get this sort of rationalization of the fisheries, _____ maximum economic efficiency by allowing transfers between kinds of gear. We felt it was very important to leave that in there so that we don't lock everybody into the status quo.

_____: I'm not objecting to it being there, I just want to make sure that what you've done is workable. I suppose that if you give them power, that then the rest of your staff's got a frame work, they can work this out.

_____; I would think they could even perhaps adopt regulations saying, "The purpose of this chapter for _____ a transfer, an individual can hold more than one permit, not fishing and hunting"...(indescernible).. I agree with you in the sense, Mike, it's something that I didn't want to surface in a whole new section or something. It's too damn complicated. There are too many problems in this fishery. You see everybody is locked into areas and types of gear linked with areas and fishing districts, and everybody feels very, very possessive that this is the way the system should be and....

_____: I'm not sure that just because one way is more efficient people will necessarily gravitate to _____.

_____: No, but at least I want the opportunity there. I don't feel its appropriate for the government to step and order people to convert to a different type of gear. At least that option ought to be open.

_____: This transition will probably work the other way too. Probably work away from purse seines toward gill net boats, because they are cheaper, cost less money to get into it. You know you've got less tied up, smaller crew, you can run with one man or two men. That's what purse seiners are terrified of.

_____: Okay five, David deleted 44.62.640, which is definitions, and 650, which is a short title. Did you really mean to delete definitions because then you are...

_____: Well I put the definitions at the end.

_____: Well definitions of 44.62.010 through 320 wouldn't, as I understand it, wouldn't be defined because you've left out 640.

_____; I'm sorry I'm not following you.

_____: Okay, page five, line 25, 26, application of administrative procedures act.

_____: Lets get the statute. I meant to leave out the administrative adjudication procedures part.

_____: Okay, you did, but then when we were talking the other day you scratched out 640 and 650. 650 is a short title and 640 is the definition for the whole...

_____: Well, that was an error. Donna and I worked. Donna looked at that and said we left it in by mistake. She thought we left in the administrative adjudication procedures and what we did was go back up and.....

_____: No, those had been omitted earlier I believe.

_____: 640 does sound like a definition. Lets have a look.

_____: Mike, did you try to Xerox these?

_____: Yeah we did we got .....

_____: You're right and I'm wrong. But where is that administrative adjudication part? It's earlier right?

_____: I don't remember where it is.....

_____: Okay, I don't know how we did that but you are correct. We are putting 640 and 650 back in.

_____: Do we need 650? Short title? I didn't even read it I just saw definitions.

_____: Alright, very good.

_____: Okay, here we come to 160. Maximum number of units of gear. Pick up on these other systems that I've been sort of trying to feed in.

IRRELEVANT TEXT OMITTED

_____: Like in that lines three and four page 60 as long as you just said "for which specific commercial fishing regulations are written" you would really cover that phrase about the legality of types of gear.

_____: Yeah, I think at the time even Donna was against me on that. I was putting it in there just so the, I don't know, maybe I had some arguements, at least if people thought that we meant, if they thought of the regulations as being openings and all that stuff and the other parts the regulations..... I agree with you, Joe.

_____: Specific commercial regulations are written?

_____: Yeah, I don't think it adds a damn thing.

_____: What are we doing? Eliminating part of line three?

_____: Just stopping pretty much. Joe suggested that the legality of types of gear is just a subsec of commercial fishing regulations. There's no reason to have all that extra stuff in there.

_____: I'll buy that.

_____: Would you want to still leave the phrase.....

_____: Say "are written by the Board of Fish and Game." (background conversations indescernible).....

_____: Why don't you say "are written" or "adopted by the Board of Fish and Game."

_____: I guess we don't have to come to these quite yet.

_____: (background conversation indescernible) Regulations are established by the Board of Fish and Game. The fishing regulations are established by the Board of Fish and Game.

_____: I don't think that it's necessary to think about this in the sequence that I did but I simply thought it helped for my own thinking to come up with this organization of this next material and at the moment when we are coming down from maximum numbers, you'll find my treatment of it under what I've called Roman Numeral IV sub part three. Now, doing that if you'll look at these typewritten pages, you'll find a series that begins with 191, 192 and so on. 191 would correspond to IV2. In other words, I picked up this idea that we are going to have some fisheries as to which there will be a necessity for imposing a maximum, fairly strict sort as to which hardship is important. Then ones which were not and I divided them as between severely threatened and all others. I think we used yesterday the distressed. It

gets across the same idea. If you look at the determination of the maximum then that's under the second page of this typewritten one under the number of 192. The three subsections there deal respectively as follows, A and B deal with what I call severely threatened ones. Those are the ones which you are, by looking ahead, confident that the optimum number is going to be less than the total number you are going to let in right off the bat. Or at least is not going to be any more than that. Then the C category deals with those areas in which there is no concern. So that there is latitude to let more people in. But I suggest that there ought to be some kind of a limit on it. Do you want to take a minute and read through those?

_____: Yes.

_____: I still have a problem with C. I think we still want to leave some fisheries, the designation of maximum to kind of float and to be set by the commission at some kind of an appropriate time. (indescernible) 150%, there isn't any magic numbers, is what I'm suggesting. Because we have a fishery in Southeastern now that has three gear licenses. And it may grow to somewhere around 200 or 300. Then we'd be in trouble. 150% wouldn't make any sense to apply for a _____.

_____: Well, you notice my second question in that bracket. Should the commission be permitted to designate

fisheries for which no limit is presently set? And I suppose that makes some sense. To have that capacity there too. But there may be others as to which you, maybe want to give them power, the moment you move away from these more distressed ones, give them power to decide which ones they are going to set a limit on and if so, what it should be.

_____: Yes, maybe you could reach the same point in terms of A and B by saying something along the lines that "when the commission determines that the optimum number, that the optimum number of units of gear will be the same as or less than the present level of fishing efforts" something or other. In those cases the maximum number of units of gear shall be one, the average number.

_____: Right, now that's what I tried to get at under A and B. That's the Idea.

_____: So the fisheries are either at or above the optimum level.

_____: Then you are down into C and at that point I think you can tolerate a lot more latitude of judgement on the part of the commission as to what to do as to how many to will let in. I think give them at least the power to say, you couldn't have at least 200% increase.

_____: Of course except for your treatment of the people in the priority classification, how is the operative

effect any different from, I realize it probably is, I'm not, than what you really wind up with here where the commission has the discretion that the level shall be no less than the highest number of units for last four years.

_____: I don't know if the operative effect really is much different, I simply like the way I arrived at the results. But I do think I had introduced one factor that maybe you had not and that was in the determining of this maximum, it was with respect to what we call severely threatened now, those fisheries that the maximum is the lesser of two numbers. Either the maximum is determined by this averaging over the four years or by the number of hardshipped people so that you don't ever get anybody into those fisheries as to which you can't say there is any hardship at all, which I don't think you should do. Because if you are going to have a distressed fishery, the only people you want to give any entry permits to are those that can show some measureable hardship.

_____: Yes, we've got a couple notions of distressed fishery floating around now, like when the house bill designated those certain distressed fisheries and said we could take an initial cut which was a number formula. This would say any fishery where you are at or above what would be the optimum level, you don't have to let anybody

in who isn't a hardship case.

_____: You should not let anybody in.

_____: The only place that I have any trouble then and I like that idea because if it worked right it would enable you to make an initial cut, in some of those fisheries, below the present level. But I'm still nervous about the hardship category. We can discuss that later on. I like the idea of doing it that way.

_____: The category system that we used, that I used when I got down to hardship was essentially the ones we used yesterday.

_____: Do you have it in here so I can (indescernible)

_____: Yes, it comes up in the next section, somewhere along the line, priority classifications under 195.

_____: One thing that gives me a little bit of problem here. I'm in 192, C, and perhaps up further. The January 1, 1973, that is in there for issuing. Wait, this is the maximum number of entry permits to issue. I think we did it in this version. Anyway the problem is that it works fine for fisheries we are looking at right away today. But take a fishery that the commission doesn't get around to until 1978.

_____: But that's in C. That will be in C.

_____: The problem is that the date is in C. Obviously, I don't know about the legal problems but the practical problems make it very clear because you can't start in 1978 and say "Well hell, guys, what ever you did after

1973 doesn't count, we are only looking before that because there might have been nobody fishing here in 1973 and if it was a fishery that developed only up until 1978, so there is a problem in taking that particular date. You know where you are, language we said, in the four years prior to the designation by the commission of such and such.

_____: That's what we did before. (indescernible) Well, now when you are in the C category you have a little different constitutional problem before you. You are not really telling all the rest of the world that you can't get in because you are in a position where you can let some people in. You may not want to let very many in. I think it's logically though as among those you are going to get in you want to give some kind of preference to the person as to whom still it would be tough if you told him he couldn't get into it. In a sense that gets you back where you started, grandfathering him, aren't you?

_____: What you want to do, you want to avoid a last year rush to get in, for one thing, which we are going to have in the salmon fishery, except I think in this draft here, we jimmied the language around with the 1975 date which effectively makes it impossible to have that work in the salmon fishery. But you want to avoid a last year rush in something the people know the commission is going

to act and yet they have a year's grace. And the other thing you want to be able to do is to give the Commission the opportunity, if the fishery just booms in one year, the opportunity, if the fishery just booms in one year, like the scallop fishery in one year all of a sudden we had either 12 or 16 boats here. You want the commission to have the opportunity to put a lid on it. Say "Wait fellas" and then afterwards, if it decides that the optimum is higher than where that lid is, let more people on but it has to somehow beable to put a brake on it before the thing gets out of hand and you have to have a buy back program to bring it dowr.

_____: You'd have to have a little bit of retroactivity. There's alot of tax law does, depend on what you did last August that determines how much tax you pay.

_____: Right, so ideally that's the kind of mechanism we are looking for. One that will allow the Commission to work in the future treating new fisheries or fisheries in which currently there's no problem. And not be pegged with the 1973 date.

_____: Do you suppose in practicality that the way the commission will operate will be with respect to those fisheries which the optimum is finally set, will probably turn out to be lower or at least not higher than the total number that we come up under these the hardship

categories or under this business of averaging the last four. As to the ones that you have called severly threatened, which I used that label for, as to those who think the Commission is likely to act with reasonable confidence (indescernible) ..... in a sense that have a feel of the pressure that they were supposed .....

_____: Well, we threw into the powers and duties, number two on page three, when we redrafted this. The only thing we did wash establish priorities for the application of the provisions of this chapter and various commercial fisheries of the state. It gets right in there that they better get with it.

_____: And some of it is also covered in letter of intent.

_____: Well, it seems to me then logical to make that distinctintion between, on the one hand, as to the severely threatened, to use the date January 1, 1973, but as to C down here, put it on a floating basis. I can't see a reason why you couldn't. Didn't I read somewhere January 1 of the year immediate preceeding or the year in which to determination (indescernible)....

_____: Yeah, I think we've got language like that somewhere later on in our bill.

_____: I think that's alright. Sure it might be a good idea to do that.

_____: That way and this of course you're .....

_____: Sign this and hold it for a few days. Or until they hear something.

_____: It amounts to the same thing. We're talking about levels of gear and you're talking about number of entry permits.

_____: (indescernible) You end up in the same place. And so that's our concern. And we can see, if you start immediately, well for instance the herring fishery in southeast is lucrative and doesn't have too many people in it right now but we know a hell of alot of people who are thinking awful hard about going there. This is one where the commission would have to be able to set a maximum, say "hold it guys," and then maybe later set an optimum higher. Just so that they can't wipe it out before anything goes.

_____: If you go to a maximum, they can set it higher in terms of what they set the optimum for. Because they'd be in a position then where they could probably decide optimum just as well as they could act on what essentially an interim basis here.

_____: Well, the idea is that your maximum is sort of a rough tool. It allows you to halt it. It's a leading system. Then in doing your optimum you have the time to go through some more refined studies, but as to these figures (indescernible) ...

_____: .... going to be coming up later presumably

then they will be in fair shape in terms of their determination of optimum too. So suppose you said for example that the maximum shall be no higher than the person engaged in fishery in the year preceding January One in the year in which they make the determination that there shall be a maximum code.

_____: That's what we have.

_____: Yes, Okay. You're not unduly limiting yourself then (indescernible) ....

_____: Where is that language, can you find it?

_____: It's in there somewhere. I'll pick it out here.

_____: Because that gives them the flexibility and then they can do their studies. Fish and Game here can let them conduct this research and you can reach an intelligent decision on maximum. Bottom of page eight D and E is two ten.

_____: Well, let's not bother with particular language at the moment.

_____: Isn't what you are really doing, getting back to the priority classification, is saying everybody in A is in and B is in only if you are below the optimum level.

_____: That's C in different sequence but .... I'd first have the commission classify fishery so that you come up with ones, now that we are concerned with are

only those in which the estimated optimum level is higher than the total number of persons, that the average number that fished over whatever this period of say four years. So here your optimum number, something you are either going to have to stop where you are or indeed work down together. Now, the person who decides that undesireable characteristic of your fishery, who are going to get in it, are going to be limited in total number to, first of all, whatever that maximum figure was, its average of four years or something, but further limited to the total number made up of both A and B put together. Now there might be a certain sense I suppose that people could come in and establish themselves as category B people. But the maximum figure would turn out to be lower. Remember we talked about that yesterday and decided that if there were indeed people in the hardship category who would be cut out because of this maximum that should be willing to let some of them in. Actually, I think we decided we'd let some of those in to establish some substantial hardship. We talked about significant or severe or I forget the word. If your maximum, as determined by the formula approach, is lower than the total number that you get by listing all the persons that come under the hardship, you still have some hardship people get in there if they have a fairly decent showing of hardship.

_____: A always gets in. B gets.

_____: They might cut into A even if your maximum turns out of it in spite of (indescernible) discuss the matter ever would or not.

_____: If they put a particular fishery the first of the fore going two numbers determines the maximum number of initial issue entry permits and if by use of that number any person within priority classification A of this chapter would be excluded. That maximum number shall be increased to include all persons otherwise excluded.

_____: Who can show that they are A.

_____: To include all A's.

_____: Well, no, you see, you cut off to go over to B only when you get down to something called slight.

_____: Oh, so you've really got three.

_____: In a sense you do, if in fact your maximum happens to cut across in the middle of A. I think it must be (indescernible) ...

_____: You've got a discretionary area at the bottom end of A. You don't have to let all those other people in.

_____: Yeah, it kind of depends on, I don't know in fact how this formula figure is going to cut across the group that composes the hardship group. Is it ever going to cut across the middle of the A's? If you took the last four years?

_____: It depends entirely on how you define the A and B. You see this is the issue that I think, I folow follow you and I think that this basic notion of you don't want to let anybody in who's not really going to be hurt if you are in one of these problem fisheries. But the whole problem is one of being able to really apply those definitions of A and B. Are they the kinds of things that can be applied?

_____: I think you've got to. I don't see any way out.

_____: Because what you really, isn't what you are really doing saying before look at the whole pool of fishermen, you can conceivably divide them up into A and B before we ever started doing anything else.

_____: I would duck it, we could duck it to some first of all, by deciding between severly and not severely and then you may also be able to do a very rough grouping of people because your maximum as arrived at by this formula is fairly high. So that you for sure would include all those persons as to which there is any hardship. In which case you wouldn't have to grade them according to hardship. You would have to say you make a showing of any hardship and you are in.

_____: You are going to have more applicants in every fishery than you have permits. But you won't

have more people who would be even negligibly harmed.

_____: Right, okay, that's C category under there and that's fine. They are not going to make it. I put them down there just because, just to recognise the fact that you are going to have some more applicants. On this severely threatened fishery they aren't going to make it.

_____: Isn't there a difficulty? At least there is when I tried to think it through of coming up with a sort of objective criteria to demonstrate degrees of hardship. I'm just making this up as I go along. I don't even know if it makes sense. Could you somehow relate hardship to the standard that we use degree of economic dependence, where at least you can establish objective criteria and you can rank people and you won't have 2000 people coming in _____ and having public hearings all the time.

_____: When you get over here somewhere on priority classification, 195 thats page D ends up with a bracket that says "what to use" question mark. And it's at that point you pick up some of these delineations and I'm not really too insistant about exactly what you say but it will be at that point at which you would put in a reasonable balance of the following: economic dependence on the fishery, alternate livelihoods, investment in gear, all of these other variables.

_____: If we can objectify somehow these standards for hardship it begins to make sense to harmonize a little bit. But otherwise substantial significance, severe, or great murky, you know value relevancy you tie down.

_____: I don't think you are going to get away from the necessity as I see it of actually deciding hardship.

_____: No, that's alright. All I want to do is see if we can come up with a neat way so that you can look at at out there instead of just having six guys listen and say "Gee, that really hurts, you get one."

_____: No, I'm in favor reciting some refining measures. I simply got down to the point where I didn't write it out (indescernible) .....

_____: What did that do for you, David?

_____: I think we'er getting closer. I again, if you leave hardship, if you have yourself no ruler to measure hardship then I run from it because it's unworkable. Everbody that you exclude will claim that he is a hardship case. He may be.

_____: I don't think you have to say you leave it completely _____ .

_____: And again it isn't even adjusted to relevant nature you know to look at a given fishery and the people in it and say "listen, you've only been in it two years, we've got to kick either you or your buddy

over here, he's been in it ten years, out. Wouldn't you agree that we are being most fair by giving him first crack at it?" Or something like that. Most people will go with that because they can see. That was why, again in terms of public acceptance, I like what you've got in here. Some setting of the maximum before you start categorizing people. Because it's one thing to say we've got this many permits to issue, now, who comes first and who comes second? But the last guy under the fence is almost always going to look just about the guy right after him and if you open up a hole in the fence and start letting a few people through after an addition to that level, the people that are already in are going to get mad that you opened the whole in the first place. The people that don't get through the hole in time are going to be mad because you let a few through and didn't let them through. It creates, I think what will happen in practice is you will have about 1,300 appeals.

_____: Well, in British Columbia when they set their standard of having to have ten thousand pounds of commercial landings for the two years preceding the cut off date and if you didn't make--t tough shit you didn't get an entry permits. They allowed a procedure for hardship and they had 1,200 appeals in the first year.

_____: That's all that was said was hardships and they had 1,200 appeals. I think about seven or eight of them were granted.

_____: That's probably stopped several hundred of them.

_____: But still the whole Canadian system _____ and the authority that they had to do that was much different. We're not in that position and we don't want to put anybody who is going to be involved in this commission is what is a very awkward position of having to rule on hardship when there are no objective criteria to look at.

_____: I'm quite with you. I agree that they should be specified. By and large I think we have come to a _____ in describing them. I've got one set objection to one aspect of it but that's all.

_____: And we've conceded ... (indescernible)

_____: Yeah, I had a chat with Ray and he, if it's a red flag in such an important part let's get rid of the red flag.

_____: Alright, what you would wind up doing, I think, in terms of working this in, is really saying there has to be a designation. The only reason we use distress is because it's from our constitutional aspect.

_____: And I think it's probably a good enough reason.

_____: A designation of those fisheries where you are going to set a maximum of, on the four year formula, right. And then to say, really only two priority classifications, A and B. I really like that because what you are trying to do is you are defining the important line.

_____: You know the beauty of it is that all you really have to do if your maximum is a little bit higher than most turn out to be, you have to go only one line and that's at the bottom of B, because A and B get in. You don't draw any other lines.

_____: If the maximum would let all A and B.

_____: That's right, if it would. The only place you are really going to start getting into more trouble is if that maximum starts getting down lower and then you are going have to use your subgrouping to make the line somewhere up the line on it on a gradual scale.

_____: Somehow I'm still drawn to trying to define the line rather than the groups on either side of it and letting their priority classifications follow as they will. I don't have any objections on that.

_____: The strong reason that I am impelled to say that you must eventually face up to a decision as to what's hardship is of my premise of your ....

_____: What I would say is you should go into a fishery and rather than at the offset saying let's

define A and B, you say at the offset let's define priority classifications. Somebody might have five, somebody might have three, somebody might have more and then you say we've got these ranks in decending order, where does this line get drawn? Between this classification, between this classification and you have to come in and say in these designated priority classifications those people are suffering only minor hardships and above here the hardship is severe enough that they should be treated as a, that is they should all get in. But all I'm suggesting is that two lumps is usually too large so you are going to have to break it down any way. That's all that counts. That it might be more flexible.

_____: I think if you can duck the necessity, as you probably will in most instances, for making gradations within areas that your commissioner should be happy to accept.

_____: They might. What about the case, one reason we did priority classification is because we knew two things. Number one, the number of permits you could issue was going to cut through some class and number two.

_____: The ultimate number or the initial issue?

_____: The initial issue. And number two, you can't really rank people, one, one, one, one, because this is

too closely situated. To be fair you've got to try to look for similarly situated. And then within this lowest group where the line cuts through to use a lottery system that's something that would be acceptable. because you're not going to be able to tell the difference between the divisions.

_____: I've incorporated all that in here. The whole idea is there. I just think that in many instances if you've chosen your formula to produce a fairly high number you probably won't have to do that for some fisheries.

_____: That was my point. That's why I feel sort of futile one that session yesterday because I know in 95% of the cases we all talked about letting in the same people.

_____: Maybe this all comes out that way.

_____: As a matter of fact I think the other formula is more harsh in a lot of settings because in a fishery where you'd have most people in four and five if you are going to issue up to the maximum level you are not even going to care which category they are in. You are going to issue to all of them. How would you go about locking in A. You have the line drawn and if your maximum number was above, then you'dincrease the maximum number to allow all these in.

_____: Only, no, it seems to me that you, _____

policy and I'm trying to reflect what I perceived yesterday, that you'd go down toward the bottom of A but you probably wouldn't reach it because the line between A and B is as between what is minor or negligible. Whereas you would not go that far but taking only those persons who had some more severe showing of hardship. That was where the word significant category, severe or significant. That to me suggested stopping short before you hit the bottom of A. That's in here. I've got that just _____ although I haven't settled on the word. Do you think we should settle on "significant"? I think that was the word people used.

_____: I guess that's, now I can make some sense. I think you've got to designate the priority classification. You've really got two lines in here. You've got the line between A and B and you've got the line in A between significant and not significant. If you have to use it. But I think you've got to designate those in terms of priority classifications that are developed separately for each individual fishery.

_____: Oh, yes, that's right. This is separately for each fishery. Now I suggested by question mark, possibly eliminating negligible and leaving it with the one adjective "minor". In other words "negligible" is almost deminimous and I really didn't want anybody to say that you didn't mean any. Then as in 192 would pick up significant.

_____: Do you need a C category in 195, B?

_____: All you tell those people who end up there is that they don't get permits but I suspect you will have persons applying for admission into severely distressed or distressed fisheries who end up in category C and therefore don't get a permit.

_____: But logically don't they fall in either A or B?

_____: Oh, well, I hope not.

_____: It would seem to me that the switch from minor hardship to no hardship, for the fact of the matter I'm wondering whether it would occur.

_____: I don't know. I just kind of assumed it would.

_____: Any guy who makes $150 a year commercial fishing is going to say that he's got $150 hardship.

_____: That to me would be a minor hardship. On the other hand if it's somebody who hasn't fished for four or five years, he's had a gear license but there's no hardship at all you tell him he's got to get out, then you tell him he's got to get out.

_____: You're saying you don't want any of the C category?

_____ I'm asking whether you need it. I'm not saying you don't really need it. I'm just trying to explore what type situation .. (indescernible)...

_____: What would be wrong with somehow coming up with B category being sort of minor or less. Not to throw back in negligible. Some concept that everybody there and down.

_____: I think I understand what people want to do however, is to allow persons who have some showing of hardship even though minor to get initial entry permit into a fishery that's a distressed fishery.

_____: That is a distressed fishery?

_____: Yes.

_____: I thought you said the lesser of the two numbers.

_____: But it's the lesser of the two and the other measure that is the total of A and B put together.

_____: But in a distressed fishery where A and B would be greater than .... (indescernible)....

_____: That's a question of fact and I wasn't sure that it was so. I kind of assumed _____ be the other way around. The average number of four year participants would be higher than the A and B put together.

_____: But then you wouldn't have the situation which you just described where you'd be wanting to let in to the initial everybody in B even though you are above your maximum level or you are above this average number.

_____: If A and B are together are above this average number, the average number is what's going to control.

_____: Well, that will be in the situation most of the time. Almost all the time. B include minor hardship right?

_____: That's right it does.

_____: We know that it will be probably twice that because what you're saying, if you are going to throw in the part timers, the people who make a couple hundred bucks a year and the people that fish sporadically one year and miss another, Then you are going to be way above the average in four years (indiscernible) in almost all these fisheries. So then the tough one will be which B's get in. Which A's get in. I guess you say no B's will get in if you don't ..

_____: That depends on your facts, Dave. It's conceivable that in the distressed fisheries some of the upper range B people could get in.

_____: No, if A, what he's doing is he's saying some of the people in the lower range of A could be excluded in certain fisheries but they would have to be let. You don't ever have to let in anybody in B, right?

_____: If you are above that four year average thing if you're not.

_____: But then you just said that you thought the desire yesterday was to guarantee that these got in.

_____: I thought in most fisheries people were thinking that that would be so.

_____: Well, this is what the whole argument's been about because the start of this wanting to cut those guys out. It was, I think, the Senator wanted to let them in.

_____: I knew that was were it started but I thought it moved. If that's the case and if in fact your four year average or what ever figure you take is going to eliminate a good chunk of the B, that's fine with me. I think the more people you eliminate in a sense the better off you are up to the point where you're _____ severe hardship you get to process arguments from them and I don't think we are at that stage.

_____: I guess, again we are not talking very clearly about B. I am thinking about B as the whole group, those people below the line of minor hardship and less. You'll have a lot of applicants, people who have fished some time in the past. A whole lot of them that will be down there and coming in and applying. What I like about this is what I came away with yesterday is that you'll let in up to the maximum level which will be no more than the greatest number of the last four years. Then if you have people left over who would suffer significant hardship you let them in too. You won't ever let in above your present level people that have only minor hardships.

_____: That sounds great with me. It won't take much jockeying to get to that too.

_____: That's what you've got here really isn't it?

_____: Not quite, but darn near it.

_____: Well, I'm sorry because I thought it was.

_____: Well, maybe it will work out that way automatically. I think that's right because under issuance I said to pick up your BCB's of 220 which would give this idea of going through it in decending order and then get to the last group which you might have to cut across the middle, you do it by lot within that last subgroup.

_____: But under yours if you had more applicants, in other words if you are up to the maximum level of the four years. You would never be obligated to let in B, Right? You can let them in if you've got enough permits to go around and if there are less A's than the maximum number then you go ahead and let B's in. Under yours here would you be eligible?

_____: I want to stop.

_____: I do too, that's why I like it. And then you only let more people in if they can show significant hardship. I think that's great.

_____: Let me think of it the other way around. Let's take the unusual one which I thought was the usual one. The one which by this formula you come up with what turns out to be a fairly high number. Then

you look at all the people who are applying if you are going to fill up to that high a number you're way down on that B category somewhere or we've got a C category you might even have to go that far. I have used then as a limit on the total number. The total of A plus B put together. So you'd never le in C and that to me serves a useful purpose because that wouldn't let anybody in who could show no hardship. I felt that was a factor to the system. We can leave that in but _____ is not going to be a very important matter (indescernible) ...

_____: It depends on where you define B is started.

_____: No, as to where you would end. Starting which from which end. It depends on where it is when you go down toward a C category where you cut off the bottom of B. I think we've accomplished everything that you want to accomplish right here and now. You are not automatically going to let B's in if what's going to be your limiting factoring fact is this formula.

_____: Why not have minor hardship and negligible hardship be C or something. I'm not trying to make it more complicated. Is that the notion you are trying to get at?

_____: Let's let it be worded the way it is because it serves a doctrinal purpose and that's to say that

"look judge, we are not letting anybody in here who can't show hardship." On the line right here between B and C. The fact is we may be cutting off a lot of B's too, in many of these distressed fisheries.

_____: I guess if you are not to your maximum level, you're right, in this sense, if you are at or above where you want to be, you sure shouldn't let anybody in. You shouldn't grandfather anybody that can't show hardship. That's been your basic tendency. As long as we are just letting it float for a while those fisheries that are below therefore we don't even have to come in and set an optimum yet or where we know if they are not in trouble yet. We are just going to let those go ahead. New people come into them and then we'll put a lid on it. Just like we discussed, ... problem with it. In other words the minute we start making these hardship categories we already are into a fishery that's at or above where we want to be.

_____: Because we don't call for, what did I say with this?

(end of tape)

SCOMM

#31:23

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

Tape V/6 Side 1

3/26-27/73

Senator Bob Palmer

Mike Whitehead - Staff Assistant to
Senator Palmer

Professor Robert Fletcher - University of Washington
School of Law

Joel Bennet - Legislative Affairs Agency

David Jackman

Allan Adasiak

Palmer: Dave, when do you see the first attack can come on the legislation, whatever we do this year? Assuming that, one, the people that are presently being licensed under the existing circumstances will be allowed to fish this year and, two, that we maintain what we had in the Senate version so that if interim (?) licenses in 1974 will be available only to those who may become eligible for a permanent license so that in 1974 we have permanent or , I'm sorry, interim-use permits. Then in '75 we have our first initial entry permits. Now when in that analogy would the first attack be possible.

Jackman: I would think the minute you issued your first interim-use permit. But this brings us to the point and, if you have to go, one I'd like to discuss now because I did an about face on that interim-use permit - I feel very strongly that one of the strongest features in the defensability of this program is that we weren't closing the fishery at any time - we weren't precluding the kind of natural moves and shifts and adjustments that would take place and the minute we went to entry permit system which really would exclude some, that very instant that entry permit would be transferable so new entry could come - the entry permit - but what we've done if we go to the notion of the inteirm-use permit only to those who may become eligible, we have frozen it for the two year interim period or the one year interim period

because we've made sort of an intuitive judgment in those areas let's say just is a concrete example, we know in Bristol Bay and we know in Southeastern say the purse seine fleet that nobody who hasn't fished in the past is really going to wind up getting an entry permit because we've got enough applicants from that pool alone but we've made it impossible for a man to move into this fishery on an interim-use basis even with full knowledge that the only way he'd be able to continue two years from now would be to buy somebody out. I think that has all those - I'm not saying it'd make unconstitutional - but I think it has those objections that for the interim you've frozen people - they can't move, they can't adjust - a guy that's never fished here can't come in and I think that the advantages of not hurting those individuals and not subjecting yourself to that kind of legal attack favor a free - issuing interim use permits to anybody that wants to fish, who is really a fisherman and with the full knowledge - you can put it right there on the face of the interim use permit - fishing during this year has no bearing upon your ultimate qualification for an entry permit and you are on notice - note hereby. And I know there'll be those people who say gee I came here and fished for a couple of years and never realized that.

Palmer: You're just prolonging the agony another year.

Jackman: Not really, you're also letting some people and I think there's a larger number than you would think

Palmer (?): When I say agony I mean the situation the fishermen are going through now as far as over-gear - too much gear in the water - simply increasing that the result of hardship for an additional year.

Adasiak: If I could comment on that a little bit - the redraft that we did has language in here with the 1973 and 1975 date in it and the way we thought it through I think it effectively precludes anyone from getting any benefit whatsoever by fishing this year.

Palmer: I understand, but you'd still have nothing (unintelligible) . . . additional people that are in this year - they'll come in next year and anybody else that wants to.

Adasiak: It's true that they will come in but the thing that we envision doing if a bill with those provisions in it passed - is a big propoganda program to slow them down. That's about all you can do.

Palmer: But you're assuming fishermen are logical -

Adasiak: No, I'm just assuming that that's the best shot that we can make in this particular case is to tell them it's not going to count.

Palmer: Well let's get back to the legality of it. It was my understanding earlier that we could do things in this transitional period that you could not do in the long run as long as your plan did show exactly why you were doing it, that you did take care of the entire transitional period and did in fact reduce gear to where you want to go and that was the reason that we put this in. Now maybe we were incorrect.

Fletcher: I don't know that you strength your chance of withstanding attack by limiting this way but I do believe that with a, as we have, a complete and a orderly and a fairly firmly prescribed system for getting down to optimum within a reasonable time and one which has all appearances as if its going to go right ahead and get there, then the fact that you make a preliminary screen by saying interim people shall consist only of those who have some chance of being initial entrants loses a lot of its sting that otherwise would be. David's argument is basically a perfectly sound argument and of course to make your case perfectly clear you could lop off the getting down to optimum side of the thing and all you did is what Washington did some several years ago which was simply to stop for 2 years and not do

anything more - it'd be terrible because you would then be just saying preserving the benefit for the present people and the heck with the rest of the world, but it does seem to me that you alleviate that argument or soften it an awful lot by relating to the exigency of getting your system under way and the harm that you otherwise avoid by letting the fishery be overfished for even one more year.

Jackman: I think what you could avoid is clearly issuing interim-use permits to anybody - to the paper licenses to people that aren't - don't make some initial showing that they're really going to fish and I think that's where you'll cut out a lot of it because a lot of this licensing this year is pure paper licensing. These guys don't intend to participate they're hopeful of being grandfathered in but what I don't want to do is, thinking of this whole thing even in terms of burden on interstate commerce if you want to, is to say to a man who is in the . . . or to a group of people and there'll be a group of people like this, that have presently bought boats but have never fished or who are moving from one area to another, or even coming up from Washington to fish for the first time, to say for 2 years you have to stand still and do nothing. We make a preliminary determination on the basis of no criteria or no findings or anything else - we don't think you'll be eligible. We aren't into our system

yet. I agree with the professor you probably won't lose the whole program if you can really convince the court that you're going here and this is only a transitional phase but I think we'd be a lot stronger if we said to those people in the interim you can come and fish you're not helping yourself one iota in terms of getting an entry permit, but we're not going to burden you because we (?) have to - I think the court would look at you with a more forgiving eye - because here you'd be creating a burden that you really don't have to create in order to implement your system, and in terms of certain individuals it'll fall very harshly on them. There are a number of people that have purchased $50,000 boats and would be very happy to buy the $5000 entry permit when it comes on the market. They would not have to miss a season if you let them fish on an interim use permit and then the minute you issue entry permits they'd have to buy from somebody. This way you've really done it to them.

Palmer and Fletcher: For a year . . .

Jackman: For a year or two - because you're not going to get into your entry permit system for a couple of years. In terms of the interim-use idea, in other words, under the original bill, under the House bill, until we get to the point of issuing permanent entry permits anybody who is

really going to be an active fisherman can get an interim-use permit even if he's coming to a new area or coming in for the first time. Now there's been a suggested amendment that you make an initial screening (?) with the interim-use permit, not only of just paper license holders but all of those who you don't think will ultimately be eligible for an entry permit. So that would mean that in the year and a half or two years that it takes you to get into it everybody is frozen. A person who is coming in for the first time can't come in - a man who wants to go to another area can't do that - and I just see that as a burden that is not necessary and is going to get you into legal trouble.

Fletcher: I don't know how serious the worry is. David I think probably sees a little more severe than I do but I think you've simply got to balance it as against what harm it will do to let just anybody that wants to fish do so.

Palmer: OK - well, I've got to go to Finance so we'll leave it - it's a decision we have to make I guess. I'll be back as soon as I can.

Jackman: Another concern on that point is in terms of the public acceptance of this program - you know you've got to realize that most of the fishermen aren't ever going to really understand the whole program or know what it means

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and ir the local communities the impact at the outset is before you've even issued entry permits, especially in the native areas for instance, say the young kids coming in for the first time this year, if all of a sudden for 2 years they can't fish, they won't understand why and I think that it really may endanger some really bad initial . . .

Fletcher: More than for the fact that it would also cut out a lot of the new people from outside?

Jackman: I wonder, it seems to me that most of the new people from outside are. tend to be the more sophisticated that are coming up here, usually have to make a sizeable investment and if they're looking at the thing and seeing that they can't qualify for permanent entry permit they either aren't going to come or they're going to come with full knowledge that they're going to have to look forward to buying a permit when the time comes around that point. I just think - in explaining this to the people we always made people - I think they sighed a sigh of relief when you told them that getting this thing implemented and until we hand out entry permits everybody can continue fishing - we're not going to screen you until we issue entry permits.

Fletcher: This was the way I'd done this and the change was made in the Senate bill last time I was up -

Whitehead: No it was after that. We talked about it on the phone.

Fletcher: On the phone.

Whitehead: That's when it came up. My reaction was well if it's a preliminary screening device it ought to stand up, but only if its preliminary toward getting to where you're going to be finally.

Jackman: I think we ought to keep it as a preliminary screening device as to paper licenses.

Fletcher: You strengthen your whole argument the less severe you make it. The basis principle is perfectly . . .

Adasiak: The only thing that troubles me about it is that unless you have the Commission establish some form of regulations or standards by which it is going to determine who may qualify . . .

Jackman: It seems pretty intuitive -

Adasiak: It's an intuitive system and if the Commission has to go through the business of doing this it's going to take it a little while -

Fletcher: There'll be some clear cut cases -

Whitehead: We have worked a little oblique provision into the Senate draft which provided that essentially no one that hadn't held a gear license prior to '73 would qualify for a entry permit and therefore wouldn't qualify for an interim-use permit in any fishery.

Jackman: In any fishery you just ask the guy if you've ever fished in this fishery before and if he said no you wouldn't give him an interim-use permit. But I just think that's harsher than we need to be.

Whitehead: Right, right.

Fletcher: The only factors that tell you that you should not let them in are non-legal factors. They have to do with the health of the fisheries.

Whitehead: Right, as an example Bristol Bay - it just scares Jay half to death even with the sliding gear scale and everything else and in looking at the increase in license sales - even if half of that increase is paper licenses or 3/4 of it is in certain of these areas, there's going to be a hell of an impact and its going to be by people that figures are going

to get in that haven't been propoc:ndized yet and . . .

Unkn wn: Oh I agree there'll be some of that.

Whitehead: But for a tw) year period or for a one season to two season period you're going to take and further distress already distressed fisheries.

Jackman: I don't think it will happen too badly - I think the natural press release, no better than the press has to terms with this bill will be entry limited as of January 1, 1973 or some such - in other words if you get the public notion that the bill has passed and people qualify on the basis of January 1, 1973,how much more can you do?

Whitehead: I don't know but that is what they're trying to accomplish was a preliminary weedout - as you know , how do you balance the two?

Jackman: I'm speaking on the legal. . .

Whitehead: Legally against - on one side you have a legal argument, on the other side you have . . .

Jackman: I think there are some practical arguments on my side of the acceptance of the thing and non-arbitariness and

I think it's a class that should be protected if you can - you don't want to freeze the thing. The people that are wanting to move this year or even from one part of the state to another or who have just bought a boat - that is an agrieved class and if the court's looking at you and said if you could come up with a system that wouldn't hurt these people and got your objective just as fast.

Whitehead: But regardless of what they do during this interim period is going to have no effect on how they're actually ranked.

Jackman: Furthermore it'll postpone our legal attack until we get a little further into the program - if we postpone the legal attack and we've got some regulations adopted the things been in effect for a couple of years it'll be closer to your grand finale of issuing entry permits but the minute this thing is adopted and a guy goes down and tries to fish this year, you're going to be in court a year quicker.

Fletcher: That right. I hadn't thought of that - that's a good point.

Whitehead: One thing that apparently Jay and Bob had talked about last night, suggesting, that under issuance of permits require - saying the Commission shall issue permits not

before January 1, 1975. Now I don't know if the rationale for this was number 1 - you're working under interim permits. They were thinking in terms of interim permits being - you know - you're tailing the numbers down - but it gives the Commission the ability to get the information from these applicants for interim use permits - look through this information - sort it out - make recommendations to the Legislature and perhaps postpones legal attacks once again because the entry permits have not gone out.

Fletcher: But I think that you've got so much hazard from . . .

Whitehead: But that's a scheme . . .

Fletcher: Well if you open up the entry of the interim use (unintelligible - perhaps -"I certainly think you'd want to do this"). Also I would think that you'd get a generally more congenial reception out of the court if the Commission moves as rapidly as it can. The more you portray the idea that you do have an exigent situation that you're trying to do something about it - I think the more validity you're going to get off to.

Jackman: The more rapidly and the least harshly that you move, and think you're in the best shape.

Fletcher: I would hope that on at least most of your distressed fisheries that they'll have the thing operating by the next season.

Jackman: It's possible - it's not impossible. It a toughie, but it's possible.

Fletcher: I liked your mechanism in the sense of even structurally putting off to the end of the chapter the setting of the optimum number. Start out - get that part done first. Yeah, and then get the thing put down in terms of maximum number, your entry permits out and then sit down and set your maximum numbers of optimum numbers and lets do this thing on the long run basis. I like that idea. It kind of emphasizes the feeling that I want to have exuded by this. It's great.

Adasiak: Where are we?

Bennett (?): I'm in favor of sort of adopting this outline. . . (unintelligible).

Jackman: I would assume though that you wouldn't have any objection to having the optimum, the transfer - do you think that the transfer should come last or just that the optimum should be shifted back here?

Fletcher: The only point I felt about transfer was that it had so many complexities about it I wanted to treat it rather separately. You may have noticed although you can hardly read that - it appears to me under terms and conditions that transferability is a term of your permit and I think that just as logically it could go under what I call basic provisions. I did like the sequential aspect of 4, 5, and 6.

Jackman: Issuing of permits, terms and conditions, fee - transfer is just tacked on the end of the entry permit article.

Fletcher: Yeah.

Jackman: You don't like that too well. It's a little long - the idea is there you sort of establish what an entry permit is - required and ending up in transfer.

Fletcher: That's fine - I think because of the close tie in with what you're going to do under transferability into what you've done by way of classifying that maybe you'd better in terms of understanding if you have your descriptive terms as to what kind of permit you're going to have come first then this makes more sense to read it here, even though logically its part of a term of your permit the transferability quality

that it has. I don't object at all to putting transfer back in here somewhere, but I did lik this idea of relating this phase to this phase and to this phase.

Jackman: All right - but the only thing we really do in terms of the Articles of the thing here and I know its not very important . . (unintelligible). Maximums here - that's your phase one - right.

Fletcher: Yeah, that's right because you have a maximum number of initial issues.

Jackman: There you define - administrative areas, maximum numbers of initial issues. Then you'd want to work in the priority classifications. . .

Fletcher: I felt that administrative areas and the fact that you require permits and then when you get the permit issued it's under certain terms are basic to the whole system - then the rest of this is how you're getting to get to where you want to go. You've got a first stage and then you set up interims and the initial issues and soon. Then you have a reduction phase while you're getting down to optimums - then you get to your final operation when you're just on a simple ordinary limited entry system where the only problem is to whom do you issue new entry permits.

Jackman: But I would - I like that except I'd like to see transfers stuck up here somewhere.

Fletcher: I'd have no objection at all.

Jackman: I don't think the house would recoil too much if you changed their ordering around that way - what do you think?

Whitehead: No, Bob indicated it's more logical and would answer John Rader's problem too.

Fletcher: I think it'd allow him to talk better from it.

Jackman: Let's see - the only thing - permit requirement then what we would really do is tear out the permit required part of this and then put that up here with the transfers and then you'd really start this section on phase (1) in terms of interim entry permits, interim-use and then standards for initial issue and then we follow pretty much, except you'd work the maximum number - now would you have the maximum number coming - yeah I'd see that as a sub-set of that - that makes good logical sense. How about you?

Fletcher: It'll help me to think about it this way -

Adasiak: You're moving transfer of entry permits over to here

and other than that you're going to leave the thing the way it is.

Whitehead: Transfer goes where Dave - where are you suggesting?

Adasiak: Transfer more or less after 3 under Roman Numeral III.

Jackman: It'd be up there in basic provisions.

Whitehead: Terms and conditions.

Fletcher: It's item 4 really under basic provisions (unintelligible).

Jackman: Why couldn't you call this phase initial issuance of entry permits and this phase reduction to optimum number of entry permits - something like that.

Fletcher: You could. Sure that's fine.

Fletcher: Now I didn't include general provisions where you talk about your annual fees, your forfeiture problems.

End of Side 1

IV/6 Side 1 (Sort 280)

3/26-27

Palmer : When do you see the first attack can come on the Legislature whatever we do this year? Assuming that one, the people that are presently being licensed under the existing circumstances will be allowed to fish this year and, two, that we maintain what we had in the Senate version so that if licenses in 1974 will be available only to those who may become eligible for a permanent license so that in 1974 we have permanent or interim-use permits. Then in '75 we have our first initial entry permits. Now when in that analogy could the first attack be possible.

Terhune : I would think the minute you issued your first interim use permit. This brings us to the point and one I'd like to discuss now because I did an about face on that inteirm use permit - I feel very strongly that one of the strongest features the defensability of this program is that we weren't closing the fishery at any time - we weren't precluding the kind of natural moves and shifts and adjustments that would take place and the minute we went to entry permit system which really would exclude some, that very instant that entry permit would be transferable so new entry could come - the entry permit- what we've done if we go to the notion of the interim-use permit only to those who may become eligible, we have frozen it for the two year interim period or the one year interim period because we've made sort of an intuitive judgment in those areas let's say this is a concrete example, We know in Bristol Bay and we know in Southeastern say the purse seine

fleet, Nobody that hasn't fished in the past is really going to wind up getting an entry permit because we've got enough applicants from that pool alone but we've made it impossible for a man to come into this fisher y on an interim-use basis even with full knowledge that the only way he'd be able to continue two years from now would be to buy somebody out. I think that that has all those - I'm not saying it'd make unconstitutional - but I think it has those objections that for the interim you've frozen people - they can't move, they can't adjust - if they've never fished here they can't come in and I think that the advantages of not hurting those individuals and not subjecting yourself to that kind of legal attack favora free - issuing interim use permits to anybody that wants to fish, is really a fisherman and with the full knowledge - you can put it right there on the face of the interim use permit - fishing during this year has no bearing upon your qualifications for an entry permit and you are on notice - note hereby. And I know there'll be those people who say Gee I've come here and fished for a couple of years and hadn't realized that.

: He's just prolonging the agony another year.

: Not really, you're also letting some people and I think there's a larger number than you would think

: Xxxxxxxxxxx When I say agony I mean the situation the fishermen are going through now as far as over-gear

too much gear in the water - simply increasing that and the result of hardship for an additional year.

Adasiak : If I could comment on that a little bit - the redraft that we did has language in here with the 1973 and 1975 date in it and the way we thought it through I think it effectively precludes anyone from getting any benefit whatsoever by fishing this year.

Palmer : I understand, but you'd still have nothing -- (to stop) additional people that are in this year - they'll come in next year and anybody else that wants to.

Adasiak : It's true that they will come in but the thing that we envision doing if a bill with those provisions in it passed - in a big propoganda program to slow them down. That's about all you can do.

Palmer : But you're assuming fishermen are logical -

Adasiak : No i'm just assuming that that's the best shot that we can make in this particular case is to tell tham it's not going to count.

Palmer : Well lets get back to the legality of it. It was my understanding earlier that we could do things in the transitional period that you could not do in the long run as long as your plan did show exactly why you were doing it, that

you did take care of the entire transitional period and did in fact reduce gear to where you want to go and that was the reason that we put this in. Now Maybe we were incorrect

Fletcher : I don't know that you strengthen your chance of withstanding attack by limiting this way but I do believe that if with it as we have, a complete and a orderly and a fairly firmly prescribed system for getting down to optimums within a reasonable time and one which has all appearances if its going to go right ahead and get there, then the fact that you make a preliminary screen by saying interim people shall consist of only those who have some chance of being initial entrants loses a lot of its sting that otherwise would be. David's argument is basically a perfectly sound argument and of course to make your case perfectly clear you could lop off the getting down to optimum side of the thing and all you did is what Washington did some several years ago which was simply to stop for 2 years and not do anything more - it'd be terrible - for real- you would then be just saying preserving the benefit for the present people and the heck with the rest of the world but it does seem to me that you alleviate that argument or soften it an awful lot by relating it to the urgency of getting your system under way and the harm that you otherwise avoid by letting the fishery be overfished for even one more year.

Jackman : I think what you could avoid is clearly issuing interim use permits to anybody - to the paper licenses to people that aren't - dont make some initial showing that they're really going to fish and I think that's where you'll cut out a lot of it because a lot of this licensing this year is pure paper licensing. These guys don't intend to participate they're hoping to be grandfathered in. But What I don't want to do is, thinking of this whole thing even in terms of burden on interstate commerce if you want to, is to say to a man who is in the past or to a group of people ~~like this~~ that have presently bought boats but have never fished or who are moving from one area to another, or even coming up from Washington to fish for the first time, to say for 2 years you have to stand still and do nothing. We make a preliminary determination on the basis of no criteria or no findings or anything else - we don't think you'll be eligible. We aren't into our system yet. I agree with the professor you probably wouldn't lose the whole program if you can really convince the court that you're going here and this is only transitional phase but I think we'd be a lot stronger if we said to those people in the interim you come and fish you're not helping youself one iota in terms of getting an entry permit, but we're not going to burden you because ~~you'll~~ have to - I think the court would look at you with a more forgiving eye - here you'd be creating a burden that you really don't have to create in order to implement your system, and in terms of certain individuals it'll fall very harshly on them. There are a number of people that have purchased $50,000 boats and would be very happy to buy the $5000 entry permit when it

comes on the market. They would not have to miss a season if you let them fish on an interim use permit and then the minute you issue entry perm its they'd have to buy from somebody. This way you've really done it to them for a year or two - Because you're not going to get into your entry permit system for a couple of years. In terms of the interim use idea, in other words, under the original bill and under the House bill until we get to the point of issuing permanent entry permits anybody who is really going to be an active fisherman can get an interim use permit even if he's coming to a new area or coming in for the first time. Now there's been a suggested amendment that you make an initial with the interim not only of just but of all those that you don't think will ultimately be eligible for an entry permit. So that would mean that in the year and a half or two years that it takes you to get into it everybody is frozen. A person that is coming in for the first time can't come in - a man who wants to go to another area can't do that - and I just see that as a burden that is not that necessary and can get you in legal trouble.

: I don't know how serious the worry is. David I think probably sees a little more severe than I do but I think you've simply got to balance it against what harm it will do to let just anybody that wants to fish do so.

: OK - well, I've got to go to Finance so we'll

leave it - it's a decisi on we have to make I guess.

: Another concern on that point is in terms of the public acceptance of this program - you know you've got to realize that most of the fishermen aren't ever going to really understand the whole program or know what it means and in the local communities the impact at the outset is before you've even issued entry permits, especially in the native areas for instance, say young kids coming in for the first time this year, if all of a sudden for 2 years they can't fish, they won't understand why and I think that it really may engender some really bad initial . . .

: More than for the fact that it would also cut out a lot of the new people from outside?

: I wonder, it seems to me that most of the new people from outside are tend to be the more sophisticated that are coming up here, usually have to make a sizeable investment and if they're looking at the thing and seeing that they can't qualify for permanent entry permit they either aren't going to come or they're going to come with full knowledge that they're going to have to look forward to buying a permit when the time comes around that point. I just think - in explaining this to the people we always made people - I think they always ~~breathe a~~ sigh of relief when ~~we~~ told them that getting this thing implemented and until we hand out entry permits everybody

can continue fishing - we're not going to screen you until we issue entry permits.

Fletcher : This was the way I'd done this and the change was made in the Senate Bill last time I was up - [redacted]

Whitehead : No it was after that. We talked about it on the phone, Fletcher: on the phone. and that's when it came up. My reaction was well if its a preliminary screening device it ought to stand up, but only if its preliminary toward getting to where you're going to be finally.

Jackson : I think we ought to keep it as a preliminary screening device as to paper licenses -

Fletcher : You strengthen your whole argument the less severe you make it. The basic principle is perfectly ...

Roberts : The only thing that troubles me about it is that unless you have the Commission establish some form of regulations or standards by which it is going to determine who may qualify

Jackson : It seems pretty intuitive Roberts it's an intuitive system and if the Commission has to go through the business of doing this it's going to take it a little while -

Fletcher : There'll be some clear cut cases -

Whitehead : We have worked a little oblique provision into the Senate draft which provided that essentially no one that hadn't held a gear license prior to '73 would qualify for a entry permit and therefore wouldn't qualify for an interim-use permit in any fishery -

Jackman : In any fishery you just ask the guy if you've ever fished in this fishery before and if he said no you wouldn't give him an interim-use permit. But I just think that's harsher than we need to be

Whitehead : Right, right.

Peterson : The only factors that tell you that you should not let them are non-legal factors, they have to do with the health of the fisheries.

Whitehead : RIght, as a n example Bristol Bay - it just scares Jay half to death even with the sliding gear scale and everything else and in looking at the increase in license sales - even if half of that increase is paper licenses or 3/4 of it is in certain of these areas, there's going to be a hell of an impact and its going to be by people that figures are going to get in that haven't been propogandized yet and

: Oh I agree there'll be some for a two year period ~~but~~ a one season ~~or~~ two season period you're going to take and further distress already distressed fisheries. ~~I/ DON'T/THINK/IT/WILL/HAPPEN/TOO/BADLY/+/~~

: I don't think it will happen too badly - I think the natural ~~to terms of~~ this bill will be entry limited as of January 1, 1973 or some such - in other words if you get the public notion that the bill has passed and people qualify on the basis of January 1, 1973 how much more can you do.

: I don't know but that is what they're trying to accomplish was a preliminary weedout - ~~that is~~ you know, how do you balance the two?

: I'm speaking legal against - on one side you have a legal argument on the other side you have

: I think there are some practical arguments on my side on the acceptance of the thing and arbitrariness and I think its a class that should be protected if you can - you don't want to freeze the thing. The people that are wanting to move this year or even from one part of the state to another or who have just bought a boat - that is an ~~agreed~~ class and if the court's looking at you and if you could come up with a system that wouldn't hurt these people and got your objective just as fast, but regardless of what they do during this interim period is going to have no effect on how they're actually

ranked.

Jackman : Furthermore it'll postpone our legal attack until we get a little further into the program - if we postpone the legal attack and we've got some regulations adopted the things been in effect for a couple of years it'll be closer to your grand finale of issuing entry permits but if this thing is adopted and a guy does down and tries to fish this year you've going to be in court a year quicker.

Fletcher : I ~~never~~ thought of that - ~~it's~~ a good point.

Whitehead : One thing that apparently Jay and Bob had talked about last night suggesting that under issuance of permits required saying the Commission ~~XXXX~~ shall issue permits not before January 1, 1975. Now I don't know if the rationale for this ~~is~~ number 1 - you're working under interim permits they were thinking in terms of inteirm permits being - you know - you're tailing the numbers down - but it gives the Commission the aiblity to get the information from these applications for interim use permits - look through this information - make recommendations to the Legislature and perhaps postpones legal attacks agai n because the entry permits have not gone out but I think that you've got so much hazard

Whitehead : But that's a scheme if you open up the entry of the interim use Also I would think that you'd ~~generally~~ get a more congenial reception out of the court if the Commission

moves as rapidly as it can. The more you portray the idea that you do have an urgent situation that you're trying to do something about it - I think the more validity you're going to get off to - ~~the more rapidly and the least harshly~~

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Fletcher : On at least most of your distressed fisheries they'll have the thing operating by the next season.

Jackman : Its possible - not impossible.

Fletcher : I liked your mechanism in the sense of even structurally putting off to the end of the chapter the setting of the optimum number. Start out - get that part done first. Yeah, and then get the thing put down in terms of maximum number , your entry permits out and then sit down and set your maximum numbers or optimum numbers and lets do this thing on the long run basis. I like that idea of kinda emphasizing the feeling that I want to have exuded by this.

Arnold : Where are we?

Bennett (?) : I'm in favor of sort of adopting this outline - I would assume though that you wouldn't have any objection to having the optimum be transferred - do you think that the transfer should come last or just that the optimum should be shifted back here.

Fletcher : The only point I felt about transfer was that it had so many complexities about it I ~~wondered if it shouldn't be treated~~ wanted to treat it rather separately. You may have noticed ~~that~~ although you can hardly read that - it appears to me under temrs and conditions ~~of~~ transferability is ~~the~~ term of your permit and I think ~~this~~ ~~is~~ logically it could go under basic provisions. I did like the essential aspect of 4,5 and 6.

Jackson : Issuing of permits, terms and conditions, fees, transfer is just tacked on at the end of the entry permit article.

Fletcher/Jackson : You don't like that too well. It's a little long - the idea is there you sort of establish what an entry permit is - required and keep up in transfer.

Fletcher : That's fine - I think because of the close tie in with what you're going to do under transferablility into what you've done by way of classifying that maybe you'd better in terms of understanding if you have your descriptive terms ~~of~~ as to what kind of permit you're going to have come first then this makes more sense to ~~leav~~ read it here, even though logically its part of a term of your permit the transferability quality that you have. I don't object at all to putting transfer back in here somewhere but I did like this idea of relating this phase to this phase, to the phase

Jackson : All right - but the only thing we really do in temrs of the Articles of the thing here and I know its not very

important . . . . . here - that's your phase one - right.

: Yeah, that's right because you have a maximum number of initial issues

: There you define - administrative areas, maximum numbers of initial issues. Then you'd want to work in the priority classifications.

: I felt that administrative areas and the fact that you require permits and then when you get the permit issued its under certain terms are basic to the whole system - then the rest of this is how you're going to get to where you want to go. You've got a first stage and then you set up interims, etc. Then you have a reduction phase while you're getting down, then you get your final operation when you're just on a simple ordinary limited entry system where the only problem is issuing permits.

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: I don't think the house would recoil too much if you changed their ordering around that way - what do you think?

: No, Bob inidcated it's more logical and would answer John Rader's problem too.

Fletcher : I think it'd allow him to talk better from it.

Jackman : Let's see - the only thing - permit requirement then/we would do is tear out the permit required part of this and then put that up here with the transfers and you'd really start this section on page 1 in terms of interim entry permits and then standards for initial issues and then we follow pretty much except you'd work the maximum number coming - yeah I'd see that as a sub-set of that - that makes good logical sense. How about you?

Fletcher : It'll help me to think about it this way -

Peterson : You're moving transfer of entry pemits over to here and other than that you're going to leave the thing the way it is.

Fletcher : Transfer goes where Dave - where are you suggesting?

Peterson : Transfer more or less after III. It'd be up there ~~under~~ basic provisions ~~and~~ terms and conditions.

Fletcher : It's item 4 really under basic provisions - ~~Under III.~~ Why couldn't you call this phase initial issuance of entry permits and this phase 2 reduction ~~of~~ optimum number of entry permits - something like that.

Fletcher : Sure that's fine.

Fletcher : Now I didn't include general provisions where you talk about your annual fees , your forfeiture problems

end of side

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

I don't think that there is any problem with even having a "C" category because nobody can even apply who hasn't fished in the past fishery.

I wasn't thinking about...

I'm sorry go ahead...

Well I'll see if I can make myself clear here.

You having budget problems?

Serial.

Serial. Serial budget problems.

Well Habitat was just x'd.

Yeah.

What happened to sport license?

$268,000.00.

Not on the House side?

But not on the Senate.

This is on the Senate.

Oh, this is on the Senate.

What happened to them?

$268,000.00.

Out of sport fishing?

All of which is either Fish and Game fund or Federal Matching fund. No general fund monies involved?

For some reason, Senator Ray had a proposal which the committee accepted in that particular budget area...

That's maintenance...we didn't lose anything for it then?

Well that's not even maintenance there. But that kind of cut is not maintenance.

Well we don't lose any people.

Yeah. They have the option of either totally keeping the people on and losing about 50% of their field programs and cutting Arctic Inventory and major programs or starting a lay-off list and they've already starting to compile a lay-off list.

Who was he?

That's the director.

Your ole fishing buddy.

You should be sent to Devil's Island...

I don't sport fish anymore, Dave, I'm fished out.

Spoiled, eh?

I am. Just totally. I don't even have a rod down here.

Oh, my heart bleeds for you.

I don't see...

You know I would be a lot more cooperative today, Mike, if you could pass on your little black book of fishing...

(indesc. simultaneous speaking)

I;m really sorry on many occasions so far as such, that I didn't bring my slides down because I very much would enjoy showing you some Bristol Bay slides.

I'd love to see them.

But I don't have them down here.

On 195 B, I don't see any mechanism whereby if you're cut off line per permits falls in the middle of one of these subcategories established in the "A" category, that you decide who within that subcategory gets the permits...

That's under 196?

It's under 196, but...

That one tells the commission to whom to issue...

By lot. If you get into the middle...

No what you're saying is under 195-B, I think.

195-B is only a matter of classifying applicants. They haven't yet gotten any. And when you go to 196, it tells the commission what to do by way of issuing. So it's at that stage that you tell the commission to start at the hardest and move down until you get to the subgroup that where you...

Okay. I missed the number at the top. Fine.

Part of the problem is that I have not repeated what's over in...

Well, most of this can go, Bob.

Well, I'm satisfied with that system.

Well that's good. I'm please that you like it. I think that we dovetailed into what we done yesterday and it kind of picked up some ideas from both sides.

Yeah I'm very satisfied with that if we can get it into the language right and I think we can. I think we're pretty close now.

I've got this one thing to adjust on that...

The floating dates?

The floating date. This non-discussed group...

I would apply that, incidently, over under the 195 section where you classified people too. That is, to that type of history, I don't think there's any point in classifying people. You would do both fairly at a later time; setting the maximum, the formula and classifying the people. It's pretty hard to but not hard to.

Yeah. I think that as to those persons, that that kind of a fishery, if you do decide to set any maximum, that you can use a formula but then you would probably want to let the persons who could show some hardship in before you let in the general applicant.

Right, right.

I would make a broad distinction; hardship or not hardship.
I would say that the (indesc. noise and mumbling) get in first

and then if there's any left over, then we use the other.

Yeah, I think that basically, we're in complete agreement.

Good, good. That's great.

If you're going to go back and crank in the determinations, we can crank in the economic dependency past participation.

Yeah, that's...

That's a way of rank and the lines get drawn in terms of the notion of hardship, significant hardship, minor hardship, and...

The way that this is done, it doesn't tell the commission what labels to use or how many categories, subcategories to use. It just tells them to use subcategories and put people in similar groups.

David?

In defining hardship. If you use past participation, is there some way that that can cut in the wrong direction with the guy who is young and has only been in two years but has a boat and plans to go on forever, compared to the old guy who's been in thrity-five years?

No. That's why we have both, in other words, his economic dependence is rather high...

Well I'm just wondering whether he claims that his hardship is greater than the old guy, or is that a problem for the commission to...

I think that it's a problem of balancing. You got to balance those two factors.

I don't see any other way to get out on that one...

Okay, yeah. Alright. Fine, fine.

Do you want to settle on the standards of this? As I say, I left it...

Well let's leave it in. If you're happy with coming back here and putting back in, basically with stricking costs of living...

That's right. Okay. I'd be willing to walk out of the room right now and let you work that one out so as long as you don't...

Put in cost of living...

Yeah, that's right.

Well I'm in with you on that one...

Okay, alright.

Well that takes me on my outline then, down all the way through what I call phase I. In other words, this gets us into the system.

Excuse me. I have one question. The last page of these amendments here. Number 196-D...

It was a recital. I don't know whether it's good style or not.

The one that got me was the bracket. I just didn't know the bracket referred to restrictions upon transfer and...

Class "B" people end up...assuming there are any persons who are in "B" get a permit, they're going to be under some restrictions as to transfer.

That's picking up from the draft subject, they have to transfer to the commission until you reach the optimum level?

That's right. And that's what you find when you look over at this other section that that's what it tells you.

That is what those do.

You can use the same mechanism, really we didn't draft, designating those priority classifications at the time of initial issuance and then they know in those received the permit, is subject to those who...

That's right. To be known as and labelled, it says. It says right

on the surface that they don't have as good a permit as the rest of them do. I gather that there may not be many of them.

I think you're probably right.

Well that's the probably with...

It'll vary alot.

It will vary alot from fishery to fishery.

You have a lot of them in you sport commercial fishery. Like about 90% of them. That'll be an interesting sort of anomaly because that's the program where we have the least pressure for buy-back and we'll have most people who will have to sell back to the commission until you get down to the optimum level. But it won't be a problem because your optimum level will be pretty high. Your buy-back will out of the picture pretty quickly.

As my outline indicates, I looked at this in a kind of a (indesc. noise) way and I could see three distinct faces although with respect to any one fishery, you might find it's in phase I and another one's in phase II. But as I say this was my thinking about it, so under phase II, it deals all with optimum and how do you get there. You se them and how do you make a ...

Well, did you... you probably then, didn't have that much of a problem then, with the way we had it broken out in that draft yesterday, because Article V and Article VI really are solely concerned with the optimum of getting there.

Yeah, that's right...

You have the others in a differnt order because we threw in all the transfer stuff in terms of the conditions in them middle.

Here, I used...Mike, did you hand out this?

Oh, No...

Now the 200-series in my handwritten stuff, pertains to...

Page 12? Starting on Page 12, I think?

In my...

Oh you mean in your outline?

I mean on my handwritten one.

Yeah, it's the one we just got here.

I know but it pertains to the optimum, right?

That's right, this all pertains to the optimum. Optimum revisions of and then reduction. Let's look at reduction first. I've got under my handwritten numbers 203 and A. This comes after you've set the optimum and then you perceive that it's lower than what you've got outstanding and the question is to how to get there. Now all I did was to put in a maximum number of years. Leave

everything else up to the commission as to how to get there.

I would find that probably personally desirable because it would bring me down to your optimum number that in a certain quaranteed period. But I wonder whether the fishermen in the particular areas who are going to be the ones that have the buy-back program on their shoulders, would like that so much. Because we've heard in some areas that hell, we'll pay the 7% assessment and get this thing down as quick as possible. And in other areas, people say that 7% is going to crush us. We would rather spread it out over a long number of years and pay less...

Now we discussed this at some length yesterday, and the desire to set was an hour limit, not to say that you can't move more quickly, it's like the 7%. And the concern is a legal one, that if you never get down to optimum, you haven't got a defenseable program. You've got to say that this a program to get down to optimum.

You can do both things. We can save the ten years in here. We can go in and say in our last Senate bill that the buy-back program the assessments can continue after the end of the buy-back to pay the acquisition fund that would be necessary, the funds appropriated for acquisition or it may take twenty years to pay back in even though assessments, no, I'm sorry, even though buy-backs stopped ten years.

That would be very nice if you could get a little extra cushion of money to work on to allow a longer extended period for payment.

Okay, we should provide for them whether we get the money or not, we should provide for the mechanics of doing it...

I'm not enough up on finance, but since there is an assessments system authorized, could you authorize a bonding system, a revenue bonding system or something like that? I don't know anything about it, but you've got an incoming source of revenue that's guaranteed in terms of assessments on x-number of permits. Now what would the mechanics be in manageing that fund to empower the commission to somehow borrow against that guaranteed revenue?

I think that you would have to set up a special authority like a court authority to bond for court authority bonds. The State of Municipality, I think are the only additives that you can bond and I think that the state would have to do it.

My wife's office is the bond council for the state of Alaska when I go home...

I think we'd have to build in a special provision that would give the commission bonding authority to finance buy-back programs...

Without that then, is it a...

Well without it, you can simply appropriate directly from the federal fund.

Or, as somebody suggested, you can actually take your assessments and get a bank loan and use your assessments to pay off the bank loan.

We don't do that in any other field. Right now we've got the revolving loan, farm loan, in which we appropriate and they revolve. Okay. We do the same thing with the small goats in this fishing loan. We do the same this with small businesses. We appropriate directly in...

I'm not recommending that this be done mandatorily as the only alternative...

Okay this is fine. We're in agreement on that Dave.

It seems to me that you, at least, whether you want to do it this broadly or not, you said by regulation, the commission sets up the program and is to follow it. Now I suppose that they could set up all the manner of programs including possible postponement of payment in if they've got money otherwise given to them to finance what they're doing. That'll be great. We'll that's the crust of this whole thing. The rest of it, I think, kind of follows as a matter of course. Now there's some differences in terminology here that I don't really care how you work them out. It would have been my preference to use the Senate bill version, for example, as to the revisions of the number. I think we hashed out yesterday, and David seeded after a little while, that we would include as a third standard among which there was to be struck a reasonable balance, the recital that you could consider, that I call inefficiency as a...

Can I recommend a phase on that? Because David...

I say copy...

Well, I've been cooperative up until now and now I'm going to be obstrepercy...

Well let me be obstreperous and I raised the objection (indesc. simultaneous speaking)...

Don't let anyone of you be obstreperous for very long, because I don't have much time and it's not going to make any difference...

Okay, point to me the section we're looking at. Where is the language?

Well, now I've got something in front of me called Senate Bill, Original Sponsor Rules Committee, etc. and I'm on page 5...

Page 5 where I've got...

Number 160.

Okay. Number 3. Now when we looked at that, it's talking about the optimum number of units of gear. One of the things that we try to look at is the longrange pattern the development of the fishery over a number of years which we envision as being most desirable if you get better boats, diversification of gear and fishing in more fisheries. A modernization of the fleet. Looking at number 3, it looks to me like number 3 provides the commission with the opportunity to go in the other direction.

Yes it does.

I think that if we start, sort of with a status quo here, using 1 and 2 as the standards for the optimum number of units of gear, that in terms of the longrange interests of the state's fisheries, we have something which is say, free from meddling, free from a kind of attempt to distort and allow a lot more people in when what I think is desirable in terms of being competitive on world markets and producing a good product a most efficient runs counter to the direction that this provision would.

That's right. 1 and 2 work in work in one direction and at least 1 does very clearly, and 3 goes the other direction...

I make the same objection to that you made for no time limit on the buy-back. You've got to go before the court and show them that you're headed in some direction and you're headed there in a certain period of time and where you're headed is a reduction in gear and to those three standards, you could set an optimum at the present level. You could say we look at this situation and we're in the best possible...

And if you do, you're sucked. I think your bill is going to wash right out. It's going to go fast.

I think it's going to be clearer if you go before the court with standards that are pointed in one direction only.

I agree.

You think that this commission will do it?

And we've got a conservative factor built in...

I don't think that your conservative factor, in the standpoint of the allowable gear that there is from the other department, is really the place you wanted that position of power to rest, is it?

Maybe not to your smell, but then you might legislate differently. I'm saying that you've got the fishery pretty well built into the senate gear, drfit gillnet gear, purse seine gear, in terms of the salmon fishery and that isn't going to change. And that guarantees you that you're going to have x-number of people on an average crew in one type of boat and it's going to be that labor ...the only question is how many units of those kinds of boats do you want out there. So the only way they could go in making the kind of adjustments you envision over 3, would be to decide to increase the units of gear in an area. That would be their only option and you don't want that happening.

Well, I don't know. Simply I don't raise the facts well enough, but I think that this could tell the commission that even the biologist tells us the number down here is why where we ought to be. The economist says that...

Maximum efficiency.

I would agree with Allen completely on that. It would be better for people to pay in the long run if they were willing to cut down

to 200, and yet we can. We have so many villagers, so may thises and thats and we just can't do that. So drag it off to 300 or 500 or something...

It's kind of funny, really, because in the Governor's original bill, there was a standard number 4, which was something comensured by the history and conditions of the fishery...

Okay...

It's the same kind of a fudge factory...

Yeah, that's right. I think that it's just an honestory factor. Put it that way.

Would you object to going back to that kind of language so at least it was a break rather than something poured in the other direction?

No. I wouldn't want to go back to that. Because it's too local.

Too local?

You're darn right.

Only to those that have ben, not to those that...

Yeah, those that live here and that are preserving the way of life of the villager, can't ask for nothing but trouble...

I'm just afraid of this one and the way it's there now. Your point is valid, David, and I don't need to deficate it. It indeed looks the other way and I wouldn't stand up to your bill in five minutes, if in fact, it turned out to that the commission went on entirely on number 3 and said we don't really have to set our optimums any lower than what we've got in presently fishing.

Well looking at the element of human frailty, which the commission may take, I can see guys leaning on number 3 now and then, to take care of an area or a particular group of people and that scares me a little bit. Because we've tried to structure to insulate the commission and keep it as free as possible from horseplay and 3 scares me because of that...

Isn't separate from the same local critism you know.

Well in practice, as carried out it could be and it might be subtle enough that you couldn't get the facts out too in a particular case and you wouldn't be upset at what was being done. I am not grossly insistent about this. At my standpoint, if I'd say that the question is that my standpoint purely is a matter of constitutionality, I don't think it is.

I don't either.

I just think that it would weeken...

The presence or absence of this thing isn't as strongly...

(indesc. simultaneous speaking)

Well look what happens in fact. If in fact, they don't lower the levels, then you're going to be in trouble.

When Dave mentioned this to me last night, the thing that was my concern, is that we're looking at really, is the question of policy the question of goals and the question of is the practical, how the commission is going to function and use or abuse this particular thing and it scares me.

I don't want to be the judge....

Let me ask you. Dave, when do you see the first attack can come on the legislature whatever we do this year; assuming that one: the people that are presently being licensed under the existing circumstances would be allowed to fish this year and, two, that we maintain what we had in the Senate version so that interim licenses in 1974 will be available only to those who may become eligible for a permanent license, so that in 1974, we have interim use permits and then in '75, we have our first initial entry permits. Now when, in that chronology, would the first attack be possible?

I would think that the minute you issed your first interim use permit...but this brings to us a point, and if you have to go, the one I'd like to discuss right now, because I did it about face on that interim use permit. I feel very strongly that one of the strongest features in the defensability of this program, is that we weren't closing the fishery at any time. We weren't precluding the kinds of natural moves and shifts and adjustments that would take place. And the minute we went to an entry permit system, which really would exclude some, that very instant, that entry

permit would be transferrable, see? And a new entry could come. If we done if we go to the notion of an interim use permit only to those who may become eligible, we have frozen it for the two-year interim or the one-year interim because we've made sort of an intuitive judgement in those areas. Let's say, just as a concrete example, we know in Bristol Bay, we know in Southeastern, say the purse seine fleet, that nobody who hasn't fished in the past is really going to wind up getting an entry permit because we've got enough applicants from that pool alone. But we've made it impossible for a man to move into this fishery on an interim use basis, even with full knowledge that the only way he'd be able to continue two years from now would be to buy somebody out. And I think that that has all of those...I'm not saying that it would make it unconstitutional, but I think that it has those objections that for the interim, you have frozen people. They can't move, they can't adjust. The guy that's never fished here can't come in and I think that the advantages of not hurting those individuals and not subjecting yourself to that kind of a legal attack, favor a free issuing interim use permits to anybody who wants to fish, who's really a fisherman, with the full knowledge, you can put it right there on the face of the interim use permit. Fishing during this year has no bearing upon your ultimate qualifications for an entry permit and you are on notice and note hereby that you...and I know there'll be those people that come up and say gee, I came to fish for a couple of years and I never realized that.

I'd hate to prolong the agony another year...

Not really. You're also letting some people and I think that

there's a larger numbe than you would think.

When I say agaony, I mean the situation that the fishermen are going through now as far as overgear. Too much gear in the water. You're simply increasing that and as a result of hardship for an additional year.

If I could comment on that a little bit. The redraft that we did has language in here with a 1973 and 1975 date in it. The way we thought it through, I think it effectively precludes anyone from getting any benefit whatsoever, by fishing this year. Now...

But you'd still have nothing to worry about the additional people that are in this year and maybe next year and anybody else that wanted to be in...(indesc. simultaneous speaking)

It's true that they will come in. But the thing that we envision doing if a bill with those provisions in it passed, there's a big propaganda program to slow them down. That's about all you can do.

Well you're assuming fishermen are logical.

No. I'm just assuming that that's the best shot that we can make in this particular case, is to tell them that it's not going to come.

Let's get back to the legallity of it. It was my understanding earlier that we could do things in this transitional period, that you could not do in the longrun as long as your plan did show

exactly why you were doing it, that you did take care of the entire transitional period and did in fact reduce (indisc.) where you want to go. That was the reason we put this in. Now maybe you were incorrect.

I don't know that you strengthen your chance of withstanding an attack by limiting this way, but I do believe that as we have a complete and orderly and fairly firmly prescribed system for getting down to optimum within a reasonable time and one which has all appearances as if it is going to right ahead and get there, then the fact that you make a preliminary screen by saying interim people shall consist of only those who have some chance of being initial entrants, loses a lot of its sting that otherwise would be. David's argument is basically a perfectly sound argument and of course to make your case clear if you would (indisc.) off the getting down to optimum side of the thing and all you did was what Washington did some several years ago which was simply to stop for two years and not do anything more, it would terrible, you know because you wouldn't. You would be just saying you're presuming the benefit for the present people and heck to the rest of the world, but it does seem to me that you alleviate that argument or some and an awful lot by relating it to the (indisc.) of getting your system underway and the harm that you otherwise avoid by letting a fishery be overfished for even one more year.

I think what you could avoid is clearly issuing interim use permits to anybody -- to the paper licenses -- to the people that aren't -- don't make some initial showing that they are really going to fish and I think that's where you will cut out a lot of it because a lot of this licensing this year is just pure paper licensing.

These guys don't intend to participate. They're hoping to be grandfathered in, but what I don't want to do is thinking this whole is -- even in terms of burden on interstate commerce, if you want to is to say to a man who is in or to a group of people and there will be a group of people like this that have presently bought boats that have never fished or who are moving from one area to another or even coming up from Washington to fish for the first time, to say for two years you have to stand still and do nothing. We make a preliminary determination on the basis of no criteria or no findings or anything else, we don't think you'll be eligible. We aren't into our system yet. I agree with the professor. You probably wouldn't lose the whole program if you can really convince the court that you're going here and this is only a transition phase, but I think we would be a lot stronger if we said to those people in the interim you come and fish, you're not helping yourselves one (indisc.) in terms of getting an entry permit but we're not going to burden you, you know, because we don't have to and I think the court would look at you with a more forgiving eye because you know here you would be creating a burden that you really don't absolutely have to create in order to implement your system and in terms of certain individuals it will fall very harshly on them. There are a number of people that have purchased $50,000 boats and would be very happy to buy the $5,000 entry permit when it comes on the market. They would not have to miss a season if you let them fish on an interim use permit and then the minute you issue entry permits they can buy from somebody. This way you've really done it to them, you know.

Just for a year.

Or two because you're not going to get into your entry permit system for a couple of years. (simultaneous speech) No the interim use idea. In other words under the original bill and under the House bill until we get to the point of issuing permit entry permits, anybody who is really going to be an active fisherman in the area can get an interim use permit even if he is coming from a new area or coming into fishery for the first time. Now (indisc.) suggest an amendment that you make an initial screening with the interim basis, not only of just paper license holders but of all those who you don't think will ultimately be eligible for an entry permit. So that would mean in the year and a half or two years that it takes you to get into it, everybody is frozen. A person who is coming in for the first time can't come in, a man who wants to go to another area can't do that and I just see that as a burden that is not that necessary and is going to get you in legal trouble, you know.

I don't know how serious the worry is. David I think probably sees it a little more severe than I do, but I think you've simply go to balance it against what harm it will do to let just anybody who wants to fish to do so.

Okay well I've got to go to Finance so -- that's a decision we have to make I guess.

You know another concern is that in terms of the public acceptance of this program. You know, you've got realize that most of the fishermen aren't ever going to really understand the full program or know what it means and in the local communities if the impact of the outset is before you issue limited entry permits, especially

out in the Native areas for instance. Say a young kid comes in for the first time this year. If all of a sudden for two years they can't fish, they won't understand why and I think that it really may (indisc.) some really bad initial...

You think more than for the fact that it would also cut out a lot of the new people from outside.

I wonder -- it seems to me that most of the new people from outside tend to be the more sophisticated that are coming up here -- you usually have to make a sizable investment and if they're looking at the thing and seeing that they can't qualify for a limited entry permit, they either aren't going to come or they're going to come with full knowledge that they're going to have to look forward to buying a permit when the time comes around to that point. I just think -- you know in explaining this to the people we always made people -- I think they sigh a sigh of relief when you told them that in getting this thing implemented until we hand out entry permits, everybody can continue to fish. We're not going to screen you until we issue entry permits.

This is the way I've done this and the change was made in the Senate bill last time I was up.

Well no it was after that.

Was it after that? (simultaneous speech)

We talked about it on the phone. That's where it came up. My reaction was well if it's a preliminary screening device it ought

to stand up, but only if it's preliminary toward getting to where you're going to be finally.

I think we ought to still keep it as a preliminary screening device as to paper licenses.

You strengthen your whole argument, the less severe you make it. (simultaneous speech)

The only thing that troubles me about it is that unless you have the commission establish some form of regulations or standards by which it's going to determine who may qualify...

It seems pretty intuitive. In other words you're not going...

It's an intuitive system and if the commission has to go through the business of doing that, it's going to take it a little while in order for it to figure it out.

Well there will be some clear cut basis (simultaneous speech)

We had worked a (indisc.) provision into the Senate draft which provided the essentially no one that hadn't held a gear license prior to 73' would qualify for an entry permit and therefore wouldn't qualify for (simultaneous speech)

In any fishery you just ask the guy had you ever fished in this fishery before and if said no you wouldn't give him an interim use permit, but I just think that's harsher than we need to be at that

point.

The only factors that tell you that you should not let them in are nonlegal factors. They have to do with the health and fishery.

Right. As an example, Bristol Bay. It just scares Jay half to death even with sliding gear skill and everything that in looking at the increase in license sales -- now even if just half of that increase is paper licenses or three quarters of it is in certain of these areas, there's going to be a hell of an impact and it's going to be by people that figure they're going to get in that haven't been propagandized properly yet and...

Well I agree. There will be some of that, but (simultaneous speech)

For a two year period or for a one year or one season to two season period, you're going to take in further distress already distressed fisheries.

I don't think it will happen too badly. I think the natural press release know better than the press (indisc.) come to terms with this bill will be entry limited as of January 1, 1973 or some such -- in other words, if you get the public notion that the bill was passed and if people qualify on the basis of January 1, 1973, what much more could you do.

I don't know but that is what they were trying to accomplish was a preliminary weed out and you know, how do you balance the two.

I'm speaking more (simultaneous speech)

Yeah on one side you had a legal argument and on the other side (simultaneous speech)

I think there are some practical arguments on my side in the sense of acceptance of the thing and nonarbitrariness and (simultaneous speech) I think it's a class that should be protected if you can, the people --- you don't want to freeze the thing, you know. The people that are wanting to move this year or even from one part of the state to another or who have just bought a boat. I think those --- that is an (indisc.) case and if the court is looking at you and says you could have come up with a system that wouldn't hurt those people and gotten your objective just as fast, you know.

But regardless of what they do during this interim period, it's going to have no affect on how they're actually (indisc)

And further more it will postpone our legal attack until we get a little farther in the program because if we postpone the legal attack until we got some regulations adopted and the thing has been in effect for a couple of years, you'll be closer to your grand finale of issuing entry permits, but if the minute this thing is adopted and a guy goes down and tries to fish this year, you're going to be in court a year quicker.

That's right. I hadn't thought of that. That's a good point.

One thing apparently Jay and Bob had talked about last night suggesting that under issuance of permits requiring -- saying that

I liked your mechanism in the sense of -- well even in structuring -- putting off to the end of the chapter the setting of the optimum number. Start out, get that part done first and then -- I mean get the thing first down in terms of your maximum number, your entry permits out and then sit down and set your maximum -- your optimum numbers and let's do this thing on the long-run basis then. I like that idea. It kind of emphasized the feeling that I want to have (indisc.) by this. It's great.

Where are we... (simultaneous speech)

I would assume though that you wouldn't have any objection to having the optimum -- the transfer -- do you think that the transfer should come last or just that the optimum should be shifted back here?

The only point I felt about transfer was that it had so many complexities about it that I wanted to treat it rather separately (indisc.) can hardly read th t. It seems to me under terms and conditions the transferability is the term of your permit and I think just as logically it would go under what I call basic provisions, but I did like the sequential aspect of four, five, and six.

Issuance of permits, terms and conditions of fee -- yeah transfer is just tacked on at the end of the entry permit article. You don't like that too well then. You think it should -- it's a little long. The idea is there you sort of established the name of what an entry permit is and all that thing, you know, required and...

the commission shall issue permits not before January 1, 1975. Now I don't know if the rationale for this was 1) you're working under interim permits -- they were thinking in terms of these interim permits being, you know you're tailoring the numbers down but it gives the commission the ability to get the information from these applications for interim use permits, look through this information, sort it out, make recommendations to the legislature and perhaps postpones legal attack once again because the entry permits haven't gone out.

I think you've got so much hazard...

But that's a scheme.

Well if you open up the interim use (simultaneous speech) I would think that you just could get a generally more congenial reception out of the court if the commission moves as rapidly as it can. The more you portray the idea that you do have (indisc.) that you're trying to do something about it, I think the more (indisc.) you're going...

The more rapidly and the least harshly that you move, I think that you're in the best shape...

I would hope that on the least and most of your distressed fisheries that they will have the thing operating by the next season.

It's possible. It'll be a toughy, but it's possible.

That's fine. I think because of the close tie-in with what you're going to do under transferability into what you've done by way of classifying that maybe you better -- in terms of understanding, if you have your descriptive terms or as to what kind of permits you're going to have come first then this makes more sense to read it here, even though I think logically it's part of a term of your permit, transferability qualities that it has. So I don't object at all to putting transfer back in here somewhere, but I did like this idea of relating this phase to this phase to phase.

All right but the only thing we really do in terms of the articles of the thing here and I know that it is not that important to (indisc.) articles. Maximum is here, that's your phase one, right?

Yeah that's right because it's the maximum number of initial issues.

There you define -- yeah. Administrative areas, maximum number of initial issues then you'd -- you would want to work in...

Now you see what I did (simultaneous speech) I felt that administrative areas and the fact that you require a permit and then when you get the permit, it's under certain terms are basic to the whole system.

I see, I see.

Then the rest of this is how you're going to get to where you want to go. You've got a first stage in which you set up the interims

and then initials issue and so on. Then you have a reduction phase while you're getting down to...

I have no objection to that.

And then you get to your final operation when you're just on your simple ordinary limited entry where you would have the only problem to whom to issue (indesc. mumbling).

I like that but I would like to see transfer stuck up here somewhere. Is that alright?

Okay.

Well I don't think that the House would recoil too much if you change their ordering around that way, what do you think?

No, in fact...

Then Bob has indica ed that it's more logical and it would answer John Radar's problem too.

I think it would allow them to talk better from it.

Let's see. The only thing...permit requirement. Then what we would really do is to tear out the permit required part of this and then you would put that up here with the transfer and then you would really start this section or page 1, in terms of interim entry permit, interim use, and then standards for initial issue, and then we follow pretty much except you'd work the maximum number.

Now when you have the maximum number coming...

Yeah, I see that as a subset of that. I think that makes good logical sense. I don't have any trouble, what about you?

Well it would help me to think about it this way...

You're moving transfer of entry permits over to you?

That was what Dave was suggesting.

And other than that, you're going to leave the thing the way it is?

Transfer goes where Dave, where you were suggesting?

Transfer. More or less after three under Roman numberal three. It would be up there in Basic Provisions.

Terms and Conditions.

It would sort of be...

In between Terms and Provisions...

It's Item Four really...

It's Item Four, under Basic Provisions, Roman numberal three, page one.

There's enough to it that maybe you'd want to have it four, five and six or something like that.

Why couldn't you almost call this pahse Initial Issuance of Entry Permits and this phase, Reduction Optimum Number of Entry Permits, or something like that?

You could. Yeah, that's fine. Sure. Sure.

Now I didn't include the General Provisions where you talk about your annual fee under Forfeiture Problems (indesc. noise).

END OF TAPE

Side 2

I can see setting the maximum number based on some sort of behavior of the fishery during the immediate last past of four years prior to the time of set action. But in terms of deciding as among all persons who might get permits to engage in that fishery, is there any reason to give any preference to somebody who went into the fishery after the effective date of this act that's distinct from somebody who is still in the fishery hasn't been in for a time that predates the effective date of this act?

Well you'd be giving preference indirectly to the person who has been in even before this act because he's going to have more past participation.

You're doing it on a hardship basis. That is that if you made your hardship, that will be...

If you ever have to get to cutting anybody out. That is, if you ever had more applicants than you did...

That's right, I'm assuming that you're going to have. If you don't have more, then...

That's a curious thing, because I would...

That surely is a curious thing.

What will probably happen, don't you think, is in the fisheries that they catch in time. they'll put the lid on below the hour.

If they act soon enough...

Yes. If they act soon enough. (indesc. noise)

(indesc. simultaneous speaking)

...most of the people that applied for and didn't get will be next in line to get the (indesc. simultaneous speaking) optimum level.

Yeah, yeah.

I'm not sure. We've been gliding over that because it implies that if they catch one in time, there is no problem, everybody that applies gets a permit, but that isn't exactly what's going to happen.

I put into the section on subsequent issues that if there was ever a situtation in which there were more applicants than there were space available between the present outstanding and the optimum that the persons got in in order of the filing applications.

Now what are you doing with subsequent issue? That's a section I didn't like because it seems like you've got subsequent issues only when you have them reverting...

That was phase three...

No. You could have subsequent issue whenever your optimum went up too.

Well, the thing that I wonder about with the order of filing or application provision in there is that if I were a speculator, I would write down instantly and apply for the herring fishery and for the black cod fishery and for a number of others that right now don't have anything figuring that hell, that's what gets me in...

Without no harm done...

Is this what the three conditions you're talking about there; the issuance of additional entry permits or any other...

Yeah, now I took a different approach from yours because I wasn't so much interested in how it happened to be that you had the opportunity to do it, but what you did when you did have the opportunity.

Yeah, we left it all uncertain to let the commission do it.

The only thing I said was that whenever there was a the optimum exceeded the number of outstanding that you could issue more permits.

We don't find that section in your...

It's coming up. It should be down at the bottom of the handwritten material. It's that one that's interleaved into the...

I wouldn't have any objection to that kind of wording. It does the same thing. Rather than describing each of the three you just say that whenever the optimum's above the outstanding...

Whenever they have the opportunity to issue more, why go ahead and issue them. But now whether you want to add to it, you're going to have some sort of differenciation among the persons or leave it up to the commission to decide on what basis they've decided this, I don't know.

Well the reason we dodged it is because it's going to occur in so many different kinds of situations and some situations you might have three permits forfeiting the commission in years and they decide well they really got those three around the gut issue with somebody. Well in that kind of situation, maybe a lottery or something. Because you know you're going to have a hundred and some applicants maybe for three permits. So you don't have...

Auction them off...

Auction them off, right...

A competitive bid...

A competitive bid. But in another situation where you were, say you had just issued your initial entry permits and all those guys that wanted to get in were still hanging around, it wasn't too (indesc. noise) lapse of time, and you had a big change in the optimum number where you had to have thirty or forty new ones,

you might want to go right back to those guys and just pass them out to the next people in line. But I didn't know how to pull all that together because there are going to be so many...

Well it's going to be pretty hard to specify because it's so much in the future, you can't anticipate all the barriers unless you want to write a whole textbook about it.

That's why we just said adopt regulations for issuing.

Maybe that's too broad a delegation.

How about that one that was interleaved, wasn't that it?

What are you looking for, Joe?

The one on additional issues.

Well are you seizuring everything together or just the ones that we discussed and come to some conclusion on it?

You're beyond where we've discussed at this moment.

I thought you were going to leave blank spaces...(indesc. simultaneous speaking)

Then you've got to have a lottery. You've got to figure some other...

That's right. If you have an auction, then you avoid the problem about priority of applications. Everybody bids and it would be an automatic selection process.

I don't want to work in. I'm scared like Al is. I don't want to work in something that will have all these phony fellas going around and climb to get a certain priority...

Yeah, sure that's a mistake. We don't want to do that.

We had a couple of license come through this year where the sixteen-foot skiff was licensed for every type of gear that you can...

That weighed down about $280.00.

$280.00 worth of license fees.

Sixteen-foot skiff for outer troll.

There are people claiming...

That was the guy who was going to grandfather himself in.

Well this comes back to my concern about what mechanism you should adopt if any, indeed, you ought to specify when you look forward to even getting the wheels started in those fisheries which are not presently distressed. How much of it should we prescribe?

Don't we have it set up the way you got it r ?? Once they designate a maximum, all these other procedures just get cranked in automatically.

That's correct, but the only complicating factors...if you kept the sequence, that is, set the maximum, rank the people, issue enter permits, set the optimum and then reduce if necessary, if you follow that sequence, then your only problems are the earlier question I asked you a bit ago, when you're starting to rank people then, what's hardship? Is it hardship as it would then exist five years down the pipe for somebody who's been enjoying an interim use permit for five years? He didn't have anything before the statue went into effect, mind you.

That's right. You're nothing.

Right.

He just came up from California and here he is, he decided to live in Alaska and fish on an interim use permit.

I still think...

I think that the answer is fairly simple. The standards are the same. It's economic dependence and past participation.

The only place that doesn't turn around on you would be a place where a guy on an interim use permit who came in and would be lower on the priority scale in terms of past participation. That

would be included because anybody that came in afterwards would be lower on that state.

You might think of this for a minute in terms of why are you doing it. I don't have any...

If we go back one step farther to what David doesn't like about my proposal that you have the commission make findings about threatened fisheries and use that as the device for setting your maximum, it seems to me that you set up something there, especially if you draft the language so that it precisely indicates that, where it sets a maximum below your optimum. You don't have the problem. Then by definition, your distressed fishery is one where the maximum is above the optimum, then you've got buy-back.

At or above.

At or above.

That'll be a tricky one. People will ask, well if we're at the optimum, how can we call us distressed? But I don't want to get into that.

But this is where that would knock out this problem and it puts upon the commission the burden to monitor the growth of particular fisheries so they can act at an appropriate time.

I don't mind that.

So that whenever they act, they will act at such a time that they know they're still below the optimum...

Their best information indicates.

That's right. You call upon them to act it at such a time as they're still below.

Right. That their best trend indicates growth in the fishery which proposes a threat to reach and exceed optimum levels. Is it a kind of thing that you do? Then you have them set a maximum number at that point. That puts your lid and then they can determine more precisely an optimum with necessary issue additional permits.

In the human world, you know darn well what they're going to do. They're going to put the lid on right on the optimum, or they're going to put the lid on and then they're going to find the optimum is right where they put the lid on.

Well alright, but still...

Although that problem might pose to you...

What do you do with the guys who don't even imagine it?

That's right. So you set this maximum, and suppose that... Alright. You said it so...which way with the respect to the

optimum? So you haven't said the ıum yet, so all you know is that you're going to put a lid in ıt somewhere approximates where this optimum is going to be. You don't want it any higher than that if you can help it...

At or below the optimum level...

Okay right. So then you have for the upcoming year, a hundred more applicants than you had in your past participation and your past participation is right at the maximum...

But at the moment that your commission makes his determination, that this is a threatened fishery, your provision goes into effect that experience only in the four years or the years preceding January 1 of the year in which the determination is made comes, so that if you get a bunch of new applicants after that, you say hi guys.

Okay. So that your major hardship then, I mean you're still using hardship in a sense, what I am worrying about, one of the things that I worry about on that point is that I can defend grandfather clauses for the new position of a system as against somebody who has no reason to think that it was about to hit him.

That's why we alleviate the hardship on the people who have been fishing up here for five years or ten. And now Alaska is finally getting the ball rolling and here's going to come a limited entry system, so take of those guys.

The fellow who's been fishing on an interim permit for five years, I can't as well defend grandfather and him in...

If you think of it as grandfather, why think of it as grandfather?

Have I got any other basis to prefer him more? What else can I rely on?

I think so. I think that I sort of turn it around. I sort of think that grandfather rights become important if you're going to exclude anybody.

I'm going to exclude the guy who's now decides to take part in this fishery. And I'm telling him brother, you're too late, this other guy has been fishing here for the last three years. True enough, during all that time, it's been an interim use system...

You're not excluding anybody that's been in?

No, At least I'm not trying to scuba dive...

That's what I meant. In other words, grandfather rights would be sort of saying that if you were in last year, then we want to give you some sort of special break, or we ought to consider that. You're talking about people that come in new this year that you're going to exclude. What obligation do you owe to them in the first place?

I owe to them that I treat them equally with everybody else. And I can't think of a better reason not to.

As far as your new people go though, since you've been operating on interim permits and interim permits give you an indication of the level of fishing efforts, once you've set your maximum level, you can issue entry permits instantly to all of those people. You know precisely who gets...

No, no. No, no.

Right?

No. I take it into two stages. I know how many I ought to issue. But then the question is, who do you issue them to?

Of course you don't use (indesc. noise) If your present level was say 1200 and you knew your optimum level was like to be up around 1800, you could stop and say maximum level at 1600 and your present level was way below, so you know that you probably won't even be able to issue...

If the commission will get off the dime soon enough so that they don't have more applicants...

Even if you do, I don't think that there is anything unfair who has been in it longer, again, who has relatively more harmed or less harmed, we're going to prefer you on your extened dependence and extened participation. If anybody has to be cut out, I think that you can depend on standards that's made most fair...it's sort of last in, first out.

Yeah, I know that. I just wonder whether that's a fair system, when the only thing to go is that the fact that the guy has been fishing up there. As to him, you have to acknowledge that you could have very well put him on notice if this were to happen to him. Whereas, with the imposition with a whole new system, such as a new legislative system,...

(indesc. simultaneous speaking)

Of what?

That eventually this fishery is going to have limited entry.

That should tell me that I shouldn't prefer those people who have interim permits.

But you're not grandfather Amin, you're just...

What am I doing if I'm not?

What's wrong with saying that we've got 160 homestead parcels here, and the first 160 guys to it are the ones that get them. As long as even now before he even enters into these fisheries you're not going to cut anybody out. You're just saying that we're going to let you guys come in as you're so inclined to do, and when we get up to that level where we want to stop it, we're going to stop it and the next guy up isn't going to get a permit.

That seems to work alright and nobody complains. That is to say, that order or priority of applications we acknowledge, to administer the purposes alone to justify it. Now can you use the same reasoning by saying we're not grandfathering you people and we are simply saying to you that the first application...

Well the thing that bothers me in the order of priorities. We sort of got that when we crank in past participation, but you could really screw it up. You could have a guy that was the last one in but was the most economically dependent. And you're going to prefer him over the guy that got him five years and is no longer economically dependent.

It worries me to let (indesc. noise) harmship at this stage. I could go for a mechanical system that was in order of priority or readily.

I don't say why you worry about hardship because what you're going t have is exactly the same situation. You're going to have a fishery that's developing and it gets to a certain point and you set a maximum and you ask for application. Now of those people that apply, what is inappropriate about saying if we can't give them to everybody that applies, we're going to rank you as the hardship as to hardship.

As to hardship if you do not get in. You do not otherwise get a permit.

Now we're going to rank you all as to hardship. If you've got 1600 permits and there's 1700 people that apply, in order to decide which 100 get excluded, we're going to do it on the basis of hardship. The guys least hurt are going to...

Least hurt if they don't get in.

I mean you're doing the same thing at a later point in time. You are just saying that we've got people taht are applying. Anybody can apply that has been in the fishery and if somebody has to get out, it's going to be the guys that are hurt least. I certainly think that it's something people can understand. I think it's...

Yeah, I agree with that...

If we can import the same criteria and use them in...and just basically say we'll crank up this system at this point in time, people will get used to it. They won't have to get used to two different systems...

And then, actually what happens, is once your permits are issued they are freely transferrable anyway and that takes care of your remainder of your would-be applicants.

They're probably, if the commission is doing his job, it ought to collect a lot of information off it or points. It ought to know its rate of turnover. In other words, it ought to know at any point in time, the number of people that have at somtime fished

in the fishery, the number of people that are presently fishing and who they are, how much they are depending on it and if it is like his proper job, it would set the maximum number once it realized that the total number of applications that was likely received for entry permits is about at the maximum. See what I mean?

Yeah. In redoing this business above the fishery that is not presently distressed, I was trying to describe that at what time on or before which the commission ought to set this maximum. I'm not sure that I've got it right.

Al, why don't you draft up your language? You've been wanting to draft up findings. That's where they'd be cranked in, right there.

I've put it here that if they anticipate that the optimum number will be determined within the next 18 months and that that optimum number will likely be no higher than the number of outstanding interim use permits or no higher than the average number of gear license or interim use permits during the last four years or something like that...

I think that that gets a little specific. You take the scallop fishery. We had two ligmen draggers come around...

One originally...

One...and say, Jesus Christ, look at all the scallops. Then we had all of a sudden we had 16...

Are you sure that's exactly what they said, Al?

Well, I'm willing to bet that somebody said something quite close to that. The next year, 16 boats. Two years later, no scallop fishery. So that I think that an 18-month provision or something like that, might not allow the commission to move fast enough.

I said within.

This would allow them to move.

Within 18 months of when?

The maximum number shall be determined by the commission for any fishery that is not presently designated, as this does. If and when the commission finds that the optimum will be determined within the next 18 months, and that that optimum number will likely to be no higher than the number of outstanding interim use permits for that fishery...

That's too tight...

Because in terms of the amount of research that might be necessary to determine the extend of the stocks and things like that, I don't know if Fish and Game could perform in 18 months.

Well if the element of it is that they do do it, they make a prediction that they're reaching, it's an intuitive prediction that they're about to reach the optimum level I assume.

In its judgement, that's all I said.

Yeah. But I still agree with Al, that you know it's going to act that way, but why tie it down to the statue to act with the time period. Why don't you say that...

That they may do this whenever they get around to or whenever they decide is necessary or appropriate.

Whenever the commission...

Whenever the commission determines that the rate of growth of gear in a fishery poses a potential threat to the fishery resource, it may set a maximum limit.

It shall.

It shall set a maximum limit. Let me rephrase it...

Whenever the commission determines that a fishery is likely to become a distressed fishery...

Okay.

Why not, let's just say...well that's pretty much okay. I was

going to go back to the original language and say when the commission determines that the level of participation for a fishery has reached a level which threatens to impair...

The reason I wanted to use the other was then you crank into the other system, you see...

Okay, but you've already got...

(indesc. simultaneous speaking and noise)

...whenever the commission perceives, fines; a particular fishery is likely to become, or...

Of course, the idea is that you don't want to let it become a distressed fishery and then work back...

No, no. When it perceives that it's...

I'd like it to go back to a more general language.

It's on the threat of becoming a distressed fishery. How about marrying the two of them?

I don't like it.

No?

Alright.

I'll go with it. I don't dislike it that strongly. I want you to understand that I just want to think about it for another minute. It's just the idea with the one, we want to stop it before it gets anywhere near being a distressed fishery.

Yeah, that's right.

May unless controlled. How about that? May soon unless controlled?

Allen and I got talking about the present ability from the posture that the industry is taking. There's no way to protect these people. They're losing it this year if the entry permit isn't required until the first part of next year and that they've lost it this year, there's no reason to believe that they'll get it back next year.

Except if they get that fund going...

But still we're speaking in terms of least votes and not demanding them...(indesc. mumbling)

This will really touch you here on in. When the legislature finds that a fisheries reach levels of participation which require a limitation of entry in order to achieve the purposes of this chapter comma, the commission shall establish a maximum.

You want a legislative finding?

Who did you mispeak?

No, no. I said that when the commission finds...

Okay.

When the commission that a fishery has reached levels of participation which requires a limitation of entry in order to achieve the purposes of this chapter, the commission shall establish the maximum number of gear for that fishery...

No. Shall designate the fishery as a distressed fishery. And that starts the maximum going. There's no show set of maximum. Then we can pick thereon what we do when we have a maximum.

We came out about the same place. I said whenever the commission determines that the level of gear in a particular fishery threatens to create conditions of biological and economic distress, it shall establish a maximum...same thing.

(indesc. simulataneous speaking)

We're through the whole thing in gear, haven't we?

No, we are all over the units in entry permits. 've got to persuade you on that or else...

Alright.

On entry permits, I'll go with that...

I guess I'd like to hear your reasons why.

I think that there is a fairly practical reason and I think that this is particularly accused in the buy-back system. What you want to buy is the permit. If you want to buy the boat, too, you can do that, but I don't think you'd want to buy it.

Now wait a minute. We've been all through this and you are one hundred percent correct. Ninety percent of the cases, all you're going to wind up buying is the permit. But the fisherman won't understand that and you're going to have to make an offer to buy the guy out of the fishery but then you turn around and ask him...

But then if you want to buy the boat in addition, you can specify that too...

No. What's going to happen, I think, is that you're going to go in and say to a drift gillnetter, what is it going to take to buy you out of the fishery and he'll say $20,000.00, and you'll say how much can you get for your boat and gear and he'll say $7,000.00, and then you'll say will you take $13,500.00 for your permit and he'll say great, I'll make $500.00 on this bargain. So you wind up buying the permit from him for $13,500.00, but the guy thinks you bought him out of the fishery for $20,000.00. In other words, you let him salvage his boat and it's just a tradeoff, it's a washed sale but people simply do not understand...

I don't believe it.

Well sure. A guys boat is still worth something. All you're asking him is what's it worth to him and then you say we'll pay you for your permit. You use the objective to buy out only the permit but if you tell people you're only going to buy the permit, they'll go haywire in this state. They just won't buy it because they think that the image they have is that if you only buy my permit, I'll have a worthless boat and you destroy it.

Well if you want to have a system in which you also aquire the boats, fine...

Wait, wait, wait. Nobody wants to really aquire...

I'm still unclear. Maybe I like your idea but I'm not sure...

I, from the very beginning thought of this as a controlled system for entry permits...

That's right.

And I don't like to muddy it up with anything else.

Well, just let me explain it a little bit more. Part of what we're doing is setting levels of gear in direct with...

By controlling the number of persons who's going to engage in the fishery...

No. You're controlling the number of units...

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884 SCOMM31: SPECIAL COMM. FISHERIES (LIMITED ENTRY) 1973

The number of entry permits (indesc. simultaneous speaking) is a permit to use a particular unit of gear in the fishery...

Now David, wait a minute. I'm trying to see in my own mind whether it really matters and if maybe it isn't tidier to do it your way if we end up at the same place anyway and I'm just not clear yet, as to exactly how it would work...

Well, I can't see any difficulty with running a system solely on the basis of entry permits. If you have effective proportions, you will not permit the operation of gear unless the person has the entry permit. Your man goes aboard the boat and says skipper, let me see your entry permit and so he shows it to you and so that makes him alright. Until then, he isn't.

He'll do that in either case...

Okay, alright. You've got your control mechanism there. You've got your value systems attached and free transferrability has to do with what it is that you're letting him do. You're letting him participate and it's that capacity to participate is an intangible thing. That's what we're focusing on in terms of transferrability. That's what we're going to let him transfer to his son, if he wants to and if the son doesn't like the old man's boat, he doesn't have to use it, he can get another boat. What the boat market does, I think, is fully incidental.

No. As...

I don't want you to be concerned with boats. I don't want you to

have to store them in Anchorage or anyplace else...

Nobody wants to do that, so don't be concerned with it...

Alright, if it has to be, why then, I have in paragraph 92, down at the end, some sort of provision that's if you want a require the state to do it, and if the fishermen from whom that permit has been purchased, offers his boat to the commission, the commission should buy it...

Okay, now we've gone out and we've talked to people in every area. And every time you say buy-back, the first question you get is you mean, that you're going to take my entry permit away from me maybe for that and leave me with a worthless boat and there's no way in hell, that you're going to convince that person that the **very** value of his entry permit will take into account the reduced market value of boat. So what I'm saying is that you've got to set the system up so that it constitutes this kind of a transaction. It's an offer to buy entry permits, vessel and gear. Then you ask the guy what's your vessel and gear worth to you to keep? And he says X-numbers of dollars. You deduct that from your total offer and give him the rest of the balance for the entry permit. You never have to touch a boat and gear. But the commission is put in a legal position of having to offer to buy and if in some cases they have to buy the boat in gear, what difference does it make if they turn around and clear it?

That's right.

You hear stories about the British Columbian people in having to store boats. I don't want you to get into business once you get out of it...

But I don't either, but I can't...

Well I just...

It'll tidy things to say, nevertheless, this is an acquisition system for entry permits. Now, if what you've got to do when you deal with the man is to buy his boat also, you can prescribe in your buy-back system, that if the person wants to sell his boat, the commission has to buy it or you can put it to him and you're secure this way, that's the only way he's going to understand...

All I'm saying is that I want it in the bill that he has to offer to buy the entry permit, vessels and gear...

Alright. That's fine with me...

But when you come to doing it, we don't want to buy it...

That's fine too.

You may find some sort of circumstances in which you may have to buy them. When the guy wants to sell, you may end up doing that. But do believe that your mechanical operation of this thing is going to work only if you make it an operational system with respect to the permit. That's the whole thing that go up and down

and it's going to have market values and so on. Now...

If we do, this is what I'm trying to sort out in my own mind, if we structure the language in terms of setting the maximum number of entry permits, then what we're doing, in effect, because of the definition of entry permits, is setting the maximum number of units of gear. Right? So that we end up accomplishing the same thing, no matter which language form we use as far as their particular goes. Now if later on, in talking about buying back, we talked about buying back entry permits, then, we create the situation which...well, we don't talk about buying back units of gear though. The whole provision in the buy-back language is broad enough to include the entry permit, the boat and the whole package.

Yeah. I would distinguish it as sharply as I could. What if the person comes to you and says I don't want to sell you the boat or the boat goes down, the man dies, the bottom of the bay and no salvage at all and the personal representative comes in and says here's the permit and I want to sell it to the commission...

I'm trying to determine two things. One: whether there's any real problem if we use thei language in these sections here that effects the rest of the way the bill is structured...

You can use entry permits to the units of gear as far as I'm concerned...

No. The other thing is when we come to the buy-back section, perhaps, you could help us work out language which is more explicit

because I have never been satisfied with the language we have for buy-back clearly allows the separate or combined purchase that David has described. Now...

I have notes to myself as to what to do when I got up to there was, adopt David's language, changing gear to permit. (indesc. simultaneous speaking)

That would cause us a minor revolution because as David said, regardless of what we suspect the facts of the situation will be, fishermen have a very deeply-engrain to be weak that a vessel without a permit is worth zero...

And you and I know that a vessel is a distinct (indesc. simul. speaking)

That's right.

And we will never convince them.

We will never convince them.

What we need to do as you suggest, let's look at the buy-back provisions, with it having in mind, because I would desperately like to do keep separate for many purposes...

Well whether the fisherman perceives it or not...

There's a practical matter for administrative purposes, we just

as soon not horse around with a bunch of boats...

Yeah.

But you can adopt the regulations. You see, all I wanted to do was leave it vague in the act and adopt the regulations to do that and call for buying the boats only in the small and maybe never.

You can even adopt regulations that says you will give salaries values credit in terms of what you pay for the entry permit or something like that.

I don't want us to ever handle boats, but I just want nobody to get the idea that we can screw it...

And leave him sitting there holding a boat without an entry permit.

Well may I suggest that you put your basic operative system of buy-back in terms of the permit. Then a section that immediately follows or a part of it that says that the option of the fisherman permit holder, he may offer too and the commission must accept the purchase of the gear...

What is wrong with the boat?

Well my first impression of it is that all I was going to have to do was to strike out gear whenever I had...

No, now (indesc. simultaneous speaking and noise) wouldn't it work the same way?

already have. (indesc. simultaneous speaking) and is already consistent.

Alright. You don't have to say by sale or gift, I threw it in. But it's pursuant to this capacity here that you do your purchasing or under...now this is the open market purchase, this is the "B" permit purchase up here, but the commission would be the recipient under either of those two or it could be (indesc. noise) anyone of those three is going to get a permit back. Now as to either of these two, where the money is going to come from, is over here. Now if what you want to do is to say when a person sells to the commission, the seller is also entitled to have his boat bought by the commission, isn't...

No, it isn't that I am going to sell my permit and now I'm entitled to anything, the commission goes out and offers to buy permits and boats and gear and whatever is necessary and you're given the transfer or the capacity to transfer his permit. He clearly doesn't need your authority to transfer his boat and gear. Then under your buy-back, you give the commission the quarry to offer to buy permits, vessels or gear.

I think I done this organizationally to you. I had taken out from under the buy-back sections, the power to do the buying. In other words, to power to do the buying is under transfer here rather than under the buy-back. The buy-back is a funding section in the way I perceive it.

That doesn't make sense. The transfer is the guy that holds the

You can say the optimum number of fishermen...

(indesc. simultaneous discussion)

The only thing I'm going to do is to talk about entry permits... It's pretty much right but I've got a couple of (indesc. mumbling)...

Entry permits are also transferrable by sale or gift to the commission. Now here is where commissions using this fund to acquire a permit.

Why do you need to go through all this? Why can't you just say that a person can transfer his commission permit to anybody?

Well, I just wanted, I felt I had to describe the commission separately from the other people because I've described it as a person who is not ineligible and whose present (indesc. noise) tends to engage in fishing...

My real thing is why describe it as sale or gift? Why not just say he may transfer his permit to another person or to the commission?

Well, you could do this, but I had cirmscribed the person to whom (indesc. mumbling) or I have could have done it this way: transferrable to the commission or to any person who is. That would have been alright too.

Alright. All I'm suggesting is that it's exactly the same as we

permit. The power to buy it is the power of the commission.

Permitted transfer covers both permission given to the transfer or the comission given to the transferee.

Well I just don't understand why we should leave. I mean, we've already reorganized it all. The buy-back is an authroity to the commission to buy permits. So it ought to be in the buy-back provision, not stuck up here in transferrers.

I don't think that matters as to where you put it. All I was saying was to why I put it up here (indesc. mumbling) defensable to put it there.

Where is it here?

It's in here that the permits are transferrable to the commission.

It doesn't say that the commission can buy them.

Isn't that apparent in that. Maybe it doesn't say it then.

I think why you need it in the buy-back, is you have got to say that the commission can go out on the market and make offers to buy. That just says that the transfer can go to the commission but it doesn't give the commission the authority to take this money and go out and say bid on a market...

Then if you felt you had to specify authority, I would put it here but it doesn't matter. If you want to put it here that the commission can buy,...is this the only basis in which the commission can buy if they use the buy-back fund for the purpose?

Yes.

It is. (indesc. mumbling)

End of Tape.

SCOMM

#31:24

_____: It seems that that's an awful lot to do between the July start up date and the January 1 for all the distressed fisheries.

_____: You've already said you are going to do it for Bristol Bay and Cook Inlet and a few of the bad ones but all the distressed fisheries will be all the salmon fisheries and that's something like 20 some fisheries.

_____: Is there any reason why you shouldn't specify as to these three which the legislature now decides are worse?

_____: This is what we were going to do in our letter of intent I guess. The reason why we can't accomplish it that way and in our letter of intent, indicate the three particularly distressed fisheries that we talked about in the House bill and have that the closing date for applications prior to January 21 for January 1 (inaudible).

_____: With that kind of ... Would it be sufficient..... the commission in order to prepare its regulations is going to have to develop its statistical profile of each type of fishery so that although it doesn't know by individual it knows by numbers the income, the investment, the kind of boat and things like that. Would it be sufficient to present that information on these three fisheries to the legislature by that time. I don't know. I'm trying to think how much worse these guys could

really do.

_____: We counted on the interim entry permit stage as being a stage of information gathering in itself. We aren't going to have the information to know where to put people or how to develop the regulations.

_____: This is what I'm trying to...

_____: We don't have the information now.

_____: I'm not sure that the Commission would have adequate data itself to develop good regulations, let alone to be able to sort and evaluate the information on application forms by that time.

_____: I don't know whether it would have to sort and evaluate all of them by January 1. I think, have the closing date for applications for at least those three fisheries by that time so that we've got some idea as to the number of people that were applying, compared to the optimum or the maximums that have been established. What's wrong with that?

_____: I certainly, you've picked three toughest problems under the whole bill and you've got to solve them. Number one, before you have any chance to get any information from the limited entry permits, because by the time you have set your regulations to avoid maximum limitations you've got to do that before you can even take any. Then you have to (inaudible) ...your regulations set on the toughest problem in the whole fisheries by October and

it's impossible. It's not possible, because when we got out and met with people the only way we could convince them they are going to be treated fairly is to say the Commission is going to move deliberately. They are not going to slap something down on you. They are going to come in here and meet with you and have public hearings and they are going to propose one set of regulations. And if you don't like those regulations they are going to come back and propose another. And you can't do it that fast.

_____: Now wait a minute. You were telling me a while ago, along those three distressed fisheries you thought it was reasonable to skip the interim permit year and then go to the initial permit in '74.

_____: I think I was wrong. I take it back. I don't think I was right. I think you pushed it up even another step. If you wanted to go directly to entry permits you still could be taking applications early in '74. You wouldn't have to have all your information in by January 1, 1974. I think I was wishfully thinking. It would be nice if we could. But I think the whole plan in the defensability of the thing and the workability of the thing is moving with deliberatness and carefulness through every stage of the process. Regulation of that and public hearings, going and talking to every one who will be effected and saying, what you want and what's fair.

And that's the basis upon which we've telling people that the commission is going to work. It's not just going to fly in and flop down a bunch of arbitrary standards and say here's the way we are going to cut it. I think you know the Commission will be in such a bind that frankly it would probably blow it on the first couple fisheries and that would make it much harder for it to operate through the rest of the program. This is the whole reasons for building in all the safeguards in terms of adjudicating applications. And that's why I think you really save, give the individuals a break and not hurt people. It's to do it carefully, and slowly, and cautiously.

_____: I would revise my suggestion for sort of a preliminary sort mechanism then for '74 as to some of these commercial fisheries. I really don't think that you'd be challengable at all to take a fishery of which it is perfectly obvious it's most grossly out of balance and requires some fairly rough measure as to who was entitled to fish, to get an interim use permit, but not for '73 but for '74.

_____: You want to do it on just three fisheries? That's fine.

_____: Yes that's fine.

_____: Because if you lost that in the courts you'd only lose it as to those three fisheries.

_____: I don't think I'd lose it on that one. They have a really strong showing for that. You might have the whole

program showing. If you've really got just an _____ situation up there and you have to do something about it. Then you might alleviate this really bad situation. Now that gets at your problem of, well, in a way it would, because it would allow the gradual accumulation and broaden more broadly based, statistically based judgment for what your final position is, and then you would be up for review on January 1, 1975 Session of your Legislature.

_____: Right. That's a combination that I can buy. If we went the highest here and then came back. Then I think I can go back and sell this thing.

_____: Ok. Highest in the last four years and interim use permits would be issued only to people who would be eligible, that is only people who have fished in the past, could be eligible in those three designated fisheries in Bristol Bay. I suppose you still want set and drift gill net both and Cook Inlet and Prince William Sound drift net. Then we've got two different peers of distressed fisheries. We have distressed fishery for interim entry permit, distressed fishery...

_____: Yeah, I think you would. I don't think you need to put it in the abstract, you could legislate it. (inaudible) condition that.

_____: Interim permits cannot be issued unless you have a...

_____: Yeah, or the interim use permits for '74 will

not be issued. '73 we'll let anybody in, but for '74 we are going to start clamping down because we'll have that thing operating by next year.

_____: Okay. That's fine.

_____: I wonder if we want to say interim use permits for a year. There's a possibility that we may have to use interim use permits for two years. You're talking about going too fast.

_____: You don't have the time limit. You could just say interim use permits in ....

_____: We know that nothing we do now effects '73 anyway. So it would be '74 and possibly '75 that they need to be used yet in '75.

_____: Yes.

_____: Now, those, I want you to follow up fairly quickly on these things. I don't want you to go on an interim use basis where you come in with this thing that Dave's been telling us we ought not to have and I'm agreeing more and more with it and letting that persist. I would say two years is your outer limit on it. And if you can get them to act before that I would.

_____: What it really amounts to is a selective freeze.

_____: Yeah, you haven't got any transferability in the interim you know.

_____: So you better long prolong it.

_____: That's right, I'd get out of it pretty quick.

_____: I was only for the first ..... (Indiscernible) (three people talking at once) ....legislature to decide maybe in that next session that you have elected someone more... (indiscernible)

_____: It will be really a restriction on the issuance of interim use permits for those designated three fisheries for 1974.

_____: Right. Okay.

_____: How about as you suggested earlier, creating essentially a special kind of interim use permit which is transferable?

_____: Mike, I think if we say "may be eligible" then we are going to say, since we have restricted applications to somebody that held a gear license and fished it prior to 1973, that will be the _____.

_____: I was going to say. You had mentioned earlier in connection with this when we were talking about limiting the number of interim use permits, making them transferable so that you didn't...(indiscernible) ...then we...

_____: ...presently able and presently intent. We better straighten him out...(indiscernible)

_____: ...Dave, I think we've done one thing to you that you weren't aware of. In listing eligibility, I did not include except as....

_____: Okay, under application, it says the commission shall accept applications for entry permits only from

applicants who have harvested fishery resources commercially...

_____: I don't think you should keep that.

_____: While participating in the fishery as holders of gear licenses?

_____: What we want to do is cut out the paper license holder from even applying, otherwise we are going to have three times the applications, or twice.

_____: Now just a minute. Let me go back here. Why don't you make this qualification for getting entry permits rather than being eligible to apply for entry permits. (Indiscernible) ...coming in at applicatns eligible for or have that the standards under initial issue of entry permits. In other words, priority classification of applicants for initial issue.

_____: Then somewhere else I want eligibility treated then. Because I didn't want it put under application, which I thought was a procedural mechanism.

_____: Let's see, the commission shall accept application.

_____: This is an eligibility point and I don't think it should be under procedures.

_____: Eligibility for application to apply.

_____: Yes, but that's, you are saying who is going to get a permit when you do that.

_____: No, you're saying just who need apply.

_____: No.

_____: Same difference, I know.

_____: You've greatly restricted your group right there and I don't want to do that.

_____: You have to. You can't let everybody that's ever been on a boat apply.

_____: Sure you can. You're not going to give them anything.

_____: (Indiscernible) ...intent that you are going to limit the, that's what the Governor's bill originally did and everybody was up in arms because you were going to let people that never held a gear license and had just been commercial fishermen apply. And that's three times the number of people. In other words, we've got about 10,000 gear license holders which is about the number of entry permits you're working with. We've got about 35,000 people each year that hold commercial fishing licenses, and if you summed up the total of those who held fishing licenses sometime in the recent past, you might have as many as 60 or 70 thousand app ications. If you don't restrict it to people who have held a gear license. Another thing you could do with weeding it out there, is screen out the paper licenses. Guys who have never fished _____ for 20 years. Procedurally, I see what you mean.

_____: Yes, that's correct. Let me go back over my notes and see what I have done with that. I think I had intended to come up with what I did come up with. But its

possible that I had intended a different.... Wait just a minute. (Long pause and paper shuffling) We still have to, where's our laundry list?

_____: The laundry list? About the other thing, is the optimum gear criteria, that third one. We bounced that one around back and forth.

_____: You just about talked me out of that one.

_____: Great.

_____: We haven't really found it. I think _____ _____ before he notices it right off.

_____: We traded him yesterday _____ a month ago, it was a good idea to keep it in.

_____: If John goes, Chancy will go.

_____: On that point alone?

_____: In fact, its liable to go because of the free-transferability.

_____: Boy, somebody ought to tell him that. Rich just called us today and he had over a hundred people at a _____, yesterday at a meeting, from all up and down the river, and they were as mad as they could be that nobody from the governor's office or anybody else had been out to talk to them about this. But they met from 10 o'clock in the morning till 6 o'clock. And they were absolutely insistent that limited entry be passed with free transferability this year, because last year was the first year any Seattle fishermen showed up on that river and

they are petrified. They know that if they get it now they are all in it. He said he was about to be lynched when he showed up at the meeting.

_____: We saw that telegram. All four feet of it.

_____: The natural thing to do is the commission, in its regulations, would not look upon a lapse of fishing .ile in active service as any sort of a real laps in fishing. But in terms of writing it into the bill. Its perfectly sensible, a guy in evaluating his past participation, if he goes into the service, that's not a voluntary leaving the fishery.

_____: The only basis upon which you can use the fact that a person who wants an initial entry permit, has fished in the fishery in the past, is a measure of how much hardship it would be upon him if he were not allowed to get that entry permit. And I think that that is a very good measure of how much that hardship might be on him. (inaudible) I don't see it useful for any other purpose. Now if you say that you want to make it a preliminary screening device so that the Commission doesn't even have to look at people wo have not fished in the past, I would say that that's alright too. It is part of determining whether there is hardship or not. So when you are coming down to separating people on a hardship basis, crank it in. If you've got too many people, take your nondistressed fishery, as to which you are going to presumably let

people participate in that who have had, as to whom there will be no hardship whatsoever, because you're not up to optimum. Now you can't restrict that excess group, in any way, in terms of whether they have ever fished in Alaska or what fishery. You've got to let them all in. So you can't do your preliminary screening as early as who can even apply. You have to wait until you are down to a situation where hardship is of some materiality. Then you can put it in, I don't complain.

_____: I do, if you go hardship and stretch it to that extent, then I don't think you can really say that the class of people who have held, gear license holders are the only people who will be harmed. Clearly, a guy who has been a crewman all his life and was on the verge of applying for a gear license, may in lots of instances be harmed more. So I think if it falls there, you can't use his initial screening to say that the State is under no obligation to give a new entry permit to a guy who's never held a gear license. I don't think you can put it in anywhere. I think you have got to take applications, you have to consider everybody in the same standards like the Governor's bill originally did.

_____: I would feel happiest about this if all you did was to say, as you have to do, is, under the criteria which the Commission is to consider, in grading hardships, it shall consider economic dependence down to where you've

got past participation. And one of the ways to know whether he has past participation and whether he held a gear license. I suppose a guy who's been a crew member is a past participant too. It might have something to do with it.

_____: Well, now in the original SB 39 the two standards were economic dependance and past participation, and any body could apply. Anybody that could make any showing under those clearly. Now a creman can make a lot of showing. A lot of guys have fished for 25 years and they are pretty darn dependant. So you have gotten into a really jolly game of breaking some crewman about existing gear license holders. And the only way to make this thing workable, because entry permits really are nothing more than permanent gear license. The only thing to make it manageable, it was felt by almost everybody, was to have an initial screening and only consider people who have been gear license holders.

_____: I don't complain at all if you can find the persons from among whom you are going to decide that there has been some imposition of hardship. To those who are at least within the category of those who have had previous gear license? I don't complain about that, that's alright. But I say that you cannot use that as a criterion when there will be some persons given an initial entry permits to non-distressed fisheries, when there's no hardship

involved. In other words, you've used up all your hardship people and you've still got some room for fishermen, and you can't say as to those that you have to qualify by having been a past participant to the fishery.

_____: Clearly, those are the fisheries where we still allow .....

_____: That's what I mean. Okay, so you can't put it back at the stage of saying I'm not even going to take applications, because these applications are for all kinds of fisheries, both distressed and nondistressed.

_____: Well, we never conceived of it that way. We've always conceived of it as you don't crank a fishery into the system until it gets up near the maximu. And then you have got people in it. You've got new people coming in it all the time because of gear licenese. And they are gear licenses then. In other words, but, we left the undistressed fisheries go for awhile.

_____: You may not issue initial entry permits to all your -- to a nondistressed fishery, but I don't see any reason why you shouldn't issue initial entry permits to nondistressed fisheries if the commission wants to ge. around to it. In fact, if I were on it, I would do it.

_____: Alright, but then what you would do...

_____: And we don't exclude that possible way of...

_____: It won't work that way. You can issue them interim permits. But once you start, the implication is

that once you go into your entry permit system, then you're getting out of your interim entry permit system, and then you do have to decide who is going to hold them and if you have any difference in new permits this year, you have got to issue them on these other standards you were talking about.

_____: That's... We're back under this.... See category problem, where we haven't really worked it out yet. Do you want entry permits to be operative and outstanding only in fisheries as to which there is an optimum lower or not more than how many people are in it?

_____: No. What we want to happen is that if the fishery gets up to what intuitively they think is around the optimum, that they can hike in maximum number...

_____; But they don't issue an entry permit until then. Every other fishery operates under interim use permits. Is that right?

_____: Yes.

(Several speaking at once)

_____: Well, all you do with a fishery like black cod, long-line fishery or something, is watch it. And the commission doesn't have to do a damn thing but issue an interim use permit to those guys until they see the fishery getting up to where they think it needs a lid on it. And that might be ten years from now. Then when it gets to that point, under the way that we work out this redrafting it, we had the language here when the commission finds that the

fishery has reached levels of participation which require the limitation of entry in order to achieve the purposes of this chapter, the commission shall establish the maximum number of entry permits for that fishery.

_____: Buy you are not, but you won't let them do this before then?

_____: No.

_____: No?

_____: They only issue interim use permits and people can continue to get gear licenses and come...

_____: And so you don't get any applications even in? Until you've got a fishery that's gotten into that category.

_____: No. Until you establish the maximum number of entry permits. Until you establish the maximum number of entry permits you don't crank in your application system and your whole other....

_____: Alright, damnit, you're going to measure hardship every time. Then I think you are alright to insist that the person be engaged in the fishery before.

_____: Okay fine.

_____: I must say that I don't that you've said it yet.

_____: Alright. But why can't we just do this. Where is that draft that you had? Application for entry permit. It seems to me that what we've got...

_____: I'm going to take it out of your procedures section.

_____: I know it. That ain't what I'm going to do. That's why I'm going to show you how we might do it. Let's just say, "eligibility for application" have a separate section for that that directly proceeds this.

_____: Maybe what we had better say. I would much prefer that it be "eligibility for initial entry permit."

_____: But then you have got to take applications from people that have never held gear licenses.

_____: No you don't. You can tell them that "we won't let you apply unless you plan on _____" and one of those is that...

_____: Alright. I won't argue with you.

_____: But that can be done by regulation. Or you can spell it out by statute too. But I think you should say who it is that's going to be eligible. Now, I think in that case, I would take this out of here and put it into the section that's _____. This would be part of it and the other one would be part of it. That is to say that he has to have been a gear license holder.

_____: Alright, that's fine. Everybody got that down?

_____: No.

_____: Just a minute here, let's look down the pike. If it is a 10 year from now proposition, is "gear license holder" an adequate description or do you want to call him an interim use holder?

_____: We have to have both. So if they have one they

will have the other. So I think "gear license holder" works fine. Because you are going to have to have both. A gear license and an interim use permit. So you don't really need to say both. You can just leave the standard the same.

_____: He couldn't get the gear license without the permit. He could get the permit and not ever get the gear license. We would rather have him do both and pay the taxes. So if we say "gear license holder" then he has to have bought the permit before he gets it.

_____: Yes.

_____: I knew I had done something about this. I had it over here. "In determining the existence and degree of hardship, the commission shall (1) include only those persons who have held a gear license for whatever period, and, as to those persons apply a reasonable balance of these factors." I knew I had cranked it in somewhere, I just wasn't able to put my finger on it.

_____: Okay, that's fine. As far as I'm concerned. As long as you don't put years. If you just have held a gear license pursuant to the statute because...

_____: Yes. I left it very much in the blank. I don't know what you want to put in there.

_____: Well, under AS, whatever the sections are, cause then that means since statehood. That automatically, you have to have held a gear license at some time. Because, see,

we had the other requirement, "held and fished". And I still think those both ought to go in there.

_____: Yes. I don't complain as to how restrictive you make that. I feel that these are all, in my opinion, okay. Let's put it under (d).

_____: What about this one here?

_____: Well, let's make sure that this other idea is in there because I certainly wasn't thinking in those terms. That you are not every going to go to the interim, you are not ever going to get out of the interim use period until you get a fishery that's potentially distressed.

_____: I think we are giving ourselves some problems changing the structure around on that.

_____: Well, I don't really want to change the structure. I just want to make sure that the structure is adequate to take care of that proposition. I like the language that you put together here down at the bottom of that one page.

_____: "when the commission..."?

_____: Yes, that's right. That's fine.

_____: When persons who have harvested fishery resources commercially are participating... and as to (inaudible) I'd sure like to get away from calling the categories and drawing the line. It just offends me to have people plugged with initials on them, rather than saying that the commission shall designate those priority classifications

within which individuals would suffer a significant degree of hardship by exclusion from the fishery. Rather than saying, defining that as a (b) category or an (a) category.

_____: The only reason for this was this idea of restriction on transfer.

_____: You could say, those things designated pursuant to section X shall be subject to this restriction on transfer.

_____: If you want to give your commission the power to say where on the hardship line you want to impose a restricted transwer...

_____: No, you tell them. You see, the way we had it here is that in terms of transfer, if the number of entry permits for a type of gear in an administrative area is greater than the optimun number of units of gear established pursuant to sections 270 and 280, the holder of an entry permit who qualified for that entry permit, in a priority classification designated under 200(b), that is the minor the guy that would suffer only minor hardship, of this chapter, may transfer his permit only to the comission.

_____: Yes. Well, you and I have said the same thing, haven't we?

_____: That's right. It gets away from me. Tagging a's and b's on here.

_____: Oh, well, I don't want to use a's and b's if you

don't want to use them. Those came out of yesterday's conversation. Do you want to strike a and b? It does no harm?

_____: Yes. I was just talking about drafting.

_____: Alright. Let's... Then the only thing you must do then when you get over to transferability is not talk about "b" but talk about,.. placed in the second category or something like that.

_____: Well, in other words, I...

_____: Don't you still have to define it?

_____: Yes. What you have to do is, you have to say, "the commission shall designate those priority classifications...

_____: As to which this...

_____: As to which this hardship standard. _____ We had it here this way when we redrafted it. The standards for an issueation of entry permits, and you come down here to the last thing and you say, "the commission shall designate in the regulations those priority classifications of applicants who would suffer only minor and negligible economic hardship by exclusion by the fishery." So you do it before you get to individuals. You do it in the regulations. You say this priority classifications is going to be so designated. And then once it is designated, anybody who qualifies for a permit by being in that classification, is suhject to the restrictions stated later on. Without getting the idea that there are "a" and

"b" licenses floating around. Which I know people will pick up if we have those letters in there. They will think we have adopted the Canadian system right off the bat.

_____: I haven't understood your fundamental point. Why is this one coming ahead of...

_____: You are saying that you want "b" to be people who have suffered only a minor degree of hardship. What I am saying is that what you are really doing is drawing a line. In some fisheries you may have six priority classifications and in some three. Some any number. And you don't want to tie the commission to coming up with just x number of classifications. What you want to tell them is that after they have come up with their classifications, designate those classifications which would define people who would suffer only a minor degree of hardship or whatever it is. Whether you want to say significant, or minor or whatever you want to say. Do it in terms of the particular fishery and then once they have designated those priority classifications...

_____: We are back to yesterday. And I must confess that I made no headway with you and you made none with me. I could not understand the non-generality of something that was described in terms of minor hardship.

_____: It appears to me that just listening to the two of you, it seems to me that you are both doing the same thing. Only what David wants to do is get away from

saying there are going to be two classes, "a" and "b", since, among other things, the Canadians divide their licenses like that...

_____: Yes. I perfectly willing to junk the letters.

(Several speaking at once)

_____: What David is doing is...

_____: He wants to have the commission rank all these people by whatever grouping is appropriate for the particular fishery. That's fine. I don't complain about that. And then he wants the commission to look at each fishery and say, as to that fishery, you people are in (shall I call it "b" for the moment), you people are in "b". And the basis on which the commission decides is that you would suffer only minor hardship, if you were excluded. Now, how is that any different from saying that the commission shall, as to each fishery, segregate the people into those who would suffer hardship more severe than the minor, and those who would suffer only minor?

_____: Because. The objective of priority classification is to get similarly situated groups of applicants.

: I'm quite willing to let them do this. And then I am going to put an "a" on that and I'm going to put a "b" on that...

_____: Oh yeah. And then you agreed that you would strike the "a" and "b" so what is the point?

_____: Because all we are doing, we are not creating a group. We are drawing a line between priority classifications. That is what you are trying to do. Below this is minor, above this is more than minor. What I am trying to sell is _+_____ line rather than _____ group. Because it implies that you have got to...

_____: You haven't told them anything other than the fact that they are to rank them into similar groups?

_____: That's right.

_____: That's all you have told them?

_____: Right.

_____: And then they come in and draw this line.

_____ _____: Because what you say and what it sounds like to me you are doing. Is first we rank them in terms of two groups. "a" and group "b". And then we can come in and sub=classify these groups in other priority classifications. But I want there to be only one... What they do is they set up proposed boxes in which they will fit people. And they develop their specific standards for that fishery based upon past dependence and economic dependence and past participation. That will fit people into these priority classifications. And that will be very unique to that particular fishery, these specific regulations and how many classifications and so forth. And then you come out with your general statewide standard and say, the commission is to designate for each fishery those

classifications containing applicants who would suffer only a minor degree of hardship if excluded from the fishery.

_____: Well, I guess we are going to come out at the same place. I don't really care which order you go in.

_____: I really think he is there. Because if you look at the way this is set up with "a" and "b", you have your subclassification rankings. And if you eliminate the specific references to "a" and "b" you end up in the same place. (Several speaking at once)

_____: The only place where you get into some problems is where you make any use of what you have done. So lets go over to transferability because there is the only place it makes any difference. Okay. What are you going to say when you get to transferability.

_____: Then I say, the commission shall designate in the regulations, those priority classifications of applicants who would suffer only, and I would say that would now be significant...

_____: No, I think...

_____: Let's skip that...

_____: Alright Minor, whatever way you want to go. Then you come back here and you say transfer of entry permits. And here is "a", accept as provided in "b" in this section, they are freely transferable. And here is "b". If the number of entry permits for a type of gear in an administrative

area is greater than optimum, the holder of an entry permit who is qualified for that entry permit in a priority classification designated under section 200(b).

_____: Who qualified for a....

_____: For that permit in a priority classification designated under section under 200(b).

_____: 200(b) was the one used to designate that.

_____: That's right.

_____: Alright. I will say, 195(b)(2).

_____: Okay. ...(Indiscernible)

_____: And you say the transfer his permit only to the commission.

_____: I told you it was easy.

_____: You're right, it was.

_____: Matter of fact, if he didn't want to talk, it would have only taken five minutes.

_____: I'll tell you where it doesn't work. And that is because you don't designate... You are coming down only part way in "a". You have really got three categories.

_____: At least in those fisheries in which that maximum number is determined by the previous license holders.

_____; I do think, to work the way yours works, you've got to have two different sections. You have got to say the commission shall designate those priority classifications of applicants who would suffer significant economic

hardship. And then later on, when you are getting around to issuing permits, you say, the commission, even if you are above the maximum, shall issue an entry permit to anybody in a priority classification designated in sub-section so-and-so. And then you have another one and you say, the commission shall designate those priority classifications in which the applicants would suffer only minor hardship. And then you use that one to crank back into the transfer. Because you have really got classifying prople having an operative effect two different places. Transfer and then who gets it. And I would be much happier with it because then you have only got two words. You have significant in one case and y 've got minor in the other.

_____: Yes.

_____: Because the minor applies to the transfer, and he significant applies to who gets it. Right?

_____: Uh, if you have a fishery in which the limiting factor is not _____ number but the number of hardship people in it,..

_____: That's the one other case we....

_____: In one other case "b" functions there too.

_____: But that can be cranked in to the same kind of reference.

_____: I think we are all mechanically alright except til you get to the section I wrote on transfer.

_____: No. I think we are about the same on that, aren't we really.

_____: Probably. (several muttering at once)

_____: Well, hold off just a minute until we know what we are about to do. Now this distinguishes between "b" and all others.

_____: Well, if you would go with me on this other, you wouldn't need to rewrite transfer because this transfer thing would work.

_____: Yeah, but then wouldn't you junk most of the other mechanism here?

_____: No. You wouldn't junk a thing. It will work the same way. You have to apply to the commission, and those in "b" can only transfer to the commission. And an applicant, on a transfer, he has to be someone who is ready, willing, and able to fish. The only thing we don't pick up is the guy who is in "b" and has, but you can add that to this subsection in transfer that I've got.

_____: Yeah, that was...

_____: Ten years. You see. This we've thrown back into the buy back. "shall purchase and shall at fair market value". In other words, I think the transfer..

_____: No. You _____ look for the permitee, not to the commission. The power of the permitee in certain things.

_____: I felt it appropriate here to tell the commission it had to buy, if you are imposing a restriction on this

guy, that your buy back doesn't require.....

_____: Yes.

(Indiscerible)

_____: I agree with you. Fair market value. But I think it ought to be back in the buy back. The commission shall purchase at fair market value, all entry permits to it.

_____: No.

_____: In this.... you know. From these guys.

_____: Yes. I wouldn't complain if you put it back there.

_____: Course, by golly, I don't know if you really want to do that. You could conceive of a situation in which you had a buy back program all spaced out, and you all of a sudden had more of these guys offering their permits. What you are saying is that they can only sell to the commission. But do you really want to lock the commission into buying all of them. Because that gives them the power over what rate you buy back and _____.

_____: Yes. That is a decision you will have to make. Maybe you don't want to require the commission to buy those.

_____: In 99% of the cases the commission is going to buy from those guys because it will be cheaper first, and probably it won't be offered that fast.

_____: Yes. I don't know. That's a decision you;ve got to make.

_____: Because if they buy it, they have to buy it at fair market value.

_____: Yes.

_____: I was worried that they could really stick it to these guys. A guy could come around and say, I can only sell to you. And the commission would say, well, I will give you ten bucks.

_____: No. Presumably, there is enough of a market that they can look to the other sales to determine this.

_____: We had better make another decision. About what you.....

_____: You mean airplanes and things like that?

_____: Airplanes and things like that, yes.

_____: (Misc. off-subject chatter)

(end of side of tape)

_____: ....skirting the central issue which is how to put in the language about, you know, in addition to buying the permit, they buy the boat and the gear?

_____: It is in there.

_____: You ducked it the sense of leaving it very much up to regulations as to what it is that the commission is going to do.

_____: Right.

_____: I think that's going to be the saving grace in more cases than one. If we put in a whole bunch of fancy language about how they aren't really going to buy the boats,

and gear, people are going to read that and just go crazy.

_____: Well, this is what I wanted to.. It seemed to me that the principle issue we were looking at is how specific the language had to be about buying more than the permit, and where you stick in the language specifically empowering the commission to conduct a buy back program. You can position it later. That seems to be...

_____: We positioned it earlier in terms of our outline in the buy back section. It seems like.

_____: Well, okay. I will go along with you. Now just a minute. Let me make sure...

_____: I think it would work to change it t entry permit.

_____: If that is what you guess.

_____: Okay.

_____: ...do that and then let me tie it into this section I've got 203, called reduction. (Pause) Instead of the whens that you recite, I would prefer to recite that when this section is operative. In other words, for each fishery that went to the optimum number, is lower than the number of entry permits outstanding in that fishery. Or would you... Would you be willing to take that language and put it here again, and repeat it?

_____: No. I'd just replace this language with the outstanding language.

_____: Yes. Alright. Let's do that.

_____: The optimum number of entry pernits is below the...

_____: When the optimum..... is.... lower or is less than the number of entry permits.... outstanding. I say, in that fishery, because that is the same thing.

_____: Yes. The way that we defined fishery.

_____: Let me just put it that way then, in that fishery.

_____: Well, I don't like to use the word "that". In "a" fishery.

_____: Oh. Yes. I have started my sentence out by saying, "for each fishery and which."

_____: Why don't we just say, "in a fishery." The point is, I'd like to leave it with type of gear and administrative area, because that emphasizes that ....(indiscernible)

_____: Yes. Alright. That's right. Although definitionally you are going to pick that up anyway.

_____: Okay. Either way.

_____: I think that when you say, that when this is... (indiscernible) ...the commission shall establish and administer buy back funds.... alright.

_____: You can say, for that fishery if you want to.

_____: For that fishery... (Long Pause)

_____: Is it just to "the optimum?"

_____: Yes. I think it would be better to put it in the singular, don't you?

_____: Yes. "To the optimum" right.

_____: And then this would... I wonder, should this say "for each fishery"? In other words, it terminates as to each separate fund, they are going to accounted for separately. A program for each fishery?

_____: Well, say "each buy back program shall terminate". Would that do it?

_____: That's alright. Yes. That does it.

_____: Terminates when?

_____: When the number of entry permits is reduced to the optimum.

_____: I thought we can't -- oh, the buy back program.

_____: The buy back program shall terminate...

_____: It doesn't eliminate the possibility of _____ the money still coming in.

_____: Why don't we say, "the buy back program for a fishery:.

_____: "For a fishery" alright.

_____: In a sense you could read the buy back program as the whole thing.

_____: Yes. Alright.

_____: (Several speaking at once)

_____: How are we doing?

_____: Well, it is now 4:20.

_____: Well, actually, I think we are making pretty good time.

_____: I'm amazed at what shape we are in.

_____: We are almost down to the drawing pad.

_____: Well there are a few things that are consciously left up in the ajr. Your questions and some of these....

_____: I've got a little laundry.

_____: There is some wording here and there that might not be _____ policy level type thing. I don't know what else....

_____: One thing that I think we hadn't quite decided when you left before, was the issue of the interim use permit....(several talking at once) was that if we leave it open during the interim use permit stage we know will postpone the legal attack until we get further into the program. Because we will get a legal attack from the first guy we deny a permit to. If you see what I mean.

(Several speaking at once)

_____: Well, as you said earlier, that has to be balanced off, I guess, as an inhouse.....

_____: It is legislatively, a decision to make.

_____: And how severe do you think the legal threat is?

_____: Well, I must confess I am more pursuaded by Dave's last point than I was with his arguments of ultimate validity and validity.

_____: I can think of something right now....

(Several speaking)

_____: Except for that factor, I don't worry too much about the idea that you have restricted your interim use permits people to those as to whom there is reasonable likelihood that they will get entry permits. That doesn't

worry me particularly. Because you have so closely tied it to the rest of the recipients. If you had stopped only on an interim entry permit and didn't, and left it up to the commission to work out something after that, I would be much more leary of it. (Indiscernible)

_____: And then the last factor is....

_____: Or put it the other way around, the postponement of litigation, which this fairly well assures. I think you are going to have a hard time finding a litigant that is able to sue you and get a determination until somebody has actually been denied.... You might get a court... (Indiscernible) ...very uphill battle to get hurt on it.

_____: I think that will make a lot of difference. The further down the road you are before you go to court.... That is the kind of predicament, however, which can just go wrong as the dickens because any one judge can take just the opposite viewpoint. You have some guy come in and say, okay, I can get an interim use permit, but that isn't what I wanted. I want to litigate this whole thing and the judge might just decide to hear it. .....whole darn operation.

_____: But even then his case would be _____ a week or so.

_____: I agree.

_____: But on the other hand, don't we, from one viewpoint, weaken the case by allowing everybody in in 1974. Aren't

we really saying, hey, this thing isn't quite as bad as you say, otherwise we would do something about it in '74.

_____: We have done something about it. We haven't let everybody in. We think we can make a pretty strong showing that it had to be somebody that was really ready to participate actively in the fishery. That will keep your speculators out. I mean, you know, you are going to cut out the paper licenses.....

_____: You are not cutting out anybody. (Indiscernible)

_____: But all I am suggesting is I think most of the increase...(indiscernible)...paper licensing... implies that you are going to have that many more people going fishing. And we don't have to issue interim entry permits to anybody who is not going fishing. They guy that will be aggreived is the guy that is getting ready to go fishing and we tell him no.

_____: Well, we will know more about that after this year, won't we. We will know more about how many people (indiscernible). after this year.

_____: If you wanted to restrict the interim permit you could do it next year.

_____: Or I'm even saying that if a lot of these _____ this year, it will show the need (indiscernible)..

(Several talking at once)

_____: If they don't go fishing then we can pull the thing out of there too. It would show that it wasn't necessary. And we still would be _____ of the time when anybody would go into litigation (indiscernible).

_____: I don't think so because January 1, 1974 is the date when you have to start issuing the permits. If a person's going to apply then because they have a plan in the crab fishery and those early fisheries in January and February (indiscernible).

_____: Well, okay. By that same token, you can _____ it up the other way then. So therefore it would be too late to put on the interim use permits (indiscernible) (indiscernible

_____: All seasons are open as far as buying licenses the first of January.

_____: Buy you won't have sold all your interm... you won't have sold very many interim use permits, because most people buy them when _____ March and April. But you will sell a few because some of the fisheries that are actually active in January and Febrary.

_____: Well, we would have essentially gone through another legislative session by the time we could get anything done. And those that were buying from us would have already done so, the vast majority of them, prior to the time when anything could be passed this session.

_____: Well, in discussing this with the Attorney General, in the beginning and again last night, he felt that the strongest thing in this whole bill in terms of legal attack, is the fact that we are not, at any point, closing the fishery entirely. As to a certain class of people. You can make the argument that you can get in under an interim use permit if you are a bona fide fisherman and once you have an entry permit it is a transferrable system and you can buy it. And if we introduce this, we are going to have... I think we have upped our changes of getting into legal trouble materially. Because you are going to have a really aggrieved bunch of people. And you will have actually closed the fishery, on intuition of who may be eligible for 18 month, a year. And for some fisheries it will be longer than that. I have always thought that one of the best arguments that the canneries could make or anybody can make is that we are imposing unacceptable burdens on _____ and that this makes economic planning, and we are jeopardizing... A person cannot move. He is frozen there. And over the next 18 months nobody can do anything. And if we can keep it open and not suffer on down the line,.. I know I'm going to look forward to defending _____ a lot more, I'll put it that way. Because I will feel that those people don't have a leg to stand on. By golly, if I;m looking somebody in the eye, who bought a $50,000 boat and I told him he can't fish it for two years, I'm not

_____: Well, but here's the problem. We have a fishery in Southeastern, the handtroll fishery, in which nobody would suffer any hardship, or very few people would suffer any hardship if you excluded them.

_____: Is it a distressed fishery or is it?

_____: It is at or above present levels, yes. And the idea isn't going to let everybody in. Even though very few people in that fishery are in "a" or "b". They are mostly in "c".

_____: Well, I don't think we can.

_____: Oh, sure you can.

_____: You had better put them in "b" to do it then.

_____: Okay. It is just juggling around.

_____: I would rather have you juggle to put them into "b" than to say that get in without any hardship.

_____: Well, nobody,.. anybody... Well, okay. It is all....

_____: Well, it may be, but

_____: If anybody that would not get a permit could show some hardship.

_____: Well, yes, hardship. But it is prospective. Hardship in retrospect is the thesis of the grandfather system. And if you move beyond it you have lost your _____.

_____: Well, we went through that.

_____: Yes, we have. If it doesn't do any harm, indulge

my whim, then if you will. Okay. So you have set this. But in sub-b there you have this alleviating factor if by imposition of the first one of those factors you have cut across category 'a' right in the middle of it somewhere. Then you could work down through category 'a' beyond what that limiting factor would have told you, to increase the number, to pick up the persons who could show significant hardship. And this differs from a minor hardship. Okay, now skip 'c' for a minute, we'll come back to 'c'. And turn over to 195. Now, this describes who is eligible and then 196 ends up saying that the commission shall issue the permits. But this one simply tells you the persons to whom permits may be issued. Okay. First of all he must be able and intend to fish. Now, from among those persons, then, for fisheries designated as distressed, the commission classifys them into three categories, 'a', 'b' and 'c'. Now 'b' is the controlling one because it is the only one that has got a specification in it, that is, those who would suffer only minor hardship. Now, 'a' are those who would suffer more than that, and 'c' those who wouldn't suffer any. Now....

_____: How do you or Dave see various types of people fitting into 'a', 'b' and 'c'?

_____: I think we are bucking it to the commission. Trusting to good judgment.

_____: They would be fitting in terms of the, rather than just describing them, you would develop your priority classifications. There might be more than one. In terms of the standards of economic dependence, and then you would designate which of those priority classifications were in 'a', which in 'b' and which in 'c'.

_____: That's right. If you will turn over to the next page, there's is a sub-d over there that does give the commission some guidance in determining the existence and degree of hardship under 'b' and 'c', the commission shall (1) include only those who had certain licenses, and that has got to be filled in, and, as to those persons, only those persons... well, no. As to those persons, then you apply a reasonable balance of the following. And then I say what to use, and we have pretty much decided that the House Bill description of the factors was an adequate one. Now, I didn't proport to make any decision on that, but there wasn't a heck of a lot of argument on it. Now this is where the things such as econ ic dependence on the fishery, investment in gear, availability of alternate occupations, was there anything else?

_____: Past participation.

_____: Past participation was described. Now, I don't complain about any of this. So long as it avoids any localism aspect of it.

_____: Okay. You say in determining the existence and degree of hardship under 'b' and 'c' of this thing...

_____: Now, 'c', I haven't talked about. I have to come back to talk about 'c' because 'c' applies to the well, 'c' applies there, and way back under this maximum number, where we are talking about the other types of fisheries, the ones which are not determined to be distressed. And we haven't really worked out the language that we want to use for those. But we are getting close to it. But, as to the distressed ones, we have been through the mechanism, but we haven't quite. Because then you end up with a section over there, number 196, which says to the commission, you issue permits to everyone who is eligible up to the time you reach the maximum number. And if your maximum number cuts across 'a', then you work down through sub-groups of similarly situated persons until you come to the last group, and if you have people who are available that you have in that group, then you do that group by lot.

_____: That would be above the significan....?

_____: No. By this time you have moved your, I don't know whether by this time, but you're maximum number will include those who can show significant hardship if they would have otherwise been excluded.

(Several talking at once)

_____: Why did you use the word 'minor' instead of negligible for 'b'?

going to feel very confident.

_____: No, not at this time you can't.

_____: I mean, in terms of just sheer human hardship, if our objective is to avoid as much hardship as we can in the implementation of this program, I think if you put that whole class of people _____, there are going to be a lot of hardship there. When you compare... Here we have been really worrying about cutting out some of these marginal people, fairly marginal people, when you get around to issuing entry permits. Just in terms of how much hardship you are going to load on to people.

_____: Suppose, Dave, it were feasible to and the commission actually did this. It came into existence by April 15, it looked at the Bristol Bay Fishery or whatever particular one we will pick out as being the worst..(indiscernible). We can't tolerate anybody fishing up there, even if _____ in excess of such and such. And based it upon sound advise given to them even though lacking somewhat in formality, and came to a sensible and defensable conclusion as to that number. And said as to that law, we have...

_____: Won't be (two speaking at once.

_____: ....under the regular rate of system.... ...get entry permit. But we haven't time to go through that now... So for that fishery, we've decided we are going to limit it only to those who have some reasonable prospects of being recipients of entry permits. There

is just no possibility in our thinking, that anyone else is going to get one anyway. Now, that would be step a. Add to it then, perhaps, a transferability then existant, for that type of a determination, suppose you let that interim use permit holder sell it. Right now.

_____: Transfer it?

_____: Yes. He gets it on May 1, and he sells it on May 10.

_____: Well, the administrative burden would be overwhelming if you are going to rely on transferability of interim use permits to get you out of the box. And it would. You are just assuming too much about gearing the commission up.

_____: I said you had to take my "ifs" and I'm commenting on my ....

_____: Furthermore, in terms of this year, if you stick with January 1, 1974, the legal requirements doesn't apply. I realize that you could change that bill.

_____: Yes, sure.

_____: But I think we sort of... We have assured everybody that this system isn't going to go into effect as the '73 fishing season. Only the requirement will be as of January 1, 1973. But I think it is a little late. People have already bought licenses and I think the bills draft will ~~would~~ be going into effect, permit requirement January 1, 1974.

_____: I realize this. I was just wondering whether this sliding gear scale and all this other stuff, I just can't imagine that, especially if the bill is passed, and people can read it and see that they are not going to improve their chances of getting grandfathered in.

_____: But that's logical and reasonable thinking...

_____: But you have got one safeguard. If you started to get in trouble. Your regulations can say someone who is ready to be an active participant in the fishery. You could bill that into a pretty good, you could require more of a showing than you might require if you weren't getting into trouble. In other words, you could screen out the people that are rushing in at the last minute. I think there is something we can use to clearly screen out the paper licenses of guys who are just speculating.

_____: Although that is,.. I gather that the worry is the physical fishing effort.

_____: I don't worry about the paper licenses at all.

_____: Okay. There is no indication then. I don't think we have to...

_____: ...but this whole act goes into effect.. In other words, the way the required permit reads now, it doesn't talk about anything _____ said _____. for 1974.

_____: No, accept in terms of requirements, qualifications.

_____: As of January 1, 1973?

_____: That's right.

_____: (Indiscernible - several speaking at once)

_____: It is only the '74 season that is applicable and I would assume that _____ where we could anticipate the '74 season, the commission is going to be cranked up enough _____ isn't going to have to use an interim system in 1974.

_____: Maybe that is the best out.

_____: I think so. And you are just going to have to live with '73, just to...

_____: Well, 1973 we expect it. But 1974 was the point where we....

_____: I think that if you get your commission going, I think, Dave's basic mechanical structure lends itself to fairly rapid implementation of a lidding process under this determination that 's made initially. I think the commission should operate on that fairly quickly, in a really gross area. Wouldn't you Dave?

_____: _____ comment on it.

_____: Bristol Bay is a classic example of one fishery you could catch with amending legislation next year because...

_____: ...(Several speaking at once - indiscernible)

_____: ...whether the commission could realistically be expected to come up with having gone through the maximum setting, the determination of eligibility, the

issuance of initial entry permits.

_____: Well, if they are up and going by mid-summer this year, they are going to hack out proposed regulations pretty quick. They had proposed regulations by early fall. Before even January is reached, they could be pretty far into accepting applications.

_____: Do you have to wait til January to accept applications?

_____: No, they can accept their own applications. And they can do it separately for different fisheries. I think I'd start sending out statements.... On the Bristol Bay Fishery, your application has to be in by September 1.

_____: Hypothetically, you could issue permanent entry permits for an area for Bristol Bay and never issue interim entry permits at all.

_____: That's right.

_____: Wether, administratively, that is realistic, I don't know. But...

_____: Excuse me. I think it would be easier to go through the steps....

_____: Then what... Of course you need your interim use permits in a second case too. Even after your initial issue of entry permits, those that are under protest and being appealed in courts, you have got to issue interim entry permits to cover those.

_____: But that is a minor factor. (indiscernible -- Several talking at once)

necessary. The fishery doesn't physically start until June.

_____: I think that would work out.

_____: Let's think about the letter of intent, or something. Alright. We've got something over an hour. We'd better talk about constitutional points, I guess. Is there any of that...

_____: Well then, just to tie that down, we can stick with the interim use permit system to anyone.

_____: Yes.

_____: Okay. With those...

_____: Specifying that the other is in operation.

_____: That's right.

_____: By the 1974 season.

_____: I don't think that we have got any serious constitutional problems...(indiscernible)

_____: Okay. Where are we then, as far as initial entry? How do we decide that? Getting in in the first place?

_____: Well, we have, at the moment anyway, got a mechanical system that is proposed by Dave. I have reworked it into kind of an organizational structure sense, but it is still basically works the same way. And I think we are more or less in agreement as to the wording of it. The place that we have not come up with precise language is when it finally gets to the standards for measuring hardship. Although we agree in principle there that any

_____: I got a little bit confused here, I thought that you were saying that we would have the first initial entry permits ready to go in 1974, for the distressed fisheries. ...Bristol Bay. Hopefully Cook Inlet, Prince William Sound.

_____: Yes.

_____: And then you came along and said something about....

_____: No. That they could do it even sooner than January 1, 1974. I just said that conceivably they could move even faster than that.

_____: There is no reason why they can't do quite a few things prior to January 1, 1974. The only thing that that date is tied to is when a person has to have some kind of a permit to fish.

_____: It doesn't mean that the....(several people talking at once) ....they can require submission of applications and all manner of stuff.

_____: They can also issue a statement that inland fleet distressed fisheries, or whatever they decide, there will be no fishing except with initial entry permits in 1974. So even if they don't have them ready by January 1, the gear licensing, they could be set back. See, right as of now, April 15 is the last date for buying a gear license. It is too late after that. That could be set back, giving them an extra couple of months to work, if

reasonable _____ of standards is an alright one. Such things as economic dependence, investment in gear, availability of other occupations, and so on. Are all ligitimate concerns..(indiscernible) We have not actually written it out. And there are a couple models that you can use.. (indiscernible)

_____: I though that you had written up...

(Several speaking at once)

_____: ...He has "a" and "b" and all this and then it was my understanding that you were going to define a line of hardship between...

_____: Oh. I beg your pardon. I missed... The one where I got down to the bracketed part, where I said what to say, had to do.... that's over on the next page isn't it?

_____: I think we are a lot further along though...

_____: Yes. That's right. It is this one. That is the one I'm...When you are categorizing these people over here, you are to use what kind of balance of what factors?

_____: I thought we decided to work through your "a" and "b" category, and lock some people in that way, then use the House Bill....

_____: Yes. That is fine with me. I don't complain what you use there, but I wanted to find to Bob, that I hadn't written it out.

(Several speaking at once)

_____: Alright, the mechanics. Let me use... Okay. Yes, the mechanics of it I think have worked themselves out so that it is really quite a good system. We will start right there. Have you given him the outline first? Let's look at that. I think that helps.

_____: Yes. There was one here someplace.

_____: ...come up with some different titles for article numbers, for article headings. But the basic idea was that there are essentially three sequence phases that you can look at with which the first one is the one where there is the most argument on how, the questions is how you state it. But they all have to do with sort of getting under way. First covering interim use, and then with this mechanism, is the part that's been newly worked out. And this number two now correspondends with this. For designation, I called them severely threatened and we've changed it back to distressed. And this will call then, first of all, after you are in an interim use stage, however brief that may be, for a designation of those areas which are in this particular quality. And the way we define them is by having, in a sense, kind of an estimate made. In other words it is those fisheries which in the judgment of the commission will have the optimum number of entry permits likely to be set no higher than the average number of _____.

_____: What you are saying is that all fisheries that are at or above where you want to be, which is a lot more

fisheries than in the distressed fisheries in the Hous Bill would be under this.

_____: So basically, all the salmon fisheries?

_____: Optimum numbers....(indiscernible)

_____: In other words, you haven't set the optimum yet. This is a preliminary look at things.

_____: It is another way of saying that your present level is above your optimum level.

_____: At or above.

_____: Alright.

_____: Now, this will allow a fairly rapid progress toward control of the worst areas. That is the idea. And the way to measure whether you are in a bad area or not is to use an estimate as to what you think the optimum is going to be and compare it to this, I've called it a formulated figure. I don't know how good a figure it is. But it is one that has been used in most conversations. The average number of units licensed for that fishery during the four years immediately prior to January 1, 1973.

_____: It would be the highest....

_____: Well, I don't really care what you use here. But you should have something that's in the ball park somewhere. Okay. Once you have done that, now, you can talk about distressed fisheries and you can talk about all other fisheries, but we move from that then, to a determination of the maximum number of initial entry permits which will make use of this classification that you have made. So, turn

the page. Now, the first two sections of this page deal with what the total number of initial entry permits you're going to have with respect to those fisheries that have been designated as distressed. And what you come up with by applying paragraphs "a" and "b" is a number. That is all it is. It doesn't tell you who, it just tells you what that number is. Now it's a little complicated because what the first section does is say that you should take the lesser of two. You take that average number of those four years, or, if it should turn out to be a smaller quantity, the persons who are going to be in these hardship categories, "a" and "b" that we come to in the next section.

_____: Didn't we decide, Professor, that it wasn't necessary, that since there aren't going to be any fisheries where you would have that number, that you just say, the highest of the last four years, and that will be the lowest of the two figures?

_____: Well, I want to keep this in for window dressing if nothing else. Because this limits the thing to hardship people, even though this number might be too high. Because I think you must limit it. I don't think you can grandfather anybody in who doesn't suffer hardship.

_____: I don't see any difficulty...

_____: You may have a fishery where this is a limiting number. In which case I think you had better live with it.

_____: I felt that negligible got too close to zero. And we were allowing, and I thought when I wrote this that it was a significant group of fisheries as to which this might apply. I'm told that it is not. But if, as to any particular fishery, it would be such that your maximum number to be set is arrived at by the application of this second factor instead of the first one, then 'b' and 'a' together can be no broader than those persons as to whom there would be some hardship.

_____: 'b' and 'a' together?

_____: That's right. In other words, your total number, I think, cannot exceed those for whom there will be some hardship. And for that reason I wanted 'b' still to be at some degree of hardship, even though very minor.

_____: You mean you _____ to set your maximum number of... level of permits at a level which would let people in that had suffered no hardship?

_____: I don't think you can.

_____: This is under a distressed fisheries, Dave.

_____: Oh. Under a distressed fisheries.

_____: Not under the other one?

_____: No I'm not talking about the other one. Because under those I think you can't be.. needn't be so limited and probably ought not to be.

_____: The thing is, you don't lose your _____ though because you are always talking about people... You

are not ever going to exclude anybody that would suffer more hardship. _____ handtroll fishery because it really bothers me. Because there is nobody in that fishery that suffers any hardship. But yet, if it is a distressed fishery, it has to be stopped at the present level. It is a hobby fishery. But there are too many hobby people in it.

_____: If _____ willing to let the person over and above the hardship people be selected from the world at large, as distinct from those who held past permits, I'd be with you.

_____: Isn't it true that even though they would suffer the most infintesimal hardship, they would still suffer more hardship than someone who has never been in it.

_____: Well..... (several talking at once.)

_____: As a practical matter, wouldn't it be easier to attempt to see to it, although you can't put an armlock on the commission, that if the commission proceeds promptly to treat the troll fishery under 'c', which is a non-distressed fishery, and the net effect would be the same, its going to put a lid on it.

_____: Okay. It's just that... its the concept that I'm concerned with.

_____: Well the concept is that, we're not creating grandfather rights, we're just saying that if somebody has to be kicked out, it ought to be somebody who is hurt

less, not somebody that is hurt more.

_____: Well, if he is hurt at all, I would put him in 'b'.

_____: Alright, then everybody is hurt to some degree.

_____: Now, this has to have some retrospective quality to it. It isn't what you might be hurt in the future if you don't get to do something. It is the fact that you have got a past association with something. (Indiscernible)

_____: ...only people who can apply are people who have past association.

_____: I think that when you put into your criterion for deciding whether there is hardship, the degree of past participation, that that of itself is a kind of measure of hardship. (Indiscernible)

_____: Then we don't have any 'c's. Because all applicants will have to have fished at some time.

----------; Yes. Yes. I think that is right.

_____: That's what I came around to before. The 'b' on page 195, item 'c', the "all others" category is really a....

_____: It is a zero category as far as I can tell. Because you are not going to be issuing any _____...

_____: Well, I agree then, with that.

_____: I don't want you to.

_____: I agree with that.

_____: So even though the guy nominally held a paper permit, he is not going to get one. Now, that's the

mechanism for the distressed fishery. And I think it is a quite workable one. Because that gets your initial entry permits out and it gets them out fairly rapidly.

_____: Yes. My big difficulty is in trying to convince the 90% of part timers in Cook Inlet that they are taken care of, rather than being left out.

_____: Well, it can't be less than the present level. Or the hightest of the last...

_____: I understand that. But, again, with the rotation in and out...(indiscernible)

_____: If you think that your people who are... well, I don't know how this is going to be a factual matter that somebody, either legislatively or administratively _____ _____ sooner or later, and that where there are persons on a part time basis, are suffering hardship if they are kicked out or not. I don't know how you are going to treat them. Are you going to postpone the evil day and let the commission decide it? I think you have got a mechanism to do it.

_____: No. I don't. I don't want to at all. I want to assure them that they are in. Again, I am not interested in _____ such a professional thing that those people are no longer in. That's not good for them and it's not good for the fishery, I don't think. It is not good for anything.

_____: Well under the standard of the highest for four years, or the average of four years, and change it to the

highest of the last four years. Some of these people have not fished consistently every year. But then, the same holds true with all the other fisheries in he state. There are going to be some people who are eliminated because of erratic participation. Cook Inlet isn't the only situation.

(Several speaking at once)

_____: Right. So that my point is that everybody is being treated fairly as far as the number of units of gear.

_____: I'm sorry sir. I do not accept it.

_____: And whether they have had consistent participation or erratic participation.

_____: Basically, you don't want to kick anybody out.

_____: Basically, I want to put a lid on now for those that have any substantial degree of hardship at all...

_____: Well substantial is already talked about. Minor is a different thing.

_____: Well...

_____: The difference between minor and substantial is very great.

_____: That's right. And that we are leaving to the commission and that I'm not willing to . If there is any way around it whatsoever.

_____: But you have got to leave them to actually putting people into those categories because the words themselves won't do it. Hardship, minor hardship, is a concept. It doesn't make any sense unless you tie it to some more

objective standard like past participation or degree of economic dependence, and that still is going to have to be evaluated in the individual cases.

_____: I see no solution for the problem of getting certainty other than to be certain and other than to be specific. And if 'minor' doesn't do it, then I think you have to say 'and' I don't know how we will write it....

(end of tape)

SCOMM

#31:25

CSSB 39 Limited Entry Special Fisheries Commission Hearing: Final March 30, 1973

(Copies distributed)

Senator Palmer While it doesn't say proposed committee substitute, that's what it is. If there are objections that the Resource Committee or (?) Committee wish to make, they will be made. Now I would like to bring us up to date on what's happening. We worked rather strenuously last week in trying to bring this thing to a head, and I think Friday night was it, we finally finished the last proposed substitute prior to this one. We thought we had a good bill. The House members who were particularly concerned came in and met with us on Saturday and went through it. We made allowances for their concerns and amended as they desired, so we had something that would pass both houses we possibly thought. It was then further considered by the attorney general's office and Mr. Jackman was quite concerned with some of the elements in it and since he was probably going to be on the floor defending it before a court, we did think it was important for him to be at least halfway in agreement with what we did. It looked at that point like we might run into so many problems that we finally decided the best thing to do was to try to have a preconference committee meeting prior to passage of the Senate. So at that time we called Professor Fletcher and he came up and we spent two more days, starting from scratch Professor Fletcher on one side of the table and Jackman and Adasiak on the other side outnumbering him and beating our heads on this thing until we could come up with something that did appear workable and do the job for those of us who were concerned there at that time. We did limit the number of people that were there because of the fact that we have so much to do and such a little time to do it in.

I think you are all aware of the problems when we have a room full of people each one trying to have his say and the tremendous burden that results. So this is the reason we didn't have an open meeting with all the public there at that time. However, we did have members of both houses at times and we had other members of the Senate who are not senators and were not members of the committee. I think at this time then the best thing to do since the _____ is to try let Dave Jackman summarize this for us. The important points first of all are the bill itself and then I think perhaps if the members of the committee have questions about how it would work, lets get those questions out so Dave or some of us can answer them. Perhaps after that if you're interested we'll let Dave compare this bill to the House version. Let's lead off that way. Dave.

Dave Jackman Thank you Mr. Chairman. As you stated this proposed committee substitute was the result of much work drawn primarily from the committee substitute and professor put together and the inputs of the people attending those meetings. I think the structure can be most easily understood if you think of it as four parts, or maybe there are five. First, the first article dealing with the creation of the commission, the second article dealing with the basic entry permit system, what entry permits are, what the terms and conditions of entry permits are, how they can be transferred, so forth. The third article dealing with the initial issue of permits, in other words, starting with the present situation, how do we decide where we're going, how we're going to go about putting a lid on things and getting the entry permits out initially to the people

that have been fishing. The fourth article is really phase two of the program. It addresses the reduction of the number of entry permits down to optimum levels. It is working from where we are now down to something like a reasonable level of gear, and the fifth article if I remember it correctly, simply deals with general provisions, penalties, regulations, definitions and so forth. I know you're under time constraints, but I'll take a few minutes to go through the details as to how the mechanism will work. The first article, as I say, deals with the creation of the commission. The commission would be a three member commission made up of full-time commissioners, be a quasi-judicial and regulatory agency of the State. One member would be designated as chairman, the commissioners would serve for staggered terms, be removable only for cause shown, including incompetence, neglect of duty and such as that. I think the sentiment there was so that there wouldn't be an automatic change in makeup of this commission with the change of administration. The two members of the commission would constitute a quorum and clearly the organization of the commission contemplates that it would have an adequate supporting staff. There would be a need for a fairly sizable clerical staff to handle just the bookkeeping mechanics of issuing, collecting fees, and all of that. In addition to that the commission would rely on experts as they needed. The attorney general would be legal counsel and as the chairman noted we would be the ones that no doubt are going to be in court trying to defend this program. The powers and duties of the commission are enumerated in article two. Its just a general rundown so that if somebody might want to make

reference can see all the things that are accomplished some other place in the act. I don't think its necessary to discuss them in and of themselves because they're all going to be covered as we work through . Basically the provisions of the administrative procedure act would apply to all regulations adopted by the commission and the adoption of regulations, public hearings, notice and publication, pretty much just conform with our———————— The commission would adopt its own standards for administrative adjudication. That again is in its quasi-judicial role when it gets around to looking at individuals and giving individual applicants hearing on their applications. It's directed to establish its own regulations and procedures for that purpose. The basic reason for that is experience with other commissions, such as the public utilities commission and transportation commission has shown the ABA procedures for adjudication to be cumbersome, more cumbersome than necessary. Now the article three which lays out the basic entry permit system begins at the bottom of page 5. Section 140 states that the basic permit requirement that after January 1, 1974 no persons may operate gear engaged in the commercial taking of fishery resources in the State without a valid entry permit or valid interim-use permit. It goes on to state that a permit is not required of a crewman to make it clear that the requirement that a person have an entry permit or comes under this system at all does not apply to crewmen or others who would assist in the operation of fishing gear. This applies to—would have to be issued in one-to-one correspondence with the number of units of gear. Sometimes that's vessels, sometimes not. It goes on to state that there are only three circumstances in which a

person can hold more than one permit, that would be to allow a person to fish more than one type of gear, say a purse seine drift gill net or shellfish gear and salmon gear. This is very much an established pattern in many of the fisheries of the State that people fish more than one type of fishery. Fishing in more than one administrative area where we have established fisheries people that actually want to fish or have fished in the past say Southeastern and Prince William Sound something like that. The third situation would be harvesting particular species for which separate interim-use or entry permits are issued. Now that's necessary to provide for situations like you might have in Kodiak where one type of gear shellfish pots is used to harvest tanner crab, king crab, dungeness crab and the level of gear for each of those different fisheries might be very different. So you have to have different permits for king crab than for tanner crab. Now Section 150 starting _____ page 6 spells out the terms and conditions of entry permits. Basically it states that permits operate a unit of gear within a specified administrative area, must be in the possession of the holder, issued for a term of one year, but is renewable annually. This is to make clear that once these things are issued, as long as a person remains in good standing, pays the fees and assessments, he has a right to renewal of a permit. An important term and condition which was added, it may have been in the last couple of drafts, the Senate version, I'm not sure Mr. Chairman, is that an entry permit constitutes a use privilege which may be modified or revoked by the legislature without compensation. This is to make it clear that the entry permits do not constitute

property rights in the fishery or something that is subject to fifth amendment compensation if the legislature wants to modify or restrict or even completely repeal the system. In a sense it's stating the obvious, the legislature's hands are never tied in terms of a system which it creates, but it's to make it clear to people that in terms of the entire system, the legislature could come back and make whatever necessary modifications it needs to in the future. Also stated the entry permit shall survive the death of the holder and that a permit may not be pledged, mortgaged or encumbered or subject to right of repossession or any of that. The fees section underwent substantial discussion and revision because several of the committee members noted the problem of charging one set fee for all the different types of gear in the State. Whereas a family of setnetters that might not make that much money in any given year, still have to pay t'. ;e or four $50 fees whereas the same fifty dollar fee would be all that an operator of crab pot who might gross $100,000 or more would be subject to. To correct that inequity, the fee section reads that annual fees will be no less than $10 and no more than $100 and shall reasonably reflect the different rates of economic return for different fisheries. In addition to that change the Senate bill permits those falling below federal social ecurity administation poverty guidelines to in no case be subject to more than a $5 maximum fee. Transfer of entry permits by and through the commission only. The permits can only be transferred by making applic tion to the commission and only upon a six months notice of intent to transfer, so that the transfer of permits is a deliberate and protected

by going through the commission and being done in full view of the commission. Basically the permits are freely transferable with one exception, one important exception, well, two important exceptions. They are freely transferable with the restriction that the transferee, the person the permit is going to, be a fisherman; they cannot be transferred to speculators or people that are not prepared to actively participate in the fishery. The other important exception will become clear when we discuss the mechanism later on in the bill. But one class of applicants will receive permits subject to a temporary restriction on transfer, which will say that as long as the gear is above optimum level, still up to where we are now in most of the fisheries, they can only transfer back to the commission, they cannot transfer to another fisherman. They will get fair market value just like everyone else but they can only transfer to the commission. Article four—the initial issuance of entry permits first establishes administrative areas which will have to be compatible with the areas established by the Board of Fish and Game. Then introduces the interim-use permit. The interim-use permit is just what it says; it's a permit which the commission will issue while it is making, adopting the regulations, accepting the applications, making the determinations that it needs to make to issue the final entry permits. The interim-use permit system probably in some of the fisheries will only be in effect for six months at most a year. Some of the other fisheries it may be in effect longer than that and be in the developing fisheries which are below optimum levels now, where there's no need to cut off gear, the interim-use permit system is the mechanism will keep track of

that fishery and put on a lid when it needs a lid put on it. But the interim-use system might remain in effect in those fisheries for a number of years depending on how they develop. There is one special restriction on the interim-use permit issuance. Generally they can be issued to anyone who is ready to actively participate in the fisheries, however there is a finding at the bottom of page 9 that in Bristol Bay, Cook Inlet, Prince William Sound drift net fisheries are severely impaired and as a result even on an interim-basis, permits can only go to individuals who have at some time in the past fished in those fisheries. They cannot be issued, even interim permits cannot be issued to fishermen who come in there for the first time this next year. There is a one year restriction on that so the legislature can keep a tight control on that exception. Now on page 10, Terms and Conditions of Interim-Use Permits basically they are non-transferable, they have to be in possession, the commission can adopt regulations for the hardship transfer of interim-use permits and temporary transfer due to sickness or for other unavoidable consequences that would keep a man out for all or part of a season. Then the next important provision is the designation of the stressed fisheries. Now this is substantially different from anything in the House bill. Distressed fisheries are those fisheries that are at or above the optimum level basically. Most of the salmon fisheries would fall in that category. Some of the shellfish fisheries. The only fisheries which would be excluded from that definition are fisheries which in the judgement of the commission can be allowed to grow which are still below the optimum level, there is no need to put a lid on them yet.

Going on to page 11, Determination of Maximum Number of Entry Permits. Basically for the distressed fisheries, the maximum number of permits for initial issue will be the highest number of units of gear fished in that fishery during any one of the four years immediately preceding January 1, 1973. Now for the other fisheries, the non-distressed fisheries, when the commission finds that that fishery has reached levels which require limitation on down the line, the commission shall establish the maximum number of entry permits for that fishery. Then in terms of standards for initial issue of entry permits, these are set forth as hardship standards to rank the applicants in degree of hardship which they would suffer by exclusion from the fishery. The regulations would define priority classifications based on two standards, degree of economic dependence upon the fishery and extent of past participation in the fishery. And at the same point in time, the commission is proposing those regulations which would set forth the qualifications, now they will do this fishery by fishery as in all the bills dealing with each area and each type of gear separately, that the commission will designate those applicants who would suffer significant economic hardship by exclusion from the fishery. Now that designation is important because later on those people must receive permits, they're locked in as much as in one of the earlier drafts the top three hardship categories were. Another designation which the commission must make is the designation of those priority classification of applicants who would suffer only minor

economic hardship by exclusion from the fishery and it is only people who receive permits in that category that have the restricted transfer applied to them, in other words, they can only transfer the permits to the commission until you get back down to optimum levels. Now if they hold on to it or if it goes on to their family there's no problem with that, they can keep the permit. But if they want to sell it to anybody, they can only sell it to the commission. The application procedures are pretty straightforward. Only applicants who have at some time held gear licenses in the area can apply for permits. If the applicant is not satisfied with the commission's decision on his application, he can ask for and receive an administrative adjudication as his own separate hearing of his qualifications at which he can present alternative evidence. Another very important provision included in the section on line 21 of page 12 is that all qualifications are determined on a person's participation prior to January 1, 1973. What that means is that if someone comes into the fishery at the last minute this year can do so, but he won't get any credit toward qualifying for an entry permit by virtue of what he does in '73. The commission will look only at what he has done prior years.
Question--unidentified speaker 2 Dave, how does that prior to January 1, 1973 apply to Paragraph A on page 16?
Dave Jackman--To my recollection, Joe, correct me if I'm wrong, the typist dropped the January 1, 1973, this is on line 8 page 12. There should be an amendment there. You see that was in there and for some reason the typist missed it because applications can only be accepted if you're only going to let people qualify on

the basis of prior to January 1, 1973 then the applications should only be accepted from people who have held a gear license prior to January 1, 1973.

Joe--So if you change that period after 670 to a comma and add the words "prior to January 1, 1973" that will straigten it out. Line 8, page 12.

Dave--On page 13, initial issuance of entry permits, the commission shall issue entry permits first to all qualified applicants designated under 250B that is anyone who would suffer significant economic hardship, then to all applicants in descending priority classification until they reached the maximum number of permits for that area. How far down that list of priority classifications depends very much on the fisheries. In some areas where the fishery is a part-time fishery, you're going to be well down into the casual participants probably including all of them. In other fisheries, Bristol Bay, the cutoff line might be somewhat higher. But in any event no one who suffers significant economic distress can be denied a permit, so those people are locked in. If the maximum number cuts right through the middle of the priority classification, then the decision of who gets permits within that priority classification is by lottery. This priority classification becomes somewhat confusing, but what it is an attempt to do is group people, similarly situated people, into an _____ in the terms of the nature of that fishery and not to pretend that you can draw a line between individuals. You get to a certain point where the commission would be up against a hopeless task if they tried to differentiate 20 or 30 individuals who have

qualifications that were virtually identical, so they're all put into one priority classification and treated equally. Now, if at the time permits are issued some applicants are still appealing the result of an administrative adjudication, permits are held out to protect on the assumption that the appeal will be resolved in their favor. So a person cannot only appeal through the commission but they can appeal it through the courts all the provisions on appeal are ABA applied. If a person thinks he has been treated unfairly by the commission what the commission then would do let him continue to fish on an interim use permit and hold out an entry permit for him until the appeal is finally determined.

Senator Palmer--Let me see if I can get this straight in my own thinking and hopefully in others too. The regs have a maximum first and that maximum shall be no less than the largest number of units of gear that have been fished during the previous four years in that fishery. No less than that.

Dave--That's right.

Palmer--Chairman--It's also going to include all of those that would suffer a significant hardship if they were excluded, and if that last number is bigger than the first why so be it.

Dave--That's right.

Senator Palmer--Now when you're talking about putting across a hardship category and lottery, what your saying is, that after this first group for significant hardship those people are all going to be included. Now if you still have room for all of those and you still haven't gone up to your maximum you're gonna drop on down to another little minor hardship and start letting them in.

Dave--That's right.

Chairman--Now if you don't have room for all of the minor hardship cases, that's when your line cuts through them. Then you're going to stop and say instead of letting any of those in on a one-one-one basis, instead we're simply going to stop and all of those people will be treated the same, they'll be given a chance to draw out of a hat on a lottery basis for the slots that are left before you get to the maximum. Is that it?

Dave--That's right?

Female speaker--I'm a little confused. Just to use a figure, say 500 permits is the highest for the four years...

Palmer-You want me to go on from there?

Female speaker--yes.

Palmer-The highest year of the four there were 500 permits t' were fished or five hundred gear licenses that were fished. Suppose that the commission goes in and ranks all of the applicants and they find 400 of them where there will be a significant hardship if those people were kept out. Then they find another 200 where there would be only minor hardship if they were left out. All four hundred of those go in. The 200 instead of taking the first 100 of them. ..... Now let's take the same situation again, suppose again we have 500 left when we start ranking according to hardship, we find that we have six hundred people all of whom would suffer a significant hardship if they were excluded and other 200 who would suffer a minor hardship if they were excluded. So what we simply do is ignore the 500 and take all of the six hundred and put them in and none of the minors go in then.

Dave--One thing I'd like to ADD that, because I think there is still one point of confusion. In the example that Senator Palmer gave where you have a maximum set at 500, you have 400 people who would suffer significant hardship, they get permits first. You have 100 permits left to issue and 200 applicants. Now those 200 applicants might be divided into as many as 2 or 3 other priority classifications. Priority classification is sort of a notion of a point system if you want to in terms of how many years and what... Some of them would be minor, some negligible, some not at all. So you might not have a drawing of all the 200 but you might come down through one of those and a line would cut across the middle of the second one, so you have a drawing of say 60 who were in one of those priority classifications. So you aren't necessarily condemning all of the people below significant degree of hardship to a drawing but if you have to cut through a group of people that you can't really differentiate one from another, then the only fair way to do it at that point is by lottery. That's all it really says or allows the commission to do.

Unidentified speaker--The commission now determines minor classifications?

Chairman--They would determine them only as set out in terms of the standards of the bill ranking in terms of economic hardship and past participation

Unintelligible question and answer regarding fishing in 1973, Palmer's answer included words "that has nothing to do with what happens here."

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Dave--Now at that point all the entry permits are issued and you're under way. This next phase of programming in Article 5 is reduction to optimum number of entry permits. Before it can reduce present level to optimum level the commission has to make a determination as to what the optimum level is. Now this is the second major kind of judgemental determination that the commission has to make. They're going into each fishery and determine the number of optimum number of permits on a balance of three standards which start on the bottom of page 13 and continue on the top of page 14. Basically the first standard is number of entry permit sufficient to more than economically help the fishery that will result in a reasonable return of the fisherman. The second standard is the number permits capable of harvesting all the fish during all the years in an orderly manner consistent with sound fishery management techniques. It's more of a conservation-oriented standard ——— a number that's reasonable in terms of conservation. And the third is the number of entry permits sufficient to avoid serious economic hardship to those currently engaged in the fishery. Considering other economic opportunities recently available to them. That is an important factor put in there so the commission can balance the human needs and the human circumstances in a given fishery in with the others so it doesn't become some sort of an overly mechanical computation. Look at the particular economy you're dealing with, the particular fishery you're dealing with. Once that optimum level is set, it can only be revised in two instances. Revisions in Section 300, if there is a long term change in the biological condition of the

fishery, such as if the Bristol Bay fishery were all of a sudden to be built up to its 1930's level, twice or three times what the present runs are, that would be the kind of change which would enable you to come back in and increase the number of units of gear that could fish. The second instance establish long term change in market conditions, that's I suppose if the price of fish over ten years tripled, again the fishery would be that much more profitable and you could send a lot more people in again, but the restriction is a long-term change, so the commission is not instructed to come back into each fishery and tinker with the levels every year. They are only to change them if an established change requires it. There is an additional restriction if the commission decreases the optimum number of entry permits. The only way they can reduce the level is through the buy-back provision; that's to make it clear that nobody is ever to have an entry permit taken from him against his will involuntarily. If reduction is necessary, can come only by the buy-back provision which is taken up in the next section. Buy-back funds are established (they start at the bottom of page 14) for each fishery for the purpose of reducing the entry permits to optimum within no more than 10 years. In some fisheries the reduction might be much more rapid than that, in others it might take a full ten years. Assessments on the fishermen themselves would fund the buy-back funds. The assessments would be based upon no more than 7% of the gross value of the total annual catch. Now that's very much an outside limit. In many fisheries the assessment would probably be 1 to 2 to 3 per cent.

Someone who doesn't fish that year would pay the average assessment for his average and again the assessments go back into the buy-back fund for that area. The buy-back program would be administered by the commission to provide for the purchase of entry permits, vessels and gear at fair market value until you get back down to optimum level. I think that's pretty straightforward. There would be three circumstances in which you would have new permits to issue. Section 330 on the bottom of page 15. If you'd increase the optimum, as discussed before in terms of revising the optimum, if permits are forfeited back to the commission for non-payment of fees, then there's one other instance that slips my mind. Under the penalty section, you'd have more permits becoming available. Or if you put a lid on a fishery one of these fisheries that's not in trouble yet and then when you get around to setting the optimum you realize that you can still allow for some growth, then you might have new permits to issue. Section 330 instructs the commission to issue those permits to fishermen, people who are ready to fish in that fishery, according to any equitable method of issuance. Now in some situations priority of application or lottery might be appropriate, in other instances competitive bid might be more appropriate. It would depend very much on whether you had 2 permits and 500 applicants or whether you had 300 permits and 400 applicants. You know, that's going to vary from situation to situation. The general provisions, Section 350, the applications of the Board makes it clear that the jurisdiction of the Board of Fish and Game is not affected by this act. They continue to be the ones that decide on specific regulations on gear, length of nets, size and mesh size, where you can fish what net. The

commission and Board will clearly have to work together, both their basic jurisdiction is unaffected. The penalty section has three parts. The first part talks in terms of violation of the chapter. Upon third conviction of the violation of the chapter or regulation under the chapter, that would be like failure to have permit in possession while fishing, a person would forfeit all interim-use and entry permits and lose eligibility for permits. The second part of the penalties has to do with fraudulent statements in qualifying for an entry permit or assisting another in making a fraudulent statement on another's behalf in qualifying for a permit. Again a person who is found guilty of that in addition to being guilty of a misdemeanor would forfeit all and any permits which he held and would forfeit his eligibility for permits for a period of five years. The last section deals with someone who violates the tax laws in relation to fishing. He would lose his permits and lose eligibility for permits for five years.

Section 370 requires the commission to submit an annual report to the legislature to include a progress report on the reduction of gear at optimum levels, recommendations for additional legislation relating to the regulation of entry.

Section 380 are the definitions. I don't think they need to be covered in too much detail.

Section 2 and 3 merely make some technical amendments to other parts of Title 16.

Just to comment briefly, the most basic difference between this bill and the House bill is the fact that the House bill would have permitted an initial cut in the three enumerated distressed fisheries rather than letting people in at the present level, the highest of the last four years, the commission could have made an initial cut in Bristol Bay, Cook Inlet, and Prince William Sound not more than 25%, in other words that they issue at least up to 75%. I think that about covers it.

Chairman: Is there any doubt in your mind that this language in which we say that constitutes a use privilege can be modified or revoked without compensation, does give us all the authority we need to come back next year and make whatever changes need be made regardless of what they may be, whether it's transferral, whether it's the ownership of the thing, the so-called pot of gold at the end of the rainbow or regardless of what it is, that language does allow us to come back next year and there would be no vested or right that would be permanent and could not be changed?

Dave: That's correct, I have no doubt in my mind. Also, might point out that the terms and conditions, some of the other terms and conditions have been changed also. The word "right" I don't think appears at all. It authorizes a person to operate a unit of gear in a given area, you can renew it annually, but the legislature can do anything in terms of restricting transfer, in terms of abolishing the system, in terms of changing the ground rules without being subject to compensation. [SK]

Chairman: Can you explain how this would work as far as the trollers down here, the hand trollers, where there are so many involved and yet their take is very limited.

Jackman: Under this bill that fishery would not be designated, I doubt that that fishery would be designated a distressed fishery. Probably the lid would not be put on it at the present level because if they take such a small percentage of the fish and may not be indeed be above the optimum. In addition to that the sport commercial fishermen in the hand-troll fleet so called must be treated separately from the power-troll fleet. That is one thing I should have covered in the definitions. Type of gear, definition number 7 on page 18; The customary and identifiable classification of gear shall include A) those classifications for which separate regulations are adopted by the Board of Fish and Game and for which separate gear licenses are required. B) shall include distinct sub-classifications of gear such as power troll, and troll gear. That means that entry permits for hand troll gear will be separate from entry permits for power troll gear. I think that takes care of the problem in Southeast.

Chairman: Before you go to questions then, would you summarize one more time what will happen this year and next year as you see it. The free access year, interim-use next year, when final entry permits become available and so on.

Jackman: The bill does not affect the '73 fishing season. The permit requirement starts January 1, 1974. Clearly the interim-use permit provisions will allow anybody who presently wants to fish to get an interim-use permit except in three fisheries in 1974:

Those three fisheries are Bristol Bay, Cook Inlet and Prince William Sound drift net fisheries. And in those fisheries in '74, only someone who has fished there before can get a permit, someone who has fished prior to '73. In the other interim-use permit fisheries you're not going to cut anybody off until you get the point of issuing entry permits, but the point to be remembered is holding an interim-use permit in '74 does not count at all in terms of qualifying for an entry permit eventually. It's just so the fishery is not closed arbitrarily, so that people who have already made investments in vessels and gear or for one reason or another have to change areas or something like that aren't told no until you actually get around to issuing those entry permits.

Chairman: Realistically we have two years to modify this statute before the first of the permanent entry permits are issued in most cases.

Jackman: In most cases. It would be possible for the commission to issue permanent entry permits in some fisheries, again probably those most distressed fisheries like Bristol Bay in '74. I doubt that they would accomplish that if for any fishery for more than a few in '74. So again you have at least one year in most cases, two years to modify the act.

Female speaker: If someone had a small boat and they .... related to salmon gear.... this is after they get to the regular permits, could he sell that permit whose be .....

(Others involved in question, unintelligible)

Jackman: Permits are issued in terms of type of gear, purse seine in Kodiak, let's say now; you're talking about a very small

Several conversations

Jackman : It's like hand troll and power troll, the commission has the authority in this bill to deal with those separately if it makes good sense to do so. They can create sub-classifications of types of gear; but as Roy pointed out as a practical matter you can't press it too far because of the difficulty you have in drawing those lines. Hand troll and power troll is fairly easy.

Unidentified speaker: There's no worry about constitutionality?

Jackman: There's always worry, but I think this bill can be constitutionally defended.

Unidentified speaker: I notice we referred to income taxes in the penalty clause. Will they be considered in the issuance of permits? If people are deficit in their Alaska income tax.

Jackman: Yes, as was pointed out I think in the study, one of the most important types of evidence of economic dependence on the fishery is probably going to be income tax records. So in the regulations, in the mechanics of taking applications, a person who's come up here and not filed income tax for one reason or another, number one either isn't going to apply at all, or number two if he does apply and at that instance going to subject himself to the penalties of the law for avoiding income tax, and

I think that there will be a sizable number of those people excluded from the whole process on that basis.

Unidentified speaker: Dave, are you all satisfied that this is going to meet the conservation goal of the legislation sufficiently? It appears to move a little too slow in addressing that aspect.

Jackman: Well, I suppose all of us wish we could move a little bit faster to solve a problem that has become so serious, but I think this will clearly put a lid on things and turn things around and start from the right direction, and put a handle on it where there has never been a handle before, and I think it will have big consequences in terms of conservation of this resource.

Unidentified speaker: One thing more.....

When people die and what not, this can be passed on?

Jackman: That's right.

Unidentified speaker: So there is no... attrition in that regard?

Jackman: That's right.

Unidentified speaker: That aspect is not here.

Unidentified speaker: There is no attrition through death.

Recording ends.

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(Side 2 of tape)

UNIDENTIFIED SPEAKER: I was hoping that someone would explain the transferability form, and I can ask somebody after the meeting so that he doesn't have to repeat it (indisc.)

UNIDENTIFIED SPEAKER II: (Indisc.) related to Resources and he'll me available. He can explain it (indisc.--simultaneous speech).

UNIDENTIFIED SPEAKER III: Where's John Radar?

CHAIRMAN: He's not going to be here today.

UNIDENTIFIED SPEAKER III: How about Petrovich?

CHAIRMAN: Well, he's at a big conference, so I assume...

UNIDENTIFIED SPEAKER III: Okay, he won't be here either.

CHAIRMAN: Do we have the Resources here on the map? Any other questions of Committee members or of the Legislators? Okay, for those in the audience that want to ask questions at this point will do so. Phil.

PHIL DANIELS: I was just curious about the violations--it's on page seven (indisc.). ...income tax chapter having to do with income tax clause, and I was just curious about that. What type of violation would that be?

MR. JACKMAN: Well, it'd be a knowing failure to report income or--I'm not an income tax expert. I think it's a criminal, it's a felony violation. It's quite serious (indisc.--simultaneous speech).

MR. DANIELS: My worry was we wouldn't want to have (indisc.) violations (indisc.).

CHAIRMAN: Yeah. Well, I think that if that were the case, Phil, and correct me if I'm wrong, but the history of the courts has been where the violation--the penalty is so strenuous for a minor violation then the conviction simply doesn't come. Isn't that what happens so much of the time where we...?

MR. JACKMAN: Yes, although--and I think that it would work out fine, because as I understand it, that's the felony tax evasion section which is a pretty serious crime, but I think you're correct in asking the question, because this is

a pretty serious penalty and it shouldn't be imposed, like what you're thinking, for dropping (indisc.) on or something (indisc.).

MR. DANIELS: I had one other question.

CHAIRMAN: Go ahead.

MR. DANIELS: Is it likely that the money for the buy-back program, which is agreed is up to seven percent of a person's gross income, would be used for some kind of revolving loan fund or something of this type, or do you contemplate that money being used directly in a one-to-one ratio?

CHAIRMAN: No. We're saying that it's a revolving thing and that the assessments need not match the purchases of each day--each year, and they could go on, but they will continue until all that has been expended from the fund is repaid.

MR. DANIELS: Would it be, then, likely that before the assessments, as I have understood previous conversations, before the assessments are arrived at by the commission they would hold hearings in an area and ask the fishermen how fast they would like to get the out of that area, or--is this a likely way that it will go, or...?

MR. JACKMAN: I think that it is. There's a statutory limit of ten years, but in terms of arrangement in that, and in terms of how fast you want to get down...

CHAIRMAN: Well, wait a minute. That's for buying back, it's not for paying off. We said specifically that the assessments would continue--could continue after that ten years, and the earlier of that--didn't we leave this in there? Just a minute. Line, page one?

UNIDENTIFIED SPEAKER: (Indisc.) 15, line 12. It's still in there.

CHAIRMAN: Line 12. Assessments need not equal annual buy-back from expenditures within a particular fishery. It shall be continued until the buy-back fund for that fishery has been reimbursed, so even when your buy-back stops within ten years your assessments can go on until the whole thing's been paid back, which allows the fishermen to spread it out.

UNIDENTIFIED SPEAKER: Even more flexibility in terms of spreading out the... That's correct.

CHAIRMAN: Jim.

JIM: I had a legal question I wanted to ask Mr. Jackman pertaining to this evasion thing here. I--it's been banted around in various fisheries groups this thing about pie-in-the-sky type operations that we're going to eliminate a lot of Seattle or state fishermen who have not paid this Alaska income tax. Well, I myself, have already checked into where Federal District Court had ruled that a person residing out of the State of Alaska does not have to pay Alaska State income taxes upon fishing income derived thereof. Well, essentially, from a legal standpoint you would have to reverse this decision by the Federal Court before you could ever come down on them for not paying Alaska State income taxes, isn't that correct?

MR. JACKMAN: You're correct in your memory of that decision. I thought that income gained while fishing within Alaska waters was still subject to tax. Now is I'm incorrect on that, go back and read those decisions. In terms of off-shore, outside the three-mile limit, fishing up here in that sense, I'm sure you're a hundred percent correct. Fishing in territorial

waters of Alaska, I'd be very surprised if there was not still a requirement on paying income taxes on that.

JIM: What do they do, pay part (indisc.)?

MR. JACKMAN: That depends... You're right. That depends on tax law, but (indisc.) fishermen have evaded and they will know there's been a sizeable--there's been a lot of that in terms of just sheer evasion of paying taxes on fishing, fish caught in Alaska and fishing in Alaska, then they're not going to be...

JIM: You don't really know what this stipulation is, then, on just flat not paying Alaska State income tax because they say they don't have to pay it? There's a lot of Seattle based fishermen that do this.

MR. JACKMAN: I'm sure if I could see the article you're referring to because I'm just not up on that case. Do you know Roy?

MR. RICKEY: You know, in 19--two years ago Congressman Kelly got a bill through (indisc.) congress to bar withholding of the tax, but I'm certain it has to be paid.

CHAIRMAN: It's just withholding?

MR. RICKEY: Withholding the tax. It need not be subject...

CHAIRMAN: Let's make sure we check that out. Joe, do you know anything more on that?

JOE: No, I don't know (indisc.).

CHAIRMAN: Okay. Allen.

MR. ADASIAK: The director of the Audit Division in Revenue would be responsible for collecting taxes. He was very interested whether or not we had a provision like this in the bill, because he knows he can get a lot of money off of people

that would pay their taxes, and according to him, yes, they can collect on income earned from fishing for a living in territorial waters.

CHAIRMAN: Would you do this for me? Would you go back to him and get a statement in writing from him to answer Jim's question on this point? Okay. Alright, I believe you... Would you identify yourself first, please, for the tape.

ARCHIE LATHROP (sp.): I'm Archie Lathrop (sp).

CHAIRMAN: Archie? Okay.

MR. LATHROP: What consitutes (indisc.) putting a monetary value on (indisc.)

MR. JACKMAN: Property, in short, is what the State Legislature says it is, and here they've been quite clear in saying that this is a use privilege which can be modified in any way.

MR. LATHROP: Another question. (Indisc.) gear in each area, is it necessary for (indisc.) buy-back program. In other words, if I had a permit in Bristol Bay and I had not used it for two consecutive years, what (indisc.) money for something I haven't used?

MR. JACKMAN: Well, this goes a long way back, really, in terms of the work and drafting through the various bills that have been before the Legislature. I think you're correct. The Legislature could deny entry permits on almost any basis as long as the standards were fairly applied to everyone, and as long as they denied the permits fairly and squarely across the board, but the decision which was reached long ago was that initially it was wrong to deny permits to people that had some basic dependence instead of participation in the

fishery, and that rather than being that harsh and making an initial cut and just saying you guys are out, I think what the House, in terms of this bill, the Senate preferred a buy-back program which was just less disruptive to the individuals involved.

MR. LATHROP: I was wondering. (Indisc.) residents who do fish (indisc.) year after year, and the people in the lower forty-eight were (indisc.).

MR. JACKMAN: Well, I point out that the standards in this bill would do that (indisc.) thing. Instead of past participation it's going to result in placing a man in fisheries every year in a higher priority classification than a man who fishes only the high years. So the standards in this bill will accomplish that, and if for that very reason some people don't qualify at the outset, then you'll have accomplished what you suggest, to favor those people who've fished more consistently in the past.

CHAIRMAN: I think it can also be said that for those who do get entry permits, as long as they pay their fees they can keep their permit valid, or after two years--I guess we let them go two years without paying, the second year they're able to revalidate it. To require to fish it every year would really be working against the best interests of the residents in the fishery. It would be far better, I think, if they're once in, to allow them to go ahead and pay their fees, but not make them come in and fish on the poor years. That way for those residents who are there fishing, there simply is a larger pie, or the same pie to be divided up between a smaller number of people than if we force them to come and

fish every year to keep their permit intact. Are there other questions? Dave.

DAVE: I have two. The first one is, Senator Polland asked the question whether you could differentiate between permits for a small purse seine and a big purse seine boat, and if I understood the answer, why, it was really pertinent. I wondered if in this bill it allows the commission to differentiate permits between small crab boats and big ones, or fishing the same kind of gear. In other words, fishing a six-by-six or seven-by-seven crab pots and similar things which (indisc.). In other words, if we take the maximum number of (indisc.) previous years and say that becomes the optimum number, then small boats could become big boats and we could end up eventually, possibly, the optimum number being a very small handful of large boats, and--well, I just don't know...

MR. JACKMAN: Well, to begin with, I think my answer to Senator Polland was that the commission clearly has the authority to make those sub-classifications and distinctions between sub-units of types of gear as long as it can practically accomplish anything--as long as you can tell, you know, that's a different kind of crab boat from that. The difficulty comes if you're trying, as Lloyd pointed out, to make it--to draw a line between a type of gear, purse seine or whatever, you know, that isn't that different. In terms of the crab boats the commission has the flexibility to decide on what basis they want to define those units of gear and they do have the authority to distinguish--you know, to crank the vessel component into it, and make distinctions of that kind. That's

same kind of a distinction as the distinction between hand troll and power troll, because you've got, you know, completely different kinds of economic operations. The commission has that flexibility in the bill.

CHAIRMAN: And I think that's one of the reasons, too, that we left that third criteria in as far as setting optimum limits, so that the commission is not required to go strictly on the basis of efficiency and gear. The third criteria speaks to the point of maintaining a larger number of people in the fishery for the overall benefit of a larger number of people. In other words, we may find it highly desirable to keep a large number of part-time timers, small participants, in, and with that third criteria for setting optimum numbers that's what we've accomplished. Without that, you could carry it to an extreme of, if we're really for efficiency we wind up with only traps in the mouths of rivers, which is of course, an extreme, but with this third criteria, why, that's not possible.

UNIDENTIFIED SPEAKER: (Indisc.) unclassified. I don't fully understand the answers to it if the commission can't--did the commission--partly the commission does have the authority then to differentiate between a (indisc.) seiner and a (indisc.) fishing the same type of gear for the same gear permit. Is that right? It will have the power to say a permit may not be transferred from a (indisc.) to a seiner, is that--does the commission have the power to deny that type of rule?

MR. JACKMAN: They do.

DAVE: That as from a (indisc.) seiner to a 100 footer as far as a crab boat... Okay, my other question is in getting a permit for a fishery which hasn't reached the optimum level yet. Let's say, for instance, a (indisc.) fishery i· Kodiak. If a person buys a permit before it comes to the level, and maybe just fishes it one but then he doesn't fish it, the maximum--let's say the fishery could support 20 boats, but only 15 people were fishing, but 40 people have permits. Do you see what I mean, there's no requirement--is there any (indisc.) requiring that person to use that permit. Do you understand the problem? I'm not explaining it very well. If there is a problem I might go out and buy, (indisc.) permit and not use it just waiting for the day, whereas...

SENATOR RADAR: Could I respond to that? In terms of these developing fisheries, the commission--true, everybody's going to have to have an interim use permit. It'll be able to monitor not only who's fishing and how many people, but the rate of turnover, and in terms of setting the maximum, it might watch a fishery and watch the rate of turnover and say, well, we know that the optimum may be up around 40 somewhere, even though we only have 25 in this year, we know in the past in terms of turnover, we'd better put the lid on it now, or we're going to have to design somebody who's bidding the permit--the permanent permit, so it's got a lot of flexibility in terms of an emerging or new fishery, to monitor and actually put the lid n it before it gets into that kind of trouble so that it doesn't happen to take over some who, you know--

and on the other hand, it can deny a permit to someone who buys an interim use permit and doesn't fish it, because there's still the requirement of actually fishing in terms of qualifying, see? The mere paper licensing isn't going to count.

CHAIRMAN: Okay. This one and then that's the end of it. Alright, I'll let Don, too. He's hasn't had a chance to speak. Go ahead.

UNIDENTIFIED SPEAKER: (indisc.) open up in Bristol Bay, let's say bottomfishermen, other than salmon. There is no fisheries relating to the bottomfish in Bristol Bay right now. How would you allow fisher permits to come in and utilize right now (indisc.).

SENATOR RADAR: Alright, this is exactly the mechanism we've been talking about. As long as it's a legal type of gear in terms of what the Board of Fish and Game does, anybody that wants to can get an interim use permit and fish it, and there's even a special provision in this bill providing for experimental and issuing some interim use permits for experimental fisheries authorized by the commission, so there's absolutely no preclusion on that kind of thing taking place. As a matter of fact, it's encouraged because you know that if you come in and you develop it, and as an interim use permit holder have fished it, you know that it isn't going to be one of these boom and bust things. If you develop a good fishery it can be stabilized before it gets in trouble.

UNIDENTIFIED SPEAKER: In other words, (indisc.) commission (indisc.)

SENATOR RADAR: The people in this commission have no authority to preclude you from going out and starting--I mean, that's

entirely the Board's purview. They have to issue you an interim use permit if you, you know, if that's a legal type of gear and you have the proper permission from the department and the board.

CHAIRMAN: They have to issue the permit, then?

SENATOR RADAR: The only thing they can do, the only authority this board has is to stop things before they get out of hand and put a lid on a fishery when it begins to reach maximum or optimum levels, not to make any decisions that would retard the growth of the fishery.

CHAIRMAN: Doc.

DOC: I have a question for Tom. If a person prior to January 1, '73 has (indisc.) qualifications for putting in a top priority classification and the four permits were issued, the--for instance, his rich uncle died and he got a million dollars or so, or--anyway, the prime example is a school teacher. Would this (indisc.) before January 1, '73?

SENATOR RADAR: It would not. You've got to apply that equally. If you're going to say qualifications prior to '73, that's what you say.

CHAIRMAN: Okay. Are there any objections from the Fishery Committee members, then, in sending this bill out onto Resources, and then Resources is going to be meeting here as soon as we adjourn this, and we're 30 minutes late already, so--Resources does have a lot to do. I ask unanimous consent. Is there any objection. If not, so ordered, and in that case we'll adjourn the meeting and just let John take over here

and... Well, that's what I asked you to bring over. I've got the Committee's...

UNIDENTIFIED SPEAKER: No, I've got the...

CHAIRMAN: ... and we'll change chairs and go on with Resources.

(End of tape)

SCOMM

#31:26

IN THE SUPREME COURT FOR THE STATE OF ALASKA

STATE OF ALASKA, Appellant, vs. LORI L. OSTROSKY, JULIANNE OSTROSKY and HAROLD C. OSTROSKY, Appellees.	No. 6336
LORI OSTROSKY and JULIANNE OSTROSKY, Cross-Appellants, vs. STATE OF ALASKA, Cross-Appellee.	No. 6373

APPENDICES TO APPELLANT'S BRIEF

Eric - I need one copy of all of this (by end of tomorrow)

Thanks,

Margot

APPENDIX A

EXCERPTS OF THE HEARING TRANSCRIPTS OF THE SENATE SPECIAL COMMITTEE ON FISHERIES, EIGHTH LEGISLATURE, FIRST SESSION, 1973

AFFIDAVIT OF JOHN B. GAGUINE

STATE OF ALASKA)
) ss
FIRST JUDICIAL DISTRICT)

JOHN B. GAGUINE, being first duly sworn, deposes and says:

1. I am an Assistant Attorney General for the State of Alaska, and am counsel for the appellant in this action.

2. In preparing Appendix A to this brief, I have reviewed transcripts of nearly all, if not all, the committee hearings of the 1973 legislature on the Limited Entry Act. The excerpts of those transcripts comprising Appendix A represent the portions of those committee hearings that in my opinion deal most directly with the question of transferability of permits. These excerpts are decidedly not a complete collection of all the references in the hearings to transferability; there are far too many such references to make that practical.

3. Either I or Dorian Morris, a legal secretary with the Department of Law, have compared the transcript excerpts included in Appendix A against the tapes of the hearings. We have made corrections by hand when the typed transcript did not correspond to the tape as we heard it. Thus the transcripts in Appendix A, as revised by us, reflect to the best of our capabilities the contents of the hearing tapes.

Because of the length of Appendix A, I felt it was impractical to have the previously prepared transcripts retyped to incorporate the changes Mrs. Morris and I made.

John B. Gaguine
Assistant Attorney General

SUBSCRIBED and SWORN before me this 22nd day of January, 1982 at Juneau, Alaska.

Notary Public, State of Alaska
My Commission Expires: 3/28/83

STATE OF ALASKA
OFFICIAL SEAL
Dorian L. Morris
NOTARY PUBLIC
My Commission Expires March 28, 1983

HEARING OF THE SENATE SPECIAL COMMITTEE ON FISHERIES 1/24/73 #4

UNIDENTIFIED SENATOR II. I don't know if you've considered this, Mr. Chairman. Did you go into the question of why--I mean, what was the theory in making these transferable through sale?

You know, I'm a lawyer. I've been a lawyer for 20 years. I've got a license to practice law. I can't sell that license.

MR. JACKMAN: Mr. Chairman. Our reason for doing that is because our objective was to stabilize the fishery, not close the fishery, not create an exclusive class of fishermen as individuals, but stabilize the fishery at that level. We see that as the real purpose of the bill, not to decide--and secondarily, one of the real legal weaknesses in any effort to limit entry is when you start to close the fishery for a substantial period of time, so a person on the outside has no way of getting in and there isn't any movement in and out of the fishery, there isn't--a person can't shift from one area to another easily, and we felt that the only way to accomplish this without creating insurmountable administrative burdens was, once this right is conferred, it's not really property and it may be quasi-property of sorts, to let the individuals transfer or sell these permits.

UNIDENTIFIED SENATOR II: In the British Columbia experience, what do they sell for nowadays?

MR. JACKMAN: Well, you can pick up the Fishermen's News that's published in British Columbia, and usually the permits are sold, or their what they call A licenses, in their system they're attached to the boats, in our system they wouldn't be attached to the vessels, but clearly they'd usually be sold with the vessels, and it seems to have increased the price of getting into the fishery maybe 20, 30, 40 percent. I mean, you can run down and there'll be, you know, gillnetter with X equipment, and an A license, $16,000 or $10,000, or maybe a much better boat $30,000. So, we haven't analyzed it as closely as we should,

but it appears that the ~~vessel (sic)~~ entry will rise somewhat, but not--you know, not anything unreasonable. They aren't going to go out of sight.

SENATOR GROVE: Mr. Chairman, when I first came to Anchorage you could buy a liquor license, you know, for $3,000. The last time that anybody inquired about it, that I'm aware of, they're selling for $20,000, and that's over a period of time, and they become terribly valuable assets. I'm just wondering what, you know, what range we're talking about here. Are we talking about $300, $500, $1,000, $5,000?

MR. JACKMAN: Clearly we're talking about many, many ranges, because each type of gear in each area and each fishery is going to be very peculiar. An entry permit to fish a hand troll boat in Southeastern won't be worth nearly as much as an entry permit to fish a purse seiner or a--because the entry permit represents nothing more than the right to participate in the fishery, and the projected discounted income from that fishery will establish the market value of the permits.

UNIDENTIFIED SENATOR: Well, Mr. Chairman, it seems like you really got around to something here. I know it's been talked about. What about a moratorium on the people, and not let any more in and just let those who are there slowly die off or move away until that alone reduced the number of people and the number of gear and the amount of gear to the right level?

MR. JACKMAN: Mr. Chairman, if I might respond to that. We considered that and rejected it primarily because it's on extremely weak legal grounds, we think. Any attempt to really close the class

of fishermen for a substantial period of time, to wait and let attrition take effect, has the real practical effect of saying to anyone on the outside that there is absolutely no way that you can get in, and it does amount, if I can borrow words from the constitution, to a sort of exclusive right, whereas we're talking about a stabilized level, but not a closed class, and I think--I'm not--you know, you can't predict what the courts will do in a particular situation, but we felt that kind of an approach would be on extremely weak legal grounds. The courts have--you may remember the language from some of the decisions on previous limited entry programs, they've spoken of medieval guild systems and apprenticeship systems and there's been a reluctance to go along with programs like that.

CHAIRMAN: While we've gone that far into it, we might mention some other proposals then that we may be coming up with. We have discussed informally these things, and one of them is this, this moratorium on any additional numbers of gear licenses, first, perhaps, reducing somewhat by those licenses that have not been fished at all, et cetera. But then, giving this a property right right from the beginning and allowing a fisherman to sell it when he desires and trying to arrange things so that the State will be the purchaser in as many of these as possible, so that in this method we do reduce amounts of gear without forcing anybody out that's really been in the fishery fishing. Now, you might want to carry further on that if you want to elaborate, Dave.

MR. JACKMAN: Well, this would essentially amount to a voluntary buy-back program which, depending on what the starting level

was and how far you had to move to get back down to your optimum, would be more or less expensive. It certainly is compatible with the basic structure of the administration bill, although it's not a feature of it. In other words, as you explained it, we'd still be stabilizing numbers and creating the property right at the outset, not closing the class, but we'd be moving back to the optimum by buying out--by offering market value plus five dollars or whatever it took to get people to sell their entry permits back to the State.

CHAIRMAN: One extreme advantage that this has, as I can see, is that we do not, at that point, we do not period force out who has really been in the fishery. If we allow him in for one reason or another and he wishes to get out, then his license is bought, and hopefully by the State, and we reduce numbers that way. There's a lot of thinking and a lot of work to be done on the proposal and it's not in finished form at all, but it's one of the things we--we've met a couple of times, some of us, with the A.G.'s office and so on, trying to work these things out, so... Other

WHITEHEAD: No, let's take buy back. The applicant pool is language that we recieved from legal services. They feel that there is a real problem in the transferability of the permit. We can change that.

_____: Yes. The legal services ~~want one~~ one has that one problem, which probably could be controlled _____. I for instance wouldn't care if you went for a straight buy back where the property became, where the license, once you qualified, became a property right and you could just sell it for whatever you could get for it. This would mean that your buy-back funds would have to assess the other fishermen fairly high to buy this man out. Or

whether you want to use an attrition method ... can sell his,.. One of the methods that they asked for was that no man could sell his license at all. Not being able to fish, the license lapses to the state. And this has a terrific hardship on somebody who has invested $60,000 or $100,000 worth of boat and then suddenly the old man dies and that's the end of the license. I prefer the buy back system but legal services has some arguments in here. What it is, a good argument on their part, was when a person wants to sell his license, let him. But he may only sell it to a person who meets the apprenticeship qualifications. In other words, it is not on an open market itself, the state keeps a list of apprenticeship people and a person who has served so many years on it, or graduated from one of the maritime fishing schools, is on this list and when you say, I want to sell it, the state established an assessed valuation price and this person on the list picks up the license.

_____: Bob, do you anticipate that we will have an opportunity to hear from Legal Services on.....?

_____: Yes.

_____: Now, getting back to the same thing, this transfer of entry permit. They have two proposals, legal services does, just basically, they deal with real problems because these are going to be property items that are going to be valuable and that come a lean, long winter, people will be selling them and giving up their rights to the Fishery.

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 (indiscernible).~~ transferability. 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~~ I think it is just 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 it observed in a certain area, that permits were just dropping out and being held by people, thing 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 some flexibility there, too, so that they can make it better than ~~(indiss — noise)~~ based on what the -- what the picture looked 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~~ maybe twenty ~~to~~ or 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 ....

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 ~~(indiscernible)~~ in 20 years is going to 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.

* * *

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.

Okay. Let's go to transfer of entry permits, then. The position of the Governor was the holder of an entry permit may apply to the Commission to transfer his permit to another person. If the proposed transferee can establish his present ability and intent to participate and the proposed transfer is otherwise consistent with the purposes of this chapter, the Commission shall approve the transfer application. And otherwise consistent with the purposes of this chapter, the Commission adopt regulations providing for the transfer and re-issuance of entry permits within

a given administrative area from one type of gear to another type of gear. Regulations shall reflect the relative difference and the average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area. What did you mean, Dave, when you were talking of the first line on page eleven? The proposed transfer is otherwise consistent with the purposes of the chapter.

Well, we wanted to try to give the Commission some authority to look into the nature of the transaction before and make sure it wasn't kind of a ruse for speculative purposes, or something like that. And I admit we were pretty vague. Maybe we should have been more specific on that point. But we -- the idea was that the Commission would exercise kind of an oversight function in making sure the transfers were on the up-and-up and going from fishermen to fishermen.

Yeah. But, of course, you have to allow somewhere for the fellow, without screening it through the Commission, for a man who wants to transfer a license to his son. In other words, he would have to transfer the license to his son, but then the son might very well transfer it back at the end of the season.

Well, those transfers would still go through the Commission but, on a case like that, of course, that would be perfectly consistent with the purposes of the chapter. So, presumably, there would be

no problem. We did have all transfers going through the Commission so the Commission would know what was happening and who held permits at what point in time.

Yeah. At this point you could work in your apprenticeship, if you really wanted to, so that the transfer could only come within that area, if you wanted to do it.

Well, we've got two other alternatives. Let's look at them. One of them would appear on page five of this proposed committee substitute. ~~[illegible]~~

Let's see. Where is that?

Here entry permits are non-transferable except that the holder of an entry permit may apply to the Commission to transfer his permit to a spouse or child if the old transferee can establish present ability and intent to participate actively and that the proposed transfer is otherwise consistent.

Where are you, Bob?

It's this one here.

I might have a suggestion on here. Instead of spouse or child, you went to the one within the second degree of kindred. This will give you a bit of an advantage in the villages; that you'll

find that, regardless of what they're paying, quite often an uncle -- say, like the man that has two sons, but his brother doesn't have any, this would allow the brother to transfer his gear to one within the second degree of kindred. And it would give you a little bit of a built-in edge, especially in an area in which there are lots of relatives in the village, you know, and some of them are bachelors.

Okay. That's one alternative. Then Dave has one on page three of what we've been reading before; add ten. You would suggest leaving the permit transferable, but establish a five-year moratorium on any transfer or sale? You mean, except when necessary to death or disability, the Commission would process no transfers for five years; partially justified on administrative grounds because the Commission will be too busy with this initial work the first few years to administer transfers?

I think many of the objections raised last night by giving fishermen a few years to improve their economic situation and get used to the limited entry program before they would have the opportunity of selling out, or the others faced with the necessity of buying them out, which I think is a real good idea.

Again, I would suggest that we work in transfers within the second degree of kindred through the old man who might very well -- not -- his health might not be shot, but he might hold a permit in two areas and just not be up to it anymore. And he should

be able to transfer to his son as long as the same piece of equipment is then going on, you know. And that wouldn't open it very wide. But I like your five-year moratorium on no sales.

I think that (indisc. - simultaneous conversation) this transferability thing is where we're in the greatest danger of getting this thing thrown out in the courts. I think ninety-five percent of the possibility that they're going to say it's unconstitutional is going to come by not doing the right thing here. Because you're really directing yourself toward a different legislative purpose. You're directing yourself away from the purpose of just stabilizing gear levels toward the purpose of deciding who ought to be in the fishery. And that second purpose is a very questionable purpose, on down the line, to think that the State has any business deciding who among its citizens should be in the fishery.

It's already determined that it will makes its cuts.

Only at the initial outset, and there there's justification for it. Because those classifications are reasonable (end of tape).

TAPE I - SIDE 2

.... the program work. You'll have a lot smaller group that's willing to part with their license is, I'm sure, what you're looking at.

MR. SPRAT:

How do they get around -- let me see -- it's basically somewhat like the restricted status of (indisc. - noise) or something, if you're going to sell it for ten years, or something.

But that won't work.

I mean, I think that the five-year moratorium approach could easily affect the political acceptability of the bill. Because I think the strongest argument against it, coming from fishermen, the people apt to be most vocal, is their argument that it stands in the way of free enterprise. And if you point to them and say it's not standing in the way of free enterprise, that anybody that wants a license can get one, you've got a way of keeping this people a little more contented than if you say, okay, we're going to have a five-year moratorium, and then we're going to have anybody be able to get into it.

I don't think you'll defend your five-year moratorium. I think it's worthwhile to contemplate, but I don't think ....

Then let me suggest a couple of alternative approaches to it. Number one, leaving it to the Commission, which could delay or make -- I mean, just in terms of getting geared up and so forth, we're probably looking practically at a one- or two-year moratorium before they'll be geared up to process transfers. There may be some flexibility there. Maybe it's making it a little bit

less precise. I don't know. These are just -- it was just an idea. I'm very nervous of any non-transferability.

About the Commission, how about in this we request the Commission to come back with recommendations of the legislature next year as far as the process of transferability?

This is the basic problem of the thing here. You've got to treat it like a free enterprise thing. It's going to have to be transferable; there are going to have to be new people to be able to buy their way into the industry; other people sell their gear and their license; and it becomes sort of a property right; and they all have an interest in a particular fishery. And, once you destroy that, then you're turning it into something else. And then if you don't think that free enterprise is the way to do this, because some people are going to lose their right to fish, and, believe me, they're going to lose their right to fish just like they'll lose their land or anything else they have that's valuable, but if you don't think it's going to work with the free enterprise system, then you'd better look to what you're doing. And if you're afraid to let it work in the first five years, I don't any assurance that -- I think we're away from that now, but what makes you think it's going to work in the second five years?

Because we'll find a reason.

Really -- really, what I've been thinking in the back of my mind is your native corporations will get on their feet in the next few years to where when one comes up they'll grab a hold of it.

Can corporations buy these?

Well, the corporations will stake a fisherman to -- stake a fisherman in competition to the canneries, you know. This is what -- they probably are good enough along to do it right now.

Dean?

I was going to suggest that I think possibly this problem can be taken care of outside of the scope of this bill. If not just exactly the way ~~that~~ Clem suggested, certainly there's a way. And, actually, what this is doing is perhaps buying time. Once this thing gets started, you'll be able to define the extent of the problem -- or rather the Commission should be able to define the extent of the problem, I would hope. And, maybe within fiducial limits, you can say, okay, it's going to cost (indisc. - noise) bucks to prevent this certain segment of the fishery from losing this privilege before they know what it's all about. And perhaps the corporations can cooperate. Perhaps the State itself could take a hand through legislation. Apart from this, establish loan funds, or something like this, like we already do for

fishermen.

Well, you have to be a resident for a loan fund. If that will stand up under court, you could probably give ~~those~~ your people an advantage.

There's a third alternative to ~~this~~ that was offered and that was that apprenticeship program where you get rid of that. You determine who's going to get the permits. You allow sale, but you only allow sale to people within the apprenticeship pool. I know that was in Bozanich (indisc.), or however you pronounce it; it was ruled unconstitutional. But there you had very sound reasons for it. And that's because the only way to get into the apprenticeship pool was to have fished with one of the fishermen in Bristol Bay, so it went into the control of completely private hands. But if you set it up so that you could get -- and this provides another favorable thing to the fishermen in general. It provides a means whereby your subsistence fishermen that want to get into commercial fishing ~~have~~ has an opportunity. And a crew members that's been on a boat for a number of years has an opportunity to have a little less competition than he normally would have which is (indisc.) system. ~~Now~~ And, like your three categories could be: past participation in the area fishery; and, two, to make it constitutionally acceptable to non-residents, non-academics fisheries training; and, three, perhaps participation in like fisheries. And this participation in like fish-

eries would also help out non-residents from different areas. Like, if there's permits opening up in Bristol Bay, some guy that's been fishing in the Kuskokwim, or some guy that's been doing some amount of subsistence fishing, could have that same similar type of participation in another fishery and could get into that apprenticeship pool. And then you'd be selling -- you'd be transferring your permits, but you'd only be transferring them into an area of qualified people. I admit you're determining who the fishermen are going to be, but you've already made some sort of threshold determination already.

Let me ask you. If you transfer a permit to a non-qualified person, he's going to catch fewer fish. Now what the hell does that hurt anybody?

It would (indisc. - too faint).

I mean, as a matter of fact, you ought to hope that a whole lot of non-qualified people that don't use these things buy the permits. Let the fish be caught by the people that are out there catching them. It seems to me like the test of qualifications is that the guys are qualified to fish who'll learn how to fish and catch fish. If the guys aren't; they aren't going to hurt the fishery any.

Suppose you turn that argument around, though, and say, Hey, in the first case, you've only allowed him this business - people

who are already dependent on it for a sizeable chunk of their income. But, once you've established -- once you've reached the -- once you've put the lid on, now you're letting in anybody that's got the money to buy a license, anybody that thinks that they want to try to become a billion dollar .... I don't think you're going to be able to take a ~~phase-out~~ industry and keep it within those who are presently using it forever. I think you're going to have new entries in it. There has to be.

There should be.

Yeah. Which means that people who don't know nothing about the business start in and get into it. They want to become a fisherman like they want to become a lawyer, or a legislator, or something else.

Or a farmer.

This is fine. But ....

How does it hurt this system by saying, if you want to try to be a fisherman, be a fisherman?

It raises the value of the license.

All right. Now who does that help? That helps a fisherman who's

selling out his license; who's trying to sell his gear.

Yeah. Actually, I was more inclined to go with the apprenticeship pools yesterday. I'm more inclined to go with John today, because I've been thinking about this Native block (?) meeting (indisc.), and I have a deep suspicion that they'll be a lot more prepared to pay higher to get the licenses in their category.

Well, I'm concerned about the constitutional point of it. And this is what I want you to consider.

Well, if it's absolutely negotiable, there's no constitutional problem.

Well, I know. But what does it do to the basic concept of the bill if, in the first place, we're saying one and two only in Bristol Bay? These are the people that are the professional, or career, fishermen there. And, yet, as soon as there's a license to sell, it's open to anybody that can raise the bucks. Now, I don't know, but ....

You have to assume that the man who'd buy in would have to be pretty professional to buy into a professional business. And the thing is that you don't worry about it with a farm. You got your original homestead by clearing and patenting, which is the way nearly all the farm land in the central United States was acquired. And you had requirements for the first settler.

There was no requirements on the second settler. All he had to was buy out the first settler. Wouldn't it be the same thing?

The basic justification, and the only justification, for those priority classifications, as I see it, is because you've got too many people and you've got to cut down, and you've got to say what's the fairest way -- what's the fairest way to determine who should come out first. And I think that it'll all hang on that. If you've used a reasonable set of classifications calculated, you know, toward that end, to getting back down to that level. But, once you're there, I don't think you've got any business in the classification business anymore. You know, once you're down to that level, you've accomplished your legislative goal. And the priority classifications have nothing to do with it anymore. And that's the way I see it as working.

About the apprenticeship, I don't see the problem. You say if anybody wants to go fishing, they can go fishing. There's nothing keeping anybody from participating as a crew member or anything else. I mean, a guy could still get into it. I mean, you don't get a law degree because you can buy it. You get a law degree by going through certain requirements. So, if you want a professional fishery, you can set up those requirements. And if a guy wants to hack it as a crew member, he's got an equal chance with anybody else to be a crew member.

That's a good idea.

If you let it with outside these schools, that have the fishing school, as long as you have that route, you'd probably be able to ....

Or participation in like fisheries elsewhere.

Well, remember I started out in ~~a~~ the halibut fishery. And it was just by pure luck, because you had to have two Norwegian uncles on the same boat to normally get on. It just was absolutely closed otherwise. But I don't know that this ....

By trolling in Southeast, if you were a troller in Neah (indisc.) Bay, or someplace, then you should be able to qualify as a troller in Southeast.

Well, basically, we're coming around to the point.

Well, I don't know whether ....

If it'll stand up in court, fine. If you don't lose the bill over it it's easier to just let them go like John talks about and just let them go for sale rather than lose the bill.

Here's the problem to me. You know, you don't buy a lawyer's

license, but, presumably, if I go out and have a fishing license and don't catch any fish, I haven't hurt anybody.

Well, John, on the other hand ....

But if I'm holding myself out to be a lawyer, and I'm a sham and a fraud, I can hurt somebody. Now, I can't see how in the world you destroy the legislative purpose of this by restricting entry into the resource if you, first of all, you decide who gets it on the basis of who's used it. But once you establish that level of fishery and the permits are free, then I don't even see any legislative purpose in trying to restrict who gets to use the permits after that. Unless you were to restrict it to corporate ownership, or something like that.

If you go out to Bristol Bay and fish and you don't catch any fish, you are hurting somebody. You're catching that guy's who might have that entry permit in Bristol Bay that would catch some fish and would ....

If that's the case, you might catch more fish, then; or there's a better harvest; or they ....

Well, now if fifty percent of the fishermen are incompetent, the other fifty percent could fish twice as long ....

Well, let's get on here.

John, I'd see the first one you are hurting comparable to the incompetent attorney to be the State of Alaska with its resource. We're working for an industry, a fishing industry, which has those qualifications of being effective, efficient, and something that you could have -- for example, qualified people going into it who would have better methods of fishing, bringing (indisc.) to the whole method of fishing in the State of Alaska. This would be the effect of having competent people going into it.

Let's look at it from another standpoint, though, John. Our purpose here apparently is to do two things; first of all, to protect the rights of those that are really dependent on it at the present time --right? -- and to reduce gear so that they have a decent livelihood in the future. All right. Once we've done those things ....

Hey, you've forgotten the third purpose. The fishery.

Conserve the fishery.

The fish.

The fish. All right.

I mean, that's one of the most important ....

I thought that that was really what was ....

Well, right. But, then, that's irrelevant to this discussion right now, I think.

Well, they're all in the same package.

All right. But now, my point is, once you have protected the rights of that individual, say you're one of them -- okay, so we now have reduced gear down to four hundred units as the optimum level, you're on of those people -- we've protected the resource because we've limited gear. Now, once you have your right protected and you've got a stake, a four-hundredth out of that, what you do with your share ought to be up to you, though. And if you choose to sell it to A over here who is going to be multi-fisherman and is only going to catch one-tenth of the fish, then the other three hundred ninety-nine guys are going to profit by it, the fishery resource has not been hurt, you still are keeping your gear level, and the individuals, all four hundred, who we depended on, their rights have been protected. In fact if he sells (Indisc.) Which is what John is saying.

I don't see what's wrong with including another reason for this bill, and that's to make the fishing industry a resource industry where you can get the maximum dealsment of it (indisc. - noise) through all different methods; one being lower gear and less people, and,

also, an increased method of fishing, or a better efficient method of fishing.

(Indisc. - simultaneous conversation)

You can put that as another privilege and you can give it to people who are (indisc. - simultaneous conversation).

If you wind up with two hundred incompetents, though, then the bill's going to increase the kinds of gear, or pool the kinds of gear (indisc. - simultaneous conversation) the two hundred that are left are good fishermen can catch the fish, that are left

But, again, you said one of the basic purposes is to protect the people who depended on the resource, but if you allow free transferability, then that's an illusory-type thing.

Now, wait ....

There are overriding reasons, too, that we haven't mentioned. There is the fact that there are more native people ~~in~~ and Alaskans who are trained (indisc. - simultaneous conversation) than are outsiders. Can we put them in a special category of an apprenticeship that would be able to qualify much easier than ....

That's what I thought until I started figuring that the bulk of

our San Francisco gill netters work the whole coast right on up, you know. And they've got more hours of gill netting in a year than most of the Alaskans pick up in ten years.

Well, okay.

Dependent upon the regulations for qualifying.
(Indisc. - too faint)

I would hope that we can shoot for a deadline of this week in getting something out of here. And, obviously, this is going to be a question that we're going to have long and hard on. Equally, obviously, we're not going to be able to settle it today, I don't think, as far as this matter of transferability. So, let's go ahead and keep that in the back of our minds and see where we can go on it.

Mr. Chairman, it seems to me really that it's up to the attorneys now. I mean, I think everybody has the right idea and basically the same idea, but it's just how do you do it so that it holds up in court and it's constitutional.

The transferability ....

I can't help very much when it comes to that.

Yeah, I'm sure.

Ownership will accomplish the same thing it does in agriculture. Because this is what (Indisc. - too faint) on the conservation and, on an average, that a sharecropper doesn't take as good a care of his land as the owner. And there's no doubt that if you're going to be able to sell your license when you retire, you're going to have a much longer-range view.

You might be familiar with this, too. Although you object to the speculative nature of the license, you have to recognize that the more market there is for a license the better off a fisherman is going to be at a time when he decides he wants to cease fishing so he can sell his boat and his license. And you have to recognize, that in the event that to the extent that we recognize holders of land, holders of stock, since we recognize the at a stock exchange as being a valid way of transferring ownership and equities, that we do that to enhance the value. The only reason people go to the stock exchange with their corporate petitions is because they can get more money that way. And the reason they can get more money is because they have trained people to look at it. But if you restrict the salability, not only do you have very serious constitutional problems, and not only do you have to create false, basically false, arguments if the premise of the bill is correct to do it - ~~in other words~~ and that is a, apprenticeship and things like that - the Competent (indisc.) fishermen, that's not the problem; ~~but~~ the problem here is that this isn't a fishing school that we're trying to conduct here, we're trying to con-

serve a resource. And if you keep your analysis clear on the thing, it ~~would~~ almost have to b freely transferable. But, myself, when I get to that thing, I have no doubt as to where the licenses are going to end up. And that is where I get really hung up with the limited entry permits.

Well, where do you think they're going to end up?

They're going to end up, just like the land does, by the guys who are the smartest and have the money and the economic (indisc.) and they can pay the assessments that come in annually. What are you going to do with these guys that can't pay their assessments because they've had a bad year, or they consistently have bad years, that they've relied on all their lives? Are you going to foreclose them out when they can't pay their assessments?

Well, I tried working something in, and I didn't know (indisc. - simultaneous conversation). .... if your gross family income is under a certain amount, you can pick it up for a quarter of your assessment. But I agree with you, John, the way to -- if you want to conserve the resource so that you have people administering it who really want to take care of it, such as your farmers -- in other words, if you want to turn it like the farming is, the farmer of the United States can feed not only the United States but two other nations as big as us -- if you want your fisherman that kind of a person, just let it go private entry, and that's what it'll become. And instead of importing

seventy percent of our fish, we'll start exporting fish.

I'd like to suggest that there's sort of a natural apprenticeship tendency in the fishery. I would think that a crewman that had worked on given vessel for ten years knew the fishery and knew how to fish it would probably be able to make more money off that boat and would be in a better position to buy it. I mean, he would be a better credit risk, he would be a better operator, a more efficient operator. And that works that way in a lot of other trades, and I don't think there's any reason to expect it wouldn't work in this.

(Indisc. - simultaneous conversation), loan a city slicker a lot of money to go out and buy a wheat farm.

Yeah, that's my point.

But wait a second, John. The one thing that you have to -- you can take your fish tickets in, and I've done it. I can take my fish tickets in to Elmer (indisc.) and get a loan.

Yeah, you can, but no one from Bristol Bay does.

Very few residents (indisc. - simultaneous conversation).

Very few residents -- they're so depressed. But it wasn't too many years ago before -- you know, you're looking at a fishery

there that's been completely depressed. But it wasn't too many years ago that a high-liner didn't have any trouble getting financing.

If you give the people in Bristol Bay four years, I think the credit would loosen up. But the way it is now they're so far in hock that they couldn't get -- they'd be a fool to loan anybody money out there.

Well, with seven bad year predictions, yes, you're going to have a little trouble.

Yeah, but I'm worried about that initial four years, because the guys that have the clout behind them, financial clout, at this stage of the game, and the guys that are fishing on contract for somebody else .... I don't have to name any names. We know who they are, you know. And those are the guys that have the financial clout right now. If they want to guarantee their market the way they have been, with limited entry coming in they're going to get as much control as they possibly can.

They won't be able to hold (indisc. - cough). I'll tell you that I can see you're worried. And I can see that some of your local residents could get hurt unless the corporations picked it up. They could ....

No, don't think that corporations are a way of solving everything now.

I don't say that, but I'd say just automatically it's going to be a source. And I don't think that it would be a bad idea to, you know, take a look at some State loans on it. But -- yeah, go ahead.

I think the more complex the formulas get, by way of building an apprenticeship clause, and whatever else, the more difficult it's going to be to get the fisherman to understand what's happening to him. And the more difficult it's going to get for him to vote for it.

Well, suppose we say this. Suppose we say that the gear licenses may be transferred but they need approval of the Commission? Just that much.

Under regulations set up by the Commission.

All right. Then, the situation that you envision, the Commission would have the opportunity -- the Commission would have the opportunity to talk and convince the guy in the Bay, who's in hock to the cannery, and so on, to hold on to the thing; perhaps even arrange for additional financing, and this is where the corporations might come in, or the State under their own program, and so on, to give him the financing so that the cannery can't hold this kind of power over him. I know that's difficult, but

all I'm saying is that it's freely transferable and, yet, it does give the Commission an opportunity to persuade the fellow not to do it if it's really in his best interest and he's just on a spur-of-the-moment type deal.

Yeah, but the only trouble with that is that it's a three-man Commission for the next two or three years, and it's just going to be up to its ears in promulgating rules and regulations and optimum levels. And unless you're going to allow some sub delegation of quasi-judicial powers, you're going to have to have a kind of watchdog.

All right. What's the law? He's talking about counseling people in a business venture is what he's talking about; saying, Look, son, you're making a bad mistake by selling your permit here. Maybe it's a good move for him to sell a permit, too, you know. How are you going to counsel these people in their business decisions? And, again, you get down to it, I don't think you can do that.

You can't do it.

And I don't think that neither can we write a law that does it, nor do I think the Commission can pass regulations that counsels.

There's one thing that the Commission could do. And that is by

merely administering transfers, they could collect some basic information about what the economic basis of transactions are just for an information sense. I mean, there will be information available as to what's happening out there. And if a problem grows up, the legislature can take cognizance of it on down the line.

The problem was not just administrating their ideas or statistics-gathering. The question is, is there some way to protect if a person gets a foolish transaction.

I don't know.

We can't figure out a way to devise it, and I don't think the Commission can either.

If they can, we ought to be able to do it, too. Now, maybe we can, but I don't know what it is.

I don't think you really can. I think it's better to just have them freely transferable than lose the bill. If you can work in a few safeguards that you know don't endanger the bill in any way, fine. But the free transferability in the end will bring you a healthy fishery. You know this. What you're looking for is will the people stay in it. The loans have one drawback. It costs just like the Fish & Wildlife Service Loan

Program ~~may have~~ they had. The only person that ever utilized it was the -- for the most part, the incompetent. I mean, the real competent guy just went down and got his loan. You know, he could go to the bank or usually to the cannery and get an interest-free loan if he'd caught enough fish.

It would get to the position where we're slitting our throats, and we're saying, well, we're slitting our throats, but at least we're doing it constitutionally. That's ....

I don't see where you're slitting your throat. You're going to have a small (indisc. - fishery cough) with high production and a high standard of living of those engaged in it. You're going to be able to produce fish at a competitive world-market price which is going to be beneficial to the United States. You're bound to come out of it ahead. Now, if you can come out and reach that point with less injury to the unsophisticated members of the community today, fine. Let's do it. But this is the end result that you want to reach, isn't it?

What we're trying to do in this thing is to -- in this transfer thing, the question we have before us, is to try to protect people from themselves, is it not, basically?

Well, not necessarily just from themselves. From making bad mistakes

Well, that and your economic coercion, too. I mean, that's the

basic thing. I think that protecting people from themselves is a lot easier to handle than trying to keep them from ....

Protect them from themselves with our eighteen percent interest on our conditional sales contracts and other stuff like that. You can't really protect people completely from themselves.

We have a very difficult problem here. If you have these assessments -- and I'm sorry I missed the other meeting -- but if you have these assessments, and if they're going to be buying people out and buying boats and defunct gear, and all sorts of things, there's going to be some tremendous assessments needed. If a guy's not successful, he's not going to have enough out of his season. A marginal fisherman is going to be taken out of this thing by the assessments it looks to me like.

The problem is that the guy who's marginally competent, either because he doesn't have gear or because he doesn't have energy, or he doesn't have know-how, or he's just unlucky -- but I think that that guy it looks to me like he's going to retire anyway.

One of the concerns you run into in talking to the fishermen individually is they all want to know how is a crewman -- you know, a guy that's not making a lot of money, especially with the situation the way it is now, how is he going to get a boat of his own, how is he going to get a permit. How's a guy's second or third son going to get a permit? And I would hazard a guess that if it's on a free-market system, that those guys are substantially going to be priced out in the business unless they can hitch their wagon to somebody's financial star, which may be possible. But I would think that if they -- if there was some sort of apprenticeship program, they would have a lot better chance of being in that program and getting the type of financing and things they need. So, we need to tell them, you know.

That's the so-called professional fisherman.

Sociological determination. All I can say is -- you know, all of the king crab boats out of Seldovia are basically native (indisc. - cough), wouldn't you say? Or mixtures?

Yeah, absolutely.

Out of Seldovia. Well, they're -- in your Kodiak area now.

Yeah, but the Adak area has this ....

They've got those damned Norwegians.

And tremendous Seattle fleet.

Yeah, they're valid when they hire their crew from Norway. But, I mean, our local fleet down here, the natives ended up in control of it because they just happened to be the toughest. You know, they were year-round fishermen. But a lot of them fell by the way.

That's what's finally going to happen here if you create a semi-property right here to fish a portion of the ocean and limit it. It's going to end up to where the most competent and the hardest-working and those who have the greatest ability

are going to end up with the financial ability of one of them.

That's partly because it's a business, and it's an expensive business. But I don't know how you could change that. If you're going to go to this whole system, see. I think that's what -- I think that's the price we pay by limited entry, frar ly. And that's what really bothers me about it, because I've thought for years that this is the way to do it. And then I suddenly began to realize what the price is. The price is that the strong man is going to have the fishery. That's going to be the open price in this.

And the alternative is that no one has the fishery.

I don't think there's (indisc.) around to make it where the marginal fisherman, or the guy that can't afford the boat, or the guy who's a crewman, or a guy who lives in the area, is going to necessarily end up with the resource at all.

Well, I think that the guys in the local area will stand an equal chance with anybody else.

It will only be because they have -- well, what we have to do is have a loan program and things like that for them, you know, so they can compete. But you're going to have to make them where they're competitive. Because you can't legislate the industry into their hands and custody. You're going to have

to be able to equip them by apprenticeship programs and by economic clout and loans, and stuff like that, so that they can compete with the guys from Seattle, or wherever.

Well, I would agree that you can't legislate them into it, but the problem is will we legislate them out of it.

Well, I don't think you can. I think that the legislative apprentice program is attempting to legislate them in. I think you could have an apprentice program so that they can fairly compete and hold their own.

That's all that an apprenticeship program does if you (indisc. - simultaneous conversation).

But then you're going to hook a license right to that apprenticeship program. And that's where I think you fall down, see. And I think that that was the point you were making, is that the moment you try to hook this to where it is a limited entry type of thing, a special class or a special group, or a guild, I think it'll fall.

The other balance that's struck in this is that it should increase the overall economic position of the fishermen vis-a-vis the processing industry. But, clearly, it is going to have that other effect. It's going to be the efficient fishermen, the people that are ....

MR. OPAK:

And they're not going to be too easily controlled by the cannery. The big problem that you have is the initial. You know, I can see that.

And during that initial two or three-year period.....

But the fishermen -- you know, the Fishermen's Association will become a pretty powerful bargaining organization where there are X number of licenses and the cannery can't say, the hell with you, I'll bring in a bunch of Finns from Astoria, you know. They're not going to be available.

HEARING OF THE SENATE SPECIAL COMMITTEE ON FISHERIES 2/9/73

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

We have three proposals for a transfer covered on this sheet here and there's a kind of summary. Before we get into detail though we can take a look and consider each one. The first sheet is a summary.

The one that says proposals?

Right.

Well, let's try one real simply and see what troubles we run into with ~~that~~ it. Suppose we simply say from the beginning that any holder of an entry permit after he has received approval from the Commission to sell his permit, ~~and~~ can then sell it to ~~a~~ any qualified purchaser on a negotiated sale basis, one-to-one basis with the guy that's going to buy it, and when we talk about qualified purchaser, we simply say anyone who either through past experience in the fishery or well a person becomes qualified either because of past participation in the fishery or through training in some approved course of training. ~~Now,~~ Therefore you have an applicant pool of people that the Commission has certified then as being approved to buy and any of those may negotiate with a seller for his license. All right, can this meet the requirements that we were talking about the other day? Gives some protection to the fellow in Bristol Bay that may not be very sophisticated. The Commission can give him some protection there. We have an ~~(indisc) to~~ out for the son, or the relative, or the non-relative even who has worked on a boat for a period of years and he now wants to have a gear license himself or we've left it open for the guy who's had no experience in the fishery but is willing to go ~~in~~ ahead and take a course of training so he becomes eligible. And yet it's still not completely wide open and will not necessarily (indisc) so quickly gravitate

to the money source.

Dave, are you suggesting a course of training by itself would qualify a person?

Very much like ~~that~~ as you see in some of these applications for jobs now, where it can be a certain number of years in the field or so many years in college, makes you eligible for a job. It would be somewhat the same.

I've ~~lost (indiscr)~~ had lots of both kinds of training on the courses of 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. (simultaneous speech)

He doesn't know the ground.

That's one thing that he can learn after he gets the permit and goes ahead and does it through experience. But at least you've left it open to anyone that's willing to make that sacrifice. There's 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 a situation ~~where (indiscr)~~ which the court addressed itself

to in '68 saying well, hey you're relying on the friendship or the whatever you want.....

Yeah.

.... of the skipper to agree to let the guy come aboard the vessel to work for him.

I can see training being worth so many years of fishing experience, but the training by itself as a prerequisite....

I don't think we have to get into discussion just what qualifications there are, as long as your initial standards are fair on their face. If you say a fair and reasonable balance of those standards, and the Commission does not, the Commission can -- if you want to leave some discretion to the Commission ..... (interrupted)

MR. CLEM TILLION:

(Simultaneous speech - indisc)

..... that 2 years college doesn't qualify you but a reasonable standard would be 2 years of college plus some participation. Of course, if the Court says well that's unreasonable, they can't come back and say these standards that you put here on the four basic broad standards are unreasonable, they say the Commissions usage of those four broad standards is unconstitutional

as applied or something and throw out the regulations. But your statute would still be broad enough and reasonable enough on its face that -- to stand up. Of course, in these proposals (indisc) there's also a little kick back if something does happen you go back and retransfer, but you've bought yourself a couple of years.

MR. CLEM TILLION:

Yeah, and the thing is though, some of those David, wouldn't you say like on your crab and shrimp fleet, we would require that a man 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 it's the Coast Guard requires that you be 2 years in that area aboardship before you can sit for the exam, and you haven't stipulated that he has to be apprentice 2 years, but the Coast Guard says, you know, you can't just walk in and get a ticket for the (?) Arctic (indisc). You've got to been there 2 years before you can get an operator's permit.

I thought the this were from (Simultaneous speech) requirements for 100 ton and over to be ..... (interrupted)

MR. CLEM TILLION:

Yeah, but just have an operator's license, no you have to have an operator's license -- well you don't have -- they don't make you have an operator's license till you're over 100 tons, but you could -- they issue them for any

documented tonnage now of any size. So just meet the Coast Guard requirements for that tonnage plus some of the -- I mean you know, you can get a 25 ton license if you want to, you know.

Dave, do you want ..... (interrupted)

Then this alternative number three, the B paragraph there, do you feel that that's an adequate note?

No, I think I can make my position known on transfers in only about 30 seconds. Basically, that in any limitation on a class of people for whom permits can be transferred is probably unconstitutional and it seems like every time you get into this business you're trying to decide to create a local privilege .....

No.

.... and that's whether the 2 years before you can sit for an exam, all these kinds of things are aimed at one thing, create a privilege for Alaskans and it's unconstitutional, I think, so I, you know, I don't think ..... (interrupted - simultaneous speech)

MR. CLEM TILLION:

If you (simultaneous speech)

.... cause I can't buy it, contrast for ability.

Dave, under these criteria, one, two and three, and alternate of three, you think that's going to discriminate against non-residents?

Sure, because fewer non-residents will wind up in that category. I mean, I just -- all I'm saying is, I think that what 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. Now I don't see (interrupted) .....

Is not the justifiable purpose in an apprenticeship program like this to encourage an economically efficient fishery?

I don't see it. I don't think it's to encourage that (interrupted)

You think that free transferability is guaranteed on the market place to encourage an economically efficient fishery?

You crossed over between unconstitutional on its face (indisc) and unconstitutional as applied. If you have standards that are

reasonable on their face, no Court is going to throw them out. If they're applied unreasonably by administrative body, they'll get tossed out. So we've lost objectives, we're looking at something ~~that's~~ it's sure (indisc) free transferabilit~~ies~~y is absolutely constitutional, but that doesn't solve any of the other problems ~~you~~ we want to look at. We have a common resource that used to be open to anybody who wanted to get into it, ~~that's~~ 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's supported by all the taxpayers is a valid objective to make sure that those participants that have that lesser competition and have that property right in that resource are qualified. And if you have standards that are fair on ~~there~~ their face, no Courts going to throw them out. But if they're applied unfairly, they can throw them out because it's not going (interrupted) ..... effect the session.

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

As ~~a buyer~~ applied or on the ~~fish~~ face?

Well, sure you could say (interrupted) .....

Plus you have a kickback provision that if it is tossed out you can go right back to ~~pre~~-transferability free. So I don't really see the -- 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 in at a separate point. You've already got your gear level stabilized and you can say that well we've come up with a fair set of standards we're going to apply them fairly to non-residents and people that were on the East Coast and everything else. But the point is, the very threshhold question is, does the state have any business monkeying around after it gets gear levels stabilized?

(Simultaneous speech) that's not a Court determination. If the state decides to have an interest, they can.

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

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
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MR. CLEM TILLION:

Yeah, but now when you transfer an air taxi certificate, you require that the fellow hold 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 2 years we've got an extremely crowded (indisc) boat harbor in an area and you've got people in there with boat handling ability that have caused considerable amount of damage to other people and--

Well, (simultaneous speech)

.... boat handler's license to have a permit, you could do that in some other statute, there's no ~~you don't~~ need to do it here. If you just want to make sure it's your safety is provided for, then just do it in another statute.

(Simultaneous speech - lots of it)

MR. CLEM TILLION:

If we leave the Commission the right to do this so that they can do it, by regulation, in other words they say that you must have a license for the tonnage vessel you're fishing in the area that you're fishing and that in itself builds it in because the Coast Guard won't give you the license until you've been in the area 2 years.

Precisely my [illegible]. It creates a decided discriminatory (interrupted) .....

MR. CLEM TILLION:

It does right now when you want to get your license. Because I have to have one ~~during the~~ to earn a living (interrupted) .....

Dave?

When you're talking about a fisherman, you're talking about apples and oranges together. A fisherman is a combination of things. He's an entrepreneur, he's a small businessman, and he's also a working ~~(indisc)~~ stiff. You get a combination of people involved and when you say, solely money is going to be the ~~Courts,~~ Coural 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 may -- they can run a boat, they can do a lot of things great, and they 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's one that can be accomplished by this kind of state legislation.

If you want to subsidize crew so they have an easier time buying in, that maybe very worthwhile, but I'm just suggesting do it in other statutues.

(Simultaneous speaking)

..... giving the Commission power to set some qualification. which is not much different than the broad standards you gave the Commission ~~already in~~ all through the initial Governor's Act.

(Simultaneous speech) Okay - I am just saying my view — I don't want to monopolize

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

Discriminating against somebody, yes. ~~It's a~~ That is the kind of provision it is.

Yeah, well, I'm not sure that it's (indisc) .....

Well, 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.

Sure.

That's The whole reason we're doing it, therefore, we must do it or we wouldn't be trying to do it. I think that's basically what .....

(Simultaneous speech)

I think that if there's -- you know, if you can get people set up that are in a qualified -- if somebody can participate, even if you have to let in an equal number of non-residents, the

residence guide, that can participate, ~~it's the~~ as a crew member that ~~can~~ you know, can get himself involved and get himself on the at applicant pool, is going to have it that much easier to pick up financing than if he was ~~to~~ just you know, one of ~~the~~ a vast morass (indisc) of people.

MR. CLEM TILLION:

Well, you know, I just -- I'm perfectly willing to give your .....

END OF TAPE I - SIDE 1

BEGIN TAPE II - SIDE 1

Even if that spec got knocked out, you go back to ~~pre-~~free transferability so what's the problem? You could call that second thing a cop-out if you want.

How would you transfer one to the ~~other~~ applicant with a? Sealed bid?

Mr. Clem Tillion:

No, oh God no, anybody within that applicant pool .....

....could then -- would be competing then against one another just .....

MR. CLEM TILLION:

Would be competing against one another, that's right.

But, that's why the difference between two and three on these proposals. Two mentions that, you know, whatever this Committee wanted to do you could -- you could say sealed

bid, or anything else, or you could leave it up to the Commission, but number three locks it in -- number three would just be a straight transfer basis where a guy -- where you would if you want to sell your permit and your boat you would go to somebody in the applicant (interrupted-indisc) I hate to use the word apprenticeship because everybody thinks apprenticeship programs are unconstitutional.

Well, let's say a qualified buyers.

Labors been using them for years and getting away with it.

MR. CLEM TILLION:

Well, qualified buyer would be fine. See this one wouldn't shake them up. If you have maybe 1500 guys in your applicant pool (indisc) everytime ~~we~~ you have a graduating class from school that have met this. You end up with a few more.

I mean you guys can talk about how if you get this thrown out, we'll just be back to ~~pre~~ free transferability, but the Court -- when we get attacked from the Court on this thing, they're going to look at this whole statutory scheme and they're going to look at every part of it and at the first shot we're going to have economic dependence as one of our standards which is already designed to cut in favor of the resident, we hope constitutionally, and then we're going to have this tacked on to the other end and it's just going to make it a lot easier ~~to~~ -- for them to find enough to hang their hat on to throw the whole shabang out the window.

Except Courts do not try to find something ~~like that.~~ unconstitutional. They try to find something

All right, I'm just nervous about it, and I don't have any experience with it, you know, so I don't know. I could be completely wrong, but I'm very nervous about it.

Dave?

Yeah, well I can see where you're nervous from your end of it and I'm nervous at my end of it because we get ~~in~~ into this we're going to have it for, not only for the rest of our lives, but many lives afterwards and it's a .....

But Dave, I'm a whale of a lot more nervous about him being nervous than I am about you being nervous, because I really think that we could have held that thing in 1968 had the attorneys from the state that were defending, not been nervous at that point and really give it all they had held that one (interrupted-indisc)

MR. CLEM TILLION:

They didn't want to win.

..... a hold of that one, but if he is nervous from the beginning, it's going to affect, and he's the guy that's in charge of the defense, and his hearts not really in it because he's afraid it's not constitutional anyway, then what has this done to our defense?

MR. CLEM TILLION:

The guy that beats the case on federal -- gee you know, it's

too bad I wasn't still working for the Attorney General's Office. I think I could have beat it on your side -- or won it on your side.

I don't think there's any doubt of that.

I object to that type of chinking.

(Simultaneous speech)

Our problem here, to get away from economic bidding on these permits, because a local resident may not have the economic ability to do it. That's really what we're trying to get around, isn't it?

Yeah.

Not necessarily the bidding, but making sure that not just the guy with money and nothing else is going to be doing ~~this~~ the bidding.

Well, but I have to agree with Dave on this. That if our problem here is to stabilize the number of units of gear, the fact that a guy comes out that doesn't know how to fish that gear, doesn't hurt the fishery, doesn't hurt the other gear holders.

MR. CLEM TILLION:

Well, but.

So it can't be a part of this -- it's not part of the fabric of this bill, that's what makes it stick out.

MR. CLEM TILLION:

We're trying to work on a sociological game.

I know, but it's not a part of this fabric see. You've got a fabric here that we're weaving together and suddenly you get something that sneaks into like a Pepsi Cola can sitting on an American flag. What the hell's that doing here? No matter what you want or anything else, it's just sticks out as being -- as having nothing to do with conservation of fisheries, nothing to do with stabilizing gear, has nothing to do with the economic well-being of the number of limited gear holders here, it's something that we're -- that we socially want to do. But if the main purpose, I agree with Dave too, why don't we subsidize our fishermen? Let's set up a lending fund which only residents can borrow from to buy these permits to equalize the economic aspect of that, if that's what we're trying to protect against here.

One of the problems is we don't have 2 years to get that type of thing -- now this things to..... (interrupted)

We've already got it.

(Simultaneous speech)

MR. CLEM TILLION:

All right, now you (interrupted-indisc) non-transferability hold for 2 years, right?

I think you might. I'd say so.

MR. CLEM TILLION:

Yeah, see the thing is he's agreed upon that part.

(Simultaneous speech)

.... non-transferability you're saying they're transferable at the ~~off~~out set but the Commission for a number of reasons won't process transfers for a couple of years. Maybe you could get by with that and if that moratorium fell, you probably would still have your basis.

I disagree with the fact that this goes against the basis of filing th (indisc) because once the legislature makes a determination that they're going to limit a common resource to a set number of participants, it is completely logical for them to determine who and what the qualifications are for those people that are going to get that right. It's all one right after the other.

It's completely illogical -- that is -- at that point it does become a special privilege of fishery. You've said more than just saying there shall be only 800 drift gill net permits in Bristol Bay, which is necessary and permitted. You've said we're going to set up a statutory structure that defines special privileges.

No.

Some people will be more privileged than others in getting those permits.

No, that's completely illogical. You're saying that you -- that there's going to be a set number anyway and you're saying that the set number's going to be qualified instead of unqualified, and I don't see how that's illogical.

Seeing that you're creating fifty to one hundred million dollars worth of paper capital, which is real money, then it's -- a man's going to have to earn that much more fish to get the (interrupted-indisc) .....

MR. CLEM TILLION:

So what?

So what? If you can do without it, you've got (interrupted indisc) .....

MR. CLEM TILLION:

Well, fine, if you can do this ~~illogical~~ sociological thing without hurting it, but the thing is what it really discriminates against is people my age; his age will end up with it. Because the guy that's younger will be able to buy it and the guy that's old won't ever buy a new license.

On the other hand, Clem,
The guy your age with the past experience may be able to go to the bank and get the money to buy the thing (interrupted-indisc)

MR. CLEM TILLION:

I'm not talking against him, I'm just saying that if we can

do the sociological problem, fine. I wouldn't want to endanger the bill because I agree with Jalmer, ~~it's~~ the thing that will save the fisheries, is a professional -- and your perfectly right, if you just made them ~~pre~~ free-transferability and bought them back, you'd end up with a professional fisheries in 10 years. What he's looking at -- or maybe 20, but he's looking at the fact that there might not be any Bristol Bay Natives engaged in it.

Well, I agree with you. I think that may be the price of the bill, that's what really concerns me about this.

MR. CLEM TILLION:

The price of the bill still -- even with that is worthwhile.

I'm not sure it is, I don't know.

MR. CLEM TILLION:

Now you can say -- now you've guaranteed that those people will be on starvation forever and destroy the resource too.

Well they at least have an opportunity. They have a way out.

MR. CLEM TILLION:

An opportunity. That's no opportunity to go out there and compete with more and more and more a year. That's no opportunity, that's disaster.

(Simultaneous speech)

Let's bring this whole thing to a head. There's two sides to arguing here. Isn't a qualified group a privileged group?

MR. CLEM TILLION:

I think you could (interrupted) .....

I want to retract that, because I shouldn't have put (indisc) That was a little unfair of me, Frank, and I apologize.

Okay.

But I still think you don't know -- what -- I think it's (interrupted-indisc)

Well, that's the basis of the whole difference here, is whether by qualifying -- giving one group, you know, saying that they are qualified and another groups not, that's some kind of special privilege. It's something that's unfair to discriminate against somebody else. Does qualifying one group of people -- by the basis of their quality -- of their qualifications they get the license, does that mean it's unfair to the other people that don't have those qualifications?

Well, the problem is ~~pre~~ free-entry into a billion dollar resource with a right of any citizen. Not the citizens that are necessarily that are here today or interested in fishing today, but the right of a citizen of this state or any other state, as far as that concern, you know, to enter into its resource. And then if you're going to exclude ~~your permit~~ him from resource, it ~~-- you have~~ has to be on some grounds. Although ~~those~~ these grounds are acceptable to us, that he's not an Alaskan, or he's not a resident, whether we want him to live here locally, that's

perfectly acceptable grounds to the people in this room. Because that's us, and that's our friends and neighbors, and our concern. But that's not an acceptable standard when -- outside this room, and that's where you -- that's where ~~the~~ this thing is going to rise and fall. That's where they always fall. ~~It~~ It is becuase we sit around and talk to each other with standards that are perfectly acceptable to us, and it seems to ~~be~~ ~~lacking more of~~ but I could ignore the absolute problem that ~~is not going~~ has gotten to be acceptable outside because it doesn't fit into the necessary parts of this.

(Simultaneous speech)

So, what you're saying is the qualifications -- it's okay to have qualifications as long as we base them on the right thing?

That's right. You could, if but I can't think in this context, why it hurts your scheme if the man is completely unqualified see, if he knows nothing about it, I don't ~~know~~ see why that really hurts the scheme. If he wants to go out and try it .....

Suppose tho ..... (interrupted-simultaneous speech)

How does that damage it? If he catches many fish it's going to be better for the ~~resident?~~ rest of them

MR. CLEM TILLION:

John, John, if you have the at qualification group one that required a certain amount of fisheries background, the fisheries background

Tillion could be Oregon, Washington, if you've at least held it to a more limited -- the fisheries aren't helping anyone in the United States. Unlimited entry has guaranteed that they're a sick industry. So the thing that you have to do is at least you held it to an area of that expertise and sure, maybe the guy from Columbia River can beat you out, you know, Oregon or Washington. You're not discriminating on residence.

Let's go back to the basic issue here. I think it's what Terry is talking about. If we wind up with 400, let's say, or 500 gear holders in Bristol Bay and none of them are willing to sell out, okay, we have achieved our first purpose of getting down to the limit gear where we desire to go. But nobody is willing to sell out therefore, there's no way for anybody else to get in. Isn't what we are doing each year is getting the right and exclusive right to these people who are qualified under our original conditions here because of their primary dependency on the thing, etc.? Isn't that exactly the same thing that we're doing then as we would be doing with new people coming in having them meet some of these qualifications? There What is the difference? I don't like to see that. Okay.

If that happens, I think you would be 100% correct, but I think there is no reasonable reason to expect that the market price (indisc) in permits ~~existed~~ unless you had a complete Cartel (indisc) all 400 became some sort of a huge monopoly organization and agreed not to

transfer their permits. If that happens, sure, then we've done something -- but I just don't think that will happen because each individual has the legal power to transfer his permit and at some price they will be transferable.

Well, again,
What's wrong with the (indisc - cough) with this problem? The point of view of I'm trying to help our citizens, and that we can do this in terms of loans and otherwise, or training or whatever we want to do. God, we can buy them boats, we can loan them money, we can give them operating capital, we can grubstake them, we can do all those sorts of things without any question of legality or constitutionality. In other words, are we really going to help our people till until we're -- until we teach them and equip them with money and otherwise, so that they can compete then rather than to try and legislate the competition away from them. In other words, our (indisc) problem is to raise our non-competitive and marginal fishermen to who our friends and neighbors to a competitive level to where they can operate with anybody else rather than to legislate, try to legislate, so that we can protect them from the outside competition, so to speak.

I would agree to some (indisc) what but if those programs were on the boards now and if those programs were funded now, that would be one thing, but if the bill goes through tomorrow and they have an expectation that those programs will do this (indisc) and they don't, then you've just, you know .....

There's some men in there now that wouldn't want to be taxed to pay for it.

(simultaneous speech)

They wouldn't have to be taxed for it.

Well, where's the money coming from then?

You've got a fisherman loan fund on the books now, it's just a matter of putting .....

They wouldn't have to be taxed on that, all they have to be is funded on that. To the extent that ~~there's~~ this economic thing that we're concerned with here.

This is something that the Commission is going to have to keep the tabs on these transfers ~~or~~ anyway, and I think that's what the Commission is for, ~~is that~~ so they know what's going on at all times to watch this thing.

I would like to agree with Senator Rader. I think that the only way we can make this thing work is to help raise the ability of the people about whom we are most concerned to compete and there are ways that this can be done. In regard to this qualification pool, apprenticeship thing, may I submit that for every Italian fisherman who has a gear license there's another boat puller sitting right there who's probably

infinitely more qualified than any second son, or somebody coming out of the brush who has not had a similar background? So, concern about this does not necessarily gravitate to the benefit of the resident from whom we're showing this concern. We'd like to be able to assist the resident this way but evidently within the constitutional limits, as I understand them, we're going to have to have a sort of a free for all here. The only thing that we can do is to assist these people to fight on equal terms, shall we say. So, let's go ahead and try to do that. Inevitably, there's going to be a screen ~~(indise) while~~ over a course of years because somebody is going to fall by the wayside. Well, I submit that that may not be more tragic than what we're having now. We have these people, they're all by the wayside today. This may make it possible for some of them to compete. The guy who is down and out now may not be quite as down and out -- I mean some of them will manage to make it ~~okay~~ over the hump. Some of them will be down and out after a few years anyway. So you're going to be darned if you do and darned if you don't and I think you're going to have to take ~~a~~ the stand here and realize that you're -- whatever you come up with is not going to be palatable to everybody for ever and ever. May I suggest that you look back at some of these thoughts that Mr. Flavin has put down here, "Transferability of Permits." I think it would be a mistake if everybody left this meeting without really addressing themselves to some of the questions that Frank has raised here.

(simultaneous speech)

MR. FRANK FLAVIN:

Well, of course, it's not exactly what we've been addressing to ourselves to as far as the very last question, what kind of transfers should we allow: ~~for~~, free, ~~(indisc)~~ partially restricted, non-(indisc).

Frank, talk out loud here. I think that you've done us a real service here. When I first read this three or four hours ago, I thought so, too. Talk to us in terms of if this were an exclusive property rights, what you think -- tell us the bundle of rights, those things that would go with it and then tell us what you think it would be if we made the use permit and how we would change those rights and get a certificate of public convenience.

MR. FRANK FLAVIN:

Well, this is more in relationship to what amount of control (indisc) in terms of qualifications, but there's other controls too that the state might wish to put on it. When you grant an exclusive right, you run into all sorts of problems about how you might want to take that right back in the future even (indisc) increased compensation, and all these things. But a use permit like you have you know, like grazing permit or any ~~kind~~ time that a person (indisc) is given a permit to use a governmental property or resource, there's always some sort of standards that you retain that people ~~will~~ have to abide by. ~~But~~ Once you give a right, you know, vested right, you lose a lot of abilities to control how somebody operates within that system. But all these it's -- you go from the top from

very little governmental control to the bottom to the most governmental control and I sort of looked at it in that fashion. And I think it's sort of necessary to determine in your mind just how much governmental control that we want to have here. That's why I got into the whole thing of qualifications in the first place, because I just -- it seemed to be sort of shirking some sort of duty to divvy up a resource that's supported by tax dollars. It's a ~~counter~~ common resource belonging to everybody ~~who (indisc)~~ in the state. But you just outright grant that to an exclusive limited number of people solely on the basis of monetary worth without retaining some sort of controls or somehow controlling on how these people operate, seems to me to be somewhat abusive and I'm not so sure that there's not some constitutional problems with that in the first place, despite the fact that we've got rid of the ~~(indisc)~~ constitutional amendment. That's, you know, that ~~an~~ the inquiry that I think we have to make.

DAVE:
I'd like to suggest that we really haven't done that. We really probably are at the use permit level because we haven't granted a way to fish. We've granted a way a right to use the fish. There's still completely subject to conservation regulations by the Board of Fish and Game which could include total closures of an area, which include all sorts of modifications as to what kind of gear you can use. The whole gamete of police power restrictions over the way that the resource is utilized. All we've done as we have parceled out a finite number of use permits, I think that's what we're really looking at, they would something between one and two. They would -- if we make them transferable, there like property. But they're

still no more than a use permit. We haven't granted away to the fish in Bristol Bay to individual people.

I thought in this way I use this determination when I was thinking of qualifications because when a governmental unit usually allows somebody to have the sole use of a resource and gives them a competitive exam advantage, they always look to some sort, you know, it's like the public utility, you always look for the, you know, whether this guy is -- this company is to be expected to have a financial resources necessary to do the job you're giving him or whether he's trustworthy enough to have that type of an operation. And I'm just wondering if in fishing, it might not be the same thing? Do you want to require something from these people that you're giving the competitive advantage to or do you -- is it just -- are you just going to sort of make a micro- which this really isn't cosmos of the rest of the free enterprise system (indisc) and say, well, it's a dog eat dog and it's anybody can get in by money and that's the way it's going to be even though it's not really the same as it is. Once you've determined that it -- the kind of resource is going to be locked into a set number of individuals, then you're out of the free enterprise system right away. Talking about, you know, if you've got the money you can buy any (indisc) even if you're not -- even if you're not doing the job or something. I think is a little bit -- it's not completely irrational, but I think you're getting away from some of the main issues. That's why I thought the qualifications fit in.

Well here's the problem. On a certificate of public convenience ~~or~~ and necessity or something like that, you're talking about when we fear that a job won't be adequately done. And we don't have any fear that there won't be an adequate number of fishermen there with gear to catch the fish, do we?

(Simultaneous speech)

Let's take another example, then. State lands at the present time is available for grazing leases. But you're restricted. You've got to show that you can or have a reasonable expectation to put on a certain number of head per hundred of acres etc. etc. etc. You just can't take the land and do anything with it that you wish to. Now how does this apply?

But if you were faced with the problem of common overgraze -- let's assume you've got a common area, and you were going to let people graze on it and it was being overgrazed, you would not require of ~~the~~ a permittee that he -- that if he gets a permit that he has to put 100 head on it. You'd hope to hell that he maybe didn't put any on it if he was entitled to a permit or something. ~~I mean~~ other a ~~the~~ problem is overgrazing see, ~~you can promise other~~ if a problem was under grazing then it would be different. But the problem of this thing, the thrust of the whole works is an over -- too many people, too many people, and therefore if it's a taxicab you're giving a certificate of public convenience of necessity to, if you're only going to have five cab operators in town, you want to know that when it's

raining you're going to be able to get a cab. That there will be enough cabs to go around. But, so the public will be served. But here, we don't have any problem in knowing that there's going to be enough boats to go around or enough gear to go around, you see. The whole thrust is in the opposite direction and that's why it seems to me like that if that as I was saying before, that I know if it were a public utilities program or if it were something like that, you'd take these considerations, but the thrust of this is not in that direction.

We're talking about into the future and we're planning to get in each area the size fleet that that can -- that will be able to harvest the peak run as well as to make a living off the average run and so there is some sort of economic justification in that. To me you're creating ~~an efficiency~~ inefficiencies in your fishermen if you allow an attorney or a businessman or anyone or a doctor or anyone with a high income otherwise to buy a purse seine license because he likes to go out with his wife and kids and he thinks it's good training and a nice way of life for him and he's -- he will have just as much right to buy that permit

Let's not say a doctor, lawyer thing, let's just say another work~~er instead~~ing stiff, ~~because~~ that all his life he's wanted to have enough money to go out and buy a boat and be a fisherman, because that's what he'd rather be than anything else in the world. Now that's what I'm talking about and that's what

you're talking about, is the right of the poor guy who has a dream and he wants to accomplish that dream and whether or not you're going to foreclose him out on some basis here which doesn't have anything to do basically with what we're trying to accomplish ~~here.~~

Well, if he had a stiff been working within the fisheries at all... then then

He hasn't been a working stiff (~~indisc~~) within the fisheries.

If he wants to become -- I mean I'd see no reason why I should be able to become a plumber if I don't know anything about plumbing.

(Simultaneous speech)

He can be a crewman yeah but why should anyone have the right to run an operation?

Why can't you become a plumber? If you can't become a plumber is probably because people would hire you and you'd end up making violations of the plumbing code and the people that you sold the product to would be getting an inferior product and you'd be damaging. You'd be a consumer fraud to hire you as a plumber when you're not. But when a guy goes out and fishes if he doesn't catch any fish he hurts no one but himself. There's no consumer fraud. There's nobody else involved and in fact the resource has been helped.

No, well no wait a minute.

No, no, no.

Carried to an extreme he could. Suppose you're down .....

Yeah, but you're not ....

Wait a minute, suppose you're down ~~the~~ to 500 units. And this is what's necessary to harvest. It's necessary to harvest a peak run. You're peak run comes, but half of your 500 or any substantial part of your 500 are not qualified fishermen. Okay, so instead of ~~(indisc)~~ harvesting them they go up the streams, they plug the streams, etc. you haven't harvested your resource, you could ~~have~~ actually have hurt your returning runs because of too many fish escaping. Does this sound worth considering?

Well, that's an argument.

(Simultaneous speech)

The scallop fishery--

If I'm not incorrect, some of these fisheries if you're not really a good fisherman you can really do some damage to the resource, maybe I'm wrong, maybe I don't understand, but I know that it takes a certain amount of expertise to be able to really not only efficiently but properly harvest ~~them~~ some of these resources ~~(indisc)~~.

And then you're insurance costs go up, you have more injuries all these sorts of things and when you know, ~~certain~~ insurance costs go up for everyone when they go up (indisc - interrupted) they're different economic and efficiencies

There's no reasons that these conditions should be attached to an entry permit anymore than a commercial fishing license. Why should they just have certain minimal qualifications and anybody that's involved in commercial fishing along these lines set professional standards because of these -- I mean there's no reason that this should attach and be a part of ar entry permit anymore than a commercial fishing license which a guy still is going to have to have. Every fisherman and ~~the~~ a crewman.

I guess I respect the abilities of the skipper too much. I tend to think he's a little special man, ~~is all~~ you know.

Do any of you anticipate we've can accomplished anything more this evening at this point or should we break until the next time.....?

Well, I think as usual .....

(Simultaneous speech)

... only to be a union plumber, not as far as the law is concerned.

What do you have to do to have a plumbers' license?

You don't have to do anything to be a plumbing contractor.

This came up with a friend of mine. He wanted to be a plumber. But he couldn't be a plumber so he became a plumbing contractor.

END OF TAPE

CHAIRMAN: For the benefit of ~~the~~ you people in the audience, let me introduce the members of the committee that are here. Across the table, we have Senator John Sackett from the Interior, Senator Poland from Kodiak. Next one here is Senator Radar from Anchorage and I am Bob Palmer from Ninilchik. We have Mike Whitehead here as our committee assistant ~~and~~ who has been working on this thing non-stop for all the time since the session began and this is Joe Bennett, one of our attorneys from Legislative Affairs agency. Okay, to go back to where we were, one of the earlier proposals that we have been working on in ~~really~~ rather great length and have been discussing has been free transferrability of these entry permits so that they would have a property right and the fisherman could sell that either back to the commission, the entry permit could be sold back to the commission when the fisherman wanted to get out of the fishery, or he could turn around and sell it to anybody else that wanted to get into the fishery. We had known of some of the drawbacks ~~and~~ or we recognize some of the drawbacks to this system though, but we hope to include in that idea the fact that the commission would need to approve the transfer of any of these permits which would give the Commission an opportunity to discuss the advisability of the sale with the fisherman that is wishing to sell his transfer - or his permits. We have also discussed the idea of having a two-year moratorium during which no permits would be sold. We have also talked about providing adequate funding for the fisherman through the fishermans loan program that we have now in effect in the state, ~~though~~ so the fisherman who might be indebt to the cannery at the present time would have an opportunity to borrow money from the state fisherman loan program in order to pay off the cannery so that the cannery could not foreclose ~~all names~~ on him and force him out and force the sale of his permit

to the cannery perhaps. Well that's one concept - free transferrability with a property right. We have another one before us in the form of a work draft today in which the entry permit is not transferrable, does not have a property right if ~~the~~ a fisherman did not fish for a certain number of years, and that's not specified; then the entry permit would automatically revert back to the commission and after there had been enough reduction in fishing gear so that a so-called optimum level of gear in the specific fishery had been reached, then when there were people getting out of the fishery and the permits going back to the commission, the commission would make these available on a lottery basis to people who wish to get into the fishery. There are quite a few advantages to each of these things and a number of disadvantages to each of these systems. And the purpose of the meeting today is to consider some of these alternatives that we have ~~on the~~ as far as the transfer of the permits, the non-transferrability and the disadvantages and advantages of each. I think that we had not intended to have a great deal of testimony from the general public today, but I do recognize that a lot of you people have travelled quite a distance to be here for another meeting, yes, perhaps, but ~~that~~ you're still here and we would like to take advantage of your expertise. A lot of you have been life-long fisherman and so we will give you an opportunity within the limits of time that we have to have your say. I think what we'll start then, I think we will start with Mr. ~~[illegible]~~ Flavin. We'll let you, if you wish, ~~to~~ give us your analysis of the lottery-type arrangement where no property right is attached to the entry permit and therefore it is not ~~readily~~ freely transferrable and I would like to have your comments pro and con on that, as you see, and I think we'll then go to the representative from the United Fisherman's Organization, Mr. Dejak (ph), if he'd like to, and

then to people in the audience over here. Okay, Frank, if you'd like to sit at the table, you may do that.

FLANIN: The non-transferrability certainly wipes out the problem we had with coercion, the economic coercion and one of things we were worried about when we broached this two-year period on the transferrability section, this two-year moratorium on the issuance of permits, is that we hope in that two-year period to be able to educate the low-income areas as to what they had and perhaps bolster them up economically so that they could withstand the type of pressure they are going to get to transfer those permits to financial interests. With this pipeline problem and everything else with the drying up of a lot of funds it just becomes questionable whether those types of Funds are going to be available. I know a lot of people in the Bristol Bay area cannot qualify for the state loan program the way it's written now. Even if we could get the funds for it, I am not sure that would be the sole answer. On strictly legal issues, I think that non-transferrable permits are legal. I think that you might even be able to get away with allowing transfers of permits to family members. I think that it's worth the chance and I think it could be severable and thrown out to you and wouldn't be worse off and it's worth a try.

Excuse me. I interrupt. Are you saying that under this concept of non-transferrability it still might be transferrable within the family?

FLANIN: I think so. I think that you should keep that standard that you had the original governor's bill that anybody that gets the permit has to be able to actively participate in the fishery, have present intent and

~~attach the~~ ability to participate. I think that it would be one thing to give a permit to somebody that was 14 or 15 and something else again to give it to somebody that was 4 or 5 years old. I think that the original bill provided, in another section, that the commission would draft rules and regulations on the inheritance of permits and this type of thing. I think that they could investigate that a lot more as to different ways you could ~~to~~ go about that to ~~and~~ make sure that it was legal (loud coughing noise). I think one advantage I have been going back and trying to analyze the prior decisions in ~~the advantage in~~ Bozanich and the other Washington cases. One of the things that has troubled me is ~~by advantage~~ in Bozanich the court there said, the federal court ~~there~~ said, that the problem they had was that we had ~~no~~ the "no exclusive ~~exclusive for~~ right of fishery" clause, which is gone now, but we also had the common resource, which is still there, that the fishery is a common resource. And their problem was vesting entry into that common resource ~~into that~~ in private ~~had~~ hands so that anyone that looked ~~into~~ in the future to get into ~~the~~ this common resource, the fisheries, would have to look ~~into~~ to a private individual to get that and that is where they found the constitutional deprivation in that you had to go to a private individual in order to get into a common resource. I am not really sure that when we have free transferrability we have changed it legally in any way; instead of a three-year standard now we are saying you have to buy it from them instead of working for them and I am not sure if that's not ~~any~~ a difference without any significance in law. You say you still have that private individual that you have to ~~(Unless, noise)~~ depend on (?) to get into a common resource. I wish that Dave was here today because I feel like I am taking ~~an~~ a little bit of unfair advantage over the attorney general by approaching these things without having some playback but I think that's a problem that hasn't been looked into. I just wish we had some more

briefing on this. I think the non-transferability, if we could get into that, I think we would certainly take care of that problem. Despite John's reservations, Senator Rader's reservations, I think that you might want to put some basic minimal qualifications that anybody could meet if they tried to on new applicants. I think that the state could do that and I think that it would be wise to do that so that you would go to a lottery of people that could actively participate now and not go to a lottery of incompetents or something or anybody but somebody that would have the ability to participate and just some basic minimal qualifications, hopefully not something where you get into a credential system, at least some present intent and ability to participate. I guess that's enough.

Well, describe if you will, how you really see this thing working. I tried to summarize a little bit. Perhaps you would like to go into a little bit more detail as to how this actually would work on a lottery basis.

FLAVIN: Well, hopefully there would be some forfeitures and as the resource stabilized perhaps we would have some more permits issued in the future. Once permits did become available if permits that either came to the state through forfeiture or came through people that didn't leave any heirs or something like this, then these permits would be reissued by lottery basis on basically the same standards that we had originally to, maybe a little less harsh on the dependency and participation, but they would go on a lottery basis to people who could actively participate. Of course, that's extremely fair. You're not showing any favoritism if you go on a lottery. I would myself prefer to see it go to people that have invested personal

committee has to consider.

So it would not be a completely open option - er, a lottery as you see it, but there would be qualifications on those who are eligible to participate in the lottery.

FLAVIN: Right. I would hope ~~at least~~ that there would at least be some basic qualifications that you would have the ability to participate in some manner. Maybe that's not acceptable.

I'd like to know what Senator Rader felt was wrong with the lottery type situation?

RADER: I don't know. It has a lot to recommend it. It really wasn't my idea. (person's name), I think, brought it up first, maybe Mr. Flaven did, I don't know who brought it up first, but, it has several things to recommend it. First thing is that we are worried about if we distribute permits today that economic interests would acquire those permits, either local or outside, it doesn't make any difference, but superior economic interests. A lottery would stop that because ~~the transfer limit~~ the permits could absolutely not be transferred to anybody nor could anybody buy them up. The best that they could do is to put their names in the lottery. That's the first thing. And this would be whether ~~with~~ it was the canneries or whether it was the canneries' nominee. The most ~~of~~ that anybody ~~can~~ could do ~~it and~~ would be to put their names into the lottery and presumably they could only get one license ~~in~~ at the most. So it seems as though ~~that a number of people~~ they're not going to be able to buy them up, and therefore the guys are going to be on the beach. It also keeps the fisherman from having anything to sell, which is a disadvantage to the

fisherman. If he had something that was ~~really~~ tranferrable, he would have something that was saleable. This way he doesn't have anything that's saleable because the moment he quits using it, he can't determine who the subsequent users are going to be because they'll go to the lottery. So he doesn't have anything to sell, therefore, the economic interests have nothing to buy, therefore the economic interests presumably could not corner the market on them. The second thing is that if it is done by a lottery, it's ~~eminently~~ eminently fair. I think that that has a lot to recommend it but it doesn't mean that any group (indesc.) or group of people are going to necessarily be the only ones in the lottery. As a matter of fact, I am convinced that ~~they~~ if a guy ~~in~~ From Seattle, if he wants his name in the lottery too, you'd have to put him in.

Can you see certain requirements though, in terms of the people that can be in this group of lottery?

I think that it would have to be really minimal. If the requirements are safety (?), then you should require that of everybody today. If the requirements are ...

How about of knowledge?

Well, why don't you require that today? What difference does that make? Maybe a guy ~~has a fish~~ hasn't fished but he wants the right to fish. I think that it was Phil Daniels here who said that he had never been fishing in his life and on the third year he's a highliner. Well, he wouldn't have been eligible for the lottery but people like him should be eligible for the lottery whether they have ever fished or not because if they don't catch any fish, they haven't hurt the

resource. Like the argument we made before, if they don't catch any fish they haven't hurt the resource. The other fisherman catch more fish and the only thing is that he has a permit there which he has not fully utilized. The argument against that is what are you going to do if you have only a limited number of permits and you need a full harvest and there's a number of guys that are incompetent because they are learning. I think that that argument has some weight to it. But I assume that what the knowledge thing here... I don't know...

Thank you.

Could I make one more response?

Yeah, Frank.

FLANIN: The One disadvantage of the lottery is that the guy that's in the crew members status or something investing his time into the fishery will hopes that someday he'll be getting a permit. With the lottery system it would seem like playing Russian roulette, which he has no real manner of improving his position as the years go along and I see that as the real disadvantage in the lottery, where the lottery on one hand is fair and on the other it's hard for a person to really, just by sheer gut effort, to improve his position.

Why wouldn't it still be a defacto type thing of these licenses or permits gravitating to the canneries simply by the fact that the canneries might have a pool of twenty, thirty, forty applicants for every space that comes open? Any one of which can be successful in the lottery becomes a cannery fisherman. Whereas everybody else is definately one against one.

I would say that somebody would have to work on that lottery system to make sure that it was fair and that there wasn't any packing going along with it. That's why I still believe in some basic ~~mmmo~~ minimal qualifications because I think that's one way to prevent that type of thing.

Well can't the cannery have qualified people as applicants?

Sure they would have..

They would have; ~~but they are~~ you're not going to weed them out that way.

You know it's a little bit like this. This problem, ~~of deciding the~~ this idea of qualifications is a ~~right thing and~~ little bit like saying that you can't go to college unless you graduated from high school when the fact of the matter is that they'd let you take the courses so you ~~can work your way~~ could to college. (?) A lot of people didn't go through high school for a lot of different reasons, but ~~... the~~ this idea of making everybody hold certain credentials ~~and~~ rather than letting them go out and see who really can do it and letting them produce...

Same thing for attorneys?

As a matter of fact, I agree with you. I agree with you 100%.

Let's keep to the subject.

I think you're absolutely right. As long as they work, I don't care how they aquire their knowledge or information or that they

want to spend a couple of years learning how to use it. There may be people who won't want to go fishing until they know that they have a permit or are going to have a permit because maybe what they really want out of life is to be independent and on their own. There is no point in learning how to fish if you're going to be a deckhand all your life if you don't want to be a deckhand so I don't think you really want to limit it to any class of people on getting in there. I think you should limit it to people who think they want to fish. If they don't use it, then they lose it. Anybody who didn't use it, say three years or five years, or whatever would be a reasonable cycle, would automatically lose it, which means that there would be no speculative value in the thing.

I agree with you except that while you're doing all this and while you're allowing these people to go in, (?) I believe that there has to be some method whereby you can make it easier for Alaskans, particularly those that are in the field that don't have all the advantages to be able to have at least a little better chance than others. And of course that's the whole question we're grappling with.

If you could figure out a way to do that. If it is based on Knowledge and goodwill you could get the Seattle fisherman that have knowledge, too.

Mr. Chairman?

Yes.

I think that I am the only one that (indesc. mumbling) sometime the crucial part of the testimony.

Alright. Thank you. I'd ask everybody to speak a little bit louder. I don't know whether the acoustics are not to good here or what. Anyway let's try to speak up a little bit more so that the people in the audience can hear. Incidently,I didn't introduce Mr. Flaven. He's an attorney representing the people from south Naknek. He is here, Phil Daniels representing the United Fisherman's Association and Mr. Dajak representing the Governor's Office. He's worked with the Governor's version of this bill for quite a few days, weeks and perhaps months with us here since the session began. Did you have something more that you wanted to say?

Yeah, just one quick thing. I think that what we are talking about is we've got three options as far as a new entry bill. We have got a lottery option which has had the advantage of being eminently fair, but perhaps no one knows where they stand and the other two options are we are going to have two kinds of qualifications; you're either going to have a money qualification or you're going to have a personal type of experience-type qualification or educational type qualification with some type of personal qualification. I think that's our three options. We're going to have to look at fairness and we are going to have to look at what kind of qualifications it's going to take to become a member of the industry. I think those are the ~~(indesc. noise)~~ three options we have. Either personal qualifications or strictly monetary.

Alright, John, let's get [illegible] opinion and Joe, I'd like you too if you wanted to give us one. If we were to go the lottery route, there's two things we might think of as far as qualifications or things we would like to do perhaps. One is to make it transferrable to son or someone within the second degree of kinship. First of all, do think that we could possibly do this within the confines of the constitution? Is this something we could work out perhaps? I don't want to pin you down. I am just saying, what is your immediate reaction?

My immediate reaction is that anytime you have a group of people that have a special franchise permit and you make it inheritable, so to speak, that you're creating the worst type of a closed society. I understand precisely the idea of a family in a fishing situation, but you have to recognize that people who don't have anything, that it's to their interests generally, that the special privileges to fishery resource or something else is that the free entry into it and not to be precluded from free entry into it. Because someone's father who is a fisherman and two kids are going to school together, one of them therefore is assured that he has the right to fish and the other one is equally sure that he doesn't have the right to fish because of his father, doesn't appeal to me as being basically fair.

Well the question is constitutionality, not morality...

I haven't researched the point.
Well I'd strike it on its face as being unfair.

~~It probably was not a fair question since you haven't had an~~ opportunity to study the constitution, so we will now retract the question and see what can be done as far as research into the constitutionality.

Certainly certain benefits or a lot of benefits would inure ~~of the nerve of~~ the family with one of its members holding a permit. ~~(indeco. mumbling).~~

Are we in the same situation if I ask the question about applying the same criteria to those who got the original entry permit? You follow me? We have some qualifications. There's a criteria here. Primary career fisherman, consistent participation in this fishery, provides the primary or substantial income source, etc. If we tried to apply these kinds of qualifications for one to be eligible under the lottery, even, do we hit the same problems? Are we in the same situation in asking (?) the consitutional question?

~~(indeco. mumbling).~~
Why don't you ask somebody that's researched this?

I think the committee knows my feelings. I have always felt that if we didn't use those same criteria in the future, you sort of undermined their fairness and equitableness in the past.

Phil, would you like to present the other side as you see it or some of your thoughts on the other side?

I will make it very clear that what I say will not be the official position of the United Fisherman's, because they are coming back to town.
~~down.~~

We're not asking for their position, just some thoughts that you see as far as the other side, perhaps, of this coin.

Well I would have an enormous amount of reservations on the lottery approach. From this point of view initially ~~from~~ in travelling around the state and meeting with fishery organizations, ~~that~~ the biggest argument against limited entry was the argument that you're interfering with the free enterprise system and that you are excluding the ~~hope of the~~ open fishery creating perhaps a closed class. Well it's bad enough to have to exclude someone from the fishery but then ~~you~~ to turn right back around and say that ~~by~~ by establishing an apprenticeship ~~school~~ pool and ~~by~~ by putting ~~on~~ it a lottery basis, we're gravely jeopardizing your possibility of ever getting into that fishery. It's going to be that much more discouraging to the general public and to a lot of other fisherman. In other words, if you went the lottery route and you had ten licenses and you had only eight fisherman, just in terms of the laws of probability alone, a man can go back and put his name on that list thirty years in a row and never get a license and I think that this is going to be very discouraging to a lot of people who see themselves as one day wanting to fish. I also think that in my own case, and in many other peoples' cases, ~~has~~ who have come here and wanted to fish, ~~that~~ if they had to go ~~to the~~ through an apprenticeship ~~school so~~ pool that required, ~~by the State~~ let's say, five years ~~for~~ of participation as a crew member and various other things before they could become eligible to roll the dice, that they would be discouraged ~~and evidently~~ enough that they would see themselves as excluded. And this is my real reservation: if I were a crew member and somebody said, well you're going to have a chance to fish but only if you're lucky enough as far as the lottery is concerned, I would really be discouraged at that. On the other side of the coin, if

you make your license really transferrable as a property right, you're really saying to somebody that although we have an exclusive fishery, still, anybody who has the courage to buy a license can get one. Now this, I think, it's legitimately pointed out that this is a disadvantage to people who don't have the money. But as far as the concern that these licenses will eventually end up in the hands of the cannery, I think that's a bit short-sighted from several points of view. First, the license attached to a man and the cannery can only own one license, I take it. I can't, for the life of me, see a cannery put down 10 to 15 thousand dollars for a man to get a license, when that license cannot be encumbered and that man can turn around the next day and tell the cannery to go jump and take off on his own and do whatever else he wants to do, and I imagine that when the cannery has been burned two or three times, as it no doubt would be, that they would become very reserved about buying a man a licnese for 10 thousand dollars when they can't get their hands on that license. Secondly, I think the cannery's ability to dominate the fishery economically, would not have been precluded, because as long as the cannery is able to loan a man money, as they are going to continue to be able to do, then they're going to have a way of getting their hands on that man whether they've got his license or not. As long as in a hard winter, a man can go to a cannery and say, how about loaning 3 or 4 thousand dollars, they have him under the same kind of economic coercion as they would have now, as some canneries do, and I don't see that you're going to preclude this by making that license put on a lottery basis. I don't see the advantages. Now, from another point of view, I think the idea to the fisherman, to the really serious professional fisherman, the idea that by being able to buy a license...take a man who already owns a license, say in Cook Inlet,

the idea that he can go to Kodiak, buy a license there, that he would have to pay the assessment cost, but he would be able to fish more than two areas and that's going to be an enormous boom for that man as far as his ability to earn a living fishing. And there are a lot of people who could make a living fishing if they can fish more than one area, as we used to do. That I think is one of the strongest selling points in that entire bill as far as the fishermen are concerned. I would like to see the license made a pretty negotiable item. Now it's been pointed out that you're giving a man a big economic windfall by doing this. Well, if you have an assessment by way of a buy-back program, you're going to be requiring that fisherman to pay one or two hundred dollars a year or so in order to buy these excess boats out of the fleet. Well, if he does pay that and his license is valuable, I don't think he's getting a windfall gain. The man who is getting the windfall gain will be the man under the system where you had no cost on your license and the man comes into the fishery 10 years later after your buy-back has achieved the attrition you're looking for and he doesn't have any assessments to pay, the fishery is then in a healthy state - you've reached optimum levels. He's the man who's going to get the windfall gain. So those are my reservations on it. I am certainly in sympathy in the idea of trying to protect people in low-economics bracket. I know that the Alaska Native Land Claims provisions provided that you could only sell your license by going back to the B.I.A. I believe that's the way it's written. And the idea there, I imagine, is to keep a man from selling something valuable when he doesn't realize the value. Well, if we could do something on that level, to cause (?) this license when it wants to be transferred to be referred back to the commission for their approval so that a man doesn't sell when he shouldn't, at

least you can try to discourage him from doing so, and it still allow it to be as open as possible by way of the license being pretty negotiable between whoever wants to buy or sell, would seem to me to be a lot more desirable way to go. Again, I want to make sure that everybody understands this is not the U.F.A. position, and this is the way I feel about it and I may change my mind before it's over.

Question to Mr. Daniels.

I started out, I think that at one point in my thinking here, agreeing to (?) statement that you just made and I don't know whether I agree or not, yet. I am very troubled by one argument that we presented the other day in the hall. That is, let's forget about the assessment that we are going to make here against the fisherman. Let's assume that we can't figure out whether there's an excessive pro rata (?) amount of fish he catches for each license or what, and that we reduce the number by attrition of licenses. We assume that the salmon resource is worth a billion dollars, and I don't know what you want to assume but it's got to be worth probably several times that the North Slope oil is producing; many, many times in a long term. If you assume that you're going to divide that up among a certain number of people and that they will have the right then to sell that when they are through using it, aren't you really giving the first group the resource and then when they sell it, they receive the value of the resource and the second group pays to get into the industry? The first group doesn't pay. They get it for nothing. This generation of fisherman get it for nothing but the second generation of fishermen don't get it for nothing. They have to pay this generation of fishermen and then what are they paying this generation of fishermen for? They are paying then for a public resource that this generation of

fishermen did not pay for but was given to them, and ~~then~~ you make it ~~possibly~~ freely transferrable, there's that element to it that, it would be a little bit like us saying why did we give away the North Slope oil on a lottery instead of selling it on the basis that they will pay us maybe a royalty or something like that, because they want to use it, because they'll develop it. We'll make the money off the pipeline or off of royalty or something else. The public will make... the public interest here on this fishery. And that's the thing that bothers me now and didn't bother me a few days ago about the very thing you're talking about. Maybe I'll get back to where it doesn't bother me again, but it does right now...

DANIELS: Well, I would hate to see ~~it~~ us go the route that you just indicated, ~~of~~ of not having a buy-back. Because ~~of~~ in the first place, I think that your ~~(word)~~ attrition is going to be painfully slow and if what we are trying to do in the first place is limit the fisheries for what I think is a very, very good reason, then I think we ought to accelerate that limitation being arriving at the optimum level, you're going to have to have a buy-back of some kind. I would prefer to see it by way of an assessment just simply because in talking to all these fishery ~~groups~~ groups around the state, these guys are willing to be charged money as long as it they see it benefiting the fishery. So I would really like to see the buy-back. ~~Even~~ If you didn't have the buy-back, I would be perplexed too, because obviously the guy is getting it for nothing.

Let me ask you this. What if we made the rule that when a particular fisherman got through with his license, his permits, and wanted to give it up or sell it, that the only amount that he ~~could~~ could receive for that would be the amount that he had paid in assessments between the time that he held it and ~~until~~ (unless) he put it up for lottery?

DANIELS: Well I could see the fairness of the first part of it, but the second part of it still bothers me tremendously. I just can't see a man ~~goi~~ who wants to go into ~~up to~~ the fishery going up to roll ~~them~~ the dice. ~~I~~ I am in ~~disbelief~~ disbelief because of the fact that, again, if you got eight licenses and 10 men, some of those guys can go back forever and never get a shot at that fishery. And I just think that publicly that's going to be tremendously ~~objection~~ objectionable and plus the fact that I think that apprenticeship ~~school~~ pool is not going to provide the kind of benefits to people that they may think would. Because for one thing, most of the people in the apprenticeship ~~school~~ pool are going to be fishermen who are actually fishing other areas and if you were to use the same criteria for priority rating, that you have in that bill, they are going outweigh the group, they are going to outweigh the man who hasn't got experience because obviously they've got ~~the~~ the experience and all the requirements and qualifications because they are already fishermen.

I like that first part, John. It's interesting; just pay back in turns of the amount of assessment. I have always been concerned about exorb~~e~~itant or inflated costs ~~at~~ in a buy-back ~~division.~~ provision.

The chairman suggested the other day when we were going through this thing that ...

CHAIRMAN: But of course if you do that, where is the incentive then for someone to sell out, if all he is going to get back is what he has put into the thing in assessments? On the other hand, if he's going to have a property right, there may be quite an incentive for him to sell out, right?

Of course there is always the question about whether ~~he would~~ we take want ~~to~~ the buy-~~that~~ back in the first place. We're still on that question. I am not going to go back...

CHAIRMAN: Well, let's don't get too far off of this, though they do fit together, I grant you. Okay, Allen?

ADASIAK: There's just another wrinkle on that. If you were to apply for the first man's selling and ~~then~~ (inflation) that all he pays back is the amount he paid in assessments, assume that the assessments were spread over ten years and he was in there for ten years and then decided to sell, he'd get that back. The second man then, would be the one who got the windfall gain if the amount of assessments over ten years didn't equal what the market value of the permits were. He would suddenly benefit from a great increase in value, so you've got a problem there.

So if you follow the string through, then you'd have to charge the guy in the lottery the amount that you paid the first man on assessments, which then puts in a financial qualification for getting into the fishery, but is not guaranteed, and that's what Phil ojbects to and yet, what the problem of the guy who doesn't have any money, we have suddenly made it so that he has to pay to get into the fishery, and he would probably have to do that ~~too~~ then, too. So ultimately, they would have a value, but they are going to have a value more than the assessment. The assessment value will only represent a very small value of that permit. The value of the permit is really going to be as if you'd taken a billion dollar industry and divided it into a thousand parts, and there's a thousand people who have a franchise now.

So somebody gets the advantage, whether it's the first guy or the second guy...

No. You could keep on passing to where they all got what they paid for, but finally it gets to where you're not get into fishery then unless you pay your way in.

But then there's no purpose for a lottery.

Yes there is. Because the assessment will be only a small part of the value of that... For instance, if the assessments were say, two thousand dollars, if it were freely transferrable property, it might be worth ten thousand. So there is an eight thousand dollar equity there. The eight thousand dollar equity would be the windfall if you let a man sell it to the second generation of fishermen. Whereas, if you took that lottery, the eight thousand, which represents one one-thousandths sale of the billion dollar industry, whatever it might be, you know. It gets to be horribly complicated if you follow the thread through.

DANIELS: That's one thing I like about the free tranferrablility, because it obeys the law of parsimony, a rather simple approach; something a person can understnad without ever having to have a decree.

Well I think that's really a big thing. (indecs. mumbling)

I do, too. (laughter)

It has to be understandable by the people by the ~~whoever~~ the people who are involved in this, it's the worst.

(indesc. mumbling).. On the face it may be understandable, but the thing we're really concerned about is the ramifications, and I'm not so sure ~~I thought~~ that ~~surely~~ those are so ~~(indesc. noise)~~ easily understandable.

Well about economic dominations by processors; can anyone tell me exactly how the cannery is not going to be able to dominate?

Well, I am not so concerned about that as much as I am about the immediate large number of people that you would have going into the fishery or, as I see it, if we go this route, it has a free transferrability and this thing has a property right, and ~~we~~ you were locking in everybody in categories one, two and three, so that anybody that has been a fisherman in the past, that depends upon the fishery even to the amount of substantial supplemental income, is guaranteed right back into the fishery. Then it seem to me that we are going to have an awful lot more people coming into it because, purely from a speculative approach, if nothing else, they think that thing is going to have a five or ten thousand dollar value in a few years. Therefore, they are going to get in now and get it and even though they may not be too interested in how many fish they're going to catch in a year or two, simply if they think they're guaranteeing themselves having a property right of an x-number of thousands of dollars after a few years, they're going to be willing to want to fish now. Don't you think that's really going to happen?

DANIELS: **Well I am not sure it will, because in Australia, one of the healthiest fisheries that I know of, is one (indesc. mumbling) that we talked about, and that is that down there you can buy a lobster license, there are three hundred and twenty of them available, and you can buy them and they cost about $2500, and they don't seem to have these problems with the enormous inflation...**

But they have already reached their optimum level...

They have an optimum level right now...

So they're not under the pressures that we are at this point when we look back and see how those people that may be eligible under the criteria that we're setting up here. Frank?

FLAVIN: I'd like to reply to the argument on the economic power. Crutch~~[illegible]~~ Field's that ~~booked as~~ book of Crutch~~[illegible]~~ Field's, that I referred to on the Alaska Salmon Management: The Study ~~and~~ in Irrationality. His proposed plan covered Alaska and Washington. When he talked under their plan, they had a free transferrability of the permit. He expected, under that plan in the state of Washington, that they would, after a period of years, find a gradual migration of permits towards financial powers and that he expected that there would be quite a bit of vertic~~e~~al integration in that fishery after an extended period of time, just because ~~when~~ when they do have this free transferrability, it becomes a sort of monetary type of thing where the ones that have the most interest in the permits ~~skip~~ get them. I think we're going to do away with it a little bit by saying that the license has to be in an individual, but then again Washington is a much freer marketplace than we have up here because you just don't have company towns in Washington and it's

foolish to think that if a processor wants to maintain this bargaining power that he has now through having too many boats by increasing his percentage of non-resident boats to get this playoff against each other for bargaining position, which is very real, that they cannot tie these people in contractually that they are going to get the permits for. I think they can do it on a contractual basis and then again if the guy doesn't fish for him, they just cut his boat off and he's not going to fish very well with a permit and no boat. We have never said that this, by making this non-transferrable, would go into break the domination of processors in certain parts of the state over the fishermen. We have never said that that would be the case. We just said that we're not going to make it any wor e than it already is. I think it's a very real concern. I don't think it should be minimized. I think that unfortunately we have two kinds of fishermen in the state. Some of them are more independent than others. We're talking about people going to Kodiak and buying permits in Kodiak and having permits in Cordova and putting out $10,000. People out in Bristol Bay right now and for a foreseeable future, they'd have one hell of a better chance if you rolled the dice than coming up with four or five thousand dollars for a permit. I don't see that changing in the near future. I wish it would, but I don't see it, and so I don't think we can minimize that problem.

I think that when Dave made a good point the other night in Sitka, some guy raised up and asked him what did you pay for your license when you started fishing and Glen said nothing and that's exactly what it was worth. I think that he's right in this point, that if you institute a limited fishery and you began to achieve the goals of limited entry, that licnese is going to become to be able to earn

money, and the guy is going to be able, by the virtue of the fact that he's got the license and that there is not someone else standing three deep behind him to take his place to go to a bank, to the go to the state, or wherever, and have an awfully good chance of getting financial backing. Whereas, ~~into~~ under the present system, it's almost impossible to get it because we don't have limited entry. So if limited entry works, it's going to change that position of not being able to compete financially.

I was going to say, that in commenting on the possibilities for ~~category for~~ cannery ... economic control participants of ~~whether~~ while it's true that the cannery may decide ~~to~~ to yank a person's boat, on the other hand, because the entry permits issue to a person, they need somebody to run that boat. There are certain number of units ~~to~~ of gear so that the number of times that they could exercise that option become very limited because then they have a bunch of idle boats. There are only so many people to run those boats. Without a man with an entry permit on that boat, you cant' have a crew and you can't operate it. So I think that there is a limit. There is another cutting edge on ~~that~~ this thing in favor of the fisherman and against the coercive powers of the cannery.

Of course, the danger is that when you cut - you got to make a substantial cut in Bristol Bay - we know that the area residents are much more dependent; I think that the danger is that once you cut, one of those guys from outside, the danger is that ~~those are highliners~~ if he's a highliner fishermen, they want them to have a permit. ~~They will~~ Then he'll end up with a permit again after he's lost it and there will be the guy who can't hang on that's ~~a fisherman struggling~~ the resident that'll lose it so that boat isn't going

to be idle, it's going to have a guy that's been on there for the last four or five years on there. It's not a question of idleness. I hate to sound like a great paranoid.

Are there any other questions?

I do have a couple comments on the work draft here...

Okay, we'll take your comment but we'll see if there is any further questions from the committee and then we'll go to...

I'd like to apoligize for David not being here...

Apology not accepted...

Very well, I'll offer it anyway...and acknowledge from the beginning the fact that I am not a lawyer and have been out of town for a week so I am not completely up on everything this committee has done, but a few thoughts did occur to me as I was looking through this. One of them is that if you go for total non-transferrability, it seems to me that what you're doing, and I may misunderstand something here, is locking in the fishery ..(end of tape)

...what would happen if you have two sons, whereas if you have a transferrable permit, I don't see that there is anything that says that a father has to sell his son his permit. He can give it to him if he wants to. It seems to me that that's perfectly valid kind of transfer. If the old man wants to bow out and sit on the side and let his son get into the fishery so that there is a way of passing on the permit if it's transferrable whereas, if it's not transferrable there may be some difficulty with coming up a fair system, have some sort of limited transferrability as long as it's a blood relative. It seems to me that if you use a lottery system as is proposed here, then while in one way it's fair, certainly it's impartial and to that extent it's fair, you handicap a man who again, wants to develop himself within the commercial fishery because there is no way he can plan. He can't save his money and say, you know I am going to build it up and then I'm going to invest in this type of gear and this type of gear or switch over and get this type of boat. All he knows is that he throws his name into the thing and maybe they draw his number and maybe they don't. I think that this is a handicap if what we're looking at is a system which will allow for the upgrading of the fishery, for growth and diversification, so that eventually Alaskans in the commercial fishery are in a far better position than they are now. I think that the lottery works against that.

Can I interrupt on that point?

Sure.

You mean your thought here would be that if a guy ~~here~~ were a troller and he wanted to ~~really get into~~ go to a net of some sort and he wanted to upgrade himself, but his present permit wouldn't permit him though to buy a bigger boat and to buy better gear now huh? The only thing he could do is to join the lottery and try to get a ~~fish~~ drift net and ...

Sure. Right. If he wanted to diversify, the only way he could do it is to try the lottery first and then if he lucked out, and then if he was a winner, then he could go buy but otherwise he might lose, which makes it very difficult to plan and to manage your money...

It would freeze him into a hand troller forever...

Yeah, right...

Because that's all he could afford starting out. That's where he is today.

Right. I think that the lottery makes it very difficult to have a man manage his own finances in any intelligent way and the other question that was raised here was about the application of standards for qualifying for something like a lottery and using the same five categories that are proposed now initially. Well, it seems to me, and again I apologize for not having had the chance to study this in detail and ~~study~~ think it all through, but it seems to me that something has changed if, say hypothetically, you set up this system and for five years no permits become available

for one reason or another, and then after five years you go to conduct the lottery and you apply those same standards; it seems to me that over the passage of time, you've made much difference to come up with people who will fit into those categories. Maybe there's going to be no one to fish in the top couple of categories or very few people and a lot more who will fit in the bottom four or five. I wonder whether because you have already created a changed circumstance by limited entry, you haven't made it less possible, if not impossible, for people to qualify in any manner to meet the standards as they would be applied five years down the road compared to applied now when everybody stands at a given point of time confronting them equally. Do I make myself clear there?

Frank, would you like to reply to that?

FLANIN. When I thought of applying the same standards, I didn't think in terms of our five categories. I thought in terms of our two basic standards that we were using to set up those categories. And as for participation and dependence, the crew members are not going to cease to exist over the next four or five years. Again, I think we're looking at three options for getting into the resource. We're looking at luck, money and skill and that's three options we have by determining whose going to get in in the future and what I try to do for some of those other alternatives of maybe a lottery within a qualification pool, or maybe a sale through the commission into that qualified pool was to use a little bit of each of these, because that's probably what it takes right now to get into the fishery; a little luck, a little money and a little skill and I think that those are the things

we have to work with and if we go to strictly money, we are cutting the people out, and if we go to strictly skill, then perhaps we're cutting people out of it too. I don't know I'd rather ~~heir~~ entr on the personal side rather than on money, but that's a philisophical, but I think those are the three standards you have to work with to let new entry in.

Questions?

Well, Bob, I do have ~~now~~ one. I am sure that it's been asked before and I apologize. Have you considered just plain using a waiting list instead of a lottery?

First come first serve. It's like a standby to get on an airplane. You sign up and take them off the list (indesc. mumbling).

That might work. That way you could get, uh, depending how you work it, you could get Alaskans on there first. You could have the list open Igigik in January or something like that.

You be that person in January to put your name on that list.

Right, you have one hour to sign up...

Just like the Oklahoma land rush.

Well, I mean, you know the whole intent is to try to get some economically deprived Alaskans on it someway or another. At least a partial guarantee.

Mr. Chairman, it seems to me that there ought to be a way that's a little fairer then just a lottery, but I came in on it too late.

Well, it's got a lot... Is money more fair than lottery?

Pardon?

Is money more fair than lottery, whoever can afford to buy it?

No. I wouldn't say so, but the fellow who shows the greatest interest, perhaps who has signed up and waits a little bit longer, ought to be entitled to more consideration than the guy who just lucks out.

So everybody signs up; the barber, the butcher and the gas pump filling station operator and to hope that they will get when their name will come up some day. When it does, it will be a very valuable permit...

Well, another way to get that many people waiting is to have a list...

Initially, it would like the oil simultaneous firing list. You'd have the very first time around would you anticipate a very large number of people...after that I think it will have an awful lot of merit that may have anyway. Are there other questions?

Well I was thinking on this waiting list. You have one or two permits open up and you have a dozen people that signed up on the same day, how are you going to decide who?

You'd have the high school take minutes and ~~bids for~~ seconds.

Let's go onto the money con~~sent~~ cept for a moment. If this were down to the more nearly optimum amount of gear in the water, ~~then~~ and it had a property right, became something that was valuable, don't you think the individual would have a great deal of better opportunity because now, as far as borrowing from the bank-~~is what~~ this is basically what ~~failed the thing~~ Phil [Daniels] was saying earlier, plus the fact that we started last year this state fishermen's loan fund to buy boats or repair boats it would certainly seem reasonable to amend that to allow them to use this money also for the purchase of an entry permit. If this thing were funded, ~~it~~ as certainly could be, this would be a source of funding for that so money wouldn't really become such a problem then.

Well, given the optimum conditions, you're correct that it would take care of even the people who have permits now.

(Undersc.)
~~Would it end up~~ to maintain the permit?

Yep. This money becomes available. The way the loan program is written out, their standards are such that a heck of a lot of fishermen can't ~~give all [word]~~ get loans up here. It would have to be increased a great deal and that's assuming that we are going to ~~give the~~ get to optimum levels at sometime in the near future. That determines how fast, how much the state is willing to compensate when they take that first bite to get people out like Bristol Bay, they're looking for what, eight, nine years before they really get a stable fishery out there.

CHAIRMAN: Well let me ask you this. [redacted] Turn around and look at the other side and look at the lottery. We're depending, perhaps unreasonably so, on a rate of attrition. If we lock one, two and three in in Bristol Bay, or anywhere as far as that's concerned, we're depending on attrition to get rid of a certain number of category three people. If this were a lottery and the fellow didn't receive anything when he sold out or if he quit fishing the first year he gave up his license, wouldn't that slow down very drastically the rate of attrition, compared to what it would if he had something of saleable value?

Actually, it would slow it down somewhat.

Let me ask you a question. What's a category three person?

Category three is alternative occupation, the individual depends on the fishery for a substantial income supplement.

Alright now, are the great number of these fishermen going to be alternative three people in the bad years when there isn't enough fish to go around and don't you have to have them if you're going to have people there to harvest a good year? Aren't you going to have to have a lot of people in there in eleven (?) years that are getting part of their income from this...no, huh?

...Because there's no requirements when they fish in those years.

Well then they're going to be a category three person...

We take their highest year. The peak year of their run to determine ...

You're going to have category three, you're going to want category three people in ~~(indesc. noise)~~ OFF years, aren't you?

Yeah well...

In the highest years they'll
~~(indesc. noise)~~ fish full time so that they can harvest the crop.

You are going to want them eligible to have a permit for these off years but you're not necessarily going to require or need them to be fishing (indesc. noise) you're going to let them fish...

Yeah, so you're not going to get class ~~few~~ three people out ~~into~~ of the fishery...

No, but you're going to want ~~to class~~ the class... some of them out, ~~to fish~~ especially in Bristol Bay.

You're going to have class three people in the fishery all four years and then on the fifth year ~~then~~ they'll be class one because they'll be full-time on the fifth year because they make a living at it. The ~~first~~ other four years, they can't ~~because~~ so they'll be class three: partial, that's the worst but there's not going to be results though.

Taken on an average, your rating would be taken over several years.

I think that one of ~~your~~ the standards for setting your optimum level of gear is the amount of gear that's necessary to harvest peak runs. That would determine your optimum and I would imagine that if category

three people were a component of that, a certain number of them would be included. I see what appears to me to be a discrepancy between two portions of this working draft though, and that is the one which includes people in the first three categories and the other portion where the optimum levels of gear is set, since obviously you're going to get in an awful lot of people who'll be in there a long time. They may all lump in category one, two and three, and then you finally get down somehow to your optimum levels, and I just throw out a suggestion , that an alternative way of proceeding might be to say that the people in category one, two, and three will either get entry permits or be compensated for their law suits if they don't get them.

CHAIRMAN Yes, we understand that. Thank you. Of course, what we have said before is that alternative is not necessarily good enough to leave to the commission to decide. That's giving them the opportunity to force out substantial numbers of those that are presently there, which would be politically impossible or perhaps politically impossible. Well, we've required the audience to sit for a long time; are those who would like to give us a benefit of their things now? Would you like to...

Let's see, can we pick them up from here?

I'm Bob [indiscernible] the CCC meeting and I'm from the Cordova area. I've heard a lot about saving the salmon and also limiting the gear licenses. And reading this report here about spawning areas being depleted because of too many nets out there. Now there's nothing said about law and order in this stuff. There's many years that these streams have been wiped out because of people going in there and taking

away our salmon and then they don't come back because they ruin (indesc. mumbling). There's a certain amount of illegal fishing going on. Now in order to remedy the situation, there might be something put into the law that any salmon fisherman that is arrested three times would lose his fishing license for at least five years, or whatever they wish to chose to do, in that district. This would give them, the fish, a better chance to reach the spawning area. Now you're talking about a lottery system - now that makes some of these people that are illegal fishermen maybe into good, honest type fishermen. Secondly, it could give them initiative fish legal. Thirdly, if they are caught three times and their license is taken away from them, it could be put Then to a lottery type system for the boat pullers to draw out of that hat and try to get that license if these people have their license taken away. There you'd have a lottery type system that would take the apprentice fisherman on the boat a chance to get a license.

CHAIRMAN: We've been talking here about the various advantages and disadvantages of the lottery system versus the opportunity to buy one, freely transferrable. Now the thing you're talking about could be used either direction if the guy is penalized and part of the penalty is to give up his entry permit, then it goes back to the commission and now becomes available for other people. If that were the case, what would be your desire? Would you rather see it available on a lottery basis, or for sale?

To the boat pullers and apprentices (indesc. mumbling)...

CHAIRMAN: Well, okay. Assume that that's not constitutionally possible, that we can't limit it just to a specific class of people that would be eligible. Suppose we have to make it available on the same basis to everybody. Now, would you rather see it on a lottery basis or on a basis where you could go in and buy the thing if you got the money; buy it from the commission or buy it from an individual? Do you have anything that you feel strongly about there on one of the other ways...

There is a possibility on some of these people. I'd like to see them sell it back to either person or family or relative that has been fishing and that hasn't got a license. So that that unfortunate guy can get back in there. (?) (indesc. mumbling and noise).

Thank you.

CHAIRMAN: That's the problem we're running against all the time here; what's constitutional and what's not. And I'm almost thinking that we're getting to the point where maybe we ought to sit down and maybe find the best constitutional lawyer that's available on this thing and hire him on whatever basis it costs and get him up here and sort some of these things out.

He'll set up a nice constitution and might be able to conclude...

(indesc. mumbling).

Alright, Ernest?

I'm Ernest Madsen from Ninilchik. I would like to say that my thinking would go in line with Mr. Daniels except for one thing. On the sale of the permit, what would be to stop the person just putting out if he did get a permit, just putting out a very minimum effort whereby everybody would lose; the businessman, the state, by him not producing any fish. And then waiting until such a time when his wife's permit was worth, say, $15,000, $20,000. (Indisc.) That would be my only concern.

Thank you, Ernest.

Mr. Chairman, could we get a reading of these qualifications on this apprenticeship.. (?) (indesc. mumbling)?

Alright. You're saying that when you've talked to these people now, how they would go about an apprenticeship versus straight monetary...(indesc. mumbling).

CHAIRMAN: Alright. Instead of talking about lottery versus buying in, the lottery apprenticeship qualifications versus buying in. How would you feel about that, Ernest? One of the ways to get in would be through an apprenticeship program.

Yes. I would go along with that.

Would you prefer that over the other two?

Yes.

Okay.. Anybody else with a question or two?

Let me ask you a question about the apprenticeship program. What if a man has a license as a troller and he wants to become a gillnetter. Would he have to go through an apprenticeship program, would that mean that all fisherman would automatically be eligible to get a license?

There would be some priority...(indesc. mumbling and noise)That is a trolling permit that's coming up for the guy that's been trolling for ten years, is certainly going to have something not involved , he's a crewman (indesc. mumbling).

What if he has a permit as a troller but he'd like to go from trolling to (indesc. mumbling and noise)...

...transfer from one type of gear to another type of gear.

He's not one to transfer. He'd want to do it as an addition, or?

Either an addition or transfer, either one.

(indesc. simultaneous speaking)

We'll probably have (indesc. simultaneous speaking) from one type of gear to another but commission regulations will look relatively different to the average fisherman.

I don't get what that means. Does that mean what it does mean that where you make a lot of money with a gillnetter down here and not very much with the troller, all the trollers will then buy gillnetters and your equipment is going to get away from

least efficient, and the most efficient is ~~fishing, and the boats are fishing because they're~~ going to be the only kind of gear you have ultimately in the fishery. If one permit gives you any kind of gear you want you can always move out.

I would imagine on your question, just about your problem. (indesc. mumbling) guy that would be the highest qualified for troller would be the guy who has worked on as a crewmember for ~~a long~~ the longest period of time, they would have the higher standing than guys that worked for a number of years on a gillnetter. And to be constitutional, you have to also include those guys in Washington. (indisc. mumbling)

PHIL DANIELS: I still don't understand how selectivity made within the rights of the people who are in the priority apprenticeship ~~school~~ pool. Are you still going to roll the dice or the commission going to make the choice or how you going to do it?

I think that we're talking about... (indisc. mumbling)

Well, it looks like to me that you'll end up back in the lottery situation, even though you may (indesc. mumbling) priority classification, again, I think, would be dominated by other fishermen, not necessarily by ...

(something about combination and apprenticeship pool)
You could (indesc. simultaneous speaking)...

CHAIRMAN: I think you're talking about trying to get into another fishery than you'd have to be (?) when you're down there working on that seine boat also rather than be out here drifting with a gillnet, is that what you're saying? If you're wanting to get into apprenticeship pool for seine...

DANIELS: I hate to be pessimistic. History explains that if there is anything that's brought about the ruination of the Roman Empire when everybody got frozen into their occupation and couldn't transfer from one to the other...

Alright, let's get back to the audience again. Ward do you have...

My name is Walter McGinnick. I'm from Fort Graham. I've got a question. Intention of this bill is to reduce the gear, right? How is this bill going to reduce the gear, which now exists, if we treat (?) the permit as a property ? (?)

CHAIRMAN: Now the concept is that we would only have that property right.... First of all, we hope to limit it to some extent by the qualifications that the individual would meet in order to get the first entry permit in the first place. Now even after that we hope to reduce it more by providing an incentive, if we go to property rights, providing an incentive where the commission would buy the permit back from the individual and hold it. If only after enough of those have been bought out and the commission held them, we got down to an optimum level of gear, then after that, others who wish to sell out, would be able to sell to somebody else. If one ... we're not frozen in on that, it's just one of the possibilities.

McGINNICK. Would you be willing to sell the permit to me now? I'm not willing to give up my permit knowing that it's going to be worth money.

That's the reason...

McGINNICK: Don't forget to look into Cook Inlet, 1971 Gear Union, now we trading with. You and I are going to have the same problem we just had last year. We're not going to fish. Last year we only fished three 48-hour periods. We're going to have the same problem if the gear isn't reduced right away.

CHAIRMAN: How do you suggest that we do that?

McGINNICK: I don't know. The permit shouldn't be put into a property value.

CHAIRMAN: You don't think it should have a property value?

McGINNICK: Because nobody is going to give up the permit. I know that I wouldn't. You know you wouldn't.

CHAIRMAN: I probably wouldn't do it anyway.

McGINNICK: This year, you and I are not going to fish. The Fish and Game Department are not going to open the fishing early. We might be sitting in a fleet like we did last year until three days before season. The idea of this limited entry of fishing is to reduce the gear, now it's only going to stop it from increasing, but it's not going to help to reduce. You got it?

I was only speaking as an individual for myself, Mr. Chairman, not for any...

You got me?

Yes. I thank you.

DANIEL: I was talking to Mr. McGinnick earlier about the responsibility I think that you may be interested in being able to pass the license back within the ~~rights~~ ranks of your family, is that right?

McGINNICK: Right.

DANIEL: I'm curious about how you may feel about the lottery on that basis. It would seem it would be less likely being able to do that whereas if it were a ~~copyright~~ property right, you might be able to pass it back just by giving it to them.

McGINNICK: Yeah.

DANIEL: It's something to consider.

McGINNICK: I haven't thought it too much .

My concern is with my son who is now fishing. He don't have no permit. (indesc. mumbling)... Fishing is the only (indisc) in our area. We need to come up with something like this to decrease the gear. I don't see how it's going to reduce the gear because there's 600 unit of it sitting ~~in~~ in Cook Inlet now. They're going to remain that way for a few years. So maybe ten years. Nobody's going to ~~keep~~ give up the permit.

CHAIRMAN: Of course, we do see the thing happen each year, set net sites ~~them that's~~ come up for sale, don't we?

McGINNICK: Yes, well, somebody else's going to buy it...

Well?

...the same unit of gear is going to remain. If I can sell my permit to somebody, I'm not reducing one gear because I sold it to this guy here.

CHAIRMAN: If we can empower the commission to buy these out at a market price, and really meet market price of anybody else or beat it, then we have provided some incentive for this gear that goes to the commission itself...

McGINNICK: If we give the commission power to purchase the permit, then we're going to transfer from cannery to cannery and the cannery is going too slow because they don't have any fishermen.

CHAIRMAN: Yeah well, of course we wouldn't go to that extreme. Only ~~if we~~ to a point where we got down to the optimum level. Okay, Alex?

If we slow it, and if we expect people to sell their license every year, why should we? Why should they sell their dollars? They know it's now closed... more incentive to keep it... (indesc. mumbling).

CHAIRMAN: Well, they said that you always got...for instance, one of our neighbors, last year, they split up; he went back to Pennsylvania and she went back to Hawaii. They sold out. You're always going to have this type

of thing happening, People ~~[illegible]~~ people getting sick, people getting ~~dumped~~ (indisc). You're going to have a certain amount. I grant you it will be slower ~~than you've been having~~ than it has been in the past. Alex?

ALEX: Senator Palmer, members of the special fisheries committee, I am here just as a participating citizen. I just made a bunch of random notes here, I'm trying to keep up with you learned people because you're so far ahead of me, I'm going to try to catch up and do a little thinking on this, but I would, try as far as Cook Inlet.,. I've proposed this ~~for~~ before the Fish and Game Board a number of times. ~~Freeze~~ Freeze the gear and reduce it in half. Just freeze the gear and reduce it in half. Leave everything, the distance between gears, but I said reduce the set nets by half...I proposed instead of 105, say 75 fathoms, if you want to go drastic, go to 50 fathoms, reduce the drift gear from 150 fathoms to 75 fathoms, and just chop it in half.

CHAIRMAN: How do you decide, ~~then~~ though, Alex, who stays in...

ALEX: I say freeze it...

CHAIRMAN: what do you mean by freeze it?

ALEX: Freeze it under '72 licenses that exist in 1972. Freeze it right now.

CHAIRMAN Suppose a man fished for every year up to '72, ~~but~~ but... Suppose it was Ernie back there and suppose Ernie was in the hospital back then and he couldn't fish in '72 and somebody else came in in '72. Let's just suppose poor old Ernie got disgusted. Every year up until '72, all of his life, he

has been fi[sh]ing out there, but he got disgusted and I'm going doing to do s[omet]hing else, there's not going to be enough fish, etc. etc. Some[bod]y else came in and '72 was the first year that he had ever fish[ed], one of your dad-gummed, low-lining schoolteachers. Now that school-teacher fisherman in '72, for the first time is going to be given a permit and Ernie, who has been there every year except 1972, is not going to be given a permit?

ALEX: You'll have special provisions. Anything that you do you have to have something that's amendable and have special permits. The concept that you have here, dependency and some of these others could be utilized in these special provisions. Then it's going to be the general thing. They're going to be a small part of the total. If th[at] ...I'm not so sure that the gear itself is the total problem. I think that the fishery at the estuary, is that we haven't made a determination if that's the total problem of why the fishery is reducing. I get a trend here, a feeling, that the trend of the discussion is not really making much attempt to protect the fishery sources for the people of Alaska.

Mr. Sojour, your problem is that we've been on this for several weeks, you've happened to have heard that we have picked out the day of having the problem of transferrability. But we really have, believe me, we are really trying to do the same thing that you are but you haven't heard but an hour and a half today, and if you had heard the last 30 days like this...

I'd like to go back again when you...

CHAIRMAN: Yeah, that's what I tried to make clear in the beginning. All that we're looking at today is the...

ALEX: Well, here's the thought that I'd like to put out. Are we concerned with a continued and sustaining fishery so as to maintain an economic climate within the resource to earn a livelihood, or are we giving an opportunity to a select group of fishermen to benefit?

CHAIRMAN: Let me read the opening paragraph of our bill then, and maybe that will help you out. We say it's the purpose of this chapter, of this legislation, to ~~provide~~ promote the economic health and stability of commercial fishing in Alaska. In the conservation of sustained yield management of Alaska's fishery resource, by regulating and controlling entry into the commercial fisheries in the public interest and without unjust discrimination. It is also the purpose of this chapter to prevent economic distress among fishermen by stabilizing the levels of participation in the commercial harvest of the species, such as this section, at levels reasonably commensurate with the ability of the resource to provide a livelihood to the fishermen participating.

ALEX: Alright. I would just like to state from my experience. Last fall I made a special trip on behalf of the Governor. I travelled throughout the whole Bristol Bay area. I made a detailed study of each village, every fisherman that were involved in the fishery, how much each were in debt, and I found out this one thing that was really shocking. There is (?) enough fishery resources to sustain those people in that area, in that watershed.

CHAIRMAN: There is?

ALEX: There is. But only in two areas, where fishing was fairly good, was in the Igigik and Togiak area. In those two areas, the people who took the most of the catch were not fishermen, they were all stateside fishermen. So there is your basic problem. I'm concerned with continued resource because an uncontrolled resource will eventually be depleted. It will happen. But these people have depended on that in that area. Or else it's the responsibility of the state if they don't allow to use this resource to earn a livelihood, then the state will have to do something else to provide them an economic base for them.

CHAIRMAN: This has been the real concern and the objective of all of the ~~subeconomies~~ (indisc.), but we're continuously faced with the problem of the federal constitution and our inability to restrain interstate commerce anytime we start discriminating in favor of the residents. This is what we run up against.

ALEX: Let's exclude the residents. I know that I talked to Mr. Arnold about this. We had a discussion about residency and ~~think that~~ I'm convinced as I think Mr. Flaven is convinced is that you cannot use the residency.

CHAIRMAN: I thought that was your point about the ...

ALEX: No. You can use administrative area. You can use watershed. You don't have to use residency.

CHAIRMAN: But you have to treat all people equally...

ALEX: Yeah, all people equally in that watershed.

CHAIRMAN: Just assuming that then if we were to say, as an example, that the license shall be freely transferable, but we're also charging the commission to bring back recommendations in two years on transferability for as perhaps to modify that program and does this largely meet the objectives that you're talking about?

PROFESSOR FLETCHER: I have not been able to decide in my own mind which way the various things that you could do to transferability, which way they point. I noticed, I think common to every proposal is the proposition that this license is not going to be something that you can encumber, you can't reach it by process, you can't voluntarily encumber it, (indisc.) it in any way. That's going to be pretty hard to combine with the proposition that it's really transferable. It's almost inconsistent, not quite, but almost. Surely there are going to be some transfers to people who will not be able to pay full value right as of that time, and I would assume you're going

end up with some conditional sales contracts with some sort of long-term financing arrangements, but for instance, to quote free transfers that are not falling into this prohibitive category of mortgaging it, those are hard distinctions to draw, because to say what's permissible and what isn't. Now, assuming that you can get by with making that distinction, what bearing does that have upon the idea that you are first of all interested in protecting the persons who are presently in in terms of getting their investment out. Suppose on that it's a means by which they can, so if you let him sell it, that's one way in which you can get him out of the picture, and he's happy because he's sold. He's got his money's worth for what he had. Presumably the value of his equipment and so on would be reflected in what he sells. In terms of whether you're promoting a good fishery that's not directed toward protecting certain people, but simply in terms of having an economically healthy industry that's doing good for the State as a whole, transferability seems to me to work in conflicting directions, and I have to say I have trouble with deciding what the operative effect of it is. And maybe I'm not the guy to answer. It isn't a legal question. It's as much economics as anything else, I suppose, as to what the effect of transferability would be. If you can put it back in legal context I suspect the analysis simply has to be based on some hypotheses. If you can show that by free transferability you are encouraging the development of a good fishery, economic and good techniques, safe equipment, and so on, and the fishing escapement, biological control is better afforded, fine, then free transferability is great. If you can show that just the opposite is going to happen, then you can say, okay, it's legitimate to say no transfer. The one thing

I didn't like in this whole business about transferability is the one that says that the guy can give it to his spouse, or his child, or some suggestion that when he dies he can give it by will to somebody else. That doesn't relate to an efficient fishery except in the most tenuous of reasoning processes. You could possibly get that one cranked in.

MODERATOR: Professor, I had two questions that I wanted to go over with you, and I'm mainly requesting an opinion from you. I don't know whether you've really had time to really look it over or not, but on the transferability have you arrived within your own mind at an opinion

as to which is the better way to go, free transferability or non-transferability, assuming that by either method you would legitimately further legislative objectives?

PROFESSOR FLETCHER: The short answer to your question is no. I wish I could have more confidence...

MODERATOR: I guess what I'm asking you is what in your opinion would be the most workable...

PROFESSOR FLETCHER: I don't know. I wish I could decide even that one. Liquor licenses, you know, have--I think this is fairly typical, Washington is certainly this way, have presumably no value per se, ~~there~~ They're not transferable, but you almost inevitably get into difficulty if you kind of defy economics, because the fact is that a person who has a liquor license to conduct a tavern does have something of value, and what's finally worked out, and it really didn't take all that long to work out, the person who wants to sell a tavern makes his deal, a broker and ~~(indicor.)~~ a purchaser somewhere, like selling out you get an earnest money contract and so on, but it's all wrapped up in this proposition that, okay, now you the purchaser, you apply for a license for you, and there they actually transfer the licenses, not a new license in a sense, it's a transfer of the old license. And mind you, you've got to qualify so the liquor board will assume in good faith and comes out and decides whether the purchaser is worthy, but ~~there are all kinds of actions~~ the whole transaction is held up ~~on~~ into an escrow basis ~~held up~~ until the transfer's approved, and the dollars that are involved are reflective of the fact that that transfer's going to be approved. He may sell the fixtures, and he'll have another grand statement item ~~under~~ in there called goodwill, but the relation of the value of the physical assets to what's the goodwill is all out of proportion

except as it includes the idea that the new guy is going to get a liquor license. So you could come up with something which says the same thing about your fisheries' licenses and it would, in a sense, not mean anything. Now, whether you could obviate that by not allowing that type transaction, but simply tell the fisherman who wants to get out that his only option is to turn in his license, and then we in our good judgment from this great big pool of people over here, and we're not going to tell you who, we will then pick out somebody who gets it and would hand it to him if he pays his modest fee for it. I just don't know whether that would work or not. I'm a little skeptical as to how you'd make that operate. If you could, maybe you would avoid this idea that this license has got all it's got. In a sense, whenever you go against a kind of reality situation, somebody's going to work out some way to approximate what's really at stake. I just wouldn't have any confidence in your capacity to say that they're not transferable, that's all.

MODERATOR: Well, this gets it right back to reality really quick, because we have some real fears on the part of the people who might be counted in at this time. They want to be sure that they can transfer this thing to the members of their own family who follow after them. Now, I think we're going to have to deal with this, because the bill is certainly not going to be approved, approved of, by the constituency if there's--if this thing were to return to the commission and be up for grabs by this vast conglomery system or something of that nature. They are not going to buy a lotter system.

PROFESSOR FLETCHER: Well, if that's political reality, then I suppose you'd better tackle the question as to whether you're going to permit that kind of transfer and not others, and as to that I've

got a fairly quick and fairly confident reaction that it's no. I don't think you can set up a system where it says that it's transferable, but only to your son, or only to your grandchild, or something like that. As sure as shootin' as soon as you get that there's going to be somebody who comes in and says I want to transfer it to my brother. He's not on that permissible list and he's been a good a fisherman and, boy, you're in trouble.

MR. DANIELS: How do you determine who is eligible, and this is freely transferable again, now, or does the State have anything to say?

PROFESSOR FLETCHER: Well, I think the State can take a wide range of

possibilities here, assuming you've got a limited number, you could take the position that you don't care. Anybody could have them, first come, first served, or any person who wants to buy it from anybody else, that's fine. Your only questions that start creeping is when you start--when the State starts to say, well, no, only certain types of people, certain types of operators, and then you have to look at it in terms of, well, what are you legitimately trying to promote, and here then, you come back to ~~this~~ these long range objectives that I talked about. As long as they're reasonably calculated to promote those objectives, fine, and I would exclude something that I think is presently in the minds of some of the drafts here. I would exclude whether the applicant is, or will be, or has been, economically dependent solely upon fishing. It seems to me that that's a pretty hard one to defend, so just because a crewmember, or something somebody called a second son, comes in and says, I want a license, and the reason I'm entitled to do it is that I don't have anything else to do in life, I don't think you can give it to him on that basis and exclude another guy who's just a good a fisherman as he is.

MODERATOR: You're talking here, now, just on the long run and not the...

PROFESSOR FLETCHER: This is the long run. I'm not talking about the transition.

MODERATOR: What's wrong with the idea that we're creating a property right, and ~~the ones in a~~ one can will ~~are~~ or inherited or given a property right...

PROFESSOR FLECTCHER: I don't think there's anything wrong with that as long as the same capacity is given with respect to ~~intervivalist (s~~ inter vivos transfers, and in terms of whether the person to whom it's given has to meet the same standards as any person to whom it might be

otherwise transferred. In other words, incident to property, of course, unless restricted for some other reason you could say, sure, you could give it to your child by will and we'll be happy to have him have it if he has to meet at least as stringent requirement as anybody else, but you can't say that you're entitled to have it just because you're the son.

MR. DANIELS: I was wondering on the tax, the 90 percent, 75 percent tax idea, or as you put it, without using the term tax, what if somebody really wanted a license bad and they wanted to stimulate someone to sell their license and offered him money under the table? Is this something that's likely to occur under those conditions? Is there any way to avoid it?

MODERATOR: Well, Phil, we all know that ~~it is likely that~~ in all likelihood it will occur, and that's almost--that's getting down on the detail at this point.

PROFESSOR FLETCHER: It seems to me that this type of consideration points toward the desireability of a transferability system unless you're going to be willing to go completely the other way which says that the person who wants to in effect buy out a particular fisherman over here, to tell him, look, you haven't got any more chance than a hundred other guys. Your name goes into the pool and we're going to draw them blindfolded, and if you happen to come up with it, fine. If you're willing to go that far, then you can avoid this type thing, but if you--I don't--it seems to me as a practical matter, if you fall very much short of that, you're going to get the under-the-table type thing, or the in effect fair market value attacked as between two individuals transacting business, and if you're going to do that I think you might as well let it be out in the open on some sort of a free transferability basis. Now, you might route it

through the commission so that the dollars come into the commission, and the commission gets a cut, because there is, in a sense, a State interest also, a dollar value involved.

MODERATOR: The biggest problem of transferability is with free transfer, any form of free transfer, where these things do have a value, is--it's been the Committee's concern, and their major concern, and primarily Bristol Bay, as an example, to try to balance some amount of paternalism on the State with free enterprise on the other end of the scale, and to try to protect these people that are really most dependent on the fishery from economic coersion, either directly from the industry, or from other individuals in terms of, oh, it's a long, cold winter, and this piece of paper is ready cash, and perhaps the person that has it doesn't fully understand that when he sells th[illegible]e sells his right to the fishery. This has been the major problem, how to adequately, legally protect these people and still stay within the framework of a legitimate legislative objective.

PROFESSOR FLETCHER: I think there's some mechanical things that you could do that would tend to protect, and that they can't sell it the way he'd sell a sack of potatoes, he's going to have to route it through the commission, you've got to get the new man to be approved, and your waiting period, and various other things that you could put in upon the machinery side.

MODERATOR. Right. But if on the other hand, and it's something that hadn't even entered my mind and it hasn't really entered the Committee's mind until just the other day, is the fact that even though there's this waiting period there can still be a contract signed and the money can be presented right now, and he has sold his right, he does have instant money. And this is why--I know

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Senator Palmer was, you know, asking the question because this is such a major problem - his point if we can essentially have a moratorium period on transfer...

MR. ADASIAK: That's the question I was just going to ask, is whether, as a transitional measure, it would be possible to, let's say not ~~illuminate~~ eliminate transferability, but restrict it to hardship cases and allow the commission sort of extra authority during the transitional period, the practical consequence of which would be that it might give you a year or two to allow the people who, because of their culture, aren't quite acquainted with the new value of what they have time to get a little bit of a sense of what it is. Is that justifiable as a transitional device?

PROFESSOR FLETCHER: I don't remember the man's name who just sat here just a moment ago. He's just left, but anyway, he asked me, I think, essentially the same question when he was talking about whether you could freeze, and I said as a interim device, but I would make that interim pretty short. In other words, have it made purposely apparent that you were doing this incident to getting your total operative system set up and going it might be necessary to hold up and say you can't get out of the situation, we're not going to let anyone in, and so on, but I'd make that as short as possible, but it seems to me that if you have that in the context of a spelled out plan for operation procedure, fine. Now...

MODERATOR: In other words, saying that this shall be the procedure for transfer, except that there will be a two-year moratorium on this because, of whatever period, because of the other administrative duties required of this commission.

PROFESSOR FLETCHER: That's right. Sure, and that by the next session

of the Legislature, the commission is to come in with proposals. I'd put that right in the statute that they're to come in with proposals for detailed regulation concerning--detailed specifications concerning transferability, or something like that. I'd pin it down as much as I could and still leave myself room enough if you felt that you had to have it to develop something you haven't really decided on yet.

MODERATOR: Right.

MR. DANIELS: By way of conceptually outlining what that would be, you would have the general outline of how you were going to handle transferability, ~~because~~ but you're leaving a really practical detail out.

PROFESSOR FLETCHER: I think that's right. I think that--I think it would be an excellent thing to do to decide right now whether you're going to permit transferability. I think you ought to resolve that one. I wouldn't leave that up in the air, because if you leave it in the air then you're asking for trouble at the end of saying, you know, you're just protecting the people who are right there now, and everything else.

UNIDENTIFIED SPEAKER II: On that (indisc.). Is there a way, speculatively, a way to create this entry permit without creating a private property ~~fund~~ concept?

UNIDENTIFIED SPEAKER III: So that, in fact, the license has no value?

UNIDENTIFIED SPEAKER II: Well, I mean, it's $50 or something like that, but I mean no real floating value.

PROFESSOR FLETCHER: It seems to me that's an economics question, rather than a law question, but I can devise a scheme, I suppose, if the economist will agree with me that it's going to work that way. I'd be a technician rather than an economist.

CHAIRMAN: Well, isn't your lottery the perfect example?

UNIDENTIFIED SPEAKER II: I was thinking as far as transfering these around, or giving them to somebody, like (~~indisc.~~ There would be) if 90 percent was only 90 percent of $50...

PROFESSOR FLETCHER: All you have to do is make it of no value to the person who thinks he might get to fish. To make it of no incentive at all to somebody who'd like to fish, to be able to walk up to any fisherman that is now fishing, and say, I'd like to get your license, and that fisherman answers him truthfully, nothing I can do about it. The only way you can get a license is to go down to the commission and ask them. He says, well, I'm willing to pay you, and he says, there's no way I can get my license over to you. Now, in fact, you can put that into actual operative law,

then you've got to explain (a point (?)) where indeed there is no market, except as he's willing to deal with the commission in which case the commission is about to give him a license or sell it to him. Now, mechanically we can set that up, and the idea of a lottery, a pool From which you might draw, something of that sort, and a requirement on that fellow who has the license that says to him, look, if your license is going to be used at all, it's you who has to use it, when you die that's the end of it. If you want to quit you can hand us your license, but it has no value. You can't give it to anybody else, and in nobody elses hands will we recognize it. We'll arrest the first man who starts to use it to whom you may hand it. Now, if in fact, you want to put your law on him in those terms, sure, there's nothing unconstitutional about doing it that way, but I think you have to decide the economics of it, if it works that way, and that you want it to work that way, but I think mechanically you could set it up, sure.

CHAIRMAN: And, of course, we get back to the problem, that doesn't provide any incentive to turn over, but may be natural attrition by itself, mortality, the transient nature of Alaskans residents, a large number of them, and some of these things, it may be a fast enough rate of attrition.

UNIDENTIFIED SPEAKER: I was just kind of under the impression before that there wasn't hardly a legal way to get away with this without creating some property right. This is what had me confused.

PROFESSOR FLETCHER: I don't think that necessarily you have to view the capacity to fish as something that has to be salvable, has to be compensable, if you do it, something of that sort. If you'd ask this to a lawyer in 1925, he probably would have given you a

different answer. In fact, he would probably give you a different answer to whether you could have a limited entry system at all, because in those days the general philosophy was, and the Supreme Court reflected it, that everybody had a constitutional right to engage in any of the so-called common callings, and you didn't dare take it away, you could hardly even restrict it. And I think we're past that era. We're quite persuaded to take it in view of this tremendous biological, economic data that you can back up your ideas that a limited entry would put very substantial controls in the hands of the State could clearly pass, as against that type of argument, as I say, 50 years ago would have been a pretty persuasive argument.

CHAIRMAN: (Indisc.)

UNIDENTIFIED SPEAKER: I think this pretty well tells the State where to go this route.

CHAIRMAN: Which route?

UNIDENTIFIED SPEAKER: Of saying, okay, no, the thing has no value, and thereby the individual who holds it loses all control over who comes next. Don't you think that this thing is less palatable to Alaskans than perhaps going the other route and making--allowing a property value, and allowing the holder to determine, in some extent, who he can sell that to.

CHAIRMAN: Well, if you're asking me, I think, yes. I think the answer is yes. It's far more palatable if you do get a property value, and allow him some say into who it goes to, even though the State may step in and take ninety percent of the value that it has. Do you feel that way?

UNIDENTIFIED SPEAKER: I agree.

CHAIRMAN: Do you feel pretty strongly that way?

UNIDENTIFIED SPEAKER: Personally, yes. Well, I would say this, that the people whom I represent would totally disown the idea that they had no control over who receives it. This is a sometime thing. In one aspect they don't want to see it go to certain individuals, but they do want to be able to have a control that goes to another group of individuals. In other words, the ones who follow after them, rather than perhaps gradually an attrition that would accumulate in behalf of the non-resident.

CHAIRMAN: Well, and really, where is the difference between that and your liquor license situation, or your pinball machine franchises, and so on? There's no difference, is there? At the present time...

PROFESSOR FLETCHER: The only substantial difference, really, is that in, I think most instances, with pinballs and various other sorts of franchising licensing operations, the State doesn't perceive that it has anything important to sell, it doesn't take any part of the proceeds. This way, now, we're thinking of it in terms that the State's actually contributing to what it is the new license he gets, and therefore, it's to be compensated.

CHAIRMAN: But I think you can think a little bit further on that, and I wonder if the State doesn't have something to sell here.

PROFESSOR FLETCHER: Oh, indeed, I say it does.

CHAIRMAN: In the terms of a liquor license...

PROFESSOR FLETCHER: Oh.

CHAIRMAN: ...the people itself, the people that are there as customers.

PROFESSOR FLETCHER: Yeah, well, sure. I'm not saying it couldn't, but I don't think they do.

CHAIRMAN: Yeah.

PROFESSOR FLETCHER: I don't know of any state that does.

CHAIRMAN: But they certainly do allow the fellow that has the liquor license to decide who he is going to sell it to, and they keep everybody else out.

PROFESSOR FLETCHER: They have to pass on him.

CHAIRMAN: It seems to me like there's a very strong similarity in the circumstances there.

PROFESSOR FLETCHER: Yes. As I say, the only distinction between that and this is that, and I think quite justifiably it's present here and could be argued to be present in the liquor cases, is the State has something of value and associated with it and can be expected to get some of the compensation that's involved. I don't think that changes the pattern any.

CHAIRMAN: In one case the State is offering the fish that they have available and so that's where the State's interest. In the case of the liquor licenses and the State actually in effect saying, here's a certain number of people that we offer to you as customers.

PROFESSOR FLETCHER: In a way, although...

CHAIRMAN: Is that carrying it too far?

PROFESSOR FLETCHER: Yeah, a little bit. Natural ~~Those~~ resources have got their own peculiar legal history. It started out, you know, with the king owning everything and then you kind of perpetuated what had originally started out as fact and it's a myth now, and we still think of it sometimes in those terms, so the difference in background would explain some difference.

PROFESSOR FLETCHER: I think the only ingredient that got into our discussic after we adjourned this morning was more detailed discussion of transferability. As I mentioned, I think I came up here without having thought very much about the problems that were associated with it. I don't know that I'm any farther along really, having discussed it more, except perhaps to kind of define what ~~politically~~ some of the political issues are as distinct from what the issues are. ~~(indisc.) as to the distinction of what's~~ constitutional. The more I thought about it it seems to be almost devoid of constitutional problems, irrespective of which way you went about the transferability.

The only considerations that seem to me to bear in upon that from a constitutional standpoint ~~has got~~ have more to do--might just turn out to be just incidental aspects of your transferability program, and perhaps I suggested some of those already. I felt, for example, that if you adopt a system for determining new entrants after you get into your ~~long~~ long-run operation which measures persons by skill, or capacity to be good fishermen and who isn't just mechanical skill, (indisc.) and do not provide transferability generally, ~~then~~ then I think you could also not provide transferability for members of ~~their~~ the family. I think that once you get past the initial stage of sort of taking care of the people against whom this might work hardship in the exception, once ~~your~~ you're past the transitional stage, that you cannot be concerned--I hate to put it this way--for people as people. In other words, in terms of their kind of personal setting, and if you're going to have transferability at all you've got to have it on a basis that is calculated either to put ~~into~~ in the qualifications that ~~tended~~ are intended to measure the capacity of the people who contribute to the fishery, or to have it indiscriminable, just anybody. (indisc.) transferability system we want. When that (indisc.). I don't see any constitutional problem.

CHAIRMAN: Mike, do you have rather, concisely delineated the several different options of transferability, and we might take this opportunity to just ask about constitutional problems with the various ones so we would then have the option of, if they're all equally salvable, and which way we want to go.

MIKE: We have--each member of the Committee should have (indisc.) (indiscernible) (long pause) (shuffling of papers)

CHAIRMAN: Well, okay. ~~I'd be willing~~ Maybe we ought to look at the first one under

summary of comments. Free transferability through the commission. In this case we're not setting up an applicant, correct? Therefore, those who are eligible to buy do not have to meet any qualifications other than having the money to do so, or arrange the financing to do so, except that the commission does handle the actual transactions.

SENATOR RADER: He's the recorder, is that all? Who's got...

CHAIRMAN: And I suppose the real reason for having the commission do this was to give them an opportunity to counsel to the unsophisticated, counsel with the unsophisticated, urging him to consider what he's doing, making sure he knows what he's doing before he ~~even~~ sells away his birthright, so to speak.

UNIDENTIFIED SPEAKER: Even more so--these are the summaries from the previous work session. It was pretty much the feeling this would give the commission the ability also to make sure that the transferee has the ability and intent to participate.

CHAIRMAN: Okay, now, one question that has been brought up in the past was, if we defined certain qualifications that an individual must meet initially to get into the fishery, what are we doing to our overall picture if we don't require some sort of similar requirements, or qualifications, for the fellow that comes in purchasing the license? Is there any problem there that you see?

PROFESSOR FLETCHER: If the basis on which you have determined those who are to participate initially and giving certain ones of those what I might call preferential treatment, although it happens to be a quote (?), if it was solely done in order alleviate what otherwise would be a hardship requirement, then what they did with what they got after that is in a sense of no concern of yours. If they want to sell that out and kind of give them present value for it by getting

dollars now instead of fishing for the rest of their lives, ~~but~~ I suppose that's up to them. But if in addtion to determining who got your initial entry permits you also said, well, we're not going to give you this permit just because it would be a hardship on you, but because you're a good fisherman and because you have a present intent to continue, then to the extent you were using the standards that determine who you wanted to be fishing I would suspect that you would have to apply those to the same people who would be coming in by purchase into the future, so that you'd have an equal application of standards as to all persons that would then be fishing.

CHAIRMAN: Well, this is not necessarily a case where you're applying different standards because it is the transitional period.

PROFESSOR FLETCHER: You would be applying different standards to give them, in a sense, compensation or alleviating consideration, because of their past, their investment, whatever it may be. Now, the only problem I see is that to the extent that ~~your~~ you're additionally requiring them to live up to certain standards for future behavior, that someone who could not meet those standards and therefore, didn't let in in the first place it's plain that you didn't require the transferee from the licensee to have the same standards.

CHAIRMAN: And so if I may make it's sure it's clear in my own mind, the question has been before, we might have a constitutional problem if we tried to limit it to a group of applicants that we set up standards for. What you're really saying is that the reverse may be true. We may have some problems if we don't utilize the same standards to a certain degree.

PROFESSOR FLETCHER: Yes. I think, on the other hand, that it's what

you do. Suppose you said to yourself, and I don't know whether this is wisdom or not, but suppose you say, we don't care who fishes. Anybody who can put himself out there and fish is all right. All he has to have is an entry permit. How are we going to control how many we have? If we don't get any (indisc.) and we're out there being perfect novices it would be all right. If you take that position, then you could say, but as to who gets the license in the first place, we're going to measure that in terms of hardship and give it only to certain selected people based upon a lot of factors that have to do with their then existing ~~your (indisc.)~~ situation, their background and considering their past, and if you let that be the only determinant as to who gets the first license, then you can have a quite open basis thereafter, but you've not, you see, insisted upon any present continuing capacity to fish when you decided who was to get that first entry permit. You want to go that route, then sure.

CHAIRMAN: Okay. Well, alright, now I'm at the bottom of the page, and I don't know that he's talked about moratorium right now. John, go ahead.

SENATOR RADER: Make sure I understand you. If you require competency tests as an condition of an original permit, then you'd have to keep that if it's transferred?

PROFESSOR FLETCHER: So long as you had those original persons having to continuing to meet that, yeah.

SENATOR RADER: How about (indisc.) make a part-time engagement in the fishery, a test for excluding people in the original go-around. Does that mean that we have to continue using that sort of a...?

PROFESSOR FLETCHER: No. It seems to me that that's a measure solely of how

hard it is going to be upon the persons to institute the system.

SENATOR RADER: What is ... the qualifications then that we can discard as to either continued holding or for the second generation of fishermen, we would only have to do those which immediately rate the present hardship in instituting the program. That's the grandfather rights, so to speak.

PROFESSOR FLETCHER: Yeah.

SENATOR RADER: Then we could discharge the rest of it. We can get rid of those qualifications. It's unreasonable, for example, that the second generation of fishermen to give a license based upon their previous fishing when they didn't have a ~~(indiscernible)~~ license, they couldn't fish.

PROFESSOR FLETCHER: The more I thought about it, this, in terms of, the apparently the accurate definition of a part-time fisherman, I think you'd have a hard time sustaining a distinction based on terms of present capacity, contribution ~~of~~ to the economic welfare of the State, to exclude the so-called part-timer. He takes just as much time to fish as the guy who is out there that his livelihood is dependent upon. The fact that he's doing it in addition to another job, I think it's pretty hard to exclude him on that basis.

SENATOR RADER: Well, are you saying then that--I think you are saying that in our initial go-around we aren't going to be able to do it on the basis of part-time to full-time.

PROFESSOR FLETCHER: No, maybe I fairly ~~(indiscernible)~~ misspoke. I think in terms of deciding how hard it is upon ~~some~~ persons who have a present association with fishing to institute a limited entry system you can legitimately concern yourself with the hardship in individual cases, and that one of those individual cases which seem to me a

particularly
harsh one is the fellow who's wholly dependent on fishing, so we say to him, we'll continue to fish. On the other hand, the guy who was not wholly dependent upon it you could justify a distinction as to him, sorry, you're out, just because it isn't going to be so hard on you as on this other guy that we're ~~excepting~~ including. But then it had to do with determining who got to be in a sense grandfathered in, but it does seems to me that with respect to persons who, thereafter ~~who~~ want to come in, ~~but who haven't~~ to have entry permits, that you can't use that distinction, because the only basis for using the distinction was to alleviate hardship. Now I said what I wanted to say.

SENATOR THOMAS: I'm glad you pursued it, because it finally cleared it up in my mind, too.

PROFESSOR FLETCHER: Only I didn't state it fairly the first time around.

CHAIRMAN: (indisc) Well, alright. But, ~~while~~ while you're saying that requirement can be done away with, those of experience and ability need to be retained. If we had them in the first then we need them in the second place, to a certain degree.

PROFESSOR FLETCHER: At least if--well, I'm a little uncertain here. Surely in the first year or so after you have started this system, if as one of the ingredients in deciding who was to get an initial entry permit you included the test of present capacity to fish, skill and so on, that you see has all the characteristics of ~~which~~ how you might decide who should fish off into the indefinite future, and on that basis you said somebody who did not have that skill, even though in other respects he qualified, sorry, you can't fish, you don't get a license, then, at least for some substantial period of time, I should think that that person who was excluded back there could complain unless you continued to apply that kind of a standard to new entrants. Maybe

there would come a time at which he could no longer complain, or as a practical matter would not, (indisc.) it seems to me for a while anyway, you'd have to adhere to using that, either that or say, well, we've changed it for everybody, but then what do you do about the guy that you grandfathered in on that basis. You can hardly tell him ~~(indisc.)~~ to quit. So, I think the practical answer would be that you have to continue (indisc.).

CHAIRMAN: Okay. Well, we may want to come back to that one later. Let's--you've indicated that there is really is no problem with a moratorium if we've got an overall scheme that shows what's going to happen on down the road. Is this generally what your...?

PROFESSOR FLETCHER: Yes, and the closer you come toward actually having that scheme in greater detail and ~~the~~ permanency, the imminence of it, the greater you stand a chance of making that hold.

CHAIRMAN: ~~UNIDENTIFIED SPEAKER:~~ I don't know whether we can focus in and decide on the basic philosophy of transferrability or not. Apparently, we've got completely free—transfer where you can sell to the individual at whatever market price you can work out with him or rather than a straight lottery... this three-for-one thing—that's almost a lottery. Well, I guess it is a lottery, really, isn't it? If every three that gets out - one gets in. But he gets in on lottery basically. And, then we've got the modified free where we're providing an incentive for him to sell out to the commission but he can sell out to the individual if he wants to and simply not make as much money when he does it. Now, do you have some other alternatives that we really want to look at?

UNIDENTIFIED SPEAKER: Let me make one more argument...in favor of the attrition, plan 3 and the lottery. And that is, that when we talk about the class of people...we talk about class of people...I think that that class would have a better change of getting into fishery the second generation if they could get into it by a lottery rather than having to buy their way in. Because, under the other system, under every one of the other systems, the second generation of fishermen is going to have to pay for his permit. Well, because I think that this ought to be of particular concern to you. (indisc.) I'm talking about the resident fisherman in Bristol Bay.

CHAIRMAN: ~~UNIDENTIFIED SPEAKER:~~ Let's examine that. Now, that's one of your big points, Sam, and if we go to a lottery we take the financial requirement out of this thing. Now, I said at lunch and I'd like to see, maybe I'm wrong, but it seems to me that as soon as this fishery becomes something that is

limited, the reasonable expectation is to make a living out of it. If he has to buy a lottery ~~ticket~~ or buy a permit and that permit has value, then anybody with a decent credit rating or anybody that's a decent fisherman--if he has a decent credit rating-- can go to a bank and borrow the money he needs. Therefore, he doesn't have to be, doesn't have to ~~(indiscer.)~~ have the riches himself. If he's simply a darn good fisherman he can go to a cannery. He can get cannery backing to buy this permit. Therefore, I don't think that simply because that permit has value, it's gonna close it to the guy that doesn't have the money but is a good fisherman. Now if I'm wrong, why....

UNIDENTIFIED SPEAKER: Let me make one other argument in favor of this system.

~~UNIDENTIFIED SPEAKER~~ CHAIRMAN: Well now, wait a minute. Let's ~~examine~~ get down to this point. Let's see if we can come to some agreement on this point. DON.

~~UNIDENTIFIED SPEAKER~~ DON: I was gonna say something back to what ~~you~~ he was saying just before that. In the fishery that I'm in, assuming that I were still in it, a lottery would be beautiful because I would assume that half the people who were applying to be there wouldn't be the skilled fishermen. They'd be easier to compete with. You know, so (indisc.)

~~UNIDENTIFIED SPEAKER~~ CHAIRMAN: The lottery coming out with that pool?

UNIDENTIFIED SPEAKER: Yes.

~~UNIDENTIFIED SPEAKER~~ CHAIRMAN: That had to (indisc.) have an experience factor.

UNIDENTIFIED SPEAKER: Well, the only way to learn fishing is to do it.

CHAIRMAN: Allan?

ALLAN: I think that I'd like to recall what Professor Fletcher said this morning when we were talking about freely transferrable permits. And that was that it seemed to him that the concept of freely transferrable permits

within the system was, provisionally in the bill prohibiting the (indisc.) high cost, etc., of the permit. And that does, it seems to me--that set of conditions prohibit going to the bank and getting the loan for that permit. Because essentially they might be (indisc.) because you've got a house that they will loan you money on. But it seems to me that it does put limitation on sources of funding that a person could obtain in order to get a permit.

CHAIRMAN: Dean?

DEAN: Back to this changing a permit by lottery, we also want to remember what we said about continuing to maintain the criteria in the long term approach. And if we fail to do that, well, this wouldn't necessarily make the thing appear legitimate before the courts.

UNIDENTIFIED SPEAKER: You couldn't maintain the economic dependent. In other words, your lottery, as I assume, would be among your qualified (indisc.).

CHAIRMAN: Your qualified applicants, right?

UNIDENTIFIED SPEAKER: There's one other advantage of a lottery. There's no way for somebody to buy out a man's right to fish. We were worried about, under an economic distress situation of canneries, or guys from Seattle or some place else, buying out the local resident's right to fish...and getting control of it. If it goes back to the State and is going out with the lottery, there isn't anybody who can pay anything for that to buy it. Which means that the local resident isn't going to be deprived of it during a particular distress (indisc.). There's one other point that I thought that (indisc.) in favor of that system. It doesn't come to me now.

UNIDENTIFIED SPEAKER: The other side of it is that--say I wanted to get into commercial fishing. Say I've even got the money to buy the permit or whatever--how can I plan on whether I'm going to get into commercial fishing if I just have to wait until they draw the little light ball with my number on it?

UNIDENTIFIED SPEAKER: You're not gonna buy a boat until you get your number.

UNIDENTIFIED SPEAKER: Yeah, I can't—that's it. Say I'm already in the fishery and I've to a permit for a particular ~~kind~~ Type of gear and the area that I'm in if I got another entry permit to fish another type of gear—the pattern of the migration of the fish would allow me to do that consecutively. How am I going to apply the expanse and better myself in the fishery if I have to wait again until they draw a little slip of paper with my name on it (indisc.) random ~~water~~ lottery? If it had a deadening effect on anyone seeking to improve himself within the profession.

~~UNIDENTIFIED SPEAKER:~~ I think the Professor was right. And that is...the price we want to pay for efficiency here on ~~taking~~ cutting people out, you know... now I think that the most efficient fishery would be an absolute free transferrability like a piece of farmland and the devil take the highmost. You know. Now I think that's the most efficient. But I do think that we have an interest here in a class of people...and the entry of people (indisc.) ~~who~~ you don't have a lot of (indisc.) needs in the fishery on a continuing ongoing basis. And it seems to me also that the lottery would tend to favor Alaskans a little bit over non-residents because it seems to me like the attrition in Bristol Bay for instance, you would have a lot more guys that came up and fished two or three years than you would a bunch of guys that make their residence in Bristol Bay, and want to fish. That is, they'd have a lot better chance of being selected. Now, I'm not sure that's true anymore. I don't know the facts out there, but ....

~~UNIDENTIFIED SPEAKER:~~ CHAIRMAN: Why does a lottery protect that class of people you're talking about?

UNIDENTIFIED SPEAKER: Well, it protects them from selling their right. We were talking about....what are you gonna do in a bad season?

CHAIRMAN ~~UNIDENTIFIED SPEAKER:~~ Yes, but it gives us absolutely no protection as far as the second generation of the fellow ~~that's really~~ out there, that really there's nothing else to do in that area except fish....

UNIDENTIFIED SPEAKER: Don't we agree? That if the second generation has to pay to get in that they may very well...that the control of the fishery will move away from the ~~importunateness (sp)~~ impecunious residents of say Bristol Bay-- is it going to go to the people that have money in Anchorage, Fairbanks, Kodiak....

CHAIRMAN ~~UNIDENTIFIED SPEAKER:~~ No, I don't accept that at all.

UNIDENTIFIED SPEAKER: You don't, huh?

UNIDENTIFIED SPEAKER: No.

UNIDENTIFIED SPEAKER: That wouldn't happen, huh? Why?

CHAIRMAN ~~UNIDENTIFIED SPEAKER:~~ Well, because again I think that a good fisherman who has grown up in the waters and we're talking about second generation now-- grown up in the waters ~~reading no~~ really knows it. He's (indice.) known to the cannery as a good fisherman and if he can't get credit elsewhere ~~elsewhere~~ I think in all probability he can get credit through that cannery to buy that permit.

UNIDENTIFIED SPEAKER: Well, the canneries control him then, don't they?

UNIDENTIFIED SPEAKER: What?

UNIDENTIFIED SPEAKER: That's one of the things we're trying to get away from-- cannery control, aren't we?

CHAIRMAN ~~UNIDENTIFIED SPEAKER:~~ Not necessarily. I say they do not necessarily control them to a certain degree.

UNIDENTIFIED SPEAKER: I suppose.

UNIDENTIFIED SPEAKER: But the thing is that the Anchorage, Fairbanks, Kenai Kodiak fishermen -- not so much in Kodiak -- and I'm not sure about ~~(indice.)~~ Kenai the thing is that bank loaning policies are different throughout the State. You can get a loan for various things much easier in Anchorage than you can in Kodiak. For instance And so the opportunity for people of equal qualification

in Anchorage is different than it is in Kodiak and definitely different from the Bristol Bay ~~area.~~ resident Now, if you narrow down his field for financing for instance in The Bristol Bay ~~(indisc.)~~ fisherman's case To where it is only the cannery because that's what it will come down to because my experience is that you just can't get money out of (indisc.) with the branches NBA, 1st NATIONAL, whoever in a small town unless they have THAT SAME THING (indisc.) secured to at least 100% and ~~what~~ ONCE you (indisc.) PUT that particular resident ~~(indisc.) fishing record~~ INTO THE POSITION WHERE HIS (indisc.) ~~the~~ FINANCIAL opportunity ~~to sit~~ IS SHUT down and he c... only go to the cannery, I don't know how they will do it now, but I feel certain that the canneries will control that man. The way they (indisc.)..... that you're doing it today will help this additional problem.

UNIDENTIFIED SPEAKER: In the first place, I think Dr. Fletcher made ~~(indisc.)~~ it rather interesting. He did in making (indisc.) the fact that the legislature (indisc.) would ~~pre-~~ pass legislation in this opinion that would preclude the canneries being able to loan ~~the~~ fishermen money at all and that is the only way you're ever going to be able to make sure that the canneries don't dominate the fishermen because in spite of who owns the license ~~and~~ or who loans the money, you're going to have to ~~(indisc.)~~ pass it to keep the man from going to the cannery in a lean winter and borrowing money from the cannery. They are going to their ~~(indisc.)~~ same handle ~~(indisc.)~~ on it to see that you are actually accomplishing the end keeping the fishermen out from under its domination. And second, the CEDP (?) people that were in here the other day were extremely concerned about transferability, this combination soon a group of within the ranks of their own family which, of course, is going to be completely precluded on a lottery basis. And you have got a gain-I think I've used the term before-- but if you've got 50 men and 5 licenses, you can go back every year for 30 years and never get a license on a lottery basis. And to use the analogy-- if you had to make entry into being ~~at a cannery~~ an attorney on a lottery basis, a guy just wouldn't be able to (indisc.).....

UNIDENTIFIED SPEAKER: That's about what it is.

UNIDENTIFIED SPEAKER: If I could say one other thing...only one single exception every fisherman I've talked with, and I've been talking with a lot of them, and I've been talking with a lot of them all over the state on the telephone... when they start talking about lotteries they just absolutely can't ~~(indisc.)~~ as it. If there's anything ~~that's going to~~ that will defeat this bill from the fishermen's point of view I think the lottery would because they just can't.....

UNIDENTIFIED SPEAKER: Now, we're not talking about the existing fishermen..now we are talking about the second generation fishing gear.

UNIDENTIFIED SPEAKER: Everyone I've talked to has extreme reservations about it.

UNIDENTIFIED SPEAKER: One thing I think is a misconception is to think that the lotteries get away from control by the canneries...If I had a cannery— what I'd do ... (indisc.) ...they're writing letters to guys who aren't ~~(indisc.)~~. If you want to go fishing, we'll give you the deal, my friend, and that's exactly what they are going to do. They are going to go out and find people to file for the lotteries.

UNIDENTIFIED SPEAKER: And for every unattached fisherman there will be ten cannery fishermen in there in the lottery -- so the chances are ten to one that somebody connected with the cannery will wind up with a ticket. Let me go on to Dean.

DEAN: I'm with John on his viewpoint till we get up to the lottery. I think I agree with Phil there ~~(indisc.)~~ viewpoint of the fishermen. They want to control who gets...they are going to want to be able to ~~spell~~ seal their— through the commission perhaps, with the commission approving everything— but this is about the only way they are going to be able to determine who follows them from their family and many fishermen are concerned with their (indisc.) Even so, I'm still not sure that we are going to be able

to sell the concept of free transfer because of the fear of domination by cannery interest, money interest or whatever.

UNIDENTIFIED SPEAKER: Mr. Chairman, would you explain to me exactly why you feel we have to consider the aspect of transferability at this point in time?

CHAIRMAN: Well, I didn't think we did prior to today but after the time we've spent with ~~Fletcher~~ the professor here it seems to me that this is such an integral part of the whole thing ~~so~~ such that ~~you~~ it would give ~~a~~ the court an opportunity to look all the way down the road to see that we are not simply creating an interim period here and that we're going to (~~indisc.~~) flush in the details of the ultimate objective later and in doing so extend the interim transitional period year after year after year, and in effect create a closed class. ~~It would seem~~ And it seemed to me that he was pretty definite that we had to do more than that. We had to put forth the (indisc.) plan which but maybe not down to (indisc.) detail but at least in pretty substantial outline before ~~the~~ a court would be able to find in our favor.

UNIDENTIFIED SPEAKER: What I hear is that we've been going around and around (indisc.) and we have to do something and I'm just wondering how important at this point in time the matter of transferability is. If you can guarantee it (indisc.). John, we can have a moratorium for a reasonable period of time, but the court is going to require that the legislature act in good faith and Professor Fletcher feels that to undergo a constitutional test which would stand a constitutional test, that we do have to have something in the bill regarding transferability. ~~And, in any case, you know the~~ As an indication of legislature's ~~is a~~ good faith in carrying this out ~~thing~~ (indisc.) assuming that you do have a moratorium period here. I'm concerned about time schedules (indisc.). Why not Another possibility would be to make out a (indisc.) that vehicle in the next year to continue these things the next year (indisc.)..... Let me ask John. John, if you knew absolutely that ~~the~~ it was going to be freely transferred (indisc.) ~~got the~~ highest bidder--every guy wanted to go--would you vote for the bill? If

you knew that was going to the way it was going to work, would you vote for it?

JOHN: I don't know.

CHAIRMAN: Well, you see here's the problem. I don't know either. But then the question is, do you want to vote for a bill which is gonna to lead to that? You need to know now what that plan is to know whether or not you want the bill, don't you? Well, maybe you don't (indisc.) well, maybe so..In my mind I'm not sure that I want limited entry unless I think I understand how it is going to function. You see that's ~~how I look~~ the way I look at it...this is the most basic part of the functioning of it, really.

UNIDENTIFIED SPEAKER: (Indisc.) completely transferable or not the basic assumption of having gotten into limited entry will be of benefit either way.

~~UNIDENTIFIED SPEAKER:~~ CHAIRMAN If it would stand, but I think that's the problem. Now when I came in here this morning I had thought that that's what we better do in view of the time element and all the rest of it charge the commission to come back within no more than two years to present recommendations to the legislature on the transferability. In the meantime, we've done a two year moratorium. We can do what needs to be done with transferability at that time. And I believe I understood ~~Fletcher~~ the Professor to say that this ~~bill~~ just wasn't satisfactory in terms of the law.

UNIDENTIFIED SPEAKER: You asked him and he couldn't give any (indisc.) I was thinking about a year to guarantee that we participate to make sure that we were (indisc.)

UNIDENTIFIED SPEAKER: If it's any help (~~indisc.~~) Ray Risley has a similar question during break this morning and Fletcher the Professor was a little bit more definite (indisc.) Ray two years. The Professor sort of backed off and thought..well..~~Price~~ Ray said, "How about a year?" The Professor said, "Well, we will be far better off with

six months". and the general indication was that it was his feeling that you could probably get away with a moratorium for about six months but it had to be justified with a temporary transitional device that you needed for administrative purposes while you were getting through whatever it took you to get on with the business of your limited entry program.

CHAIRMAN
~~UNIDENTIFIED SPEAKER~~: Course, there's no way that could be..just six months.. because the legislature ~~doesn't~~ won't meet for another six months.

UNIDENTIFIED SPEAKER: That's right. unless you gave the Commission ~~I think (indisc.)~~ the power to offset (indisc.) and also that it should be covered with a detailed legislative letter of intent in other words to document as being indicated (indisc.) they can do it. In various ways they do it presently, but there was a need to document. It seems to me that regardless of which way we go on the transferability we're not going to be able to solve the problems of the class of people that we are most interested in. It's not a legitimate legislative objective under this bill ~~if you're~~ and we're going to have to go outside of this bill with another piece of legislation making avilable loans or whatever to really accomplish what we are trying to do in transferability. Now that's the way I see determined what (Indisc.) my initial thinking would be to (~~indisc.~~) bill rather than wait... has the same

UNIDENTIFIED SPEAKER: Yeah, that's right.

CHAIRMAN: Dave?

DAVE: (Indisc.) ...that's the feeling I get.

UNIDENTIFIED SPEAKER: Yeah, I think we are going to have a lending program and something like that. To my mind, I think we need to solve this question as a part of the key "part of our problem" here.

CHAIRMAN: I do, too. I think we have to really and maybe the best way to accomplish that is to (indisc.) - Hold over an awful long time today and I don't know whether we're going to accomplish a whole lot more now. Maybe what we

had better do is to understand as best we can the various transfer proposals...you can go back and take each one of them and draw up your list of plusses and minuses for each one of them. I'll do the same. Everybody that's interested, do the same, and let's find out then which ones are valid advantages and which ones are valid disadvantages. What I may put down as an advantage, after discussion, we may find is not an advantage and vice versa, and so on. And maybe we can come back then and make some sense out of this thing.

UNIDENTIFIED SPEAKER: Mr. Chairman, (indisc.) hear from Dr. Fletcher again?

UNIDENTIFIED SPEAKER: It's about the politics of this thing...talk about the fishermen (indisc.) You really have to have the people in Anchorage, Fairbanks ~~and Anchorage~~ (indisc.) and there is one thing about a lottery and that is it (indisc.)....

CHAIRMAN: I don't know whether it is or not, John, I'm not sure.

(Indisc.)

UNIDENTIFIED SPEAKER: Here's the thing about it. If you don't have a lottery, then you (indisc.) the accusation about you gave away the fishing resource.

CHAIRMAN: Well now wait a minute.

UNIDENTIFIED SPEAKER: To who? To a particular group of people...would be like giving away the timber resource to the timber users and the oil resource to the oil people, and the rest of it. But as long as there's some way for other people to enter it and they probably won't — but to some extent they will — it ~~had to be~~ has been given away because all citizens and everybody else has an equal access to it and rich or poor you don't have to buy your way in — you're ~~not going~~ don't have to do nothing. It's a public resource..you're going to be harvesting a public resource...then's not enough resource to go around

for all the people who want it so flip a coin and the guy that's lucky gets to harvest the resource and the guy that's unlucky has got to be a lawyer (indisc.).

UNIDENTIFIED SPEAKER: I don't see how (indisc.) use the legislators (indisc.) (laughter)....

CHAIRMAN: Do you really think there is that much difference in a liquor license...do you rellay think that, therefore, a liquor license owner should be able to really sell that to anybody he wants to..to his son.. pass it on in the family, generation after generation, where it's a franchise -- a public franchise again...that's limited where only a certain number of people can get them that he can transfer his down the line to his own kin....

UNIDENTIFIED SPEAKER: You know if I thought liquor licenses were really as important (indisc.) as this, I guess it would be worth the hassle.

CHAIRMAN: Well, now wait a minute...it's the principle that's important.

UNIDENTIFIED SPEAKER: The principle is different here because a ——— is in the business of manufacturing alcohol.....

UNIDENTIFIED SPEAKER: Well, one is a resource and the other....(indisc.)

CHAIRMAN: The opportunity is certainly being given over, is it not? Otherwise, why do you limit them to one to every 2500 people?

UNIDENTIFIED SPEAKER: Well, I think it's sort of a privilege to have a license to sell booze.

CHAIRMAN: Well, I do, too. Very definitely.

UNIDENTIFIED SPEAKER: I just don't see how the two can possibly fit together... in the same package.

UNIDENTIFIED SPEAKER: It's difficult because one is a resource and you can't say the people are a resource.

CHAIRMAN: If you didn't have the people you wouldn't have any (indisc.) to drink it.

(Indisc.) (Laughter)

UNIDENTIFIED SPEAKER: I think we are getting closer...you'll never please everybody, that's for damn sure.

UNIDENTIFIED SPEAKER: Well, I was going to say this, Mr. Chairman. You're going to have to plan to get down to where we are going to have to do on this committee what you do on every committee and go down the room and vote.

CHAIRMAN: That's right.

UNIDENTIFIED SPEAKER: You know and the majority is going to control.

CHAIRMAN: Let's be as intelligent and well-informed as we can before we reach that so.....

UNIDENTIFIED SPEAKER: Something I would like to know....to what extent can we load the deck in terms of the applicants in that lottery? Surely, we can have some basic requirements, have some experience in that it won't just fall to anybody--especially somebody who's on the outside and just wants to take a chance. They'd have to be here in Alaska at least.... (indisc.) (laughter).

CHAIRMAN: We have these three things as of right now....(indisc.)

CHAIRMAN: Lowell, the thing that we do at the present time under one of these work drafts is we set up priorities for that applicant pool based on a mixture of these three things -- the extent of past and present participation in the area of fishery or in similar fisheries, approved training program pertaining to commercial fishery, ability when intent to participate actively in the fishery and a mix of those three things would determine where an individual went in his ranking in this applicant pool. And then the highest ranking is eligible.

UNIDENTIFIED SPEAKER: The past reliance he said was not...that was a grandfather right to determine original entry. He said that after you once got into it.....

CHAIRMAN: We're talking about experience and ability factor. We're not talking about economic factors. The extent of past and present participation in the (indisc.) area fishery ~~when~~ of in similar fisheries -- not reliance on it.

~~UNIDENTIFIED SPEAKER~~ CHAIRMAN: It's a matter of education—experience, skill, ~~etc.~~ so on....

CHAIRMAN: ~~Then, that's~~ Isn't this what you're talking about, Lowell. This type of thing.

LOWELL: Yeah.

UNIDENTIFIED SPEAKER: It's unfortunate we can't put a resident's requirement in there...

UNIDENTIFIED SPEAKER: If we could do that, all our problems would be solved.

UNIDENTIFIED SPEAKER: We need a lottery among this type of pool.

CHAIRMAN: A lottery (indisc.) from this pool?

UNIDENTIFIED SPEAKER: This is why I don't understand the difference between a lottery and property right in that we're going to have more people... in other words, I assume everyone in that pool would be desirous of a license and I don't see where we're going to get more people because all of a sudden the licenses are ...(indisc.) only made the argument that if you have a pool, then all these extra people to come in there but they've got to be qualified, you know -- In other words

UNIDENTIFIED SPEAKER: Well, would your canneries bring in people who are....

UNIDENTIFIED SPEAKER: But, he said we couldn't limit it to a certain year. We couldn't say just those who fished in 1972 are eligible.

UNIDENTIFIED SPEAKER: No, but I mean some sort of qualification of ~~enough~~ experience...

UNIDENTIFIED SPEAKER: You could go back over a 20-year period and pick up all kinds of people that have fished that who might not be fishing now--they're actually

qualified and could get into the pool.

UNIDENTIFIED SPEAKER: I see. I don't know.

UNIDENTIFIED SPEAKER: Isn't he saying that there would be an incentive under this scheme for anybody other than really interested fishermen fishing in Alaska or even applying in this lottery? If he gets a permit, he can't sell it—he can't transfer it—he's only interested in using it so it's certainly going to favor the Alaskans.

CHAIRMAN: Oh, I don't know. Why do you think so? You've got this very large number of (indisc.) residents who come up every year and a half for many years as helpers on boats if nothing else..not the gear fishermen...not the gear holder, but the helper and all of those would certainly be members of this pool.

UNIDENTIFIED SPEAKER: There are probably more of them than there are resident Alaskans that are ~~(indisc.)~~ trying to qualify and ~~their (indisc.) of the~~ therefore when the lot comes around you just figure its probability there will be more of then than in the fishery than the Alaskans (indisc.).

CHAIRMAN: And they continue to hire outsiders as their helpers on the boat so they continue to become eligible for (indisc.) pool or the applicant pool....

UNIDENTIFIED SPEAKER: There's a reason for hiring outsiders. You get a lot better workers on a lot...

CHAIRMAN: Now, careful, (indisc.) (laughter)

UNIDENTIFIED SPEAKER: I think--I have ~~also~~ often felt maybe we could have different ways for different types of gear, different types of situations--and it seems like my impression -- I didn't hear everything that ~~was~~ Professor Fletcher said -- but we have a lot more flexibility and we could, in other words, how do you get experience on a set net ~~that size~~ if you don't have a permit? Now, there's

differences as similar sort of things with trollers or gill netters-- since you don't have the opportunity for experience there could be more of a close class (indisc.) whereas you have maybe three or four crewmen on a seine boat which brings up this argument -- some of these constitutional -- (indisc.).

UNIDENTIFIED SPEAKER: Maybe this is something we are going to have to write in. I don't know what the mix should be.

CHAIRMAN: Okay. Very good. Appreciate your being with us this long while.

~~UNIDENTIFIED SPEAKER~~ CHAIRMAN: Maybe we ought to check the tape and find out how it's going along.

HEARING OF THE SENATE SPECIAL COMMITTEE ON FISHERIES 3/13/73

PHIL DANIELS: ... We've been very concerned about transferability. The fishermen are pushed--when we consider the alternatives, we've come up with the idea of free transferability. That's not to say completely unrestricted. We are certainly willing to see as in the bill in the House, it calls for transferability, you have to go through the commission, there's a six months' waiting period for approval before someone can transfer their license. We see this as protecting people from making a spur-of-the-moment decision or selling out in a bar some night, or just making a foolish decision. I think we favor that idea very much. We also are favorable of the idea of two categories of license, and that again is built in to protect people in low income situations. On the one hand you'd have the five-dollar license, which is available

to a person in the low income bracket, if he wants it. If a person who wants to have a license that is transferable, it would cost him $50 to maintain that license. The person taking the $5 license, of course, would have a non-transferable license for a period of five years. Again the idea being to protect people from making a foolish decision or to discourage them from transferring their license and seeing those licenses migrate to moneyed interest. We're also extremely concerned, if at all possible, to encourage the State to consider if this license is made freely transferable, to consider the possibility of the State's setting up loan programs to help people in low income brackets and perhaps also crewmen who've had years of experience in some other area in the fishery, to be eligible for these loans so they can be encouraged--we can encourage the license to end up in the hands of these persons. Now we feel like it's in the long-term best interest of the State to see those licenses end up in Alaskans' hands, and it's one of the ways you can legally, as we understand it, actually discriminate in favor of Alaskans by way of requiring Alaskan residency, also by way of putting in economic requirements, before you could qualify for this loan assistance, and optimistically, perhaps naively, we think that over a long period of time you might see an actual increase in the number of Alaskans who are made eligible--or who end up with these licenses. Now we're aware of a lot of the problems involved if the license becomes a transferable property right, but we're also aware of the enormous problems that can occur if the license is not a property right, and if you end up either in a lottery

or an apprenticeship pool. One of the biggest concerns we have is with the fisherman's being able to hand his license back into the ranks of his own family. We think this would be horrendously complicated by way either of an apprenticeship pool, or the lottery-type system, if you had it as a leasing right instead of a property right. We had initially hoped that you could have apprenticeship pools for specific areas around the State. It might be able to favor the Alaskan resident this way. One for Bristol Bay, for example, one for Cook Inlet, one for various other areas. We understand, after Dr. Fletcher's testimony, that the apprenticeship pool would be stronger constitutionally if it were based on something like nautical experience and included fishermen from all over, including fishermen from outside as well as Alaska State residents. We feel that people in areas like Bristol Bay, where they had a short-term fishery, would be put at a grave disadvantage if they had to compete against people from, say, Washington or Oregon, who had an in-depth fishery and were able to fish many months of the year. These are some of our concerns, some of our worries, if the transferability is moved from a freely transferable property right to some other formula. We have also taken up, in a very smattering form, the idea of a deferential tax that has been discussed. The fishermen reacted adversly to that. You can get their comment on it. There may be some explanation from--that hasn't been touched in the way I presented it, but the thinking is, that the fisherman who would perhaps really achieve a windfall gain is the fisherman who comes into the fishery, let's say ten years from now, after you've

reached your optimum level. He has no assessments to pay, and yet he gets into the fishery for, say, maybe five or ten thousand, and yet--and then he gets that money back when he sells his permit, so he also is for a possible recipient of a windfall gain. Now, we've touched on a lot of these ideas, and I know a lot of this you've already heard and that the fishermen themselves will have, perhaps, some comment to make, and I could go on with quite a few other things that we'd like to see in the bill. I think the biggest things we're after, we want to recognize the validity of the concern of people who say that the license might tend to migrate toward money interests, and by that we'd love to see some kind of loan program established to help get away from that problem. Our thinking there simply is that as long as a fisherman, on a lean winter, may end up borrowing money from a cannery, then the cannery, of course, is going to have his hands on that fisherman, regardless of whether this is a leasing right or a freely transferable property right. So I think by making it a leasing right you will not have solved the problem of getting the fishermen out from under cannery domination, whereas if we are able to make low-interest money available to the fishermen, perhaps we can solve that problem. If we had enough money available from those sources, it might be in order to pass a law forbidding canneries to loan fishermen money, but I think we're a long way from that point.

CHAIRMAN: Thank you. Before we go into questions--why don't you stay there for a minute, Phil. People may have questions of you. Before we go into that, however, I'd like to state something that I should have stated earlier, perhaps. There's been

some concern that this committee was dragging its feet for one reason or another, and that there was a question about the bill coming out, and so on and so forth. I'd like to use the opportunity to assure you that while action, perhaps, did slow down, I think there probably were good reasons for it, but that it has nothing to do with not passing the bill this session. As I've told Newt over the phone a few days ago, I feel the chances are at least 95 to 5 that it will be passed this session. Certainly, I'm going to make every effort that I can to make sure that it does and I think the rest of the committee feels the same way about it. I think we need to recognize the fact that in the House this bill was referred to three different committees. In the Senate it only had one committee referral, and part of the procedure here was because we felt, if it looked to the House that their's should pass first, and it had three committees to go through, then it might get hot and act on it a little bit faster. We might not get caught in that last minute crunch. So, that as soon as the House bill comes across to us, and it's in Finance know, as I'm sure you know, that's the last committee, and the speaker has said as early as today that he does expect to have it out yet this week, then in the Senate we expect to be ready for it, and it will be on the calendar, I would say, within a matter of just a very few days, in the Senate from the time it passes the House. So, if you are concerned about the time element as far as the Senate's concerned, why, please let me reassure you there that there is no problem. If we get the bill this week from the House, we'll have it on the calendar, definitely, next week, and so, we are,

I think, all of us, committed to doing everything we can to get this bill out this year. And, now, if I speak incorrectly, why, correct me, or any of the other committee members. Okay. If anybody has any questions on that, why, we'd entertain them at this point. If you want any clarification, if I've not made it clear enough. Okay. Phil, you didn't mention anything about a moratorium on transferability to individuals for a year or two. Is that then, something that you've discussed at all? Do you have any position on that?

MR. DANIELS: We discussed it, and we discussed it, as I recall, Dr. Fletcher's testimony, and I'd understood that without transferability a moratorium is not likely to succeed in the courts. Is that incorrect, or?

CHAIRMAN: I think his position was that we would have no problem with moratorium if we showed what we were going to do when we get--after ~~we get~~ this moratorium, period. Now, Dr. Fletcher--Dr. Fletcher's point was that to have a moratorium, without showing what we were going to do with the licenses when we got down to--or with the permits when we got down to optimum levels, would appear to the courts to be simply a trick to buy time and that we really didn't intend to do anything about making these available to other people in getting around the closed-class problem. However, he said that if you show in your bill a definite transitional period, and then what you're going to do when you get to the number of licenses that is desirable, then you can do almost anything in this transitional period, and there would be no problem with a moratorium.

MR DANIELS: Again, I'm recalling, only from having sat in that day, and

you may have this off on tape, and trascribed, which I have not had the opportunity to look at, but I was recalling--I believe he was speaking with Mr. Adasiak from the Attorney General's office, and he said he felt, as I recall, that a six-month moratorium would be ~~the~~ a lot stronger...

CHAIRMAN: No.

MR. DANIELS: No?

CHAIRMAN: No, you're talking about a separate thing. At one point we saw this transferability thing as so involved and so complex that if there's any way possible we could give it to the commission, charge them with the responsibility of coming back in a year or two with recommendations on how to handle transferability, that's the way that I, personally, would have liked to have gone. And this is when he says, no, you can't do that, you've got to show on the bill what you're going to do as far as transferability is concerned. That's where we asked him--well, okay, it wasn't two years, how about if we had them come back within a year. And he says, you're in better shape. Six months would be better yet, but that's doing nothing with ultimate transferability, but making recommendations to the Legislature. That's the question he was speaking to.

MR. DANIELS: Could I ask then, how long a period of time are you thinking about as far as a moratorium is concerned?

CHAIRMAN: Oh, I'm--I don't have anything in mind. We've discussed the idea of a couple of years, and I don't have any position on it. I was just wondering if you did.

MR. DANIELS: Could we ask the fishermen for their reaction?

CHAIRMAN: Sure.

MR. DANIELS: We didn't bring this up.

CHAIRMAN: Well, Jim here wants to talk right behind you.

JIM: I really don't want to talk right now, Senator. I just wanted to ask you--I wonder if you could elaborate a little bit. I don't quite understand your position on this moratorium bit. Do you in effect--are you in effect saying that you establish certain people that are eligible and they're frozen into it with the intent...?

CHAIRMAN: Yeah. Well, again, please, I don't have any position on it.

JIM: No, I don't mean a position. I just mean, if you would tell me what you're referring to.

CHAIRMAN: Right. For those that have just--haven't met Senator Thomas before, why, Senator Thomas has just arrived, and Senator Radar, of course, has not. Well, the idea, I think, that was put forth at one time was that it might be desirable, after the initial--after the entry permits had been issued, that it might be of value to have a couple of years moratorium before they could be transferred to another individual. Now, we might want to retain--if we did that, we might want to retain the option of the commission buying them out, transferred to the commission, but not to an individual. There were some advantages that were expressed. I don't know whether there's anything that's very important or not, but I just wondered if you did have a viewpoint on it.

MR. DANIELS: There might want to be someone else who'd want to comment on it. I...

CHAIRMAN: Well, if your group has not discussed it, maybe it would

be better for you to discuss it...

MR. DANIELS: Well, I would guess that the reaction would be something like this: that if this made the bill more, you know, ~~include~~ improved the bill and safeguarded some of the abuses that might occur, that some kind of moratorium might be considered. I do think that many of us might have reservations on any lengthy moratorium, because what you're talking about is ~~the pluralities~~ a paralysis of the fishery by way of anybody switching gear types, or anything of this nature. This is one of the prime items--prime considerations that has moved the fishermen in the direction of free transferability, is because it leaves the fishery somewhat liquid as it has been in the past, but still keeps the lid on the number of units of gear in each area. It allows people to move from one type of gear to another. We're very, very fearful of anything, I think, that would tend to freeze fishermen into their gear types, and especially for any long period of time. That's one of the big considerations we've had when talking about free transferability and one of the reasons people have been favorable to the idea of free transferability.

CHAIRMAN: Any questions of Mr. Daniels, committee members?

UNIDENTIFIED SENATOR: Well, I would like to ask, can you give us some of the advantages of a moratorium of that type?

CHAIRMAN: Not at this time, I wouldn't. I don't know what they might be. It was proposed, and I was simply asking if you people have a position on it. Just a minute, Clancey. You don't have any questions of Phil?

SENATOR THOMAS: No. I'm sorry I missed testimony. I was pretty interested in what I heard.

CHAIRMAN: Alright. Clancy.

CLANCY: I would just like to ask a point here. This moratorium means there would be no licenses issued as such...

CHAIRMAN: No, no.

CLANCY: ...for instance, I'll give a demonstration. I'm going out this Spring and do a thing that I've had gear for several years, but I haven't bought a license for for the last three years. Would this stop me from doing this particular thing?

CHAIRMAN: No. No, no. Maybe I didn't make it plain. The proposal that was put forth, and maybe it's not given important enough to spend this much time on, but once the permits had been issued, simply a moratorium on the sale of those from you to somebody else who wants to buy, for a couple of years, to an individual, however, still allowing you to sell to the commission if you want to get out. One advantage might be to, again, to provide a reduction of gear, some incentive for reduction in gear, so the guy that's selling out could sell to the commission which might retire that license, rather than to somebody else. Again, just for a couple of years.

CLANCY: Yes. Thank you.

CHAIRMAN: Alright. Phil?

MR. DANIELS: I just wanted to comment. I think the way we understand it, although we could be in error on it, that it will be--let's say the bill were passed this year. It would probably be two years or so before anyone would be issued a permanent permit, so, in effect, you'd have two years already. Now, if you added two years on to that, I think that might complicate the matter in some people's mind, because you'd be talking about four years

instead of--but you already have two years, probably, in which to consider some of the problems involved in transferability.

CHAIRMAN: Okay. Yes, go ahead. Would you identify yourself for the tape, please.

UNIDENTIFIED SPEAKER: Well, I didn't want to--I just wanted to say something about that, if it's okay. However, I'll be glad to have a question (indisc.).

CHAIRMAN: No, go ahead.

UNIDENTIFIED SPEAKER: One complication might be that there would be some permits available after this two-year period you spoke of. Maybe just right now, while this is taking place, somebody may have invested in a boat, you know, substantially, and would like to buy one of those permits, and it's possible (indisc.) in that respect, if I understand it right.

CHAIRMAN: Yes. Okay.

UNIDENTIFIED SENATOR: It's my feeling that any moratorium that's been presented so far, a moratorium seems to endanger the bill as far as constitutionality--the length of the moratorium. On this grounds I would be hesitant to support anything that would possibly cause this bill to be rejected under constitutionality terms.

CHAIRMAN: I'm glad you brought that up. That is one of the reasons that our progress has not been any faster than it has been. I feel, personally, that it's absolutely essential, that when this bill comes out, that it be constitutionally solid. ~~That~~ We cannot afford to go through what we did in '68, when we passed legislation that went to the courts, was found to be unconstitutional, but as a result of that legislation many

more people got into the fishery than would have, probably, without the legislation, and so, I think that whatever we do this time it has to be right constitutionally, and that's the reason we have brought Professor Fletcher in and that is the reason that there's been some slow downs, because working with him and the mail going back and forth, telephone phone calls and so on.

CLANCY: I would like to just to make a statement on this windfall type of thing.

CHAIRMAN: Okay.

CLANCY: ...that's been bandied around some.

CHAIRMAN: Yeah.

CLANCY: I've fished every year in Alaska since 1939. I have no retirement. I have to pay my own bills. I have to buy my own boat and things like this, and I don't see this as a windfall of any kind. I'm gonna have to fish for a living till I get too old to be able to do it, and it's never going to do me, personally, any good, except to be able to fish. I just wanted to bring this out to point that there is a few people in this

State that has to operate under these conditions, so I can't quite see how you can classify it as any windfall in my sake, except that the fact that I'm still going to be able to fish.

CHAIRMAN: Well, the question has been raised, if, when you're ready to retire, the thing has appreciated in value to where maybe it's forty thousand bucks worth in the permit itself, and I don't think that's impossible. Does it then become a windfall?

CLANCY: Well, you put 30 years, or 35 or 40 years of fishing in, ain't you entitled to a little something? ~~You know,~~ You are on a Federal job or a State job, or any other job--I mean, look at it in this light. This is what I'm trying to say. So, I don't really look at it as that. The same guy that buys one ten years from now and fishes 20 years, he's probably going to be--his so-called investment is going to be worth more than when he paid for it, so he's got a windfall at the same time, even though he bought it. Just a point, that's all.

CHAIRMAN: Yeah, fine. Thank you.

UNIDENTIFIED SPEAKER: Speaking along those same lines, don't you feel that through the buy-back program, we will actually have that money invested, then, in the permit, and that it--that way it isn't a windfall?

CHAIRMAN: Well, I don't think that anything that has been considered here would subtract anything from what you have invested as far as the buy-back is concerned, any assessments or anything like that. I think there's complete agreement with everybody that anything you do have invested, certainly that--you're entitled to that back when you sell your permit. No question about that.

UNIDENTIFIED SPEAKER: So, you're talking about the moneys that the

permit might be worth, other than the...

CHAIRMAN: The appreciated value over and above anything you put in, yeah. Yeah.

UNIDENTIFIED SPEAKER II: If you're going to take advantage of the fisherman, why don't you--we have a windfall right now in liquor licenses. Why don't you go up to that one?

CHAIRMAN: Yeah, we've talked about that quite a lot, but then the other side turns around and says, well, hey, if you're going to treat fishermen that way, then why don't you open up the forest around here and let the first one in, or divide it up among people without any stumpage, or the same thing with the oil lands, so, there's good arguments to be made on either side of that question. I agree with you a hundred percent.

SENATOR RADAR: Yeah, to add a little further on that. I believe if you look around the State and saw how many fishermen that do have families that they would pass these licenses on down to, there wouldn't be nobody changing hands there.

CHAIRMAN: Yeah. I think Senator Radar has raised a point that's a very good one, though, that we're not--this is not something that we can agree upon ourselves and then just automatically assume that everybody else is going to accept it. You do have a rather large Anchorage delegation that feels that this is a State resource and that they've got to have a say-so in it, too, to a certain degree, but it is a pie that is being divided up, and it's not ~~the~~ just a pie that involves ~~some~~ the fishermen. The rest of the State does have some say-so in it. Now, I don't want to be putting words in your mouth at all. Why don't you go ahead, and...

SENATOR RADER: Well, you get this problem, too. And that is that if we take a billion dollar resource and divide it up between ten thousand people to harvest it, there's no objection to that, but when they get through using that and there's another generation of fishermen come along, should they have to pay, then, for what was given to the first generation for nothing? You see the difficulty. We're talking about the ones--the next generation of fishermen. Your sons and my sons and the people's sons who aren't here, and so on and so forth. And that's--and, really, what you're talking there is if you get back your assessment that you paid into it then you will have had the privilege of harvesting the resource for your lifetime, as long as it's useable to you, then you'll get back, I would think with interest, any assessments that had been levied on you, to enhance that. And the difference, then, is what the resource was worth, what you really got by having a one-one-thousandths share, one ten thousandth share in this industry, and unless we were to charge you for it now like we would charge an oil company for harvesting a resource, or a timber company for harvesting a resource, or we charged a man who wanted to graze cattle, we would lease him grazing land and charge him a rental fee, instead of--we could do that with fishermen, too, but it's thought that the fishermen can't afford that, and shouldn't have to afford that, but if you don't charge them a use permit or a use fee, so to speak, or make them buy the resource, then when they get through with it, whatever that value is has to be passed on to the next to the next generation of fishermen. If that's to be sold to anyone, then the money should go to the State. If it's to be

used by fishermen, as long as they're able to use it, then they should be able to get the money that they've invested in it, and that would be all they'd be entitled to. That's the problem that we're into, and of course, you have to recognize this, and I recognize that those that use the resource have a prime and first interest in it, but by the same token, you know, we wouldn't think about giving to the oil companies the oil resource, because they wanted to use it. It belongs to all of us, and it belongs to the fellows who are fishermen just as much as it does to the people that live on the North Slope, or some place else. This is a State resource, and the benefit from that resource has to inure to all the people of the State, and we're not able to divide up for one group of our citizens, one particular resource, and say they get it to the exclusion of other groups of citizens, but we can, I think legitimately, try to control and to make sense out of the harvest of that resource by those people who are harvesting it in the past and who will harvest it in the future. That's the nature of the problem. And as I say, it isn't necessarily what you would like, necessary to this committee, but you have a whole lot of people in the State who do consider this to be the most important resource the State has. I'm one of them. I think it's more important than the oil resource. I think it's of greater value than the oil resource, and, for that reason, you have to be real careful about an accusation that it's a giveaway of this resource to anybody, rather than a harvest permit that's useable, and that's--if you get the idea that this is a giveaway of a resource, the biggest and best resource this State has, then this bill will die. It

won't happen, but if we can put it on some other basis, then I think that we could move forward to everybody's benefit.

UNIDENTIFIED SENATOR: I believe the prime concern right now is what is happening to this resource.

SENATOR RADER: You're absolutely right.

UNIDENTIFIED SENATOR: Cause the way we looked at it, speaking just for our area alone, having the influx of gear that's coming in, you let it go for another five or ten years, we'll be all part-timers, and I can also see that if we have a limited entry program which is successful, you look ahead in the neighborhood of ten years, when we build this resource back up, I think it's only fair then the fishermen are going to have to put more into it. We really realize how much money the fisheries is putting into this general fund right now, compared to how much we're taking out, but once this thing is established I think you're going to find that the fishermen are going to be willing, also, to put money back into the State to help pay for this. ~~fisheries.~~

CHAIRMAN: Alright, Jim, we'll start here and go around the room.

JIM: Yeah, I'd like to make a statement to Senator Rader there. I--course, my mind probably don't work quite like his does. I seem to have kind of gotten lost there in that mental exercises we was going through. First of all--I mean, it's quite obvious, Newt made the point there that the resources is in terrific jeopardy, Phil gives elaborate testimony about the fact that it's down to a third and everything. It looks to me like we're sitting here talking when we're literally cutting off our nose to spite face, or something. We're going to sit here and grapple with

the problem, what's just and unjust about it, and forgetting about the fact that it's--to me, it's almost like it is a point of war at this point. Generals do a lot of things that maybe aren't extremely fair, or aren't, you know, a hundred percent the best decision, but they just have to be done, and this is what I feel we're facing right up to now with the fisheries issue. As far as my own license is concerned, I probably would be eligible for a type of gear license, although as Phil has pointed out, I'd simply lose out on most of the other fisheries, which I have a high degree of past experience at, such as crab fishing and every other type of fishing in Alaska, except for scallops. However, I'd certainly be willing to take that in order to save the resources as we've talked about here, but if we don't do something right now and do it fast, why, we're just literally going to completely lose the resource. I certainly wish I was in a position, or all of us were, of willing this landfall, as you guys call it, to the legislative retirement fund or some such thing, to try to help this thing through, because if we don't do it and do it right now in this session, it's--there's no question, I think, in any of our minds that it's all over with, and we're still grappling with these problems about, you know, whether it's fair or just or who's going to get this big landfall. I fail to see, you know, this type of reasoning at this point in time.

UNIDENTIFIED SENATOR: Mr. Chairman. If you'll do it my way we'll have no problem.

(Laughter)

SENATOR RADER: Well, I don't know what your way is either,

that's why I don't know what your saying, because I'm not against what you're saying, but the difficulty here is just exactly that. It's not that we don't have the same desires here. It a question that we have a lot of people involved, and it's more difficult than just taking care of the guys in this room, or one bunch of people, you know.

JIM: Well, yes, I'm sorry. I should have--I should have--I didn't quite get the--just from your stand there, just what you're--maybe we came up a day and a half (indisc.) because we don't really know really what your position is or anything is. Well, Phil had elaborated that we could live with this type of a thing as was put out, and House Bill 126, I listened to your dissertation there, and I never did quite get exactly what you were in favor of. Maybe we didn't have a starting point to begin with, and I mean, are you in favor of a lottery, or a free transferability, or a commission to completely controlling it or what. I guess I maybe missed your...

SENATOR RADAR: Well, I haven't made my mind up as to what position I want to go on. The only thing I was talking about, though, in this particular instance, was if you do have free transferability, and if you do sell the license, then the question is, to what portion of what you sell it for belongs to you, and what portion of what you sell if for belongs to the State, because it is a share of the State's resource, and that's the difficulty here. Certainly, part of yours because you will have put money into it and investment into it. Part of it belongs to the people in the State, though, because it's their resource, and if you're selling an exclusive right to harvest, or a franchise, so to

speak, the second generation of fishermen really should not have to pay for what you're receiving for free. That's really the basic point.

CHAIRMAN: Let me make this one, too, if I may, before we go on, and that is that, for instance, Jim, we're not--this is not slowing things down at all. I figure that we've got, oh, till probably Monday or Tuesday of next week before the House bill gets over here, and so we've got that amount of time to have this kind of discussion and make our decision on what we're doing, what we're going to do, and it doesn't affect the ultimate timing at all, because we're still going to take that House bill when it gets here and work on it, and so, we're using that time to get ours into shape so--to substitute for theirs when it gets here, and so, this kind of a discussion doesn't slow us down at all. Our bill is close enough to the goal, and as soon as we solve this kind of a problem, and perhaps the other one on initial entry, why, we go right on.

(End of one side of tape)

MR. DANIELS: I'm curious whether there's any possibility of talking about some of the alternatives that might be under consideration on transferability, because I think this is what's got everybody curious, because we don't know, really--many of the fishermen may not know how to react until they understand what you and I have under consideration.

CHAIRMAN: Fine. Okay.

JAY STEVENS: I just wanted to say--comment on Senator Radar's statement there. I think it might have many good merits, but I do know, sitting through many committee meeting with U.F. of A., the delegate from Yakutat, that we have seriously gave

thought to future investment in this fishery ourselves, as farmers, you might say, like buying the seed and the fertilizer and tilling the ground. We do realize that the State hasn't been able to put a lot of money back into this industry to develop it and manage it and possibly it has been so called rape instead of perpetuated by reinvestment, and we didn't want to dwell into it too heavy right now because of limited entry, but I think it's one of the subjects that will come up in the future years, and any fishermen is in disagreement with me that we do feel a responsibilities to our fisheries, then I would like for them to say so here.

SENATOR RADER: Well, Mr. Chairman, let me make something...

CHAIRMAN: Wait a minute, John. Just for the purpose of the tape and the record again, can we get you name on the...

MR. STEVENS: Jay Stevens from Yakutat, Alaska.

CHAIRMAN: Alright. Thank you.

SENATOR RADER: Mr. Stevens, I want you to make something real clear to me. I'm not opposed to limited entry.

MR. STEVENS: No, I realize that.

SENATOR RADER: The problem is how to do this to be fair to everybody, and how to make it an acceptable bill not only to fishermen, but to the other people in this State who have an equal ownership in this resource, see. That's the difficulty.

MR. STEVENS: Well, the point I was bringing out, we kind of feel possibly that we're going to get something for nothing, but in talking ~~from~~ with the fishermen from the different organizations, we do hope to perpetuate this industry through our own money in the future, like taxing ourselves, to make this industry a

strong industry again so that we can pull a full living out of it, so actually, we're not going to be gaining anything for nothing if we put money back into it, is what I'm trying to say, sir.

SENATOR RADER: You understand, also, that I'm saying that under any circumstances it's agreed that whatever you put into the fishery you get back. We're talking about what if you--what you should get back in addition to that if you sell a permit or if it's saleable and has a value in addition to that. If this is a billion dollar resource, and if we divide it between ten thousand people, you see, should you be able to sell that to the next generation of fishermen? That's the question, see. You certainly should be able to get your money back that you put into it. We don't argue about that, but the question is, how--what should you get in addition to what the money you put into it, should you get back. See, that's the difficulty.

MR. STEVENS: Course, if you're going to have a rise in the dollar all the time, how are you going to determine how much is really--can come back to the fishermen? What ~~(indisc.)~~ is really his?

SENATOR RADER: Take you assessments and interest on it the same way you do any other debt. It's the best you can do, I think.

CHAIRMAN: Okay. Further in the back, and would you identify--no, that's right, and would you identify yourself.

RON BALANGER: Ron Balanger, Petersburg.

CHAIRMAN: Balanger?

MR. BALANGER: Balanger.

CHAIRMAN: Balanger.

MR. BALANGER: Petersburg Fishermen's Union.

CHAIRMAN: Okay.

MR. BALANGER: Now, we're going to add one thing here What you're talking about, Senator, is going to be completely in my favor. I'm a deck hand. I'm, you know, work on--as a crewman. Now, we've been talking about 10,000, 20,000, 30,000 dollar value of our license. Now, if these boat owners had to sell that license--I mean, had to pay 90 percent back to the State or 75 percent if the State buys the license--I mean, the permit, don't you think it's going to keep the value of that license way down? About a thousand dollars maybe? Because somebody will not like paying, you know, $9,000 out of $10,000 or ~~any thing~~ eighteen ~~on th pot.~~ out of twenty. They'll just say, well, heck then, I'll sell it for a thousand dollars and you'll only get 900 or--(indisc.) 50 persons.

SENATOR RADA: I think that you make a real good point, and the point that you also make is that maybe the guy says, well, if you give me fifty thousand for my boat and I'll give you my license. You know, type of thing. It's going to be pretty hard to regulate, because that's been pointed out to us. It's been suggested that what we're suggesting is not feasible. Then you get back to, then how should it be transferred then? That's where you get into the problem of free transferability. The second thing that's wrong with that suggestion that I made, it's been noted by other people, and that is, the second generation of fishermen are still going to have to pay it even if it goes to the State, which means the only people who are going to be able to get in the fishing business, besides this generation, are going to be rich men. They're not going to be a guy that's a deck hand.

They're not going to be a guy who worked his way up, because he's not going to have the 10 or 15 or 20 thousand dollars that it takes to buy his way in, and most of us feel that the fishermen in this industry, most of them are going through their pockets when they went into it, and that doesn't make them bad guys. We're, you know, that's the where most of came to Alaska that way, one way or another. But the problem is, how about the next generation of fishermen? What are we going to do about them? The deck hands, the guys who's in high school now that want to go fishing. How do they get into this fishery? And who do they pay and how much? And that's where you get into the problem of whether or not you should have a lottery or an apprenticeship pool, so that people can get in. The other suggestion is this: that people would use this franchise as long as they could use it. Any human being that's here today and is using the fishing--the fishery can harvest fish, but when they get through using it that that license would go back to the State then, and the State would reissue maybe half of the licenses that came back to it, you know, to cut down the number, but they would reissue them. Then the question is, who gets those new licenses on the second generation of fishermen? How're you going to let a guy get into the industry the same way that you got into it? And then you could say, well, you could either--you could have a lottery or you could sell them if you wanted to, you could bid on them like you would on oil or timber or land, State land or something, or you could have an apprenticeship pool and try to give them back to somebody who had an interest in the fishery someway, had some experience

with it, or something like that. But that's a very difficult thing to figure out how to do that. So, you ask me what I'm for, I'm very much for limited entry, but I'm convinced we have to solve these problems or else we're all going to be sick of limited entry in three or four years, and it's going to work to benefit of a very few people and to the detriment of a great many.

UNIDENTIFIED SPEAKER: Senator, I've been saying the same thing the whole week.

CHAIRMAN: Well, that's a perfect example. It depends upon whose ox it is being gored. We find that (indisc.) we're going to do.

SENATOR RADER: That's pretty human. I don't--I'm not mad at anybody for wanting to protect their own situation. I want to protect mine, too, you know. That's perfectly human, but there's--as senators, we're here, really, to protect the interests of the guys in this room, but also the guys that aren't in this room.

CHAIRMAN: Alright. Next in line, and again, if you'd identify yourself for the tape.

MR. CLAUSON: (Indisc.) Clauson from Pelican. Well, in the first place, I think maybe to answer the first part of Senator Rader's reservation argument would be that this permit is not really selling the resource, it's a permit to fish for it and at the beginning it wouldn't have a great deal of monetary value, nor should it. It may require--it may become valuable. So, if it becomes valuable through a man's efforts, then when the man that does buy it, he is buying something of value, whereas where at

the beginning it's--we don't know the value until it's determined by the market. Now, I don't see how that is unfair or that it gives a man a right to a specific part of the resource.

SENATOR RADAR: Well, Mr. Chairman, if you...I have the right to harvest the crops on a piece of land, I don't care who owns it. If I have the right to graze cattle on that land, I don't care who owns it. If I have the right to fish the free fishery, I don't care who owns the fish when they're swimming free. The only valuable thing on the resource is he who harvests it, no matter who owns it, and if you give the exclusive right to harvest it, you have effectively divided up that resource among those people who have the exclusive right to harvest, see. Which is all right. You know, we're not complaining about that, but we're only saying that....

UNIDENTIFIED SPEAKER: (indisc.) ...monetary value to begin with, though.

SENATOR RADAR: Well, now, I'm not sure that's true. If we cut out half the people the moment we go into a fishery this year,.. if we gave a fishery permit to everybody who wanted one, they'd have no value, but if we cut out 50 percent of the people who have applied for licenses this year--who have taken out licenses, as we've hoped to do, it's going to have a value the day that this thing goes into--the law is enacted. There's going to be an immediate value to that thing. I don't know what it's going to be.

UNIDENTIFIED SPEAKER: Without seeming to argue, I mean, 'cause this is kind of an argument, this thing, this type testimony, it would be open to speculation on whether it would have a value because in some fisheries, you can cite examples, it has become

a thing of no value, because the fishing time in this fishery has gone, ~~cause~~ this is why the problem of limited entry comes apart. It comes up. That was really all I meant to comment on it, on that one thing. I'd like to comment on your second point.

SENATOR RADER: Well, let me comment on that. If you have two thousand people apply in Bristol Bay for licenses and you issue a thousand of them, don't you think that license is going to have a value? There's going to be a thousand guys there that's going to be wanting to buy a license from somebody, and they're going to buy them from the guys that's got them. If they--I don't know what the value's going to be, and it's going to be hard for either the seller or the buyer to know, because the value of that thing is going to depend upon what the State does in the future, whether or not they really limit the resource. If they don't limit entry in the future, it isn't very valuable. But if you cut out half of the guys that are ~~there~~ standing in line for a license, half of them get a license, half of them don't, the guy that's got a license can walk to the guy that didn't a license and say, what'll you give me for my license if you want to fish this year? And he's going to get a...

UNIDENTIFIED SPEAKER: The bill that we've approved in concept would neither be that theory or...

SENATOR RADER: Well, that's what we hoped to do. If we don't do that, why, it won't have a val.

UNIDENTIFIED SPEAKER: But my only comment was on the--you know, we've analyzed it, ~~on the~~ gone to hearing, and so on, and so have you, of course, that possibly that monetary value would just amount to later transferring it, the thing that does become valuable.

On the business of--I don't quite remember how you stated it, but--the second part, but it amounted to saying that, well, the fish belong to everyone in the State, which, of course, they do, or even everyone in the country. The economists argument, as I understand it, on this is that--now, most people aren't fishermen, especially if you look at (?) the whole country, and they have a right to this fish, just as we have to an oil resource, and all--you stated this. Now, the argument from the point of the economy, as I see it, is none of this value is accruing to the State simply because the fishermen are putting into equipment and gear just to gouge each other and the devil takes the hindmost, because of this wide open situation, and the thing is designed to alleviate that.

SENATOR RADER: I agree with that point. You're right.

CHAIRMAN: Mr. Clauson, then it doesn't really make any difference to you whether you get a permit or not?

MR. CLAUSON: Doesn't make any difference to me? Well...

CHAIRMAN: ...has no value. If it has no value, then it doesn't make any difference to you whether you get one or not.

MR. CLAUSON: Well, I didn't...

(Laughter)

CHAIRMAN: Well, how much are you willing to give for one then?

MR. CLAUSON: Okay. You've made this...

CHAIRMAN: How much are you selling yours for today?

MR. CLAUSON: Now, wait a minute...

(Laughter)

MR. CLAUSON: He's playing with words now. Things are wide open now.

CHAIRMAN: No, no, I just...

MR. CLAUSON: No. I said that the permit itself wouldn't have a monetary value that I could sell--it may have, but it wouldn't be--it certainly would increase as it got more valuable to me. In other words, it--presumably if this program worked, and if it didn't you might as well repeal it later on, but if it worked, then unless that permit becomes more valuable to me, and unless other than fishermen benefit slightly from my contribution to the State as a result of it, then it--you know, it's value wouldn't increase. Presumably it would. That's what the program is designed for.

CHAIRMAN: Oh, I have no argument with you at all. I agree with you a hundred percent, that if we succeed at all then the value will increase, but I do think that probably it has some value the first year, too.

MR. CLAUSON: Well, I think your point was apt ~~in humor,~~ and humorous, but it's distracting, you know...

CHAIRMAN: Well, I don't think it was humorous at all. I think it does have value now and I think that your reaction proved that.

MR. CLAUSON: No, I won't accept that (indisc.). After all, we're serious about this. It isn't a battle of wits, although it is entertaining.

CHAIRMAN: Alright. Then we'll start back again. Phil.

MR. DANIELS: I was curious. I've heard the--heard reference made about giving away the resource several times, and I've always felt a little reservation about that. It seems to me you're regulating a person's ability to enter the fishery and no one's giving away the resource, and again I'd like to refer back to the decision made by--in the Holland versus Missouri case where

it was pointed out that wild game belongs to no one until it's actually in someone's possession, and I think it does maybe prejudice the situation a little bit when you talk in terms of actually giving it away. In this respect, that it seems to me that it's very parallel to what you do in liquor license and also in insurance. When you're issued those, you're issuing a license that allows a person the right to earn a livelihood and it seems to some of the fishermen, perhaps, that this is parallel to what you're doing when you're talking in terms of limited entry, and I think what we're curious about, I don't know what type of tax structure you have in mind, what type payment. I know the analogy was used the way ~~was used this way~~ the oil companies operate. I think they pay a 12 percent severance tax. I have heard cost figures on the license that were way in excess of that. I just wondered whether there was any justification, if you are going to draw that parallel between what the oil companies pay and what the fishermen would be doing, whether there's a justification for talking on one term of a 90 percent tax or a 75 percent tax, and then on the other term of a 12 percent tax, say, on the oil companies. Would anybody have a comment?

SENATOR RADAR: Mr. Chairman. First of all, the idea that nobody owns the fish is true in the situation where everybody has an equal right to catch the fish, and you say that all the public has an equal right to go catch the fish. Nobody owns them until their caught.

MR. CLAUSON: You're not quoting me, are you? That isn't what I said.

SENATOR RADAR: No, I was just trying to go with what Phil's saying

here, but the sense that no one owns the fish is presupposed that everybody has an equal access to it. Once you decide that only certain people hav the right to that fish, then you're taking the fish that were owned by all the people and you're letting only certain people harvest them, and there you are giving something, you are giving a franchise. And again, I'm not objecting to that, but I think that that factually is what it is. And we're not talking about a 90 percent tax. The only thing we're talking about is, after you, as a fisherman who have used this resource for your lifetime, and you get back the money that you've put into it in terms of assessments plus interest on that, that if there is something else left over there, that that is really the resource, and that's the public's right and the public's interest. And you should no more have the right to sell that nor the next generation of fishermen have to buy it from you than we should today. If you're going to do that then we should sell it to you today. If we're going to do that we've got to put up 10,000 fishing licenses and sell them to the highest bidder.

MR. CLAUSON: Well, Senator Radar, everybody can't be fair...

SENATOR RADAR: And then when you get through with that you can sell it to the highest bidder. But if we're going to give it to you...

MR. CLAUSON: Everyone can't be fishermen, though. Everyone can't be fishermen, and if the rest of the people are to benefit then there has to be something in it, so that the fishermen's profit ~~is going to~~ can accrue to the State also. Otherwise, we'd all have to take turns being fishermen.

SENATOR RADER: Well, let me ask you this. What's wrong with my theory that says you get to use the resource and we're going to limit the entry into it and you get back all the money you've put into it? What's wrong with that? Why do you think that you should be able to get, not only all that you put into it and the exclusive right to fish for 20 years, but also the value of the resource when you get ready to sell that to the next guy that's coming along?

CHAIRMAN: Let's wait a minute. Let's go through the chair now, and we've got several people that haven't been heard so we'll let them answer the questions if they'd like to. And we'll start over here.

UNIDENTIFIED SPEAKER: Can I answer that one?

CHAIRMAN: Yes. That's what I'm asking you to do.

UNIDENTIFIED SPEAKER: ...testify later.

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: What's wrong with it is that you do not do this in any other license or franchise that you issue. We feel that we're being discriminated by--against by this proposal, and that's what--the basically is that the animosity generated on this. That--since then you don't do this in other fields of business when you sell a law, then, to transfer their license from one person to another and don't tax such transfer and whatever-money they've made off it, capital gains or whatever else you want to call it. When you don't tax that why should you put a charge on our transfer?

CHAIRMAN: Go ahead.

SENATOR RADER: Because you're using our resource. It isn't your

resource. It's the public's resource. That's what...

UNIDENTIFIED SPEAKER: (indisc.) ...liquor license people are the resource.

CHAIRMAN: Wait a minute. We're going to go through the chair.

SENATOR RADER: You're right, and I suspect that that's a mistake, the liquor license, but I want to say this. I'm a lawyer. I don't have any right to sell my license. When I die that license dies. The next guy gets one and he gets it independently of that. Most of the things of your license to do are like that, but when you're going to give someone a resource for property, the use of it, you're into a different ball game. Then you're into grazing land. Why don't we do this grazing land and the rest of our resources, see? We're not talking about harvesting people or lawyers' licenses or doctors' licenses, you're talking about using the greatest natural resource this State's got. The most important one in my view.

CHAIRMAN: Let's answer Phil, too. Phil said, why 90 percent on this versus 12 and a half percent on oil. You've said that you don't do this, or the State doesn't do it, on any other resource. Well, I think that's probably mistaken, because, for instance, where did the 900 million come from? I think the 900 million is a much better, and the oil leases are a much better example of this same type of thing than a liquor license, though we use that so often. In each case, with the oil and the fish, it's the State's resource. In the case of the oil we have said to companies, you bid on the privilege for using that land to drill on. If you strike something, fine. If you don't, that's too bad. So, the bonus bids, when we lease land, I think, is rather a good analogy of--same thing holds true, I think, to

the--for the timber. We've put a certain tract of timber up for lease to a company, and the guy that bids the most is the guy that has the opportunity to use that timber. Now, after that lease bid for the oil has been accepted then they turn around and pay 12 and a half percent use tax for the oil that they take out, 12 and a half percent royalty, and another about eight percent severance tax, or about one-fifth of the total. And that's on top of the original permit to go in and use it. So I think if you want to use a comparison of oil and fish, you'd better take--that's a more accurate comparison.

UNIDENTIFIED SPEAKER: It isn't a renewable resource...

CHAIRMAN: Wait a minute. We're going to go one at a time now.

MIKE GROSS: My name's Mike Gross and I'm from Sitka.

CHAIRMAN: Okay.

MR. GROSS: Personally, I don't think that they can gain on this (indisc.). What I do want to see is, since more than likely I'll be eligible for one permit only and one (indisc.) in several fisheries, that I will be able to--through my ability, get a hold of one of these other permits some way, and I guess it's going to take a dollar value to do it, and I want to be able to bid competitively, or what have you, to be able to get a hold of one of those permits, and I don't want to get a landfall gain in my pocket.

CHAIRMAN: Mike, I think that we could say that the committee is pretty well in agreement that the advantages of transferability, as far as the kind of thing you're talking about and the other people have talked about, are substantial enough that we favor this, too. The question is, whether or not the individual should

or shall have the total value when he is through using it, or whether he should share that value with the rest of the people. I think that's the real question that we're asking primarily. Okay, next.

BOB BISHOP: I'm Bob Bishop from Ketchikan. I think we more or less asked Phil to represent our feelings on limited entry. I'd like to say, as far as my group is concerned in Ketchikan, that we feel that anything that is fair and equitable that can be worked out, would be satifactory. We'd like to see it as uncomplicated as possible, and especially we want to see it legal. I don't think anybody really wants ~~it, the~~ a big windfall gain at the end of their fishing time, although if we could realize some gain to pay us back for, especially the expenses of limited entry which are going to be considerable on the fishermen themselves, but what we want to see is limited entry, and we want to see it this session and we'd like to see it as simple and as fair and as workable and as legal as possible.

CHAIRMAN: Alright. Thank you very much. Alright.

UNIDENTIFIED SPEAKER: (Indisc.) from Petersburg. That's one thing I cannot, you know, swallow, I mean--your comparison between oil companies...

CHAIRMAN: Okay.

UNIDENTIFIED SPEAKER: And I mean companies, and us single fishermen. This 20 and a half percent you're talking about--royalty and severance, this--that doesn't bother me. They just turn around and pass it on to the public. That power, you know...

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: ...what we have to (indisc.). We can't pass

it on to nobody.

CHAIRMAN: You're not paying it either.

UNIDENTIFIED SPEAKER: Well, you're talking that you want us to pay it.

CHAIRMAN: No. No, I was--I was trying to make a comparison between what the State sells the privilege, the permit, to oil companies to go and drill, comparing that with the State having some value in this permit for you to go out and fish it. That's the comparison I was trying to draw. Okay. And maybe it's not valid either, and please believe me, we're--there's no decision here. We have not made any decision. We're trying to explore this with you. That's the reason I called this today, to get your viewpoints on these things, and any new ideas that we hadn't already heard. That's what we're here for. Sincerely.

SENATOR RADER. Jim, let me ask you a question here. If we have free transferability, ten years from now who do you think's going to own the permits? What do you think the fishery will look like ten years from now? You know, things going as they do, and let's assume we keep cutting it back, who are they going to be, where are they going to live, what are they going to do? I'm interested in what you think about that.

CHAIRMAN: Okay, we'll start here again.

UNIDENTIFIED SPEAKER: The answer for that...

CHAIRMAN: Identify yourself...

UNIDENTIFIED SPEAKER: (Jake) The best answer for that, and the only example that we have, is what's happening in Canada, and I believe Phil can elaborate on that a lot better than I can. I'd appreciate it if you would tell the group what's happening in the fishery

there.

CHAIRMAN: Well, let's go to Mr. Clauson and then back to... Phil.

MR. CLAUSON: You asked what the fishery would look like, and I certainly (indisc.) look better, but I don't think anybody proposes to make a fishery better by limiting the entry. I mean, (indisc.) if we could bring it back to anything near what it was, for instance. And, this is going to take money, and it's going to come from everyone in the State, you might as well say, and (indisc.) you have an orderly way without everything wide open and an oil analogy has been made in that, too, and you know, the leases were so small that they had to harvest--or drill wastefully, and this (indisc.) renewable resource. Well, certainly we wouldn't be sitting around just cutting down the fishermen every year. We'd also certainly assume that the State would then better be able to manage the fisheries, and I belong to several organizations who have recommended and urged and put money into salmon rehabilitation, so that's just as important a factor, but the two go together.

CHAIRMAN: Well, let me ask you this. Is that any reason to think that many of these permits, or more of these permits, won't be held by Seattle fishermen than by Alaska fishermen ten years from now?

UNIDENTIFIED SPEAKER: Well, I don't know about more of them. Course, there are--we did talk earlier there. There are ways that we feel--for instance, the loan program, that possibly eventually it would end up with more resident fishermen and thus advance the State and so on. Of course, non-resident fishermen that have fished have the same right as everyone. We all belong

to the same country, but either way it was done for the State, and with limited entry and with rehabilitation and enhancement programs it would improve the fisheries, you know, ten years from now.

SENATOR RADER: Well, to be more specific, we have a great number of fishermen in different parts of the State who fish with a skiff and, you know, maybe only a couple of thousand dollars worth of gear or something other, you know. And do you think that in ten years they'll still have their permits? Do you think those permits will have gone to the hands of guys that live in Anchorage or Petersburg or Juneau or Seattle or some place else?

UNIDENTIFIED SPEAKER: It depends on whether they want to hang on to it, or transfer (indisc.), system used to transfer.

SENATOR RADER: What do you think would happen if they were freely transferable?

UNIDENTIFIED SPEAKER: Well, I don't know--now, I fished, you know, I'm a troller, too, although I fish with a conventional troller. I don't know why their permit would be any different than mine if they--you know, it would be whether they wanted to keep it or not. Maybe I don't understand your question.

SENATOR RADER: Well, you're right.

CHAIRMAN: Let's go to Phil and let's just talk about that.

MR. DANIELS: I would say that what the fishery's going to look like depends a lot on how seriously the State of Alaska were to take the idea of trying to make this fishery into an Alaskan fishery, and the only way I've understood so far that that might be done is completely out from the--from out from under

the context of the limited entry bill by way of providing loans. If the State of Alaska says we recognize that it's in our long term best interes make these licenses end up in the hands of Alaskans and pr ed them low interest loans, I think you could see that tra on take place. Right now the fishery is in many areas in ve trouble simply because the only possible source of funding has to be the canneries, and you go to the canneries and get that funding and they've got you from the standpoint of price negotiations, they've got you from a number of other points of view, and I haven't understood yet, by way of a lottery or an apprenticeship pool or any of these other alternatives, how that's going to work to benefit the Alaskan resident, so I don't see that free transferability is necessary the--necessarily the evil influence that's going to end up putting he (indisc.) in the hands of the outside fisherman, but I do say that without the loan program you might have trouble, or (indisc.).

CHAIRMAN: Let's make sure that we consider this. Suppose you're from Anchorage and Fairbanks and you really don't have much interest in fish and you ~~'ve sure thought~~ hear far more about it than you want to hear anyway. Now, assuming we go ahead and limit the entry so that the guy from Anchorage and his constituents can't get into the fishery anyway, not only that, but we give them a property right which he's going to characterize as a windfall, and now we're also going to put money in Finance Committee in a loan program to help somebody buy these things and provide that property right, knowing that historically fishing loans have been very high risk loans. Now, my only thought is

that you ought to consider how willing these people may be to do that. We don't have a very good history of fishermen from the fishing areas winding up as chairmen of finance committees. Usually it's an Anchorage or Fairbanks man that winds up as chairman of the Finance Committee, and he's the one that's going to have to approve that loan program and putting the several millions of dollars into it, so you have to ask yourself how reasonable this expectation is, that all three of these things will happen and it's just a thought for you.

MR. DANIELS: Well, may I respond to it?

CHAIRMAN: Yes.

MR. DANIELS: We had--this came up over in the House in the Resources Committee and we talked with several of the people who are in--some of them have been in influential positions in the Finance Committee, they had suggested that we might be able to amend the loan act that was passed last year, the advantage of it being, of course, that you can specify Alaskan residency and also economic qualifications can be built in there. Now, I grant you that we realize the State's problem as far as money's concerned, but we would also want to argue, and I think we can argue legitimately, that people--when those licenses end up in Alaskan fishermen's hands, that money goes back into the State, into the local economy. They pay the income tax, and I think the State's going to benefit tremendously.

CHAIRMAN: Oh, I'm sure they would.

MR. DANIELS: And I grant you that it's not simply saying to convince people of this, but it seems to me a legitimate argument.

CHAIRMAN: I'm sure it is. Very legitimate argument. The question

sometimes is getting legitimate arguments listened to. That's pretty difficult.

MR. DANIELS: Could I comment on that?

CHAIRMAN: You're making an awful lot of comments, but go ahead.

MR. DANIELS: This is one of the things that worries me about what's done with transferability because right now I think we can have the fishermen behind something in context of free transferability. I think if there's anything that could defeat this bill, it could be this problem, because if it's changed enough so that it paralyzes the fisherman, or even let's say we talk about a tax on the permit. Sure, we might be able to touch bases with everybody in this room, but whether we can touch bases with the fishermen all across the State of Alaska in time to get them also in agreement is another question. This really does worry me from the practical point of view.

CHAIRMAN: Okay. Clancy.

CLANCY HINKINS: Clancy Hinkins from Douglas.

CHAIRMAN: Okay. Thank you.

MR. HINKINS: I would like to make a comment. I think that this question that Mr. Rader asked — and I don't think it was that clarified on. This loan thing we're talking about is being pretty broad and what we were talking about was a revolving fund in the already existing loan program to buy permits only for Alaskans, and not sponsor a bunch of vessels or this type of thing. I mean, this is not our intent here in this loan program we're talking about. It's to make money available which is unavailable to canneries, banks or anywheres, to buy permits.

CHAIRMAN: You mean the buy-back program.

MR. HINKINS: No.

CHAIRMAN: To retire permits?

MR. HINKINS: To buy permits for Alaska fishermen, to be able to get money in a revolving fund. It isn't a thing where ~~your~~ you're going to put up millions of dollars. It's just a revolving fund and I think this is where this loan thing got out of hand here.

CHAIRMAN: Well, let me raise a problem, and I do this because, again, I want the benefit of your answers, not that I'm opposed to it at all. In fact, I think this idea of the loan program came up in our committee. But the question has been raised since then, and I don't have an answer to it at this point, and I hope that you do. If the loan were to buy the permit, what--and we've already said in House Bill 126, and we see it in ours also, that a permit cannot be attached, is not for security, et cetera, et cetera, et cetera, et cetera. This is almost a necessity that we say these things about that permit, then what does the lending agency have if it loans money to buy a permit? What does it have for security? ~~This~~ CLANCY. This is true and this is one of the reasons we thought that the State itself might be able to carry and hope to recover it's amount this way, where you would never get it through a cannery or a bank or any other way, and we're not proposing that this same person borrow money from this same thing to buy a boat and all the rest that goes with it, but if he comes to the point of needing a permit and can't produce the money because he doesn't have the collateral and this and that, this is one way to keep Alaskans in there fishing, and as Mr. Rader says, not all to go to somebody moneyed in the State. This was

our hop anyhow.

JAY STEVENS: Jay Stevens from Yakutat. I'd just like to comment on the point that if a past fisherman haven't paid their loans back very well. One of the main reasons, there hasn't been any fish and through limited entry we hope to see some money back in this game to where we can become businessmen again instead of paupers, and I don't feel any problem in that, that we couldn't repay our loans.

CHAIRMAN: I didn't say...

MR. STEVENS: That's all I'd like to say.

CHAIRMAN: Yeah. Okay. I think my statement was that they are high risk loans, and we have a lot of them. I mean, not fishermen, but a lot of others.

MR. STEVENS: Yeah. I've had this problem, but I think that this problem would decrease with limited entry.

UNIDENTIFIED SPEAKER: Mr. Chairman?

CHAIRMAN: Yes.

UNIDENTIFIED SPEAKER: If you had a $10,000 license, I need the money to, you know, to borrow for this license. It's worth $10,000. It might even be worth more. Maybe I've made a deal of my own where I can get one for $10,000 without anybody else bidding for it. If the State gets that license they could put it on a big--put a minimum on it.

CHAIRMAN: No, but my point was that both of these bills have said that the license itself and a permit itself cannot be used, cannot be restrained, cannot be used as collateral, and there's some very good reasons for that. That's the way it appears in both bills, and if it's not used for collateral then what security

does a lending agency have? Maybe it can be boats, other equipment, that's put as as security against the loan for the permit. That's a possibility.

UNIDENTIFIED SPEAKER: Well, you, of course, answered part of that question yourself there. Secondly, ~~Say on the~~ as far as to what to secure that loan with, being that it cannot be attached or anything else it would seem obvious there'd ~~Ibid~~ have to be some type of guidelines built in to where a person did at least something on it or pay it back after a given period of time. It would probably fall into delinquency to the point where you'd have to take it back and reissue it to somebody else with the idea of getting money out of it eventually. I mean, like you sold to a person, say, it had a monetary value of $5,000 or whatever, for a ten-year period of time, they'd obviously have to start making some type of payments on that thing to the State, you know, if it was issued over--through a loan-type operation. Hopefully you could recover your money that way. You know, have an incentive to get them to paying you something anyway, or if they just completely ignored you on everything, take it back and reissue it to somebody else who would pay better. But that wasn't the question I was going to bring up anyway. I'll make a brief statement about this flexibility bit to Senator Rader there. I think I understand where he's at now and I just wanted to reiterate where I'm at (radio) As far as flexibility, He's very concerned with the windfall aspect of this or the State literally giving the fishermen something for nothing or however you want to put it, but--and I'm not at all concerned with that because I'm not interested in getting something

for nothing. I really don't care what you do along the lines of assessing me or anything else for my right to enter this fishery in the first place, but the transferability part of it that allows me to be flexible is the thing I'm really vitally concerned with. I have aspirations of changing into different fisheries from time to time and different areas from time to time, and I feel ~~it would be~~ that with the ambitious intent(?) involved here that this is good. If I want to go into crabbing or anything else, I should have an avenue open to me to do that. Now, if you freeze yourself into this category whereby you are reviewed by a commission and whatnot, it becomes very unpalatable to most fishermen who think in those terms that the commission can literally control your life. You could be froze off the mouth of the Taku River literally for the rest of your life, so to speak, and that doesn't smack much of professionalism which I'm vitally interested in in the fishery. So, as far as what you people, this i personally speaking, not through U.F.A or anything, it's my personal position. I really don't care that much about what you do as far as getting this--getting value back. If you want to assess me or charge me a thousand bucks a year or whatever, I don't really care. I just want to be able to be flexible enough to go into other fisheries in other areas and the whole bit and be a professional, which I am.

SENATOR RADER: Mr. Chairman. I think that from your point of view you're exactly right. The basic thing here is not that little bit that we're quibbling about there, and yet, that's pretty important in developing something that you can sell statewide here. It's--what we're doing there, if you have a right to go

in, if you have that flexibility, if you have a right to use this as long as you want to, you're absolutely assured that when you sell that thing you're going to get back every assessment you put into it, plus interest. Then it seems to me like you've got most of what you want there.

UNIDENTIFIED SPEAKER: But the problem is and the real crunch as I see it, though, is this thing about the flexibility bit. Without a monetary value of it, I don't see how I'm going to be able to do that. That's my switch. I don't care what the State wants to assess and everything. I just want to be flexible and monetary seems to be the only standard we can go by here. That's my whole point of this thing.

CHAIRMAN: Well, suppose you had a program that would do what you want to do as far as being able to buy from somebody else, it would have this flexibility you're talking about, but again, it did have a declining percentage that was shared with the rest of the citizens of the State? And we've talked about ten percent a year, starting at a hundred percent and going down to ten percent. We could even change that. Suppose you had a program that said, alright, if you go to sell out, Jim, to Phil, and and if you do it the first year after you receive your permit, you'd get a hundred percent of the value. A hundred percent for two reasons. First of all, you're in in the first place because of hardship. That's the only basis for grandfather rights, is hardship. Secondly, the price is low these first years. It is not appreciated. So the first year if you sell to Phil you get a hundred percent of whatever the price is. The second year the State gets ten percent of

that and you get ninety percent. The third year the State gets 20 and you get 80 and we drop it ten percent a year till we get down to the 40 or 50 percent mark, so that the State and you are sharing about equally with the appreciated value of that permit. On the other hand, if you sell the first year back to the commission, we'll pay you a hundred percent, the second year back to the commission, and the third year, also. You still get a hundred percent. So after the first year there's an incentive to sell to the commission and get you out of the fishery and reduce gear. In the next three years we'll--the commission that you sell to the commission is 75 percent, the next three years after that, 50 percent, always providing some incentive to sell to the commission instead of to an individual, but leaving you the flexibility to sell to an individual if you desire to do so. So now we're down to the point where whatever this windfall gain is, it's shared about equally between the individual fishermen and the rest of the citizens.

JIM: Well, yeah, you--I think I followed you on that as far as--in other words the State itself would literally get this thing that Senator Rader and I were talking about, back out of--on these terms. I mean, there would be this initial thing in the beginning there where if you want to get out of it, of course, you could sell right back to the State, but I mean, in a sense they would be sharing this resource with you along in terms of what you're talking about there. It--well, you were kind of flashing on me pretty heavy there right in the beginning, and I've never really heard this concept in detail like that, so I couldn't give you a real qualified answer. I'd have to

digest it for awhile, but as I stated, flexibility is kind of a 54-40-or-fight. With me that's the one thing that I have to stick with and that's one thing that all the members in my organization and whatnot, can't, you know, lose, and that is the fact that they're negotiable and being flexible.

CHAIRMAN: Well, the only loss in flexibility that you have under this, as I can see it, is that the commission would have to be involved in such a way that they knew that they were getting market price and it wasn't an under the table deal. Now, you might lose a little bit of flexibility there in justifying the figures that were involved in the sale price, so they knew the thing was a fair arms-length transaction and not a sweetheart contract. But except for those complications, and I don't think they have to be that significant, you'd still have all the flexibility you're talking about under the previous thing. I think we're in essential agreement on the need for flexibility and free transferability. The only question, again, is whether the fisherman gets it all or if he shares part of the windfall with the rest. Phil.

MR. DANIELS: One of the things that concerns me about that formula is that it's going to produce just the opposite of a flexible system for at least ten years, if everybody's honest and if everybody likes money. They're going to sell their boats, or until you reach optimum levels anyway, they're going to sell their boats to the commission. That means there will be no licenses available. I can't imagine a fisherman taking a 15 or 20 or whatever percent loss and selling to an individual when he could sell to the commission and get that much more for

his permit, so you're going to produce a situation, and correct me if I'm wrong. It seems to me you might produce a situation where for a number of years there would be no licenses available for anyone.

CHAIRMAN: Well, except that it would allow you--the guy that is real hung up about being able to transfer this on to his family, his son, he would take advantage of the ten percent differential and keep it in the family.

MR. DANIELS: Could do that, but I'm talking about somebody like Jim who wants to change fisheries and he'd like to go to Kodiak and get a license out there and that license is not going to be available to him as long as he's honest and the other guy's the guy's going to sell to the commission.

CHAIRMAN: That's right, and you're correct, I suspect, that until you got down to these optimum or maximum levels, yes. But that overall, I think, would be a relatively small price to pay for everything else that is gained.

MR. DANIELS: Could I ask one more question?

CHAIRMAN: Yeah.

MR. DANIELS: How would you hold these people at arms-length from one another, because I think that's one of our big concerns. We don't want to be put into the position where, by way of being enterprising, we might have to be dishonest. You know, some people are worried about that.

CHAIRMAN: Well...

(End of one side of tape)

MR. DANIELS: ...like to get into that fishery. It seems to me it might provide an enormous incentive for someone to go under the

table if it's at all possible, and I really would be concerned about that because what you might end up with is fishermen getting caught as they might or might not get caught, or being dishonest, which I don't is necessarily a virtue, but I do think people when looking at that kind of a price tag, back to the State, would have a tendency, if possible, to abuse it.

CHAIRMAN: Kind of like leaving your keys in the car, isn't it, on certain streets?

SENATOR RADAR: Sir, well, let me ask you another question. Is anybody here not in favor or free transferability? Have we reached a consensus here that--I see Mr. Hernstein and some other people that have been testifying here on this in the past. Have you changed your views on that or what are you....?

MR. HERNSTEIN: I'm not in favor of free transferability.

UNIDENTIFIED SPEAKER: I'm not in favor of free transferability, and (indisc.).

CHAIRMAN: Wait a minute. We've got too much noise out here. Let that be (indisc.) and then repeat. Alright, try it again.

UNIDENTIFIED SPEAKER: I'm not in favor of free transferability or (~~indisc.~~ lottery), either one.

SENATOR RADAR: Well, then let me ask you this. How would you--how would the next generation of fishermen get the license, then?

UNIDENTIFIED SPEAKER: Well, as far as we're concerned, unions, we turn it to the State and let them ~~beg~~ bid for it.

CHAIRMAN: Do what?

UNIDENTIFIED SPEAKER: Let us ~~beg~~ bid for it. Qualify--you know, your qualifications.

CHAIRMAN: Bid to buy the license, in effect. Bid to buy the license.

Do you think we ought to use the same method right now to determine who gets a license?

UNIDENTIFIED SPEAKER: Well, I could answer that but I'd ~~be~~ get in trouble. (Laughter)

CHAIRMAN: I don't think either one of us would get out of here. But that's the problem, see. You know, why--what are we doing here? Are we going to make that generation of Fishermen bid to buy in, is that right, too? I don't know. I really don't know. I don't want anybody to misunderstand. I'm pretty flexible on this, although I've argued pretty strongly a particular point of view. I recognize very well that there are a lot of unanswered questions in what I could say.

UNIDENTIFIED SPEAKER: I'm not representing the new generation. (Laughter)

CHAIRMAN: I'll get back to you. Your name, again, please.

MIKE McNIVEN: Mike McNiven. I'm from Juneau. It seems to me that all points of view expressed so far, that the fishermen that these permits are going to be running out ~~on trade-in~~ and Trading them like Persian rugs or something. I don't quite see it that way. I think we're all interested in the fishery, and without a permit the fishery, of course, is of no value to anyone. Also, I think the second generation and also the third generation, should they be so lucky to have any fish left, are also going to want to eventually sell these permits or retire out of the fishery. I really think that if we're talking about investments and being reimbursed for investments, I think this follows on down the line. Unless you're going to presuppose that ~~it's~~ at some date in the future this whole thing will come to a screeching

halt. The fishermen who initially gets a permit under free transferability is going to sell it, the person that buys it, it is also conceivable that he will also sell it, eventually. I really don't see any value of this permit as far as trading stock. It seems to me that Mr. Rader here takes the opinion that as soon as a fisherman gets this permit he's going to run around and see how much he can get for it. I don't really see this as being a valid argument, because if a person is going to go to the trouble to get one in the first place, why would he turn around and sell it?

SENATOR RADER: Mr. Chairman. There's one thing I'm absolutely sure of--absolutely sure of, and that is that everybody that ever gets one of these permits is going to want to transfer it sometime. 'Cause he's going to die, and he's going to get out of the fishery. And without exception, everybody who has a permit is going to want to transfer it sooner or later. Some guys are going to want to do it today and some guys are going to want to do it tomorrow, and that's the problem, though. And it is a problem. If it's not a problem, let's just say it's not transferable and it goes back to the State when you're through with it, if you don't think it's a problem. You know. You see that it's a problem and you know good and well it's a problem, and I do, too.

MR. McNIVEN: I can understand the situation here, but I feel as far as this windfall thing being kicked around, you seem to place the windfall in the arms of the first holder, and I don't necessarily see that as being true.

SENATOR RADER: The second guy has to buy it and pay full value, see?

MR. McNIVEN: Yeah.

SENATOR RADAR: The only way that would--if we were to apply the same rule on the first group that we apply on the second group, the first group would have to buy them also, see?

MR. McNIVEN: Well, it seems to me that in essence through a seven percent assessment, I'm going to be buying that permit.

SENATOR RADAR: Well, you may view that, but if you think so then why don't we just buy it by putting them up for auction, then? Right now, see? If it is. It really isn't that. It's a different thing. The guy who follows you is going to be paying the seven percent, too, perhaps, but in addition to that he's going to have to buy his permit from you, or somebody, you see? That's the difficulty.

CHAIRMAN: Alright, let's go on back here with our questions. Yeah? ~~You know.~~

UNIDENTIFIED SPEAKER: Part of my question was asked--answered already. What about, then, you say the man that buys it the second generation, he will in turn, when he sells it there'll be money coming back to the State again from him, too. Right? That's what I was wondering.

SENATOR RADAR: Well, he's going to have the--he'd be under the same conditions that you're under. He'd get only back what he paid for it or what he put into it in cash, and the rest of it, that overage, would go back to the State as the State's interest in the resource.

UNIDENTIFIED SPEAKER: I, personally, I'm like Mike. I'm not looking for anything extra than what I put into it. I want the flexibility like Jim to be able to move around in a monetary value (indisc.), but I

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do want free transferability.

CHAIRMAN: Did you still want to--~~you know.~~ yeah?

PHIL STORMICK (sp): Phil Stormick from Douglas. I am for free transferability on licenses. As far as the State, for the people in your area, like Senator Rader's case, getting anything out of this renewable end source, or resource, I just wonder if the raw fish tax, if that is not enough (~~indisc.~~ return) for your constituents, or would you want more for every pound of fish that I catch on this renewable resource?

SENATOR RADER: My difficulty is, and it really isn't just my constituents, but the difficulty is that we have the same problem here as if we turned over the oil resource or the timber resource to somebody, and only charged them a royalty, and didn't charge them to go into it, see? Or if you turned over the land and when you sold the land you didn't charge anybody for it some way or another. It's just--as long as everybody can go into the resource, there isn't any problem with that, but that's what we're trying to prohibit, is everybody going into the resource, and the moment you start stopping people from going into the resource, then it seems to me like that you have this difficulty we're talking about here.

MR. STORMICK: I don't think we've stopped anybody from going into it. We've put a limit on who can go into it, and how many can go into it, and then another thing is, by buying these permits and paying an annual fee on these permits, plus up to seven percent of your catch each year assessments for buy-back and so forth, I think we are paying adequate amounts for the use of this for fishing on this resource, plus the fact that everybody in the State gains from this raw fish tax when you catch a fish and take it to market.

CHAIRMAN: You know, the Legislature...

SENATOR RADER: You've got a good point. You've got a good point, a good argument.

CHAIRMAN: The Legislature did do almost exactly this same thing with a group of people a few years back that were trying to get the value of oil leases for practically no input themselves, and I don't know how many of you remember, I think about 1968 when we went through the dirty oil bill, and here a group of people had put in ten dollars apiece per lease simply on the speculation that they'd be given the lease then, that they could turn around and sell for literally hundreds of millions, the group of them would have had at least that, and that certainly to them would have been a windfall, and the Legislature said no, that is a resource that belongs to all of the people and we're not going to let you have those leases. You're not validly entitled to them. Now, don't get me wrong. I'm not making a flat-out, across-the-board comparison here. I realize it's not a comparison, but in that case there was an opportunity for those people to get a windfall in a State resource, and we said no, we're going to save it for everybody, and there's a little bit of comparison here as far as the ultimate value of the permit itself, and that being shared with the rest of the State.

UNIDENTIFIED SPEAKER: We would not have to drill, have a permit to drill and drill themselves.

CHAIRMAN: Alright. Let's start back over here again.

MIKE GROSS: This is Mike Gross from Sitka again.

CHAIRMAN: Yes, Mike.

MR. GROSS: Mr. Rader, if we took your route and only gave the permit over--back to the value that we had in the permit, be it 500, 10,000, what have you. For example, if Phil had a permit and had $800 invested in it, and that's all he could realize on the sale, and Jim and I both wanted that permit, how would we bid back and forth for it? How would Phil determine who he was going to give it to?

SENATOR RADER: Well, I assume that we've--the proposal that Senator Palmer made was that the--you'd be able to keep a certain percentage of that and only a certain percentage of it would go to the State, so you'd have some interest in maximizing that.

MR. GROSS: So Phil could realize a gain on...

SENATOR RADER: So he could realize some gain on it. He wouldn't realize a hundred percent of what he got on it, though, see? A portion of that would go back ~~for (indisc.)~~ to the State. He would still, even under the--what I've been arguing here, he would still recognize some benefit and some gain on it. I have to admit to you that that is--that's not a satisfactory solution to me. It only gets around the one argument that was presented to me by some people, and that is, if you're going to give away the resource you're going to have to charge somebody for it like you do any other resource, or if you're going to give away or whatever you want to call it--the right to harvest it, you see? And it's only trying to handle that argument that we came up with this as being a reasonable way of doing it that would not hurt the fishermen. You know, it wouldn't take a lot of money out of their pocket, and if the thing ever gets to be worth something, why, they get what they get out first and the rest

of it can go back to the State, but I agree with you that it's got real problems in making it work.

MR. GROSS: You'll have to come up with how much it's worth right now to start with.

CHAIRMAN: Phil.

MR. DANIELS: One of the considerations. It's very likely that I'm going to switch areas, and I have no history of participation in another fishery, so it would end up that I'll have to buy a permit, and I don't mind buying that permit because I think it's the best investment I ever made in the fishery in my life, and I figure if that limited entry bill does work, and you do have reduced gear through buy-back and initial reductions in areas, then I'll make that money back in about two years, and I think this is something that a lot of people haven't kept in mind. If you're talking about doing all these things to enhance the fishery, plus the person, of course, as has already been pointed out, is going to get that--the money for their permit back when they do sell it, so I just wanted to throw that in, and I also was curious, are you getting a lot of reaction? I was just curious if anybody is getting a lot of mail on this problem and the idea that we are giving away a resource supposedly here. I--we're having a hard time getting letters from fishermen just supporting limited entry or supporting free transferability, so I was just curious whether much is happening on that level.

CHAIRMAN: John.

SENATOR RADER: I haven't received a great deal of--because people don't understand what's going on, you know. You're quite right, but I'm certain of this, that once this is done people are

going to understand what happened, and...

(Laughter)

CHAIRMAN: Alright. Dave has been trying to get the floor. Dave.

DAVE: I just wanted to speak very briefly about the point that the seven percent assessment would be in a way paying for the permit because that seven percent assessment is very likely, almost absolutely, going to come out of the crewman's pocket as well as the skipper's pockets.

CHAIRMAN: The who's? The consumers?

DAVE: The crewmen.

CHAIRMAN: Oh, the crewman's.

DAVE: The crewman's pocket. In other words, you don't tax seven percent of your gross stock without the crewman paying part of it, even though the law says the permit holders pays that. It's just like when unemployment came down on fishermen in Kodiak this year for the first time. Not only does the crewman pay his share, but the skippers raised the boat share one percent to compensate for what they had to pay. So in other words, you know, even though we would be benefiting from the limited entry insofar as we would have better earnings, we would also be chipping in on inflating the value of these permits that later we're going to have to buy if we want to have them. And so, there is that--I don't want any misconception that this seven percent is totally different and he's paying for his permit that way.

JAY STEVENS: I'd just like to--Jay Stevens from Yakutat. I'd just like comment on that point that the chair made earlier about us and the dirty oil deal. I know you weren't really comparing

us, but I'd like for us--for the Senators to realize that we didn't come into this fishery for a gain. We've been here for quite a while and we've been taking a lot of abuse and some of us even became moonlighters so we could feed our families.

CHAIRMAN: I understand that very well.

MR. STEVENS: I didn't come fishing--I came fishing because I love the ocean and I love that way of life, not so that I can get a gain.

CHAIRMAN: My only point was that at that time the Legislature said no, we're not going to give away that resource, and as far as the permit, there is a similarity. Now, as far as the limited entry, there is no similarity. I understand that. Yes.

UNIDENTIFIED SPEAKER: Well, I would like to say that right now we have the right to fish, so you're not giving us that right now, and the people in the future who are not getting this right to fish are being paid to be bought out of this fishery, so they're receiving a compensation, and you will have some areas where there are people literally being kicked out, but this law that you're passing here is for the whole State, not just these areas where there are people being forced to be eliminated, so in effect you're penalizing everybody throughout the State because of these other areas, and this also creates a hardship on us.

CHAIRMAN: How are we penalizing? I don't understand.

UNIDENTIFIED SPEAKER: Well, in many fisheries right now it's wide open. There aren't enough fishermen...

CHAIRMAN: Okay. There's no need for limited entry?

UNIDENTIFIED SPEAKER: No need for limited entry.

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: And yet when somebody gets into this gear and area he's going to have to pay through the--permit, and it's going to be an inflated price because the original owner is going to jack up his price that much to get what he thinks his speculative value is worth in that permit.

CHAIRMAN: If there's not enough permits yet to reach the optimum level, then he can go to the commission for a permit. He doesn't have to buy from somebody else, and the initial entry permit would be issued at no charge. He's not going to...

UNIDENTIFIED SPEAKER: Well, for $50.

CHAIRMAN: Well, $50 for the permit, but it wouldn't be a...

UNIDENTIFIED SPEAKER: Okay, what about the next man down the line, though?

CHAIRMAN: Well, again, you said somebody was being penalized. Who is it that's being penalized? The next man down the line?

UNIDENTIFIED SPEAKER: The way I feel is the people in other, in the depressed areas, are being penalized to pay the right to enter--these few people in Bristol Bay and Cook Inlet and that are--pay to kick them out of the fisheries is what it amounts to. In most circumstances, everybody who now has the right to fish will in the future still have the right to fish, so you're not giving them something new, and only in these depressed areas will you be kicking somebody out of the fishery who is not being compensated for being--no longer have the right to fish.

CHAIRMAN: Okay. Yes, sir.

MIKE McNIVEN: Mike McNiven from Juneau. Mr. Rader, well, arguing against the free transferability on the grounds that it would be giving a windfall to present fishermen hasn't offered any

alternatives as to how these permits are going to be transferred. I would be receptive to some other type of transfer if I understood exactly what it was. I don't really feel that it's going to be easy for me to get into some other fishery, particularly let's say a king crab fishery where we're talking about a good deal of money changing hands, a good deal of investment. Under the free transferability clause right now I can see how I can do it--get a lot of money. Under what Mr. Rader is suggesting I'm not really sure how he's going to allow me to enter this fishery. Is he going to do it by putting my name in a hat? Is he going to do it by requesting that I work on a crab boat? Is he going to use some other criteria for this? I'd be interested to know.

SENATOR RADER: Mr. Chairman. First of all, I'm not at all certain that we shouldn't have free transferability, but I'm pretty certain, I believe, that if we do have free transferability that the value of that license, over and above what the fishermen put into it, probably would end up a percentage of that going back to the State, so don't have this argument of the windfall, you see? I don't know if you get that or not, but you can have free transferability and still have the portion of the license which exceeds the assessments that you put into it paid back to the State when you sell it, when you get through with it. That'd still be free transferability. It has been suggested, and as I say, I'm not--don't put me in a position of being against free transferability, but ~~I'm~~ we're only talking about the windfall aspect of that, and we can handle that in the manner we suggested here today. The other suggestions were

that--the other testimony that we've heard is that you should try to limit the fishery when a guy--when a license turns up, when a man gets through with his license because he gets sick, or he dies, or he wants to retire, or he wants to go do something else, or just tired of fishing, and his license goes back to the State, but then the State could issue that, it's been suggested they could issue--try to issue to people on an apprenticeship program, people that have been in the fishery, crewmen or something like that, and try to--but you'd have--that's very difficult, too. Who you going to really give it to, you know? What if you've got a whole lot of crewmen? ~~Suppose~~ What if you have five licenses and 50 crewman that want them? Well, then I supposed you'd have to draw names or something to see which one of the 50 crewmen got the five licenses and they'd get them free just exactly in the same way that the guys today are getting it free. The disadvantage of that, of course, is that you can't necessarily insure that your son's going to get it, for example, if you want to, but a lot of licenses are not connected by blood anyway. You know, that's a medieval guild really, where if your father was a carpenter you can be a carpenter and your son can be a carpenter, but nobody else can be a carpenter. It was inherited so to speak, and you can turn fishing into a guild in this State if you wanted to to where, you know, if you were one of the families that had a license, why, it could be passed from father to son or something like that, but other people couldn't get into it.

MR. McNIVEN: Not by law you couldn't.

SENATOR RADAR: Well, it's very difficult to figure out whether or

not you can do it by law. That's right. I think that the only way that you could--I agree with you. You couldn't do that, and therefore, the argument that we're doing this so that you can pass them onto your son, you can't make a law that'll do that in this country, as where you can't pass it on to anyone else. I don't believe you can. But you could--if there were 50 crewmen that wanted to get the licenses and five licenses, you could draw ~~one~~ it out of the hat, or you could bid for it if you wanted to. You could sell it ~~then~~ to them (?) if you wanted to. I don't know, there's a lot of other things that have been suggested here.

MR. McNIVEN: One thing that bothers me is that when I came into fishing I did it because that's what I wanted to do, and I was able to, through my own initiative, gather about me the equipment that I needed to go into this fishery. I was able to do that unhampered, relatively speaking. A lottery would cause me, if I wanted to move from one type of gear and expand it to another type of gear, possibly a complimentary types of gear, ~~or~~ one where seasons wouldn't overlap, something that would get me broader employment, I would be pretty much at the mercy of luck as to whether I would be able to enter into this or not, and the question would arise in my mind whether I had more rights to enter into this particular gear than a person that's working as a crewman in this type of gear. I feel that because I've fished one type of gear doesn't necessarily indicate that I have absolutely no knowledge of any other types of gear.

SENATOR RADER: I think--I think you make good points. I'm not really--I don't have a satisfactory answer for those--those

points.

CHAIRMAN: Phil, and then this gentleman, and then we're going to talk a little bit.

MR. DANIELS: I just wanted to say that I think that some of the fishermen have testified that they don't mind so much seeing that they are paying back to the State something by way of acknowledging their use of the permit, or however you want to put this thing, by way of getting the fishermen to put something back into the State coffers. Many of the fishermen, when we were having these meetings all over the State, indicated they wouldn't mind seeing themselves taxed somewhat more heavily if they could see that go back by way of improving this very sick industry, but I think one of the things that really concerns me in my mind is the nature of the tax. If the tax is at that very high level, it's the fear that it'll be abused, and if you're asking for a reasonable recompense to go back to the State, then I would say this is something the fishermen might very well adjust to, so it's not so much that they're not willing to pay. It's a matter of that we don't want to be forced to be dishonest.

JAY STEVENS: I'd just like to comment--Jay Stevens from Yakutat. I'd like to comment again on the free transferability. I don't see how--any other way we could have professionalism in the industry if we don't have this right of free transfer, because, such as the gentleman here beside me stated, he might be kept out of utilizing a full year or a half of year because he couldn't pick up another type of gear, and I think this is part of what the Governor was looking for, was for a greater

professionalism in the industry to where we could be more competitive with other nations and states.

CHAIRMAN: Okay. Let me try to pose a couple of problems. Alright, I'll take you since you haven't had an opportunity, and then I want to talk--pose a couple of problems and get a response from you.

NICK GREGORY: Well, I'm Nick Gregory. I represent the (indisc.). I'm not much on talk here, but I'd like to have the Senators and yourself read what the people up in Bristol Bay, want me to deliver these personally to you.

CHAIRMAN: Alright.

MR. GREGORY: After listening to all these fishermen here, I know several of them, I still take this stand I have here on these papers. Thank you.

CHAIRMAN: Incidentally, you might tell your people in Bristol Bay that just before I came into this meeting I was at a Finance Committee meeting dealing with the budget, and we were dealing with the public protection source--or section of the budget, and we added a footnote to the weights and measures section. I added it, the Committee approved it, saying that the Weights and Measures Division budget included two men being in Bristol Bay from June 23rd to July 23rd to travel around those tenders and the rest--wherever you find a scale with 50-pound weights adding up to two thousand pounds, so they could load a scale up with two thousand pounds of lead and check those scales out. I fished Bristol Bay for a couple of years myself. I know what some of you are going through there, so your drift fishermen out there might be interested in that.

MR. GREGORY: Yeah, thank you. I'll talk to them about it.

CHAIRMAN: Alright, apparently, from what everyone has said, that the majority opinion of the U.F.A. is in favor of free transferability with a hundred percent--excuse me, with a hundred percent of whatever windfall--call it whatever you will. I use that word because you all know what I'm talking about that way. With a hundred percent of that going back to the fishermen. Now, is that correct? Is that the majority opinion of...? Alright. Now, let me ask a second one. If that is unobtainable, then would you be willing to take a program that did work as we've tried to indicate earlier, and let me run through it again. Say that...

SENATOR RADER: Mr. Chairman, I have to leave...

CHAIRMAN: Alright, fine.

SENATOR RADER: I think I know what you're going to say.

CHAIRMAN: Alright. If Jim were going to sell out, and if he sold to Phil the first year, he'd keep a hundred percent of it. If he sold to the commission the first year, he'd keep a hundred percent of whatever the price of his permit was. If he sold the second year to Phil, he'd keep 80 percent--I'm sorry. The second year, let's add another factor in, if he has paid any assessments then he is able to keep 90 percent above whatever assessments he's paid so that he's not being penalized for those assessments. The--if he sells out to an individual the third year he gets to keep 80 percent, and you reduce it ten percent a year, but again, it's what's left after the assessments, so that he doesn't have to take the assessment out of his pocket. On the other hand, if he sells to the commission,

there's an incentive for the first few years, maybe it doesn't have to be five or ten, but an incentive the first few years to reduce gear by being able to keep more of it if he sells to the commission. And again, we'll put a ceiling on this, ~~done~~ down at 50 percent, so he'd always be able to keep at least 50 percent of the value of the permit, and the other 50 percent shared with the people of the State. My question is then, under that kind of an arrangement, if you understand it now, if that's the best we can do, is this acceptable to you? And I think what--alright, let's have some talk about it, and then we'll have a show of hands. Jim, go ahead.

JIM: I was like to see if that's the case, that that money went back to the State it would go ~~back~~ into the buy-back program.

CHAIRMAN: Alright, good. I'm glad you brought that up. Your buy-back assessments would be reduced by whatever did go ~~back~~ into the State, yes. This is one other advantage of that system. It might tend to keep the values down a little bit, plus it would certainly keep your buy-back assessments down.

UNIDENTIFIED SPEAKER: Personally, if I want to gain another permit within a five-year period and it would severely limit me, in fact I would probably be financially bankrupt, so on that point I would have to argue against it.

CHAIRMAN: You say another one. Does that mean that you would one and you wanted to go get into another fishery?

UNIDENTIFIED SPEAKER: Right.

CHAIRMAN: In addition to or instead of?

UNIDENTIFIED SPEAKER: In addition to.

CHAIRMAN: And staying in the one fishery for that period of time

would bankrupt you?

UNIDENTIFIED SPEAKER: If we had some way to get free transferability there the first year so that I'm not having to--under this program a man would be crazy to sell it to me. It'd be money out of his pocket.

CHAIRMAN: No, the first year is not. It's a hundred percent either way.

UNIDENTIFIED SPEAKER: One year grace.

CHAIRMAN: Yeah. Alright, Mr. Clauson.

MR. CLAUSON: It seems like that any money accrues to the State, if accrues the right word, should come from normal taxation of the industry, and I don't understand why would it maybe necessary to have this other program rather than just free transferability? I mean, who would insist on that?

CHAIRMAN: Well, as Senator Rader, I think, has made very obvious, there's a large number of the people who are not involved ~~at all~~ in the fishery that do see this as a giveaway of a state's resource when they've created that property value.

MR. CLAUSON: He also said that they didn't understand it, and of course, like he's says, he's ~~rating~~ raising these questions to feel out how it would work. And, of course, we've done the same thing for weeks now, and we always come back to free transferability.

CHAIRMAN: Well, that's what I'm doing. I'm say <u>if</u> that's the only thing you could get, or the best you could get, is that better than nothing at all?

VOICES: Yes, Yes.

MR. CLAUSON: We don't want to see this die because of this.

CHAIRMAN: Well, let's have some other questions, first discussion before we...

UNIDENTIFIED SPEAKER: This still doesn't answer a question that bothers me. I don't mind paying--it doesn't bother me to pay a portion or whatever type of assessment the State feels it must have from these permits in order to take away what we've been calling a windfall. That doesn't bother me at all. That's not my primary interest. One of my primary interests is, however, how I am going to diversify, and so far this hasn't been answered. All--it doesn't bother me if I have to--if I'm taxed on my permit, that isn't the point. The point is, how do I--how do I spread myself out into another area, or how do I change areas, or how, if I'm not a fisherman now, do I enter the fishery? This is what I'm curious about.

CHAIRMAN: Well, and again, the first year it would be equal. There would be no incentive to sell to the State because the individual selling out would get the same amount whether he sold to an individual or the State. Now this is not time for you to buy into a another fishery?

UNIDENTIFIED SPEAKER: What I'm getting at is this. If I make a deal with Joe Dokes who wants to retire, am I going to be able to make that deal personally, am I going to have to go through a lottery, or a list of priorities?

CHAIRMAN: No. No lottery, no priority involved. No. You can make it personally.

UNIDENTIFIED SPEAKER: And the amount of money that must exchange hands here, is that governed?

CHAIRMAN: The commission would have the authority to determine that it was a true arm-length transaction and not a sweetheart deal. Of course again, the first couple of years they wouldn't have

any concern about it, bacause it's going to be a hundred percent going to the seller, regardless, of the first year.

MR. McNIVEN: I understand.

CHAIRMAN: So, the only privisos that we we're considering here, or at least I was, would be that of giving the commission the authority to make sure that it was not an under-the-table deal, that it was the true price that was involved in the sale.

MR. McNIVEN: And this you feel can be done and still maintain this freedom of negotiability?

CHAIRMAN: Yes.

UNIDENTIFIED SPEAKER: I'd like to speak again to the fact that I want to be able to diversify, and like Mike, I'm concerned--you say, well, if only one year it'd be a hundred percent, but I don't--probably couldn't come up with that money maybe that first year, so then if I can't come up with it the first year, then I'm going to be jeopardized for the next three or four years until that reaches the optimum level. Financing isn't that easy to come up with right now as a fisherman.

CHAIRMAN: Well...

UNIDENTIFIED SPEAKER: Unless we have a loan program.

CHAIRMAN: Yeah, I agree.

MR. BALENGER: Why don't you simplify the whole thing and make it easy, down to 50 percent and State get in the bidding themselves?

CHAIRMAN: So the State gets in the bidding? Well, of course, then you're back to the same thing, aren't you?

UNIDENTIFIED SPEAKER: You're bidding against yourself.

MR. BALENGER: Well, I'd be willing to bid more than $5,000 for a license, and ~~not~~ don't forget ~~this~~ that, if ~~you're~~ they're buying him out of the

business ~~you~~ ther'll have to buy the boat, also, so maybe the State will be very reluctant...

CHAIRMAN: Yeah, right. Newt?

NEWT: (Indisc.) interesting (indisc.) of that boat on it, but I don't believe in that game, also, and a decision of this type, I'd like a chance to kick it around.

CHAIRMAN: Fine. I have no problem, but I think we would like to...

NEWT: Hypothetically, now, if this--excuse me for my inability to speak, but if this one solution is worth putting other solutions (indisc.), what are you basing this on? Do you think this could possibly happen if we wouldn't get the free transferability any other way, what would cause this?

CHAIRMAN: Well, very often when we get to the floor with bills, we find that they have to be amended before they get up enough votes to get passed. For instance, I'm simply saying if, for instance, this went to the floor and it's free transferability, and there were enough of the type of debate that you've heard here this afternoon so that it became obvious that the bill wasn't going to pass that way, then if we ~~have~~ had an amendment prepared to go the other direction, or even if happens in this Committee, that we couldn't get out of this Committee, without that kind of an arrangement, so this...

NEWT: I think we should have a debate and roll this around... (indisc.)

CHAIRMAN: But when you do, why, be sure that you're getting both sides of the ramifications.

NEWT: We have been.

CHAIRMAN: Yeah. Floyd.

FLOYD: I don't know how I could even think of voting on it (?) (~~indisc.~~) because I

was (indisc.) told me that it definitely ~~happened~~ (indisc.) free transfer, so I couldn't make a decision because this is all up and down the Cook Inlet.

CHAIRMAN: Well, I would...

NEWT: I don't think there's any problem with them wanting to pay something for that, but they'd rather do it some other way than have that item (indisc.) again. Transferred. (Indisc.) ~~get~~ taxed some way or other.

CHAIRMAN: How do you see that this would not be able to be transferred freely?

NEWT: Well, I don't know. I wouldn't want to make a decision for them.

CHAIRMAN: Well, I wouldn't be asking you to make a decision for the rest of your people, only you felt about it personally. Jim.

JIM: I don't know. I certainly don't want to get too deep in this either, because it's awfully hard to make a statement off the top of your head like this, as you well know, but it would appear to me, you know, that it would be in order that who (indisc.) endorse the concept at least, in House Bill 126. Now, if, in fact, we have another type alternative solution to it, I'd certainly like to look at it in depth, think about it awhile and say I endorse one, or I endorse the other, or I endorse a marriage of the two, which I married myself, and tell it to you in that fashion, and then if you don't want to take, you know, either mine or the U.F.A or any individual groups or whatever, if you want to say well, I don't get it, we don't think that's in line with what's good for the State and us--and you Senators have decided, why, that's your perogative. And as far as input

I think that that's--that would be kind of the type of determination that we would make, it would appear to me. Maybe I'm sort of clear out line there, or something, but I mean, we like one or, you know, the other, or a combination of the two, which we would determine, and then if you didn't want to take that as input I guess, why, we'd just have to settle with whatever happens. We don't make the laws, we realize that.

CHAIRMAN: I think exactly the same thing has happened to the State employees' pay bill. Their first choice was 14 percent, the pay raise. It became obvious, I guess, that they couldn't get that, so they went down to eight. They didn't get that, so now they're willing to take an $85 across--per month across-the-board raise. And that's all--this is the kind of thing I'm trying to put to you. What are your first, second and third choices, for instance, you see? What are your fall-back positions if the best won't fly, what's next best, and so on and so forth...

UNIDENTIFIED SPEAKER: What is the alternate of the first best? I mean, is it something other than--I don't see anything in writing.

CHAIRMAN: Well, I just tried to lay it out for you here, with this package deal we were talking about.

JIM: My guys told me, is all I'm saying, they were a hundred percent behind this deal. They were a hundred percent behind the transferability bit. They liked the whole package so to speak and everything, and then, I guess they didn't realize...

CHAIRMAN: Well, as a fisherman I think I would, too, and I am... Well...

JIM: I realize your position. I not trying to begrudge you your share.

CHAIRMAN: Well, hey, I didn't mean that the way it might have sounded, as if I had been a fisherman. I think we've probably got about four of these licenses and these permits in our family, and I said eight to Phil the other day, but we got to figuring up a little bit, and I'm not sure some of those people are going to qualify, so that's--that's immaterial.

JIM: I just meant that some people might feel that it would at least weaken their stand. It's obvious that they've all stated they want something. I mean, this is pretty much common knowledge, but, you know, I don't know, it's a question sometimes of weakening your position.

UNIDENTIFIED SPEAKER: If you really think something's right, too.

UNIDENTIFIED SPEAKER II: Didn't you give us an alternate earlier, that was another one earlier, besides this one that came up here just at the last?

CHAIRMAN. I don't think so. I think that was the same thing I was talking about earlier, except that I made it a little bit better this time when I said it would be over and above whatever you'd paid in in assessments. I hadn't considered that the first year the license, or first couple of years, the value of the license might not be any greater than the value of the assessments you'd already paid.

UNIDENTIFIED SPEAKER II: I thought I heard--I thought I picked up something completely different from this a little earlier than that.

CHAIRMAN: Well, you may have. I'm not aware of it. I don't remember it at this time. Let's go back in the back. We haven't heard from you.

SIG McGESSON: Yes, I'm Sig McGesson from Petersburg.

CHAIRMAN: Yes.

MR. McGESSON: And the way I see it, if I want, say, 10,000 for my permit under this second situation that you discussed, well then I'll have to sell it for 20,000, because if I sell it after a certain number of years, because I'll be paying 10,000 in taxes. So the person that's going to want to buy a permit from me is going to have to pay twice as much as ~~they~~ he should have in order for me to get my 10,000 out of it, or whatever I want.

CHAIRMAN: Well, that's assuming that what you want will set the market price, and I'm not sure that's a valid assumption.

MR. McGESSON: Well, whatever it is. I'm not--I don't--I'm not particularly for the speculative prices anyway, but if that is the case and I want to sell a permit and 30 or 40 people are waiting around wanting to get one, well, I'm certainly going to think about selling it for what I can get for it.

CHAIRMAN: Now wait a minute. If there were 30 or 40 people waiting around wanting to buy that thing and you could get 20,000, even though you were going to get all of it and weren't going to pay any in taxes, why would you go ahead and get the 20?

MR. McGESSON: Why wouldn't I?

CHAIRMAN: Yeah. Why is it that you would only want ten in the first place if you can get 20?

MR. McGESSON: If I could get 20, well, that'd be a different thing, too, but the--I think that what's going to happen is there will be a set price on what a permit is worth, and it won't be because of one guy wants more and one less. It's going to average out

that a halibut permit is going to be worth so much and a seine permit is going to be worth so much, and if you want the amount of money that you're--you feel that it's worth and the buy--or this tax program is set up so you only get 50 percent, well--that's what I think.

CHAIRMAN: Yeah. Well, okay, I... Alright, and it's getting--it's almost 5:30. We've been here for a long time so we'll take a few more here and then cut her off for this time.

UNIDENTIFIED SPEAKER: Now, I was going to say one thing there. The value of the permit is more than likely, you know, some ratio, the value of it will correspond directly with the earning value of that permit.

CHAIRMAN: (Indisc.)

UNIDENTIFIED SPEAKER II: We're talking about the...

UNIDENTIFIED SPEAKER I: We don't know, you know. With the limited entry and a good rehabilitation program the price could step higher up, but without that rehabilitation program it might not. But what I wanted to ask you was, it goes here seven years under this last little deal you placed down before us. I could bid competitively against the State, like ~~seven~~ sit(?) for the first year.

CHAIRMAN: Well, we might even sweeten that up and make it first two years.

UNIDENTIFIED SPEAKER I: First two, huh?

CHAIRMAN: There's lots of arrangements that can be made. It's the concept that we're talking about.

UNIDENTIFIED SPEAKER I: I'm just like Jim. As long as I can bid against Jim and in some (indisc.) way get a hold of that permit

I'll go for it:

CHAIRMAN: Well, you see, you're concerned about being able to transfer into another area, but other guys that are not fishing at all but want to get in, they might be concerned about trying to get in at all, you see?

UNIDENTIFIED SPEAKER I: Right. They have the same problem I would.

CHAIRMAN: Exactly.

UNIDENTIFIED SPEAKER: If you wanted in, and he wanted in and wanted my ~~and want to buy a~~ permit, you have to have some way to convince me to sell to one or the other of you.

CHAIRMAN: Which only gets down to the point that if this thing is to be effective at all, well, I'd be hurt a little bit, probably. And that might be the price that you have to pay. You might have to delay for two or three years ~~or~~ your transfer into another area.

(End of one side of tape)