

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2

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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 evidently.

Well, that one there you have to check out.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To (indisc.) sale to the State.

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

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

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

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

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

NEW SPKR.

Right. Which would be the market price

Yeah. That's the true market price.

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

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

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

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

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

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

But don't make the State buy it.

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

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

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

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

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

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

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

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

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

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

Dave?

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

I fail to even see the problem.

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

So what? Yeah.

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

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

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

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

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

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

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

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

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

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

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

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

(Indisc. - simultaneous conversations)

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

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

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

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

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

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

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

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

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

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

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

Plus a market.

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

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

NEW SPEE:

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

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

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

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

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

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

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

NEW SPKR:

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

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

You know, it probably is.

NEW SPKR:

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

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

Why would the Republicans want to do such a thing?

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

It would never arise, anyway.

We haven't done anything to him.

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

What's a vested interest?

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

NEW SPIKE:

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

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

I don't

I don't want to financially involve

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

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

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

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

You've talked to

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

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

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

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

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

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

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 unics. Now we'd better look at that, hadn't we?

Well

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

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

That's just cutting off about four words.

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

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

are issued.

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

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

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#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

Tape II/2 - 2/5/73

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 that might work OK is because there'll be some guys that might still enter and depending on transferability 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.

-1-

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 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 . . .

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 component 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} ~~on~~ 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'll have 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 - ~~the problem~~ 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.

Caroline : 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} but because of the basic change in the fishery was entirely inappropriate - you're just going to pass new legislation. at that point I guess.

William
Wright : 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.

Wright : Are you going to make that clear by the way - that you're going to be continually working this thing over in the legislature

Tilkin : 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

Tilkin : Well anybody that's read Mason's manual knows its possible.

Grant 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.

Tilkin : Well that's the subject. We're going to find some way to find some way to make sure that the guy whose 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.

Tilton
Jackson

: Why don't we just chop them off -

^{saw other}
: We ~~we~~ got problems with that, ^{for} the period of implementation ^{of} the real thing we're scared to death of is is closing the class for any substantial period of time and that's ^{the} 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 ^{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 ^{entry} ^{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} into all sort of problems

Tilton

: Ok has - but we have to have some mechanism where when the Commission moves ^{the} we don't have to reimburse anybody that doesn't have a participation history.

Tilton

: Well what about on page 4 again - we're talking about the 6 categories - page 4 of the new material. The ^{app. 1973} 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.

Palmer: ^{Tillion: No} 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's ok too

It could not have constituted a primary income source if they ^{just} started in '73 ^{9 years} 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 urgent that the Commisison can do it six months from now that the Legislature can't do it now.

Tillion : I tend to agree but one thing that makes it more urgent that there ~~be~~ some basis ^{as} some specific regulations for what the Commission does where 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.

Tillian : 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 ~~will~~ know when the Commission issues entry permits for this area I won't get one but I'll ^{just} have to buy somebody out - I'll eget 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.

Shaw : Well you're going to close the fishery at some point anyway.

Tillian : 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...

Fishman : Again I only - the only caveat is depending on what we do with transferability *under the law*

Tillman : 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 of ~~Dobb & Specks~~ ^{*substantive*} web men who have held licenses low these many years waiting in case one of his fishermen talked back to him - the paper license screened out if he hasn't actively engaged in the fishery prior to the effective date of this bill.

Anderson : I'm not *understanding the whole thing*.....

Palmer : 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?

Tilton : No, I don't even say he's a fisherman - he's a cannery worker.

APalmer:
? : 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 *or* and 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 he may only make \$2000 - it may be the only cash income he's got - he's 100% dependent on *that* ~~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* it's important.

Flavin : 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 Japanese don't even acknowledge play - I remember when we tried to cut the bill fish out at Sarog 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

Lee : I don't see how they're going to 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 ~~is~~ *then*

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 said should significant measure participation less because of the people that lived up-river going back early.

Goodman : 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 taking it out

Goodman : 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?

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-~~history~~ ^{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 Douglas's cannery boys & the/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 ^{just} the peak of the run and its

Jackman : The other answer ^{might be} is you're still going to leave the Commission the authority within those classifications to create specific regulations, and sub-classifications ~~and specific~~ ^{in specific areas} areas and at that point when they're in Bristol Bay they can be committed to that particular situation.

Sackett : How can we guarantee that they are going to be committed

fishermen; you can't see the way it's written

Tilkson

: You can't 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 (unintelligible) from

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.

Sarkoth

: I don't know - I've never been to Bristol Bay in my life.

Dean

: Well Dean can you

Medema

: No, I don't think so

Sarkoth

: I take that back - I was down thru there one day

Tilkson

: 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.

Medema

: We might be able to drop it out at that and bring it back into past participation fishery to determine the length and degree/character of participation. And then put it in there as in some correlative fashion to commercial fishermen. So it's 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.

Tillian

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

Tillian

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 they 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 of mums 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?

Ferry, 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 misunderstanding, 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.

NEWS: 3000:

.... 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 GPKR:

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 for 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