

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

87/1 SCCOMM31: SPECIAL COMM. FISHERIES (LIMITED ENTRY) 1973

ways, because he's more dependent. Because even though he may make only two thousand dollars, it may be the only cash income he's got. He's a hundred percent dependent on that fishery for his cash income even though he leaves a week early. The guy that fishes the full-time season still -- you know, that fishery -- you know, that season I don't see how -- in ninety-nine percent of the cases his is just as important

Of course, it's hard to separate income and subsistence, you know. What difference does it make whether you're earning it or you're buying it?

In fact, internationally we grade them in three ways: subsistence, commercial and play. And the Japanese don't even acknowledge play, because I remember when we tried to cut the billfish out of Samoa, one of the Japanese stood up said, You want us to stop eating them so you can play with them.

You see what the implication of what you're doing is giving a guy -- giving up rights just in the commercial fishery based on activity in the subsistence fishery. And, you know, it's something we try to keep separate, because it's a very important problem and it has to be dealt with separately, I think.

Well, I can see what you mean. You don't want somebody that's been fishing trout out of Iliamna to pick up a right to fish commercially in Bristol Bay, because you might have some that

don't hardly fish at all in Bristol Bay that would pick up a major right, then, to fish.

I don't see how they're going to qualify as a crew of fishermen if they're just subsistence fishermen. As a career commercial fisherman, they're not going to qualify as a subsistence fisherman. But they wouldn't be penalized for any type of activity that they

Well, I don't think they're going to lose too much if you don't have that clause in there. Like, some years actually the last people there are these people, say, from Iliamna. When they've taken off, in all honesty I think it is oftentimes in the big year they makes their stake and they've got what they want. And then they want to go home to revert to the old traditional subsistence ways.

Well, the reason I expressed that concern is that in that Alaska Fisheries Policy that whatever measurements they take it is a fairly significant measure of participation less because of the people that lived upriver going back early.

The guy that wrote that thing relied heavily upon input from certain friends at a cannery industry for that statement. It's a definite factor that does occur. It's not necessarily consistent. And it's something that is changing. But I think that what's played up by his sources, which is not based on a real knowledge

of what happens in a fishery. In other words, based more upon this subjective type of deal is that the industry likes to make so much out of it to justify their reliance on the non-resident.

Well, if it's not a real (indisc.), I have no, you know, qualms about

Well, I'm assuming if a person does give up commercial fishing in order to go back up Iliamna, how did you envision doing it by other methods?

I don't think you'll find that this is the issue. It's the highlight (indisc. - simultaneous conversation).

Wouldn't it still probably be, you know, a primary source of cash income even though he gives up fishing?

I don't know.

I mean, all I'm suggesting is that I think these people will qualify and wind up in about the same spot even if he struck out -- in other words, because the commercial fishery would still be a primary source of income. Because a subsistence fishery isn't a source of income. It's a source of livelihood, but it isn't a source of income.

One thing, John, the thing is that I think your resident will

come out ahead, not behind. Because I know, and wouldn't you say, that Dobbie's (ph) boys and the cannery high-liners leave as soon as they're paid, yet below what gill-netting will bring in Columbia. You know, they pull right out - bang - and they go down for the fall fishing in Puget Sound. And so they're one of the last to come and the first to leave. They only hit just the peak of the run. And it's

The other answer to this might be that you're still going to leave the Commission the authority within those classifications to create specific regulations in specific areas and subclassifications. And, at that point, when they're in Bristol Bay, they can be sensitive to that particular situation.

How can we guarantee that they are going to be sensitive?

You can't the way it's written.

You can't guarantee what the next legislature will do, John.

(Indisc. - simultaneous conversation among all parties).

I find the interpretation to be very lax in (indisc. - simultaneous conversations)

Well, John, do you think do you think that any of those people that would be involved that way it would have a -- where it

would not be a primary, or significant, for their income - primary or necessary and substantial income source?

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

Well, Dean, could you?

No, I don't think so.

I take that back. I was down there one day and saw it while I was landing (indisc. - simultaneous conversation).

Well, I'd say the major gainers in this one -- you know, the areas that I see a major gain will be Chignik and A.Y.K.; you know, the Yukon Kuskokwim. They'll be the major gain when we shut off new entry, because they're right now at optimum.

Okay. We might be able to drop it out at that and bring it back into the extent of past participation of fisheries to determine the (indisc.) of participation, and then put it in there in some correlative fashion as to commercial fishing.

You want a traditionalist.

So that it's more specific, so that you know who we're talking about when you go into specifics rather than somebody subsistence fishing getting a commercial permit.

NEW SPKR!

Yeah, you don't want somebody driving down from Fairbanks and dip-netting in the Copper River to pick up a license.

(Indisc. - simultaneous conversation among all parties)

That's not subsistence.

That's what it's listed as.

I know (indisc.) two years at the Fish and Game Board. See what they do is they -- in Fairbanks (indisc.) Fish and Game Board get that (indisc.) subsistence so that everytime they talk about doing away with this, they say, Well, you can't do away with the subsistence. There's two things - there's a fish wheel subsistence fishery that the villagers use that takes a very small percentage, like ten or fifteen percent of the fish; then there's a huge recreational (indisc. - simultaneous conversations). If you link it up with the subsistence (indisc.), as I see it, the recreational people, the guy that owns that big camper, it's giving him some viability, see. Because he knows that the Board's going to be reluctant to shut down subsistence fishery.

Is that really the guy that's got that camper from Fairbanks, right?

But as long as they can keep that delusion up, it benefits them.

And the real danger is that, at some point, the Board's going to get fed up with it and just abolish the whole thing. And it will abolish all those people that really do depend on it, too.

Well, of course, if you leave the fish wheel and abolish the (indisc.), you'll take care of your

(Indisc. - simultaneous conversations among all parties)

At least we're halfway through.

How about three o'clock tomorrow afternoon?

Sure.

Let's make it the same place at three o'clock tomorrow afternoon.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

SCOMM

31:6

FOUR STAR BOND
SOUTHWEST U.S.A.
SB 39: SPECIAL COMMISSION ON FISHERIES

WORK SESSION 2-6-73

(TAPE I - SIDE 1)

LRL tape 200 - 10000 (10000) 10000

Bob
Enfield
Chairman
Deer & Wildlife

Now, we didn't have this last night, Lowell.

I know.

This new sheet. Okay. Good. Establish an optimum number of units of gear based on the number of units of gear that will result in a reasonable average grade of economic return to the fisherman participating in that fishery, considering time fished in necessary investment of vessels and gear. This phrase, considering time fished, is what would prevent us from coming up with a six-week fishery to provide a year's income.

Right. Right. And that was the intent. I think that the notion of a professional fishery confused people on that point. It wasn't very precise. Clearly, we don't want have the right to expect a man to make his entire living, you know, in three weeks. It wasn't the intent to do that in the first place - to confuse people.

On page six of the Governor's bill, number one is the first thing that they were to consider in establishing standards; in establishing a maximum unit of gear. And it says there, as you can see, the number of units of gear which will result in an average level of income to the fisherman participating in that fishery which is adequate and sufficiently stable to sustain a professional fishery. It is my concern that this would be interpreted to

mean that they would try to reduce gear to a point where any individual being involved for six weeks would make an income that would enable him to live the rest of the year on those six weeks of fishing. And I don't think we want to go that direction. So this is the reason for the new language, then. And, number two, the units of gear necessary to fully harvest the allowable commercial take of the fishery resource to date, and during all years, in an orderly and efficient manner based upon sound management techniques. Okay. Frank, do you see any difficulty with the language? Or Joel?

Oh, he's working back there.

Do our four legal advisers, at this point, agree, at least tentatively, that this would accomplish what we're trying to accomplish?

Is the phrase, necessary investments in gear, clear enough as to what?

Well, I toyed with some sort of wording that would talk about adequate rate of return on capital and labor or something, you know. What you're really getting at is time spent and money invested; those two concepts. But I didn't think capital and labor were very good words to stick into the statute, so I retreated to consider in time fished and necessary investments in vessels and gear.

Okay. Let's tentatively, then, adopt that language. Again, it's just tentative until we see how everything fits together. On page six, line nineteen, since we are desiring by statute, I believe, to establish who shall be in and who will not be in, on line nineteen we deleted the words, or decrease, so that after this is all over, after the legislation is in effect, the Commission can't come back and say we've got too much gear yet, and we're going to jump some more people out; and the legislature has no interest in the matter. So that's the reason for that deletion this morning. Again, after we see how everything fits together, we might want to change it. The biggest -- well, all right. And on lines twenty-nine, the bottom of page six, and the first two paragraphs on page seven, the same situation. Now these are all under the picture where the Commission was going to decrease the amount of gear. Nothing substantial on the next page. Okay, on page eight, then - entry permit qualifications. We've deleted the language there. Here is where we really get into the nuts and bolts of the whole thing in deciding who's going to be in and who will not be in. Let's take a look at the language now, or add seven.

Bob, an academic, or rather very elementary question here. I've lost track now of what the impact of all this is going to be upon the sports fishermen, if any.

Sports?

NEW SPKR:

Well, in some of these areas where there is sports fishing.

Well, it doesn't affect the sports fishing, it just affects the
(indisc. - simultaneous conversation).

Well, that was my question.

Okay. Let me tell you what we're trying to do here, then. In Bristol Bay basically the problem is that we've just got way more gear than we need; that if we -- okay, let me go back. On number seven here you find five categories: career fishermen in one and two; number three, an alternative-occupation fisherman where it provides a substantial income supplement; number four is an avocational fisherman, like the sports commercial fisherman down here - the guy that has sports tack on his sports boat, and he goes out and does sport-fishing and sells the stuff; and, then, number five is an inactive fisherman. And the -- this, I believe, will offer us an opportunity to fit different conditions, different areas of the State, with different sets of people according to these classifications. In Bristol Bay the situation is bad enough that if we guaranteed only those people that fall in category one and two that they shall continue we'd probably have done as well as we could do by the large number of people. We hurt as few people that way as is reasonable and still reduce the gear to the amount it needs to be reduced. Now that's the basic premise at this point.

The rest of the fishery is not in that bad a shape, yet. So, our intent at this point is to say that anybody in category one, two, or three is guaranteed that they'll be able to have an entry permit through the rest of the fisheries in the State.

Other than Bristol Bay?

Other than Bristol Bay. Right. Now, when we get on down to Southeast where we have this large number of people that are involved in what's called sports commercial, this hand trolling, where they may only make two or three or four hundred dollars a year, and yet they think it's very important to their livelihood and to their way of life, and so on. Apparently, there's not enough pressure on that fishery, yet. But if we put the lid on at this time, we're really in danger of damaging the resource or taking any substantial number of fish away from the true commercial fisherman. The hand troll fleet, according to the Department of Fish and Game, catches a total of 12.8 percent of the troll-caught fish down here. Is it troll-caught fish or total fish, do you know?

Troll-caught fish.

Troll-caught fish. Okay.

Yeah, which is only twelve percent of the total fish take down here.

So the point is that apparently we could leave these people in and it hasn't really hurt the fishery. So our thing we're looking at now is to say in this law -- okay, anybody who fishes Bristol Bay that falls in category one or two here will be guaranteed as to being in that fishery. Anybody in the rest of the State that falls in category one, two or three will be guaranteed entry into new fisheries in the rest of the State. When we come on down to this area we make that same guarantee for fishermen in categories one, two, three and four. Now there's still a problem in five, and what we're going to do with that I don't know. That's -- we have to discuss that yet. But that's the way we're heading it, at least. So, in effect, what we're doing is trying to put a lid on the present amount of gear in the fishery. We're going to try to encourage attrition among those who are now fishing by a program of compensation of buying their gear, or buying their vessels, so when they're ready to get out they may be paying them -- well, again, maybe allowing the State to set the market values so it might give them that much more encouragement and, at the same time, using, I hope, improved management techniques and a re-hab plan we can increase the number of fish at the same time these other things are going on. And use this as our principal for curing the ills that now beset the fishery. Now one of the biggest difficulties with the previous bill, that we heard from all sides, was allowing the Commission to decide who was going to be in and who was going to be out. We hope that with this kind of thing and us locking in

one and two in Bristol Bay; one, two and three in the rest of the State; one, two, three, four down here, then we largely remove those fears the fishermen. Now, that's my intent at this point.

Question, Chairman? In terms of Bristol Bay, now, if you lock in one and two, then what do you do to the others? Are those the ones you try to buy back, or do you just say nothing doing? You can't make it; you can't fish, period.

Okay. There will be very few, if any, of four or five -- well, okay. To answer your question, anybody that is pushed out because of this thing right now, it would be my belief that we would have to compensate them for their loss. The guy's got a vessel and he's not going to be able to fish, and the vessel has a much-reduced market value because he's not going to be able to fish, then I think the State has to compensate him for his loss. Does that answer your question?

I think so. The thought, then, is that nobody will be absolutely just cut out without any kind of compensation or recompense at all.

Only a man with no investment such as the guy that bought a license each year in case he might want it; he'd get cut out.

Okay.

NEW BRK:

What I -- jumping in a little bit but on this compensation point, what I'm suggesting is that it might be appropriate for the legislature to find that inactive fishermen and avocational fishermen don't have a right to compensation. But anybody who has anything like a substantial participation in the fishery does have; in other words, anybody in one, two and three. And on the sport commercial fleet here in Juneau, in certain areas, this is why I've put in language to create subclassifications. There will probably be -- you've got to remember we'll be treating the hand troll fleet separately. There probably is nobody in the hand troll fleet that isn't category one and two and very few that are in category three. Most of them will be in category four, and you'll be comparing them one against another; not against people in categories one and two. So if it's true that the present level is okay, even without saying you have to let them in down to a certain level, they'll probably all get in.

But this removes our fear of (indisc. - simultaneous conversation).

Yeah.

Frank, you had something you wanted to?

Yeah. I just wanted to find out from Jackman (ph) if the legislature specified that one and two were in at Bristol Bay, and

let one through four in in Southeastern, would you have a suit that you couldn't defend on your hands from somebody in Bristol Bay that said, They don't do this in another part of the State. And could you defend it, or would you lose it?

I think you might have a real problem in accomplishing -- reaching the same objective of making people sure of where they stand. I think you could do it by this other mechanism of saying that anybody anywhere in the State in categories one, two or three, if they're removed from the fishery, has a right to compensation. Now what that means in practical terms is that when you get down to the optimum level in Bristol Bay you're going to have to compensate people. Whereas to get down to the optimum levels in most of the other areas, where merely removing category four and five will get you to an optimum level, there won't be a number of people in those areas that need to be compensated. But I think the standard would have to be even across the State. I'm really nervous about a different compensation standard in different areas of the State.

Yes, John.

What about the case where you get the person in four and five who feels he has to be compensated because he lost the pleasure of fishing?

There you'd be maybe in court, but I think you'd win. I'm merely

suggesting that the legislature make a reasonable finding that he had no compensable interest in fishing. The licensing is an annual thing; there isn't any grandfather right in our present statute; there isn't any point at which we've given him something that guarantees him the right to fish commercially on in the future.

Well, the big thing I see, you could give up a hard license, you know, a negotiable license, to one and two and a revokable license, in other words, could require that three and four sell out at any time the Commission so requires. And they wouldn't require it in all districts, but the big thing is you wouldn't get it passed on the House floor. You cut out the sports commercial, and you're going to lose the bill.

In terms of the hand troll fleet in Southeastern, you just won't be cutting anybody out. Because I think -- our study is due up here on the plane tomorrow night, and I think that will really show clearly that we do have a manageable level of effort if we just restrict it to these particular areas and to hand troll fishing. And if we can make that clear that the existing level is going to be the optimum level in the hand troll fleet, that nobody's coming out

Well, if you'll allow eminent domain, you know, in areas three and four, but not in one and two. You know, one and two would just become a negotiable property right, and you'd have to meet

the highest bidder if the State wanted to pick up more licenses in that area. But, I'm just wondering what you'd do with your hand troll -- the hand troller political force, it's sad to say. And 'though they don't catch a big enough amount, you know, we'd gladly just let them in, especially if you separated hand trollers from power trollers. They'd never be a threat. But how do you go to a meeting and say, Your license will not be taken? And they say, Show me in the bill where it won't, because you have the right to buy eminent domain just to cite just to wipe us out.

But not in the bill. Once -- I think the way this thing is set up, once you give a man an entry permit, not an interim entry permit but an entry permit, clearly the legislature has some sort of residual right to condemn that out. But there isn't any procedure for taking back entry permits in the way I've tried to re-draft it here. So that once the hand troller has an entry permit within the language of the bill, he'll have just as much a permanent right as the man in category number one. He won't until he does, but once he gets that entry permit

Well, I was thinking in the case of Bristol Bay you would only issue the permanent to one and two. You'd get an interim for three and four. Unless, by finding of the Commission, a permanent would in no way injure the fishery.

I think the confusion comes out when we think of issuing to a class rather than the class is establishing a priority. In

Bristol Bay there is so much effort that would probably will have used up, be down to our optimum level and maybe beyond, by the time we get through one and two. In other areas we may be able to issue entry permits all the way through four and maybe into five before we reach an optimum level. Once those people have entry permits you're not excluding them. But in Bristol Bay what you'd be saying is if somebody in category four and five doesn't get a permit, he has not compensable right; he has no right to

Why is it any more legal for the Commission to say, okay, in effect, in Bristol Bay only categories one and two will be given permits than it is for the legislature to say the same thing?

Because the legislature isn't tying it to the optimum number of units of gear. The Commission -- if the legislature says -- you know, there's no problem with the legislature saying it if they want to say it in these terms: people in category one will get permits first; category two second; category three third; in Bristol Bay we're going to hang tough with our optimum levels of gear and only issue entry permits according to those priorities as far as they'll go. And, then, if when we finish, we're still somewhere in category two, anybody that didn't get a permit in category two and category three we think ought to be compensated. But anybody that didn't get a permit and that is in category four and five, doesn't have a right to compensation. But, no, I agree.

Either the Commission or the legislature could do that. But I think if you just start out and say everybody in category one and two shall get permits, then the decision on your starting point doesn't relate back to the other part of the bill which says that entry permits are going to be issued up to the optimum number of units of gear.

Oh, I don't think that you can live with that up to. I think you're going to have to let a whole category in.

But that's fine, because the way that I've suggested that it might work is that we might say that since you can't deny a man a right to fish without compensating him, and if he's in category one, two and three, in Bristol Bay you have to let all those people in now, even though it will be above your optimum. But the ones that go above your optimum, you let them in on an interim entry permit basis until such time as the State compensates them. So, in other words, you can't remove a guy from the actual fishery without compensating him, but you don't have to give him an entry permit.

But, the thing is, that if you remove one and two by anything other than attrition, you're going to be in real trouble. I can't see all of one in and half of two. I think you're going to have to let all of two in or none of two in.

I think we'll be talking about it down in category three.

NEW SPKR:

Why don't we wait until we find out what (indisc. - simultaneous conversation)?

Can we go on? We have lots of problems, I know. I'd like to kind of get an overall grasp of this thing.

All right.

I get a little lost.

Let me ask one question before we do. It was my -- it was the whole underpinning of my belief that we have found a solution to this problem. It was that we could do it constitutionally - one area in some categories; the rest of the State another; and so on. And I thought that was the agreement that we had yesterday, or last night, that this was constitutional. Now I seem to hear something different.

No. I think you can do it if you're deciding who should get entry permits on a different basis. But, if you're deciding who should be compensated, and if you're creating a different compensation threshold, then that's a separate problem. And I think there is a problem with that.

Well I'm not worried about compensation yet.

NEW SPKR:

Okay.

I'm worried about entry.

That's all I was suggesting is that

In other words, you think that the legislature could just say one through four is legal in Southeastern Alaska, but only one through two will get a real entry permit? The rest will get interim permits in Bristol Bay? And an interim permit is subject to just being paid off?

That's all you're doing is substituting a legislative determination that one through four are at their optimum level out there at this time. And one through three might be someplace else.

You're just substituting a legislative (indisc. - simultaneous conversation).

And we can do that.

It's just when you get to the compensation point that I think the standard has to be equal.

Gracious, you had me scared.

NEW SPKR:

Yeah. Okay, that's what I meant.

Yeah.

What happens -- taking yesterday as an example for a moment, if you only get halfway through one in that category? If there's so much gear in one in the salmon fishery, are you going to compensate half of that class and let the other one get permits?

Why not?

No. You're just going to have to face up to that one and two are going to have to have permits regardless of whether they're twice your number. And then you're going to have to buy them down voluntarily. You can cut down below that, but when you start cutting your career fishermen out Or, you take half of section two out, the guy that got left out is going to sue you because you let the other guy in who had no better criteria than him. You're going to be in real trouble. So you're going to have to let whole sections in.

What we're suggesting, though, is that there may be subclassifications within the sections.

If you'll have that in your report, please.

NEW SPKR:

Lowell wants to hear more of it, I guess.

All right. Application for entry permit on page eight, section 210, those (indisc. - noise) are the Governor's. Issuance of entry permit. Okay, this is add eight.

You'd have to add four, too.

Right to compensation. What do you mean you have to add four?

Let's see. Okay. You're right. No. That had one, two and three.

The right to compensation. If an entry permit is not issued to an applicant who qualifies under priority classifications one, two or three, all reasonable compensation must be made based upon the economic value of an entry permit to the area and type of gear for which his application was denied and proving compensation for direct economic loss resulting from a drop in the market value. Okay. B - Until full compensation is made by the Commissioner, any applicant eligible for compensation under A shall be permitted to continue fishing under an interim entry permit.

That's a typo that should be Commission, not Commissioner, there at the end of that line.

NEW SPKR!

Okay. So that provides compensation. Now that's in one, two and three. And the idea was that four was avocation and he really didn't have much in the way of an investment anyway. Right? So, do you want to talk about compensation in category four?

You may get into trouble there, but I think that's the reasonable way to approach it.

As long as you're going to grant it in Southeastern Alaska, you can probably live through it. But if you didn't grant it automatically by statute in this area, you'd be in trouble.

Okay. A question. I'm sorry to back up, but under what circumstances would an applicant who'd qualify as under one or two not receive a permit if we do lock them in? I guess we set the point yesterday, didn't we?

Well, that's okay. If you want to say everybody in one and two gets in, that's fine.

I just set it up this way to make it so that either the legislature or the Commission would still have the freedom to decide what level they wanted to let in.

So what we might be saying, in effect, is that anybody in Bristol

Say, in category three, who does not get in will be compensated? Because all threes in the rest of the State would get in, all one and two will get in.

Even if you say all one and two, it may be too sweeping to say that all threes everywhere else in the State would get in. I'm not sure -- there are some other fisheries that are pretty badly inflated; depending on how three gets defined.

I would real reluctant to cut out three, because of the fact that it would cover especially in some of the areas where you only have a seasonal fishery. The fellow might be taking two-thirds of his income somewhere else but still be very dependent on that.

Yeah. Ninety percent of Cook Inlet is in that category I'd say.

Would you?

Yeah.

And the thing is that even myself, after twenty-one years in the Inlet, after you get down to twelve-hour periods, there's no way I could earn a living at it.

What about the (indisc.) villages in Kodia, are they above the standards of the Bristol Bay situation? (Indisc. - noise) over gear, too, aren't they?

NEW SPKR:

They're not so bad. They have one advantage; and that's the fact that they have access to a year-round open water. You know, there's some future. There what they've done is they, like in Bumble (ph) Bay and the South the gill net, and then they seine, and then there's an opening on crab boats. And, you know, they're over-gearred and they have problems but nothing like Bristol Bay.

I was under the understanding it was quite a sizeable transient sort of fleet that would come out in the summer. Maybe I'm wrong.

Well, sure, there is. They come out from Kodiak proper and they come out from Cook Inlet and from everywhere, I think.

I might be wrong, but in the first seine fleets it might be necessary to cut into the number of permits, because ninety percent of those fleets, or eighty percent of them, are made up of career fishermen. But there is a marginal residue of part-timers that, if you had to reduce the first seine fleets, you might have to get into category three.

Well, let's look at that one when we get to it.

Okay. We'll get back to that.

Those people -- that segment is probably harvesting such an infinitesimal amount of the total harvest. Isn't that true, also,

that to leave them in is not really doing them that much harm to the fishermen?

But you're leaving in a number of entry permits which in the future aren't going to be restricted to that infinitesimal amount.

Mr. Chairman, like Frank mentioned about Kodiak, you know, on the years where the forecast is for a big year, we get all kinds of people coming from other areas transferring into the Kodiak area. And on the off year we don't have as many.

Which is desirable.

Right. But are the permits going to be from year to year?

You can't possibly have a permit that requires a guy to fish every year. Because, if you do, you're going to force people to fish even on those poor years when the resident needs every bit he can get to eat, you know.

Then the number of permits will be from the optimum year only?

Right.

But, and this is something that you ought to bring out, too, that we haven't yet for those of you who have not been here earlier, it will be under the concepts that we're talking about

now possible for an individual fisherman to have permits for several different fisheries if he meets the qualifications; if he has fished those areas before, or whatever the qualifications are.

So, in a bad salmon year, he doesn't fish salmon. He goes crab fishing, and this doesn't mean -- or shrimp or something. He doesn't lose his right to come back into the salmon fishery.

Well, the crab fishery isn't during the salmon season.

Not now it isn't. It's gotten down so short that it's not hardly anything any more. But, I mean if he goes into another one -- if he goes to work in town, it's the same way as the guy that fishes, and you have some that go over to Prince William Sound in some years, you know.

Yeah, fine. You have some that come over (indisc. - simultaneous conversation).

Yeah. No, they keep this right. Only they have to pay when you cover the buy-back; they'll have to pay the assessment in every district they hold a license for annually.

Each year they would have to continue to pay an entry permit for that year for that area whether they fished it or not. They'd have to pay the buy-back assessments that are going to pay for

the buying back on the other vessels. They'd have to pay for their license fee whether they fished them or not in each of the areas that they would wish to hold an entry permit for.

But we don't want to require that they actively fish, because it would be far better if we use, in your low years, the set netters that can't go anywhere else; not to add any more of that drift gear or sand gear of fishing there. All right.

Page ten. That's the concept. Now, whether you people want to agree to it or not, that's a different matter. But that's the concept that we're talking about for that time. Page ten we're talking about terms and conditions of an entry permit. Basically no change until we get down to line thirteen where we add nine. Let's consider nine. Let's see, you don't have any language for nine, then, do you?

No, that's (indisc. - noise).

Well, wait a minute. I see an add eight, and I've seen an add ten. Okay. You skipped nine.

We go back to the original proposed

Terms and conditions of entry

Now we had said in the Governor's bill, failure to renew an entry permit annually does not result in the loss of the right to renew the permit upon payment of all accrued annual fees. Except that

failure to pay -- or failure to renew for a period of five years from the date of issue shall result in a forfeiture. And so the changed language would be two years from the date of last renewal shall result in a forfeiture. Failure to renew for a period of two years shall result in a forfeiture, except as waived by the Commission for good cause shown and consistent with the purposes of this chapter. I think we had quite a bit of conflicting ideas on that the last time around.

Would we be figuring that -- I would hope that commerce would each year, you know, just put people on an IBM card. And each year you'd be billed for your total, you know. So that, as assessments changed and so forth, a man would know. He would get his annual bill from the State for all the fisheries he was engaged in.

Well, let's mark this as an area that's a problem. And the question really is whether we want to have a five-year period, whether we want to have a three-year period, or no period at all.

Give them two, anyway. That's what you have on the guide's license.

No, no. I mean no limit as long as they've paid every year whether it should ever have to come Okay, we're talking about two different things. I'm thinking about actively fishing.

NEW SPKR:

No, I don't think you should make him actively fish. You don't -- if he'll pay his assessments and not fish, he's a bum.

Yeah, right.

That makes the assumption, though, that we're going to get to a buy-back plan at some point.

If we don't get to a buy-back plan, I don't think we have a livable -- you can't expect the rest of the State to pay out of the treasury for the fishermen. The fishermen are going to have to pay it themselves. So, it's going to take a buy-back assessment.

Okay.

What is wrong with the original concept of five years?

All right. Now what we would be talking about would be five years of not paying the entry permit. And we can assume then that we haven't talked about assessments or license fees.

Well, this wasn't really put in there to -- as a source of attrition, because we weren't relying on attrition in the original bill. But it was felt that if we're going to create something that's like a property right, and not really like a license so much, that you shouldn't forfeit a guy's right just for one, or two, or

three years. But you don't want dead permits; permits just sort of passing out of existence; nobody knows where they are or who owns them; somebody just stopped paying the fees. Those have to come back to the Commission at some point in time. So, we just thought five years was a reasonable, you know, sort of outside limit that wouldn't hurt anybody.

(Indisc. - noise) changing it to two.

This is Frank's position?

Yeah, if we're going to have free transferability in these permits, we've got to change the value as sort of a means of cutting down on just pure speculation on permits. Of course, if you're going to have a buy-back program, assuming that we do reach that stage, then these paying assessments are not going to do that. But, in the present state of the bill, we haven't definitely reached that point where it is going to be a buy-back. And, if the permits are going to start increasing in value, you're going to have a lot of people depending on permits for speculative purposes instead of, you know, really having the fishing license. Maybe that's not a problem.

I think that you're going to have to make sure that anybody that comes -- you know, that missed a year and comes back has to pay all the fees.

Oh, yeah, that's in that. That's in there.

NEW SPRK:

And, in that case, why, whether you want to wait -- have it five years, with the option to pick it up, or just two years, is almost immaterial as far as I'm concerned.

Except that it would increase the speculative (indisc. - noise).

A fellow would hold it for four years and then look and see whether it was worth it. And, if it was worth it, he'd then have to ante up all the money and pick up his license every fifth year.

And make it two years, and it means you have to make a decision more frequently.

But the amounts are smaller, too. When he has five-year assessments to pay, it might be expensive. It's no great thing.

Okay. Let's go to transfer of entry permits, then. The position of the Governor was the holder of an entry permit may apply to the Commission to transfer his permit to another person. If the proposed transferee can establish his present ability and intent to participate and the proposed transfer is otherwise consistent with the purposes of this chapter, the Commission shall approve the transfer application. And otherwise consistent with the purposes of this chapter, the Commission adopt regulations providing for the transfer and re-issuance of entry permits within

a given administrative area from one type of gear to another type of gear. Regulations shall reflect the relative difference and the average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area. What did you mean, Dave, when you were talking of the first line on page eleven? The proposed transfer is otherwise consistent with the purposes of the chapter.

Well, we wanted to try to give the Commission some authority to look into the nature of the transaction before and make sure it wasn't kind of a ruse for speculative purposes, or something like that. And I admit we were pretty vague. Maybe we should have been more specific on that point. But we -- the idea was that the Commission would exercise kind of an oversight function in making sure the transfers were on the up-and-up and going from fishermen to fishermen.

Yeah. But, of course, you have to allow somewhere for the fellow, without screening it through the Commission, for a man who wants to transfer a license to his son. In other words, he would have to transfer the license to his son, but then the son might very well transfer it back at the end of the season.

Well, those transfers would still go through the Commission but, on a case like that, of course, that would be perfectly consistent with the purposes of the chapter. So, presumably, there would be

no problem. We did have all transfers going through the Commission so the Commission would know what was happening and who held permits at what point in time.

Yeah. At this point you could work in your apprenticeship, if you really wanted to, so that the transfer could only come within that area, if you wanted to do it.

Well, we've got two other alternatives. Let's look at them. One of them would appear on page five of this proposed (indisc. - noise).

Let's see. Where is that?

Here entry permits are non-transferable except that the holder of an entry permit may apply to the Commission to transfer his permit to a spouse or child if the old transferee can establish present ability and intent to participate actively and that the proposed transfer is otherwise consistent.

Where are you, Bob?

It's this one here.

I might have a suggestion on here. Instead of spouse or child, you went to the one within the second degree of kindred. This will give you a bit of an advantage in the villages; that you'll

find that, regardless of what they're paying, quite often an uncle -- say, like the man that has two sons, but his brother doesn't have any, this would allow the brother to transfer his gear to one within the second degree of kindred. And it would give you a little bit of a built-in edge, especially in an area in which there are lots of relatives in the village, you know, and some of them are bachelors.

Okay. That's one alternative. Then Dave has one on page three of what we've been reading before; add ten. You would suggest leaving the permit transferable, but establish a five-year moratorium on any transfer or sale? You mean, except when necessary to death or disability, the Commission would process no transfers for five years; partially justified on administrative grounds because the Commission will be too busy with this initial work the first few years to administer transfers?

I think many of the objections raised last night by giving fishermen a few years to improve their economic situation and get used to the limited entry program before they would have the opportunity of selling out, or the others faced with the necessity of buying them out, which I think is a real good idea.

Again, I would suggest that we work in transfers within the second degree of kindred through the old man who might very well -- not -- his health might not be shot, but he might hold a permit in two areas and just not be up to it anymore. And he should

be able to transfer to his son as long as the same piece of equipment is then going on, you know. And that wouldn't open it very wide. But I like your five-year moratorium on no sales.

I think that (indisc. - simultaneous conversation) this transferability thing is where we're in the greatest danger of getting this thing thrown out in the courts. I think ninety-five percent of the possibility that they're going to say it's unconstitutional is going to come by not doing the right thing here. Because you're really directing yourself toward a different legislative purpose. You're directing yourself away from the purpose of just stabilizing gear levels toward the purpose of deciding who ought to be in the fishery. And that second purpose is a very questionable purpose, on down the line, to think that the State has any business deciding who among its citizens should be in the fishery.

It's already determined that it will make its cuts.

Only at the initial outset, and there there's justification for it. Because those classifications are reasonable (end of tape).

TAPE I - SIDE 2

.... the program work. You'll have a lot smaller group that's willing to part with their license is, I'm sure, what you're looking at.

SB 39: SPECIAL COMMISSION ON FISHERIES

WORK SESSION 2-6-73

(TAPE I - SIDE 2)

NEW SPKR:

How do they get around -- let me see -- it's basically somewhat like the restricted status of (indisc. - noise) or something, if you're going to sell it for ten years, or something.

But that won't work.

I mean, I think that the five-year moratorium approach could easily affect the political acceptability of the bill. Because I think the strongest argument against it, coming from fisherment, the people apt to be most vocal, is their argument that it stands in the way of free enterprise. And if you point to them and say it's not standing in the way of free enterprise, that anybody that wants a license can get one, you've got a way of keeping this people a little more contented than if you say, okay, we're going to have a five-year moratorium, and then we're going to have anybody be able to get into it.

I don't think you'll defend your five-year moratorium. I think it's worthwhile to contemplate, but I don't think

Then let me suggest a couple of alternative approaches to it. Number one, leaving it to the Commission, which could delay or make -- I mean, just in terms of getting geared up and so forth, we're probably looking practically at a one- or two-year moratorium before they'll be geared up to process transfers. There may be some flexibility there. Maybe it's making it a little bit

less precise. I don't know. These are just -- it was just an idea. I'm very nervous of any non-transferability.

About the Commission, how about in this we request the Commission to come back with recommendations of the legislature next year as far as the process of transferability?

This is the basic problem of the thing here. You've got to treat it like a free enterprise thing. It's going to have to be transferable; there are going to have to be new people to be able to buy their way into the industry; other people sell their gear and their license; and it become sort of a property right; and they all have an interest in a particular fishery. And, once you destroy that, then you're turning it into something else. And then if you don't think that free enterprise is the way to do this, because some people are going to lose their right to fish, and, believe me, they're going to lose their right to fish just like they'll lose their land or anything else they have that's valuable, but if you don't think it's going to work with the free enterprise system, then you'd better look to what you're doing. And if you're afraid to let it work in the first five years, I don't any assurance that -- I think we're away from that now, but what makes you think it's going to work in the second five years?

Because we'll find a reason.

Really -- really, what I've been thinking in the back of my mind is your native corporations will get on their feet in the next few years to where when one comes up they'll grab a hold of it.

Can corporations buy these?

Well, the corporations will stake a fisherman to -- stake a fisherman in competition to the canneries, you know. This is what -- they probably are good enough along to do it right now.

Dean?

I was going to suggest that I think possibly this problem can be taken care of outside of the scope of this bill. If not just exactly the way that Clem suggested, certainly there's a way. And, actually, what this is doing is perhaps buying time. Once this thing gets started, you'll be able to define the extent of the problem -- or rather the Commission should be able to define the extent of the problem, I would hope. And, maybe within fiducial limits, you can say, okay, it's going to cost (indisc. - noise) bucks to prevent this certain segment of the fishery from losing this privilege before they know what it's all about. And perhaps the corporations can cooperate. Perhaps the State itself could take a hand through legislation. Apart from this, establish loan funds, or something like this, like we already do for

fishermen.

Well, you have to be a resident for a loan fund. If that will stand up under court, you could probably give those people an advantage.

There's a third alternative to this offer and that was that apprenticeship program where you get rid of that. You determine who's going to get the permits. You allow sale, but you only allow sale to people within the apprenticeship pool. I know that was in (indisc.), or however you pronounce it; it was ruled unconstitutional. But there you had very sound reasons for it. And that's because the only way to get into the apprenticeship pool was to have fished with one of the fishermen in Bristol Bay, so it went into the control of completely private hands. But if you set it up so that you could get -- and this provides another favorable thing to the fishermen in general. It provides a means whereby your subsistence fishermen that want to get into commercial fishing have an opportunity. And a crew members that's been on a boat for a number of years has an opportunity to have a little less competition than he normally would have which is (indisc.) system. Now, like your three categories could be: past participation in the area fishery; and, two, to make it constitutionally acceptable to non-residents, non-academics fisheries training; and, three, perhaps participation in like fisheries. And this participation in like fish-

eries would also help out non-residents from different areas. Like, if there's permits opening up in Bristol Bay, some guy that's been fishing in the Kuskokwim, or some guy that's been doing some amount of subsistence fishing, could have that same similar type of participation in another fishery and could get into that apprenticeship pool. And then you'd be selling -- you'd be transferring your permits, but you'd only be transferring them into an area of qualified people. I admit you're determining who the fishermen are going to be, but you've already made some sort of threshold determination already.

Let me ask you. If you transfer a permit to a non-qualified person, he's going to catch fewer fish. Now what the hell does that hurt anybody?

It would (indisc. - too faint).

I mean, as a matter of fact, you ought to hope that a whole lot of non-qualified people that don't use these things buy the permits. Let the fish be caught by the people that are out there catching them. It seems to me like the test of qualifications is that the guys are qualified to fish who'll learn how to fish and catch fish. If the guys aren't; they aren't going to hurt the fishery any.

Suppose you turn that argument around, though, and say, Hey, in the first case, you've only allowed him this business - people

who are already dependant on it for a sizeable chunk of their income. But, once you've established -- once you've reached the -- once you've put the lid on, now you're letting in anybody that's got the money to buy a license, anybody that thinks that they want to try to become a I don't think you're going to be able to take a phase-out industry and keep it within those who are presently using it forever. I think you're going to have new entries in it. There has to be.

There should be.

Yeah. Which means that people who don't know nothing about the business start in and get into it. They want to become a fisherman like they want to become a lawyer, or a legislator, or something else.

Or a farmer.

This is fine. But

How does it hurt this system by saying, if you want to try to be a fisherman, be a fisherman?

It raises the alue of the license.

All right. Now who does that help? That helps a fisherman who's

selling out his license; who's trying to sell his gear.

Yeah. Actually, I was more inclined to go with apprenticeship pools yesterday. I'm more inclined to go with John today, because I've been thinking about this meeting (indisc.), and I have a deep suspicion that they'll be a lot more prepared to pay higher to get the licenses in their category.

Well, I'm concerned about the constitutional point of it. And this is what I want you to consider.

Well, if it's absolutely negotiable, there's no constitutional problem.

Well, I know. But what does it do to the basic concept of the bill if, in the first place, we're saying one and two only in Bristol Bay? These are the people that are the professional, or career, fishermen there. And, yet, as soon as there's a license to sell, it's open to anybody that can raise the bucks. Now, I don't know, but

You have to assume that the man who'd buy in would have to be pretty professional to buy into a professional business. And the thing is that you don't worry about it with a farm. You got your original homestead by clearing and patenting, which is the way nearly all the farm land in the central United States was acquired. And you had requirements for the first settler.

There was no requirements on the second settler. All he had to was buy out the first settler. Wouldn't it be the same thing?

The basic justification, and the only justification, for those priority classifications, as I see it, is because you've got too many people and you've got to cut down, and you've got to say what's the fairest way -- what's the fairest way to determine who should come out first. And I think it'll all hang on that. If you've used a reasonable set of classifications calculated, you know, toward that end, to getting back down to that level. But, once you're there, I don't think you've got any business in the classification business anymore. You know, once you're down to that level, you've accomplished your legislative goal. And the priority classifications have nothing to do with it anymore. And that's the way I see it as working.

About the apprenticeship, I don't see the problem. You say if anybody wants to go fishing, they can go fishing. There's nothing keeping anybody from participating as a crew member or anything else. I mean, a guy could still get into it. I mean, you don't get a law degree because you can buy it. You get a law degree by going through certain requirements. So, if you want a professional fishery, you can set up those requirements. And if a guy wants to hack it as a crew member, he's got an equal chance with anybody else to be a crew member.

NEW SPR:

That's a good idea.

If you let it with outside these schools, that have the fishing school, as long as you have that route, you'd probably be able to

Or participation in like fisheries elsewhere.

Well, remember I started out in a halibut fishery. And it was just by pure luck, because you had to have two Norwegian uncles on the same boat to normally get on. It just was absolutely closed otherwise. But I don't know that this

By trolling in Southeast, if you were a troller in (indisc.) Bay, or someplace, then you should be able to qualify as a troller in Southeast.

Well, basically, we're coming around to the point.

Well, I don't know whether

If it'll stand up in court, fine. If you don't lose the bill over it it's easier to just let them go like John talks about and just let them go for sale rather than lose the bill.

Here's the problem to me. You know, you don't buy a lawyer's

license, but, presumably, if I go out and have a fishing license and don't catch any fish, I haven't hurt anybody.

Well, John, on the other hand

But if I'm holding myself out to be a lawyer, and I'm a sham and a fraud, I can hurt somebody. Now, I can't see how in the world you destroy the legislative purpose of this by restricting entry into the resource if you, first of all, you decide who gets it on the basis of who's used it. But once you establish that level of fishery and the permits are free, then I don't even see any legislative purpose in trying to restrict who gets to use the permits after that. Unless you were to restrict it to corporate ownership, or something like that.

If you go out to Bristol Bay and fish and you don't catch any fish, you are hurting somebody. You're catching that guy's who might have that entry permit in Bristol Bay that would catch some fish and would

If that's the case, you might catch more fish, then; or there's a better harvest; or they

Well, now if fifty percent of the fishermen are incompetent, the other fifty percent could fish twice as long

Well, let's get on here.

NEW SPKR:

John, I'd see the first one you are hurting comparable to the incompetent attorney to be the State of Alaska with its resource. We're working for an industry, a fishing industry, which has those qualifications of being effective, efficient, and something that you could have -- for example, qualified people going into it who would have better methods of fishing, bringing (indisc.) to the whole method of fishing in the State of Alaska. This would be the effect of having competent people going into it.

Let's look at it from another standpoint, though, John. Our purpose here apparently is to do two things; first of all, to protect the rights of those that are really dependent on it at the present time --right? -- and to reduce gear so that they have a decent livelihood in the future. All right. Once we've done those things

Hey, you've forgotten the third purpose. The fishery.

Conserve the fishery.

The fish.

The fish. All right.

I mean, that's one of the most important

NEW SPKR:

I thought that that was really what was

Well, right. But, then, that's irrelevant to this discussion right now, I think.

Well, they're all in the same package.

All right. But now, my point is, once you have protected the rights of that individual, say you're one of them -- okay, so we now have reduced gear down to four hundred units as the optimum level, you're one of those people -- we've protected the resource because we've limited gear. Now, once you have your right protected and you've got a stake, a four-hundredth out of that, what you do with your share ought to be up to you, though. And if you choose to sell it to A over here who is going to be multi-fisherman and is only going to catch one-tenth of the fish, then the other three hundred ninety-nine guys are going to profit by it, the fishery resource has not been hurt, you still are keeping your gear level, and the individuals, all four hundred, who we depended on, their rights have been protected. (Indisc.) Which is what John is saying.

I don't see what's wrong with including another reason for this bill, and that's to make the fishing industry a resource industry where you can get the maximum (indisc. - noise) through all different methods; one being lower gear and less people, and,

also, an increased method of fishing, or a better efficient method of fishing.

(Indisc. - simultaneous conversation)

You can put that as another privilege and you can give it to people who are (indisc. - simultaneous conversation).

If you wind up with two hundred incompetents, though, then the bill's going to increase the kinds of gear, or pool the kinds of gear (indisc. - simultaneous conversation) the two hundred that are left are good fishermen can catch the fish.

But, again, you said one of the basic purposes is to protect the people who depended on the resource, but if you allow free transferability, then that's an illusory-type thing.

Now, wait

There are overriding reasons, too, that we haven't mentioned. There is the fact that there are more native people in Alaska who are trained (indisc. - simultaneous conversation) than are outsiders. Can we put them in a special category of an apprenticeship that would be able to qualify much easier than

That's what I thought until I started figuring that the bulk of

our San Francisco gill netters work the whole coast right on up, you know. And they've got more hours of gill netting in a year than most of the Alaskans pick up in ten years.

Well, okay.

(Indisc. - too faint)

I would hope that we can shoot for a deadline of this week in getting something out of here. And, obviously, this is going to be a question that we're going to have long and hard on. Equally, obviously, we're not going to be able to settle it today, I don't think, as far as this matter of transferability. So, let's go ahead and keep that in the back of our minds and see where we can go on it.

Mr. Chairman, it seems to me really that it's up to the attorneys now. I mean, I think everybody has the right idea and basically the same idea, but it's just how do you do it so that it holds up in court and it's constitutional.

The transferability

I can't help very much when it comes to that.

Yeah, I'm sure.

NEW SPKR:

Ownership will accomplish the same thing it does in agriculture. (Indisc. - too faint) on the conservation and, on an average, that a sharecropper doesn't take as good a care of his land as the owner. And there's no doubt that if you're going to be able to sell your license when you retire, you're going to have a much longer-range view.

You might be familiar with this, too. Although you object to the speculative nature of the license, you have to recognize that the more market there is for a license the better off a fisherman's going to be at a time when he decides he wants to cease fishing so he can sell his boat and his license. And you have to recognize to the extent that we recognize holders of land, holders of stock, since we recognize the stock exchange as being a valid way of transferring ownership and equities, that we do that to enhance the value. The only reason people go to the stock exchange with their corporate petitions is because they can get more money that way. And the reason they can get more money is because they have trained people to look at it. But if you restrict the salability, not only do you have very serious constitutional problems, and not only do you have to create false, basically false, arguments if the premise of the bill is correct to do it - in other words, apprenticeship and things like that - the (indisc.) fishermen, that's not the problem; but the problem here is that this isn't a fishing school that we're trying to conduct here, we're trying to con-

serve a resource. And if you keep your analysis clear on the thing, it would almost have to be freely transferable. But, myself, when I get to that thing, I have no doubt as to where the licenses are going to end up. And that is where I get rehung up with the limited entry permits.

Well, where do you think they're going to end up?

They're going to end up, just like the land does, by the guys who are the smartest and have the money and the economic (indisc.) and they can pay the assessments that come in annually. What are you going to do with these guys that can't pay their assessments because they've had a bad year, or they consistently have bad years, that they've relied on all their lives? Are you going to foreclose them out when they can't pay their assessments?

Well, I tried working something in, and I didn't know (indisc. simultaneous conversation). if your gross family income is under a certain amount, you can pick it up for a quarter of your assessment. But I agree with you, John, the way to -- if you want to conserve the resource so that you have people administering it who really want to take care of it, such as your farmers -- in other words, if you want to turn it like the farming is, the farmer of the United States can feed not only the United States but two other nations as big as us -- if you want your fisherman that kind of a person, just let it go private entry, and that's what it'll become. And instead of importing

seventy percent of our fish, we'll start exporting fish.

I'd like to suggest that there's sort of a natural apprenticeship tendency in the fishery. I would think that a crewman that had worked on given vessel for ten years knew the fishery and knew how to fish it would probably be able to make more money off that boat and would be in a better position to buy it. I mean, he would be a better credit risk, he would be a better operator, a more efficient operator. And that works that way in a lot of other trades, and I don't think there's any reason to expect it wouldn't work in this.

(Indisc. - simultaneous conversation) loan a city slicker a lot of money to go out and buy a wheat farm.

Yeah, that's my point.

But wait a second, John. The one thing that you have to -- you can take your fish tickets in, and I've done it. I can take my fish tickets in to Elmer (indisc.) and get a loan.

Yeah, you can, but no one from Bristol Bay does.

Very few residents (indisc. - simultaneous conversation).

Very few residents -- they're so depressed. But it wasn't too many years ago before -- you know, you're looking at a fishery

there that's been completely depressed. But it wasn't too many years ago that a high-liner didn't have any trouble getting financing.

If you give the people in Bristol Bay four years, I think the credit would loosen up. But the way it is now they're so far in hock that they couldn't get -- they'd be a fool to loan anybody money out there.

Well, with seven bad year predictions, yes, you're going to have a little trouble.

Yeah, but I'm worried about that initial four years, because the guys that have the clout behind them, financial clout, at this stage of the game, and the guys that are fishing on contract for somebody else I don't have to name any names. We know who they are, you know. And those are the guys that have the financial clout right now. If they want to guarantee their market the way they have been, with limited entry coming in they're going to get as much control as they possibly can.

They won't be able to hold (indisc. - cough). I see you're worried. And I can see that some of your local residents could get hurt unless the corporations picked it up. They could

No, don't think that corporations are a way of solving everything now.

I don't say that, but I'd say just automatically it's going to be a source. And I don't think that it would be a bad idea to, you know, take a look at some State loans on it. But -- yeah, go ahead.

I think the more complex the formulas get, by way of building an apprenticeship clause, and whatever else, the more difficult it's going to be to get the fisherman to understand what's happening to him. And the more difficult it's going to get for him to vote for it.

Well, suppose we say this. Suppose we say that the gear licenses may be transferred but they need approval of the Commission? Just that much.

Under regulations set up by the Commission.

All right. Then, the situation that you envision, the Commission would have the opportunity -- the Commission would have the opportunity to talk and convince the guy in the Bay, who's in hock to the cannery, and so on, to hold on to the thing; perhaps even arrange for additional financing, and this is where the corporations might come in, or the State under their own program, and so on, to give him the financing so that the cannery can't hold this kind of power over him. I know that's difficult, but

all I'm saying is that it's freely transferable and, yet, it does give the Commission an opportunity to persuade the fellow not to do it if it's really in his best interest and he's just on a spur-of-the-moment type deal.

Yeah, but the only trouble with that is that it's a three-man Commission for the next two or three years, and it's just going to be up to its ears in promulgating rules and regulations and optimum levels. And unless you're going to allow some sub-delegation of quasi-judicial powers, you're going to have to have a kind of watchdog.

All right. What's the law? He's talking about counseling people in a business venture is what he's talking about; saying, Look, son, you're making a bad mistake by selling your permit here. Maybe it's a good move for him to sell a permit, too, you know. How are you going to counsel these people in their business decisions? And, again, you get down to it, I don't think you can do that.

You can't do it.

And I don't think that neither can we write a law that does it, nor do I think the Commission can pass regulations that counsels.

There's one thing that the Commission could do. And that is by

merely administering transfers, they could collect some basic information about what the economic basis of transactions are just for an information sense. I mean, there will be information available as to what's happening out there. And if a problem grows up, the legislature can take cognizance of it on down the line.

The problem was not just administering their ideas or statistics-gathering. The question is, is there some way to protect if a person gets a foolish transaction.

I don't know.

We can't figure out a way to devise it, and I don't think the Commission can either.

If they can, we ought to be able to do it, too. Now, maybe we can, but I don't know what it is.

I don't think you really can. I think it's better to just have them freely transferable than lose the bill. If you can work in a few safeguards that you know don't endanger the bill in any way, fine. But the free transferability in the end will bring you a healthy fishery. You know this. What you're looking for is will the people stay in it. The loans have one drawback. It costs just like the Fish & Wildlife Service Loan

Program may have. The only person that ever utilized it was the -- for the most part, the incompetent. I mean, the real competent guy just went down and got his loan. You know, he could go to the bank or usually to the cannery and get an interest-free loan if he'd caught enough fish.

It would get to the position where we're slitting our throats, and we're saying, well, we're slitting our throats, but at least we're doing it constitutionally. That's

I don't see where you're slitting your throat. You're going to have a small (indisc. - cough) with high production and a high standard of living of those engaged in it. You're going to be able to produce fish at a competitive world-market price which is going to be beneficial to the United States. You're bound to come out of it ahead. Now, if you can come out and reach that point with less injury to the unsophisticated members of the community today, fine. Let's do it. But this is the end result that you want to reach, isn't it?

What we're trying to do in this thing 's to -- in this transfer thing, the question we have before us, is to try to protect people from themselves, is it not, basically?

Well, not necessarily just from themselves.

Well, that and your economic coercion, too. I mean, that's the

basic thing. I think that protecting people from themselves is a lot easier to handle than trying to keep them from

Protect them from themselves with our eighteen percent interest on our conditional sales contracts and other stuff like that. You can't really protect people completely from themselves.

We have a very difficult problem here. If you have these assessments -- and I'm sorry I missed the other meeting -- but if you have these assessments, and if they're going to be buying people out and buying boats and defunct gear, and all sorts of things, there's going to be some tremendous assessments needed. If a guy's not successful, he's not going to have enough out of his season. A marginal fisherman is going to be taken out of this thing by the assessments it looks to me like.

The problem is that the guy who's marginally competent, either because he doesn't have gear or because he doesn't have energy, or he doesn't have know-how, or he's just unlucky -- but I think that that guy it looks to me like he's going to retire anyway.

(Indisc. - simultaneous conversation among all parties)

Are you going to assess for the amount of fish they caught or on the (indisc.)? Does everybody have the same assessment? When you get ready to buy -- the four hundred units of gear --

one hundred units of gear catches three portions of (indisc. - noise). Does every unit -- does every license holder have to pay the same assessment, or are you going to put it on the amount of fish that they caught?

We've already talked about that.

That hasn't been decided.

I don't know.

We haven't decided that.

Well, I'd opt for a flat assessment, but then I do feel that I want a tax on poundage. But I want that tax to go into the general fund. You know, the industry should pay a tax on what it produces. Why should the man from Fairbanks not share in the harvest of his waters that are his, too? But, as far as the assessment, I think the assessment -- I'm willing to work in a poverty level. You know, to where under a certain level if it's constitutional

If you went on that (indisc.) assessment basis in Bristol Bay you'd be building a very nice, small professional fishery of non-residents. Because your resident fleet are the guys on a shoestring, and those are the guys that if we apply the assessment they are going to go up and, you know

NEW SPKR:

Well, can you have an assessment -- well, of course, I think that the assessment can be kept quite low by leaving the Commission with the power to cut back as slow as they want to cut, so the assessment stays in the hundred dollar category for years, you know, But, eventually, it's

Can't you attach it to (indisc.) the number of fish?

Well, the only thing is that -- I'm just philosophically myself opposed to having the guy that sits. That would mean the guy that sat out the season would pay nothing. Now, if you want to have a minimum and then so much percentage of the fish over a certain amount, fine. But you want the guy that isn't going to fish that year to pay a fairly husky assessment. And the guy that has a license for Bristol Bay that he's going to stay down here this year, you don't want to let him off with a free ride, you know.

You could have a minimum, though.

Well, you can have a minimum that's something that somebody can live with and then -- because you should keep this minimal money until they've reached optimum levels until all the rest of the fisheries have, because the whole fishery is one unit of (indisc.). If you wanted to work something like that you might come into it

and have the minimum low enough -- you know, something like a hundred dollar minimum. But I have a philosophical beef about penalizing -- you know, giving the third-rater a better break than the high-liner, because the high-liner is worth so much more to the State.

But it might be reasonable to do it like an (indisc.) is you've got a flat minimum and it pays for a certain number of fish caught. And then above that, why, there's additional charge.

Suits me. I mean, that -- as long as you do have a minimum that's substantial

You could say one million dollars would service a twelve million dollar debt.

Well, I think that's -- yeah.

(Indisc. - simultaneous conversation)

Wouldn't that be the way to go to get the funds put in order so they can begin to buy back?

That would be the thing that you appropriate X amount to start the fund off. And the service charge on that fund is your rolling capital and that the whole thing has to pay itself

off over, say, a twenty-year period. So that the assessment for any one particular time isn't too doggone high.

Two hundred dollars per fishing boat in Cook Inlet would generate a million dollars.

And you probably wouldn't have twelve million dollars over the State, would you?

No, no. I'm wrong. I didn't figure that right.

Is your objection to the apprenticeship-type program, is it legal or philosophical?

(Interruption for telephone call.)

(Indisc. - too faint) we were talking about the conservation of fish. We're talking about trying to close -- not only conserve fish but we're trying to create a class of (indisc. - simultaneous conversation) into the fishery. I thought that what we're trying to do here was to divide up the billion-dollar resource among those who have used it to where there would be a reasonable amount of gear, and then try to operate the fishery with that gear.

Plus the underlying foundation of trying to build economic stability within the local areas, too. I think that was

NEW SPKR:

It puts it in the bill, even though it's not stated.

In time -- Bristol Bay is a toughie. You know, it's the tough spot. In time, where it's done elsewhere in the world, it has -- you know, from the (indisc.) in Norway to our own Atlantic coast it has developed a year-round fishery. They asked some of the fellows in Maine how it would work. Could you stop non-residents? And they said, well, we know we weren't able to at the time. But when the season got to where you just went from one season to another, and you were a year-round fisherman, the problem ceased to exist. It just didn't pay a man to run back and forth when the fishery had recovered.

One of the concerns you run into in talking to the fishermen individually is they all want to know how is a crewman -- you know, a guy that's not making a lot of money, especially with the situation the way it is now, how is he going to get a boat of his own, how is he going to get a permit. How's a guy's second or third son going to get a permit? And I would hazard a guess that if it's on a free-market system, that those guys are substantially going to be priced out in the business unless they can hitch their wagon to somebody's financial star, which may be possible. But I would think that if they -- if there was some sort of apprenticeship program, they would have a lot better chance of being in that program and getting the type of financing and things they need. So, we need to tell them, you know.

NEW SPKR:

That's the so-called professional fisherman.

Sociological determination. All I can say is -- you know, all of the king crab boats out of Seldovia are basically native (indisc. - cough), wouldn't you say? Or mixtures?

Yeah, absolutely.

Out of Seldovia. Well, they're -- in your Kodiak area now.

Yeah, but the Adak area has this

They've got those damned Norwegians.

And tremendous Seattle fleet.

Yeah, they're valid when they hire their crew from Norway.

But, I mean, our local fleet down here, the natives ended up in control of it because they just happened to be the toughest. You know, they were year-round fishermen. But a lot of them fell by the way.

That's what's finally going to happen here if you create a semi-property right here to fish a portion of the ocean and limit it. It's going to end up to where the most competent and the hardest-working and those who have the greatest ability

are going to end up with the financial ability of one of them.

That's partly because it's a business, and it's an expensive business. But I don't know how you could change that. If you're going to go to this whole system, see. I think that's what -- I think that's the price we pay by limited entry, frankly. And that's what really bothers me about it, because I've thought for years that this is the way to do it. And then I suddenly began to realize what the price is. The price is that the strong man is going to have the fishery. That's going to be the open price in this.

And the alternative is that no one has the fishery.

I don't think there's (indisc.) around to make it where the marginal fisherman, or the guy that can't afford the boat, or the guy who's a crewman, or a guy who lives in the area, is going to necessarily end up with the resource.

Well, I think that the guys in the local area will stand an equal chance with anybody else.

It will only be because they have -- well, what we have to do is have a loan program and things like that for them, you know, so they can compete. But you're going to have to make them where they're competitive. Because you can't legislate the industry into their hands and custody. You're going to have

to be able to equip them by apprenticeship programs and by economic clout and loans, and stuff like that, so that they can compete with the guys from Seattle, or wherever.

Well, I would agree that you can't legislate them into it, but the problem is will we legislate them out of it.

Well, I don't think you can. I think that the legislative apprentice program is attempting to legislate them in. I think you could have an apprentice program so that they can fairly compete and hold their own.

That's all that an apprenticeship program does if you (indisc. - simultaneous conversation).

But then you're going to hook a license right to that apprenticeship program. And that's where I think you fall down, see. And I think that that was the point you were making, is that the moment you try to hook this to where it is a limited entry type of thing, a special class or a special group, or a guild, I think it'll fall.

The other balance that's struck in this is that it should increase the overall economic position of the fishermen vis-a-vis the processing industry. But, clearly, it is going to have that other effect. It's going to be the efficient fishermen, the people that are

NEW SPR:

And they're not going to be too easily controlled by the cannery. The big problem that you have is the initial. You know, I can see that.

And during that initial two or three-year period

But the fishermen -- you know, the Fishermen's Association will become a pretty powerful bargaining organization where there are X number of licenses and the cannery can't say, the hell with you, I'll bring in a bunch of Finns from Astoria, you know. They're not going to be available.

What are you going to do about subsistence fishing?

Well, that's handled in the Fish and Game regulations. It's an entirely different

Well, can you continue subsistence fishing in these areas that are

I would say, offhand, that there are some areas in Alaska that you shouldn't allow commercial fishing because the subsistence is too valuable.

It's already that way.

NEW SPKR:

It's already that way. And those are still handled by Fish and Game. These are still under the Fish and Game regulations - what will be open and what will be closed.

You're saying that no matter how many units of gear you set down, if I go down and string out a net and pull my subsistence that I can

If it's permitted by law.

That's the way it is right now.

Yeah, fine. I don't see any change in that one. You can't stop that.

It's not that great of an effect, anyway, as far as these major commercial

Except where the sportsmen want to keep the fish for themselves.

Well, that's exactly

Well, you have a bum one on the Copper River over there. You have a bum one in the Copper River where you have this dip-net fishery. It's supposed to be subsistence, but it is in no way subsistence. But that's

NEW SPEAKER

Well, time has run out and maybe we have, too, for this time.

Well, it's getting closer to getting -- you fellows are doing a doggone good job. The hearings in the House aren't anywhere near this. I mean -- well, Joe has just about decided that he'll pretty well pay. You know, when this one comes over, why, that'll pretty well be it. They'll be able to see yours when you vote it and then see what the static is and see what things are, and then make the

Then go up and talk to the Governor.

Well, the Governor

I believe the Governor will be ready to take it, too.

I'd say what the attorneys say is liveable. The Governor will buy. He's determined to

He isn't inclined to veto an approach like this, I assume. At least

You told me the other day he wasn't (indisc.) on anything. He just wanted us to come up with a workable (indisc. - too faint).

He wants a professional fishery, too, because the thing is --

and, of course, the thing I like about the tax, which is a little hard to tax these people when they're this poor. But the reason I want to tax eventually, to be quite blunt, is I want that guy from Fairbanks, when the guy from Anchorage says, We want to close all of Cook Inlet, and the guy from Fairbanks looks at how much they pay and says, Oh, no you don't. Because that's the way -- where I was born and raised they have five commercial fishermen in the Bay, and they hold -- you don't even dig clams in their part of the Bay. And nobody will close it because they pay twenty percent of their catch to the city council.

What about a moratorium on the buy-back assessments for five years, or something like that, to take the economic load off of all these people, as far as that's concerned?

All you have to do is let your Commission decide on your assessments and that they don't have to buy-back at any given rate. And the assessment will vary from district to district. I'd say we could start out with fairly high assessments in our district, and should. Bristol Bay you'd have to start out with lower assessments and figure it's going to take a little bit longer.

You're going to start buying, I take it, from the bottom categories up to

Well, I would want you to let them in and give them the license. I'd say you could buy but don't -- I'd say what you'd want to say to the Commission, and you'd want to have your talk with the

Governor and the Commission and say, Hey, just don't buy many out in Bristol Bay or offer not over a thousand dollars a license and pick up a few of the

A compensation program would be much cheaper than a buy-back program, and there are those two alternatives. And the other point is the extent to which we're liberal in letting people in at the first. We are going to have to buy out those non-residents. And we're going to have to treat them open-handedly. If we create -- go down to category four for residents, we're going to have to go down to category four for non-residents, and you'll be assessing that people who are most dependent on the fishery to buy out those least dependent on the fishery, which will be, in many instances, a majority of non-residents.

Don't ever think that it can't work the other way - that the non-residents will buy out the residents.

Well, as you say (indisc. - simultaneous conversation).

In time I think that they would for the same reason for the majority of the catch right now. They have the better skill, the better equipment, the better financial ability, and the rest of it. (Indisc. - simultaneous conversation) that kind of a poker game, you know? But I tell you who's going to get bought out, it's going to be the guy who hasn't got anything and can't stay. All he's got to have is a couple of bad years

and he's through. The buy-out isn't going to be us buying them out, it's going to be them buying us out.

What's your solution, John?

I don't know what the hell it is, John. But this is the thing -- this is really bugging me to death, because I thought I was for this for the last five years.

Well, don't get to thinking so hard that you're not for it, because it still has to go.

I'll be damned if I can figure out a solution for it.

Well, I think you're over-estimating the number of non-residents we have in these areas.

I'm saying in Bristol Bay

Bristol Bay's the toughest in the State. But there's a whole state to save. You can look Chignik. Well, isn't the whole fishery resident?

Sixty-nine boats, but there are thirteen non-residents. It's fifteen percent.

Yeah, I mean the thing is that Chignik, if we pass this, we've

saved Chignik from going through the bloodbath that Bristol Bay -- that's inevitable in Bristol Bay. In other words, we've saved the fishery. If we do this, the Yukon-Kuskokwim -- actually the Yukon's a little under-licensed, we'll save them a whole blood-bath. In some of the other fisheries, like some of the shrimp -- I think Kodiak might be a little over-fished, but the Alaska Peninsula is under.

You can substantially help Bristol Bay by making an initial large cut in getting rid of those people that you're worried about competitively-wise from outside; that is, financial, you know, the dependency on the income and this type of thing. And it's much cheaper to -- it's going to be much cheaper to compensate and remove than it is to buy back, because the longer those permits are around the more you're going to appreciate the value. And it takes a heck of a lot more money to say, Hey, how much is it going to cost buy you out, than saying, Hey, this is how much you're worth - Goodbye.

I'd like to have somebody tell me how you're going to value this buy-back or compensate on initial get-out. What standard of damages are you going to use for that? Have you given any thought on that?

Well, I've given it some thought. I think if you did it on the compensation basis, you'd have to look at not necessarily market value of a prospective entry permit in that area but at the reason-

able value of what it would have been worth to the guy to stay in, plus any direct economic loss in terms of the lowered market value for his vessel and gear. You'd probably have to look at both those factors.

You could do it about like you do a motel where you have to -- remember when they used to sell set nets, and the normal thing was five times more than the set net had caught that year? In other words, when a guy sold out you just pretty well took your.... Then they went much higher.

I didn't pay that.

(Indisc. - simultaneous conversation)

(Indisc. - simultaneous conversation) on the beach and they left otherwise. And, because of that, they left. And that's what may happen with all of these (indisc. - too faint).

Yeah, a bucket of worms, isn't it?

(END OF TAPE)

SCOMM

#31:7

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

I/1 2-9-73

Representative Clem Tillion

Senator Bob Palmer

Representative Terry Gardiner

David Jackman

Flavin - Alaska Legal Services Corp.
attorney for village of South Naknek

Tillion : Oh sure, you chop their heads off, it won't cost you as much too. But I mean, you know, they're the politically acceptable.

Gardiner : What would be the matter with just saying that you're worrying about this statewide business say that statewide just group one and two will be guaranteed that they are not going to be cut out but you give the Commission the power to include the other classifications as they see fit.

Palmer : Well fine, but you are leaving too many people undecided.

Gardiner : Yeah, what I'm saying is, that what you are doing, all you are doing, is separating, I mean the worry is, the bill could be struck down as unconstitutional, well regulations, I assume this was the difference, why we were trying to use the regulatory power, we don't have so much problem with there getting the whole thing thrown out. It is merely a regulation. So my idea was that you set this thing statewide to suit Bristol Bay but that's too harsh for the rest of the state. Okay, you set your statewide standard, then the Commission can allow other groups to fish in here, and the Commission could be created the day after and you know, we would have it set up that the next day after the bill went into effect, the commission would declare that groups 3 and 4 in Southeast Alaska and groups 3 in Cook Inlet.