

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECTS 86 / 2

872 SCOM31: SPECIAL COMM. FISHERIES (LIMITED ENTRY) 1973

Palmer : Yeah, but how can you guarantee, to the very large number of fishermen around this state, that is what would happen?

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

Palmer : That is the problem.

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

Tillion : The thing is Terry, if we don't find some way to get-- well I won't use any names, but we have got to pick up a, alay the fears of enough people, right in Southeastern Alaska to get the bill passed.

Gardiner : Look, I'm probably from the worst district for that. I have probably got more.....

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

Palmer : Well, and there is such a very high perponderance of this type category 3 people, for instance in Cook Inlet. If we don't give them some guarantee that they will be there, why we....

Tillion : You got a guy that has spent \$45,000 for that, for the last 5 years and you haven't given a living so he skins cats and works the plant up at Kenai, and suddenly he finds out that everything that he has invested in is kind of down the tube.

Gardiner : The only problem is of course that I just mentioned, that you don't think is politically acceptable.

Tillion : That's right. I think that it is legal.

Jackman : Of course, the unfortunate thing is that if these people did realize that the thing was being done by types of gears and that Juneau sport fisherman wasn't being compared by anybody but the Juneau sport fisherman, the hand troll fleet, I mean we could put it in the definitions, that the hand troll fleet stabilized separately, therefore they aren't going to be competing against the power troller or the purse seiner or somebody that is "more professional," quote. You know it seems like they think somehow they are being compared with the professionals and that is going to cut them out. But my point is, on 4 (unintelligible) if you went to 3 out of the last 5 years in terms of the number of people who have held gear licenses would be 14,300, whereas our present level is 9,800. If you were more restrictive than that and required 4 years out of the last 5, you'd still have 12,100 compared to 9,800. So even with pretty tight restrictions, there will be some inflation.

Palmer : Yeah but of course that is not what you are doing.

Palmer (continued)

Each one of these individuals, is going to have to show that he has been dependent to his extent, on the fishery. And this is not just one year, this is over a period of time.

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

Palmer : Well if they are still there. You see ... This is assuming that those are all still there and ready to jump back into the fishery if they are qualified. I think that is not a necessarily valid assumption.

Whitehead : I think that we have always found that there was more than we thought.

Palmer : Yeah.

Tillion : Well I think you are going to find out more, there is more than you think, but once you do it at least, you know, that you have set a number that can't get any bigger.

Rader : Have you considered going and handling only the Bristol Bay problem this year. Trying it out and seeing how it works rather than going statewide or it.

Palmer : But you would have such a massive build up of gear this year that.....

Tillion : It would be disastrous, John. You would have a gold rush that wouldn't quit. You have got to shut it off this year. You can't even put off any of it till next year.

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

Tillion : Yeah, we just talked about it in 1968 and the percentage of new gear just skyrocketed.

Rader : Well if you make your condition of entry or if you're going to make your judgement period so many out of the last 5 years, say 3 out of the last 5 or something like that, they're not going to develop any particular rights by one year.

Tillion : No, but they will have an investment.....

Gardiner : You'll develop a lot of boats....the (unintelligible) pressure...and that is exactly what we came up with, with the approach I mentioned. Everybody said that there is nothing wrong with it. It's a political problem. So that's what happened with, what you are talking about.

I/1 2-9-73

Rader : My only reason for suggesting Bristol Bay, was that is where our biggest problem is. I'm wondering if our problem is more than we are going to be able to manage, here if we do it all at once.

Flavin : It isn't what the commission is doing or what they are trying to do is really with those 5, aside from some amount of.... (unintelligible) doing it for political reasons, the 5 categories. Isn't what you're really doing there is saying, how fast you are going to reach optimum levels; that you are going to regulate the speed by the areas that you are going through. In Bristol Bay actually, what you are doing is reaching optimum levels a lot faster because the economic conditions in that area are so much worse. And if you changed the language instead of saying, instead of talking about denying permits, you are not going to deny anybody permits in this area but you are going to deny them permits in this other area, if you talked about it in terms of reaching optimum levels, wouldn't that be a lot more constitutionally permissible? When you are talking about speed of reaching optimum levels because of economic conditions in that area, or the economic conditions in the fishery in that area.

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

Smith
Tillion

I/4 2-9-73 say 40-355
: 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.

Gardner
worrying about
~~rip up~~

- you're
: What would be the matter with just saying that ~~just~~ ^{you're} ~~rip up~~ this statewide business, say that statewide just groups 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.

Kaloon

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

wonder

what
: Yeah, ~~but~~ 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, we were trying to use the regulatory power, we don't have so much problem with ~~them~~ ^{1/1} 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 ~~is~~ too harsh for the rest of the state. Okay, you set your statewide standards, then the Commission can allow other groups to fish in here, and the Commission could be created the day after and you know, we could have it set up 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.

1/2 1/2
: Yeah, but how can you guarantee, ~~when a~~ large number of fishermen around this state, that is what would happen.

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

Palmer : That is the problem.

Gardner : I mean if the commission would just do it, right after then, I think that that would solve the whole problem. ~~The thing is~~

Terry,

Tellon : The thing is Terry, if we don't find some way to get — well I won't use any names, but we have got to pick up a, ^{way} ~~way~~ the fears of enough people, right in Southeast Alaska to get the bill passed.

Gardner : Look, I'm probably from the worst district for that. I have probably got more.....

Tellon : Yeah, but you don't represent them, you represent the Commercial, What about the Juneau delegation that represents nothing but sports fishermen?

Tellon : Well, ~~yeah~~ there is such a very high perponderance of this type category 3 people, for instance in Cook Inlet. If we don't give them some guarantee that they will be there, why we....

Tellon : You got a guy that has spent \$45,000 for that, for the last 5 years and you haven't given a living so he is ~~skins~~ cats and works the ~~flat~~ ^{boat} up at Kenai, and suddenly he finds out that everything that he has invested in kind of down the tube.

Gardner : The only problem is of course that I just mentioned, that you don't think is politically acceptable.

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: That's right. I think that it is legal.

Jackman

: Of course, the unfortunate thing is that ~~if~~ if these people did realize that ~~the~~ ^{the} thing was being done by types of gears and that Juneau Sport fishermen wasn't being compared by anything ^{body} but the Juneau sports fishermen, the hand troll fleet, I mean ~~that~~ we could put it in the definition, that the hand troll fleet stableized separately, there fore they aren't going to be competing againse the power troller or the purse seiner or somebody that is more professional ~~of course~~, You know it seems like they think somehow they are being compared to professionals and that is going to cut them out. But my point is, on 4 ~~app~~ ^{with it}, went to 3 out of the last 5 years in terms of the number of people who have held gear licenses would be 14, 300, where our present level is ~~900~~ ^{9,700}. If you were more restrictive than that and required 4 years out of the last 5, you'd still have 12,100 compared to 9,800. So even with pretty tight restrictions, there will be some inflation.

: Yeah but ~~that~~ of course is not what you are doing. Each one of these individuals, I ~~mean they~~ ^{mean} have to show, he has been dependent ~~to~~ in this extent, on the fishery. And this is not ~~one one~~ year, this is over a period of time..

T. H. : The thing is, what you are saying, is ~~even~~ when they prove that, you are going to have more than actually fished last year. Maybe not more than fished in Bristol Bay in the last cycle year.

: Well if they are still there. You see ... This is assuming that ~~they will still be~~ ^{they are still} there and ready to jump back into

the fisheries if they are qualified I think that is not a necessarily valid assumption.

Whithead : I think that we have always found that there ^{was} ~~are~~ more than we thought.

^{Palmer's Yeah.}
Tillman : Well I think ~~that~~ you are going to find out more, there is more than you think, but at least once you do it ^{that} you know ^{you have} set a number that can't get any bigger.

Rader : Have you considered going and handling only the Bristol Bay problem this year. Trying it out and seeing how it works rather than going statewide on it.

Palmer : But you would have such a massive build up of gear this year that

Tillman : It would be the ~~vastest~~, John, you would have a gold rush that wouldn't quit. You have got to shut it off this year. You can't even put off any of it till next year.

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

Tillman : Yeah, we just talked about it in 1968 ^{and} ~~in~~ the percentage of new gear just skyrocketed.

Palmer : Well if you make ^{and then} ~~your~~ tradition of entry or if you're going to make your judgement period so many out of the last 5 years, say 3 out of the last 5 or something like that, ^{that} ~~you are~~ not going

to develop any particular rights by one year.

Tillion : No, but they will have ^{an investment} enough....

Gardiner ~~W. H. H. H.~~ : ^{you develop} There is an awful lot of boats - ^(initially) the ~~same~~ process -

and That is exactly why ^{what} we ~~are here~~, we ~~just~~ came up with ^{with} the approach I mentioned. Everybody said that there is nothing wrong with it. It's a political problem. So that's what happened with, what you are talking about.

Rider : My only reason for suggesting Bristol Bay, was that is where our biggest problem is. I'm wondering if our problem is going to be more than we are able to manage, here ^{you have to} ~~gonna~~ do it all at once. It isn't what the commission is doing or what they are trying to do is really with those ⁵ ~~guys~~ aside from some ~~modest~~ ^{modest} junk, or doing it for political reason, the 5 categories. Then what you ~~are~~ ^{are} really doing there is saying, how far you are going to reach ^{out from the} ~~out from the~~ models, how you are going to regulate the speed ~~from~~ ^{from} the areas that you are going to, Bristol Bay actually, what you are ~~actually~~ doing is reaching ~~out to~~ ^{it's a lot faster} a lot faster because the economic conditions in that area are so much worse. And if you changed ~~lines~~ ^{lines} instead of saying, instead of denying permits, you are not going to deny anybody permits in this area but you are going to deny them permits in this other area. If you talked about it in terms of reaching ^{out to more} ~~out to more~~, wouldn't that be a lot more constitutionally ~~permissible~~ ^{permissible}. When you are talking about ~~species~~ ^{species} = speed of reaching ~~out to more~~ ^{out to more} because of economic conditions in that area, or the economic conditions in the fishery in that area.

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Eighty or ninety years old but got a fishing license.
That's who they are.

Tape 6

Then you've got to keep them in. It makes sense to
otherwise.

Right, right, but they don't want to go to power troll
anyway, their -- that's why they're there.

MR. CLEM TILLION:

Why, you just want to make sure that when they sell
that license when they retire, that it can't go to
a power troll, it can only go to another little hand
operation. There's no kick on that.

(simultaneous speech)

Thank you gentlemen. We're going to take this thing
apart, starting right now and see if we can, I think
it's impossible. You have their ingoing (indisc)
it's almost impossible to pull them out if you just
ask, like the Juneau hand troll fleet. Well, hell
they fish clear down to Fredricks Sound in the sum-
mer time and the rest of the guys -- purse seiners
will take six skiffs and go to Glacier Bay in June
and fish. So they're in that vein, too. And to pull
out a group is almost impossible.

(Simultaneous speech) Purse seiners will take skiffs
and then go and use hand troll rigs with the skiffs,

are you talking about?

Yes.

Well they have to have a troll license, and if they're trolling -- all we're separating Roy, is -- if you fish with a rod and reel, you're in one category, and if you have power gear, you're in the other. I can see not worrying about where they went.

I think the real thing the Commission would have to consider is, is it significant that this hand troll fleet takes 15-20% (simultaneous speech) or 13% of the total troll (indisc) -- is that significant that you have to feel (voice trailed off, indisc).

MR. CLEM TILLION

No, you can leave it right the way it is. You just want to make sure that that guy can't sell a troll license that becomes power gurdie. You can leave it alone, we're not even out to get rid of it.

I think that's all you have to do.

Frank.

I'm not sure we're completely straight still (simultaneous speech) how we're going to cut. All right, is your position Dave, that you have to -- we've got these

five categories, going statewide again, that you have to put down four all over the state and then buy back from their faster than each one? Or can there be an initial determination based upon some factual difference that in some areas you don't have to ?

I don't think so. I don't think -- I think that even if the arbitrariness of the categories is defensible that you could make the decision that our starting point will be present level but that has to be all over the state. I don't think you've got those two choices -- I don't think you've got something in between. You either -- because your whole justification for classifying people is to get the gear level stabilized at some objectively determinable level. Either the present level, or a reasonable level, or an optimum level, and you've got to make those determinations from the classification of fishermen. Now (indisc) classifying the fishermen is to decide who gets permanent at the offset.

Well, there's a reason for doing that, because you can -- you're going to want to vary the speed at which you reach optimum levels. You're going to vary the speed you take it by the amount of dependency (interrupted)

That's still -- you're assuming that everybody gets in on the same standard at the offset and you only

adjust the speed of your by-back area

Right, but that's what you're doing basically when you -- if there is a determination that this area is more economically depressed, so you're not -- you're going to cut into those levels faster in that area by not initially protecting that one, you know, that one criteria. There has to be a factual determination.

Now that's a completely different thing, because you said you'll cut in by not letting one guy over the line to start with.

What difference does it make? There's no difference.

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

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

I thought you said that some wouldn't get in. I thought you said you'd make (interrupted)

No, you would get a permit, but he would be compensated.

What's the difference?

All right, let me see if I understand what you are saying then. We can initially let everybody in categories one, two, three and four, but we'll have different rates of buying back according to the difficulties of the different areas, the pressures, etc. You're seeing that as a way that even the first year you might decrease in Bristol Bay, for instance, by knocking out three and four, but compensating them when you do it.

Right.

When you simply compensate them sooner, you knocked them out and compensate them sooner in Bristol Bay than you do somewhere else.

Right, because there's a prior determination by these three agencies (indisc) that that area is so economically depressed that you have to go faster in that area. Therefore, you're going to compensate now instead of buying back.

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

Right.

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

MR. CLEM TILLION:

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

That's fine if you give everybody in the same category statewide an interim entry permit.

MR. CLEM TILLION:

All right.

I don't think you can differentiate and that's what Frank's suggestion is.

MR. CLEM TILLION:

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

inter-speaker

I don't think you dare classify it as an interim permit.
You're going to have to give them permits, period.
And then if you want to buy back faster in some areas,
we can do it legally

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

MR. CLEM TILLION:

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

Not at the time of the (indisc) permit, cause that
permit might be in the hands of somebody else.

MR. CLEM TILLION:

All right, that permit may be in the hands of somebody
else and they might have \$100,000 boat, but you'd only
pay them for the boat.

Or for the permit?

MR. CLEM TILLION:

No, not for the permit.

What's wrong with not allowing the transferability of any of the permits for a number of years until it's been cut back? I mean it'll have all permits be non-transferable for a period of a number of years.

MR. CLEM TILLION:

That's one of the problems that was first recommended and he says that one, if you don't allow any new entry, you've really plowed into a (interrupted)

I still think that you may be able to justify moratorium on transfer for a year or two, that's the only way. And I'm nervous about that, but that's the only way I think you can tamper (ph) transferability over. Even there you've got to allow in a case of death or disability. And, even there you're granting a (indisc) right, but you're going to have to compensate for it. You can't brag on entry permit and then turn around and not compensate for the value of the entry permit and only the value of his boat. You just can't do that. Cause that thing is going to have real value.

I'm still having trouble following on the compensation thing, because if you buy -- if you -- by that argument if you compensate one guy by eminent domain, I think is your argument, and the other one you've compensating buy-back, where he's going to get more because he's got the permit, where the other guy didn't have the

permit so he's not going to get that value of the permit. But on that basis, the guy you buy out five years from now is making more than the guy you buy out now. That's you, there's got to be some differential there.

Well, but one you compensate for the permit the other you're not.

Well, maybe you can say that the guys when you buy back, people in three and four -- it would have to be compulsory buy-back. If you had compulsory buy-back in order for that to work. If you had compulsory buy-back it would not compensate them for the value of the permit. It would work.

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

MR. CLEM TILLION:

Bob, if we had a moratorium, the longer the better, you know, but whatever you thought we could stress and that the State could buy-back at any time during that moratorium. Not, un -- willing fellow suddenly, you know, the guy is looking at the fact that he's

going to pay his annual buy-back assessment to start building the fund. And nobody is going to have no way to sell the licenses, only a hardship transfer, which should be just the transfer. Why then don't you have a fact that you might be able to buy-back a year considerably less, because a fellows looking, you know if you started right in buying back what you could handle. Now sooner or later you're going to come to the point where it becomes expensive.

I don't think so, because I think if I were sitting there, even though I couldn't sell or transfer for 2 or 3 years, facing a \$200 a year buy-back assessment realizing at the end of 3 years, I can sell to the state or anybody else for \$5,000, I'd borrow money to make the buy-back assessment.

MR. CLEM TILLION:

There'll be an awful lot of people that won't.

Unfortunately.

MR. CLEM TILLION:

I'm not talking about those ones; maybe the guy that fishes will buy it back. (interrupted)

You misunderstood. I wasn't suggesting that you could. You're confusing two things in terms of moratorium on the transfer, but at some point you've got to issue entry permits that are going to be like property rights

to everybody on the same standard. Then if you want to have a moratorium on transferring, that's -- maybe that's defensible, I don't know.

Well, is it possible though to have a involuntary buy-back during that period of time, of these category three and four licenses?

Well, if you -- yeah, if you -- in other words you're suggesting you issue to them not an entry permit but just a interim-entry permit or something.

MR. CLEM TILLION:

Well, the longer the period that you can't transfer the license, the less the license is going to be worth the opposite, and you feel you can justify two or three years. Could we leave it to the Commission who might keep it on until a Court knocked them down if necessary? You know, the longer you keep it while you're still -- the state is still buying back whatever you know, you have the hardship case come up. The Commission may take the idea that you have to -- in the best interest of transfer or in the place where the person dying or so forth, doesn't have any other way out, the state just buys him out. In other words, the hardship could include purchase, purchase or transfer, the Commission could do either. It would have to do it on a non-discriminatory basis, but I mean any person who died in the fishery, buy the widow out. Have, you know, buy all his gear and stuff.

But you don't have any transfer, if you could hold that for 5 or 6 years, you'd find your fishery had gone down a long way. Now, if you got knocked down by the Courts after 3 years, then it's going to become a little more expensive. But you haven't lost your bill.

I should think you'd want to avoid buy-back from categories three and four as much as possible because you're setting an -- by buying them back you're giving them an artificial value that they don't really (interrupted)

MR. CLEM TILLION:

Well, I'm saying that buy-back (interrupted)

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

Well, of course (interrupted)

MR. CLEM TILLION:

Make a hardship buy-back. You know, a hardship buy-back shall be at the actual value of the equipment you're buying. You know, because you'll find that there will be some that you can't sell. You couldn't sell a \$13,000 boat in Bristol Bay during this period. Well, they just wouldn't sell.

~~Chairman?~~ Mike?

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

Oh, I'm sorry, I should have said four and five.

Okay, okay. Three would have a value.

MR. CLEM TILLION:

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

Yeah, five and four are two current ones, I guess.

MR. CLEM TILLION:

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

Course, that's another question. How are you going to distinguish the -- you define four as a irregular variable minor income. Now your regular could be construed to be he doesn't fish every year. How are you going to distinguish between him and a guy that dropped out 2 years ago, as an inactive?

Minor income.

No, but the guy -- you might have a guy before you that had fished irregularly up to 2 years ago every 1

year out of 3 and he made a minor income.

Well, that's (interrupted)

I will agree with you and I think that maybe the language on four ought to be changed to (interrupted)

MR. CLEM TILLION:

Well, I -- the language of four should be an avocational fisherman would be one who bought a license every year but didn't necessarily fish it every year. While five, an inactive fisherman, he hadn't even bought a license.

Humh. I didn't realize this.

MR. CLEM TILLION:

Five is a paper license, but he didn't (interrupted)

But he hasn't fished it.

MR. CLEM TILLION:

All right, no record..

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

What you'd do then would be two people making the same dollar income to the fishery, one has a \$40,000 income on the side, and the other a \$2,000 income on the side.

Well, there's two sub (interrupted)

(simultaneous speech)

Yeah, there's subclassifications where that's true.

I think that

What would be wrong with just recognizing a right to compensation in a certain -- down to a certain level, and then saying that, you know, you (interrupted)

Well, that's sort of what I had (indisc) something wrong, because it didn't go over very well when I suggested at our last meeting, but then basically you'd be saying that the only issue the number of permanent entry permits that is reasonable and can do it on the same low priority basis but that you'll be saying when you pass the bill, anybody that has any substantial income from the fisheries is going to have a right to compensation. Now whether they get an entry permit or not, we don't know yet, but if you don't, you have to be fully compensated. So that lets everybody know right now at the offset, that they either get an entry permit or they get compensated.

MR. CLEM TILLION:

That won't take care of your sports permit that commercial because he's going to -- you're going to pay him for a \$35 rod and he's out, and he's not going to stand for it.

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

Yeah.

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

No, because these guys aren't going to be take -- I mean, you know, it's uncertain, that's what made them nervous. But as (interrupted)

I think that's where the legislative (indisc) comes.

Yeah.

That's where you publish what you're going to do before you print it. Before they read this you've got to tell them what it's going to say. There was a mistake last

time the bill came out and nobody -- people read it.

Well, the damage is done.

I know, but I'm saying this time we're coming -- there's going to be a substitute bill, so, I mean I'm telling everybody that until it's thrown out. I'm telling them there's a new bill coming but before (interrupted)

You know the bill comes out (interrupted)

(indisc - laughter)

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

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

What would be the (indisc) if the sport commercial fisherman in Southeastern, would their minds be set at ease if you told them the hand troll fleet would be handled separately and it will not -- entry permits will be -- issued at the present level, in other words the level the fish (interrupted)

MR. CLEM TILLION:

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

Okay, that's fair enough, but I mean, wouldn't they be (interrupted)

(simultaneous speech)

I think you could specify that in writing in the bill that their considered separate.

That's what we were doing earlier.

MR. CLEM TILLION:

Well, you can say -- you can use them as an example some of the bill. Each fishery shall be considered separately. For instance, the hand troll fishery shall be not considered part of the gill net or the power troll fishery, but you want to mention them (interrupted)

..... during the definition (interrupted)

MR. CLEM TILLION:

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

That was (indisc - mumbled)

MR. CLEM TILLION:

I know it, I know it. But

But the problem is (indisc) so when you get to number three.

Yeah.

In other parts of the state as it is here.

MR. CLEM TILLION:

You know, if I had mine, I'd just opt to a buy-back even though I knew it was going to be expensive and take you as longer and get the bill passed because the power of getting the bill passed and stopping the new entry is just worth it, you know. If we just think of what it would be like if we passed it in '69. You have fisheries that within the next 2 years will be in major trouble that now are perfectly all right, like some of your shrimp areas, you know. Kodiak's in trouble and I (interrupted)

(Indisc) buy-back in Bristol Bay and he said buy-back loan off the handle low enough so the residents can handle it it's going to be such a minimal amount of money that you're not really going to get them out very fast.

MR. CLEM TILLION:

All right, what you do in that case, is you have a minimum buy-back assessment, you know. All over, so even the hand troller helps buy them out and then you have additional assessments on top of that and so in Bristol Bay, you can't do it by -- you can't give a guy a break by income. If your gross family income was under \$6,000, you could pick it up for 25% of the annual assessment?

I don't know.

MR. CLEM TILLION:

I've thought of this for -- like our -- when we tried to raise fishing licenses we had it set at \$3600. We say a gill net license at Cook Inlet's now worth \$300 but if your gross family income was under \$3600, you don't have to pay with the old fee. Is it legal or not?

Well, we have subsistence sports and hunting licenses for 25 cents, so.

MR. CLEM TILLION:

Yeah, we just never -- if we could -- see this would take the strain off your village people because that Italiano coming in from San Francisco is going to have a large enough income that even if he only made \$3600 in the bay, or \$5000 in the bay, his other income would boost him up to where he pays the full assessment.

While the other people that had a lower income wouldn't

and the highline Bristol Bay resident would pay the full assessment.

Mike?

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

Yeah, and if we don't solve this problem (interrupted)

MR. CLEM TILLION:

I think we're coming closer, Mike, I don't think I'm, I'm just saying that if you took everybody and down through four, you know, then you have a bill that's politically acceptable. You can get it through the Legislature. What's the -- how would you correct the problem of over-gear. Now is there a solution? If there isn't a solution, why you have to go back into it and cut out some blood, but every time you cut out four or three, you lose two to three to five votes on the floor, and so you just have to figure whether it's better to lose the whole damn bill and stay a puritan or get something passed and at least have something to start with.

Well, taking example of Bristol Bay though, if we're fairly liberal on where we start things and let them in down to four, you've got 1900 units of gear last year, that probably will put us over 3,000 units of gear as a starting point for buy-back. Now, assessing people in Bristol Bay to buy-back people in Washington that have irregularly and as a -- for minor income participated in the fishery, is going -- I think that would raise some political oposition too, as to counter the sport fishermen in Juneau who are nervous, because if that's what you're implying that the poor Native out in Bristol Bay is going to have to cough up buy-back assessments for 10 years to buy out the guy that fished 3 years out of the last 10 from Seattle is -- didn't make much money.

MR. CLEM TILLION:

All right (interrupted)

Didn't we reach the conclusion if we went one, two, three, we still don't have a problem with sport commercial fishermen, the hand troll fleet in Southeastern because they're going to be considered only against the other hand trollers. And certainly they may not fall in one, two, or three, but they're going to be lumped in these other areas and it's (interrupted) (simultaneous speech)

I though we came to the conclusion we didn't have (interrupted)

MR. CLEM TILLION:

They're not going to believe you.

They won't believe it if you've got those classifications (interrupted)...

I'm not so sure.

MR. CLEM TILLION

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

I don't know.

MR. CLEM TILLION

If you can have an exemption you wouldn't have to worry about the (indisc.) outside that you were buying back. He'd be paying full assessment. You know who's got the minimal income in Bristol Bay

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

MR. CLEM TILLION

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

That could be done to a covering letter, couldn't it. I mean like the Governor's letter that stirred up all this controversy in the first

place. It looked like to me that if you explained all this in the terms of that covering letter about the (simultaneous speech) sports commercial being considered separately...

MR. CLEM TILLION

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

Well I don't know if it's illegal or not...

(simultaneous speech)

I think it could be worked out, you know, in other language or something -- another section or something, but let's (simultaneous speech) because the cost like in Bristol Bay is...

Maybe we have kicked it around long enough that we've probably exhausted our thinking at the present time. Maybe it would be better to go on to another subject area and let the subconscious take over during the evening and so on and then come back to this in the next go around. If there are no objections, well then let's do that.

Okay, transfer of entry permits -- we have several proposals here. One thing, before we get started on this we do think provisions for emergency transfer, page 12, line 15 through 22 -- emergency transfer -- the commission shall adopt regulations to temporarily transfer an entry permit from one

person to another if sickness, injury, or death prevents an entry permit holder from satisfying requirements in Section 180 of the chapter. Section 180 just says that eventually the entry permit holder has to be there physically operating the gear and (b) the commission (indisc.) all temporary entry permit transfers within a reasonable period of time (indisc.) refer those transfers it has reason to believe are fraudulent or made in violation of these sections to the Department of Law and then (interrupted)

MR. CLEM TILLION:

Now, wait a minute...

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

Is there a problem with the emergency transfer provision?

Yes.

I'm not quite so sure what you mean in terms of...

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

Referring them to what?

Can we refer them to the Department of Law for action, you mean.

Yeah.

Are you going to pick it up in your penalty section to make it some sort of violation that (indisc.) wouldn't it?

MR. CLEM TILLION

Sure. It'd be perjury wouldn't it.

Why in this particular section would you refer them to us, would you say -- I just -- okay...

Well if it's define as a penalty then clearly...

MR. CLEM TILLION:

Refer them to the D.A. and not to the Department of Law.

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

I mean that...

The commission reviews them and think that they may be fraudulent then refer them to you for action

Are they going to make some finding that they think -- okay -- it had reason to believe were fraudulent or made in violation.

MR. CLEM TILLION

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

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

Mr. Chairman, I suggest you insert one word in that -- two words...

MR. CLEM TILLION

Where?

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

MR. CLEM TILLION

In other words...

license because his mother in Vermont is ill, we've got (indisc.) the whole family.

All right, I don't know the answer to this, but if this bill was supposed to be applicable to king crab and shrimp, there's many cases where, you know,

to keep a vessel working year-round, you know, the skipper will have a relief skipper. I don't know how this is planned on being handled and I'd like to say I don't know the answer to it, but if this is meant to be applied to king crab and shrimp, then it might have to have some sort of modification.

MR. CLEM TILLION

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

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

Well couldn't that be (simultaneous speech)

We've tried to leave it fairly broad.

MR. CLEM TILLION:

I'd say that there has to be transfers other than emergency transfers, but that's the alternatives up here. You know, a fellow has to be able to -- like Flim Giles did, you know up there with his --

kid takes it for awhile, you know, and then -- for six weeks and then he takes it for six weeks and they alternate it all year-round...

They do it every year.

MR. CLEM TILLION

They do it every year. They've got one vessel and two (indisc.) skippers, you know.

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

MR. CLEM TILLION

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

The (indisc.)

MR. CLEM TILLION

These are fulltime fishermen.

Maybe you want to handle it under regulations, but will temporary transfers expire -- I mean -- some outer time limit or...

We felt once again, you know, that this would be regulated by the commission. So if the commission required a temporary transfer (indisc.)

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

MR. CLEM TILLION

Well they couldn't finish up the rest of the...

(simultaneous speech)

It seems to mean that something like, you know, a sixty day, six -- thirty to sixty day transfer that had to be renewed -- emergency transfer that at the end of that time you'd have to renew it or something if the cause of the original transfer was...

It seems like you might put that in the statute to save the commission some...

MR. CLEM TILLION

Well right now we have -- gillnets are not transferrable but seines are. You just call in for the fish and game and say I'm transferring my seine to my son William, you know, and he picks it up, but you can't do that with a gillnet. It's a nontransferrable so you might just as well make it that way. Keep it in the gillnet fishery which is the one we're having our trouble with. It's nontransferrable in the gillnet fishery and let her stand. If a guy wants to transfer it on a halibut boat, he doesn't actually lose the ownership of it, he's just transferring the gear and (indisc.) you know, he has to work something out for when he transfers the gear -- the guy doesn't walk off with his permit, but it's nothing

that you have to worry about. You know, transfer it to a crew member who has been abroad or something.

There's a lot of temporary basis - temporary transfers.

MR. CLEM TILLION

Yeah, (indisc.) automatically lapses it might (simultaneous speech)

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

MR. CLEM TILLION

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

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

We have three proposals for a transfer covered on this sheet here and there's a kind of summary. Before we get into detail though we can take a look and consider each one. The first sheet is a summary.

The one that says proposals?

Right.

Well, let's try one real simply and see what troubles we run into with that. Suppose we simply say from the beginning that any holder of an entry permit after he has received approval from the Commission to sell his permit, and then sell it to a qualified purchaser on a negotiated sale basis, one-to-one basis with the guy that's going to buy it, and when we talk about qualified purchaser, we simply say anyone who either through past experience in the fishery or well a person becomes qualified either because of past participation in fishery or through training in some approved course of training. Now, therefore you have an applicant pool of people that the Commission has certified then as being approved to buy and any of those may negotiate with a seller for his license. All right, can this meet the requirements that we were talking about the other day? Gives some protection to the fellow in Bristol Bay that may not be very sophisticated. The Commission can give him some protection there. We have an (indisc) to the son, or the relative, or the non-relative even who has worked on a boat for a period of years and he now wants to have a gear license himself or we've left it open for the guy who's had no experience in the fishery but is willing to go in and take a course of training so he becomes eligible. And yet it's still not completely wide open and will not necessarily (indisc) so quickly gravitate

to the money source.

Dave, are you suggesting a course of training by itself would qualify a person?

Very much like that you see in some of these applications for jobs now, where it can be a certain number of years in the field or so many years in college, makes you eligible for a job. It would be somewhat the same.

I've lost (indisc) kind of training on the courses of training I had in school wasn't in fishing, but I just can't see how any amount of training would make a man capable of being an efficient purse seine skipper in Kodiak. He doesn't know the fish.

All right. (simultaneous speech)

He doesn't know the ground.

That's one thing that he can learn after he gets the permit and goes ahead and does it through experience. But at least you've left it open to anyone that's willing to make that sacrifice. There's nobody that can keep him from doing so, going through the course of training. If you have it only through a matter of experience then you may have a situation where (indisc) addressed itself

to in '68 saying well, hey you're relying on the friendship or the whatever you want.....

Yeah.

.... of the skipper to agree to let the guy come aboard the vessel to work for him.

I can see training being worth so many years of fishing experience, the training by itself as a prerequisite.

I don't think we have to get into discussion just what qualifications there are, as long as your initial standards are fair (indisc) If you say a fair and reasonable balance of those standards, and the Commission does not, the Commission can -- if you want to leave some discretion to the Commission (interrupted)

MR. CLEM TILLION:

(Simultaneous speech - indisc)

..... that 2 years college doesn't qualify you but a reasonable standard would be 2 years of college plus some participation. Of course, if the Court says well that's unreasonable, they can't come back and say these standards that you put here on the four basic broad standards are unreasonable, they say the Commissions usage of those four broad standards is unconstitutional

as a (indisc) aren't going to throw out the regulations. But your statute would still be broad enough and reasonable enough on its face that -- to stand up. Of course, (indisc) there's also a little kick back if something does happen you go back and retransfer, but you've bought yourself a couple of years.

MR. CLEM TILLION:

Yeah, and the thing is though, some of those David, wouldn't you say like on your crab and shrimp fleet, would require that a man has met the requirements necessary to have picked up a Coast Guard license for tonnage in that area. You're going to have to go to that sooner or later anyway, and it's the Coast Guard requires that you be 2 years in that area aboardship before you can sit for the exam, and you haven't stipulated that he has to be apprentice 2 years, but the Coast Guard says, you know, you can't just walk in and get a ticket for the (indisc). You've got to been there 2 years before you can get an operator's permit.

(Simultaneous speech) requirements for 100 ton and over to be (interrupted)

MR. CLEM TILLION:

Yeah, but just have an operator's license, no you have to have an operator's license -- well you don't have -- they don't make you have an operator's license till you're over 100 tons, but you could -- they issue them for any

documented tonnage now of any size. So just meet the Coast Guard requirements for that tonnage plus some of the -- I mean you know, you can get a 25 ton license if you want to, you know.

Dave, do you want (interrupted)

Then this alternative number three, the paragraph there, do you feel that that's an adequate note?

No, I think I can make my position known on transfers in only about 30 seconds. Basically, that in any limitation on a class of people for whom permits can be transferred is probably unconstitutional and it seems like every time you get into this business you're trying to decide to create a local privilege

No.

.... and that's whether the 2 years before you can sit for exam, all these kinds of things are aimed at one thing, create a privilege for Alaskans and it's unconstitutional, I think, so I, you know, I don't think (interrupted - simultaneous speech)

MR. CLEM TILLION:

If you (simultaneous speech)

new speaker

.... cause I can't buy it, contrast for ability.

Dave, under these criteria, one, two and three, and alternate of three, you think that's going to discriminate against non-residence?

Sure, because fewer non-residence will wind up in that category. I mean, I just -- all I'm saying is, I think that what people are aiming at is trying to make sure that certain kinds of people wind up with permits and I think that is an unjustifiable purpose, because it has to be based on discrimination and the only reason you can classify people is if you've got a justifiable purpose. Now I don't see (interrupted)

Is not the justifiable purpose in an apprenticeship program like this to encourage an economically efficient fishery?

I don't see it. I don't think it's to encourage (interrupted)

You think that pre-transferability is guaranteed on the market place to encourage an economically efficient fishery.

You crossed over between unconstitutional (indisc) and unconstitutional supply. If you have standards that are

reasonable on their face, no Court is going to throw them out. If they're applied unreasonably by administrative body, they'll get tossed out. So we've lost objectives, we're looking at something that's (indisc) free transferabilities absolutely constitutional, but that doesn't solve any of the other problems you want to look at. We have a common resource that used to be open to anybody who wanted to get into it, that's a common resource. Now we're taking that common resource and locking it into a limited number of participants. And I think it's a valid legislative objective when they're locking up a common resource that's supported by all the taxpayers is a valid objective to make sure that those participants that have that lesser competition and have that property right in that resource are qualified. And if you have standards that are fair on there face, no Courts going to throw them out. But if they're applied unfairly, they can throw them out because it's not going (interrupted)

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

now speaker As a buyer or on the fish?

Well, sure you could say (interrupted)

Plus you have a kickback provision that if it is tossed out you can go right back to pre-transferability. So I don't really see the -- I don't really see the problem.

I think both, I think either, I think that when you look at giving the Commission and those standards because you're coming in at a separate point. You've already got your gear level stabilized and you can say that well we've come up with a fair set of standards we're going to apply them fairly to non-residence and people that were on the East Coast and everything else. But the point is, the very threshold question is does the state have any business monkeying around after it gets gear levels stabilized?

(Simultaneous speech) that's not a Court determination. If the state decides to have an interest, they can.

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

MR. CLEM TILLION:

Yeah, but now when you transfer an air taxi, you require that the fellow hold a commercial pilots rating

That's because the public is at stake.

The public is at stake in this case too, to a certain degree. For instance, in the last 2 years we've got an extremely crowded (indisc).

Well, (simultaneous speech)

.... boat handler's license to have a permit, you could do that in some other statute, you don't need to do it here. If you just want to make sure it's your safety is provided for, then just do it in another statute.

(Simultaneous speech - lots of it)

MR. CLEM TILLION:

If we leave the Commission the right to do this so that they can do it, regul. on in other words they say that you must have a license for the tonnage vessel you're fishing in the area that you're fishing and that in itself builds it in because the Coast Guard won't give you the license until you've been in the area 2 years.

new speaker
Precisely my point. It creates a decided discriminatory
(interrupted)

MR. CLEM TILLION:

It does right now when you want to get your license. Because I
have to have one during the (interrupted)

Dave?

When you're talking about a fisherman, you're talking about
apples and oranges together. A fisherman is a combination of
things. He's an entrepreneur, he's a small businessman, and
he's also a working (indisc). You get a combination of people
involved and when you say, solely money is going to be the
Courts, as far as I'm concerned you're discriminating against
a lot of people, who are excellent fishermen. But there not
the best money managers. Yet, they may -- they can run a
boat, they can do a lot of things great, and they have the
longest tradition in the history of the fishery.

Don't confuse what I say, I'm not saying that wouldn't be a
desirable social objective, I just don't think it's one that
can be accomplished by this kind of state legislation.

If you want to subsidize crew so they have an easier time
buying in, that maybe very worthwhile, but I'm just suggesting
do it in other statutes.

(Simultaneous speaking)

residence guide can participate, it's the crew member that can you know, get himself involved and get himself on the applicant pool, is going to have it that much easier to pick up financing than if he was to just you know, one of the vast (indisc) of people.

MR. CLEM TILLION:

Well, you know, I just -- I'm perfectly willing to give your

END OF TAPE I⁶ - SIDE 1

BEGIN TAPE⁷ II - SIDE 1

Even if that got knocked out, you go back to pre-transfer-ability so what's the problem? You could call that second thing a cop-out if you want.

How would you transfer one to the other? Sealed bid?

Mr. Clem Tillion:

No, oh God no, anybody within that applicant pool

....could then -- would be competing then against one another just

MR. CLEM TILLION:

Would be competing against one another, that's right.

But, that's why the difference between two and three on these proposals. Two mentions that, you know, whatever this Committee wanted to do you could -- you could say sealed

..... giving the Commission power to set some qualification.
which is not much different than the broad standards you
gave the Commission already in the initial Governor's Act.

(Simultaneous speech)

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

Discriminating against somebody, yes. It's a kind of

Yeah, well, I'm not sure that it's (indisc)

Well, hey, his point is excellent though, I think. We wouldn't
be doing this in the first place if we weren't trying to dis-
criminate.

Sure.

The whole reason we're doing it, therefore, must do it
or we wouldn't be trying to do it. I think that's basically
what

(Simultaneous speech)

I think that if there's -- you know, if you can get people set
up that are in a qualified -- if somebody can participate, even
if you have to let in an equal number of non-residents, the

bid, or anything else, or you could leave it up to Commission, but number three locks it in -- number three would just be a straight transfer basis where a guy -- where you would if you want to sell your permit and your boat you would go to somebody in the applicant (interrupted-indisc) I hate to use the word apprenticeship because everybody thinks apprenticeship programs are unconstitutional.

Well, let's say qualified buyers.

Labors been using them for years and getting away with it.

MR. CLEM TILLION:

We'll, qualified buyer would be fine. See this one wouldn't shake them up. If you have maybe 1500 guys in your applicant pool (indisc) everytime we have a graduating class from school. You end up with a few more.

I mean you guys can talk about how if you get this thrown out, we'll just be back to pre-transferability, but the Court -- when we get attacked from the Court on this thing, they're going to look at this whole statutory scheme and they're going to look at every part of it and at the first shot we're going to have economic dependents as one of our standards which is already designed to cut in favor of the resident, we hope constitutionally, and then we're going to have this tacked on to the other end and it's just going to make it a lot easier to -- for them to find enough to hang their hat on to throw the whole shabang out the window.

new question

Except Courts do not try to find something like that.

All right, I'm just nervous about it, and I don't have any experience with it, you know, so I don't know. I could be completely wrong, but I'm very nervous about it.

Dave?

Yeah, well I can see where you're nervous from your end of it and I'm nervous at my end of it because we get into this we're going to have it for, not only for the rest of our lives, but many lives afterwards and it's a

But Dave, I'm a whale of a lot more nervous about him being nervous than I am about you being nervous, because I really think that we could have held that thing in 1968 had the attorneys from the state that were defending, not been nervous at that point and really give it all they had (interrupted-indisc)

MR. CLEM TILLION:

They didn't want to win.

..... a hold of that one, but if he is nervous from the beginning, it's going to affect, and he's the guy that's in charge of the defense, and his hearts not really in it because he's afraid it's not constitutional anyway, then what has this done to our defense?

MR. CLEM TILLION:

The guy that beats the case on federal -- gee you know, it's

too bad I wasn't still working for the Attorney General's Office. I think I could have beat it on your side -- or won it on your side.

I don't think there's any doubt of that.

I object to that type of thinking.

(Simultaneous speech)

Our problem here, to get away from economic bidding on these permits, because a local resident may not have the economic ability to do it. That's really what we're trying to get around, isn't it?

Yeah.

Not necessarily the bidding, but making sure that not just the guy with money and nothing else is going to be doing this.

Well, but I have to agree with Dave on this. That if our problem here is to stabilize the number of units of gear, the fact that a guy comes out that doesn't know how to fish that gear, doesn't hurt the fishery, doesn't hurt the other gear holders.

MR. CLEM TILLION:

Well, but.

So it can't be a part of this -- it's not part of the fabric of this bill, that's what makes it stick out.

MR. CLEM TILLION:

We're trying to work on a sociological game.

I know, but it's not a part of this fabric see. You've got a fabric here that we're weaving together and suddenly you get something that sneaks into like a Pepsi Cola can sits on an American flag. What the hell's that doing here? No matter what you want or anything else, it's just sticks out as being -- as having nothing to do with conservation of fisheries, nothing to do with stabilizing gear, has nothing to do with the economic well-being of the number of limited gear holders here, it's something that we're -- that we socially want to do. But if the main purpose, I agree with Dave too, why don't we subsidize our fishermen? Let's set up a lending fund which only residents can borrow from to buy these permits to equalize the economic aspect of that, if that's what we're trying to protect against here.

One of the problems is we don't have 2 years to get that type of thing -- now this things (interrupted)

We've already got it.

(Simultaneous speech)

MR. CLEM TILLION:

All right, now you (interrupted-indisc) non-transferability hold for 2 years, right?

new speaker I think you might. I'd say so.

MR. CLEM TILLION:

Yeah, see the thing is he's agreed upon that part.

(Simultaneous speech)

.... non-transferability you're saying they're transferable at the offset but the Commission for a number of reasons won't process transfer for a couple of years. Maybe you could get by with that and if that moratorium fell, you probably would still have your basis.

I disagree with the fact that this goes against the basis (indisc) because once the legislature makes a determination that they're going to limit a common resource to a set number of participants, it is completely logical for them to determine who and what the qualifications are for those people that are going to get that right. It's all one right after the other.

It's completely illogical -- that is -- at that point it does become a special privilege of fishery. You've said more than just saying there shall be only 800 drift gill net permits in Bristol Bay, which is necessary and permitted. You've said we're going to set up a statutory structure that defines special privileges.

No.

Some people will be more privileged than others in getting those permits.

No, that's completely illogical. You're saying that you -- that there's going to be a set number anyway and you're saying that the set number's going to be qualified instead of unqualified, and I don't see how that's illogical.

Seeing that you're creating fifty to one hundred million dollars worth of paper capital, which is real money, then it's -- a man's going to have to earn that much more fish to get the (interrupted-indisc)

MR. CLEM TILLION:

So what?

So what? If you can do without it, you've got (interrupted indisc)

MR. CLEM TILLION:

Well, fine, if you can do this illogical without hurting it, but the thing is what it really discriminates against is people my age; his age will end up with it. Because the guy that's younger will be able to buy it and the guy that's old won't ever buy a new license.

The guy your age with the past experience may be able to go to the bank and get the money to buy the thing (interrupted-indisc)

MR. CLEM TILLION:

I'm not talking against him, I'm just saying that if we can

do the sociological problem, fine. I wouldn't want to endanger the bill because I agree with Jalmer, it's the thing that will save the fisheries, is a professional -- and your perfectly right, if you just made them pre-transferability and bought them back, you'd end up with a professional fisheries in 10 years. What he's looking at -- or maybe 20, but he's looking at the fact that there might not be any Bristol Bay Natives engaged in it.

Well, I agree with you. I think that may be the price of the bill, that's what really concerns me about this.

MR. CLEM TILLION:

The price of the bill still -- even with that is worthwhile.

I'm not sure it is, I don't know.

MR. CLEM TILLION:

Now you can say -- now you've guaranteed that those people will be on starvation forever and destroy the resource too.

Well they at least have an opportunity. A way out.

MR. CLEM TILLION:

An opportunity. That's no opportunity to go out there and compete with more and more and more a year. That's no opportunity, that's disaster.

(Simultaneous speech)

Let's bring this whole thing to a head. There's two sides to arguing here. Isn't a qualified group a privileged group?

MR. CLEM TILLION:

I think you could (interrupted)

I want to retract that, because I shouldn't have put (indisc)
That was a little unfair of me Frank, and I apologize.

Okay.

But I still think you don't know -- what -- I think it's
(interrupted-indisc)

Well, that's the basis of the whole difference here, is
whether by qualifying -- giving one group, you know, saying
that they are qualified and another groups not, that's some
kind of special privilege. It's something that's unfair to
discriminate against somebody else. Does qualifying one group
of people -- by the basis of their quality -- of their qualifi-
cations they get the license, does that mean it's unfair to the
other people that don't have those qualifications?

Well, the problem is pre-entry into a billion dollar resource
with a right of any citizen. Not the citizens that are neces-
sarily that are here today or interested in fishing today,
but the right of a citizen of this state or anyother state,
as far as that concern, to enter into its resource. And then
if you're going to exclude your permit resource, it -- you
have to be on some grounds. Although those grounds are
acceptable to us, that he's not an Alaskan, or he's not a
resident, whether we want him to live here locally, that's

perfectly acceptable grounds to the people in this room. Because that's us, and that's our friends and neighbors, and our concern. But that's not an acceptable standard when -- outside this room, and that's where you -- that's where the thing is going to rise and fall. That's where they always fall. Is because we sit around and talk to each other with standards that are perfectly acceptable to us, and it seems to be lacking more of the absolute problem that is not going to be acceptable outside because it doesn't fit into the necessary parts of this.

(Simultaneous speech)

So, what you're saying is the qualifications -- it's okay to have qualifications as long as we base them on the right thing?

That's right. You could, if I can't think in this context, why it hurts your scheme if the man is completely unqualified see, he knows nothing about it, I don't know why that really hurts the scheme. If he wants to go out and try it

Suppose tho (interrupted-simultaneous speech)

How does that damage it? If he catches many fish it's going to be better for the resident?

MR. CLEM TILLION:

John, John, if you have the qualification group one that required a certain amount of fisheries background, the fisheries background

Tolson

could be Oregon, Washington, if you've at least held it to a more limited -- the fisheries aren't helping anyone in the United States. Unlimited entry has guaranteed that they're a sick industry. So the thing that you have to do is at least you held it to an area of that expertise and sure, maybe the guy from Columbia River can beat you out, you know, Oregon or Washington. You're not discriminating on residence.

Let's go back to the basic issue here. I think it's what Terry is talking about. If we wind up with 400, let's say, or 500 gear holders in Bristol Bay and none of them are willing to sell out, okay, we have achieved our first purpose of getting down to the limit gear where we desire to go. But nobody is willing to sell out therefore, there's no way for anybody else to get in. Isn't what we are doing each year is getting the right and exclusive right to these people who are qualified under our original conditions here because of their primary dependency on the thing, etc.? Isn't that exactly the same thing that we're doing then as we would be doing with new people coming in having them meet some of these qualifications? What is the difference?

If that happens, I think you would be 100% correct, but I think no reasonable reason to expect the market price (indisc) existed unless you had a complete (indisc) all 400 became some sort of a huge monopoly organization and agreed not to

transfer their permits. If that happens, sure, then we've done something -- but I just don't think that will happen because each individual has the legal power to transfer his permit and at some price they will be transferable.

What's wrong with the (indisc - cough) with this problem? The point of view I'm trying to help our citizens that we can do this in terms of loans and otherwise, or training or whatever we want to do. God, we can buy them boats, we can loan them money, we can give them operating capital, we can grubstake them, we can do all those sorts of things without any question of legality or constitutionality. In other words, are we really going to help our people till we're -- until we teach them and equip them with money and otherwise, so that they can compete then to try and legislate the competition away from them. In other words, our (indisc) is to raise our non-competitive and marginal fishermen to our friends and neighbors to a competitive level where they can operate with anybody else rather than to legislate, try to legislate, so that we can protect them from the outside competition.

I would agree to some (indisc) but if those programs were on the boards now and if those programs were funded now, that would be one thing, but if the bill goes through tomorrow and they have an expectation that those programs will (indisc) and they don't, then you've just, you know

There's some men in there now that wouldn't want to be taxed to pay for it.

(simultaneous speech)

They wouldn't have to be taxed for it.

Well, where's the money coming from then?

You've got a fisherman loan fund on the books now, it's just a matter of putting

They wouldn't have to be taxed on that, all they have to be is funded on that. To the extent that there's economic thing that we're concerned with here.

This is something that the Commission is going to have to keep tabs on these transfers on anyway and I think that's what the Commission's for is that so they know what's going on at all times to watch this thing.

I would like to agree with Senator Rader. I think that the only way we can make this thing work is to help raise the ability of the people about whom we are most concerned to compete and there are ways that this can be done. In regard to this qualification pool, apprenticeship thing, may I submit that for every Italian fisherman who has a gear license there's another boat puller sitting right there who's probably

infinitely more qualified than any second son, or somebody coming out of the brush who has not had a similar background. So, concern about this does not necessarily gravitate to the benefit of the resident from whom we're showing this concern. We'd like to be able to assist the resident this way but evidently within the constitutional limits as I understand them, we're going to have to have a sort of a free for all here. The only thing that we can do is to assist these people to fight on equal terms, shall we say. So, let's go ahead and try to do that. Inevitably, there's going to be a screen (indisc) while over a course of years because somebody is going to fall by the wayside. Well, I submit that that may not be more tragic than what we're having now. We have these people, they're all by the wayside today. This may make it possible for some of them to compete. The guy who is down and out now may not be quite as down and out -- I mean some of them will manage to make it okay over the hump. Some of them will be down and out after a few years anyway. So you're going to be darned if you do and darned if you don't and I think you're going to have to take a stand here and realize that you're -- whatever you come up with is not going to be palatable to everybody for ever and ever. May I suggest that you look back at some of these thoughts that Mr. Flavin has put down here, "Transferability of Permits." I think it would be a mistake if everybody left this meeting without really addressing themselves to some of the questions Frank has raised here.

(simultaneous speech)

MR. FRANK FLAVIN:

Well, of course, it's not exactly what we've been addressing to ourselves to as far as the very last question, what kind of transfers should we allow for, (indisc) partially restricted, non-(indisc).

Frank, talk out loud here. I think that you've done us a real service here. When I first read this three or four hours ago, I thought so to. Talk to us in terms of if this were exclusive property rights, what you think -- tell us the bundle of rights those things that would go with it and then tell us what you think it would be if we made the use permit and how we would change those rights and get a certificate of public convenience.

MR. FRANK FLAVIN:

Well, in relationship to what amount of control (indisc) in terms of qualifications, but there's other controls too that the state might wish to put on it. When you grant an exclusive right, you run into all sorts of problems about how you might want to take that right back in the future (indisc) increased compensation, and all these things. But a use permit like you have you know, like grazing permit or any kind that (indisc) a governmental property or resource, there's always some sort of standards that you retain that people will have to abide by. But once you give a right you know, vested right, you lose a lot of abilities to control how somebody operates within that system. But all these it's -- you go from the top from

very little governmental control to the bottom to the most governmental control and I sort of looked at it in that fashion. I think it's sort of necessary to determine in your mind just how much governmental control that we want to have here. That's why I got into the whole thing of qualifications in the first place, because I just -- it seemed to be sort of shirking some sort of duty to divvy up a resource that's supported by tax dollars. It's a counter resource belonging to everybody who (indisc). But you just outright grant that to an exclusive limited number of people solely on the basis of monetary worth without retaining some sort of controls or somehow controlling on how these people operate, seems to me to be somewhat abusive and I'm not so sure that there's not some constitutional problems with that in the first place, despite the fact that we've got (indisc) constitutional amendment. That's, you know, that an inquiry that I think we have to make.

DAVE:

I'd like to suggest that we really haven't done that. We really probably are at the use permit level because we haven't granted a way to fish. We've granted a way a right to use the fish. There's still completely subject to conservation regulations by the Board of Fish and Game which could include total closures of an area, which include all sorts of modifications as to what kind of gear you can use. The whole gamete of police power restrictions over the way that the resource is utilized. All we've done as we have parceled out a finite number of use permits, I think that's what we're really looking at, they would something between one and two. They would -- if we make them transferable, there like property. But they're

still no more than a use permit. We haven't granted away the fish in Bristol Bay to individual people.

I thought in this way I use this determination when I was thinking of qualifications because when a governmental unit usually allows somebody to have sole use of a resource and gives them a competitive exam advantage, they always look to some sort, you know, it's like the public utility, you always look for the you know, whether this guy is -- this company is to be expected to have a financial resources necessary to do the job you're giving him or whether he's trustworthy enough to have that type of an operation. And I'm just wondering if in fishing, it might not be the same thing? Do you want to require something from these people that you're giving the competitive advantage to or do you -- is it just -- are you just going to sort of make a micro-cosmal of the rest of the free enterprise system (indisc) or say well it's a dog eat dog and it's anybody can get in by money and that's the way it's going to be even though it's not really the same as it is. Once you've determined that it -- the kind of resource you're going to be locked into a set number of individuals then you're out of the free enterprise system right away. Talking about, you know, if you've got the money you can buy any (indisc) even if you're not -- even if you're not doing the job or something. I think is a little bit -- it's not completely irrational, but I think you're getting away from some of the main issues. That's why I thought the qualifications fit in.

Well here's the problem. On a certificate of public convenience or necessity or something like that, you're talking about when we fear that a job won't be adequately done. And we don't have any fear that there won't be an adequate number of fishermen there with gear catching fish, do we?

(Simultaneous speech)

Let's take another example then. State lands at the present time is available for grazing leases. But you're restricted. You've got to show that you can or have a reasonable expectation to put on a certain number of head per hundred of acres etc. etc. etc. You just can't take the land and do anything with it that you wish to. Now how does this apply?

But if you were faced with the problem of common overgraze -- let's assume you've got a common area, and you were going to let people graze on it and it was being overgrazed, you would not require of the permittee that he -- that if he gets a permit that he has to put 100 head on it. You'd hope to hell that he maybe didn't put any on it if he was entitled to a permit or something. I mean the problem is overgrazing see, you can promise other grazing then it would be different. But the problem of this thing, the thrust of the whole works is an over -- too many people, too many people, and therefore if it's a taxicab you're giving a certificate of public convenience of necessity to, if you're only going to have five cab operators in town, you want to know that when it's

raining you're going to be able to get a cab. That there will be enough cabs to go around. But, so the public will be served. But here, we don't have any problem in knowing that there's going to be enough boats to go around or enough gear to go around, you see. The whole thrust is in the opposite direction and that's why it seems to me like that if that as I was saying before, that I know if it were a public utilities program or if it were something like that, you'd take these considerations, but the thrust of this is not in that direction.

We're talking about into the future and we're planning to get in each area the size fleet that that can -- that will be able to harvest the peak run as well as to make a living off the average run and so there is some sort of economic justification in that. To me you're creating an efficiency in your fishermen if you allow an attorney or a businessman or anyone or a doctor or anyone with a high income otherwise to buy a purse seine license because he likes to go out with his wife and kids and he thinks it's good training and a nice way of life for him and he's -- he will have just as much right to buy that

Let's not say a doctor, lawyer thing, let's just say another worker instead, because all his life he's wanted to have enough money to go out and buy a boat and be a fisherman, because that's what he'd rather be than anything else in the world. Now that's what I'm talking about and that's what

you're talking about, is the right of the poor guy who has a dream and he wants to accomplish that dream and whether or not you're going to foreclose him out on some basis here which doesn't have anything to do basically with what we're trying to accomplish here.

Well, if he's been working within the fisheries at all....

He hasn't been a working (indisc) within the fisheries.

If he wants to become -- I mean I see no reason why I should be able to become a plumber if I don't know anything about plumbing.

(Simultaneous speech)

He can be a crewman but why should anyone have the right to run an operation?

Why can't you become a plumber? If you can't become a plumber is probably because people would hire you and you'd end up making violations of plumbing code and the people that you sold the product to would be getting an inferior product and you'd be damaging. You'd be a consumer fraud to hire you as a plumber when you're not. But when a guy goes out and fishes if he doesn't catch any fish he hurts noone but himself. There's no consumer fraud. There's nobody else involved and in fact the resource has been helped.

No, well no wait a minute.

No, no, no.

Carried to an extreme he could. Suppose you're down

Yeah, but you're not

Wait a minute, suppose you're down the 500 units. This is what's necessary to harvest. It's necessary to harvest a peak run. You're peak run comes, but half of your 500 or any substantial part of your 500 are not qualified fishermen. Okay, so instead of (indisc) they go up the streams, they plug the streams, etc. you haven't harvested your resource, you could have actually hurt your returning runs because of too many fish escaping. Does this sound worth considering?

Well, that's an argument.

(Simultaneous speech)

If I'm not incorrect, some of these fisheries if you're not really a good fisherman you can really do some damage to the resource, maybe I'm wrong, maybe I don't understand, but I know that it takes a certain amount of expertise to be able to really not only efficiently but properly harvest them (indisc).

~~near speaker~~ And then you're insurance costs go up, you have more injuries all these sorts of things and when you know, certain costs go up for everyone when they go up (indisc - interrupted)

There's no reasons that these conditions should be attached to an entry permit anymore than a commercial fishing license. Why should they just have certain minimal qualifications and anybody that's involved in commercial fishing along these lines set professional standards because of these -- I mean there's no reason that this should attach and be a part of an entry permit anymore than a commercial fishing license which a guy still is going to have to have. Every fisherman and the crewman.

I guess I respect the abilities of the skipper too much. I tend to think he's a little special man is all.

Do any of you anticipate we've accomplished anything more this evening at this point or should we break until the next?

Well, I think as usual

(Simultaneous speech)

... only to be a union plumber not as far as the laws concerned.

What do you have to do to have a plumbers license?

You don't have to do anything to be a plumbing contractor.

This came up with a friend of mine. He wanted to be a plumber.

But he couldn't be a plumber so he became a plumbing contractor.

END OF TAPE

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

SCOMM

#31:8

CSSB 39:

LIMITED ENTRY WORK SESSION

2/9/73

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

tape #6
side 2

That's a new copy we have...

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

Looks the same.

Okay.

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

Yes.

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

Instead of specific...

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

What page is this?

Page 1.

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

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

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

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

No, no.

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

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

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

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

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

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

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

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

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

One change that as far as qualifications go...

Where?

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

Let's look at that definition.

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

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

That's right.

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

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

Well, yeah, it's pretty tough.

To screen them out to that extent, you mean?

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

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

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

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

Transfer ability.

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

That's where you ran aground, yeah.

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