

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2

883 . SCO:1M31 : SPECIAL COMM. FISHERIES (LIMITED ENTRY) 1973

and in the local communities the impact at the outset is before you've even issued entry permits, especially in the native areas for instance, say the young kids coming in for the first time this year, if all of a sudden for 2 years they can't fish, they won't understand why and I think that it really may endanger some really bad initial . . .

Fletcher: More than for the fact that it would also cut out a lot of the new people from outside?

Jackman: I wonder, it seems to me that most of the new people from outside are. tend to be the more sophisticated that are coming up here, usually have to make a sizeable investment and if they're looking at the thing and seeing that they can't qualify for permanent entry permit they either aren't going to come or they're going to come with full knowledge that they're going to have to look forward to buying a permit when the time comes around that point. I just think - in explaining this to the people we always made people - I think they sighed a sigh of relief when you told them that getting this thing implemented and until we hand out entry permits everybody can continue fishing - we're not going to screen you until we issue entry permits.

Fletcher: This was the way I'd done this and the change was made in the Senate bill last time I was up -

Whitehead: No it was after that. We talked about it on the phone.

Fletcher: On the phone.

Whitehead: That's when it came up. My reaction was well if it's a preliminary screening device it ought to stand up, but only if its preliminary toward getting to where you're going to be finally.

Jackman: I think we ought to keep it as a preliminary screening device as to paper licenses.

Fletcher: You strengthen your whole argument the less severe you make it. The basis principle is perfectly . . .

Adasiak: The only thing that troubles me about it is that unless you have the Commission establish some form of regulations or standards by which it is going to determine who may qualify . . .

Jackman: It seems pretty intuitive -

Adasiak: It's an intuitive system and if the Commission has to go through the business of doing this it's going to take it a little while -

Fletcher: There'll be some clear cut cases -

Whitehead: We have worked a little oblique provision into the Senate draft which provided that essentially no one that hadn't held a gear license prior to '73 would qualify for a entry permit and therefore wouldn't qualify for an interim-use permit in any fishery.

Jackman: In any fishery you just ask the guy if you've ever fished in this fishery before and if he said no you wouldn't give him an interim-use permit. But I just think that's harsher than we need to be.

Whitehead: Right, right.

Fletcher: The only factors that tell you that you should not let them in are non-legal factors. They have to do with the health of the fisheries.

Whitehead: Right, as an example Bristol Bay - it just scares Jay half to death even with the sliding gear scale and everything else and in looking at the increase in license sales - even if half of that increase is paper licenses or 3/4 of it is in certain of these areas, there's going to be a hell of an impact and its going to be by people that figures are going

to get in that haven't been proposed yet and . . .

Unkn wn: Oh I agree there'll be some of that.

Whitehead: But for a two year period or for a one season to two season period you're going to take and further distress already distressed fisheries.

Jackman: I don't think it will happen too badly - I think the natural press release, no better than the press has to terms with this bill will be entry limited as of January 1, 1973 or some such - in other words if you get the public notion that the bill has passed and people qualify on the basis of January 1, 1973, how much more can you do?

Whitehead: I don't know but that is what they're trying to accomplish was a preliminary weedout - as you know , how do you balance the two?

Jackman: I'm speaking on the legal. . .

Whitehead: Legally against - on one side you have a legal argument, on the other side you have . . .

Jackman: I think there are some practical arguments on my side of the acceptance of the thing and non-arbitrariness and

I think it's a class that should be protected if you can - you don't want to freeze the thing. The people that are wanting to move this year or even from one part of the state to another or who have just bought a boat - that is an agrieved class and if the court's looking at you and said if you could come up with a system that wouldn't hurt these people and got your objective just as fast.

Whitehead: But regardless of what they do during this interim period is going to have no effect on how they're actually ranked.

Jackman: Furthermore it'll postpone our legal attack until we get a little further into the program - if we postpone the legal attack and we've got some regulations adopted the things been in effect for a couple of years it'll be closer to your grand finale of issuing entry permits but the minute this thing is adopted and a guy goes down and tries to fish this year, you're going to be in court a year quicker.

Fletcher: That right. I hadn't thought of that - that's a good point.

Whitehead: One thing that apparently Jay and Bob had talked about last night, suggesting, that under issuance of permits require - saying the Commission shall issue permits not

before January 1, 1975. Now I don't know if the rationale for this was number 1 - you're working under interim permits. They were thinking in terms of interim permits being - you know - you're tailing the numbers down - but it gives the Commission the ability to get the information from these applicants for interim use permits - look through this information - sort it out - make recommendations to the Legislature and perhaps postpones legal attacks once again because the entry permits have not gone out.

Fletcher: But I think that you've got so much hazard from . . .

Whitehead: But that's a scheme . . .

Fletcher: Well if you open up the entry of the interim use (unintelligible - perhaps - "I certainly think you'd want to do this"). Also I would think that you'd get a generally more congenial reception out of the court if the Commission moves as rapidly as it can. The more you portray the idea that you do have an exigent situation that you're trying to do something about it - I think the more validity you're going to get off to.

Jackman: The more rapidly and the least harshly that you move, and think you're in the best shape.

Fletcher: I would hope that on at least most of your distressed fisheries that they'll have the thing operating by the next season.

Jackman: It's possible - it's not impossible. It a toughie, but it's possible.

Fletcher: I liked your mechanism in the sense of even structurally putting off to the end of the chapter the setting of the optimum number. Start out - get that part done first. Yeah, and then get the thing put down in terms of maximum number, your entry permits out and then sit down and set your maximum numbers of optimum numbers and lets do this thing on the long run basis. I like that idea. It kind of emphasizes the feeling that I want to have exuded by this. It's great.

Adasiak: Where are we?

Bennett (?): I'm in favor of sort of adopting this outline. . . (unintelligible).

Jackman: I would assume though that you wouldn't have any objection to having the optimum, the transfer - do you think that the transfer should come last or just that the optimum should be shifted back here?

Fletcher: The only point I felt about transfer was that it had so many complexities about it I wanted to treat it rather separately. You may have noticed although you can hardly read that - it appears to me under terms and conditions that transferability is a term of your permit and I think that just as logically it could go under what I call basic provisions. I did like the sequential aspect of 4, 5, and 6.

Jackman: Issuing of permits, terms and conditions, fee - transfer is just tacked on the end of the entry permit article.

Fletcher: Yeah.

Jackman: You don't like that too well. It's a little long - the idea is there you sort of establish what an entry permit is - required and ending up in transfer.

Fletcher: That's fine - I think because of the close tie in with what you're going to do under transferability into what you've done by way of classifying that maybe you'd better in terms of understanding if you have your descriptive terms as to what kind of permit you're going to have come first then this makes more sense to read it here, even though logically its part of a term of your permit the transferability quality

that it has. I don't object at all to putting transfer back in here somewhere, but I did like this idea of relating this phase to this phase and to this phase.

Jackman: All right - but the only thing we really do in terms of the Articles of the thing here and I know its not very important . . (unintelligible). Maximums here - that's your phase one - right.

Fletcher: Yeah, that's right because you have a maximum number of initial issues.

Jackman: There you define - administrative areas, maximum numbers of initial issues. Then you'd want to work in the priority classifications. . . .

Fletcher: I felt that administrative areas and the fact that you require permits and then when you get the permit issued it's under certain terms are basic to the whole system - then the rest of this is how you're getting to get to where you want to go. You've got a first stage and then you set up interims and the initial issues and soon. Then you have a reduction phase while you're getting down to optimums - then you get to your final operation when you're just on a simple ordinary limited entry system where the only problem is to whom do you issue new entry permits.

3/20-21/13  
Jackman: But I would - I like that except I'd like to see transfers stuck up here somewhere.

Fletcher: I'd have no objection at all.

Jackman: I don't think the house would recoil too much if you changed their ordering around that way - what do you think?

Whitehead: No, Bob indicated it's more logical and would answer John Rader's problem too.

Fletcher: I think it'd allow him to talk better from it.

Jackman: Let's see - the only thing - permit requirement then what we would really do is tear out the permit required part of this and then put that up here with the transfers and then you'd really start this section on phase (1) in terms of interim entry permits, interim-use and then standards for initial issue and then we follow pretty much, except you'd work the maximum number - now would you have the maximum number coming - yeah I'd see that as a sub-set of that - that makes good logical sense. How about you?

Fletcher: It'll help me to think about it this way -

Adasiak: You're moving transfer of entry permits over to here

and other than that you're going to leave the thing the way it is.

Whitehead: Transfer goes where Dave - where are you suggesting?

Adasiak: Transfer more or less after 3 under Roman Numeral III.

Jackman: It'd be up there in basic provisions.

Whitehead: Terms and conditions.

Fletcher: It's item 4 really under basic provisions (unintelligible).

Jackman: Why couldn't you call this phase initial issuance of entry permits and this phase reduction to optimum number of entry permits - something like that.

Fletcher: You could. Sure that's fine.

Fletcher: Now I didn't include general provisions where you talk about your annual fees, your forfeiture problems.

End of Side 1

V/6 Side 1 (Sov 280)

3/26-27

Palmer : When do you see the first attack can come on the Legislature whatever we do this year? Assuming that one the people that are presently being licensed under the existing circumstances will be <sup>allowed</sup> ~~able~~ to fish this year and, two, that we maintain what we had in the Senate version so licenses that if <sup>interim</sup> ~~in~~ 1974 will be available only to those who may become eligible for a permanent license so that in 1974 we have permanent or <sup>interim</sup> ~~interim~~-use permits. Then in '75 we have our first initial entry permits. Now when in that analogy could the first attack be possible.

Tarkenton : I would think the minute you issued your first interim use permit. This brings us to the point and one I'd like to discuss now because I did an about face on that inteirm use permit - I feel very strongly that one of the strongest features the defensability of this program is that we werent closing the fishery at any time - we weren't precluding the kind of natural moves and shifts and adjustments <sup>that</sup> ~~ix~~ would take place and the minute we went to entry permit system which really would exclude some, that very instant that entry permit would be transferable so new entry could come - the entry permit-  
but what we've done if we go to the notion of the interim-use permit only to those who may become eligible, we have frozen it for the two year interim period or the one year interim period because we've made sort of an intuitive judgment in those areas let's say <sup>just</sup> ~~this~~ is a concrete example, We know in Bristol Bay and we know in Southeastern say the purse seine

fleet, <sup>that</sup> Nobody <sup>who</sup> ~~that~~ hasn't fished in the past is really going to wind up getting an entry permit because we've got enough applicants from that pool alone but we've made it impossible for a man to <sup>move</sup> ~~come~~ into this fishery on an interim-use basis even with full knowledge that the only way he'd be able to continue two years from now would be to buy somebody out. I think that that has all those - I'm not saying it'd make unconstitutional - but I think it has those objections that for the interim you've frozen people - they can't move, they can't adjust - <sup>as you think</sup> ~~if they've~~ never fished here ~~they~~ can't come in and I think that the advantages of not hurting those individuals and not subjecting yourself to that kind of legal attack favors free - issuing interim use permits to anybody that wants to fish, <sup>who</sup> is really a fisherman and with the full knowledge - you can put it right there on the face of the interim use permit - fishing during this year has no bearing upon your <sup>interests</sup> qualifications for an entry permit and you are on notice - note hereby. And I know there'll be those people who say Gee I <sup>came</sup> ~~ve come~~ here and fished for a couple of years and <sup>... 2-2-21.</sup> ~~hadn't~~ realized that.

Palmer: <sup>Yard</sup> He's just prolonging the agony another year.

Jackson: Not really, you're also letting some people and I think there's a larger number than you would think

: ~~Byxxxxxxxxxxxx~~ When I say agony I mean the situation the fishermen are going through now as far as over-gear

too much gear in the water - simply increasing that and the result of hardship for an additional year.

*Admiral* : If I could comment on that a little bit - the redraft that we did has language in here with the 1973 and 1975 date in it and the way we thought it through I think it effectively precludes anyone from getting any benefit whatsoever by ~~from~~ fishing this year.

*Palmer* : I understand, but you'd still have nothing <sup>in mind (right)</sup> additional people that are in this year - they'll come in next year and anybody else that wants to.

*Admiral* : It's true that they will come in but the thing that we envision doing if a bill with those provisions in it passed - is a a big propoganda program to slow them down. That's about all you can do.

*Palmer* : But you're assuming fishermen are logical -

*Admiral* : No i'm just assuming that that's the best shot that we can make in this particular case is to tell them it's not going to count.

*Palmer* : Well lets get back to the legality of it. It was my understanding earlier that we could do things in the <sup>the</sup> transitional period that you could not do in the long run as long as your plan did show exactly why you were doing it, that

you did take care of the entire transitional period and did in fact reduce gear to where you want to go and that was the reason that we put this in. <sup>Now</sup> Maybe we were incorrect

Fletcher : I don't know that you strengthen your chance of withstanding attack by limiting this way but I do believe that if with ~~it~~<sup>a</sup> as we have, a complete and a orderly and a fairly firmly prescribed system for getting down to optimum within a reasonable time and one which has all ~~xxxxxxxx~~ appearances <sup>no</sup> if its going to go right ahead and get there, then the fact that you make a preliminary screen by saying interim people shall consist of only those who have some chance of being initial entrants loses a lot of its sting that otherwise would be. David's argument is basically a <sup>perfectly</sup> sound argument and of course to make your case perfectly clear you could lop off the getting down to optimum side of the thing and all you did is what Washington did some several years ago which was simply to stop for 2 years and not do anything more - it'd be terrible <sup>because</sup> - you would then be just saying preserving the benefit for the present people and the heck with the rest of the world but it does seem to me that you alleviate that argument or soften it an awful lot by relating it to the urgency of getting your system under way and the harm that you otherwise avoid by letting the fishery be overfished for even one more year. ~~xxxxxxxxxxxxxxxxxxxxxxxx~~  
~~xxxxxxxx~~

*Jackson* : I think what you could avoid is clearly issuing interim use permits to anybody - to the paper licenses to people that aren't - don't make some initial showing that they're really going to fish and I think that's where you'll cut out a lot of it because a lot of this licensing this year is pure paper licensing. These guys don't intend to participate they're hoping to be grandfathered in. <sup>But</sup> What I don't want to do is, thinking of this whole thing even in terms of burden on interstate commerce if you want to is to say to a man who is <sup>in the past</sup> or to a group of people <sup>and there will be a group of people like this</sup> like this that have presently bought boats but have never fished or who are moving from one area to another, or even coming up from Washington to fish for the first time, to say for 2 years you have to stand still and do nothing. We make a preliminary determination on the basis of no criteria or no findings or anything else - we don't think you'll be eligible. We aren't into our system yet. I agree with the professor you probably wouldn't lose the whole program if you can really convince the court that you're going here and this is only transitional phase but I think we'd be a lot stronger if we said to those people in the interim you come and fish you're not helping yourself one iota in terms of getting an entry permit, but we're not going to burden you because <sup>you'll</sup> ~~you'll~~ have to - I think the court would look at you with a more forgiving eye - <sup>because</sup> here you'd be creating a burden that you really don't have to create in order to implement your system, and in terms of certain individuals it'll fall very harshly on them. There are a number of people that have purchased \$50,000 boats and would be very happy to buy the \$5000 entry permit when it

comes on the market. They would not have to miss a season if you let them fish on an interim use permit and then the minute you issue entry perm its they'd have to buy from somebody.

This way you've really done it to them <sup>Palmer + Fletcher: for 2 years.</sup> for a year or two - Tachew

Because you're not going to get into your entry permit system for a couple of years. In terms of the interim use idea, in other words, under the original bill, ~~and~~ under the House bill,

until we get to the point of issuing permanent entry permits anybody who is really going to be an active fisherman can get

an interim use permit even if he's coming to a new area or

coming in for the first time. Now there's been a suggested

amendment that you make an initial agreement with the

interim, not only of just paper based but of all those ~~that~~ <sup>no permit</sup> ~~who~~

you don't think will ultimately be eligible for an entry

permit. So that would mean that in the year and a half or

two years that it takes you to get into it everybody is

frozen. A person ~~that~~ <sup>is</sup> is coming in for the first time can't

come in - a man who wants to go to another area can't do that -

and I just see that as a burden that is not that necessary

and ~~can~~ <sup>no going to</sup> get you in legal trouble.

*Fletcher* : I don't know how serious the worry is. David I think probably sees a little more severe than I do but I think you've simply got to balance it <sup>so</sup> against what harm it will do to let just anybody that wants to fish do so.

*Palmer* : OK - well, I've got to go to Finance so we'll

leave it - it's a decision we have to make I guess. *W. W. back*

*as source of*

*fishermen* : Another concern on that point is in terms of the public acceptance of this program - you know you've got to realize that most of the fishermen aren't ever going to ~~really~~ really understand the whole program or know what it means and in the local communities the impact at the outset is before you've even issued entry permits, especially in the native areas for instance, <sup>1/2</sup> say, young kids coming in for the first time this year, if all of a sudden for 2 years they can't fish, they won't understand why and I think that it really may engender some really bad initial . . .

*Fletcher* : More than for the fact that it would also cut out a lot of the new people from outside?

*fishermen* : I wonder, it seems to me that most of the new people from outside are tend to be the more sophisticated that are coming up here, usually have to make a sizeable investment and if they're looking at the thing and seeing that they can't qualify for permanent entry permit they either aren't going to come or they're going to come with full knowledge that they're going to have to look forward to buying a permit when the time comes around that point. I just think - in explaining this to the people we always made people - I think they always ~~breathe~~ <sup>sigh</sup> a sigh of relief when we told them that getting this thing implemented and until we hand out entry permits everybody

can continue fishing - we're not going to screen you until we issue entry permits.

*Fletcher* : This was the way I'd done this and the change was made in the Senate Bill last time <sup>I</sup> ~~it~~ was up - ~~XXXXXXXXXX~~

*Whitehead* : No it was after that. We talked about it on the phone <sup>Fletcher: on the phone.</sup> and that's when it came up. My reaction was well if its a preliminary screening device it ought to stand up, but only if its preliminary toward getting to where you're going to be finally.

*Jackson* : I think we ought to keep it as a preliminary screening device as to paper licenses -

*Fletcher* : You strengthen your whole argument the less severe you make it. The basic principle is perfectly ...

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*Fletcher* <sup>That's right</sup> : I ~~never~~ <sup>didn't</sup> thought of that - ~~it's~~ <sup>that's</sup> a good point.

*W. Mitchell* : One thing that apparently Jay and Bob had talked about last night suggesting that under issuance of permits require ~~saying~~ the Commission ~~will~~ shall issue permits not before January 1, 1975. Now I don't know if the rationale for this ~~is~~ <sup>was</sup> number 1 - you're working under ~~interim~~ permits. They were thinking in terms of inteirm permits being - you know - you're tailing the numbers down - but it gives the Commission the aibility to get the information from these applications for interim use permits - look through this information, <sup>sort of</sup> - make recommendations to the Legislature and perhaps postpones legal attacks <sup>again</sup> because the entry permits have not gone out, <sup>Fletcher's</sup> but I think that you've got so much hazard <sup>from</sup>

*W. Mitchell* : But that's a scheme <sup>Fletcher's</sup> if you open up the entry of the interim use. Also I would think that you'd <sup>generally</sup> get a more congenial reception out of the court if the Commission <sup>generally</sup>

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*A. Davis* : Where are we?

*J. Bennett* (S) : I'm in favor of sort of adopting this outline <sup>(I want to try it?)</sup>

*Jackman* : I would assume though that you wouldn't have any objection to having the optimum <sup>the</sup> be transferred ~~to~~ - do you think that the transfer should come last or/that the optimum should be shifted back here?

Fletcher : The only point I felt about transfer was, that  
it had so many complexities about it I ~~wondered if it shouldn't~~ <sup>wanted to treat it, rather</sup>  
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important *(unintelligible)* maximum here - that's your phase one - right.

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*Jochman* : There you define - administrative areas, maximum numbers of initial issues. Then you'd want to work in *the* *priority classifications* -

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*Jochman* : BUT I would - I like that except I'd like to see transfers stuck up here somewhere.

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what <sup>really</sup> then/we would <sup>do</sup> is tear out the permit required part of this  
and then put that up here with the transfers and <sup>then</sup> you'd really  
start this section on <sup>phase</sup> page 1 in terms of interim entry permits, <sup>interim</sup>  
and then standards for initial issues and then we follow pretty  
much, except you'd work the maximum <sup>would you have the maximum number</sup> number coming - yeah I'd  
see that as a sub-set of that - that makes good logical sense.  
How about you?

Fletcher : It'll help me to think about it this way -

Adams : You're moving transfer of entry permits over to  
here and other than that you're going to leave the thing the  
way it is.

Whithead : Transfer goes where Dave - where are you suggesting?

Adams : Transfer more or less after III. <sup>under basic provisions</sup> It'd be up  
there <sup>in</sup> ~~under~~ basic provisions <sup>Whithead</sup> and terms and conditions.

Fletcher : It's item 4 really under basic provisions - <sup>would you call it</sup>  
~~Under III~~ <sup>Jackson</sup> Why couldn't you call this phase initial issuance of  
entry permits and this phase <sup>to</sup> reduction of optimum number of  
entry permits - something like that.

Fletcher : <sup>You could</sup> Sure that's fine.

*Fletcher* : Now I didn't include general provisions where  
you talk about your annual fees , your forfeiture problems

*out of aid*

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

I don't think that there is any problem with even having a "C" category because nobody can even apply who hasn't fished in the past fishery.

I wasn't thinking about...

I'm sorry go ahead...

Well I'll see if I can make myself clear here.

You having budget problems?

Serial.

Serial. Serial budget problems.

Well Habitat was just x'd.

Yeah.

What happened to sport license?

\$268,000.00.

Not on the House side?

But not on the Senate.

This is on the Senate.

Oh, this is on the Senate.

What happened to them?

\$268,000.00.

Out of sport fishing?

All of which is either Fish and Game fund or Federal Matching fund. No general fund monies involved?

For some reason, Senator Ray had a proposal which the committee *adopted* in that particular budget area...

That's maintenance...we didn't lose anything for it then?

Well that's not even maintenance there. But that kind of cut is not maintenance.

Well we don't lose any people.

Yeah. They have the option of either totally keeping the people on and losing about 50% of their field programs and cutting Arctic Inventory and major programs or starting a lay-off list and they've already starting to compile a lay-off list.

Who was he?

That's the director.

Your ole fishing buddy.

You should be sent to Devil's Island...

I don't sport fish anymore, Dave, I'm fished out.

Spoiled, eh?

I am. Just totally. I don't even have a rod down here.

Oh, my heart bleeds for you.

I don't see...

You know I would be a lot more cooperative today, Mike, if you could pass on your little black book of fishing...

(indesc. simultaneous speaking)

I;m really sorry on many occasions so far as such, that I didn't bring my slides down because I very much would enjoy showing you some Bristol Bay slides.

I'd love to see them.

But I don't have them down here.

On 195 B, I don't see any mechanism whereby if you're cut off line per permits falls in the middle of one of these subcategories established in the "A" category, that you decide who within that subcategory gets the permits...

That's under 196?

It's under 196, but...

That one tells the commission to whom to issue...

By lot. If you get into the middle...

No what you're saying is under 195-B, I think.

195-B is only a matter of classifying applicants. They haven't yet gotten any. And when you go to 196, it tells the commission what to do by way of issuing. So it's at that stage that you tell the commission to start at the hardest and move down until you get to the subgroup that where you...

Okay. I missed the number at the top. Fine.

Part of the problem is that I have not repeated what's over in...

Well, most of this can go, Bob.

Well, I'm satisfied with that system.

Well that's good. I'm please that you like it. I think that we dovetailed into what we done yesterday and it kind of picked up some ideas from both sides.

Yeah I'm very satisfied with that if we can get it into the language right and I think we can. I think we're pretty close now.

I've got this one thing to adjust on that...

The floating dates?

The floating date. This non-discussed group...

I would apply that, incidently, over under the 195 section where you classified people too. That is, to that type of history, I don't think there's any point in classifying people. You would do both fairly at a later time; setting the maximum, the formula and classifying the people. It's pretty hard to but not hard to.

Yeah. I think that as to those persons, that that kind of a fishery, if you do decide to set any maximum, that you can use a formula but then you would probably want to let the persons who could show some hardship in before you let in the general applicant.

Right, right.

I would make a broad distinction; hardship or not hardship.

I would say that the (indesc. noise and mumbling) get in first

and then if there's any left over, then we use the other.

Yeah, I think that basically, we're in complete agreement.

Good, good. That's great.

If you're going to go back and crank in the determinations, we can crank in the economic dependency past participation.

Yeah, that's...

That's a way of rank and the lines get drawn in terms of the notion of hardship, significant hardship, minor hardship, and...

The way that this is done, it doesn't tell the commission what labels to use or how many categories, subcategories to use. It just tells them to use subcategories and put people in similar groups.

David?

In defining hardship. If you use past participation, is there some way that that can cut in the wrong direction with the guy who is young and has only been in two years but has a boat and plans to go on forever, compared to the old guy who's been in thirty-five years?

No. That's why we have both, in other words, his economic dependence is rather high...

Well I'm just wondering whether he claims that his hardship is greater than the old guy, or is that a problem for the commission to...

I think that it's a problem of balancing. You got to balance those two factors.

I don't see any other way to get out on that one...

Okay, yeah. Alright. Fine, fine.

Do you want to settle on the standards of this? As I say, I left it...

Well let's leave it in. If you're happy with coming back here and putting back in, basically with stricking costs of living...

That's right. Okay. I'd be willing to walk out of the room right now and let you work that one out so as long as you don't...

Put in cost of living...

Yeah, that's right.

Well I'm in with you on that one...

Okay, alright.

Well that takes me on my outline then, down all the way through what I call phase I. In other words, this gets us into the system.

Excuse me. I have one question. The last page of these amendments here. Number 196-D...

It was a recital. I don't know whether it's good style or not.

The one that got me was the bracket. I just didn't know the bracket referred to restrictions upon transfer and...

Class "B" people end up...assuming there are any persons who are in "B" get a permit, they're going to be under some restrictions as to transfer.

That's picking up from the draft subject, they have to transfer to the commission until you reach the optimum level?

That's right. And that's what you find when you look over at this other section that that's what it tells you.

That is what those do.

You can use the same mechanism, really we didn't draft, designating those priority classifications at the time of initial issuance and then they know in those received the permit, is subject to those who...

That's right. To be known as and labelled, it says. It says right

on the surface that they don't have as good a permit as the rest of them do. I gather that there may not be many of them.

I think you're probably right.

Well that's the probably with...

It'll vary alot.

It will vary alot from fishery to fishery.

You have a lot of them in you sport commercial fishery. Like about 90% of them. That'll be an interesting sort of anomaly because that's the program where we have the least pressure for buy-back and we'll have most people who will have to sell back to the commission until you get down to the optimum level. But it won't be a problem because your optimum level will be pretty high. Your buy-back will out of the picture pretty quickly.

As my outline indicates, I looked at this in a kind of a (indesc. noise) way and I could see three distinct faces although with respect to any one fishery, you might find it's in phase I and another one's in phase II. But as I say this was my thinking about it, so under phase II, it deals all with optimum and how do you get there. You se them and how do you make a ...

Well, did you... you probably then, didn't have that much of a problem then, with the way we had it broken out in that draft yesterday, because Article V and Article VI really are solely concerned with the optimum of getting there.

Yeah, that's right...

You have the others in a differnt order because we threw in all the transfer stuff in terms of the conditions in them middle.

Here, I used...Mike, did you hand out this?

Oh, No...

Now the 200-series in my handwritten stuff, pertains to...

Page 12? Starting on Page 12, I think?

In my...

Oh you mean in your outline?

I mean on my handwritten one.

Yeah, it's the one we just got here.

I know but it pertains to the optimum, right?

That's right, this all pertains to the optimum. Optimum revisions of and then reduction. Let's look at reduction first. I've got under my handwritten numbers 203 and A. This comes after you've set the optimum and then you perceive that it's lower than what you've got outstanding and the question is to how to get there. Now all I did was to put in a maximum number of years. Leave

everything else up to the commission as to how to get there.

I would find that probably personally desirable because it would bring me down to your optimum number that in a certain guaranteed period. But I wonder whether the fishermen in the particular areas who are going to be the ones that have the buy-back program on their shoulders, would like that so much. Because we've heard in some areas that hell, we'll pay the 7% assessment and get this thing down as quick as possible. And in other areas, people say that 7% is going to crush us. We would rather spread it out over a long number of years and pay less...

Now we discussed this at some length yesterday, and the desire to set was an hour limit, not to say that you can't move more quickly, it's like the 7%. And the concern is a legal one, that if you never get down to optimum, you haven't got a defensible program. You've got to say that this a program to get down to optimum.

You can do both things. We can save the ten years in here. We can go in and say in our last Senate bill that the buy-back program the assessments can continue after the end of the buy-back to pay the acquisition fund that would be necessary, the funds appropriated for acquisition or it may take twenty years to pay back in even though assessments, no, I'm sorry, even though buy-backs stopped ten years.

That would be very nice if you could get a little extra cushion of money to work on to allow a longer extended period for payment.

Okay, we should provide for them whether we get the money or not, we should provide for the mechanics of doing it...

I'm not enough up on finance, but since there is an assessments system authorized, could you authorize a bonding system, a revenue bonding system or something like that? I don't know anything about it, but you've got an incoming source of revenue that's guaranteed in terms of assessments on x-number of permits. Now what would the mechanics be in managing that fund to empower the commission to somehow borrow against that guaranteed revenue?

I think that you would have to set up a special authority like a court authority to bond for court authority bonds. The State of Municipality, I think are the only additives that you can bond and I think that the state would have to do it.

My wife's office is the bond council for the state of Alaska when I go home...

I think we'd have to build in a special provision that would give the commission bonding authority to finance buy-back programs...

Without that then, is it a...

Well without it, you can simply appropriate directly from the federal fund.

Or, as somebody suggested, you can actually take your assessments and get a bank loan and use your assessments to pay off the bank loan.

We don't do that in any other field. Right now we've got the revolving loan, farm loan, in which we appropriate and they revolve. Okay. We do the same thing with the small goats in this fishing loan. We do the same this with small businesses. We appropriate directly in...

I'm not recommending that this be done mandatorily as the only alternative...

Okay this is fine. We're in agreement on that Dave.

It seems to me that you, at least, whether you want to do it this broadly or not, you said by regulation, the commission sets up the program and is to follow it. Now I suppose that they could set up all the manner of programs including possible postponement of payment in if they've got money otherwise given to them to finance what they're doing. That'll be great. We'll that's the crust of this whole thing. The rest of it, I think, kind of follows as a matter of course. Now there's some differences in terminology here that I don't really care how you work them out. It would have been my preference to use the Senate bill version, for example, as to the revisions of the number. I think we hashed out yesterday, and David seeded after a little while, that we would include as a third standard among which there was to be struck a reasonable balance, the recital that you could consider, that I call inefficiency as a...

Can I recommend a phrase on that? Because David...

I say copy...

Well, I've been cooperative up until now and now I'm going to be obstrepercy...

Well let me be obstreperous and I raised the objection (indesc. simultaneous speaking)...

Don't let anyone of you be obstreperous for very long, because I don't have much time and it's not going to make any difference...

Okay, point to me the section we're looking at. Where is the language?

Well, now I've got something in front of me called Senate Bill, Original Sponsor Rules Committee, etc. and I'm on page 5...

Page 5 where I've got...

Number 160.

Okay. Number 3. Now when we looked at that, it's talking about the optimum number of units of gear. One of the things that we try to look at is the longrange pattern the development of the fishery over a number of years which we envision as being most desirable if you get better boats, diversification of gear and fishing in more fisheries. A modernization of the fleet. Looking at number 3, it looks to me like number 3 provides the commission with the opportunity to go in the other direction.

Yes it does.

I think that if we start, sort of with a status quo here, using 1 and 2 as the standards for the optimum number of units of gear, that in terms of the longrange interests of the state's fisheries, we have something which is say, free from meddling, free from a kind of attempt to distort and allow a lot more people in when what I think is desirable in terms of being competitive on world markets and producing a good product a most efficient runs counter to the direction that this provision would.

That's right. 1 and 2 work in work in one direction and at least 1 does very clearly, and 3 goes the other direction...

I make the same objection to that you made for no time limit on the buy-back. You've got to go before the court and show them that you're headed in some direction and you're headed there in a certain period of time and where you're headed is a reduction in gear and to those three standards, you could set an optimum at the present level. You could say we look at this situation and we're in the best possible...

And if you do, you're sucked. I think your bill is going to wash right out. It's going to go fast.

I think it's going to be clearer if you go before the court with standards that are pointed in one direction only.

I agree.

You think that this commission will do it?

And we've got a conservative factor built in...

I don't think that your conservative factor, in the standpoint of the allowable gear that there is from the other department, is really the place you wanted that position of power to rest, is it?

Maybe not to your smell, but then you might legislate differently. I'm saying that you've got the fishery pretty well built into the senate gear, drift gillnet gear, purse seine gear, in terms of the salmon fishery and that isn't going to change. And that guarantees you that you're going to have x-number of people on an average crew in one type of boat and it's going to be that labor ...the only question is how many units of those kinds of boats do you want out there. So the only way they could go in making the kind of adjustments you envision over 3, would be to decide to increase the units of gear in an area. That would be their only option and you don't want that happening.

Well, I don't know. Simply I don't raise the facts well enough, but I think that this could tell the commission that even the biologist tells us the number down here is why where we ought to be. The economist says that...

Maximum efficiency.

I would agree with Allen completely on that. It would be better for people to pay in the long run if they were willing to cut down

to 200, and yet we can. We have so many villagers, so many  
things and that and we just can't do that. So drag it off  
to 300 or 500 or something...

It's kind of funny, really, because in the Governor's original  
bill, there was a standard number 4, which was something comensured  
by the history and conditions of the fishery...

Okay...

It's the same kind of a fudge factory...

Yeah, that's right. I think that it's just an honestory factor.  
Put it that way.

Would you object to going back to that kind of language so at least  
it was a break rather than something poured in the other direction?

No. I wouldn't want to go back to that. Because it's too local.

Too local?

You're darn right.

Only to those that have ben, not to those that...

Yeah, those that live here and that are preserving the way of life  
of the villager, can't ask for nothing but trouble...

I'm just afraid of this one and the way it's there now. Your point is valid, David, and I don't need to deficate it. It indeed looks the other way and I wouldn't stand up to your bill in five minutes, if in fact, it turned out to that the commission went on entirely on number 3 and said we don't really have to set our optimums any lower than what we've got in presently fishing.

Well looking at the element of human frailty, which the commission may take, I can see guys leaning on number 3 now and then, to take care of an area or a particular group of people and that scares me a little bit. Because we've tried to structure to insulate the commission and keep it as free as possible from horseplay and 3 scares me because of that...

Isn't separate from the same local criticism you know.

Well in practice, as carried out it could be and it might be subtle enough that you couldn't get the facts out too in a particular case and you wouldn't be upset at what was being done. I am not grossly insistent about this. At my standpoint, if I'd say that the question is that my standpoint purely is a matter of constitutionality, I don't think it is.

I don't either.

I just think that it would weeken...

The presence or absence of this thing isn't as strongly...

(indesc. simultaneous speaking)

Well look what happens in fact. If in fact, they don't lower the levels, then you're going to be in trouble.

When Dave mentioned this to me last night, the thing that was my concern, is that we're looking at really, is the question of policy the question of goals and the question of is the practical, how the commission is going to function and use or abuse this particular thing and it scares me.

I don't want to be the judge....

Let me ask you. Dave, when do you see the first attack can come on the legislature whatever we do this year; assuming that one: the people that are presently being licensed under the existing circumstances would be allowed to fish this year and, two, that we maintain what we had in the Senate version so that interim licenses in 1974 will be available only to those who may become eligible for a permanent license, so that in 1974, we have interim use permits and then in '75, we have our first initial entry permits. Now when, in that chronology, would the first attack be possible?

I would think that the minute you issued your first interim use permit...but this brings to us a point, and if you have to go, the one I'd like to discuss right now, because I did it about face on that interim use permit. I feel very strongly that one of the strongest features in the defensability of this program, is that we weren't closing the fishery at any time. We weren't precluding the kinds of natural moves and shifts and adjustments that would take place. And the minute we went to an entry permit system, which really would exclude some, that very instant, that entry

permit would be transferrable, see? And a new entry could come. If we done if we go to the notion of an interim use permit only to those who may become eligible, we have frozen it for the two-year interim or the one-year interim because we've made sort of an intuitive judgement in those areas. Let's say, just as a concrete example, we know in Bristol Bay, we know in Southeastern, say the purse seine fleet, that nobody who hasn't fished in the past is really going to wind up getting an entry permit because we've got enough applicants from that pool alone. But we've made it impossible for a man to move into this fishery on an interim use basis, even with full knowledge that the only way he'd be able to continue two years from now would be to buy somebody out. And I think that that has all of those...I'm not saying that it would make it unconstitutional, but I think that it has those objections that for the interim, you have frozen people. They can't move, they can't adjust. The guy that's never fished here can't come in and I think that the advantages of not hurting those individuals and not subjecting yourself to that kind of a legal attack, favor a free issuing interim use permits to anybody who wants to fish, who's really a fisherman, with the full knowledge, you can put it right there on the face of the interim use permit. Fishing during this year has no bearing upon your ultimate qualifications for an entry permit and you are on notice and note hereby that you...and I know there'll be those people that come up and say gee, I came to fish for a couple of years and I never realized that.

I'd hate to prolong the agony another year...

Not really. You're also letting some people and I think that

there's a larger number than you would think.

When I say agony, I mean the situation that the fishermen are going through now as far as overgear. Too much gear in the water. You're simply increasing that and as a result of hardship for an additional year.

If I could comment on that a little bit. The redraft that we did has language in here with a 1973 and 1975 date in it. The way we thought it through, I think it effectively precludes anyone from getting any benefit whatsoever, by fishing this year. Now...

But you'd still have nothing to worry about the additional people that are in this year and maybe next year and anybody else that wanted to be in...(indesc. simultaneous speaking)

It's true that they will come in. But the thing that we envision doing if a bill with those provisions in it passed, there's a big propaganda program to slow them down. That's about all you can do.

Well you're assuming fishermen are logical.

No. I'm just assuming that that's the best shot that we can make in this particular case, is to tell them that it's not going to come.

Let's get back to the legality of it. It was my understanding earlier that we could do things in this transitional period, that you could not do in the longrun as long as your plan did show

exactly why you were doing it, that you did take care of the entire transitional period and did in fact reduce (indisc.) where you want to go. That was the reason we put this in. Now maybe you were incorrect.

I don't know that you strengthen your chance of withstanding an attack by limiting this way, but I do believe that as we have a complete and orderly and fairly firmly prescribed system for getting down to optimum within a reasonable time and one which has all appearances as if it is going to right ahead and get there, then the fact that you make a preliminary screen by saying interim people shall consist of only those who have some chance of being initial entrants, loses a lot of its sting that otherwise would be. David's argument is basically a perfectly sound argument and of course to make your case clear if you would (indisc.) off the getting down to optimum side of the thing and all you did was what Washington did some several years ago which was simply to stop for two years and not do anything more, it would be terrible, you know because you wouldn't. You would be just saying you're presuming the benefit for the present people and heck to the rest of the world, but it does seem to me that you alleviate that argument or some and an awful lot by relating it to the (indisc.) of getting your system underway and the harm that you otherwise avoid by letting a fishery be overfished for even one more year.

I think what you could avoid is clearly issuing interim use permits to anybody -- to the paper licenses -- to the people that aren't -- don't make some initial showing that they are really going to fish and I think that's where you will cut out a lot of it because a lot of this licensing this year is just pure paper licensing.

These guys don't intend to participate. They're hoping to be grandfathered in, but what I don't want to do is thinking this whole is -- even in terms of burden on interstate commerce, if you want to is to say to a man who is in or to a group of people and there will be a group of people like this that have presently bought boats that have never fished or who are moving from one area to another or even coming up from Washington to fish for the first time, to say for two years you have to stand still and do nothing. We make a preliminary determination on the basis of no criteria or no findings or anything else, we don't think you'll be eligible. We aren't into our system yet. I agree with the professor. You probably wouldn't lose the whole program if you can really convince the court that you're going here and this is only a transition phase, but I think we would be a lot stronger if we said to those people in the interim you come and fish, you're not helping yourselves one (indisc.) in terms of getting an entry permit but we're not going to burden you, you know, because we don't have to and I think the court would look at you with a more forgiving eye because you know here you would be creating a burden that you really don't absolutely have to create in order to implement your system and in terms of certain individuals it will fall very harshly on them. There are a number of people that have purchased \$50,000 boats and would be very happy to buy the \$5,000 entry permit when it comes on the market. They would not have to miss a season if you let them fish on an interim use permit and then the minute you issue entry permits they can buy from somebody. This way you've really done it to them, you know.

Just for a year.

Or two because you're not going to get into your entry permit system for a couple of years. (simultaneous speech) No the interim use idea. In other words under the original bill and under the House bill until we get to the point of issuing permit entry permits, anybody who is really going to be an active fisherman in the area can get an interim use permit even if he is coming from a new area or coming into fishery for the first time. Now (indisc.) suggest an amendment that you make an initial screening with the interim basis, not only of just paper license holders but of all those who you don't think will ultimately be eligible for an entry permit. So that would mean in the year and a half or two years that it takes you to get into it, everybody is frozen. A person who is coming in for the first time can't come in, a man who wants to go to another area can't do that and I just see that as a burden that is not that necessary and is going to get you in legal trouble, you know.

I don't know how serious the worry is. David I think probably sees it a little more severe than I do, but I think you've simply got to balance it against what harm it will do to let just anybody who wants to fish to do so.

Okay well I've got to go to Finance so -- that's a decision we have to make I guess.

You know another concern is that in terms of the public acceptance of this program. You know, you've got realize that most of the fishermen aren't ever going to really understand the full program or know what it means and in the local communities if the impact of the outset is before you issue limited entry permits, especially

out in the Native areas for instance. Say a young kid comes in for the first time this year. If all of a sudden for two years they can't fish, they won't understand why and I think that it really may (indisc.) some really bad initial...

You think more than for the fact that it would also cut out a lot of the new people from outside.

I wonder -- it seems to me that most of the new people from outside tend to be the more sophisticated that are coming up here -- you usually have to make a sizable investment and if they're looking at the thing and seeing that they can't qualify for a limited entry permit, they either aren't going to come or they're going to come with full knowledge that they're going to have to look forward to buying a permit when the time comes around to that point. I just think -- you know in explaining this to the people we always made people -- I think they sigh a sigh of relief when you told them that in getting this thing implemented until we hand out entry permits, everybody can continue to fish. We're not going to screen you until we issue entry permits.

This is the way I've done this and the change was made in the Senate bill last time I was up.

Well no it was after that.

Was it after that? (simultaneous speech.)

We talked about it on the phone. That's where it came up. My reaction was well if it's a preliminary screening device it ought

to stand up, but only if it's preliminary toward getting to where you're going to be finally.

I think we ought to still keep it as a preliminary screening device as to paper licenses.

You strengthen your whole argument, the less severe you make it.  
(simultaneous speech)

The only thing that troubles me about it is that unless you have the commission establish some form of regulations or standards by which it's going to determine who may qualify...

It seems pretty intuitive. In other words you're not going...

It's an intuitive system and if the commission has to go through the business of doing that, it's going to take it a little while in order for it to figure it out.

Well there will be some clear cut basis (simultaneous speech)

We had worked a (indisc.) provision into the Senate draft which provided the essentially no one that hadn't held a gear license prior to 73' would qualify for an entry permit and therefore wouldn't qualify for (simultaneous speech)

In any fishery you just ask the guy had you ever fished in this fishery before and if said no you wouldn't give him an interim use permit, but I just think that's harsher than we need to be at that

point.

The only factors that tell you that you should not let them in are nonlegal factors. They have to do with the health and fishery.

Right. As an example, Bristol Bay. It just scares Jay half to death even with sliding gear skill and everything that in looking at the increase in license sales -- now even if just half of that increase is paper licenses or three quarters of it is in certain of these areas, there's going to be a hell of an impact and it's going to be by people that figure they're going to get in that haven't been propagandized properly yet and...

Well I agree. There will be some of that, but (simultaneous speech)

For a two year period or for a one year or one season to two season period, you're going to take in further distress already distressed fisheries.

I don't think it will happen too badly. I think the natural press release know better than the press (indisc.) come to terms with this bill will be entry limited as of January 1, 1973 or some such -- in other words, if you get the public notion that the bill was passed and if people qualify on the basis of January 1, 1973, what much more could you do.

I don't know but that is what they were trying to accomplish was a preliminary weed out and you know, how do you balance the two.

I'm speaking more (simultaneous speech)

Yeah on one side you had a legal argument and on the other side  
(simultaneous speech)

I think there are some practical arguments on my side in the sense of acceptance of the thing and nonarbitrariness and (simultaneous speech) I think it's a class that should be protected if you can, the people --- you don't want to freeze the thing, you know. The people that are wanting to move this year or even from one part of the state to another or who have just bought a boat. I think those --- that is an (indisc.) case and if the court is looking at you and says you could have come up with a system that wouldn't hurt those people and gotten your objective just as fast, you know.

But regardless of what they do during this interim period, it's going to have no affect on how they're actually (indisc)

And further more it will postpone our legal attack until we get a little farther in the program because if we postpone the legal attack until we got some regulations adopted and the thing has been in effect for a couple of years, you'll be closer to your grand finale of issuing entry permits, but if the minute this thing is adopted and a guy goes down and tries to fish this year, you're going to be in court a year quicker.

That's right. I hadn't thought of that. That's a good point.

One thing apparently Jay and Bob had talked about last night suggesting that under issuance of permits requiring -- saying that

I liked your mechanism in the sense of -- well even in structuring -- putting off to the end of the chapter the setting of the optimum number. Start out, get that part done first and then -- I mean get the thing first down in terms of your maximum number, your entry permits out and then sit down and set your maximum -- your optimum numbers and let's do this thing on the long-run basis then. I like that idea. It kind of emphasized the feeling that I want to have (indisc.) by this. It's great.

Where are we... (simultaneous speech)

I would assume though that you wouldn't have any objection to having the optimum -- the transfer -- do you think that the transfer should come last or just that the optimum should be shifted back here?

The only point I felt about transfer was that it had so many complexities about it that I wanted to treat it rather separately (indisc.) can hardly read that. It seems to me under terms and conditions the transferability is the term of your permit and I think just as logically it should go under what I call basic provisions, but I did like the sequential aspect of four, five, and six.

Issuance of permits, terms and conditions of fee -- yeah transfer is just tacked on at the end of the entry permit article. You don't like that too well then. You think it should -- it's a little long. The idea is there you sort of established the name of what an entry permit is and all that thing, you know, required and...

the commission shall issue permits not before January 1, 1975.

Now I don't know if the rationale for this was 1) you're working under interim permits -- they were thinking in terms of these interim permits being, you know you're tailoring the numbers down but it gives the commission the ability to get the information from these applications for interim use permits, look through this information, sort it out, make recommendations to the legislature and perhaps postpones legal attack once again because the entry permits haven't gone out.

I think you've got so much hazard...

But that's a scheme.

Well if you open up the interim use (simultaneous speech) I would think that you just could get a generally more congenial reception out of the court if the commission moves as rapidly as it can. The more you portray the idea that you do have (indisc.) that you're trying to do something about it, I think the more (indisc.) you're going...

The more rapidly and the least harshly that you move, I think that you're in the best shape...

I would hope that on the least and most of your distressed fisheries that they will have the thing operating by the next season.

It's possible. It'll be a toughy, but it's possible.

That's fine. I think because of the close tie-in with what you're going to do under transferability into what you've done by way of classifying that maybe you better -- in terms of understanding, if you have your descriptive terms or as to what kind of permits you're going to have come first then this makes more sense to read it here, even though I think logically it's part of a term of your permit, transferability qualities that it has. So I don't object at all to putting transfer back in here somewhere, but I did like this idea of relating this phase to this phase to phase.

All right but the only thing we really do in terms of the articles of the thing here and I know that it is not that important to (indisc.) articles. Maximum is here, that's your phase one, right?

Yeah that's right because it's the maximum number of initial issues.

There you define -- yeah. Administrative areas, maximum number of initial issues then you'd -- you would want to work in...

Now you see what I did (simultaneous speech) I felt that administrative areas and the fact that you require a permit and then when you get the permit, it's under certain terms are basic to the whole system.

I see, I see.

Then the rest of this is how you're going to get to where you want to go. You've got a first stage in which you set up the interims

and then initials issue and so on. Then you have a reduction phase while you're getting down to...

I have no objection to that.

And then you get to your final operation when you're just on your simple ordinary limited entry where you would have the only problem to whom to issue (indesc. mumbling).

I like that but I would like to see transfer stuck up here somewhere. Is that alright?

Okay.

Well I don't think that the House would recoil too much if you change their ordering around that way, what do you think?

No, in fact...

Then Bob has indicated that it's more logical and it would answer John Radar's problem too.

I think it would allow them to talk better from it.

Let's see. The only thing...permit requirement. Then what we would really do is to tear out the permit required part of this and then you would put that up here with the transfer and then you would really start this section on page 1, in terms of interim entry permit, interim use, and then standards for initial issue, and then we follow pretty much except you'd work the maximum number.

Now when you have the maximum number coming...

Yeah, I see that as a subset of that. I think that makes good logical sense. I don't have any trouble, what about you?

Well it would help me to think about it this way...

You're moving transfer of entry permits over to you?

That was what Dave was suggesting.

And other than that, you're going to leave the thing the way it is?

Transfer goes where Dave, where you were suggesting?

Transfer. More or less after three under Roman numeral three. It would be up there in Basic Provisions.

Terms and Conditions.

It would sort of be...

In between Terms and Provisions...

It's Item Four really...

It's Item Four, under Basic Provisions, Roman numeral three, page one.

There's enough to it that maybe you'd want to have it four, five and six or something like that.

Why couldn't you almost call this pahse Initial Issuance of Entry Permits and this phase, Reduction Optimum Number of Entry Permits, or something like that?

You could. Yeah, that's fine. Sure. Sure.

Now I didn't include the General Provisions where you talk about your annual fee under Forfeiture Problems (indesc. noise).

END OF TAPE

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I can see setting the maximum number based on some sort of behavior of the fishery during the immediate last past of four years prior to the time of set action. But in terms of deciding as among all persons who might get permits to engage in that fishery, is there any reason to give any preference to somebody who went into the fishery after the effective date of this act that's distinct from somebody who is still in the fishery hasn't been in for a time that predates the effective date of this act?

Well you'd be giving preference indirectly to the person who has been in even before this act because he's going to have more past participation.

You're doing it on a hardship basis. That is that if you made your hardship, that will be...

If you ever have to get to cutting anybody out. That is, if you ever had more applicants than you did...

That's right, I'm assuming that you're going to have. If you don't have more, then...

That's a curious thing, because I would...

That surely is a curious thing.

What will probably happen, don't you think, is in the fisheries that they catch in time. they'll put the lid on below the hour.

If they act soon enough...

Yes. If they act soon enough. (indesc. noise)

(indesc. simultaneous speaking)

...most of the people that applied for and didn't get will be next in line to get the (indesc. simultaneous speaking) optimum level.

Yeah, yeah.

I'm not sure. We've been gliding over that because it implies that if they catch one in time, there is no problem, everybody that applies gets a permit, but that isn't exactly what's going to happen.

I put into the section on subsequent issues that if there was ever a situation in which there were more applicants than there were space available between the present outstanding and the optimum that the persons got in in order of the filing applications.

Now what are you doing with subsequent issue? That's a section I didn't like because it seems like you've got subsequent issues only when you have them reverting...

That was phase three...

No. You could have subsequent issue whenever your optimum went up too.

Well, the thing that I wonder about with the order of filing or application provision in there is that if I were a speculator, I would write down instantly and apply for the herring fishery and for the black cod fishery and for a number of others that right now don't have anything figuring that hell, that's what gets me in...

Without no harm done...

Is this what the three conditions you're talking about there; the issuance of additional entry permits or any other...

Yeah, now I took a different approach from yours because I wasn't so much interested in how it happened to be that you had the opportunity to do it, but what you did when you did have the opportunity.

Yeah, we left it all uncertain to let the commission do it.

The only thing I said was that whenever there was a the optimum exceeded the number of outstanding that you could issue more permits.

We don't find that section in your...

It's coming up. It should be down at the bottom of the handwritten material. It's that one that's interleaved into the...

I wouldn't have any objection to that kind of wording. It does the same thing. Rather than describing each of the three you just say that whenever the optimum's above the outstanding...

Whenever they have the opportunity to issue more, why go ahead and issue them. But now whether you want to add to it, you're going to have some sort of differentiation among the persons or leave it up to the commission to decide on what basis they've decided this, I don't know.

Well the reason we dodged it is because it's going to occur in so many different kinds of situations and some situations you might have three permits forfeiting the commission in years and they decide well they really got those three around the gut issue with somebody. Well in that kind of situation, maybe a lottery or something. Because you know you're going to have a hundred and some applicants maybe for three permits. So you don't have...

Auction them off...

Auction them off, right...

A competitive bid...

A competitive bid. But in another situation where you were, say you had just issued your initial entry permits and all those guys that wanted to get in were still hanging around, it wasn't too (indesc. noise) lapse of time, and you had a big change in the optimum number where you had to have thirty or forty new ones,

you might want to go right back to those guys and just pass them out to the next people in line. But I didn't know how to pull all that together because there are going to be so many...

Well it's going to be pretty hard to specify because it's so much in the future, you can't anticipate all the barriers unless you want to write a whole textbook about it.

That's why we just said adopt regulations for issuing.

Maybe that's too broad a delegation.

How about that one that was interleaved, wasn't that it?

What are you looking for, Joe?

The one on additional issues.

Well are you seizing everything together or just the ones that we discussed and come to some conclusion on it?

You're beyond where we've discussed at this moment.

I thought you were going to leave blank spaces...(indesc. simultaneous speaking)

Then you've got to have a lottery. You've got to figure some other...

That's right. If you have an auction, then you avoid the problem about priority of applications. Everybody bids and it would be an automatic selection process.

I don't want to work in. I'm scared like Al is. I don't want to work in something that will have all these phony fellas going around and climb to get a certain priority...

Yeah, sure that's a mistake. We don't want to do that.

We had a couple of license come through this year where the sixteen-foot skiff was licensed for every type of gear that you can...

That weighed down about \$280.00.

\$280.00 worth of license fees.

Sixteen-foot skiff for outer troll.

There are people claiming...

That was the guy who was going to grandfather himself in.

Well this comes back to my concern about what mechanism you should adopt if any, indeed, you ought to specify when you look forward to even getting the wheels started in those fisheries which are not presently distressed. How much of it should we prescribe?

Don't we have it set up the way you got it r v? Once they designate a maximum, all these other procedures just get cranked in automatically.

That's correct, but the only complicating factors...if you kept the sequence, that is, set the maximum, rank the people, issue enter permits, set the optimum and then reduce if necessary, if you follow that sequence, then your only problems are the earlier question I asked you a bit ago, when you're starting to rank people then, what's hardship? Is it hardship as it would then exist five years down the pipe for somebody who's been enjoying an interim use permit for five years? He didn't have anything before the statue went into effect, mind you.

That's right. You're nothing.

Right.

He just came up from California and here he is, he decided to live in Alaska and fish on an interim use permit.

I still think...

I think that the answer is fairly simple. The standards are the same. It's economic dependence and past participation.

The only place that doesn't turn around on you would be a place where a guy on an interim use permit who came in and would be lower on the priority scale in terms of past participation. That

would be included because anybody that came in afterwards would be lower on that state.

You might think of this for a minute in terms of why are you doing it. I don't have any...

If we go back one step farther to what David doesn't like about my proposal that you have the commission make findings about threatened fisheries and use that as the device for setting your maximum, it seems to me that you set up something there, especially if you draft the language so that it precisely indicates that, where it sets a maximum below your optimum. You don't have the problem. Then by definition, your distressed fishery is one where the maximum is above the optimum, then you've got buy-back.

At or above.

At or above.

That'll be a tricky one. People will ask, well if we're at the optimum, how can we call us distressed? But I don't want to get into that.

But this is where that would knock out this problem and it puts upon the commission the burden to monitor the growth of particular fisheries so they can act at an appropriate time.

I don't mind that.

So that whenever they act, they will act at such a time that they know they're still below the optimum...

Their best information indicates.

That's right. You call upon them to act it at such a time as they're still below.

Right. That their best trend indicates growth in the fishery which proposes a threat to reach and exceed optimum levels. Is it a kind of thing that you do? Then you have them set a maximum number at that point. That puts your lid and then they can determine more precisely an optimum with necessary issue additional permits.

In the human world, you know darn well what they're going to do. They're going to put the lid on right on the optimum, or they're going to put the lid on and then they're going to find the optimum is right where they put the lid on.

Well alright, but still...

Although that problem might pose to you...

What do you do with the guys who don't even imagine it?

That's right. So you set this maximum, and suppose that...

Alright. You said it so...which way with the respect to the

optimum? So you haven't said the maximum yet, so all you know is that you're going to put a lid in at somewhere approximates where this optimum is going to be. You don't want it any higher than that if you can help it...

At or below the optimum level...

Okay right. So then you have for the upcoming year, a hundred more applicants than you had in your past participation and your past participation is right at the maximum...

But at the moment that your commission makes his determination, that this is a threatened fishery, your provision goes into effect that experience only in the four years or the years preceding January 1 of the year in which the determination is made comes, so that if you get a bunch of new applicants after that, you say hi guys.

Okay. So that your major hardship then, I mean you're still using hardship in a sense, what I am worrying about, one of the things that I worry about on that point is that I can defend grandfather clauses for the new position of a system as against somebody who has no reason to think that it was about to hit him.

That's why we alleviate the hardship on the people who have been fishing up here for five years or ten. And now Alaska is finally getting the ball rolling and here's going to come a limited entry system, so take of those guys.

The fellow who's been fishing on an interim permit for five years,  
I can't as well defend grandfather and him in...

If you think of it as grandfather, why think of it as grandfather?

Have I got any other basis to prefer him more? What else can I  
rely on?

I think so. I think that I sort of turn it around. I sort of  
think that grandfather rights become important if you're going to  
exclude anybody.

I'm going to exclude the guy who's now decides to take part in this  
fishery. And I'm telling him brother, you're too late, this other  
guy has been fishing here for the last three years. True enough,  
during all that time, it's been an interim use system...

You're not excluding anybody that's been in?

No, At least I'm not trying to scuba dive...

That's what I meant. In other words, grandfather rights would be  
sort of saying that if you were in last year, then we want to give  
you some sort of special break, or we ought to consider that. You're  
talking about people that come in new this year that you're going  
to exclude. What obligation do you owe to them in the first place?

I owe to them that I treat them equally with everybody else. And  
I can't think of a better reason not to.

As far as your new people go though, since you've been operating on interim permits and interim permits give you an indication of the level of fishing efforts, once you've set your maximum level, you can issue entry permits instantly to all of those people. You know precisely who gets...

No, no. No, no.

Right?

No. I take it into two stages. I know how many I ought to issue. But then the question is, who do you issue them to?

Of course you don't use (indesc. noise) If your present level was say 1200 and you knew your optimum level was like to be up around 1800, you could stop and say maximum level at 1600 and your present level was way below, so you know that you probably won't even be able to issue...

If the commission will get off the dime soon enough so that they don't have more applicants...

Even if you do, I don't think that there is anything unfair who has been in it longer, again, who has relatively more harmed or less harmed, we're going to prefer you on your extended dependence and extended participation. If anybody has to be cut out, I think that you can depend on standards that's made most fair...it's sort of last in, first out.

Yeah, I know that. I just wonder whether that's a fair system, when the only thing to go is that the fact that the guy has been fishing up there. As to him, you have to acknowledge that you could have very well put him on notice if this were to happen to him. Whereas, with the imposition with a whole new system, such as a new legislative system,...

(indesc. simultaneous speaking)

Of what?

That eventually this fishery is going to have limited entry.

That should tell me that I shouldn't prefer those people who have interim permits.

But you're not grandfather Amin, you're just...

What am I doing if I'm not?

What's wrong with saying that we've got 160 homestead parcels here, and the first 160 guys to it are the ones that get them. As long as even now before he even enters into these fisheries you're not going to cut anybody out. You're just saying that we're going to let you guys come in as you're so inclined to do, and when we get up to that level where we want to stop it, we're going to stop it and the next guy up isn't going to get a permit.

That seems to work alright and nobody complains. That is to say, that order or priority of applications we acknowledge, to administer the purposes alone to justify it. Now can you use the same reasoning by saying we're not grandfathering you people and we are simply saying to you that the first application...

Well the thing that bothers me in the order of priorities. We sort of got that when we crank in past participation, but you could really screw it up. You could have a guy that was the last one in but was the most economically dependent. And you're going to prefer him over the guy that got him five years and is no longer economically dependent.

It worries me to let (indesc. noise) hardship at this stage. I could go for a mechanical system that was in order of priority or readily.

I don't say why you worry about hardship because what you're going to have is exactly the same situation. You're going to have a fishery that's developing and it gets to a certain point and you set a maximum and you ask for application. Now of those people that apply, what is inappropriate about saying if we can't give them to everybody that applies, we're going to rank you as the hardship as to hardship.

As to hardship if you do not get in. You do not otherwise get a permit.

Now we're going to rank you all as to hardship. If you've got 1600 permits and there's 1700 people that apply, in order to decide which 100 get excluded, we're going to do it on the basis of hardship. The guys least hurt are going to...

Least hurt if they don't get in.

I mean you're doing the same thing at a later point in time. You are just saying that we've got people that are applying. Anybody can apply that has been in the fishery and if somebody has to get out, it's going to be the guys that are hurt least. I certainly think that it's something people can understand. I think it's...

Yeah, I agree with that...

If we can import the same criteria and use them in...and just basically say we'll crank up this system at this point in time, people will get used to it. They won't have to get used to two different systems...

And then, actually what happens, is once your permits are issued they are freely transferrable anyway and that takes care of your remainder of your would-be applicants.

They're probably, if the commission is doing his job, it ought to collect a lot of information off it or points. It ought to know its rate of turnover. In other words, it ought to know at any point in time, the number of people that have at sometime fished

in the fishery, the number of people that are presently fishing and who they are, how much they are depending on it and if it is like his proper job, it would set the maximum number once it realized that the total number of applications that was likely received for entry permits is about at the maximum. See what I mean?

Yeah. In redoing this business above the fishery that is not presently distressed, I was trying to describe that at what time on or before which the commission ought to set this maximum. I'm not sure that I've got it right.

Al, why don't you draft up your language? You've been wanting to draft up findings. That's where they'd be cranked in, right there.

I've put it here that if they anticipate that the optimum number will be determined within the next 18 months and that that optimum number will likely be no higher than the number of outstanding interim use permits or no higher than the average number of gear license or interim use permits during the last four years or something like that...

I think that that gets a little specific. You take the scallop fishery. We had two ligmen draggers come around...

One originally...

One...and say, Jesus Christ, look at all the scallops. Then we had all of a sudden we had 16...

Are you sure that's exactly what they said, Al?

Well, I'm willing to bet that somebody said something quite close to that. The next year, 16 boats. Two years later, no scallop fishery. So that I think that an 18-month provision or something like that, might not allow the commission to move fast enough.

I said within.

This would allow them to move.

Within 18 months of when?

The maximum number shall be determined by the commission for any fishery that is not presently designated, as this does. If and when the commission finds that the optimum will be determined within the next 18 months, and that that optimum number will likely to be no higher than the number of outstanding interim use permits for that fishery...

That's too tight...

Because in terms of the amount of research that might be necessary to determine the extend of the stocks and things like that, I don't know if Fish and Game could perform in 18 months.

Well if the element of it is that they do do it, they make a prediction that they're reaching, it's an intuitive prediction that they're about to reach the optimum level I assume.

In its judgement, that's all I said.

Yeah. But I still agree with Al, that you know it's going to act that way, but why tie it down to the statute to act with the time period. Why don't you say that...

That they may do this whenever they get around to or whenever they decide is necessary or appropriate.

Whenever the commission...

Whenever the commission determines that the rate of growth of gear in a fishery poses a potential threat to the fishery resource, it may set a maximum limit.

It shall.

It shall set a maximum limit. Let me rephrase it...

Whenever the commission determines that a fishery is likely to become a distressed fishery...

Okay.

Why not, let's just say...well. that's pretty much okay. I was

going to go back to the original language and say when the commission determines that the level of participation for a fishery has reached a level which threatens to impair...

The reason I wanted to use the other was then you crank into the other system, you see...

Okay, but you've already got...

(indesc. simultaneous speaking and noise)

...whenever the commission perceives, fines; a particular fishery is likely to become, or...

Of course, the idea is that you don't want to let it become a distressed fishery and then work back...

No, no. When it perceives that it's...

I'd like it to go back to a more general language.

It's on the threat of becoming a distressed fishery. How about marrying the two of them?

I don't like it.

No?

Alright.

I'll go with it. I don't dislike it that strongly. I want you to understand that I just want to think about it for another minute. It's just the idea with the one, we want to stop it before it gets anywhere near being a distressed fishery.

Yeah, that's right.

May unless controlled. How about that? May soon unless controlled?

Allen and I got talking about the present ability from the posture that the industry is taking. There's no way to protect these people. They're losing it this year if the entry permit isn't required until the first part of next year and that they've lost it this year, there's no reason to believe that they'll get it back next year.

Except if they get that fund going...

But still we're speaking in terms of least votes and not demanding them...(indesc. mumbling)

This will really touch you here on in. When the legislature finds that a fisheries reach levels of participation which require a limitation of entry in order to achieve the purposes of this chapter comma, the commission shall establish a maximum.

You want a legislative finding?

Who did you mispeak?

No, no. I said that when the commission finds...

Okay.

When the commission that a fishery has reached levels of participation which requires a limitation of entry in order to achieve the purposes of this chapter, the commission shall establish the maximum number of gear for that fishery...

No. Shall designate the fishery as a distressed fishery. And that starts the maximum going. There's no show set of maximum. Then we can pick thereon what we do when we have a maximum.

We came out about the same place. I said whenever the commission determines that the level of gear in a particular fishery threatens to create conditions of biological and economic distress, it shall establish a maximum...same thing.

(indesc. simulataneous speaking)

We're through the whole thing in gear, haven't we?

No, we are all over the units in entry permits. 've got to persuade you on that or else...

Alright.

On entry permits, I'll go with that...

I guess I'd like to hear your reasons why.

I think that there is a fairly practical reason and I think that this is particularly accused in the buy-back system. What you want to buy is the permit. If you want to buy the boat, too, you can do that, but I don't think you'd want to buy it.

Now wait a minute. We've been all through this and you are one hundred percent correct. Ninety percent of the cases, all you're going to wind up buying is the permit. But the fisherman won't understand that and you're going to have to make an offer to buy the guy out of the fishery but then you turn around and ask him...

But then if you want to buy the boat in addition, you can specify that too...

No. What's going to happen, I think, is that you're going to go in and say to a drift gillnetter, what is it going to take to buy you out of the fishery and he'll say \$20,000.00, and you'll say how much can you get for your boat and gear and he'll say \$7,000.00, and then you'll say will you take \$13,500.00 for your permit and he'll say great, I'll make \$500.00 on this bargain. So you wind up buying the permit from him for \$13,500.00, but the guy thinks you bought him out of the fishery for \$20,000.00. In other words, you let him salvage his boat and it's just a tradeoff, it's a washed sale but people simply do not understand...

I don't believe it.

Well sure. A guys boat is still worth something. All you're asking him is what's it worth to him and then you say we'll pay you for your permit. You use the objective to buy out only the permit but if you tell people you're only going to buy the permit, they'll go haywire in this state. They just won't buy it because they think that the image they have is that if you only buy my permit, I'll have a worthless boat and you destroy it.

Well if you want to have a system in which you also aquire the boats, fine...

Wait, wait, wait. Nobody wants to really aquire...

I'm still unclear. Maybe I like your idea but I'm not sure...

I, from the very beginning thought of this as a controlled system for entry permits...

That's right.

And I don't like to muddy it up with anything else.

Well, just let me explain it a little bit more. Part of what we're doing is setting levels of gear in direct with...

By controlling the number of persons who's going to engage in the fishery...

No. You're controlling the number of units...