

SCOMM

#31:19

Would not do that.

If you ~~couldn't~~<sup>didn't</sup> do it that way wouldn't you be faced with a situation where depressed hardship case fishermen from one fishery would then be more eligible than another category fellow from another. In other words, lets say in Kodiak, or in Bristol Bay you can't accomodate only category one, but in Kodiak you accomodated categories one, two and three, uh? Could the category two guy from Bristol Bay go over and supplant a guy in category three in Kodiak. That's what's suggested here.

*Hammond*

*Fitch*

Probably.

If that had a pattern of fishing in the past not too many people do, do they. That fish in both fisheries

*Fitch*

I'm not sure that you, I ~~distress~~<sup>distress</sup> letting any measure of qualification for engaging any particular fishery be dependent upon whether he fished that particular fishery in the past. I think that is -

*Fitch*

This goes back to my concern that you might merely supplant a group of the same amount of gear in the water, just moving other persons over to distressed fisheries from lower hardships ~~categories~~

*Hammond*

Well, I think what you would do would be to move people out of distressed fisheries into less distressed fisheries.

*Fitch*

Right.

*Hickman* Maybe that's good, <sup>Hammond</sup> but supplanting people who live there who fall in a lower hardship category, polically--(indisc)

*Hickman* I think that's what we should do. <sup>Palmer</sup> That's what we have done, that's what we would do. That's the problem we would take care of if we go this way. We allow everybody in the same range of hardship in whatever fishery they are in. Suppose we went to No. 4 and changed the language a little bit. Instead of saying, "minor or slight hardship making continuance highly desirable but not needed". Suppose we said "negligible hardship making continuance unnecessary".

*Hickman* That's a better differentiation. There might be some (indesc)

*Palmer* Still different than no hardship.

Yes.

*Jackson* I still can't see how an individual is going to feel that he knows which one of those categories he fits in. I just can't understand that. He won't know anything he doesn't know under the broader more flexible standards.

*Hickman* He would have some idea. Till its made a determination.

*Jackson* Because nobody is going to admit that's it negligible hardship

as to him. He might say I only made \$200.00, but this is my whole life you know, and I only fished for two years, but it means more to me than anything else in the world. And, you know, he isn't going to know <sup>when</sup> ~~if~~ he fits.

*Jack Palmer* How was he under the other one?

*Jackman* He isn't going to know either, but its a more flexible standard in terms of being able to deal more intimately with each separate fishery. Actually what I've been talking about doesn't really go to the five standard as much as the the A,B,C and D and E, which talk in terms, well you know, the things above for deciding how you get into those.

*Hitch* Those measured the economic dependence?

*Jackman* - Yes. *Hitch* From the income standpoint.

*Hitch* The others measured investment gear and availability of other

*Jackman* But they tie income in with past participation rather than separating the broader notion of economic dependence from the notion of past participation which I just thought was more flexible. You can have some people that have fished not many years but they are totally dependent, and others who are long on history but of late they are not very dependent, you know, and there may need to be a balancing of those factors. You see what I mean.

*Walter*

This may be, and I don't know that one set of descriptive categories under that first one is better than the way the house bill has it or not. It seems to me the Commission could work with either one.

*Paul?*

That's what is (indesc.) about either one of these categories, is that there is no way that anybody can look at this and have any idea where they stand, you know.

*Paul*

Look, compare the two. When you take, alright, Bristol Bay 1600, if that's the average, still we have our records that show that each year there has been something like 22% or better

~~Walter~~

In and out.

*Paul*

O.K. Is it possible for an individual to look at that knowing that has occurred and knowing where he's going to fit in that 1600. I think he is much less able to tell where he fits than if he takes these five rankings of hardship. He knows whether its negligible and really not necessary for him to stay in compared to some hardship making continuance desirable but not strongly needed. I think there's enough gradation in there that most people would be able to put themselves in category 3 or 4. Certainly compared to the difference of knowing how many applicants there really would be <sup>that would be</sup> eligible to go into that 1600.

*Walter*

Dave, could you tell us how many there might be under that.

*Jackson* How many applicants?

*Palmer?* Yes, how many applicants considering all those that have gone in and out.

*Jackson* For some of the in and out it is repeated. In other words you may be right. There may be as high as 20% <sup>working</sup> ~~from~~ one year to the next, but some of those people that layed out come back in, so the total turnover.

*Palmer* So its one other unknown factor.

*Jackson* That's right.

*Palmer* We don't know actually.

*Jackson* In terms of some of the responses we got in presenting this in the different areas there was a tremendous feeling of uncertainty in the original Senate Bill which said that the Commission can both decide how many permits there are going to be on some rather vague standards and can decide who comes in first, second and third, they didn't know where they stood But most areas if you go out there and look them in the eye and say, we're going to issue 1600 permits here next year and those people most dependent and have the longest histories are going to get in, there are very few people that feel like they are on the fence. They just come up to you, and some of them come up and say, listen, I know I'll be cut out because I fished halibut up until

last year and I'm just now fishing salmon. But, I don't care, we need it you know, we got to have it, and I can get back in or something. But ~~it~~ that removed the largest measure of uncertainty when you said instead of having an initial cut you are going to stop <sup>it</sup> at the present level of gear. And the fishermen know who's been fishing, you know. They know what the fishery looks like.

*7/16/73*

Would you be willing to set these numbers high enough so that you were sur down through category 3.

*Palmer*

Let me go another direction first. In our bill we have language written in that may cause <sup>problems</sup> ~~fault~~, I don't know. Its something we haven't talked about or needed to. Or page 11 we say, the Commission shall issue the entry permits for the three highest priority classifications regardless of how many there may be. And then we said, and to all applicants who have held gear licenses and actively fished with gear so licensed during at least two of the last four years prior to January 1 of 73. Now that certainly locks it in. They certainly know now whether they fit into that or not.

*Heblin*

Just a minute, I'm -

*Jauchman*

That's right. Your question is the legality.

*Palmer?*

Yes.

*Palmer*

Right, that's what I want to get to, is the legality of that.

X

I think its the one you have there, yeah.

*Wick* Too many, page 11.

? It would be up at the top there, lines 5 and 6, some handwriting in there. It's a little hard to read. I think you can barely make it out at the top. It's cribbed in between the lines there.

*Johnson* Billed in between the words, chapter and whether on line 5.

*Johnson* I don't think its in there.

*Johnson* It isn't on this sheet.

*Johnson* No, I don't think it's in there. It may be impossible to read (indesc.)

*Palm* And to all applicants who have held gear licenses and actively fished the gear so licensed during at least two of the four years prior to January, 1, 73.

*Wick* I missed that the first time out

*Palm* It's something we (indesc.) just put in last week

*Whitwood* It wasn't in the copy I got for you

*Wick* My reaction is quite negative. I'm not sure I can articulate

it, but.

*Palmer*  
I guess the only justification is to whether you can say reasonably that anybody that has fished at least two of those years rating would be adversely impact (ph).

*Hitch*  
You've kind of done an unneat thing. You've got a nice system all set up for hardship ranking and all this stuff and then here you suddenly come along and have one very specific little delineated standard by which somebody gets in almost independent of hardship you're saying you don't mean to say.

*Palmer*  
Doesn't it answer this question of how does anybody know whether he's in or whether he's out.

*Hitch* *Jackson*  
Yeah, I think you get somebody mechanical. I think you can come up with a mechanical formula like that, independently, and then just leave hardship behind. But there are two different -

*Hitch*  
I think I had better leave hardship hardship in there.

*Jackson*  
I do too, but they are apples and oranges. I think its hard to mix them, you know.

*Hitch*  
Well, this is why I asked the question I did a moment ago. Are you willing to settle for a system which says that the maximum number shall be, and then have a prescription there where you know for sure that would respect every fishery in the state that that

number is going to be higher than your total ranking of persons down through category 3 would include.

*Palmer* Well, I think politically its less desirable from the standpoint that it would have less appearance of accomplishing anything as far as limited gear.

*Faulman* *Hetcher* Yeah. Although in the moratorium sense it would tend to do that. You have at least established a maximum that has some relationship to what's been done at sometime <sup>in the past</sup> ~~(index.)~~

*Hetcher* I suppose part of the problem is that you've had an honest fluctuation in those numbers in the highest number in the last

*Hetcher* Wouldn't you say there was a peak five years ago that we're just missing with this four years. Is that the idea?

*Palmer* Yeah, but I guess that peak was not. The canneries leveled that peak off rather substantially by refusing to take new fishermen, more fishermen.

*Hetcher* I see.

*Palmer* Where the harvest was a great peak the numbers weren't.

*130* *Faulman* You can see that what it does in terms of four years. You look at Bristol Bay which is the most radical in terms of fluctuation. You see, register is one thing, the second line is fished.

*Hutch* Fished is more correct (ph)

*Pakama* { So there is a pretty close.

Yeah. Actually 1710 would be your high.

This was an abnormally low. Is when it happens.

*Hutch* Well, I think where we come down is the extent that there is any worry out of this, I'd dare say, somewhat arbitrary line drawing has to be done when you are ranking people by hardship and unpredictability factor, although it seems to me in the long run you are going to come out with a better proximation of what we are supposed to be doing. Whether you can live with the uncertainties that that produces as contrasted to going to a system which sets a number high enough that you will be sure that you are not cutting out people that would otherwise be qualified under your hardship ranking fairly high up since its in category 3.

*Pakama* O.K. If we forego to a number like that and were in excess it would have to be in excess of 1, 2 and 3 in order to accomplish an objective, then does that automatically let in 4's also, so that we have more of a problem as far as buying out.

*Hutch* I think you do, I don't see how otherwise you can do it.

*Hammond*

Put a poor, have no buyout, or no transferability at all. She's dead when they're through.

*Heller*

That's a good idea. David put that in, I noticed in this present version, as to category B you had somewhere down there where you had negligible--.

*Jackson*

Negligible hardship.

*Heller*

Those people suffered some further restriction upon transferability different from the others. That is to say as to them you require that if they transfer at all it had to be to the Commission. I think that you can take persons who are not suffering under hardship and do as our previous draft here did, start working up from the bottom and posing more and more restrictions on them. As our No. 3's had, they had to sell to the Commission and No. 2's and No. 1's could sell to anyone. I think you could adopt that and make that as the basis upon which you anticipate that you would start cutting down from the number of initial entry permits towards your optimum. We hope fairly rapidly.

*Palmer*

Let me interrupt a minute. Mr. <sup>*Fish*</sup>Fleshauer (ph) I'd like to have you meet Chancy Croft. Senator Croft is an attorney from Anchorage.

*Heller*

Nice to meet you.

*Palmer*

Chancy is going to come over and get in at the apex of all this.

Thank you again for coming back up.

*Capt*

*Hammond*

Could you that (indesc)  
not only what David suggested through transferability in one  
category, transferability only the state but another category  
and maybe those with the very most modest negligible interest  
economic no transferability at all.

*Heikel*

Sure.

In fact, I think one of our early drafts here we had it expire  
when the guy was unable to fish any longer himself, died or sick,  
no matter what.

Have it expire in five years.

*Hammond*

Failed to pay his assessment.

*Palm*

How do you feel about those *Some* (indesc.)

*Jackman*

Well, I think sure, you can do that. I think

*Palm*

That would certainly take care of situation

*Jackman*

The more complex the problem becomes though, again I think the  
more difficult it becomes to both implement and defend just  
the sheer, you know, the more special categories and alternatives  
and, you know, I'm wary of it. You know its a very complex

*program* anyway.

*Rod* It used to be a Luke Goldberg program. When every little thing you could think of you build another little appendage here to try to handle it.

Maybe its become its because I'm not as familiar with it as some of the other fellows, but the fabric of thing grows in a manner that I'm sure that we could spend another week on this and would end up with eight more ~~opinions~~ <sup>appendages</sup>, and I really for the life of me think you have to develop a sytem that's more rational, more easily explained, more understandable. I don't think there is any way to make this thing quit growing. I honestly don't. Don't ask me what it is, but at this point every time we hit a leak here we stick a finger it it, well we've only got five fingers and if we stay with this boat long enough we're going to end up with six holes.

*Palmer* Except that one of our thumbs went into this hole and we wrote in the requirement that this is only a privilege and that it can be modified and revoked so that we have taken care of the problem of that property right being vested in an individual and we can't come back later and change it. Secondly we're saying to the Commission, we understand that there are corrections and additions that are going to be necessary. You come back with recommendations to us for additional legislation to modify this next year. We know that in (indesc) as complex as this one we can't do the ideal job on it in one year. There have to be corrections necessary, just like there were in

your Borough Act or Community Regional Affairs program, and so on. Time is running out. We've got to do something this year and we've gone this far down the line and I think that we've got something we can live with for that period of time or we can come up with something here that we can. Maybe its complex, yes, but the point is still that we have to show the entire program. We can't just. <sup>Fletcher</sup> I don't think you can stop in the middle. I think you can simplify it by seeing it as three different stages.

*Fletcher* And launch it

And within those I don't, and two different sort of sociological consideration. Two sociological considerations are the people aspect, the presently existing fishermen and what you think about how widely used the resource should be. And the other is the biology and economics of the fishing industry (ph) that so strongly tell you they ought to have fewer (indesc) people. The staging of it seems to me almost a necessity to require legislative treatment in these three stages.

What are you going to do as of the moment the bill passes? What are you going to do to get transition? And what are you going to have in the long run. Now I agree that the simpler you can make your system within each one of those stages the better it will be, I do wish (ph) you have to tackle the problems that are inherent in it whether you can come up with

a good solution and a simple one is perhaps up to our ingenuity, and I must say I think we're a little bit diffused now because we've had so many different ideas coming in all from different sources, and I think maybe after the afternoon wears on we will be able to sit down with a pencil and paper and reduce it to something that is a little more logical and primarily from chronological standpoint a bill that will read more simply. I think at the moment we're a little stirred up with some of our ideas and don't have them thoroughly enough differentiated. The numbering system for example has gone astray in several places, and things like that. And it will finally come out in an article and section bill that will be understandable. I don't think its going to be so bad, I do believe that the topic is of necessity complex enough that you can't pick it up and read it through once and expect to have the thing under control.

*Palmer*

Well, O.K. Dave, then you feel that if we were to go the route of setting this number high enough so that we have brought it in all these people we could defend it, we could get them out as far as the transferability without any *property right attaching to it at all* (indesc.) and the license is simply dead, the permit's dead when they quit. This is the route that you think it could go, you could defend.

*Jackman*

How would you go about setting your maximum? You wouldn't set it at the present level then, you'd be setting it at a set percentage above the present level.

*Palmer*

The concept was that we set it high enough that we are sure

that we have covered these people in categories 1, 2 and 3.

Palmer  
What that would be I don't know.

Jackson  
You can look at the percentage figures. In every fishery there's about 35% of the fishermen that catch about 4% of the fish. I don't think that there's a fishery in the state that you are going to exclude if you stop at the present level that you are going to exclude anybody that's subject to some bandings (indesc.)

Palmer  
You can't prove on those figures, Dave.

Jackson  
No, but in your setnet situation is the worst one, and I think we all recognize that they are in the single set net site that's going to be abolished under either of these bills. It just isn't going to happen, you know.

Palmer  
Why.

Jackson  
Because that that they already have which amounts to limited entry because each one of those sites has been fished for a number of years and that is the present level of gear and you are going to maintain it at that, you know, under any bill, and there is multiple gear units that, you know, the worst that would happen under any bill is that you might lose a couple of nets on a given site, you're not going to wipe the site out.

Palmer  
Take your figures from Cook Inlet driftnet figures would you please.

Jackson  
Palmer

Well sure.

What do they say as far as

Jackson

Well they say Cook Inlet driftnets fished would be, the highest the last four years would be 625.

Palmer

Yes, but your percentage. The percentage of fishermen catching the

Jackson

Alright. Cook Inlet the driftnet fishery 27, the bottom 27% of the fishermen only catch 4% of the fish, and there is in almost every fishery<sup>is</sup> a group of fishermen at the bottom with a very, very marginal participants is all it indicates. They don't and they haven't for a period of time made much money from the fishery.

Hitch

How did they rank in terms of economic dependence?

Jackson

It's impossible to say. Some of them in some areas, some of those people will be, over in Bristol Bay area some of the Natives are more dependent. Make not much money and not many landings I'm sure. However, they're likely to still wind up in the fishery, you know, on the economic dependence hardship criteria. All I'm suggesting is that there certainly is somebody there that's marginal. There are people that you could cut out of the fishery now that aren't going to be hurt much. The hobby fishermen or the. I tend to get the feeling that we're almost, I don't think that there's anybody coming out under

either of these bills that's going to be hurt very much. I can't see what fishery, where it would occur. You know, the Governor's <sup>original</sup> initial bill which would have made it initial cut, yes, that would have stung some people I admit, because you would have moved directly to the optimum levels.

*Hammond*  
Still there is one clearcut category the state demonstrate. The only guy that can demonstrate absolutely no hardship whatsoever being cut out is the guy who's never ~~done gear (ph)~~ <sup>had a gear license, right?</sup> much.

*Jackson*  
Well, you're going to have a lot of people that think they're hurt. I suppose everybody's going to think they're hurt.

*Hammond*  
One of the major concerns of opening it up for this year is a lot of people grab gear licenses to try to get the grandfather.

*Jackson* Yeah  
*Hammond* What if you give that category absolutely no transferability?

*Rod*  
What would we have then as long as we live.

*Hammond*  
That's right. It seems to me the only distinction if you were ever going to go nontransferability you are never going to be able to make a subcategory distinction of mild hardship and modest hardship and incidental hardship on any other basis, and I don't think we would want to go that route.

*Jackman*

You are talking about opening it up as a free-for-all for one more year, letting those people.

*Hammond*

No, I'm not suggesting that. I'm saying that would be if you were going to establish one category that had no transferability at all. That would be about the only way you could do it, wouldn't it? I don't know how you'd shake down the bottom of the list otherwise. Well excuse me I

*Palm*

So you feel that either system would be quite defensible.

*Hick*

I think so.

~~*Palm*~~

Maybe John's point is the one we ought to look to next. Which one would be the simpler, both to specify and to carry out.

I don't know that you can approach that yet without looking a little bit ahead in terms of the suggestion that was made here about the extent to which you crank differential obligations upon these people, including what they want to do when they want to transfer. Do you want to have that sort of thing, or to put the question more broadly, how are you going to go about getting your number down to the optimum.

*Palm*

As we had it in here Bill, in this bill as we had it when you left today.

*Hick*

On a formula (ph) basis.

Yes.

*Palmer*

*Hitch*

Would the formula basis have some sort of differentiation among permit holders and as to some of whom there would be a requirement if they wanted to transfer at all it had to be to the Commission. That is when they got ready to sell out they had to sell to the Commission.

*Palmer*

Yes.

*Hitch*

Yes

*Palmer*

Now, our formula said that a certain number of new entries would be available, a percentage of those that were bought out by the Commission would be available for new entry, and that basically the number would be whatever ratio was determined necessary in order to get the fishery down to the optimum level within approximately ten years. O.K. But then we want to add and crank in this thing that in no case should there be fewer than 20% of those that have been bought out made available for new entry. Now do you still think that 20% figure is something that is pretty important and needs to be maintained?

*Hitch*

Well, I must confess it's a kind of favorite idea. Whether it would <sup>with</sup> stand attack (indesc)

My reasoning is simply that we must present a system which cannot be characterized in oversimplified terms simply preserving the fishery for the people presently in it, and I think we have to avoid all the characteristics which might identify <sup>as</sup> being we are just now closing it out and nobody else gets in, and I

will want to see in it something that provided for new people to come in to it one way or another, and it just seemed to me this was a method by which we could get them in without substantially defeating your objective to get down to optimum levels. In other words for every five steps ahead you are going back one. So you're making progress at a fairly decent rate towards your optimum, and yet I think that one step back is a fairly important one because it tends to work against the other attack that's made that seems to say you just want to keep that fishery up there yourselves and you're not going to let anyone else in. The fact is we are letting somebody else in. There's a way to do it.

*Hickman*

So, it's a kind of a gut reaction thing. I haven't got much more to go on than that.

*Fackman*

Professor isn't what you are really saying that clearly we have to keep an open fishery. We have to allow for new entry. We can't close it off and make it a local monopoly.

*Hickman*

Yes, at least you want to avoid the

*Fackman*

And the '68 bill was open to attack on that basis because it was a 2 out of 3 year apprenticeship requirement and that kind of thing and it was held by the people in the local area.

We discussed this Sunday, and the point that I felt strongly about is that we've gone to bat on this free transferability

*Jackman*  
in terms of saying that if these permits go to the fishermen, not on the vessel but on the fishermen, that they are freely transferable, and that's an open fishery. It unrealistic to assume that the fisherman, well it would be illegal for them to band together, you know, they're going to, it would be the same thing as saying property ownership in Juneau is open even though you have to buy from somebody that owns property now. It's a free and open market and any citizen of the United States can come up here and bid and operate on that market, but it's my feeling that if we are wrong on that, if we're wrong in saying that transferability keeps this an open fishery then we're going to lose the bill even if a very small percentage of the permits come back through the Commission, and we should have done the whole thing that way in the first place.

*Hilth*  
Into the Commission, bid or lottery.

*Jackman*  
Because it's only going to be a very small percentage that would come back, 20% of those that are resold to the Commission, and of course that's only going to be, say, 10% in any year at the outside, so

*Hilth*  
(indesc.) on what you've done on the transaction.

*Jackman*  
That's right. Right, in other words in the Committee Substitute Bill that we looked at Sunday in categories 1, 2 and 3, their permits are, no 1 and 2 <sup>are</sup> transferable. 1 and 2 are transferable. 3 has to sell back to the Commission. Only 1 out of 5 of those would be reissued through the Commission. In any given year most

of the turnover is going to be via transferability of categories 1 and 2, and only a rather small percentage of the other, back through the Commission.

*Palm*

You're assuming that the majority of fishermen are in 1 and 2. I think that's an erroneous assumption.

*Jackman*

Well at least it would vary from area to area. Some areas they would almost all be purse seine fishery as an example, almost all those fishermen would be in 1 and 2.

*Whitehead*

You are also assuming that those persons in 1 and 2 can sell either to the Commission or to the state, or to the Commission or to another person. In dealing with the Commission you have ready cash right there, bang, and I think that this is probably going to encourage some sale to the Commission.

*Jackman*

Well, O.K. All I'm trying to say is

*Ketchum*

I'm not sure how worrisome your worry was that a free transferability system invited some sort of invalidity on the theory that since the fellow is a free agent in deciding to whom he wants to sell that he controls who gets in.

*Jackman*

I think that's

*Whitehead*

I had a terrible argument in this <sup>case</sup> (indesc.)

Jackson

I thought that was a very poorly reasoned opinion, didn't you, in terms of value (ph) and it doesn't make any sense.

(Bozovich)

Hitch

I can't believe that that's going to be the Waterloo of the system.

Jackson

No, I don't think so.

Hitch

It just doesn't concern me.

Hammond

It's another one of my unconstitutional bills.

Hammond

That's what I like to hear.

Whitchard

At least you lost the bill in the wrong (indesc.)

Hammond

Yes, that's one comfort.

Palm

Of course we've done that on several wrong grounds.

O.K. Now, so you're both in accord insofar as I can see then about the transferability as far as free transferability not offering any real problems as far as keeping this thing constitutionally honest. Professor Fletcher feels that it's even better as I understand you're position then. You feel it's even better if some of them are coming back through the Commission

Hitch

Yes, I do.

You may not have any hangup on the other but it makes it that much better that.

*Palmer*

That's (indesc). I must say I was thinking of this in the context of an operative effect in which perhaps there was not a great deal of outside transfer, in other words that this might be a more major factor than we're predicting that it might be, that is the fact that one out of every five goes out of new issue. That might constitute a fairly substantial source of new entrants.

*Hitch*

*Jackson*

How would those permits be reissued, the one out of five?

Lottery, applicant pool or bid.

*Hitch*

I don't think it makes much difference.

I thought this 50% compromise was a pretty good one.

*Jackson*

It seems like the only reason though to have that is if you felt you were really weak on the transferability; otherwise, every permit that comes back to the Commission if you're above the optimum well we ought to retire. I mean that's the object, isn't it?

*Hitch*

That's only one of the objects. There's another negative object. That is that you do not want anyone to get the idea that this is a closing of the fishery for the benefit of the

people now in it, and I think you've got to have it look as if it's not that.

*Judman*

But you just said that you didn't think there was any problem if you've got free transferability.

*Hatch*

No, that's right. And as I say, my thinking in terms of having this one to five available for new issue was in the context of not having much by way of outside free transferability.

That would not constitute a very major factor or <sup>d</sup>for some reason you restricted it.

For example, this morning I was playing with the idea on the way up here of a system that would be even more restrictive toward getting toward the optimum numbers.

I'd set it up on a five year basis. I don't know that that's so critical, but pick your years - some reasonably short time in which there was no differentiation among persons at all in terms of hardship categories. Simply saying with one exception and I'll pick up a <sup>in a month and</sup> ~~(index)~~ that's essentially a very hardship hardship case. Simply saying that if and until within each 12 months' period the Commission has achieved its schedule of how many it gets to buy, or gets reacquired that there shall be no outside transfer, but if within any 12 months' period they have got in the quota that they have set for themselves for that 12 months' period, well accumulated over so that

their total reacquisitions are up to schedule, then for the remaining of that 12 months' period they'll have free trans: but then stop it again and the next 12 months' period go on again. Now then, under that type of system, for example, it would be to my thinking more important that you have this kind of a new supply of new permits becoming available on some kind of a ratio basis as for example when to buy (ph).

*Judman*

Because of not having not done all this on free transfer. (ph)

*Hitch*

I was cutting down on that free transfer because I wanted to make this reaching of the goal really a realistic one to get down to the optimum number.

*Rader*

All that you could issue, you could start out and issue to everybody.

*Hitch*

Yes, that's right, that's what we've been talking about. (ph)

*Rader*

Completely get away from this.

*Hitch*

Yes.

*Rader*

Issue to everybody and then don't transfer them until you get to the level.

*Hitch*

And maybe under you're hardship rankings this was facetious when it first came up, but maybe as to some of them just make it a five-year permit, period, it's over with.

Let me carry this example through. If we said no transfer and issued them to everybody, and then had only new entry through the Commission and reissue by the Commission, then we'd be right back in the fire in terms of insuring that reissue was done fairly and squarely with no discrimination to non-residents. In other words, then the reissue would be the only thing that could possibly save the program, right? Otherwise it would be a closed fishery. In other words, that would be the only place new entry could come from.

Yes, that's right. That's why I say you want to be sure that you had some new entries available and that you prescribed them.

O.K. By the same token with free transferability if it works, you know, like we expect it to the new entry problem is going to take care of itself through the market place we would assume. Right?

I suppose we could assume that, that if <sup>undineal</sup> ~~need~~ you have very little restrictions that the hazard that you run, I think, of this free transferability stuff is that you're not realistically going to be approaching your optimum numbers. You're going to be riding along on high numbers all the time and I think you've got to have something that's got a lot of teeth in it to make sure that you get down to the optimums.

Why can't the Commission, like under the buyback programs in both these bills the Commission just comes on the market and every permit they buy up with the buyback assessment is retired.

They just operate like any other bidder for a transfer permit.

*Jackson*

You know, granted that may be more expensive but it's purely voluntary and if you could raise enough money you could get down to the optimum level, right?

*Palmer*

I suppose you could. I don't know whether you'd want to go on the open market and buy them but

*Palmer*

Haven't you effectively closed the fishery when you do that?

*Jackson*

When you do what?

*Palmer*

If you're offering a premium, bidding in other words. All these are completely transferrable and the state says they're bidding for every one of them, then what opportunity do you have *to for new* ~~(indese.)~~ entry

*Jackson*

When I say bidding that assumes that the Commission isn't going to. You know, certain permits come on the market. Some are going to go to private bidders and some of them the Commission will bid successfully on. They aren't going to get every one. They wouldn't want to. Then they'd be the whole demand. Buy back from them wouldn't work. If the Commission is buying every single permit that's offered because then they're going to be the only component of demand and it's just going to go sky high, the price of the permits, so it would only work if they came on to the market and bought a nominal percentage, 20% or <sup>15</sup>50 or established. And then they'd come into the market

without disrupting it and buy some of those permits off at a slower rate. That's why I think the suggesting in the substitute bill was really valuable, because if you create a class of permit holders that can only sell to the Commission at what amounts to a pegged market price, fair market value, then you're not going to have the buying up by the Commission push the value, you know, push the price, the market price of the permits up as much, you know, as it would if they had to come on to the market and bid against private bidders for every single permit they took back.

*Ketchum*

I suppose you could work it out mechanically. I would assume that even on your purely private sale if you tolerated it you would, at least I would set it up so that you routed it through the Commission, maybe not the money go through the Commission but at least they had to be party to the new issue process and incidents of that I suppose you could give the state the opportunity to up the bid by 5% and buy, or 1% or something.

*Rodman*

Wouldn't you also simplify it if you're going to depend upon the buy back on the voluntary market, in entering the market then you could do away with this provision here where it says that we're going to pay people for not getting in in the first instance.

Let them in. Let the market be established and start buying it back. This idea of paying people, you see, there isn't any market value on this thing here of paying people for not getting in, for reparations.

? No, it calls for an assessment of the value.

*Roder* But why would the way to do that, to find out what that value is worth is to let them all in and then start buying back then.

*Palmer* *But basically*  
~~The places~~ where you're doing that if you follow the 1, 2, 3 category here, the only ones that you won't have in will be the No. 4's and 5's. The 5's (indesc.) license. They won't have anything anyway. The 4's primarily is going to be the fellow that's just doing it as a hobby and he's probably not going to sell his boat anyway, he probably has very little of any gear to sell, and so I don't see that you're going to have much in the way of a buy back of those 4's.

*Roder* Well how much are you going to pay him for this? This (indesc.)

*Hammond* His permit is

*Palmer* Well, I don't think you say you are buying his permit. You're just compensating him for the direct economic loss resulting from loss of value of investment.

*Hammond* You mean if a guy <sup>is</sup> squeezed ~~is~~ out

*Hutch* He doesn't get one (indesc.)

*Palmer* Yeah

*Hutch* This is not what John's proposing. John's proposing to issue him a permit.

*Palm* But the price is going to be the same, John.

The price the Commission pays to this guy who has little in transferability is going to be still the market price determined by those free transfers by whatever bids come into the Commission so he is going to have the same value as far as receiving his value for this permit. It's not going to be a different.

*Rod* I see, you're going to pay him the same price.

*Palm* You're going to pay him the same thing.

*Rod* The idea is though that he can't hold for his children like the other guy can.

*Palm* Because there is not as much hardship involved in the first place.

*Jackson* He can though. He can pass it on to his children.

*Heck* Well, we haven't talked about that.

*Jackson* He doesn't have to, but under the substitute bill and the one we drafted up last night if he wants to hold on to it he can pass it on to his children. It's the same kind of an entry permit. It's just if he, the only restriction on his transfer is during the period of time when you're getting down to optimum levels if he wants to get out, he can only get out by selling to the Commission.

Rodner This doesn't make any economic sense because if you're paying him the market value, then why the hell don't you buy them from the other guys who are selling out too at the market value.

Palmer Well, you can. Rodner You insist that there's a market value there and that's going to establish it, what you're going to pay him. You're going to pay him the same thing you paid anybody else.

Palmer That's right.

Rodner Then why don't you just buy permits?

Palmer You do. Rodner It doesn't make any sense.

Palmer Ah, wait a minute John, it does. If 1 and 2 want to sell to the Commission the Commission will buy. You're offering that market to 1 and 2 people also.

Rodner Let's assume they're selling for \$4,000 in a particular fishery. If 1 and 2 are trading in the market. It's establish \$4,000 is what a permit is. So a guy is a No. 5. He gets ready to sell.

Palmer Oh, you don't have any 5's.

Rodner Or a 4 or whatever the hell it is.

Palmer Go back up to 3, that's where we're

Roder

3, alright, No. 3. He wants to sell. You're going to give him \$3,000.

Palmer

No, we're going to give him 4,000, if 4's the market price we're going to give him 4.

Roder

Well \$4,000, the same as the market see. Well what's the difference between buying it from him and buying it from one of the other fellows at market.

Palmer

If 1 and 2 want to sell to the Commission the Commission will buy but you're giving them the added advantage of selling directly within their family if they wish to do so, which is one of the big hangups of the professional fishermen.

Roder

But, you've got a free market of \$4,000, then why don't you buy them out of the free market of \$4,000, why does it depend upon anything else than that? Just buy them out of that free market at \$4,000.

Palmer

who?

1 or 2 or 3, what are you talking about?

Roder

The free market that you say is going to exist. The transfer of the permits.

From 1 and 2.

Well, I guess it's 1 and 2 then.

*Palmer* Alright, fine, you do buy them out if they will sell to you, but if they want to sell to somebody else for that same money

*Roder* But we don't understand it being a free market then. Free market means that you offer to anybody that will pay you the \$4,000.

*Palmer* You do offer that.

? If it's a free market, right.

? Then what difference does it make where it comes from?

*Tillian*

Well, in a small fishing community the free market isn't going to be the same as you're thinking because none of these fishermen in a village are going to put that license up to any buyer. In other words they might require that any buyer meet the going price, but they're going to sell it to their neighbor's *kid* and to their friends. They're not going to sell it to the state if they can keep it in the village.

Looks like what you're doing is you're saying this category that are part-timers, not necessarily, you know, <sup>indigenous</sup> ~~in business~~ to the fishery have no choice when they want out. They have the choice, they can hang on until it becomes theirs or they can just sell out, but they have to sell to the Commission. It'll take it out a little bit quicker. Is there anything unconstitutional about it.

Well, you're not describing a free market then. We got a free market or haven't we. A free market means that poeple go in to it and they sell generally speaking to the buy that will pay them the most money

Roder

*Held* His is just as good as anybody else's.

? Then you start buying them back (indesc.)

*Held* ...is going to be more valuable.

*Rod* The problem of treating different citizens here with transferability really bothers me. It's going to treat one of them differently than another one. One of them is going to have a \$5,000 bonanza in five years and the other one isn't when in both instances it's a public resource. Neither one of them paid for it.

*Palmer* Which case are you talking about Where's this going to apply?  
Not under our bill, it doesn't

*Rod* Well, if you change it though and if you put that a guy under 4 or 5 doesn't have any transferability and 1, 2 and 3 does.

*Palmer* If he's in he doesn't.

*B Jackson* Under this if he's in 4 and 5 until you get down to optimum levels he can transfer only to the Commission but if he holds it until that time and lets the voluntary buyback run its course, then he's got just as good a permit as anybody. He can sell transferability (ph) He can't sell his permit.

? He can't. Anybody else could sell it at any time.

*Fitch* ...to a point in time after your initial issue, considerations that pertain only to initial issue circumstances, in other words once you've got past the initial issue times, then I'd think you'd have to treat everybody pretty much alike.

There haven't been any other (indesc.) that people be measured by what they have done in the past. All they have to do is be presently able and willing to fish.

I would suggest not having that requirement upon those who participate in the lottery.

*Palm* You say we have'nt at any other time (indesc.)  
Of course we did in initial entry.

*Fitch* That's right but I think with respect to initial entries the reason that you're justified in doing that has to do with *the handicaps* aspect of instituting the system.

*Palm* I see.

*Fitch* You don't have that operating for you anymore once you're past that point.

*Palm* Well, of course we are faced with the problem of the number of crewmen that have operated for many years and are not eligible

under this thing and believe they should have some advantage  
over *others*

*Hitch* } Kind of a priority system.

*Palmer* } Some sort of a priority system, and that was the reason  
for it.

*Hitch* I can't think of any way that I would feel comfortable giving  
them any priority, unless you go to a system which requires  
or specifies rather details standards for whose to get your  
permits, and I don't think you really want to do that.

*Palmer* } O.K.

How do you feel about that aspect of it Dave?

*Jackson* I'd agree pretty much with, precisely with what you said,  
really. After the initial issue the only thing you'd be doing  
with past participation is preferring crewman, is about all  
you'd be doing. I think you're on real dangerous ground to  
do that.

? } How are you.

Hi, it's good to see you.

*Palmer* Take off your coat and stay awhile. You've got a chair right

down there I guess, and have you got bills available for him.  
Really it just ... (indesc.)

Palmer

This is the redraft. My question to Mr. Fletcher was our draft  
as of about Friday or Saturday, Friday I guess it was,

Reader

Saturday.

Palmer

Saturday. What difficulties surrounded that and in one case  
we said as far as subsequent issue that a certain number of those  
that came back to the Commission and would then be made available  
to the public on a 1 to 5 basis or something like that, but  
half of those would be available under the lottery, and of those  
available under the lottery system, we said they should come  
from an applicant pool where experience was a factor, and the  
response has been that there is a problem there. That we're  
treating them differently than we do other people and <sup>finally with</sup> ~~the reason~~  
<sup>wise and it</sup> ~~why it is so~~ (ph) probably should not remain in the bill, to  
provide for that applicant pool the experience factor in those  
who would be eligible for the lottery.

Reader

Well, what if you had just a lottery without the qualifying

Palmer

No problem there.

Reader  
Palmer

No problem in that.

Palmer

What's the purpose Bob, well I don't want to interrupt. Where

were you here, you go ahead?

*Palmer* — Well, (indesc.)

*Palmer* Well, what was the purpose here of breaking into these different this transferability, your 1/5th, do you propose to have some of them on a sealed bid.

*Palmer* Alright, let me tell you overall then what we were doing as far as we're going is concerned.

*Palmer* Jay, you haven't met Professor Fletcher.

*Hammond*  
*Palmer* No, Bob Fletcher, Jay Hammond.

*Webster* Glad to know you.

*Palmer* He was past president of the Senate last year. He's going to loaf this year, *Webster* so he's on a busman's holiday.

*Hammond* Excuse me for disrupting.

*Palmer* No, no, we just got through. *He is a set out fisherman in Bristol Bay*  
(Indesc.)  
~~Bristol Bay~~, guide and all round trouble maker.

*Hammond* I'm not an attorney. I won't bring that up.

*Webster* That takes you out of the category of trouble maker.

*annex* That's right.

*Palm* Who else were we expecting now.

(Indesc.)

*Palm*

O.K., here's what we were doing. We were saying essentially as far as transferability is concerned that we have two groups of people that we're letting in. Those who are very dependent on the fishery and those who have less dependency. We're told not to let them in, but when it comes to transferability then we are going to keep them in. (indesc.) those categories 1 and 2 over hardship *is real great* (indesc.) we allow them free transferability at this time. *How* and we've always got this modifier in that says we can go back later to revoke and modify as we see fit, as experience dictates. But in the beginning category 1 and 2 *or* were hardship as the extreme then we allow them free transfer. It does go through the Commission but essentially it's still a free transfer. Category 3, those part-timers, part time fishermen, *who* can sell only back to the Commission. They can sell at a fair market value as determined by the Commission and a portion of those that sold back to the Commission then become available as new entry permits so that the fishermen themselves on the boats, the fishermen wherever they are cannot control who gets into the fishery by simply refusing to sell to others other than those whom they desire to *sell to* (indesc.) and brother and such if they wish to do so. We're insuring that the thing is available to the general public by the Commission themselves selling a portion of these.

(Indesc.)

Palmer one out of five of those that are <sup>fundin</sup>~~(indesc.)~~ ...

Palmer

We said that of those that are going to be made available to the public, half of them would be made available on a lottery basis, and half of them would be made available on a bid basis, on a sealed bid basis, and that's where we are at this point. The fair market price would be determined by the Commission and would be a combination of the two factors, the bids they receive and their monitoring of the free transactions taking place between the other group of people, the extreme hardship cases where they are allowed to sell theirs as a free market.

Palmer

O.K. You mention this was one place where you had problems.

Hitch

The only place.

Palmer

Really that was the only place that you had problems.

Hitch

There might have been a punch here or there like a word or so but I really didn't read it with that much care.

Palmer

O.K. I think, Dave, one of the things, well why don't you go ahead and talk then about the things that you and Dave discussed on the phone yesterday I guess it was, and well, alright.

Hitch

Well, we were talking about the initial issue and the problems

associated with deciding who's to be given that permit in the initial proposition. Dave had some concern about the workability from the standpoint of the individual fisherman looking at the system before it operated on him out of the five hardship categories and those categories do indeed take on considerable significance because its where you fall in those categories that determines whether you get the permit or not. Now his system worked a little differently although I don't know that the result reached would be any different. He would pick out as a first step a so called maximum number of entry permits to be issued for each fishery based upon some just figure, number, taken out of the past usually I guess

*Palmer*

Enough to hire the people that are normally fishing?

*Hutch*

No, how many gear licenses

*Palmer*

This is different, it was the highest, no less than the highest in the last four years.

*Hutch*

In fact I'm not even sure you'd say no less than, I would say it would be better if you just said, it shall be the highest.

*Palmer*

Well, that's to take care of all the fisheries where we're away below the maximum. You see we've got some fisheries that were below the maximum level and we don't want to shut those off prematurely. So, no less than, accomplishes the same purpose.

*Hutch*

I have another remedy.

*11/2 ad. 2*  
*Hitcher*  
O.K.

There was this idea of fixing a maximum and then that was impersonal and then taking all your applicants and ranking them in order of severity of hardship that would be imposed upon them but without by that ranking committing them to whether they got a permit or not, but then taking for each fishery that group of persons and feeding them into this maximum until you've reached it and whenever that hit on your list of people that you've ranked according to priority and hardship aspect that's where you'd cut off. And I gather that if you have picked that maximum to be equal to the number of permits the highest number you'd issued in the past four years, any one of the past four years, that you will be pretty far down your list of hardship people before you hit it, before you reach the maximum. I don't know but I would assume that to be so. So that you may come out with the same number of people approximately receiving initial entry permits. It just seems to be a different mechanical way to arrive at it, and I can see no objection to his method as <sup>opposed</sup> ~~addressed~~ to the method we have here. I don't that his is any better. They're both going to get to the same place and I think both accomplish the same thing. There are a couple of points that come up of a sort of a minor technical nature of draftsmanship perhaps over some little possibilities of altering here and there such as the fishery that's already below the optimum, but I had some ideas as to how you might approach that, but the basic proposition is as I describe it and it was simply a difference in approach

I think. I didn't really feel that one was good and one was bad. Both seemed to be quite workable.

*Palm*

Let's consider it from this standpoint. If you say that your maximum that you are going to allow in the initial entry is going to be the highest number that have been involved in the last four years, then its certainly conceivable that because of the turnover we have that we'll reach a point, we're setting an absolute numerical figure then, and it's certainly possible that we'll reach a point where that last man on the list that gets in will be very little different really than the next man below him, and we're drawing an arbitrary line then because of the number that happens to pertain to the situation. On our approach, however, we said that anybody within this field of hardship, and perhaps when they have a defined amount of hardship concisely enough, all those people would be allowed in <sup>and there</sup> ~~that~~ there would not be this very fine dividing line, or we didn't intend it to be. Rather we intended a dividing line where it was a substantial amount of their income and it was, O.K., the line which is there, strongly needed, alright, desirable at least, not strongly needed. O.K. And maybe we can argue terms and maybe that's the problem here, is just how we interpret the difference between 3 and 4. But we meant 3 and 4 to be a rather significant division in the two wherever there was a substantial amount of income and substantial amount of hardship <sup>then</sup> that would result in them not being in and all those people would be in. The ones we leave out are those where it really doesn't make a great deal of difference and there has been no substantial amount of income derived from it. Now,

again, that seems to me a rather significant difference between going that direction and setting up an arbitrary number and saying this guy gets in because you're a tenth of a point above the next guy and we had said there were only going to be 2,000

*Mitch* I think the mechanical way in which Dave had done this was to say that in his ranking of people it isn't an absolutely smooth continuing of each person on a scale of numbers but groupings as you move down, and when you hit the last group without specifying what those groups consisted of, how you described them, that whenever you got down there you ran out of or could see that you were going to use up your maximum within the last group you chose that, the persons who received by lottery.

*Roder* Well, but even so

*Mitch* You're point's valid. I have not objected

*Jackson* Let me just add to that because I think under either system there isn't going to be a dimes worth of difference between the guy on one side of the line and the guy on the other side of the line. The guy who is the last man chosen, or the last priority classification chosen and gets it by lottery under this system or between the last man at the bottom of category No. 3 and the first man of category No. 4. And that's precisely the reason I think it's legally significant to tie the number of permits to be issued, which is going to decide who gets permits and who doesn't, to a determination as to what are we going to do. Are we going to stop the gear at the present level or are

we going to stop it at an optimum level and then say we're going to issue permits as fairly as we can to that level of gear rather than trying to say we're going to look at people which are arranged on a continuum and decide just that some of them deserve permits and some of them don't, and I think it's the weakness of the, I mean the fact that there isn't much a difference in the guy on one side of the line and the other that makes it important to tie the initial issuance to the level of gear rather than to a decision that some people more deserve to be in the fishery than others and just to say that we want to hold things at the present level, and in order to do that some people who have fished sometime in the past are not going to be able to qualify for permits.

*Hick*  
The thing that worries me about that is that as far as I can think of <sup>it</sup> at this concern I believe that the only reasons you say that particular people are entitled to have initial issue of permits in any fisheries where there are too many people fishing or too many units of gear is that it is a personal thing and we've looked at each person and said, as to you it would be too hard on you to be booted out by the legislative enactment of this system, so therefore we'll let you stay in, and that seems to me a very direct measurement of the very thing which makes it within constitutional bounds to have this limited number, and if you measure directly I don't know how you can be wrong, even though you may have to distinguish between person A and person B when you finally get down there and say, I'm sorry these are the categories you fit in. On

the other hand if you go at it by setting these maximums it seems to me you do get into difficulty of being somewhat arbitrary in deciding what your maximum is going to be, and the only, I don't know how I can say that you're sure that its more than the total number, you don't have to make sure that it is. You can make sure that in some instances it <sup>is less</sup> ~~(indesc.)~~

*J. K. K.* No. I don't come up with anything wrong with the maximum system but I do defend the other system.

*J. K. K.* The place where I think that the other system tends to break down, if we were dealing with just one fishery it would be fine but we've got 12 different areas and very, very different kinds of fisheries and some of them were way above the maximum or optimum level, I mean away up where we should be. Other places were closer to the optimum and the fisheries were also different, very different in terms of consequences in terms of hardship. In other words, in some fisheries nobody is 100% dependent on the fishery; in other fisheries 50% of the people are almost totally dependent on the fishery and other fisheries almost everyone is totally dependent on the fishery, so if you were dealing with one fishery you know, I follow you, there would be something less arbitrary about saying, let's <sup>revoke</sup> ~~take~~ these people and decide on the basis of hardship we shouldn't knock anybody out above here, but in terms of all of Alaska's fisheries it seems like the only thing to peg on is a legislative determination that we need, its the moratorium concept, we need to stop growth at the present level and then assess the optimums <sup>levels</sup> and in those

fisheries where we've got too much start working in the other  
direction. back

*Fisher*

I don't know that either system contemplates not doing that.

*Jackson*

No, *Nichols* both do it.

*Jackson*

I was suggesting though that under the hardship categories in some fisheries there would be people in category 4 that are harmed much more than some people in other fisheries in category 2, because unless you're going to wind up in a given fishery most of the applicants lumped in only one category you can't really compare a set net fisherman in Bristol Bay with a purse seiner in Southeastern. Who would be within this category No. 4 in both those fisheries. It would be only relative determination.

*Nichols*

Relative to what though?

*Jackson*

Relative to the other people in his fishery, not

*Nichols*

But these are standards that are tentative whether he fishes with a hand net or anything else.

*Jackson*

They can't be because each one of these is developed as to the particular fisheries and so if you have purse seiners in 4 and 5 they won't compare in any sense with drift netters in 4 and 5 in terms of/very hardship standards that you use to put them in those categories.

*Utkin* Why shouldn't they?

*Jackman* Well, *Utkin* I don't understand, if you're making hardship out of both it wouldn't matter what the fellow who fished

*Jackman* Well, what I'm suggesting is you can compare relative hardship within the driftnet fishery or within the set net fishery and say these fellows fish in the same fishery, they face most of the same economic problems and they fish the same fishery, so you can say some of them will be harmed more and some of them would be harmed less, but you can't compare hardship in that fishery to hardship in the purse seine fishery.

? They all are being (indesc.)

*Utkin* That's precisely what we're purporting to do. You may come up with variations from fishery to fishery as to how many people or portions of the total people had taken part that fall within a particular category of hardship. In some particular fishery you might have 100% of them falling in No. 1 category, in others you may have very few there, most of them farther down the line, but you have set up standards that are independent of the fishery. You're talking about the individual's economic dependence. I could compare people who were engaged in wholly dissimilar occupations in terms of economic dependence upon their occupation.

*Jackman* O.K. Then I'd say that there's this difference, just to sum up our discussion. In this creates hardship standards which are

independent of the particular fishery, whereas the design in the other approach is only to compare likes with likes, to say who is harmed more and who is harmed less within the given fishery, not to set up some sort of overall.

*Wick*

Well it seems to me that that gets into problems because the excuse, the reason, that it's permissible for a state to say, well you get a permit and you don't incident to the imposition of the new system is that we are being humane and saying to the one fellow who gets the permit, that as to you it would be a terrible hardship on you not to get it. This other guy over here, it isn't any hardship on him at all. So we'd give it to him on the basis of hardship.

*Jackson*

Well, it's a hardship to everybody who doesn't get a permit. The only way you can justify it is that you have a legitimate state purpose to reduce or stabilize the level of gear, and I think if that falls then you can't justify parceling out the right to fish on some other basis.

*Wick*

Maybe we're disagreeing on fundamentals. I don't have any question at all but that the state is wholly justified in having the system of limited entry. I persuaded myself of that ten years ago and really don't have any concern about it anymore. The only problem seems to ~~be~~<sup>lie</sup> that we face has to do with the institution of the system to get it underway, and its with respect to that we're getting into all kinds of problems. And as a premise here I start with the proposition that reasonable steps taken to grandfather

people into it are tolerable and unreasonable ones are not. And our only function now is this latter one, to decide what it is that's reasonable by way of sort of moving from the past to the new system, and it's upon that it seems to me that the only significantly measurable factor is this idea of hardship. I don't know any other factor that you could legitimately take into account that would differentiate among people except that you might insist upon a skill for operators or something like that which would not be instant transition any more than it be to the long run operation.

*Fullman*  
I follow you, and I agree, but what would happen if in fact when you implemated these five categories in some fisheries by letting in all of the top three you work above the present level, and other fisheries will run below the present level, so what I'm suggesting is, you would making the initial decision as to who gets in based not on the legislative <sup>purpose</sup> ~~process~~ of stabilizing gear at some particular level, either through not letting an increase or a decrease but on the idea that some people have the right to be in the fishery and others don't have the right.

*Wick*  
By legislative grace its permissible to be exercising (indesc.)

*Fullman*  
Well, I agree with you, maybe both would work, maybe either system would work but what has made me nervous is seems like if the state gets into the business of on down the line deciding that only a red neaded Irishman have the right to fish, I mean

whenever they start deciding that some classes of people fish and not others it's heading toward trouble.

Hicklin

I can agree

Jackson

And the more that they can focus on their objective of stabilizing the level of gear, you know, getting off the classification of people as soon as possible.

Hicklin

O.K. But then you see, first of all to repeat, the only reason I think it's tolerable at all to let presently fishing people in is to <sup>alleviate</sup> ~~leave the~~ hardship ~~item~~. I don't see any other justification for it.

Jackson

Well the justification is in preventing economic waste and promoting sustained yield management.

Hicklin

No, no, no, I'm saying in determining who gets in.

Jackson

Who would be harmed the less and who would be harmed more.

Jackson

That's right.

Hicklin

No. On the bald proposition that you can say that we're not going to have any more than so many fishermen, as I say, I've passed that one a long time ago. I think they're all on good grounds on that, and our only problems I think are the who of

it, and if you don't want to grandfather anybody in I'd go home happy.

*Johnson*  
The fellow that worries me is the guy that is in category 4 and fairly high up on the list in one fishery, and he gets cut out whereas in another fishery just because the, you know, just because the level was different. <sup>You're gonna</sup> ~~You don't~~ let in people in 4 and 5 and create a viable right. So, <sup>that's</sup> ~~although~~ it might not be as valuable if its the kind of a fishery that will stand some more fishermen, maybe it isn't all that remunerative ~~is~~ the reason it hasn't had any more fishermen in it.

*Palmer*  
But now wait, there's a difference. We have guaranteed 1, 2 and 3 in everywhere. We haven't guaranteed that 4 and 5 would get in. Whether they get in or not is a function of the amount of gear in the water.

*Johnson*  
Well, it seems to me like the better guarantee would say among whoever gets in the people that are most dependent get in first and so on down they continue, but to lock in 3 categories seems more arbitrary than the other system. That's all I'm saying. I don't think either of them, I don't think we disagree basically. It seems more arbitrary, <sup>because</sup> ~~as~~ in some cases you're going to let in more than that, yet you want to

*Wells*  
I don't. On the proposition that a particular fishery is more overfished than another one, it seems to me that's one of your givens, you have to work with that. Another given that you're

working with is the proposition that you're going to alleviate hardship. Now those won't not necessarily coincide at all.

*Wibler* But if you're going to take both of them as factors that you must adapt to and provide some legislative solution to get to where you want to be, O.K, all that'll mean is that in that fishery that's heavily overfished and as to which as it turns out there may be an awful lot of people soley dependent upon your're going to have to put up with the fact that you got a lot of people going into it as initial entrants. The only thing that you've got to follow it up with, I think, is a fairly severe, rigorous schedule<sup>d</sup> reduction system to cut down that number, and then that shows that you really meant you said, that you're after an optimum number of fishermen rather than passing around the livelihoods.

*Jalkman* Yet in the very fisheries that are most destitute under this system would be the fisheries where you'd let the most people in at the outside ~~at~~ and that buy back program would be the most expensive and onerous on the people that remain in the fishery.

*Wibler* It would not as expensive in the sense that the gear or that the value of the permit which you are going to ~~re~~<sup>ac</sup>quire<sup>(ph)</sup> may not be worth much as much.

*Jalkman* And that there are a lot more of them.

on the state's part to let more people fish next year than fished last year. So and then the problem becomes, how do you decide of all the people that have fished in the last number of years who gets to fish next year and who gets kept out.

*Heflin*

I think I could defend either system and I think you've essentially got a legislative judgment really to choose where you want this to hit among all the people of the state (ph). I think to take a heavily overfished area where we'll assume probably, I guess the facts are the proportion of the persons who fish in it are probably the ones highly dependent upon that fishery, and to take that kind of a fishery if you set this number in such a way that you, as one draft had it, the one I got in the mail as contrasted to the ones before me now, where you'd said in respect to three particular areas, Bristol Bay and I forget where else you said, that it shall be not less than 75% of a certain figure, implying that you might come up with a number less than the maximum otherwise would be. You may very well cut across right about in the middle of category 2 of our hardship category, something like that, and what you'd have to tell those people in that category, in that geographic area, those participants in the fishery, that it's just tough, that the other demands on the state were so strong that we had to do this to you. I think I could defend the state doing that, whether I would vote for it as a legislator or not.

*Palm*

Do you agree that either one then is defensible very largely.

*Page Signed*

over there, if you let 1600 fishermen in and anybody who had fished in the past could apply, and your thinking of, you know, now you've got what, about 2,000 or 1,900 in terms of drift gill net.

*Hammond*

Well they had 1800 actually last year. 2,700 registered, but I suspect among that overage up to 2,700 there are numbers of persons that are just as qualified as persons who actually participated last year. I don't think you're going to cut out many in the truly hardship cases, but you are going to cut out in number 3 where I think a number of people that, most of the people in the villages are, you know, Dillingham and Naknek are not really when you get right down to it, hardship cases. One of the major reasons is it would be awfully hard to demonstrate whether or not you made that \$2 or \$3 or \$400 in the last few years contributed substantially to your wellbeing. It's been so small that it hasn't done so in the last few years. That's one of the problems. So they've all had to hustle around and try to do something else, and many of them, particularly in Naknek are doing something else, and a lot of those guys are going to be left on the beach if you cut (indesc.) down a little way.

*Johanna*

If you cover hardship categories like this you're going to have apply them equally to the guy in Anchorage or the guy in Seattle (ph) who only gets 2 or 3 hundred dollars. So, you know, that's with the broader more flexible standards I thought at the outset you'd be able to cut in favor of those Natives more, cause even though

*Hekler* The individual unit won't be so much more. It won't be as much I suspect.)

*Hekler* But I don't see any other way than to approach that and take that as part of your given problem there. You do have too many people in these fisheries. The ones that are heavily fished are also the ones where you've probably got <sup>have</sup> economic dependence. You've got to do something with these people. You can let them in as I think you probably are going to let them in initially, then I think you have to combine with that a fairly tough system for getting them out. You don't have to get them out the first year, but there has to be, <sup>as</sup> I would prefer to see a schedule attrition rate, somehow that building (ph) up. We came up with a formula basis this last time, something like that, I don't know if we have to have that particular one but some sort of an ongoing, constantly rechecked system that would combine some sort of either first refusal or required if transfer at all transfer to the state, something of that sort cranked into it to get them out of that situation that you unfortunately inherited as part of your given facts now.

*Palmer* Let me ask. I have difficulty with the comparison of reasonableness here. It seems to me that given a ~~fisherman~~ <sup>fishery</sup> if you could draw these five categories, and maybe we haven't defined closely enough between 3 and 4 that doesn't mean that we can't, so that you do have a fairly definite distinction between those down here who were less and those up here who were more, dependent more, more hardship if these are left out than these. And you say,

alright recognizing that we'll let all of these people in regardless of how many there may be. We're doing this in the first place because of hardship. That's the only real basis that we can use to decide, so everybody that's in these top three categories or this top one, call it what you will, a certain amount of hardship at least, they are in. It seems to me that if you compare that with a system that sets up an arbitrary number over here, and I think its got to be arbitrary even through you say its the highest of the last four years, its an arbitrary number and it's going to hit not down in here but it's going to hit up in here, so how do we say that those that are left out down here, will the one guy that's next to <sup>him</sup> ~~him~~ <sup>in line</sup> when that arbitrary figure has been reached. How do we say our information is good enough that this number, 1,005 or whatever it is, is so accurate that we can't let you in. How do we know, how do we prove that that 1,005 is so accurate that we can't let 1,006 in, even though you're so very close to him in hardship still you're next in line and therefore you're out.

*J. Johnson*  
The only magic in the 1,005 is the decision cannot let the problem get worse before it gets better and the whole concept of moratorium which is what the legislature is really trying to do is stop any further increase and then in those fisheries where it's necessary figure out a way to turn around and work back toward an optimum. It's just where we are now is the only magic in it. There isn't any constitutional obligation

Palmer

If not then that's what we

Jackson

<sup>in broad</sup>  
~~You'd go on~~ terms. I think there is another consideration, that is workability. If you did a commission at least at the outset, figures to work with, maximum numbers defined in the bill. They'll be under less pressure than if they're trying to fit somebody into category 3 and out of category 4, which unless the categories would be considerable reworked would keep them under the gun all the time. In other words, I don't think you'll get many arguments from people within a given fishery that, yes, he is more dependent than I or I am less dependent than he is.

Palmer

Why couldn't you give exactly that argument

Jackson

Well, I think people will accept the notion of ranking in priority classifications and then if you only have so many permits to issue the people at the top ought to get them first and then down. But if you're thinking of locking in X number of priority classifications, then everybody over there is going to say I belong in that one.

Palmer

What the pressure is going to be, you say, well hey I'm really more dependent than he is if we've got to be put in this list and they're going to chop of one, one, one, one, one. There is going to be immense pressure I would say to be up in this category that doesn't, within your 200 or 2,000 or whatever it

is.

*Rader*

I would agree that maybe this wording should be reworked so that the distinctions are greater, but if that were done I'd think you'd have a much better position. Jay what

*Hammond*

Well the only thing is I don't think you're that far apart. In Dave's language of yesterday you accommodate not only 1,005, you accommodate 1,006 because you said no less than. So you can actually go above this ~~figure~~ <sup>fixed figure</sup>. The only thing he is saying you can't go below, so you draw your distinctions more clearly cut. Let's throw it all in that pot and whatever it comes out as, if its

*Jackson*

Now, that's a possibility. In other words, in the last priority classification rather than doing it by lottery you say in the last priority classification everybody gets in even though that drives it above somewhat.

*Hammond*

You could, you could.

That would be your language. You could do that. The way ~~it was~~ <sup>written</sup> I'd ~~threatened~~ (ph) yesterday.

*Jackson*

Of course the design was that the Commission would look at the fisheries, and those fisheries that/are in trouble, the maximum level is going to be the highest of the last four years, and the no less than is to allow the fisheries that arn't in trouble to

go unattended and continue to grow, you know the Dungeness fishery.

*Hammond*

The inherent of no less than is the possibility of more than.

*Fuchsman*

That's right.

*Hammond*

So you haven't fixed

That's right. That's good

*Wester*  
*Nelson*

That was one of the points I'd made a special point of, it was the phraseology of no less than. It seemed that we had some openendness there that wasn't particularly desirable. Somehow you had, and that puts <sup>the feeling</sup> ~~feeling~~ in there in some way or another.

Would we be able to work out a little different way to come to the same result if you could be assured that this maximum number was fairly carefully related to or at least above the number that would be comprised if you totted up everybody within the first three categories of our hardship list, Would that be feasible?

Take his illustration that the maximum number of gear licenses that you (indesc.) in any of the immediately preceding four years. If you took that number and went all around through all your administrative areas and all the different fisheries

they only made 2 or 3 hundred dollars I imagine that's a much greater percentage of their income.

*Hammond*

If they actually made it, it's right. (ph)

*Jackson*

And the fact that they live in that area, they don't have the alternatives. They're stuck there so to speak.

*Hammond*

What I'm fearful of in this accomplishing perfunction (ph) is the fact that (indesc.) making a vast *population cut* (indesc) would simply take essentially a lot of gear that's going in the water and reapportion in such a manner as to offend this category 3. Most of the people in my hometown of Naknek are not above category 3. There are very few with the exception of *the women and* (indesc.) kids. Almost all are working somewhere else Good jobs I agree, and they would be more likely out of category 3 than guys from Seattle, except the pro fishermen. Most of those *fishermen* ~~companies~~ would show them probably in a higher category

*Jackson*

Well this is why standards like this scare me because the fisheries are totally different. In that fishery almost everybody is a part-timer. Everybody works something else. Not any full time fishermen out there in that fishery, whereas another fishery like the crab fisheries in Kodiak, very professional fisheries, you're looking at a completely different set fishermen, so you can compare who is more or less dependent within that one fishery, but trying to develop a set of classifications that can be applied to the Kodiak king crab fishery and to the Bristol Bay

set net fishery

(ph)

*Palmer*  
*Palmer*  
First/it's going to be that within your Kodiak king crab fishery you're going to have more of a total number being up in 1 and 2 and in Bristol Bay you're going to have much more of the total, Cook Inlet you're going to have much more of the total down in 3. But in any case you have included in all of them.

*Jackson*  
Of course you're still, even under either system. Let's say that you wound up in Bristol Bay with everybody in 3, 4 and 5, which you could wind up with. You're still going to have to make a cut somewhere down there in the middle of number 4.

*Palmer*  
If there's only negligible hardship then you can make that and justifiably. This is our (indesc.)

*Jackson*  
Well, I don't disagree with that in either system, but what Jay is suggesting is you're not going to have very many people out there locked in.

*Palmer*  
Well, sure you are. You're going to have all of 3. You're not going to have many of 4 down there. 4 is a negligible hardship.

*Lammard*  
No, the most of them will fall in 3, except the true Native who will fall 1 and higher. Except again, how do you relate this, the guys in the village make 2 or 3 hundred dollars and \$2,000 welfare. You see, what's his relationship from the hardship point of view.

*Witch*

I've got that noted in the margin to bring up for discussion.

We didn't define what we meant by income. Do you want to define it in terms excluding Government assistance of various sorts.

*Palmer*

Probably should.

*Witch*

That would be my impression as to how to go about it.

*Harwood*

*"Yeah"*

*Jackson*

Well, you ask what constitutional objections I have and the real constitutional objection that I have, and I agree with the Professor, you could sure make a good effort to defend either system, but if the regulations, if the hardship categories are essentially spelled out in the regulations so that they are developed looking only at a single fishery and at the conditions in that fishery they're going to be tuned and developed in terms of the situation in that fishery whether it's the Cook Inlet setnet fishery or the king crab fishery in Kodiak, or whatever and are going to make more sense in terms of that fishery. If the hardship categories are defined through the whole state and all the fisheries of the state I think they're much less workable when applied to the individual fisheries.

*Palmer*

But you've got to define appearance (ph) it seems to me, hardship as it relates to an individual, not to a fishery, and that's where I can't see why there's any difference (indesc.) regardless.

*Witch*

Well, it seems to me what Dave has cranked in here he has used

a different label on it, is that he's affecting his treatment of people on a hardship scale by considerations of biology and economics with respect to the health of the fishery in an abstract sense, that is, some fisheries need more drastic treatment than others, and I would wholly agree with that and there are going to be wide variations.

*Jachman*

What I'm saying is lets do it in the regulations in terms of getting to the specifics, you know, in terms of spelling out exactly what does hardship mean in this fishery. I think that got to be done at the level of the <sup>regulations</sup> (indesc.)

*Hitch*

When you say what it means in a particular fishery aren't you saying that, well, even though looking at two different people in two different fisheries we might say that each person is going to suffer hardship in the same amount. The circumstances of this fishery over here are such that we really don't want this guy to fish, whereas over here we're willing to tolerate him.

*Jachman*

That's exactly right.

*Hitch*

Then, what led you to that differentiation though was not hardship as to the person by but the nature of the biology in the economics of that fishery.

*Jachman*

That's right.

*fisherman*

O.K. that's ~~the first thing~~ a fair statement.

*Heber*

And if that is what we're trying to do here then I say you can defend it if you can defend it politically to differentiate people because it does seem to me that the fisherman who fishes in a heavy overfished fishery where the economic health of the thing as a whole is terrible and you have to do something about it you can afford to be harsher over there if you want to. And I would defend you in being able to do that. And I think you just have to make up your minds to whether you want to or not, because you could decide that involves example. In the draft before the one that's now here he'd said that certain ones were going to have 75%, or not less than 75%, and that it was going to be something less than all of those that might otherwise have gotten in because of the terribly depressed area, distressed nature I think was the way he phrased it. And that would be a tolerable system. There's nothing as far as I can see that constitutionally is terribly threatening about it, even though you have on my scale of hardship differentiated between the fellow who's excluded there and the fellow who's not excluded from a fishery that isn't in distress. It just that he happened to be in the wrong fishery.