

SCOMM

#31:26

IN THE SUPREME COURT FOR THE STATE OF ALASKA

STATE OF ALASKA,)	
Appellant,)	
vs.)	No. 6336
LORI L. OSTROSKY, JULIANNE)	
OSTROSKY and HAROLD C.)	
OSTROSKY,)	
Appellees.)	
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LORI OSTROSKY and JULIANNE)	
OSTROSKY,)	
Cross-Appellants,)	
vs.)	No. 6373
STATE OF ALASKA,)	
Cross-Appellee.)	

APPENDICES TO APPELLANT'S BRIEF

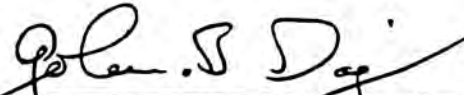
Eric - I need one copy
of all of this (by
end of tomorrow)

Thanks,
Margot

APPENDIX A

EXCERPTS OF THE HEARING
TRANSCRIPTS OF THE SENATE
SPECIAL COMMITTEE ON FISHERIES,
EIGHTH LEGISLATURE, FIRST SESSION,
1973

Because of the length of Appendix A, I felt it was impractical to have the previously prepared transcripts retyped to incorporate the changes Mrs. Morris and I made.

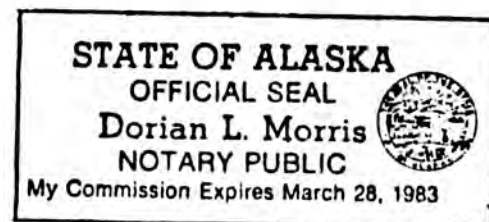


John B. Gaguine
Assistant Attorney General

SUBSCRIBED and SWORN before me this 22nd day of January, 1982 at Juneau, Alaska.



Notary Public, State of Alaska
My Commission Expires: 3/28/83



HEARING OF THE SENATE SPECIAL #4
COMMITTEE ON FISHERIES 1/24/73

UNIDENTIFIED SENATOR II. I don't know if you've considered this, Mr. Chairman. Did you go into the question of why--I mean, what was the theory in making these transferable through sale?

You know, I'm a lawyer. I've been a lawyer for 20 years. I've got a license to practice law. I can't sell that license.

MR. JACKMAN: Mr. Chairman. Our reason for doing that is because our objective was to stabilize the fishery, not close the fishery, not create an exclusive class of fishermen as individuals, but stabilize the fishery at that level. We see that as the real purpose of the bill, not to decide--and secondarily, one of the real legal weaknesses in any effort to limit entry is when you start to close the fishery for a substantial period of time, so a person on the outside has no way of getting in and there isn't any movement in and out of the fishery, there isn't--a person can't shift from one area to another easily, and we felt that the only way to accomplish this without creating insurmountable administrative burdens was, once this right is conferred, it's not really property and it may be quasi-property of sorts, ^{to let} ~~unless~~ the individuals transfer or sell these permits.

UNIDENTIFIED SENATOR II: In the British Columbia experience, what do they sell for nowadays?

MR. JACKMAN: Well, you can pick up the Fishermen's News that's published in British Columbia, and usually the permits are sold, or ~~they're~~ ^{their} what they call A licenses, in their system they're attached to the boats, in our system they wouldn't be attached to the vessels, but clearly they'd usually be sold with the vessels, and it seems to have increased the price of getting into the fishery maybe 20, 30, 40 percent. I mean, you can run down and there'll be, you know, gillnetter with X equipment, and an A license, \$16,000 or \$10,000, or maybe a much better boat \$30,000. So, we haven't analyzed it as closely as we should,

but it appears that the ~~value~~ entry will rise somewhat, but not--you know, not anything unreasonable. They aren't going to go out of sight.

SENATOR GROVE: Mr. Chairman, when I first came to Anchorage you could buy a liquor license, you know, for \$3,000. The last time that anybody inquired ^{about} it, that I'm aware of, they're selling for \$20,000, and that's over a period of time, and they become terribly valuable assets. I'm ^{just} wondering what, you know, what range we're talking about here. Are we talking about \$300, \$500, \$1,000, \$5,000?

MR. JACKMAN: Clearly we're talking about many, many ranges, because each type of gear in each area and each fishery is going to be very peculiar. An entry permit to fish a hand troll boat in Southeastern won't be worth nearly as much as an entry permit to fish a purse seiner or a--because the entry permit represents nothing more than the right to participate in the fishery, and the projected discounted income from that fishery will establish the market value of the permits.

UNIDENTIFIED SENATOR: Well, Mr. Chairman, it seems like you really got around to something here. I know it's been talked about. What about a moratorium on the people, and not let any more in and just let those who are there slowly die off or move away until that alone reduced the number of people and the number of gear and the amount of gear to the right level?

MR. JACKMAN: Mr. Chairman, if I might respond to that. We considered that and rejected it primarily because it's on extremely weak legal grounds, we think. Any attempt to really close the class

of fishermen for a substantial period of time, to wait and let attrition take effect, has the real practical effect of saying to anyone on the outside that there is absolutely no way that you can get in, and it does amount, if I can borrow words from the constitution, to a sort of exclusive right, whereas we're talking about a stabilized level, but not a closed class, and I think--I'm not--you know, you can't predict what the courts will do in a particular situation, but we felt that kind of an approach would be on extremely weak legal grounds. The courts have--you may remember the language from some of the decisions on previous limited entry programs, they've spoken of medieval guild systems and apprenticeship systems and there's been a reluctance to go along with programs like that.

CHAIRMAN: While we've gone that far into it, we might mention some other proposals than that we may be coming up with. We have discussed informally these things, and one of them is this, this moratorium on any additional numbers of gear licenses, first, perhaps, reducing somewhat by those licenses that have not been fished at all, et cetera. But then, giving this a property right right from the beginning and allowing a fisherman to sell it when he desires and trying to arrange things so that the State will be the purchaser in as many of these as possible, so that in this method we do reduce amounts of gear without forcing anybody out that's really been in the fishery fishing. Now, you might want to carry further on that if you want to elaborate, Dave.

MR. JACKMAN: Well, this would essentially amount to a voluntary buy-back program which, depending on what the starting level

was and how far you had to move to get back down to your optimum, world be more or less expensive. It certainly is compatible with the basic structure of the administration bill, although it's not a feature of it. In other words, as you explained it, we'd still be stabilizing numbers and creating the property right at the outset, not closing the class, but we'd be moving back to the optimum by buying out--by offering market value plus five dollars or whatever it took to get people to sell their entry permits back to the State.

CHAIRMAN: One extreme advantage that this has, as I can see, is that we do not, at that point, we do not period force out who ^{really} has [^] been in the fishery. If we allow him in for one reason or another and he wishes to get out, ^{then} [^] his license is bought, and hopefully by the State, and we reduce numbers that way. There's ^{a lot} [^] of thinking and a lot of work to be done on the proposal and it's not in finished form at all, but it's one of the things we--we've met a couple of times, some of us, with the A.G.'s office and so on, trying to work these things out, so... ~~Other~~

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COMMITTEE ON FISHERIES 1/30/73

WHITEHEAD : No, let's take buy back. The applicant pool is language that we recieved from legal services. They feel that there is a real problem in the transferability of the permit. We can change that.

 : Yes. The legal services ~~went, one~~ ^{one} has that one problem, which probably could be controlled . I for instance wouldn't care if you went for a straight buy back where the property became, where the license, once you qualified, became a property right and you could just sell it for whatever you could get for it. This would mean that your buy-back funds would have to assess the other fishermen fairly high to buy this man out. Or

whether you want to use an attrition method... can sell his,.. One of the methods that they asked for was that no man could sell his license at all. Not being able to fish, the license lapses to the state. And this has a terrific hardship on somebody who has invested \$60,000 or \$100,000 worth of boat and then suddenly the old man dies and that's the end of the license. I prefer the buy back system but legal services has some arguments in here. What it is, a good argument on their part, was when a person wants to sell his license, let him. But he may only sell it to a person who meets the apprenticeship qualifications. In other words, it is not on an open market itself, the state keeps a list of apprenticeship people and a person who has served so many years on it, or graduated from one of the maritime fishing schools, is on this list and when you say, I want to sell it, the state established an assessed valuation price and this person on the list picks up the license.

_____ : Bob, do you anticipate that we will have an opportunity to hear from Legal Services on.....?

_____ : Yes.

_____ : Now, getting back to the same thing, this transfer of entry permit. They have two proposals, legal services does, just basically, they deal with real problems because these are going to be property items ^{that} are going to be valuable and that come a lean, long winter, people will be selling them and giving up their rights to the fishery.

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Is there -- is there any objection to that as a -- as a philosophy that we want to build into this thing? That we do not require a guy to fish every year or any certain number of years, even, as

long -- as long as he continues to pay his license fee for that area, his entry permit and his assessments. Then, if he doesn't want to go fish, well, that's up to him.

I would say that would depend on ^{transferability.} ~~a transfer of (license)~~ If it's going to be freely transferable permits, they're going to get a value on them. Then I would say that you want to encourage people. You would want to discourage, you know, speculation on the permits. So you'd want to have some sort of encouragement to actively participate, perhaps with waivers possible through the Commission when there is a bad situation. But if there's not going to be free transfer of permits, and the permits are not going to get a high value, then you don't have to discourage that type of speculation, I don't believe.

If you work out a -- an apprenticeship program to get your young in, and a person may only sell out to a fisherman approved on the apprenticeship program for the area, you're going to still allow free transferability in ownership. In other words, he can -- he can decide which one of these candidates he's going to sell his license to. But it has to come from the State master list.

Right. That -- that

That would take care of that problem, wouldn't it?

Right. But I wasn't sure we had reached that determination yet,

that it was that far along.

No. Well, what I am worried about is the fact that you could have in a depressed -- right now in Cook Inlet we don't want to make anybody fish that doesn't have to when you're at two twelve-hour periods. Because he's just going to take the food right out of somebody else's mouth when he does it.

Well, does the -- the combination of having -- of having a number of years limit plus the Commission may waive it if it looks like it's going to be a real bad year, or something like that; maybe that -- some kind of combination would work then.

I think you can do both. I think you can discourage -- you can discourage speculation and you can also -- you can also not force people to fish, ^{I think it is just} ~~which is~~ a mechanical-type thing that can be done.

This -- this would be one of the major oversight responsibilities of the Commission as we -- as originally set up, because it could adopt regulations to protect against the speculative kind of abuse. And, number one, any transfer has to be to a fisherman, not somebody else. And, I would assume, if ^{it} observed in a certain area, that permits were just dropping out and being held by people, thing like that. That there's, though, there's authority in there now where it's solved by regulation. I suppose you could elevate it to the statute itself, if you wanted to.

You could -- you could also have that the Commission may charge double assessments for people holding licenses and not fishing. You know, if you wanted to.

Okay. Then, will you guys all work that kind of language out? I think that may be the good approach so that you have a combination of these things. Basically, we do not want to require the people to fish in any specific year. That gives the Commission ^{some} flexibility there, too, so that they can ~~find~~ ^{make it better than} ~~noise~~ based on what the -- what the picture looks ^{ed} like for any one area in any one year.

I'd have problems with double assessments. I don't know.

All right. All right. I wouldn't drop that idea, then. Let's take a look at another one. I'm looking at some of my villages in the South there. Could we work in a -- poverty levels? Like at \$6,500 your gross family income was under \$6,000? The Commission may allow this category to renew with an assessment of only twenty-five percent or fifty percent of the standard assessment? Or is that getting into trouble?

I think -- I think one thing that we've got to make up our minds is what kind of a right are we creating. Are we creating something that's like a license right, which isn't a right at all in perpetuity, or are we creating something that's like a property right,

which is something that, once issued, you can't tamper with too much? You can have the annual assessments and all those kinds of things, but, really, you've given the guy something of value and you can't take it away from him if he decides not to fish for five years. And I think that we keep shifting back and forth and, on the one hand, we sort of think like in license terms and in the next, on the other hand -- and -- and I think that's a basic decision that has to be made.

Well, I would opt for the property right because of the fact that you want to encourage these people also to be conservation-minded. You know, if a fellow thinks that his property right is going to come up because he has taken good care, or because the fishermen have organized ~~them~~ and they're going into stream protection on their own, why, you encourage him to be a conservationist. With a property right, well, you don't encourage him to be a conservationist with a license right. In fact, when he -- when he's ready to cash out, he can be pretty brutal about it.

And what I was suggesting in terms of the Commission's oversight control, is that they notice that in a certain area, because these things are like property rights even though there's a requirement that they only be transferred and sold to fishermen, that that has sort of been abused and that fishermen are not really acting like fishermen. And they're holding out, and there's ^{maybe} ~~nearly~~ twenty ^{or} ~~to~~ thirty percent of your fishery that's not participating. Then they can really tighten up and when each -- you know, the trans-

fers that come along in the future, they'll get tighter and more -- and scrutinize them more carefully and make sure they are going to active fishermen, and they can kind of adjust their actions, depending on what's really happening in the fishery. But I think, as to a guy who's really got a permit that's been transferred to him, I don't see how you can come back five years later and say, I just don't think you should be able to hold that, if you decide not to fish three out of five years.

I agree. And to the fishermen that are left in the fishery, you know, except for the fact that this guy's license is going up in value, to the fishermen left in the fishery it's an asset when he doesn't fish. They've got more fish.

The only real abuse I could see is if some one person bought up so many permits that they could sort of control the number of people that were left in the fishery to some disadvantage. But I think that can be forestalled.

How does that happen?

Well, I suppose -- I don't think it could happen, quite frankly, because the Commission would stop it about the third time he showed up as a transferee.

Don't you think we could very well just say that

Limit it one to a customer?

Limit it one to a customer.

I think that's really the way it is here. I interpret it part -- you know, I can't imagine how it would happen.

A fellow should be able to hold a gill net permit in Bristol Bay, Prince William Sound, down here if he wants to. But he shouldn't be able to hold two in the same registration area.

I don't think you'll have any problem with speculation at that point. There's no way that a guy -- it's a valuable thing. If he's not able -- if he's not working, he might as well sell it to somebody that can work. It's worth more money to him sold than it is to hold, you know.

Dave?

In discussing the difference between whether a license right or a property right, well, my tendencies are usually for the license right and not a property right. I know people say that -- that a fisherman is going to take better care of his resources if his license is going to be of value. In my -- in my experience and the people -- some people that I have talked with recently about creek robbers, are the type of people who might wipe out the run

of the creek. It's my guess that the mentality of the creek robber is such that he's the kind of guy who just can't stand not to give it a try when he sees those fish jumping behind the line, or he's a guy who's not thinking ahead anyway. And I really don't think the fact that ~~if~~ he -- ~~even if~~ he's going to be able to sell his license ^{in 20 years is going to} ~~(india. laughter)~~ change his mind. And -- and I think it's going to take more education, and things like that, rather than -- rather than giving a property rate -- right to dissuade the creek robber.

Excuse me for my -- for my laughter, but I'm reminding him -- reminded of how many times this guy in front of us has said that, and I'm sure it's true, you'll never be the first one into a creek. You'll never be the third one, either. (Laughter)

When I did the first stream transplants for the State, why the Cook Inlet Courier's headlines were, "State Hires Red Tillion (ph) To Show Them How To Rob A Creek." (Laughter)

Well, even though the individuals doing the creek-robbing might not have no more mentality than that, the rest of the fishermen that see him doing it will have more mentality than that. And I think that's where he gets hauled to court. And, again, they're going to be much more concerned about it.

If it's my fish that he's taking, I'll stop him. If it's your fish he's taking, forget it, mother, I'll look the other way.

And it's just that simple. I've got to gain from stopping him before I'll stop him. And don't talk about leaving something for the future, and all of that, right now. There's no reason to stop a creek-robber 'cause there's going to be ten more fishermen fishing in the area next time. There's no reason to. People say that your natives aren't conservationists. Hey, they'd be conservationists if they stood to gain and there wasn't going to be double the gear there next round.

* * *

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

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

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

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

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

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

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

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

Well, we've got two other alternatives. Let's look at them. One of them would appear on page five of this proposed ^{Committee substitute.} ~~notice~~
~~notice~~

Let's see. Where is that?

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

Where are you, Bob?

It's this one here.

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

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

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

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

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

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

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

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

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

TAPE I - SIDE 2

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

NEW YORK:

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

But that won't work.

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

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

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

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

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

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

Because we'll find a reason.

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

Can corporations buy these?

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

Dean?

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

fishermen.

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

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

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

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

It would (indisc. - too faint).

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

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

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

There should be.

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

Or a farmer.

This is fine. But

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

It raises the value of the license.

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

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

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

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

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

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

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

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

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

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

11:11 AM

That's a good idea.

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

Or participation in like fisheries elsewhere.

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

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

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

Well, I don't know whether

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

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

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

Well, John, on the other hand

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

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

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

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

Well, let's get on here.

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

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

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

Conserve the fishery.

The fish.

The fish. All right.

I mean, that's one of the most important

I thought that that was really what was

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

Well, they're all in the same package.

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

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

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

(Indisc. - simultaneous conversation)

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

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

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

Now, wait

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

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

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

Well, okay.

Dependent upon the regulations for qualifying.
(Indisc. - too faint)

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

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

The transferability

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

Yeah, I'm sure.

Ownership will accomplish the same thing it does in agriculture.

Because this is what
 (Indisc. - too faint) on the conservation and, on an average,
 that a sharecropper doesn't take as good a care of his land as
 the owner. And there's no doubt that if you're going to be
 able to sell your license when you retire, you're going to
 have a much longer-range view.

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

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

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

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

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

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

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

wouldn't
(Indisc. - simultaneous conversation), loan a city slicker a lot of money to go out and buy a wheat farm.

Yeah, that's my point.

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

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

Very few residents (indisc. - simultaneous conversation).

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

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

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

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

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

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

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

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

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

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

Under regulations set up by the Commission.

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

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

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

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

You can't do it.

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

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

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

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

I don't know.

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

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

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

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

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

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

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

Well, not necessarily just from themselves. ^{From making}
~~bad mistakes~~

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

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

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

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

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

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

That's the so-called professional fisherman.

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

Yeah, absolutely.

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

Yeah, but the Adak area has this

They've got those damned Norwegians.

And tremendous Seattle fleet.

Yeah, they're valid when they hire their crew from Norway. But, I mean, our local fleet down here, the natives ended up in control of it because they just happened to be the toughest. You know, they were year-round fishermen. But a lot of them fell by the way.

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

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

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

And the alternative is that no one has the fishery.

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

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

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

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

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

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

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

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

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

NEW SPK:

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

And during that initial two or three-year period.....

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

HEARING OF THE SENATE SPECIAL
COMMITTEE ON FISHERIES 2/9/73

Okay, should we go on down to the idea of the
transfer of ^{the permits} ~~as~~ itself?

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

The one that says proposals?

— 21

Right.

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

to the money source.

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

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

I've ^{had lots of both} ~~test (indirect)~~ kinds of training on the courses of training I had in school wasn't in fishing, but I just can't see how any amount of training would make a man capable of being an efficient purse seine skipper in Kodiak. He doesn't know the fish.

All right. (simultaneous speech)

He doesn't know the ground.

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

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

Yeah.

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

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

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

MR. CLEM TILLION:

(Simultaneous speech - indisc)

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

applied on something and
as ~~(indisc) are going to~~ throw out the regulations.

But your statute would still be broad enough and reasonable enough on its face that -- to stand up. Of course, *in these proposals* (indisc) there's also a little kick back if something does happen. you go back and retransfer, but you've bought yourself a couple of years.

MR. CLEM TILLION:

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

I thought the (Simultaneous speech) requirements for *this were from* 100 ton and over to be (interrupted)

MR. CLEM TILLION:

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

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

Dave, do you want (interrupted)

Then this alternative number three, the ³ paragraph there, do you feel that that's an adequate note? ¹ *land*

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

No.

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

MR. CLEM TILLION:

If you (simultaneous speech)

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

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

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

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

I don't see it. I don't think it's to encourage ^{that} (interrupted)

You think that ^{Free} ~~pre~~-transferability is guaranteed on the market place to encourage an economically efficient fishery?

You crossed over between unconstitutional, ^{on its face} (indisc) and unconstitutional ^{as applied} ~~supply~~. If you have standards that are

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

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

applied *for*
As a ~~buyer~~ or on the ~~fish~~?

Well, sure you could say (interrupted)

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

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

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

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

MR. CLEM TILLION:

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

That's because the public is at stake.

The public is at stake in this case too, to a certain degree. For instance, in the last 2 years we've got an extremely crowded (indisc) ^{boat harbor in an area and you've got} people in there with boat handling ability that have caused considerable amount of damage to ^{rather people and--} other people and--

Well, (simultaneous speech)

.... boat handler's license to have a permit, you could do that in some other statute, ^{there's no} ~~you don't~~ need to do it here. If you just want to make sure it's your safety is provided for, then just do it in another statute.

(Simultaneous speech - lots of it)

MR. CLEM TILLION:

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

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

MR. CLEM TILLION:

It does right now when you want to get your license. Because I
have to have one ^{to earn a living} ~~during the~~ (interrupted)

Dave?

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

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

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

(Simultaneous speaking)

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

(Simultaneous speech) *Okay - I am just saying my view -
I don't want to monopolize*

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

Discriminating against somebody, yes. ^{That's the} ~~It's~~ a kind of ^{provision}
~~it is.~~

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

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

Sure.

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

(Simultaneous speech)

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

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

MR. CLEM TILLION:

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

END OF TAPE I - SIDE 1

BEGIN TAPE II - SIDE 1

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

How would you transfer one to the ^{applicant with a} ~~other~~? ^{free} Sealed bid?

Mr. Clem Tillion:

No, oh God no, anybody within that applicant pool

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

MR. CLEM TILLION:

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

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

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

Well, let's say ^a qualified buyers.

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

MR. CLEM TILLION:

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

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

Except Courts do not try to find something like that. *unconstitutional. They try to find something*

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

Dave?

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

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

MR. CLEM TILLION:

They didn't want to win.

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

MR. CLEM TILLION:

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

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

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

I object to that type of chinking.

(Simultaneous speech)

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

Yeah.

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

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

MR. CLEM TILLION:

Well, but.

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

MR. CLEM TILLION:

We're trying to work on a sociological game.

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

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

We've already got it.

(Simultaneous speech)

MR. CLEM TILLION:

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

I think you might. I'd say so.

MR. CLEM TILLION:

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

(Simultaneous speech)

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

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

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

No.

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

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

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

MR. CLEM TILLION:

So what?

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

MR. CLEM TILLION:

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

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

MR. CLEM TILLION:

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

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

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

MR. CLEM TILLION:

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

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

MR. CLEM TILLION:

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

Well they at least have an opportunity. ^{They have} A way out.

MR. CLEM TILLION:

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

(Simultaneous speech)

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

MR. CLEM TILLION:

I think you could (interrupted)

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

Okay.

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

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

Well, the problem is ^{free} ~~pre~~-entry into a billion dollar resource
with a right of any citizen. Not the citizens that are neces-
sarily that are here today or interested in fishing today,
but the right of a citizen of this state or ^{of} any other state,
as far as that ^{you know,} concern, to enter into its resource. And then
if you're going to exclude ^{him from} ~~your permit~~ resource, it ^{has} -- you
~~have~~ to be on some grounds. Although ² those grounds are
acceptable to us, that he's not an Alaskan, or he's not a
resident, whether we want him to live here locally, that's

perfectly acceptable grounds to the people in this room.
Because that's us, and that's our friends and neighbors, and
our concern. But that's not an acceptable standard when --
outside this room, and that's where you -- that's where ^{this} ~~the~~
thing is going to rise and fall. That's where they always
fall. ^{It's} ~~is~~ because we sit around and talk to each other with
standards that are perfectly acceptable to us, and it seems
to be ^{no that I could ignore} ~~lacking more of~~ the absolute problem that ^{has gotten} ~~is not going~~
to be acceptable outside because it doesn't fit into the
necessary parts of this.

(Simultaneous speech)

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

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

Suppose tho (interrupted-simultaneous speech)

How does that damage it? If he catches many fish it's going
to be better for the ^{rest of them} ~~resident?~~

MR. CLEM TILLION:

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

Tellion

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

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

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

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

Well, again,

What's wrong with the (indisc - cough) with this problem?

The point of view ^{of} ~~I'm~~ trying to help our citizens, ^{and} that we can do this in terms of loans and otherwise, or training or whatever we want to do. God, we can buy them boats, we can loan them money, we can give them operating capital, we can grubstake them, we can do all those sorts of things without any question of legality or constitutionality. In other words, are we really going to help our people ^{until} ~~till~~ we're -- until we teach them and equip them with money and otherwise, so that they can compete ^{rather than} ~~then~~ to try ^{and} legislate the competition away from them. In other words, our ^{problem} (indisc) is to raise our non-competitive and marginal fishermen ^{who} to our friends and neighbors to a competitive level ^{to} ₁ where they can operate with anybody else rather than to legislate, try to legislate, so that we can protect them from the outside competition, *so to speak.*

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

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

(simultaneous speech)

They wouldn't have to be taxed for it.

Well, where's the money coming from then?

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

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

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

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

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

(simultaneous speech)

MR. FRANK FLAVIN:

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

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

MR. FRANK FLAVIN:

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

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

DAVE:

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

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

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

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

(Simultaneous speech)

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

But if you were faced with the problem of common overgraze -- let's assume you've got a common area, and you were going to let people graze on it and it was being overgrazed, you would not require of ^a ~~the~~ permittee that he -- that if he gets a permit that he has to put 100 head on it. You'd hope to hell that he maybe didn't put any on it if he was entitled to a permit or something. ^{if he a} ~~I mean~~ the problem is overgrazing ^{see,} ~~if a problem was under~~ you can promise other ^{grazing} then it would be different.

But the problem of this thing, the thrust of the whole works is an over -- too many people, too many people, and therefore if it's a taxicab you're giving a certificate of public convenience of necessity to, if you're only going to have five cab operators in town, you want to know that when it's

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

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

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

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

Well, if he ^{had a} been ^{stuff} working within the fisheries at all... then then

He hasn't been a working ^{stuff} (indisc) within the fisheries.

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

(Simultaneous speech)

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

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

No, well no wait a minute.

No, no, no.

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

Yeah, but you're not

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

Well, that's an argument.

(Simultaneous speech)

The scallop fishery--

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

or perhaps And then you're insurance costs go up, you have more injuries all these sorts of things and when you know, ^{insurance} certain costs go up for everyone when they go up ^{they're different economic} (indisc - interrupted) ^{and efficiencies}

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

I guess I respect the abilities of the skipper too much. I tend to think he's a little special man, ^{you know} ~~is~~ all.

Do any of you anticipate we ^{can} ~~we~~ accomplished anything more this evening at this point or should we break until the next ~~time~~...?

Well, I think as usual

(Simultaneous speech)

... only to be a union plumber, not as far as the law ^{is} concerned.

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

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

This came up with a friend of mine. He wanted to be a plumber.
But he couldn't be a plumber so he became a plumbing contractor.

END OF TAPE

CHAIRMAN: For the benefit of ^{You} ~~the~~ people in the audience, let me introduce the members of the committee that are here. Across the table, we have Senator John Sackett from the Interior, Senator Poland from Kodiak. Next one here is Senator Radar from Anchorage and I am Bob Palmer from Ninilchik. We have Mike Whithead here as our committee assistant ^{who} ~~and~~ has been working on this thing non-stop for all the time since the session began and this is Joe Bennett, one of our attorneys from Legislative Affairs agency. Okay, to go back to where we were, one of the earlier proposals that we have been working on in ^{rather} ~~really~~ great length and have been discussing has been free transferrability of these entry permits so that they would have a property right and the fisherman could sell that either back to the commission, the entry permit could be sold back to the commission when the fisherman wanted to get out of ^{the} ~~the~~ fishery, or he could turn around and sell it to anybody else that wanted to get into the fishery. We had known of some of the drawbacks ~~and~~ ^{or} we recognize some of the drawbacks to this system though, but we hope to include in that idea the fact that the commission would need to approve the transfer of any of these permits ^{the Commission} ~~which~~ would give ^{an} opportunity to discuss the advisability of the sale with the fisherman that is wishing to sell his transfer - or his permits. We have also discussed the idea of having a two-year moratorium during which no permits would be sold. We have also talked about providing adequate funding for the fisherman through the fisherman's loan program that we have now in effect in the state, ^{so} ~~though~~ the fisherman who might be indebt to the cannery at the present time would have an opportunity to borrow money from the state fisherman loan program in order to pay off the cannery so that the cannery could not foreclose ^{on him} ~~all names~~ and force him out and force the sale of his permit

to the cannery perhaps. Well that's one concept - free transferability with a property right. We have another one before us in the form of a work draft today in which the entry permit is not transferrable, does not have a property right if ~~the~~ ^a fisherman did not fish for a certain number of years, and that's not specified; then the entry permit would automatically revert back to the commission and after there had been enough reduction in fishing gear so that a so-called optimum level of gear ⁱⁿ the specific fishery had been reached, then when there were people getting out of ^{the} fishery and the permits going back to the commission, the commission would make these available on a lottery basis to people who wish to get into the fishery. There are quite a few advantages to each of these things and a number of disadvantages to each of these systems. And the purpose of the meeting today is to consider some of these alternatives that we have ^{as far as the} ~~on the~~ ^{of the} transfer permits, the non-transferability and the disadvantages and advantages of each. I think that we had not intended to have a great deal of testimony from the general public today, but I do recognize that a lot of you people have travelled quite a distance to be here for another meeting, yes, perhaps, ^{but} ~~that~~ you're still here and we would like to take advantage of your expertise. A lot of you have been life-long fisherman and so we will give you an opportunity within the limits of time that we have to have your say. I think what we'll start then, I think we will start with Mr. ^{Flavin.} ~~Clayton~~ We'll let you, if you wish, ~~to~~ give us your analysis of the lottery-type arrangement where no property right is attached to the entry permit and therefore it is not ^{freely} ~~really~~ transferrable and I would like to have your comments pro and con on that, as you see, and I think we'll then go to the representative from the United Fisherman's Organization, Mr. Dejak ^(ph) if he'd like to, and

then to people in the audience over here. Okay, Frank, would you like to ^{sit} ~~set~~ up ^{at the} a table, you may do that.

FLAVIN: The non-transferrability certainly wipes out the problem we had with coercion, the economic coercion and one of things we ^{were} worried about when we ~~approach~~ ^{broached} this two-year period on the transferability section, ~~is to have~~ ^{this two-year} moratorium on the ~~issuance of~~ ^{issuance of} permits, ~~whether~~ ^{is that} we hope in that two-year period to be able to educate the low-income areas as to what they had and perhaps bolster them up economically so that they could withstand the type of pressure ~~and when they~~ ^{they are going to} get to transfer those permits to financial interests. With this pipeline problem and everything else with the drying up of a lot of funds ~~has~~ ^{it} just becomes questionable whether those types of ~~fundings~~ ^{Funds} are going to be available. I know a lot of ~~the~~ people in the Bristol Bay area cannot qualify for the state loan program the way it's written now. Even if we could get the funds for it, I am not sure that would be the sole answer. On strictly legal issues, I think that non-transferrable ~~is~~ ^{permits are} legal. I think that you might ^{even} be able to get away with allowing transfers ^{of permits} to family members. I think that it's worth the chance and I think it could be severable and thrown out to you and wouldn't be worse off and it's worth a try.

Excuse me. I interrupt. Are you saying that under ^{this} ~~the~~ concept of non-transferrability it still might be transferrable within the family?

FLAVIN: I think so. I think that you should keep that standard ^{that} ~~if~~ you had the original governor's bill that anybody that gets the permit has to be able to actively participate in the fishery, ^{have present intent and} ~~rather than~~

~~attach the ability to participate.~~ I think that it would be one thing to give a permit to somebody that was 14 or 15 and something else again to give it to somebody that was 4 or 5 years old. I think that the original bill provided, in another section, that the commission would draft rules and regulations on the inheritance of permits and this type of thing. I think that they could investigate that a lot more as to ^{different} ways ^{you could} to go about that ^{to} ~~and~~ make sure that it was legal (loud coughing noise). I think one advantage I have been going back and trying to analyze the prior decisions in ^{Bozanich and} ~~the advantage in~~ the other Washington cases. One of the things that has troubled me is ^{in Bozanich} ~~by advantage~~ the court there said, the federal court ~~there~~ said, ^{was that the "no} that the problem they had ^{we had} ~~was~~ ^{exclusive} ~~exclusive~~ ^{we} right of fishery clause, which is gone now, but ^{we} also had the common resource, which is still there, that the fishery is a common resource. And their problem was vesting entry into that common resource ⁱⁿ ~~into that~~ private ^{hands} ~~had~~ so that anyone that looked ⁱⁿ ~~into~~ the future to get into ^{the} ~~the~~ common resource ^{the} fisheries, would have to look ^{to} ~~into~~ a private individual to get that and that is where they found the constitutional deprivation in that you had to go to a private individual in order to get into a common resource. I am not really sure that when we have free transferrability we have changed it. **legally** in any way; instead of a three-year standard now we are saying you have to buy it from them instead of working for them and I am not sure if that's not ^a ~~any~~ difference without any significance in law. You say you still have that private individual that you have to ^{depend on (?) to} ~~(unless, noise)~~ get into a common resource. I wish that Dave was here today because I feel like I am taking ^{a little bit of} ~~an~~ unfair advantage over the attorney general by approaching these things without having some playback but I think that's a problem that hasn't been looked into. I just wish we had some more

briefing on this. I think the non-transferrability, if we could
get into that, I think we would certainly take care of that problem.
Despite John's reservations, Senator Radnor's reservations, I think
that you might want to put some basic ~~some~~^{minimal} qualifications that
anybody could meet if they tried to on new applicants. I think that
the state could do that and I think that it would be wise to do that
so that you would go to a lottery of people that could actively
participate now and ^{not} go to a lottery of incompetence ^{is} or something
or anybody but somebody that would have the ability to participate
and ~~to~~^{just} some basic ~~some~~^{minimal} qualifications, hopefully not something where
you get into ~~some~~^a credential ~~position~~^{system,}, at least some present ~~type~~^{intent and}
ability ~~participate~~^{to participate,} I guess that's ~~kind of mumbly~~^{enough.}

Well, describe if you will, how you really see this thing working. I
tried to summarize a little bit. Perhaps you would like to ^{go} into
a little bit more detail as to how this actually ^{would work} works on a lottery
basis.

FLAVIN: Well, hopefully there would be ~~some~~^{some} forfeitures ^{and} as the resource
stabilized perhaps we ^{would} have some more permits issued in the future.
Once permits did become available if permits ^{that either} came to the state
~~for~~^{through} forfeiture or came ^{through} to the people that didn't leave any ^{heirs} ~~areas~~
or something like this, then these permits would ~~then~~ be reissued
by lottery basis on basically the same standards that we had
originally to, maybe a little less harsh on the dependency and
participation, but they would go on a lottery basis to people who
could actively participate. Of course, that's extremely fair.
You're not showing any favoritism if you ^{go} ~~go~~ on a lottery. I would
myself prefer to see it go to people that have invested personal

committee has to consider.

So it would not be a completely open option - er, a lottery as you see it, but there would be qualifications on those who are eligible to participate in the lottery.

FLAVIN: Right. I would hope ~~at least~~ ^{at least} that there would ^{be} some basic qualifications that you would have the ability to participate in some manner. Maybe that's not acceptable.

I'd like to know what ^{felt was} ~~felt was~~ wrong with the lottery type situation?
A Senator Rader,

RADER: I don't know. It has ~~a~~ lot to recommend it. It really wasn't my idea. (person's name), I think, brought it up first, maybe Mr. Flaven did, I don't know who brought it up first, but, it has several things to recommend it. First thing is that we are worried about if we distribute permits today that economic interests would ^{acquire} those permits, either local or outside, it doesn't make any difference, ^{but} ~~superior~~ superior economic interests. A lottery would stop that because ~~the transfer that~~ the permits could absolutely not be transferred to anybody nor could anybody buy them up. The best that they could do is to put their names in the lottery. That's the first thing. And this would be whether ^{it was} ~~with~~ the canneries or ^{whether it was} ~~the~~ canneries' nominee. ^{The} ~~Most~~ ^{that} ~~of~~ anybody ^{could} ~~can~~ ^{would be to} ~~it and~~ put their names into the lottery and presumably they could only get one license ~~in~~ at the most. So it seems ^{as} ~~though~~ ^{they're not going to be able to} ~~that a number of people~~ buy them up, and therefore the guys are going to be on the beach. It also keeps the fisherman from having anything to sell, which is a disadvantage to 'he

fisherman. If he had something that was ~~transferable~~ transferrable, he would have something that was saleable. This way he doesn't have anything that's saleable because the moment he quits using it, he can't determine who the subsequent users are going to be because they'll go to the lottery. So he doesn't have anything to sell, therefore, the economic interests have nothing to buy, therefore the economic interests presumably could not corner the market on them. The second thing is that if it is done by a lottery, it's ~~eminently~~ ^{eminently} fair. I think that that has a lot to recommend it but it doesn't mean that any group ^(indisc.) or group of people are going to necessarily be the only ones in the lottery. As a ^a matter of fact, I am convinced that ^{if a} ~~they~~ ^{from} ~~is~~ ^{is} Seattle, if he wants his name in the lottery too, you'd have to put him in.

Can you see ^{in terms of the people} certain requirements though, [^] that can be in this group of lottery?

I think that it would have to be really minimal. If the requirements are ^(?) safety [^], then you should require that of everybody today. If the requirements are ...

How about of knowledge?

Well, why don't you require that today? What difference does that make? Maybe a guy ^{hasn't fished} ~~has a fish~~ but he wants the right to fish. I think that it was Phil Daniels here who said that he had never been fishing in his life and on the third year he's a highliner. Well, he wouldn't have been eligible for the lottery but people like him should be eligible for the lottery whether they have ever fished or not because if they don't catch any fish, they haven't hurt the

resource. Like the argument we made before, if they don't catch any fish they haven't hurt the resource. The other fisherman catch more fish and the only thing ~~is~~ ^{is} is that he has a permit there which he has not fully utilized. The argument ~~is~~ ^{against} that ^{is} what are you going to do if you have only a limited number of permits and you need a full harvest and ~~the~~ ^{there's a} number of guys ^{that} are incompetent because they are learning. I think that that argument has some ~~weight~~ ^{weight} to it. But I assume that what the knowledge thing here... I don't know...

Thank you.

Could I make one more response?

Yeah, Frank.

FLAVIN:

^{The} One disadvantage of the lottery is that the guy that's in the crew members status or something investing his time into the fishery ~~would~~ ^{with} hopes that someday ~~gain~~ ^{he'll be getting} a permit. With the lottery system it would seem like playing Russian roulette, which he has no real manner of improving his position as the years go along and I see that as ~~a~~ ^{the} real disadvantage in the lottery, where ^{the lottery} on one hand ~~is~~ ^{is} fair and on the other it's hard for a person to really, ^{just by sheer} ~~try~~ ^{put} effort, to improve his position.

Why wouldn't it still be a defacto type thing of these licenses or permits gravitating to the canneries simply by the fact that the canneries might have a pool of twenty, thirty, forty applicants for every space that comes open? Any one of which can be successful in the lottery becomes a cannery fisherman. Whereas everybody else is definitely one against one.

I would say that somebody would have to work on that lottery system to make sure that it was fair and that there wasn't any packing going along with it. That's why I still believe in some basic ~~basic~~ ^{minimal} qualifications because I think that's one way to prevent that type of thing.

Well can't the cannery have qualified people ^{as applicants?}

Sure they would have..

They would have; ^{you're} ~~but they are~~ not going to weed them out that way.

You know it's a little bit like this. This problem, ^{this idea of} ~~of deciding the~~ qualifications is a ^{little bit like saying that} ~~right thing and~~ you can't go to college unless you graduated from high school when the fact of the matter is that they ^{could} let you take the courses so you ~~can work your way~~ to college. (?)
A lot of people didn't go through high school for a lot of different reasons, but ^{this} ~~this~~ idea of making everybody hold certain credentials ^{rather than} ~~and~~ letting them go out and see who really can do it and letting them produce...

Same thing for attorneys?

As a matter of fact, I agree with you. I agree with you 100%.

Let's keep to the subject.

I think you're absolutely right. As long as they work, I don't care how they ^c acquire their knowledge or information or that they

want to spend a couple of years learning how to do it. There
may be people who won't want to go fishing until they know that
they have a permit or are going to have a permit because maybe
what they really want out of life is to be independent and on their
own. There is no point in learning how to fish if you're going to be
a deckhand all your life if you don't want to be a deckhand so I
don't think you really want to limit it to any class of people on
getting in there. I think you should limit it to people who
think they want to fish. If they don't use it, then they lose it.
Anybody who didn't use it, say three years or five years, or what-
ever, ^{would} be a reasonable cycle, would automatically lose it, which means
that there would be no ^{speculative} ~~value~~ value in the thing.

I agree with you except that while you're doing all this and while
you're allowing these people to go in, ^(?) ~~and~~ I believe that there
has to be some method whereby you can make it easier for Alaskans,
particularly those that are in the field that don't have all
the advantages to be able to have at least a ^{little} better chance than
others. And of course that's the ^{whole question we're grappling with.} ~~questionable~~

If you could figure out a way to do that. If it is based on
knowledge and goodwill you could get the Seattle fisherman ^{that have} ~~the~~
knowledge, too.

Mr. Chairman?

Yes.

I think that I am the only one that (indesc. mumbling) sometime the crucial part of the testimony.

Alright. Thank you. I'd ask everybody to speak a little bit louder. I don't know whether the acoustics are not too good here or what. Anyway let's try to speak up a little bit more so that the people in the audience can hear. Incidentally, I didn't introduce Mr. Flaven. He's an attorney representing the people from south Naknek. He is here, Phil Daniels representing the United Fisherman's Association and Mr. Dajak representing the Governor's Office. He's worked with the Governor's version of this bill for quite a few days, weeks and perhaps months with us here since the session began. Did you have something more that you wanted to say?

Yeah, just one quick thing. I think that what we are talking about is we've got three options as far as a new entry bill. We have got a lottery option which has had the advantage of being eminently fair, but perhaps no one knows where they stand and the other two options are we are going to have two kinds of qualifications; you're either going to have a money qualification or you're going to have a personal type of experience-type qualification or educational type qualification with some type of personal qualification. I think that's our three options. We're going to have to look at fairness and we are going to have to look at what kind of qualifications it's going to take to become a member of the industry. I think those are the ^{three options} ~~(indesc. noise)~~ we have. Either personal qualifications or strictly monetary.

Alright, John, let's get ~~your~~ opinion and Joe, I'd like you too
if you wanted to give us one. If we were to go the lottery route,
there's two things we might think of as far as qualifications ^{or} ~~as~~
things we would like to do perhaps, ~~and~~ One is to make it trans-
ferrable to son or someone within the second degree of kinship.
First of all, do think that we could possibly do this within the
confines of the constitution? Is this something we could work
out perhaps? ~~I know that~~ I don't want to pin you down. I am
just saying, what is your immediate reaction?

My immediate reaction is that anytime you have a group of people
that have a special franchise permit and you make it inheritable,
so to speak, that you're creating the worst type of a closed
society. I understand precisely the idea of a family in a fishing
situation, but you have to recognize ^{that} ~~the~~ people who don't have any-
thing, ^{that it's to} ~~for~~ their interests generally, that the special privileges
to fishery resource or something else is that the ^{free} ~~entry~~ entry into
it and not to be precluded ^{from free} ~~entry~~ entry into it. Because someone's
father who is a fisherman and two kids are going to school together,
one of them therefore is assured that he has the right to fish and
the other one is equally sure that he doesn't have the right to
fish because of his father, doesn't appeal to me as being basically
fair.

Well the question is constitutionality, not morality...

I haven't researched the point.

Well I'd strike it ~~as the father's place~~ as being unfair.
^{on its face}

It probably was not a fair question since you ~~won't~~ ^{it as far as} ~~have~~ ^{will (?)} an opportunity to study the constitution, so we ^{will} now retract the question and ^{see} ~~what~~ what can be done as far as research into the constitutionality.

Certainly certain benefits or a lot of benefits ^{would insure} ~~of the name of~~ the family ~~(indese mumblyng)~~ ^{with one of its members} holding a permit.

Are we in the same situation if I ask the question about applying the same criteria to those who might go in a lottery pool as we apply to those who ^{got} ~~are~~ the original entry permit? You follow me?

We have some qualifications. There's a criteria here. Primary ^{or second ...} ~~your second~~ career fisherman, consistent participation in this fishery, provides the primary ^{or} substantial income source, etc. If we ^{tried} ~~try~~ to apply these kinds of qualifications for one to be eligible under the lottery, even, ^{do} we hit the same problems? Are we in the same situation ^{in asking (?)} ~~and answer~~ the constitutional question?

~~(indese mumblyng)~~

Why don't you ask somebody that's researched this?

I think the committee knows my feelings. I have always felt that if ^{didn't} ~~you're going to~~ use those same criteria in the future, you sort of undermined their fairness and equitableness in the past.

Phil, would you like to present the other side as you see it or some of your thoughts on the other side?

I will make it very clear that what I say will not be the official position of the United Fisherman's, because they are coming back ^{to town.} ~~down~~

We're not asking for their position, just some thoughts that you see as far as the other side, perhaps, of this coin.

Well I would have an enormous amount of reservations on the lottery approach. From this point of view initially ~~from~~ⁱⁿ travelling around the state and meeting with fishery organizations, ~~that~~ the biggest argument against limited entry was the argument that you're interfering with the free enterprise system and that you are excluding the ~~hope~~^{open} fishery creating perhaps a closed class. Well it's bad enough to have to exclude someone from the fishery but then ~~you~~^{to} turn right back around and say that ~~by~~^{by} establishing an apprenticeship ~~school~~^{pool} and ~~by~~^{by} putting ~~on~~^{it} a lottery basis, we're gravely jeopardizing your possibility of ever getting into that fishery. It's going to be that much more discouraging to the general public and to ~~a~~^{to} lot of other fisherman. In other words, if you went the lottery route and you had ten licenses and you had only eight fisherman, just in terms of the laws of probability alone, a man can go back and put his name on that list thirty years in a row and never get a license and I think that this is going to be very discouraging to a lot of people who see themselves as one day wanting to fish. I also think that in my own case, and in many other peoples' cases, ~~has~~^{who have} come here and wanted to fish, ~~that~~^{if} they had to go ~~so the~~^{through an} apprenticeship ~~school as~~^{pool that} required, ~~by the state~~^{let's say,} five years ~~for~~^{of} participation as a crew member and various other things before they could become eligible to roll the dice, that they would be discouraged ~~and evidently~~^{enough that they would} see themselves as excluded. And this is my real reservation: if I were a crew member and somebody said, well you're going to have a chance to fish but only if you're lucky enough as far as the lottery is concerned, I would really be discouraged at that. On the other side of the coin, if

you make your ~~license~~ ^{license} ~~really~~ transferrable as a property right, you're really saying to somebody that although we have an exclusive fishery, still, anybody who has the courage to buy a license can get one. Now this, I think, ^{it's} ~~is~~ legitimately pointed out that this is a disadvantage to people who don't have ~~the~~ money. But as far as the concern that these ~~li~~ licenses will eventually end up in the hands of the cannery, I think that's a bit short-sighted from several points of view. First, the ~~li~~ license attached to a man and the cannery can only own one license, ^{I take it.} I can't, for the life of me, see a cannery put down 10 to 15 thousand dollars for a man to get a license, when that license cannot be encumbered and that man can turn around the next day and tell the cannery to go jump and take off ^{on his own} and do whatever else he wants to do, and I imagine that when the cannery has been burned two or three times, as it no doubt would be, that they would become very reserved about buying a man a license for 10 thousand dollars when they can't get their hands on that license. Secondly, I think the cannery's ability to dominate the fishery economically, would not have been precluded, because as long as the cannery is able to loan a man money, as they are going to continue to be able to do, then ^{they're} ~~their~~ going to have a way of getting their hands on that man whether they've got his license or not. As long as ⁱⁿ ~~it hasn't been~~ a hard winter, a man can go to ^{a cannery} and say, how about loaning 3 or 4 thousand dollars, they have him under the same kind of economic coercion as they would have now, as some canneries do, and I don't see ^{that} you're going to preclude this by making that license put on a lottery ^{basis.} ~~base~~ I don't see the advantages. Now, from another point of view, I think ~~that~~ the idea to the fisherman, ^{to} ~~who is~~ the really serious professional fisherman, the idea that by being able to buy a license...take a man who already owns a license, say in Cook Inlet,

The idea that he can go to Kodiak, ^{and} buy a license there, ^{about} ~~be~~ that he would have to pay the assessment cost, but he would be able to fish more than two areas and that's going to be an enormous boom for that man as far as ~~the~~ ^{his} ability to earn a living fishing. And there are a lot of people who could make a living fishing if they can fish more than one area, as we used to do. That I think is one of the strongest ^{selling} points in that entire bill as far as the fishermen are concerned. I would like to see the license made a pretty negotiable item. Now ~~actually I'm pointing~~ ^{it's been pointed} out that you're giving a man a big economic windfall by doing this, ~~and~~ ^{well,} if you have an assessment by way of a buy-back program, you're going to ^{be} requiring that fisherman to pay one or two hundred dollars a year or so in order to buy these excess boats out of the fleet. Well, if he does pay that and his license is valuable, I don't think he's getting a windfall ~~gain.~~ ^{gain.} The man who is getting the windfall ~~gain~~ ^{gain} will be the man under the system where you had no cost on your license and the man comes into the fishery 10 years later after ~~you've (induced words)~~ ^{your buy-back has} achieved the attrition ^{you're looking} and he doesn't have any assessments to pay, the fishery ~~will~~ ^{for} then ~~help his~~ ^{in a healthy} state-~~to~~ ^{you've} reach optimum levels, He's the man who's going to get the windfall ~~gain.~~ ^{gain.} So those are my reservations on it. I am certainly in sympathy in the idea of trying to protect people in low-economics bracket. I know that the Alaska Native Land Claims provisions provided that you could only sell your license by going back to the B.I.A. I believe that's the way it's written. And the idea there, I imagine, is to keep a man from selling something valuable when he doesn't realize the value. Well, if we could do something on that level, ~~the cause of~~ ^{to cause (?)} this license when it wants to be transferred to be referred back to the commission for their approval so that a man doesn't sell when he shouldn't, at

least you can try to discourage him from doing so, and it still
allows ^{it} to be ^{as} open ^{as a system} as possible by way of the license being pretty
negotiable between whoever wants to buy or sell, would seem to me
to be a lot more desirable way to go. Again, I want to make sure
that everybody understands this is not the U.S.A. position, ^{F.} and this
is the way I feel about it and I may change my mind before it's over.

Daniels.
Question to Mr. Anderson.

I started out, I think that at one point in my thinking here, ^{agreeing to (?)}
statement that you just made and I don't know whether I agree or not, ^{yes}
I am very troubled by one argument that we presented the other day
in the hall. That is, let's forget about the assessment that we are
going to make here against the fisherman. Let's ^{assume that we can't} figure out whether
^{there's an excessive pro rate (?)}
~~the (index number)~~ amount of fish he catches for each license
or what, and ^{that we} reduce the number by ^{attrition of} ~~a fish per~~ licenses. We assume
that the salmon resource ^{is worth a billion dollars,} ~~(index number)~~ and I don't know what you
want to assume but it's got to be worth probably several times that
the North Slope oil is producing; many, many times in a long term.
If you assume that you're going to divide that up among a certain
number of people and that they will have the right then to sell that
when they are through using it, aren't you really giving the first
group the resource and then when they sell it, they receive the value
of the resource and the second group pays to get into the industry?
The first group doesn't pay. They get it for nothing. This generation
of fisherman get it for nothing but the second generation of fisher-
men don't get it for nothing. They have to pay this generation of
fishermen and then what are they paying this generation of fishermen
for? They are paying ^{then} for a public resource that this generation of

fishermen did not pay for but was given to them, and ~~then~~ you make it ^{freely} ~~pretty~~ transferrable, there's that element to it that, it would be a little bit like us saying why did we give away the North Slope oil on a lottery instead of selling it on the basis that they will pay us maybe a royalty or something like that, because they want to use it, because they'll develop it. We'll make the money off the pipeline ^{off of} or ^{off of} royalty or something else. The public will make... the public interest here on this fishery. And that's the thing that bothers me now and didn't bother me a few days ago about the very thing you're talking about. Maybe I'll get back to where it doesn't bother me again, but it does right now...

DANIELS: Well, I would hate to see ~~us~~ ^{us} go the route that you just indicated, ~~of~~ ^{of} not having a buy-back. Because ~~in~~ ⁱⁿ the first place, I think that your ~~word~~ ^{attrition} is going to be painfully slow and if what we are trying to do in the first place is limit the fisheries for what I think is a very, very good reason, then I think we ought to accelerate that limitation being arriving at the optimum level, you're going to have to have a buy-back of some kind. I would prefer to see it by way of ^{an} ~~an~~ assessment ^{just} simply because in talking to all these fishery ~~groups~~ ^{groups} around the state, these guys are willing to be charged money as long as it they see it benefiting the fishery. So I would really like to see the buy-back. ~~Even~~ If you didn't have the buy-back, I would be perplexed too, because obviously the guy is getting it for nothing.

Let me ask you this. What if we made the rule that when a particular fisherman got through with his license, his permits, and wanted to give it up or sell it, that the only amount that he ~~could~~ ^{could} receive for that would be the amount that he had paid in assessments between the time that he held it and ~~until~~ ^(under) he put it up for lottery?

DANIEL: Well I could see the fairness of the first part of it, but the second part of it still bothers me tremendously. I just can't see a man ^{who wants to go into} ~~going up to~~ the fishery going up to roll ^{the dice.} ~~them back.~~ ^{I am in} ~~disbelief~~ because of the fact that, again, if you got eight licenses and 10 men, some of those guys can go back forever and never get a shot at that fishery. And I just think that publicly that's going to be tremendously ^{objectionable} ~~objection~~ and plus the fact that I think that apprenticeship ^{pool} ~~school~~ is not going to provide the kind of benefits to people that they may think would. Because for one thing, most of the people in the apprenticeship ^{pool} ~~school~~ are going to be fishermen who are actually fishing other areas and if you were to use the same criteria for priority rating, that you have in that bill, they are going to outweigh the group, they are going to outweigh the man who hasn't got experience because obviously they've got ~~the~~ the experience and all the requirements and qualifications because they are already fishermen.

I like that first part, John. It's interesting; just pay back in turns of the amount of assessment. I have always been concerned about exorbitant ^{stant} or inflated costs ⁱⁿ at a buy-back ^{provision.} ~~division.~~

The chairman suggested the other day when we were going through this thing that ...

CHAIRMAN: But of course if you do that, where is the incentive then for someone to sell out, if all he is going to get back is what he has put into the thing in assessments? On the other hand, if he's going to have a property right, there may be quite an incentive for him to sell out, right?

Of course there is always the question about whether ~~he would~~ want
the ^{back} ~~to buy that~~ in the first place. We're still on that question. I
am not going to go back...

CHAIRMAN: Well, let's don't get too far off of this, though they do fit
together, I grant you. Okay, Allen?

ADASIAK: There's just another wrinkle on that. If you were to apply for
the first man's selling and ^(indeed) ~~then~~ that all he pays back is the amount
he paid in assessments, assume that the assessments were spread over
ten years and he was in there for ten years and then decided to sell,
he'd get that back. The second man then, would be the one who got
the windfall gain if the amount of assessments over ten years didn't
equal what the market value of the permits were. He would suddenly
benefit from a great increase in value, so you've got a problem
there.

So if you follow the string through, then you'd have to charge the
guy in the lottery the amount that you paid the first man on assess-
ments, which then puts in a financial qualification for getting into
the fishery, but is not guaranteed, and that's what Phil objects to
and yet, what the problem of the guy who doesn't have any money, we
have suddenly made it so that he has to pay to get into the fishery,
and he would probably have to do that ^{then, too.} ~~so~~ So ultimately, they would
have a value, but they are going to have a value more than the
assessment. The assessment value will only represent a very small
value of that permit. The value of the permit is really going to be
as if you'd taken a billion dollar industry and divided ^{it} ~~it~~ into a
thousand parts, and there's a thousand people who have a franchise
now.

So somebody gets the advantage, whether it's the first guy or the second guy...

No. You could keep on passing to where they all got what they paid for, but finally it gets to where you're not get into fishery then unless you pay your way in.

But then there's no purpose for a lottery.

Yes there is. Because the assessment will be only a small part of the value of that... For instance, if the assessments were say, two thousand dollars, if it were freely transferrable property, it might be worth ten thousand. So there is an eight thousand dollar equity there. The eight thousand dollar equity would be the windfall if you let a man sell it to the second generation of fishermen. Whereas, if you took that lottery, the eight thousand, which represents one one-thousandths sale of the billion dollar industry, whatever it might be, you know. It ^{gets to be} horribly complicated if you follow ~~put~~ the thread through.

^{That's}
DANIELS: ^ One thing I like about the free transferrability, ~~is~~ because it obeys the law of parsimony, a rather simple approach; something a person can understand without ever having to ^{have a decree.} ~~agree~~

Well I think that's really ^{a big thing.} ~~(indesc. mumbled)~~

I ^{do,} ~~think~~ too. (laughter)

It has to be understandable by the people by the ~~whole~~ the people
^{who are} involved in this, it's the worst.

^{On the face}
(indesc. mumbling).. [^] it may be understandable, but the thing we're
really concerned about is the ^{am} ramifications, and ^{I'm not so sure} ~~I thought~~ that
~~surely~~ those are so ^{easily} ~~(indesc. noise)~~ understandable.

Well about economic dominations by processing^{ors}; can anyone tell me
exactly how the cannery is not going to be able to dominate?

Well, I am not so concerned about that as much as I am about the
immediate large number of people ^{that you would have} [^] going into the fishery or, as I see
it, if we go this route, it has a free transferrability and this
thing has a property right, and ^{yet} ~~we~~ were locking in everybody in
categories one, two and three, so that anybody that has been a
fisherman in the past, that depends upon the fishery even to the
amount of substantial supplemental income, is guaranteed right back
into the fishery. Then it seem to me that we are going to have an
awful lot more people coming into it because, purely from a specu-
lative approach, if noth~~ing~~ else, they think that thing is going
to have a five or ten thousand dollar value in a few years. Therefore,
they are going to get in now and get it and even though they may not
be too interested in how many fish they're going to catch in a year
or two, simply if they think they're guaranteeing themselves having
a property right of an x-number of thousands of dollars after a few
years, they're going to be willing ^{to} [^] want to fish now. Don't you
think that's really going to happen?

DANIELS: Well I am not sure it will, because in Australia, one of the healthiest fisheries that I know of, is one (indesc. mumbling) that we talked about, and that is that down there you can buy a lobster license, there are three hundred and twenty of them available, and you can buy them and they cost about \$2500, and they don't seem to have these problems with the enormous inflation...

But they have already reached their optimum level...

They have an optimum level right now...

So they're not under the pressures that we are at this point when we look back and see how those people that may be eligible under the criteria that we're setting up here. Frank?

FLAVIN: I'd like to reply to the argument on the economic power. Crutch^{Fields}~~field's~~ that ~~booked as~~ ^{book of} Crutch^{Fields}~~field's~~, that I referred to on the Alaska Salmon Management: The Study ⁱⁿ ~~and~~ Irrationality. His proposed plan covered Alaska and Washington. When he talked under their plan, they had a free transferrability of the permit. He expected, under that plan in the state of Washington, that they would, after a period of years, find a gradual migration of permits towards financial powers and that he expected that there would be quite a bit of vertic^{al}~~al~~ integration in that fishery after an extended period of time, just because ~~when~~ when they do have this free transferrability, it becomes a sort of monetary type of thing where the ones that have the most interest in the permits ^{get} ~~skip~~ them. I think we're going to do away with it a little bit by saying that the license has to ^{be in} ~~be in~~ an individual, but then ^{again} ~~again~~ Washington is a much freer marketplace than we have up here because you just don't have company towns in Washington and it's

foolish to think that ~~if the~~ processor wants to maintain this bargaining power that he has now through having too many boats by increasing his percentage of non-resident boats to get this playoff against each other for bargaining position, which is very real, that they cannot tie these people in contractually that they are going to get the permits for. I think ~~we~~ ^{they} can do it on a contractual basis and then again if the guy doesn't fish for him, they just cut his boat off and he's not going to fish very well with a permit and no boat. We have never said that this, by making this non-transferrable, would go into break ^{the} domination of processors in certain parts of the state over the fishermen. We have never said that that would be the case. We just said that we're not going to make it any worse than it already is. I think it's a very real concern. I don't think it should be minimized. I think that unfortunately we have two kinds of fishermen in the state. Some of them are more independent than others. We're talking about people going to Kodiak and buying permits ^{in Kodiak} and having permits in Cordova and putting out \$10,000. People out in Bristol Bay right now ~~are~~ ^{and for} a foreseeable future, they'd have one hell of a better chance if you rolled the dice than coming up with four or five thousand dollars for a permit. I don't see that changing in the near future. I wish it would, but I don't see it, and so I don't think we can minimize that problem.

I think that when Dave made a good point the other night in Sitka, some guy raised up and asked him what did you pay for your license when you started fishing and Glen said nothing and that's exactly what it was worth. I think that he's right in this point, that if you institute a limited fishery and you began to achieve the goals of limited entry, that license is going to become to be able to earn

money, and the guy is going to be able, by the virtue of the fact that he's got the license and that there is not someone else standing three deep behind him to take his place to go to a bank, to the go to the state, or wherever, and have an awfully good chance of getting financial backing. Whereas, ^{under} ~~into~~ the present system, it's almost impossible to get it because we don't have limited entry. So if limited entry works, it's going to change that position of not being able to compete financially.

I was going to say ^{that} in commenting on the possibilities for ^{cannery ...} ~~category~~ ~~for~~ economic control participants of ^{while} ~~whether~~ it's true that the cannery may decide ^{to rent a person's} ~~is~~ boat, on the other hand, because the entry permits issue to a person, they need somebody to run that boat. There are certain number of units ^{of} ~~is~~ gear so that the number of times that they could exercise that option become very limited because then they have a bunch of idle boats. There are only so many people to run those boats. Without a man with an entry permit on that boat, you cant' have a crew and you can't operate it. So I think that there is a limit. There is another cutting edge on ~~the~~ ^{that} thing in favor of the fisherman and against ^{the} ~~coercive~~ powers of the cannery.

Of course, the danger is that when you cut - you got to make a substantial cut in Bristol Bay - we know that the area residents are much more dependent; I think that the danger is that once you cut ^{one of} those guys from outside, the danger is that ^{if he's a highline} ~~those are highline~~ fishermen, they want them to have a permit. ^{Then he'll} ~~they'll~~ end up with a permit again after he's lost it and there will be the guy who can't hang on that's ^{the resident that'll lose it} ~~finds a way~~ so that boat isn't going

to be idle, it's going to have a guy that's been on there for the last four or five years on there. It's not a question of idleness. I hate to sound like a great paranoid.

Are there any other questions?

I do have a couple comments on the work draft here...

Okay, we'll take your comment but we'll see if there is any further questions from the committee and then we'll go to...

I'd like to apologize for David not being here...

Apology not accepted...

Very well, I'll offer it anyway...and acknowledge from the beginning ~~of~~ the fact that I am not a lawyer and have been out of town for a week so I am not completely up on everything ^{this} ~~the~~ committee has done, but a few thoughts did occur to me as I was looking through this. One of them is that if you go for total non-transferrability, it seems to me that what you're doing, and I may misunderstand something here, is locking in the fishery ..(end of tape)

Work Session Side II

...what would happen if you have two sons, whereas if you have a transferrable permit, I don't see that there is anything that says that a father has to sell his son^{his} permit. He can give it to him if he wants to. It seems to me that that's perfectly valid kind of transfer. If the old man wants to ~~sell~~^{bow} out and sit on the side and let his son get into the fishery so that there is a way of ~~passing~~^{pa-} on the permit if it's transferrable whereas, if it's not transferrable there may be some difficulty with coming up a fair system, have some sort of limited transferrability as long as it's a blood relative. It seems to me that if you use a lottery system as^{is} proposed ~~is~~ here, then while in one way it's fair, ^{certainly} it's impartial and to that extent it's fair, ^{you} ~~to~~ handicap a man who again, wants to develop himself within the commercial fishery because there is no way he can plan. He can't save his money and say, you know I am going to build it up and then I'm going to ~~investigate~~^{invest} in this type of gear and this type of gear ~~and~~^{or} switch over and get this type of boat. All he knows is that he throws his name into the thing and maybe they draw his number and maybe they don't. I think that this is a handicap if what we're looking at is ~~the~~^a system which will allow ^{for} the upgrading of the fishery, for growth and diversification, so that eventually Alaskans in the commercial fishery are in a far better position than they are now. I think that the lottery works against that.

Can I interrupt on that point?

Sure.

You mean your thought here would be that if a guy ~~here~~ were a troller and he wanted to ~~really get into~~ ^{go to} a net of ^{some} sort and he wanted to upgrade himself, but his present permit wouldn't permit him though to buy a bigger boat and to buy better gear now huh? The only thing he could do is to join the lottery and try to get a ~~fish~~ ^{drift} net and ...

Sure. Right. If he wanted to diversify, the only way he could do it is to try the lottery first and then if he lucked out, and then if he was a winner, then he could go buy but otherwise he might lose, which makes it very difficult to plan and to manage your money...

It would freeze him into a hand troller forever...

Yeah, right...

Because that's all he could afford starting out. That's where he is today.

Right. I think that the lottery makes it very difficult to have a man manage his own finances in any intelligent way and the other question that was raised here was about the application of standards for qualifying for something like a lottery and using the same five categories that are proposed now initially. Well, it seems to me, and again I apologize for not having ^{had} the chance to study this in detail and ~~study~~ ^{think} it all through, but it seems to me that something has changed if, say hypothetically, you set up this system and for five years no permits become available

for one reason or another, and then after five years you go to conduct the lottery and you apply those same standards; it seems to me that over ^{the} passage of time, you've made ~~a~~ much difference^t to come up with people who will fit into those categories. Maybe there's going to be no one to fish in the top couple of categories or very ^{few} people and a lot more who will fit in the bottom four or five. I wonder whether because you have already created a change^d circumstance by limited entry, you haven't made it less possible, if not impossible, for people to qualify in any manner to meet the standards as they would be applied five years down the road compared to applied now when everybody stands at a given point of time confronting them equally. Do I make myself clear there?

Frank, would you like to reply to that?

FLAVIN. When I ^hought of applying the ^{SAME} standards, I didn't think in terms of our five categories. I thought in terms of our two basic standards that we were using to set up those categories. And as for ^{pa}rticipation and dependence, the crew members are not going to cease to exist ^{over} the ^{next} four or five years. Again, I think we're looking at three options ^{For} ~~was~~ getting into the resource. We're looking at luck, money and skill and that's three options we have by determining whose going to get in in the future and what I try to do for some of those other alternatives of maybe a lottery within ^a the qualification^{pool,} or maybe a sale^{qualified pool} through the commission into that ~~qualification~~ was to use a little bit of each of these, because that's probably what it takes right now to get into the fishery; a little luck, a little money and a little skill and I think that those are the things

we have to work with and if we go to strictly money, we are cutting the people out, and if we go to strictly skill, then perhaps we're cutting people out of it too. I don't know I'd rather ~~fair~~^{er} on the personal side rather than on money, but that's a philisophical, but I think those are the three standards you have to work with to let new entry in.

Questions?

Well, Bob, I do have ~~now~~^{one}. I am sure that it's been asked before and I apologize. Have you considered just plain using a waiting list instead of a lottery?

First come first serve. It's like a standby to get on an airplane. You sign up and take them off the list (indesc. mumbling).

That might work. That way you could get, uh, depending how you work it, you could get Alaskans on there first. You could have the list open Igigik in January or something like that.

You be that person in January to put your name on that list.

Right, you have one hour to sign up...

Just like the Oklahoma land rush.

Well, I mean, you know the whole intent^t is to try to get some economically deprived Alaskans on it someway or another. At least a partial guarantee.

Mr. Chairman, it seems to me that there ought to be a way that's a little fairer than just a lottery, but I came in on it too late.

Well, it's got a lot... Is money more fair than lottery?

Pardon?

Is money more fair than lottery, whoever can afford to buy it?

No. I wouldn't say so, but the fellow who shows the greatest interest, perhaps who has signed up and waits a little bit longer, ought to be entitled to more consideration ^{than the guy who} just lucks out.

So everybody sign^s up; the barber, the butcher and the gas pump filling station operator and to hope that they will get when their name will come up some day. When it does, it will be a very valuable permit...

Well, another way to get that many people waiting is to have a list...

Initially, it would like the oil simultaneous firing list. You'd have the very first time around would you anticipate a very large number of people...after that I think it will have an awful lot of merit that ^{may} ~~they~~ have anyway. Are there other questions?

Well I was thinking on this waiting list. You have one or two permits open up and you have a dozen people that signed up on the same day, how are you going to decide who?

You'd have the high school ^{take minutes and} ~~bids for~~ seconds.

Let's go onto the money ^{cept} ~~content~~ for a moment. If this were down to the more nearly optimum amount of gear in the water, ^{and} ~~then~~ it had a property right, became something ^{that was} ~~valuable~~, don't you think the individual would have a great deal of better opportunity because now, as far as borrowing from the bank ^{this is} ~~is that~~ basically what ^{Phil (Daniels) was saying} ~~failed the thing~~ earlier, plus the fact that we started last year this state fishermen's loan fund to buy boats or repair boats it would certainly seem reasonable to amend that to allow them to use this money also for the purchase of an entry permit. If this thing were funded, ^{as} ~~it~~ certainly ^{it} could be, this would ^{be} ~~a~~ source of funding for that so money wouldn't really become such a problem then.

Well, given the optimum conditions, you're correct that it would take care of even the people who have permits now.

(Indec.)
~~Would it end up~~ to maintain the permit?

Yep. This money becomes available. The way the loan program is written out, their standards are such that a heck of a lot of fishermen can't ^{get loans up here.} ~~give all that~~. It would have to be increased a great deal and that's assuming that we are going to ^{get to} ~~give to~~ optimum levels at sometime in the near future. That determines how fast, how much the state is willing to compensate when they take that first bite to get people out like Bristol Bay, they're looking for what, eight, nine years before they really get a stable fishery out there.

~~THEY~~ Well let me ask you this. ~~Turn~~ Turn around and look at the other side and look at the lottery. ~~What~~ ^{We're} depending, perhaps unreasonably so, on a rate of attrition, If ~~the~~ ^{we} lock ~~was~~ ^{one, two and} ~~in~~ three in in Bristol Bay, or anywhere as far as that's concerned, ~~where~~ ^{we're} depending on attrition to get rid of a certain number of category three people. If this were a lottery and the fellow didn't receive anything when he sold out or if he quit fishing the first year he gave up his license, wouldn't that slow down very drastically the rate of attrition, compared to what it would if he had something of saleable value?

Actually, it would ^{slow it} ~~go~~ down somewhat.

Let me ask you a question. What's a category three person?

Category three is alternative occupation, the individual depends on the fishery for a substantial income supplement.

Alright now, are the great number of these fishermen going to be alternative three people in the bad years when there isn't enough fish to go around and don't you have to have them if you're going to have people there to harvest a good year? Aren't you going to have to have a lot of people ^{there in} ^(?) in eleven [^] years that are getting part of their income from this...no, huh?

...Because there's no requirements when they fish in those years.

Well then they're going to be a category three person...

We take their highest year. The peak year of their run to determine ...

You're going to have category three, you're going to want category three people in ~~(indesc. noise)~~^{OFF} years, aren't you?

Yeah well...

In the highest years they'll ~~(indesc. noise)~~ fish full time so that they can harvest the crop.

You are going to want them eligible to have a permit for these off years but you're not necessarily going to require or need them to be fishing (indesc. noise) you're going to let them fish...

Yeah, so you're not going to get class ~~five~~^{three} people out ~~into~~^{of the} fishery...

No, but you're going to want ~~to class~~^{the class...} some of them out, ~~to fish~~^{especially} in Bristol Bay.

You're going to have class three people in the fishery all four years and then on the fifth, ~~they'll~~^{year they'll} be class one because they'll be full-time on the fifth year because they make a living at it. The ~~first~~^{other} four years, they can't ~~because~~^{so} they'll be class three: partial, that's the worst but there's not going to be results though.

Taken on an average, your rating would be taken over several years.

I think that one of ~~your~~^{the} standards for setting your optimum level of gear is the amount of gear that's necessary to harvest peak runs. That would determine your optimum and I would imagine that if category

three people were [^]component of that, a certain number of them would be included. I see what appears to me to be a discrepancy between two portions of this working draft though, and that is the one which includes people in the first three categories and the other portion where the optimum levels of gear is set, since obviously you're going to get in an awful lot of people who'll be in there a long time. They may all lump in category one, two and three, and then you finally get down somehow to your optimum level, and I just throw out a suggestion, that an ^{an} alternative way of proceeding might be to say that the people in category one, two, and three will either get entry permits or be ^{be} compensated for their law suits if they don't get them.

CHAIRMAN: Yes, we understand that. Thank you. Of course, what we have said before is that ^{an} alternative is not necessarily good enough to leave to the commission to decide. That's giving them the opportunity to force out substantial numbers of those that are presently there, which would be ~~saying that~~ politically impossible or perhaps politically impossible. Well, we've required the audience to sit for a long ^{time;} are those who would like to give us a benefit of their things now? Would you like to...

Let's see, can we pick them up from here?

[in desc]
I'm Bob, ~~the~~ the CCC meeting and I'm from the Cordova area. I've heard ^{a lot} about saving the salmon and also limiting the gear, licenses. And reading this report here about spawning areas being depleted because of too many nets out there. Now there's nothing said about law and order in this stuff. There's many years that these streams have been wiped out because of people going in there and taking

away our salmon and then they don't come back because they ruin (indesc. mumbling). There's a certain amount of illegal fishing going on. Now in order to remedy the situation, there might be something put into the law that any salmon fisherman that is arrested three times ^{would} lose his fishing license for at least five years, or whatever they wish to chose to do, in that district. This would give them, the fish, a better chance to reach the spawning area. Now you're talking about a lottery system - now that makes some of these people that are illegal fishermen ^{maybe} into ^{good,} honest type fishermen. Secondly, it could give them initiative fish ^g deal. Thirdly, if they are caught three times and their license is taken away from them, it could be put ^{then} to a lottery type system for the boat pullers to ^{draw} ~~draw~~ out of that hat and try to get that license if these people have their license taken away. There you'd have a lottery type system that would take the apprentice fisherman on the boat a chance to get a license.

CHAIRMAN: We've been talking here about the various advantages and disadvantages of the lottery system versus the opportunity to buy one, freely transferrable. Now the thing you're talking about could be used either direction if the guy is penalized and part of the penalty is to give up his entry permit, then it goes back to the commission and now becomes available for other people. If that were the case, what would be your desire? Would you rather see it available on a lottery basis, or for sale?

To the boat pullers ^{and apprentices} (indesc. mumbling)...

CHAIRMAN: Well, okay. Assume that that's not constitutionally ~~possible~~ ^{possible} that we can't limit it just to a specific class of people that would be eligible. Suppose we have to make it available on the same basis to everybody. Now, would you rather see it on a lottery basis or on a basis where you could go in ~~to~~ ^{and} buy the thing if you got the money; buy it from the commission or buy it from an individual? Do you have anything that you feel strongly about there on one of the other ~~ways~~ ^{ways}...

There is a possibility on some of these people. I'd like to see them sell it back to either person or family or relative that has ~~been~~ been fishing and that hasn't got a license. ^{So that that unfortunate} (indesc. mumbling and noise). ^{guy can get back in there. (?)}

Thank you.

CHAIRMAN: That's the problem we're running against all the time here; what's constitutional and what's not. And I'm almost thinking that we're getting to the point where maybe we ought to sit down and maybe find ~~a better~~ ^{the best} constitutional lawyer that's available on this thing and hire him on whatever basis ~~of the~~ ^{it} costs and get him up here and sort some of these things out.

He'll set up a nice constitution and might be able to conclude...

(indesc. mumbling).

Alright, Ernest?

I'm Ernest Madsen from Ninilchik. I would like to say that my thinking would go in line with Mr. Daniels except for one thing. On the sale of the permit, what would be to stop the person just putting out if he did get a permit, just putting out a very minimum effort whereby everybody would lose; the businessman, the state, by him not producing any fish. And then waiting until such a time when his wife's permit was worth, say, \$15,000, \$20,000. (Indisc.) That would be my ^{only} concern.

Thank you, Ernest.

Mr. Chairman, could we get a reading of these qualifications on this apprenticeship.. (?) (indesc. mumbling)?

Alright. You're saying that when you've talked to these people now, how they would go about an apprenticeship versus straight monetary... (indesc. mumbling).

CHAIRMAN: Alright. Instead of talking about lottery versus buying in, the lottery apprenticeship qualifications versus buying in. How would you feel about that, Ernest? One of the ways to get in would be through an apprenticeship program.

Yes. I would go along with that.

Would you prefer that over the other two?

Yes.

Okay.. Anybody else with a question or two?

Let me ask you a question about the apprenticeship program. ^{What} ~~Would~~
if a man has a license ^{as} ~~and is~~ a troller and he wants to become a
gillnetter. Would he have to go through an apprenticeship program,
would that mean that all fisherman would automatically be eligible
to get a license?

There would be some priority... (indesc. mumbling and noise) That is
a trolling permit that's coming up for the guy that's been trolling
for ten years, is certainly going to have something not involved,
he's a crewman (indesc. mumbling).

^{What} ~~Would~~ if he has a permit as a troller but he'd like to go ^{From} trolling to
(indesc. mumbling and noise)...

...transfer from one type of gear to another type of gear.

He's not one to transfer. He'd want to do it as an addition, or?

Either an addition or transfer, either one.

(indesc. simultaneous speaking)

We'll probably have (indesc. simultaneous speaking) from one
type of gear to another but commission regulations will look
relatively different to the average fisherman.

I don't get what that means. Does that mean ^{""} what it does mean
that where you make a lot of money with a gillnetter down here
and not very much with the troller, all the trollers will then
buy gillnetters and your equipment is going to get away from

least efficient, and the most efficient is
~~fishing, and the boats are fishing because they're~~ going to be
the only kind of gear ^{you have} ultimately in the fishery. If one permit
gives you any kind of gear you want you can always move out.

I would imagine on your question, just about your problem.
(indesc. mumbling) guy that would be the highest qualified for
troller would be the guy who has worked on as a crewmember for
~~a long~~ ^{the longest} period of time, they would have the higher standing than
guys that worked for a number of years on a gillnetter. And
to be constitutional, you have to also include those guys in
Washington. (indisc. mumbling)

PHIL DANIELS: I still don't understand how selectivity made within the rights
of the people who are in the priority apprenticeship ~~school~~ ^{pool}. Are
you still going to roll the dice or the commission going to make
the choice or how you going to do it?

I think that we're talking about... (indisc. mumbling)

Well, it looks like to me that you'll end up back in the lottery
situation, even though you may (indesc. mumbling) priority classi-
fication, again, I think, would be dominated by other fishermen,
not necessarily by ...

(something about combination and apprenticeship pool)
You could (indesc. simultaneous speaking)...

CHAIRMAN: I think you're talking about ^{fish} trying to get into another fishery
Then you'd have to be (?)
when ~~you're~~ down there working on that ~~same~~ ^{seine} boat also rather
than ^{be out here} drifting with a gillnet, is that what you're saying? If
you're wanting to get into apprenticeship ~~school~~ ^{pool} for seine...

DANIELS: I hate to be ^S pessimistic. ^{History} ~~History~~ explains that if there is
anything that's brought about the ruination of the Roman Empire
when everybody got frozen into their occupation and couldn't
transfer from one to the other...

Alright, let's get back to the audience again. Ward do you have...

My name is Walter McGinnick. I'm from Fort Graham. I've got a
question. ^{Intention of} ~~In finishing up~~ this bill is to reduce the gear, right?
How is this bill going to reduce the gear, which now exists, if
we ^{Treat(?)} ~~with~~ the permit ^{as a property} ~~is appropriate~~ ^{? (?)} ~~(word)?~~

CHAIRMAN: Now the concept is that we would only have that property right....
First of all, we hope to limit it to some extent by the qualifi-
cations that the individual would meet in order to get the first
entry permit in the first place. Now even after that we hope to
reduce ~~we~~ ^{it} more by providing an incentive, if we go to property
rights, providing an incentive where the commission ^{would} buy the permit
back from the individual and hold it. If only after ^{enough} ~~number~~ of
those have been bought out and the commission held them, we got down
to an optimum level of gear, then after that, others who wish to sell
out, would be able to sell to somebody else. If one ^{... we're not frozen in} ~~was not~~ ~~(word)~~
on that, it's just one of the possibilities.

McGINNICK: Would you be willing to sell the permit to me now? I'm not willing to give up my permit knowing that it's going to be worth money.

That's the reason...

McGINNICK: Don't forget to look into Cook Inlet, 1971 Gear Union, now we trading with. You and I are going to have the same problem we just had last year. We're not going to fish. Last year we only fished three 48-hour ~~hours~~^{periods}. We're going to have the same problem if the gear isn't reduced right away.

CHAIRMAN: How do you suggest that we do that?

McGINNICK: I don't know. The permit shouldn't be put into a property value.

CHAIRMAN: You don't think it should have a property value?

McGINNICK: Because nobody is going to ~~give~~^{give} up the permit. I know that I wouldn't. You know you wouldn't.

CHAIRMAN: I probably wouldn't do ^{it} anyway.

McGINNICK: This year, you and I are not going to fish. The Fish and Game Department are not going to open the fishing early. We might be sitting ~~back~~^{in a fleet} like we did last year until three days before season. The idea of this limited entry of fishing is to reduce the gear, now it's only going to stop it from increasing, but it's not going to help to reduce. You got it?

I was only speaking as an individual for myself, Mr. Chairman,
not for any...

You got me?

Yes. I thank you.

DANIEL: I was talking to Mr. McGinnick earlier about the responsibility
I think that you may be interested in being able to pass the
license back within the ^{ranks} ~~rights~~ of your family, is that right?

McGINNICK: Right.

DANIEL: I'm curious about how you may feel about the lottery on that basis.
It would seem it would be less likely being able to do that whereas
if it were a ^{property right,} ~~copyright,~~ you might be able to pass it back just by
giving it to them.

McGINNICK: Yeah.

DANIEL: It's something to consider.

McGINNICK: I haven't thought it too much.

My concern^c is with my son who is now fishing. ^{He don't have no permit.} (indesc. mumbling)...
Fishing^{is} is the only (indisc) in our area.
We need to come up with something like this to decrease the gear.
I don't see how it's going to reduce the gear because there's 600
unit of ^{it} sitting ~~in~~ in Cook Inlet now. They're going to remain that
way for a few years. So maybe ten years. Nobody's going to ^{give} ~~keep~~
up the permit.

CHAIRMAN: Of course, we do see the thing happen each year, ^{set net sites} ~~then that's like~~ come up for sale, don't we?

MCGINNICK: Yes, well, somebody else's going to ^{buy} ~~buy~~ it...

Well?

...the same unit of gear is going to remain. If I can sell ^{my} ~~the~~ permit to somebody, I'm not reducing one gear because I sold it to this guy here.

CHAIRMAN: If we can ^{on} ~~power~~ the commission to buy these out at a market price, and really meet market price of anybody else or beat it, then we have provided some ^{incentive} ~~thing~~ ~~heavy~~ for this gear that goes to the commission itself...

MCGINNICK: If we give the commission power to purchase the permit, then we're going to transfer from cannery to cannery and the cannery is going too slow because they don't have any fishermen.

CHAIRMAN: Yeah well, of course we wouldn't go to that extreme. Only ~~it's~~ ~~got~~ to a point where we got down to the optimum level. Okay, Alex?

If we slow ~~it~~ it, and if we expect people to sell their license every year, why should we? Why should they sell their dollars? They know it's ^{now closed... more incentive to keep it...} ~~not~~ (indesc. mumbling).

CHAIRMAN: Well, they said that you always got...for instance, one of our neighbors, last year, they split up; he went back to Pennsylvania and she went back to Hawaii. ^{They sold out.} You're always going to have this type

of thing happening, ^{to a certain degree} People ^{bring} ~~holding on~~, people getting sick,
people getting ^(indisc) ~~scattered~~. You're going to have a certain amount.
I grant you it will be slower ^{than it has been} ~~than you've been having~~ in the
past. Alex?

ALEX: Senator Palmer, members of the special fisheries committee, I
am here just as a participating citizen. I just made a bunch of
random notes here, ^{I'm trying to keep up} with you learned people because you're so far
ahead of me, I'm going to try to catch up and do a little thinking
on this, but I would, try as far as Cook Inlet... I've proposed this
^{before} ~~for~~ the Fish and Game Board a number of times. ^{Freeze} ~~Freeze~~ the gear and
reduce it in half. Just freeze the gear and reduce it in half.
Leave everything, the distance between gears, but I said reduce ^{the}
set nets by half... I proposed instead of 105, say 75 fathoms, if
you want to go drastic, go to 50 fathoms, reduce the drift gear
from 150 fathoms to 75 fathoms, and just chop it in half.

CHAIRMAN: How do you decide, ^{though} ~~then~~, Alex, who stays in...

ALEX: I say freeze it...

CHAIRMAN: what do you mean by freeze it?

ALEX: Freeze it under '72 licenses that exist in 1972. Freeze it right
now.

CHAIRMAN: Suppose a man fished ^{for} every year up to '72, ^{but... Suppose} ~~but~~ it was Ernie back
there and suppose Ernie was in the hospital back then and he couldn't
fish in '72 and somebody else came in in '72. Let's just suppose ^{poor old}
Ernie got disgusted. Every year up until '72, all of his life, he

has been fish out there, but he got disgusted and I'm going
doing to do something else, there's not going to be enough fish,
etc. etc. Some of us else came in and '72 was the first year that
he had ever fished, one of your ^{dad-gunned, low-lining} schoolteachers. Now that school-
teacher fisherman ⁱⁿ '72, for the first time is going to be given a
permit and Ernie, who has been there every year except 1972, is
not going to be given a permit?

ALEX: You'll
~~we~~ have special provisions. Anything that you do you have to
have something that's amendable and have special permits. The
concept that you have here, dependency and some of these others
could be utilized in these special provisions. Then it's going
to be the general thing. They're going to be a small part of the
total. If that ... I'm not ^{so} sure that the gear itself is the total
problem. I think that the fishery at the estuary, is that we
haven't made a determination if that's the total problem of why
the fishery is reducing. I get a trend here, a feeling, that
the trend of the discussion is not really making much attempt
to protect the fishery sources for the people of Alaska.

Mr. Sojour, your problem is that we've been on this for several
weeks, you've happened to have heard that we have picked out the
day of having the problem of transferrability. But we really have,
believe me, we are really trying to do the same thing that you
are but you haven't heard ^{but} an hour and a half today, and if you had
heard the last 30 days like this...

I'd like to go back again when you...

CHAIRMAN: Yeah, that's what I tried to make clear in the beginning. All that we're looking at today is the...

ALEX: Well, here's the thought that I'd like to put out. Are we concerned ^{re} with a continued and sustaining fishery ^{so} as to maintain an economic climate within the resource to earn a livelihood, or are we giving an opportunity to a select group of fishermen to benefit?

CHAIRMAN: Let me read the opening paragraph of our bill then, and maybe that will help you out. We say it's the purpose of this chapter, of this legislation, to ~~promote~~ ^{promote} the economic health and stability of commercial fishing in Alaska. In the conservation of sustained ^{yield} management of Alaskas fishery resource, by regulati^{ng} and controlling entry into the commercial fisheries ⁱⁿ and the public interest and without unjust discrimination. It is also the purpose of this chapter to prevent economic distress among fishermen by stabilizing the levels of participation in the commercial harvest of the species, such as this section, at levels reasonably commensur^{ate}ous with the ability of the resource to provide a livelihood to the fishermen participating.

ALEX: Alright. I would just like to state from my experience. Last fall I made a special trip on behalf of the Governor. I travelled throughout the whole Bristol Bay area. I made a detailed study of each village, Every fisherman that were involved in the fishery, how much each were in debt, and I found out this one thing that was really shocking. There is ^(?) enough fishery resources to sustain those people in that area, in that watershed.

CHAIRMAN: There is?

ALEX: There is. But only in two areas, where fishing was fairly good, was in the Igigik and Togiak area. In those two areas, the people who took the most of the catch were not fishermen, they were all stateside fishermen. So there is your basic problem. I'm concerned with continued resource because an uncontrolled ^{resource} will eventually be depleted. It will happen. But these people have depended on that in that area. Or else it's the responsibility of the state if they don't allow to use this resource to earn a livelihood, then the state will have to do something else to provide them an economic base for them.

CHAIRMAN: This has been the real concern ^{and} ~~of~~ the objective of all of the ^(indisc.) ~~subeconomies~~, but we're continuously faced with the problem of the federal constitution and our inability to restrain interstate commerce anytime we start discriminating in favor of the residence^{ts}. This is what we run up against.

ALEX: Let's exclude the residence^{ts}. I know that I talked to Mr. Arnold about this. We had a discussion about residency and ^{I'm convinced as} ~~think that~~ ^{I think} Mr. Flaven is convinced is that you cannot use the residency.

CHAIRMAN: I thought that was your point about the ...

ALEX: No. You can use administrative area. You can use watershed. You don't have to use residency.

CHAIRMAN: But you have to treat all people equally...

ALEX: Yeah, all people equally in that watershed.

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CHAIRMAN: ^{Sum} Assuming then, ^{that} if we were to say, as an example, that the license shall be freely transferable, but we're also charging the commission to bring back recommendations in two years on transferability for as perhaps to modify that program and does this largely meet the objectives that you're talking about?

PROFESSOR FLETCHER: I have not been able to decide in my own mind which way the various things that you could do to transferability, which way they point. I noticed, I think common to every proposal is the proposition that this license is not going to be something that you can encumber, you can't reach it by process, you can't voluntarily encumber it, (indisc.) it in any way. That's going to be pretty hard to combine with the proposition that it's really transferable. It's almost inconsistent, not quite, but almost. Surely there are going to be some transfers to people who will not be able to pay full value right as of that time, and I would assume you're going

end up with some conditional sales contracts ^{or} with some sort of long-term financing arrangements, ~~but for instance,~~ ^{that as investment incidents} to quote free transfers that are not falling into this prohibitive category of mortgaging it, those are hard distinctions to draw, because to say what's permissible and what isn't. Now, assuming ~~that~~ you ^{could} get by with making that distinction, what bearing does that have upon the idea that you are first of all interested in protecting the persons who are presently in in terms of getting their investment out. Suppose on that it's a means by which they can, so if you let him sell it, that's one way in which you can get him out of the picture, and he's happy because he's sold. He's got his money's worth for what he had. Presumably the value of his equipment and so on would be reflected in what he sells. In terms of whether you're promoting a good fishery that's not directed toward protecting certain people, but simply in terms of having an economically healthy industry that's doing good for the State as a whole, transferability seems to me to work in conflicting directions, and I have to say I have trouble with deciding what the operative effect of it is. And maybe I'm not the guy to answer. It isn't a legal question. It's as much economics as anything else, I suppose, as to what the effect of transferability would be. If you can put it back in legal context I suspect the analysis simply has to be based on some hypotheses. If you can show that by free transferability you are encouraging the development of a good fishery, economic and good techniques, safe equipment, and so on, and the fishing escapement, biological control is better afforded, fine, then free transferability is great. If you can show that just the opposite is going to happen, then you can say, okay, it's legitimate to say no transfer^y. The one thing

I didn't like in this whole business about transferability is the one that says that the guy can give it to his spouse, or his child, or some suggestion that when he dies he can give it by will to somebody else. That doesn't relate to an efficient fishery except in the most tenuous of reasoning processes. You could possibly get that one cranked in.

MODERATOR: Professor, I had two questions that I wanted to go over with you, and I'm mainly requesting an opinion from^{you.} I don't know whether you've really had time to really look it over or not, but on the transferability have you arrived within your own mind^{at} an opinion

as to which is the better way to go, free transferability or non-transferability, assuming that by either method you would legitimately further legislative objectives?

PROFESSOR FLETCHER: The short answer to your question is no. I wish I could have more confidence...

MODERATOR: I guess what I'm asking you is what in your opinion would be the most workable...

PROFESSOR FLETCHER: I don't know. I wish I could decide even that one.

Liquor licenses, you know, have--I think this is fairly typical, Washington is certainly this way, have presumably no value per se, ^{They're} ~~there~~ not transferable, but you almost inevitably get into difficulty if you kind of defy economics, because the fact is that a person who has a liquor license to conduct a tavern does have something of value, and what's finally worked out, and it really didn't take all that long to work out, the person who wants to sell a tavern makes his deal, a broker and ^{a purchaser} ~~(indirect)~~ somewhere, like selling out you get an earnest money contract and so on, but it's all wrapped up in this proposition that, okay, now you the purchaser, you apply for a license for you, and there they actually transfer the licenses, not a new license in a sense, it's a transfer of the old license. And mind you, you've got to qualify so the liquor board will assume in good faith and comes out and decides whether the purchaser is worthy, but ^{the whole transaction is} ~~there are all kinds of actions~~ held up ^{into} ~~on~~ an escrow basis ~~held up~~ until the transfer's approved, and the dollars that are involved are reflective of the fact that that transfer's going to be approved. He may sell the fixtures, and he'll have another grand statement item ^{in there called} ~~under~~ goodwill, but the relation of the value of the physical assets to what's the goodwill is all out of proportion

except as ^{it} includes the idea that the new guy is going to get a liquor license. So you could come up with something which says the same thing about your fisheries' licenses and it would, in a sense, not mean anything. Now, whether you could obviate that by not allowing that type transaction, but simply tell the fisherman who wants to get out that his only option is to turn in his license, and then we in our good judgment ~~and~~ ^{from} this great big pool of people over here, and we're not going to tell you who, we will ^{then} pick out somebody who gets it and would hand it to him if he pays his modest fee for it. I just don't know whether that would work or not. I'm a little skeptical as to how you'd make that operate. If you could, maybe you would avoid this idea that this license has got all it's got. In a sense, whenever you go against a kind of reality situation, somebody's going to work out some way to approximate what's really at stake. I just wouldn't have any confidence in your capacity to say that they're not transferable, that's all.

MODERATOR: Well, this gets it right back to reality really quick, because we have some real fears on the part of the people who might be counted in at this time. They want to be sure that they can transfer this thing to the members of their own family who follow after them. Now, I think we're going to have to deal with this, because the bill is certainly not going to be approved, approved of, by the constituency if there's--if this thing were to return to the commission and be up for grabs by this vast conglomery system or something of that nature. They are not going to buy a lotter system.

PROFESSOR FLETCHER: Well, if that's political reality, then I suppose you'd better tackle the question as to whether you're going to permit that kind of transfer and not others, and as to that I've

got a fairly quick and fairly confident reaction that it's no. I don't think you can set up a system where it says that it's transferable, but only to your son, or only to your grandchild, or something like that. As sure as shootin' as soon as you get that there's going to be somebody who comes in and says I want to transfer it to my brother. He's not on that permissible list and he's been a good a fisherman and, boy, you're in trouble.

MR. DANIELS: How do you determine who is eligible, and this is freely transferable again, now, or does the State have anything to say?

PROFESSOR FLETCHER: Well, I think the State can take a wide range of

possibilities here, assuming you've got a limited number, you could take the position that you don't care. Anybody could ^{have} them, first come, first served, or any person who wants to buy it from anybody else, that's fine. Your only questions that start creeping is when you start--when the State starts to say, well, no, only certain types of people, certain types of operators, and then you have to look at it in terms of, well, what are you legitimately trying to promote, and here then, you come back to ^{these} ~~this~~ long range objectives that I talked about. As long as they're reasonably calculated to promote those objectives, fine, and I would exclude something that I think is presently in the minds of some of the drafts here. I would exclude whether the applicant is, or will be, or has been, economically dependent solely upon fishing. It seems to me that that's a pretty hard one to defend, so just because a crewmember, or something somebody called a second son, comes in and says, I want a license, and the reason I'm entitled to do it is that I don't have anything else to do in life, I don't think you can give it to him on that basis and exclude another guy who's just a good a fisherman as he is.

MODERATOR: You're talking here, now, just on the long run and not the...

PROFESSOR FLETCHER: This is the long run. I'm not talking about the transition.

MODERATOR: What's wrong with the idea that we're creating a property right, and ~~the ones in a~~ ^{one can} will ^{or} ~~are~~ inherited or given ^{a property right...}.

PROFESSOR FLECTCHER: I don't think there's anything wrong with that as long as the same capacity is given with respect to ^{inter vivos} ~~inter vivos~~ transfers, and in terms of whether the person to whom it's given has to meet the same standards as any person to whom it might be

otherwise transferred. In other words, incident to property, of course, unless restricted for some other reason you could say, sure, you could give it to your child by will and we'll be happy to have him have it if he has to meet at least as stringent requirement as anybody else, but you can't say that you're entitled to have it just because you're the son.

MR. DANIELS: I was wondering on the tax, the 90 percent, 75 percent tax idea, or as you put it, without using the term tax, what if somebody really wanted a license bad and they wanted to stimulate someone to sell their license and offered him money under the table? Is this something that's likely to occur under those conditions? Is there any way to avoid it?

MODERATOR: Well, Phil, we all know that ^{in all likelihood} ~~it is likely that~~ it will occur, and that's almost--that's getting down on the detail at this point.

PROFESSOR FLETCHER: It seems to me that this type of consideration points toward the desirability of a transferability system unless you're going to be willing to go completely the other way which says that the person who wants to in effect buy out a particular fisherman over here, to tell him, look, you haven't got any more chance than a hundred other guys. Your name goes into the pool and we're going to draw them blindfolded, and if you happen to come up with it, fine. If you're willing to go that far, then you can avoid this type thing, but if you--I don't--it seems to me as a practical matter, if you fall very much short of that, you're going to get the under-the-table type thing, or the in effect fair market value attacked as between two individuals transacting business, and if you're going to do that I think you might as well let it be out in the open on some sort of a free transferability basis. Now, you might route it

through the commission so that the dollars come into the commission, and the commission gets a cut, because there is, in a sense, a State interest also, a dollar value involved.

MODERATOR: The biggest ^{problem} ~~value~~ of transferability is with free transfer, any form of free transfer, where these things do have a value, is-- it's been the Committee's concern, and their major concern, and primarily Bristol Bay, as an example, to try to balance some amount of paternalism on the State with free enterprise on the other end of the scale, and to try to protect these people that are really most dependent on the fishery from economic coercion, either directly from the industry, or from other individuals in terms of, oh, it's a long, cold winter, and this piece of paper is ready cash, and perhaps the person that has it doesn't fully understand that when he sells it he sells his right to the fishery. This has been the major problem, how to adequately, legally protect these people and still stay within the framework of a legitimate legislative objective.

PROFESSOR FLETCHER: I think there's some mechanical things that you could do that would tend to protect, and that they can't sell it the way he'd sell a sack of potatoes, he's going to have to route it through the commission, you've got to get the new man to be approved, and your waiting period, and various other things that you could put in upon the machinery side.

MODERATOR. Right. But if on the other hand, and it's something that hadn't even entered my mind and it hasn't really entered the Committee's mind until just the other day, is the fact that even though there's this waiting period there can still be a contract signed and the money can be presented right now, and he has sold his right, he does have instant money. And this is why--I know

Senator Palmer was, you know, asking the question because this is such a major problem - this point if we can essentially have a moratorium period on transfer...

MR. ADASIAK: That's the question I was just going to ask, is whether, as a transitional measure, it would be possible to, let's say not ~~eliminate~~ ^{eliminate} transferability, but restrict it to hardship cases and allow the commission sort of extra authority during the transitional period, the practical consequence of which would be that it might give you a year or two to allow the people who, because of their culture, aren't quite acquainted with the new value of what they have time to get a little bit of a sense of what it is. Is that justifiable as a transitional device?

PROFESSOR FLETCHER: I don't remember the man's name who just sat here just a moment ago. He's just left, but anyway, he asked me, I think, essentially the same question when he was talking about whether you could freeze, and I said as a interim device, but I would make that interim pretty short. In other words, have it made purposely apparent that you were doing this incident to getting your total operative system set up and going it might be necessary to hold ^{up} ~~^~~ and say you can't get out of the situation, we're not going to let anyone in, and so on, but I'd make that as short as possible, but it seems to me that if you have that in the context of a spelled out plan for operation procedure, fine. Now...

MODERATOR: In other words, saying that this shall be the procedure for transfer, except that there will be a two-year moratorium on this because, of whatever period, because of the other administrative duties required of this commission.

PROFESSOR FLETCHER: That's right. Sure, and that by the next session

of the Legislature, the commission is to come in with proposals. I'd put that right in the statute that they're to come in with proposals for detailed regulation concerning--detailed specifications concerning transferability, or something like that. I'd pin it down as much as I could and still leave myself room enough if you felt that you had to have it to develop something you haven't really decided on yet.

MODERATOR: Right.

MR. DANIELS: By way of conceptually outlining what that would be, you would have the general outline of how you were going to handle transferability, ^{but} ~~because~~ you're leaving a really practical detail out.

PROFESSOR FLETCHER: I think that's right. I think that--I think it would be an excellent thing to do to decide right now whether you're going to permit transferability. I think you ought to resolve that one. I wouldn't leave that up in the air, because if you leave it in the air then you're asking for trouble at the end of saying, you know, you're just protecting the people who are right there now, and everything else.

UNIDENTIFIED SPEAKER II: On that (indisc.). Is there a way, speculatively, a way to create this entry permit without creating a private property ~~fund~~ concept?

UNIDENTIFIED SPEAKER III: So that, in fact, the license has no value?

UNIDENTIFIED SPEAKER II: Well, I mean, it's \$50 or something like that, but I mean no real floating value.

PROFESSOR FLETCHER: It seems to me that's an economics question, rather than a law question, but I can devise a scheme, I suppose, if the economist will agree with me that it's going to work that way. I'd be a technician rather than an economist.

CHAIRMAN: Well, isn't your lottery the perfect example?

UNIDENTIFIED SPEAKER II: I was thinking as far as transferring these around, or giving them to somebody, like ^{There would be} (~~indisc~~) if 90 percent was only 90 percent of \$50...

PROFESSOR FLETCHER: All you have to do is make it of no value to the person who thinks he might get to fish. To make it of no incentive at all to somebody who'd like to fish, to be able to walk up to any fisherman that is now fishing, and say, I'd like to get your license, and that fisherman answers him truthfully, nothing I can do about it. The only way you can get a license is to go down to the commission and ask them. He says, well, I'm willing to pay you, and he says, there's no way I can get my license over to you. Now, in fact, you can put that into actual operative law,

then you've got ^{to a point (?)} ~~to explain~~ where indeed there is no market, except as he's willing to deal with the commission in which case the commission is about to give him a license or sell it to him.

Now, mechanically we can set that up, and the idea of a lottery, ~~a pool~~ ^{From which} ~~appeals in what~~ you might draw, something of that sort, and a requirement on that fellow who has the license that says to him, look, if your license is going to be used at all, it's you who has to use it, when you die that's the end of it. If you want to quit you can hand us your license, but it has no value. You can't give it to anybody else, and in nobody else's hands will we recognize it. We'll arrest the first man who starts to use it to whom you may hand it. Now, ^{if} in fact, you want to put your law on him in those terms, sure, there's nothing unconstitutional about doing it that way, but I think you have to decide the economics of it, if it works that way, and that you want it to work that way, but I think mechanically you could set it up, sure.

CHAIRMAN: And, of course, we get back to the problem, that doesn't provide any incentive to turn over, but may be natural attrition by itself, mortality, the transient nature of Alaskans residents, a large number of them, and some of these things, it may be a fast enough rate of attrition.

UNIDENTIFIED SPEAKER: I was just kind of under the impression before that there wasn't hardly a legal way to get away with this without creating some property right. This is what had me confused.

PROFESSOR FLETCHER: I don't think that necessarily you have to view the capacity to fish as something that has to be salvable, has to be compensable, if you do it, something of that sort. If you'd ask this to a lawyer in 1925, he probably would have given you a

different answer. In fact, he would probably give you a different answer to whether you could have a limited entry system at all, because in those days the general philosophy was, and the Supreme Court reflected it, that everybody had a constitutional right to engage in any ^{of the} so-called common callings, and you didn't dare take it away, ^{you could} ~~because it was~~ hardly even restricted ^{it}. And I think we're past that era. We're quite persuaded to take it in view of this tremendous biological, economic data that you can back up your ideas that a limited entry would put very substantial controls in the hands of the State could clearly pass, as against that type of argument, as I say, 50 years ago would have been a pretty persuasive argument.

CHAIRMAN: (Indisc.)

UNIDENTIFIED SPEAKER: I think this pretty well tells the State where to go this route.

CHAIRMAN: Which route?

UNIDENTIFIED SPEAKER: Of saying, okay, no, the thing has no value, and thereby the individual who holds it loses all control over who comes next. Don't you think that this thing is less palatable to Alaskans than perhaps going the other route and making--allowing a property value, and allowing the holder to determine, in some extent, who he can sell that to.

CHAIRMAN: Well, if you're asking me, I think, yes. I think the answer is yes. It's far more palatable if you do get a property value, and allow him ^{some} ~~so~~ say into who it goes to, even though the State may step in and take nine^{ty} percent of the value that it has. Do you feel that way?

UNIDENTIFIED SPEAKER: I agree.

CHAIRMAN: Do you feel pretty strongly that way?

UNIDENTIFIED SPEAKER: Personally, yes. Well, I would say this, that the people whom I represent would totally disown the idea that they had no control over who receives it. This is a sometime thing. In one aspect they don't want to see it go ^{to} certain individuals, but they do want to be able to have a control that goes to another group of individuals. In other words, the ones who follow after them, rather than perhaps gradually an attrition that would accumulate in behalf of the non-resident.

CHAIRMAN: Well, and really, where is the difference between that and your liquor license situation, or your pinball machine franchises, and so on? There's no difference, is there? At the present time...

PROFESSOR FLETCHER: The only substantial difference, really, is that in, I think most instances, with pinballs and various other sorts of franchising licensing operations, the State doesn't perceive that it has anything important to sell, it doesn't take any part of the proceeds. This way, now, we're thinking of it in terms that the State's actually contributing to what it is the new license he gets, and therefore, it's to be compensated.

CHAIRMAN: But I think you can think a little bit further on that, and I wonder if the State doesn't have something to sell here.

PROFESSOR FLETCHER: Oh, indeed, I say it does.

CHAIRMAN: In the terms of a liquor license...

PROFESSOR FLETCHER: Oh.

CHAIRMAN: ...the people itself, the people that are there as customers.

PROFESSOR FLETCHER: Yeah, well, sure. I'm not saying it couldn't, but I don't think they do.

CHAIRMAN: Yeah.

PROFESSOR FLETCHER: I don't know of any state that does.

CHAIRMAN: But they certainly do allow the fellow that has the liquor license to decide who he is going to sell it to, and they keep everybody else out.

PROFESSOR FLETCHER: They have to pass on him.

CHAIRMAN: It seems to me like there's a very strong similarity in the circumstances there.

PROFESSOR FLETCHER: Yes. As I say, the only distinction between that and this is that, and I think quite justifiably it's present here and could be argued to be present in the liquor cases, is the State has something of value and associated with it and can be expected to get some of the compensation that's involved. I don't think that changes the pattern any.

CHAIRMAN: In one case the State is offering the fish that they have available and so that's where the State's interest. In the case of the liquor licenses and the State actually in effect saying, here's a certain number of people that we offer to you as customers.

PROFESSOR FLETCHER: In a way, although...

CHAIRMAN: Is that carrying it too far?

PROFESSOR FLETCHER: Yeah, a little bit. ^{Natural} ~~These~~ resources have ^{got} their own peculiar legal history. It started out, you know, with the king owning everything and then you kind of perpetuated what had originally started ^{out} as fact and ^{it's a} myth now, and we still think of it sometimes in those terms, so the difference in background would explain some difference.

PROFESSOR FLETCHER: I think the only ingredient that got into our discussion after we adjourned this morning was more detailed discussion of transferability. As I mentioned, I think I came up here without having thought very much about the problems that were associated with it. I don't know that I'm any farther along really, having discussed it more, except perhaps to kind of define what ^{some of the} ~~politically~~ political issues are as distinct from what the ^{issues are.} ~~issues are.~~ ~~(indistinct) as to the distinction of what's constitutional.~~ The more I thought about it it seems to be almost devoid of constitutional problems, irrespective of which way you went about the transferability.

The only considerations that seem to me to bear in upon that from a constitutional standpoint ~~has~~^{have} got more to do--might just turn out to be just incidental aspects of your transferability program, and perhaps I suggested some of those already. I felt, for example, that if you adopt a system for determining new entrants after you get into your ~~long~~^{long-run} operation which measures persons by skill, or capacity to be good fishermen and who isn't just mechanical skill, (indisc.) and do not provide transferability generally, ~~that~~^{then} I think you could also not provide transferability for members of ~~the~~^{the} family. I think that once you get past the initial stage of sort of taking care of the people against whom this might ^{work} hardship in the exception, once ~~you're~~^{you're} past the transitional stage, that you cannot be concerned--I hate to put it this way--for people as people. In other words, in terms of their kind of personal setting, and if you're going to have transferability at all you've got to have it on a basis that is calculated either to put ~~into~~ⁱⁿ the qualifications that ~~tended~~^{are intended} to measure the capacity of the people who contribute to the fishery, or to have it indiscriminable, just anybody. (indisc.) transferability system we want. When that (indisc.). I don't see any constitutional problem.

CHAIRMAN: Mike, do you have rather, concisely delineated the several different options of transferability, and we might take this opportunity to just ask about constitutional problems with the various ones so we would then have the option of, if they're all equally salable, and which way we want to go.

MIKE: We have--each member of the Committee should have (indisc.) (indiscernible) (long pause) (shuffling of papers)

CHAIRMAN: Well, okay. ~~I'd be willing~~^{Maybe we ought} to look at the first one under

summary of comments. Free transferability through the commission. In this case we're not setting up an applicant, correct? Therefore, those who are eligible to buy do not have to meet any qualifications other than having the money to do so, or arrange the financing to do so, except that the commission does handle the actual transactions.

SENATOR RADAR: He's the recorder, is that all? Who's got...

CHAIRMAN: And I suppose the real reason for having the commission do this was to give them an opportunity to counsel to the unsophisticated, counsel with the unsophisticated, urging him to consider what he's doing, making sure he knows what he's doing before he ~~even~~ sells away his birthright, so to speak.

UNIDENTIFIED SPEAKER: Even more so--these ^{are the} ~~were~~ summaries from the previous work session. It was pretty much the feeling this would give the commission the ability also to make sure that the transferee has the ability and intent to participate.

CHAIRMAN: Okay, now, one question that has been brought up in the past was, if we defined certain qualifications that an individual must meet initially to get into the fishery, what are we doing to our overall picture if we don't require some sort of similar requirements, or qualifications, for the fellow that comes in purchasing the license? Is there any problem there that you see?

PROFESSOR FLETCHER: If the basis on which you have determined those who are to participate initially and giving certain ones of those what I might call preferential treatment, although it happens to be a quote ^(?) if it was solely done in order alleviate what otherwise would be a hardship requirement, then what they did with what they got after that is in a sense of no concern of yours. If they want to sell that out and kind of give them present value for it by getting

dollars now instead of fishing for the rest of their lives, ~~that~~ I suppose that's up to them. But if in addition to determining who got your initial entry permits you also said, well, we're not going to give you this permit just because it would be a hardship on you, but because you're a good fisherman and because you have a present intent to continue, then to the extent you were using the standards that determine who you wanted to be fishing I would suspect that you would have to apply those to the same people who would be coming in by purchase into the future, so that you'd have an equal application of standards as to all persons that would then be fishing.

CHAIRMAN: Well, this is not necessarily a case where you're applying different standards because it is the transitional period.

PROFESSOR FLETCHER: You would be applying different standards to give them, in a sense, compensation or alleviating consideration, because of their past, their investment, whatever it may be. Now, the only problem I see is that to the extent that ^{you're} ~~you're~~ additionally requiring them to live up to certain standards for future behavior, that someone who could not meet those standards and therefore, didn't let in in the first ^{place}, it's plain that you didn't require the transferee from the licensee to have the same standards.

CHAIRMAN: And so if I may make it's sure it's clear in my own mind, the question has been before, we might have a constitutional problem if we tried to limit it to a group of applicants that we set up standards for. What you're really saying is that the reverse may be true. We may have some problems if we don't utilize the same standards to a certain degree.

PROFESSOR FLETCHER: Yes. I think, on the other hand, that it's what

you do. Suppose you said to yourself, and I don't know whether this is wisdom or not, but suppose you say, we don't care who fishes. Anybody who can put himself out there and fish is all right. All he has to have is an entry permit. How are we going to control how many we have? If we don't get any (indisc.) and we're out there being perfect novices it would be all right. If you take that position, then you could say, but as to who gets the license in the first place, we're going to measure that in terms of hardship and give it only to certain selected people based upon a lot of factors that have to do ^{with their then existing} ~~your (indisc.)~~ situation, their background and considering their past, and if you let that be the only determinant as to who gets the first license, then you can have a quite open basis thereafter, but you've not, you see, insisted upon any present continuing capacity to fish when you decided who was to get that first entry permit. You want to go that route, then sure.

CHAIRMAN: Okay. Well, alright, now I'm at the bottom of the page, and I don't know that he's talked about moratorium right now. John, go ahead.

SENATOR RADAR: Make sure I understand you. If you require competency tests as an ^{con} addition of an original permit, then you'd have to keep that if it's transferred?

PROFESSOR FLETCHER: So long as you had those original persons having to continuing to meet that, yeah.

SENATOR RADAR: How about (indisc.) make a part-time engagement in the fishery, a test for excluding people in the original go-around. Does that mean that we have to continue using that sort of a...?

PROFESSOR FLETCHER: ^{No.}
^ It seems to me that that's a measure solely of how

hard it is going to be upon the persons to institute the system.

SENATOR RADAR: What is ^{the} the qualifications then that we can discard as to either continued holding or ^{for} the second generation of fishermen, we would only have to do those which immediately rate the present hardship in instituting the program. That's the grandfather rights, so to speak.

PROFESSOR FLETCHER: Yeah.

SENATOR RADAR: Then we could discharge the rest of it. We can get rid of those qualifications. It's unreasonable, for example, that the second generation of fishermen to give a license based upon their previous fishing when they didn't have a ~~license~~ ^{license}, they couldn't fish.

PROFESSOR FLETCHER: The more I thought about it, this, in terms of, the apparently the accurate definition of a part-time fisherman, I think you'd have a hard time sustaining a distinction based on terms of present capacity, contribution ^{to} of the economic welfare of the State, to exclude the so-called part-timer. He takes just as much time to fish as the guy who is out there that his livelihood is dependent upon. The fact that he's doing it in addition to another job, I think it's pretty hard to exclude him on that basis.

SENATOR RADAR: Well, are you saying then that--I think you are saying that in our initial go-around we aren't going to be able to do it on the basis of part-time to full-time.

PROFESSOR FLETCHER: No, maybe I fairly ^{misspoke.} ~~indirect~~. I think in terms of deciding how hard it is upon ~~some~~ persons who have ^a present association with fishing to institute a limited entry system you can legitimately concern yourself with the hardship in individual cases, and that one of those individual cases which seem to me a

^{particularly}
A harsh one is the fellow who's wholly dependent on fishing, so we ^{say}
to him, we'll continue to fish. On the other hand, the guy who was
not wholly dependent upon it you could justify ^{a distinction} as to him, sorry,
you're out, just because it isn't going to be so hard on you as
on this other guy that we're ^{including} ~~entering~~. But then it had to do with
determining who got to be in a sense grandfathered in, but it
does seem to me that with respect to persons ^{who} thereafter ~~who~~ want
to come in, ^{to have} ~~but who haven't~~ entry permits, that you can't use
that distinction, because the only basis for using the distinction
was to alleviate hardship. Now I said what I wanted to say.

SENATOR THOMAS: I'm glad you pursued it, because it finally cleared
it up in my mind, too.

PROFESSOR FLETCHER: Only I didn't state it fairly the first time around.

(indisc)
CHAIRMAN: Well, alright. But, ^{while you're} ~~while~~ saying that requirement can be
done away with, those of experience and ability need to be retained.
If we had them in the first then we need them in the second place,
to a certain degree.

PROFESSOR FLETCHER: At least if--well, I'm a little uncertain here.
Surely in the first year or so after you ^{have} started this system, if
as one of the ingredients in deciding who was to get an initial
entry permit you included the test of present capacity to fish,
skill and so on, that you see has all the characteristics of, ~~and~~
^{how you might decide who should} ~~who~~ fish off into the indefinite future, and on that basis you said
somebody who did not have that skill, even though in other respects
he qualified, sorry, you can't fish, you don't get a license, then,
at least for some substantial period of time, I should think that
that person who was excluded back there could complain unless you
continued to apply that kind of a standard to new entrants. Maybe

there would come a time at which he could no longer complain, or as a practical matter would not, (indisc.) it seems to me for a while anyway, you'd have to adhere to using that, either that or say, well, we've changed it for everybody, but then what do you do about the guy that you grandfathered in on that basis. You can hardly tell him ^{to quit} ~~(indisc.)~~. So, I think the practical answer would be that you have to continue (indisc.).

CHAIRMAN: Okay. Well, we may want to come back to that one later.

Let's--you've indicated that there is really is no problem with a moratorium if we've got an overall scheme that shows what's going to happen on down the road. Is ^{this} generally what your...?

PROFESSOR FLETCHER: Yes, and the closer you come toward actually having that scheme in greater detail and the permanency, the eminence of it, the greater you stand a chance of making that hold.

HEARING OF THE SENATE SPECIAL
COMMITTEE ON FISHERIES 2/22/73

CHAIRMAN:

~~UNIDENTIFIED SPEAKER:~~ I don't know whether we can focus in and decide on the basic philosophy of transferrability or not. Apparently, we've got completely free—transfer where you can sell to the individual at whatever market price you can work out with him or rather than a straight lottery... this three-for-one thing—that's almost a lottery. Well, I guess it is a lottery, really, isn't it? If every three that gets out - one gets in. But he gets in on lottery basically. And, then we've got the modified free where we're providing an incentive for him to sell out to the commission but he can sell out to the individual if he wants to and simply not make as much money when he does it. Now, do you have some other alternatives that we really want to look at?

UNIDENTIFIED SPEAKER: Let me make one more argument...in favor of the attrition, plan 3 and the lottery. And that is, that when we talk about the class of people...we talk about class of people...I think that that class would have a better change of getting into fishery the second generation if they could get into it by a lottery rather than having to buy their way in. Because, under the other system, under every one of the other systems, the second generation of fishermen is going to have to pay for his permit. Well, because I think that this ought to be of particular concern to you.

(indisc.) I'm talking about the resident fisherman in Bristol Bay.

CHAIRMAN:

~~UNIDENTIFIED SPEAKER:~~ Let's examine that. Now, that's one of your big points, Sam, and if we go to a lottery we take the financial requirement out of this thing. Now, I said at lunch and I'd like to see, maybe I'm wrong, but it seems to me that as soon as this fishery becomes something that is

limited, the reasonable expectation is to make a living out of it. If he has to buy a lottery ~~ticket~~ or buy a permit and that permit has value, then anybody with a decent credit rating or anybody that's a decent fisherman--if he has a decent credit rating-- can go to a bank and borrow the money he needs. Therefore, he doesn't have to be, doesn't have to ^{have the riches} ~~(riches)~~ himself. If he's simply a darn good fisherman he can go to a cannery. He can get cannery backing to buy this permit. Therefore, I don't think that simply because that permit has value, it's gonna close it to the guy that doesn't have the money but is a good fisherman. Now if I'm wrong, why....

UNIDENTIFIED SPEAKER: Let me make one other argument in favor of this system.

~~UNIDENTIFIED SPEAKER:~~ ^{CHAIRMAN} Well now, wait a minute. Let's ^{get down to} ~~examine~~ this point.

Let's see if we can come to some agreement on this point. ^{DON.}

~~UNIDENTIFIED SPEAKER:~~ ^{DON} I was gonna say something back to what ^{he was} ~~you~~ were saying just before that. In the fishery that I'm in, assuming that I were still in it, a lottery would be beautiful because I would assume that half the people who were applying ^{to be there} wouldn't be the skilled fishermen. They'd be easier to compete with. You know, so (indisc.)

~~UNIDENTIFIED SPEAKER:~~ ^{CHAIRMAN} The lottery coming out with that pool?

UNIDENTIFIED SPEAKER: Yes.

~~UNIDENTIFIED SPEAKER:~~ ^{CHAIRMAN} ^{They had to} (indisc.) have an experience factor.

UNIDENTIFIED SPEAKER: Well, the only way to learn fishing is to do it.

CHAIRMAN: Allan?

ALLAN: I think that I'd like to recall what Professor Fletcher said this morning when we were talking about freely transferrable permits. And that was that it seemed to him that the concept of freely transferrable permits

within the system was, ^{in the} provisionally a bill prohibiting the (indisc.) high cost, etc., of the permit. And that does, it seems to me--that set of conditions prohibit going to the bank and getting the loan for that permit. Because essentially they might be (indisc.) because you've got a house that they will loan you money on. But it seems to me that it does put limitation on sources of funding that a person could obtain in order to get a permit.

CHAIRMAN: Dean?

DEAN: Back to this changing a permit by lottery, we also want to remember what we said about continuing to maintain the criteria in the long term approach. And if we fail to do that, well, this wouldn't necessarily make the thing appear legitimate before the courts.

UNIDENTIFIED SPEAKER: You couldn't maintain the economic dependent. In other words, your lottery, as I assume, would be among your qualified (indisc.).

~~UNIDENTIFIED SPEAKER:~~ ^{CHAIRMAN} Your qualified applicants, right?

UNIDENTIFIED SPEAKER: There's one other advantage of a lottery. There's no way for somebody to buy out a man's right to fish. We were worried about, under an economic distress situation of canneries, or guys from Seattle or some place else, buying out the local resident's right to fish...and getting control of it. If it goes back to the State and is going out with the lottery, there isn't anybody who can pay anything for that to buy it. Which means that the local resident isn't going to be deprived of it during a ^{period} particular distress (indisc.). There's one other point that I thought ^{that} ~~that~~ ^{mitigated} (indisc.) in favor of that system. It doesn't come to me now.

UNIDENTIFIED SPEAKER: The other side of it is that--say I wanted to get into commercial fishing. Say I've even got the money to buy the permit or whatever--how can I plan on whether I'm going to get into commercial fishing if I just have to wait until they draw the little light ~~ball~~ ^{ball} with my number on it?

UNIDENTIFIED SPEAKER: You're not gonna buy a boat until you get your number.

UNIDENTIFIED SPEAKER: Yeah, I can't—that's it. Say I'm already in the fishery and I've to a permit for a particular ^{TYPE} kind of gear and the area that I'm in if I got another entry permit to fish another type of gear—the pattern of the migration of the fish would allow me to do that consecutive'y. How am I going to apply the expense and better myself in the fishery if I have to wait again until they draw a little slip of paper with my name on it (indisc.) ^{at the} random ^{lottery} water? If it has ⁶ a deadening effect on anyone seeking to improve himself within the profession.

~~UNIDENTIFIED SPEAKER~~ I think the Professor was right. And that is...the price we want to pay for efficiency here on ^e ~~taking~~ ^{CUTTING} people out, you know... now I think that the most efficient fishery would be an absolute free transferrability like a piece of farmland and the devil take the highmost. You know. ^{Now} I think that's the most efficient. But I do think that we have an interest here in a class of people...and the entry of people (indisc.) ^{who} you don't have a lot of ^{needs} (indisc.) in ^{to} the fishery on a continuing ongoing basis. And it seems to me also that the lottery would tend to favor Alaskans a little bit over non-residents because it seems to me like the attrition in Bristol Bay for instance, you would have a lot more guys that came up and fished two or three years than you would a bunch of guys that make their residence in Bristol Bay, and want to fish. That is, they'd have a lot better chance of being selected. Now, I'm not sure that's true anymore. I don't know the facts out there, but

~~UNIDENTIFIED SPEAKER~~ ^{CHAIRMAN} Why does a lottery protect that class of people you're talking about?

UNIDENTIFIED SPEAKER: Well, it protects them from selling their ^{if} right. We were talking about....what are you gonna do in a bad season?

~~CHAIRMAN~~

~~UNIDENTIFIED SPEAKER:~~ Yes, but it gives us absolutely no protection as far as the second generation of the fellow ~~that's~~ really out there, that really there's nothing else to do in that area except fish....

UNIDENTIFIED SPEAKER: Don't we agree? That if the second generation has to pay to get in that they may very well...that the control of the fishery will move away from the ^{impecunious} ~~importunateness~~ (sp) residents of say Bristol Bay-- is it going to go to the people that have money in Anchorage, Fairbanks, Kodiak....

~~CHAIRMAN~~

~~UNIDENTIFIED SPEAKER:~~ No, I don't accept that at all.

UNIDENTIFIED SPEAKER: You don't, huh?

UNIDENTIFIED SPEAKER: No.

UNIDENTIFIED SPEAKER: That wouldn't happen, huh? Why?

~~CHAIRMAN~~

~~UNIDENTIFIED SPEAKER:~~ Well, because again I think that a good fisherman who has grown up in the waters and we're talking about second generation now-- grown up in the waters ^{really knows it. He's} ~~reading no~~ (indisc.) known to the cannery as a good fisherman and if he can't get credit ^{anywhere} ~~elsewhere~~ I think in all probability he can get credit through that cannery to buy that permit.

UNIDENTIFIED SPEAKER: Well, the canneries control him then, don't they?

UNIDENTIFIED SPEAKER: What?

UNIDENTIFIED SPEAKER: That's one of the things we're trying to get away from-- cannery control, aren't we?

~~CHAIRMAN~~

~~UNIDENTIFIED SPEAKER:~~ Not necessarily. I say they do not necessarily control them to a certain degree.

UNIDENTIFIED SPEAKER: I suppose.

UNIDENTIFIED SPEAKER: But the thing is that the Anchorage, Fairbanks, Kodiak ^{Kenai} fishermen -- not so much in Kodiak -- and I'm not sure about ^{Kenai} ~~(indisc.)~~ the thing is that bank loaning policies are different throughout the State. You can get a loan for various things much easier in Anchorage than you can in Kodiak. ^{For instance} And so the opportunity for people of equal qualification

in Anchorage is different than it is in Kodiak and definitely different from the Bristol Bay ^{resident} area. Now, if you narrow down his field for financing for instance in ^{The} Bristol Bay (indisc.) fisherman's case, ^{To} where it is only the cannery because that's what it will come down to because my experience is that you just can't get money out of (indisc.) with the branches in a small town unless they had ^{is THAT SAME THING} (indisc.) secured to at least 100% and ^{ONCE PUT} what you (indisc.) that particular resident ^{INTO The position where his} (indisc.) fishing record ^{FINANCIAL} (indisc.) ^{is SHUT} the opportunity ~~to sit~~ down and he can only go to the cannery,

I don't know how they will do it now, but I feel certain that the canneries will control that man. The way they (indisc.)..... ^{that your doing it today will help}
~~This additional problem.~~

UNIDENTIFIED SPEAKER: In the first place, I think Dr. Fletcher made ^{it} (indisc.) rather interesting. He did, ^{in making} (indisc.) the fact that ^{the legislature} (indisc.) ^{pass legislation} would, ^{in his opinion that would} preclude the canneries being able to loan the fishermen money at all and that is the only way you're ever going to be able to make sure that the canneries don't dominate the fishermen because in spite of who owns the license ^{or} and who loans the money, you're going to have to ^{pass it} (indisc.) to keep the man from going to the cannery in a lean winter and borrowing money from the cannery. They are going to their ^{same} (indisc.) handle ^{on it So I don't} (indisc.) to see that you are actually accomplishing the end keeping the fishermen out from under ^{his combination} its domination. And second, ^{even} the CEDP (?) ^{the group of} people that were in here the other day were extremely concerned about transferability, ^{back} within the ranks of their own family which, of course, is going to be completely precluded on a lottery basis. And you have got a gain-I think I've used the term before-- but if you've got 50 men and 5 licenses, you can go back every year for 30 years and never get a license on a lottery basis. And to use the analogy-- if you had to make entry into being ^{an attorney} at a cannery on a lottery basis, a guy just wouldn't be able to (indisc.).....

UNIDENTIFIED SPEAKER: That's about what it is.

UNIDENTIFIED SPEAKER: If I could say one other thing...only one single exception

every fisherman I've talked with, and I've been talking with a lot of them, *and I've been talking with a lot of them all over the state on the telephone.* when they start talking about lotteries they just absolutely can't ~~(indisc.)~~ *see it.*

If there's anything ~~that's going to~~ *that will* defeat this bill from the fishermen's point of view I think the lottery would because they just can't.....

UNIDENTIFIED SPEAKER: Now, we're not talking about the existing fishermen..now we are talking about the second generation fishing gear. *her?*

UNIDENTIFIED SPEAKER: Everyone I've talked to has extreme reservations about it.

Dean
UNIDENTIFIED SPEAKER: One thing I think is a misconception is to think that

the lotteries get away from control by the canneries...*because* if I had a cannery -- *is ok you're talking about canneries. I'd just say -- that I know what I'd do... (indisc.) ...they're writing letters to guys who aren't*

fishermen
(indisc.). If you want to go fishing, we'll give you the deal, my friend, and that's exactly what they are going to do. They are going to go out and find people to file for the lotteries.

CHAIRMAN
UNIDENTIFIED SPEAKER: And for every unattached fisherman there will be ten cannery fishermen in there in the lottery -- so the chances are ten to one that somebody connected with the cannery will wind up with a ticket. Let me go on to Dean.

DEAN: I'm with John on his viewpoint till we get up to the lottery. I think I agree with Phil there *then that the* *(indisc.)* viewpoint of the fishermen. They want to control who gets...they are going to want to be able to *sell* ~~open~~ their ~~e~~ through the commission perhaps, with the commission approving everything -- but this is about the only way they are going to be able to determine who follows them from their family and many fishermen are concerned with their *(indisc.)* Even so, I'm still not sure that we are going to be able

to sell the concept of free transfer because of the fear of domination by cannery interest, money interest or whatever.

UNIDENTIFIED SPEAKER: Mr. Chairman, would you explain to me exactly why you feel we have to consider the aspect of transferability at this point in time?

CHAIRMAN: Well, I didn't think we did prior to today but after the time we've spent with ^{The professor} Fletcher here it seems to me that this is such an integral part of the whole thing ^{such} so that ^{it} you would give ^{the} a court an opportunity to look all the way down the road to see that we are not simply creating an interim period here and that we're going to ^{flush in} (indisc.) the details of the ultimate objective later and in doing so extend the interim transitional period year after year after year ^{after year} and in effect create a closed class. ^{And} It would seem ^{ed} to me that he was pretty definite that we had to do more than that. We had to put forth the ^{whole} (indisc.) plan but maybe not ^{down} to ^{the} detail (indisc.) but at least in pretty substantial outline before ^a the court would be able to find in our favor.

UNIDENTIFIED SPEAKER: ^S What I ^{hear} is that we've been going around and around ^{around} ^{to the extent that we'll come back almost} (indisc.) and we have to do something and I'm just wondering how important at this point in time the matter of transferability is. If you can guarantee it (indisc.). John, we can have a moratorium for a reasonable period of time, but the court is going to require that the legislature act in good faith and ^{Professor} Dr. Fletcher feels that to undergo a constitutional test which would stand a constitutional test, that we do have to have something in the bill regarding transferability. ^{As an indication of} And, in any case, you know the legislature's ^{faith in carrying this out} is a good thing (indisc.) assuming that you do have a moratorium ^{period} here. I'm concerned about time schedule ^{Why not} (indisc.). Another possibility would be to ^{to continue that change the} make out a (indisc.) that vehicle in the next year (indisc.)..... ^{not the year.} Let me ask John. John, if you knew absolutely that ^{it was going to be freely transferable up to the} the (indisc.) ^{get} the highest bid ^{der} every guy wanted to go--would you vote for the bill? If

you knew that was going to the way it was going to work, would you vote for it?

JOHN: I don't know.

CHAIRMAN: Well, you see here's the problem. I don't know either. But then the question is, do you want to vote for a bill which is gonna to lead to that? You need to know now what that plan is to know whether or not you want the bill, don't you? Well, maybe you don't (indisc.) well, maybe so..In my mind I'm not sure that I want limited entry unless I think I understand how it is going to function. You see that's ^{the way I look} ~~how I look~~ at it...this is the most basic part of the functioning of it, really.

UNIDENTIFIED SPEAKER: (Indisc.) completely transferable or not the basic assumption of having gotten into limited entry will be of benefit either way.

^{CHAIRMAN}
UNIDENTIFIED SPEAKER: If it would stand, but I think that ^{is} the problem. Now when I came in here this morning I had thought that that's what we better do in view of the time element and ^{all} the rest of it charge the commission to come back within no more than two years to present recommendations to the legislature on the transferability. In the meantime, we've done a two year moratorium. We can do what needs to be done with transferability at that time. And I believe I understood ^{the Professor} Fletcher to say that this bill ^{just} wasn't satisfactory in terms of the law.

UNIDENTIFIED SPEAKER: You asked him and he couldn't give any (indisc.) I was thinking about a year to guarantee that we participate to make sure that we were (indisc.)

UNIDENTIFIED SPEAKER: If it's any help ^{Ray Risky has a} (indisc.) similar question during break this morning and ^{the Professor} Fletcher was a little bit more definite ^{Ray} (indisc.) two years. The Professor sort of backed off and thought ^{Ray} well..Price said, "How about a year?" The Professor said, "Well, we will be far better off with

six months". and ^{the} general indication was that it was his feeling that you could probably get away with a moratorium for about six months but, it had to be justified with a temporary transitional device that you needed for administrative purposes while you were getting through whatever it took you to get on with the business of your limited entry program.

^{CHAIRMAN}
UNIDENTIFIED SPEAKER: Course, there's no way that could be..just six months.. because the legislature ^{won't} doesn't meet for another six months.

UNIDENTIFIED SPEAKER: That's right. ^{unless you give the Commission} I think ~~(indisc.)~~ the power to offset (indisc.) and also that it should be covered with a detailed legislative letter of intent in other words to document as being indicated (indisc.) they can do it. In various ways they do it presently, but there was a need to document. It seems to me that regardless of which way we go on the transferability we're not going to be able to solve the problems of the class of people that we are most interested in. It's not a legitimate legislative objective under this bill ^{and we're} if you're going to have to go outside of this bill with another piece of legislation making available loans or whatever to really accomplish what we are trying to do in transferability. ^{Now that's the way I'm determined what} (Indisc.) my initial thinking would be to ~~(indisc.)~~ bill rather than wait... ^{has to come}

UNIDENTIFIED SPEAKER: Yeah, that's right.

CHAIRMAN: Dave?

DAVE: (Indisc.) ...that's the feeling I get.

UNIDENTIFIED SPEAKER: Yeah, I think we are going to have a lending program and something like that. To my mind, I think we need to solve this question as a part of the key "part of our problem" here.

CHAIRMAN: I do, too. I think we have to really and maybe the best way to accomplish that is to ^{has to come on} (indisc.) an awful long time today and I don't know whether we're going to accomplish a whole lot more now. Maybe what we

had better do is to understand as best we can the various transfer proposals...you can go back and take each one of them and draw up your list of plusses and minuses for each one of them. I'll do the same. Everybody that's interest^d, do the same, and let's find out then which ones are valid advantages and which ones are valid disadvantages. What I may put down as an advantage, after discussion, we may find is not an advantage and vice versa, and so on. And maybe we can come back then and make some sense out of this thing.

UNIDENTIFIED SPEAKER: Mr. Chairman, (indisc.) hear from Dr. Fletcher again?

UNIDENTIFIED SPEAKER: It's about the politics of this thing...talk about the fishermen (indisc.) You really have to have the people in ^{Anchorage} Fairbanks and Anchorage ^{too} (indisc.) and there is one thing about a lottery and that is it (indisc.)....

CHAIRMAN: I don't know whether it is or not, John, I'm not sure.

(Indisc.)

UNIDENTIFIED SPEAKER: Here's the thing about it. If you don't have a lottery, then you ^{with} (indisc.) the accusation about you gave away the fishing resource.

CHAIRMAN: Well now wait a minute.

UNIDENTIFIED SPEAKER: To who? To a particular group of people...would be like giving away the timber resource to the timber users and the oil resource to the oil people, and the rest of it. But as long as there's some way for other people to enter ^{it} and they probably won't -- but to some extent they will -- it ^{hasn't been} ~~had to be~~ given away because all citizens and everybody else has an equal access to it and rich or poor you don't have to buy your way ⁱⁿ -- you're ^{don't have} not going to do nothing. It's a public resource..you're going to be harvesting ^{ing} a public resource...there's not enough resource to go around

for all the people who want it so flip a coin and the guy that's lucky gets to harvest the resource and the guy that's unlucky ^{has got} gets to be a ^{lawyer} (indisc.).

UNIDENTIFIED SPEAKER: I don't see how (indisc.) use the legislators (indisc.) (laughter)....

CHAIRMAN: Do you really think there is that much difference in a liquor license...do you really think that, therefore, a liquor license owner should be able to really sell that to anybody he wants to..to his son.. pass it on in the family, generation after generation, where it's a franchise -- a public franchise again...that's limited where only a certain number of people can get them that he can transfer his down the line to his own kin....

UNIDENTIFIED SPEAKER: You know if I thought liquor licenses were really ^{as} the important (indisc.) as this, I guess it would be worth the hassle.

CHAIRMAN: Well, now wait a minute...it's the principle that's important.

UNIDENTIFIED SPEAKER: The principle is different ^{but} because....

UNIDENTIFIED SPEAKER: Well, one is a resource and the other....(indisc.)

CHAIRMAN: ^{is in the business of manufacturing alcohol} The opportunity is certainly being given over, is it not? Otherwise, why do you limit them to one to every 2500 people?

UNIDENTIFIED SPEAKER: Well, I think it's sort of a privilege to have a license ^{to sell} ~~for~~ booze.

CHAIRMAN: Well, I do, too. Very definitely.

UNIDENTIFIED SPEAKER: I just don't see how the two can possibly fit together... in the same package.

UNIDENTIFIED SPEAKER: It's difficult because one is a resource and you can't say the people are a resource.

CHAIRMAN: If you didn't have the people you wouldn't have any (indisc.) to drink it.

(Indisc.) (Laughter)

UNIDENTIFIED SPEAKER: I think we are getting closer...you'll never please everybody, that's for damn sure.

UNIDENTIFIED SPEAKER: Well, I was going to say this, Mr. Chairman. You're going to have to plan to get down to where we are going to have to do on this committee what you do on every committee and go down the room and vote.

CHAIRMAN: That's right.

UNIDENTIFIED SPEAKER: You know and the majority is going to control.

CHAIRMAN: Let's be as intelligent and well-informed as we can before we reach that so.....

UNIDENTIFIED SPEAKER: Something, I would like to know....to what extent ^{to - is} (can we) load the deck in terms of the applicants in that lottery? Surely, we can have some basic requirements, have some experience in that it won't just fall to anybody--especially somebody who's on the outside and just wants to take a chance. They'd have to be here in Alaska at least....

(indisc.) (laughter).

CHAIRMAN: We have these three things as of right now....(indisc.)

CHAIRMAN: Lowell, the thing that we do at the present time under one of these work drafts is we set up priorities for that applicant pool based ~~in~~ a mixture of these three things -- the extent of past and present participation in the area of fishery or in similar fisheries, approved training program pertaining to commercial fishery, ability when intent to participate actively in the fishery and a mix of those three things would determine where an individual went in his ranking in this applicant pool. And then the highest ranking is eligible.

UNIDENTIFIED SPEAKER: The past reliance he said was not...that was a grandfather right to determine original entry. He said that after you once got into it.....

CHAIRMAN: We're talking about experience and ability factor. We're not talking about economic factors. The extent of past and present participation *in the* (indisc.) area fishery *of in* when similar fisheries -- not, reliance on...*it*

~~CHAIRMAN~~ UNIDENTIFIED SPEAKER: It's a matter of education—experience, skill, *Y so on* etc....

CHAIRMAN: *Don't this* ~~Then, that's~~ what you're talking about, Lowell. This type of thing.

LOWELL: Yeah.

UNIDENTIFIED SPEAKER: It's unfortunate we can't put a resident's requirement in there...

UNIDENTIFIED SPEAKER: If we could do that, all our problems would be solved.

UNIDENTIFIED SPEAKER: We need a lottery among this type of pool.

CHAIRMAN: A lottery *from* (indisc.) this pool?

UNIDENTIFIED SPEAKER: This is why I don't understand the difference between a lottery and property right in that we're going to have more people... in other words, I assume everyone in that pool would be desirous of a license and I don't see where we're going to get more people because all of a sudden the licenses are ... *Stonly* (indisc.) made the argument that if you have a pool, then all these extra people to come in there but they've got to be qualified, you know -- *In other words*

UNIDENTIFIED SPEAKER: Well, would your canneries bring in people who are....

UNIDENTIFIED SPEAKER: But, he said we couldn't limit it to a certain year. We couldn't say just those who fished in 1972 are eligible.

UNIDENTIFIED SPEAKER: No, but I mean some sort of qualification of enough experience...

UNIDENTIFIED SPEAKER: You could go back over a *20-year* period and pick up all kinds of people that have fished *that* who might not be fishing now—they're actually

qualified and could get into the pool.

UNIDENTIFIED SPEAKER: I see. I don't know.

UNIDENTIFIED SPEAKER: Isn't he saying that there would be an incentive under this scheme for anybody other than really interested fishermen fishing in Alaska or even applying in this lottery? If he gets a permit, he can't sell it—he can't transfer it—he's only interested in using it so it's certainly going to favor the Alaskans.

CHAIRMAN: Oh, I don't know. Why do you think so? You've got this very large number of (indisc.) residents who come up every year and a half for many years as helpers on boats if nothing else..not the gear fishermen...not the gear holder, but the helper and all of those would certainly be members of this pool.

It would be nice if there was some way to exclude them.
UNIDENTIFIED SPEAKER: There are probably more of them than there are resident Alaskans that are ^{trying} (indisc.) to qualify and their ^{therefore under the} (indisc.) of the lot comes around you just figure its probability there will be more of them than in the fishery than the Alaskans (indisc.).

CHAIRMAN: And they continue to hire outsiders as their helpers on the boat so they continue to be ^{that participant} come eligible for (indisc.) pool or the applicant pool....

UNIDENTIFIED SPEAKER: There's a reason for hiring outsiders. You get a lot better workers on a lot...

CHAIRMAN: Now, careful, (indisc.) (laughter)

UNIDENTIFIED SPEAKER: I think--I have ^{after} also felt maybe we could have different ways for different types of gear, different types of situations--and it seems like my impression -- I didn't hear everything that ^{Professor Fletcher} was said -- but we have a lot more flexibility and we could, in other words, how do you get experience on a set, ^{net sets} ~~that~~ size if you don't have a permit? Now, there's

differences as similar sort of things with trollers or gill netters--
since you don't have the opportunity for experience there could be more
of a ^{closed class} (indisc.) whereas you have maybe three or four crewmen on a seine
boat which brings up this ^{argument} -- some of these constitutional -- (indisc.).

UNIDENTIFIED SPEAKER: Maybe this is something we are going to have to write in.

I don't know what the mix should be.

CHAIRMAN: Okay. Very good. Appreciate your being with us this long while.

~~UNIDENTIFIED SPEAKER~~ ^{CHAIRMAN}: Maybe we ought to check the tape and find out how it's
going along.

HEARING OF THE SENATE SPECIAL
COMMITTEE ON FISHERIES 3/13/73

PHIL DANIELS: ... We've been very concerned about transferability. The fishermen are pushed--when we consider the alternatives, we've come up with the idea of free transferability. That's not to say completely unrestricted. We are certainly willing to see as in the bill in the House, it calls for transferability, you have to go through the commission, there's a six months' waiting period for approval before someone can transfer their license. We see this as protecting people from making a spur-of-the-moment decision or selling out in a bar some night, or just making a foolish decision. I think we favor that idea very much. We also are favorable of the idea of two categories of license, and that again is built in to protect people in low income situations. On the one hand you'd have the five-dollar license, which is available

to a person in the low income bracket, if he wants it. If a person who wants to have a license that is transferable, it would cost him \$50 to maintain that license. The person taking the \$5 license, of course, would have a non-transferable license for a period of five years. Again the idea being to protect people from making a foolish decision or to discourage them from transferring their license and seeing those licenses migrate to moneyed interest. We're also extremely concerned, if at all possible, to encourage the State to consider if this license is made freely transferable, to consider the possibility of the State's setting up loan programs to help people in low income brackets and perhaps also crewmen who've had years of experience in some other area in the fishery, to be eligible for these loans so they can be encouraged--we can encourage the license to end up in the hands of these persons. Now we feel like it's in the long-term best interest of the State to see those licenses end up in Alaskans' hands, and it's one of the ways you can legally, as we understand it, actually discriminate in favor of Alaskans by way of requiring Alaskan residency, also by way of putting in economic requirements, before you could qualify for this loan assistance, and optimistically, perhaps naively, we think that over a long period of time you might see an actual increase in the number of Alaskans who are made eligible--or who end up with these licenses. Now we're aware of a lot of the problems involved if the license becomes a transferable property right, but we're also aware of the enormous problems that can occur if the license is not a property right, and if you end up either in a lottery

or an apprenticeship pool. One of the biggest concerns we have is with the fisherman's being able to hand his license back into the ranks of his own family. We think this would be horrendously complicated by way either of an apprenticeship pool, or the lottery-type system, if you had it as a leasing right instead of a property right. We had initially hoped that you could have apprenticeship pools for specific areas around the State. It might be able to favor the Alaskan resident this way. One for Bristol Bay, for example, one for Cook Inlet, one for various other areas. We understand, after Dr. Fletcher's testimony, that the apprenticeship pool would be stronger constitutionally if it were based on something like nautical experience and included fishermen from all over, including fishermen from outside as well as Alaska State residents. We feel that people in areas like Bristol Bay, where they had a short-term fishery, would be put at a grave disadvantage if they had to compete against people from, say, Washington or Oregon, who had an in-depth fishery and were able to fish many months of the year. These are some of our concerns, some of our worries, if the transferability is moved from a freely transferable property right to some other formula. We have also taken up, in a very smattering form, the idea of a deferential tax that has been discussed. The fishermen reacted adversely to that. You can get their comment on it. There may be some explanation from--that hasn't been touched in the way I presented it, but the thinking is, that the fisherman who would ^{perhaps} really achieve a windfall gain is the fisherman who comes into the fishery, let's say ten years from now, after you've

reached your optimum level. He has no assessments to pay, and yet he gets into the fishery for, say, maybe five or ten thousand, and yet--and then he gets that money back when he sells his permit, so he also is for a possible recipient of a windfall gain. Now, we've touched on a lot of these ideas, and I know a lot of this you've already heard and that the fishermen themselves will have, perhaps, some comment to make, and I could go on with quite a few other things that we'd like to see in the bill. I think the biggest things we're after, we want to recognize the validity of the concern of people who say that the license might tend to migrate toward money interests, and by that we'd love to see some kind of loan program established to help get away from that problem. Our thinking there simply is that as long as a fisherman, on a lean winter, may end up borrowing money from a cannery, then the cannery, of course, is going to have his hands on that fisherman, regardless of whether this is a leasing right or a freely transferable property right. So I think by making it a leasing right you will not have solved the problem of getting the fishermen out from under cannery domination, whereas if we are able to make low-interest money available to the fishermen, perhaps we can solve that problem. If we had enough money available from those sources, it might be in order to pass a law forbidding canneries to loan fishermen money, but I think we're a long way from that point.

CHAIRMAN: Thank you. Before we go into questions--why don't you stay there for a minute, Phil. People may have questions of you. Before we go into that, however, I'd like to state something that I should have stated earlier, perhaps. There's been

some concern that this committee was dragging its feet for one reason or another, and that there was a question about the bill coming out, and so on and so forth. I'd like to use the opportunity to assure you that while action, perhaps, did slow down, I think there probably were good reasons for it, but that it has nothing to do with not passing the bill this session. As I ~~was~~ told Newt over the phone a few days ago, I feel the chances are at least 95 to 5 that it will be passed this session. Certainly, I'm going to make every effort that I can to make sure that it does and I think the rest of the committee feels the same way about it. I think we need to recognize the fact that in the House this bill was referred to three different committees. In the Senate it only had one committee referral, and part of the procedure here was because we felt, if it looked to the House that their's should pass first, and it had three committees to go through, then it might get hot and act on it a little bit faster. We might not get caught in that last minute crunch. So, that as soon as the House bill comes across to us, and it's in Finance know, as I'm sure you know, that's the last committee, and the speaker has said as early as today that he does expect to have it out yet this week, then in the Senate we expect to be ready for it, and it will be on the calendar, I would say, within a matter of just a very few days, in the Senate from the time it passes the House. So, if you are concerned about the time element as far as the Senate's concerned, why, please let me reassure you there that there is no problem. If we get the bill this week from the House, we'll have it on the calendar, definitely, next week, and so, we are,

I think, all of us, committed to doing everything we can to get this bill out this year. And, now, if I speak incorrectly, why, correct me, or any of the other committee members. Okay. If anybody has any questions on that, why, we'd entertain them at this point. If you want any clarification, if I've not made it clear enough. Okay. ^{Ph:} ~~Bill~~, you didn't mention anything about a moratorium on transferability to individuals for a year or two. ^{the,} Is ^A then, something that you've discussed at all? Do you have any position on that?

MR. DANIELS: We discussed it, and we discussed it, as I recall, Dr. Fletcher's testimony, and I'd understood that without transferability a moratorium is not likely to succeed in the courts. Is that incorrect, or?

CHAIRMAN: I think his position was that we would have no problem with moratorium if we showed what we were going to do when we get--after ~~we get~~ this moratorium, period. Now, Dr. Fletcher-- Dr. Fletcher's point was that to have a moratorium, without showing what we were going to do with the licenses when we got down to--or with the permits when we got down to optimum levels, would appear to the courts to be simply a trick to buy time and that we really didn't intend to do anything about making these available to other people in getting around the closed-class problem. However, he said that if you show in your bill a definite transitional period, and then what you're going to do when you get to the number of licenses that is desirable, then you can do almost anything in this transitional period, and there would be no problem with a moratorium.

MR DANIELS: Again, I'm recalling, only from having ^{sat} ~~said~~ in that day, and

you may have this off on tape, and trascribed, which I have not had the opportunity to look at, but I was recalling--I believe he was speaking with Mr. Adasiak from the Attorney General's office, and he said he felt, as I recall, that a six-month moratorium would be ^a ~~the~~ lot stronger...

CHAIRMAN: No.

MR. DANIELS: No?

CHAIRMAN: No, you're talking about a separate thing. At one point we saw this transferability thing as so involved and so complex that if there's any way possible we could give it to the commission, charge them with the responsibility of coming back in a year or two with recommendations on how to handle transferability, that's the way that I, personally, would have liked to have gone. And this is when he says, no, you can't do that, you've got to show on the bill what you're going to do as far as transferability is concerned. That's where we asked him--well, okay, it wasn't two years, how about if we had them come back within a year. And he says, you're in better shape. Six months would be better yet, but that's doing nothing with ultimate transferability, but making recommendations to the Legislature. That's the question he was speaking to.

MR. DANIELS: Could I ask then, how long a period of time are you thinking about as far as a moratorium is concerned?

CHAIRMAN: Oh, I'm--I don't have anything in mind. We've discussed the idea of a couple of years, and I don't have any position on it. I was just wondering if you did.

MR. DANIELS: Could we ask the fishermen for their reaction?

CHAIRMAN: Sure.

MR. DANIELS: We didn't bring this up.

CHAIRMAN: Well, Jim here wants to talk right behind you.

JIM: I really don't want to talk right now, Senator. I just wanted to ask you--I wonder if you could elaborate a little bit. I don't quite understand your position on this moratorium bit. Do you in effect--are you in effect saying that you establish certain people that are eligible and they're frozen into it with the intent...?

CHAIRMAN: Yeah. Well, again, please, I don't have any position on it.

JIM: No, I don't mean a position. I just mean, if you would tell me what you're referring to.

CHAIRMAN: Right. For those that have just--haven't met Senator Thomas before, why, Senator Thomas has just arrived, and Senator Radar, of course, has not. Well, the idea, I think, that was put forth at one time was that it might be desirable, after the initial--after the entry permits had been issued, that it might be of value to have a couple of years moratorium before they could be transferred to another individual. Now, we might want to retain--if we did that, we might want to retain the option of the commission buying them out, transferred to the commission, but not to an individual. There were some advantages that were expressed. I don't know whether there's anything that's very important or not, but I just wondered if you did have a viewpoint on it.

MR. DANIELS: There might want to be someone else who'd want to comment on it. I...

CHAIRMAN: Well, if your group has not discussed it, maybe it would

be better for you to discuss it...

MR. DANIELS: Well, I would guess that the reaction would be something like this: that if this made the bill more, you know, ^{improved} ~~include~~ the bill and safeguarded some of the abuses that might occur, that some kind of moratorium might be considered. I do think that many of us might have reservations on any lengthy moratorium, because what you're talking about is ^{a paralysis} ~~the pluralities~~ of the fishery by way of anybody switching gear types, or anything of this nature. This is one of the prime items--prime considerations that has moved the fishermen in the direction of free transferability, is because it leaves the fishery somewhat liquid as it has been in the past, but still keeps the lid on the number of units of gear in each area. It allows people to move from one type of gear to another. We're very, very fearful of anything, I think, that would tend to freeze fishermen into their gear types, and especially for any long period of time. That's one of the big considerations we've had when talking about free transferability and one of the reasons people have been favorable to the idea of free transferability.

CHAIRMAN: Any questions of Mr. Daniels, committee members?

UNIDENTIFIED SENATOR: Well, I would like to ask, can you give us some of the advantages of a moratorium of that type?

CHAIRMAN: Not at this time, I wouldn't. I don't know what they might be. It was proposed, and I was simply asking if you people have a position on it. Just a minute, Clancey. You don't have any questions of Phil?

SENATOR THOMAS: No. I'm sorry I missed testimony. I was pretty interested in what I heard.

CHAIRMAN: Alright. Clancy.

CLANCY: I would just like to ask a point here. This moratorium means there would be no licenses issued as such...

CHAIRMAN: No, no.

CLANCY: ...for instance, I'll give a demonstration. I'm going out this Spring and do a thing that I've ^{had} gear ~~for~~ for several years, but I haven't bought a license for for the last three years. Would this stop me from doing this particular thing?

CHAIRMAN: No. No, no. Maybe I didn't make it plain. The proposal that was put forth, and maybe it's not ^{even} important enough to spend this much time on, but once the permits had been issued, simply a moratorium on the sale of those from you to somebody else who wants to buy, for a couple of years, to an individual, however, still allowing you to sell to the commission if you want to get out. One advantage might be to, again, to provide a reduction of gear, some incentive for reduction in gear, so the guy that's selling out could sell to the commission which might retire that license, rather than to somebody else. Again, just for a couple of years.

CLANCY: Yes. Thank you.

CHAIRMAN: Alright. Phil?

MR. DANIELS: I just wanted to comment. I think the way we understand it, although we could be in error on it, that it will be--let's say the bill were passed this year. It would probably be two years or so before anyone would be issued a permanent permit, so, in effect, you'd have two years already. Now, if you added two years on to that, I think that might complicate the matter in some people's mind, because you'd be talking about four years

instead of--but you already have two years, probably, in which to consider some of the problems involved in transferability.

CHAIRMAN: Okay. Yes, go ahead. Would you identify yourself for the tape, please.

UNIDENTIFIED SPEAKER: Well, I didn't want to--I just wanted to say something about that, if it's okay. However, I'll be glad to have a question (indisc.).

CHAIRMAN: No, go ahead.

UNIDENTIFIED SPEAKER: One complication might be that there would be some permits available after this two-year period you spoke of. Maybe just right now, while this is taking place, somebody may have invested in a boat, you know, substantially, and would like to buy one of those permits, and it's possible (indisc.) in that respect, if I understand it right.

CHAIRMAN: Yes. Okay.

UNIDENTIFIED SENATOR: It's my feeling that any moratorium that's been presented so far, a moratorium seems to endanger the bill as far as constitutionality--the length of the moratorium. On this grounds I would be hesitant to support anything that would possibly cause this bill to be rejected under constitutionality terms.

CHAIRMAN: I'm glad you brought that up. That is one of the reasons that our progress has not been any faster than it has been. I feel, personally, that it's absolutely essential, that when this bill comes out, that it be constitutionally solid. ~~That~~ We cannot afford to go through what we did in '68, when we passed legislation that went to the courts, was found to be unconstitutional, but as a result of that legislation many

more people got into the fishery than would have, probably, without the legislation, and so, I think that whatever we do this time it has to be right constitutionally, and that's the reason we have ^{brought} Professor Fletcher in and that is the reason that there's been some slow downs, because working with him and the mail going back and forth, telephone phone calls and so on.

CLANCY: I would like to just to make a statement on this windfall type of thing.

CHAIRMAN: Okay.

CLANCY: ...that's been bandied around some.

CHAIRMAN: Yeah.

CLANCY: I've fished every year in Alaska since 1939. I have no retirement. I have to pay my own bills. I have to buy my own boat and things like this, and I don't see this as a windfall of any kind. I'm gonna have to fish for a living till I get too old to be able to do it, and it's never going to do me, personally, any good, except to be able to fish. I just wanted to bring this out to point that there is a few people in this

State that has to operate under these conditions, so I can't quite see how you can classify it as any windfall in my sake, except that the fact that I'm still going to be able to fish.

CHAIRMAN: Well, the question has been raised, if, when you're ready to retire, the thing has appreciated in value to where maybe it's forty thousand bucks worth in the permit itself, and I don't think that's impossible. Does it then become a windfall?

CLANCY: Well, you put 30 years, or 35 or 40 years of fishing in, ain't you entitled to a little something? ^{You are} ~~You know~~, on a Federal job or a State job, or any other job--I mean, look at it in this light. This is what I'm trying to say. So, I don't really look at it as that. The same guy that buys one ten years from now and fishes 20 years, he's probably going to be--his so-called investment is going to be worth more than when he paid for it, so he's ^{got} a windfall at the same time, even though he bought it. Just a point, that's all.

CHAIRMAN: Yeah, fine. Thank you.

UNIDENTIFIED SPEAKER: Speaking along those same lines, don't you feel that through the buy-back program, we will actually have that money invested, then, in the permit, and that it--that way it isn't a windfall?

CHAIRMAN: Well, I don't think that anything that has been considered here would subtract anything from what you have invested as far as the buy-back is concerned, any assessments or anything like ^{that.} I think there's complete agreement with everybody that anything you do have invested, certainly that--you're entitled to that back when you sell your permit. No question about that.

UNIDENTIFIED SPEAKER: So, you're talking about the moneys that the

permit might be worth, other than the...

CHAIRMAN: The appreciated value over and above anything you put in, yeah. Yeah.

UNIDENTIFIED SPEAKER II: If you're going to take advantage of the fisherman, why don't you--we have a windfall right now in liquor licenses. Why don't you go up to that one?

CHAIRMAN: Yeah, we've talked about that quite a lot, but then the other side turns around and says, well, hey, if you're going to treat fishermen that way, then why don't you open up the forest around here and let the first one in, or divide it up among people without any stumpage, or the same thing with the oil lands, so, there's good arguments to be made on either side of that question. I agree with you a hundred percent.

SENATOR RADAR: Yeah, to add a little further on that. I believe if you look around the State and saw how many fishermen that do have families that they would pass these licenses on down to, there wouldn't be nobody changing hands there.

CHAIRMAN: Yeah. I think Senator Radar has raised a point that's a very good one, though, that we're not--this is not something that we can agree upon ourselves and then just automatically assume that everybody else is going to accept it. You do have a rather ^{large} Anchorage delegation that feels that this is a State resource and that they've got to have a say-so in it, too, to a certain degree, but it is a pie that is being divided up, and it's not ^{just a} ~~the~~ pie that involves ^{the} ~~some~~ fishermen. The rest of the State does have some say-so in it. Now, I don't want to be putting words in your mouth at all. Why don't you go ahead, and...

SENATOR RADER: Well, you get this problem, too. And that is that if we take a billion dollar resource and divide it up between ten thousand people to harvest it, there's no objection to that, but when they get through using that and there's another generation of fishermen come along, should they have to pay, then, for what was given to the first generation for nothing? You see the difficulty. We're talking about the ones--the next generation of fishermen. Your sons and my sons and the people's sons who aren't here, and so on and so forth. And that's--and, really, what you're talking there is if you get back your assessment that you paid into it then you will have had the privilege of harvesting the resource for your lifetime, as long as ^{it's} useable to you, then you'll get back, I would think with interest, any assessments that had been levied on you, to enhance that. And the difference, then, is what the resource was worth, what you really got by having a one-one-thousandths share, one ten thousandth share in this industry, and unless we were to charge you for it now like we would charge an oil company for harvesting a resource, or a timber company for harvesting a resource, or we charged a man who wanted to graze cattle, we would lease him grazing land and charge him a rental fee, instead of--we could do that with fishermen, too, but it's thought that the fishermen can't afford ^{that,} and shouldn't have to afford that, but if you don't charge them a use permit or a use fee, so to speak, or make them buy the resource, then when they get through with it, whatever that value is has to be passed on to the next to the next generation of fishermen. If that's to be sold to anyone, then the money should go to the State. If it's to be

used by fishermen, as long as they're able to use it, then they should be able to get the money that they've invested in it, and that would be all they'd be entitled to. That's the problem that we're into, and of course, you have to recognize this, and I recognize that those that use the resource have a prime and first interest in it, but by the same token, you know, we wouldn't think about giving to the oil companies the oil resource, because they wanted to use it. It belongs to all of us, and it belongs to the fellows who are fishermen just as much as it does to the people that live on the North Slope, or some place else. This is a State resource, and the benefit from that resource has to in^{ure}here to all the people of the State, and we're not able to divide up for one group of our citizens, one particular resource, and say they get it to the exclus^{ion} of other groups of citizens, but we can, I think legitimately, try to control and to make sense out of the harvest of that resource by those people who are harvesting it in the past and who will harvest it in the future. That's the nature of the problem. And as I say, it isn't necessarily what you would like, necessary to this committee, but you have a whole lot of people in the State who do consider this to be the most important resource the State has. I'm one of them. I think it's more important than the oil resource. I think it's ^{of} greater value than the oil resource, and, for that reason, you have to be real careful about an accusation that it's a giveaway of this resource to anybody, rather than a harvest permit that's useable, and that's--if you get the idea that this is a giveaway of a resource, the biggest and best resource this State has, then this bill will die. It

won't happen, but if we can put it on some other basis, then I think that we could move forward to everybody's benefit.

UNIDENTIFIED SENATOR: I believe the prime concern right now is what is happening to this resource.

SENATOR RADAR: You're absolutely right.

UNIDENTIFIED SENATOR: Cause the way we looked at it, speaking just for our area alone, having the influx of gear that's coming in, you let it go for another five or ten years, we'll be all part-timers, and I can also see that if we have a limited entry program which is successful, you look ahead in the neighborhood of ten years, when ^{we} build this resource back up, I think it's only fair then the fishermen are going to have to put more into it. We really realize how much money the fisheries is putting into this general fund right now, compared to how much we're taking out, but once this thing is established I think ^{you're} ~~your~~ going to find that the fishermen are going to be willing, also, to put money back into the State to help ^{pay for this,} ~~fisheries.~~

CHAIRMAN: Alright, Jim, we'll start here and go around the room.

JIM: Yeah, I'd like to make a statement to Senator Radar there. I-- course, my mind probably don't work quite like his does. I seem to have kind of gotten lost there in that mental exercises we was going through. First of all--I mean, it's quite obvious, Newt made the point there that the resources ^{is in} ~~is~~ terrific jeopardy, Phil gives elaborate testimony about the fact that it's down to a third and everything. It looks to me like we're sitting here talking when we're literally cutting off our nose to spite face, or something. We're going to sit here and grapple with

the problem, what's just and unjust about it, and forgetting about the fact that it's--to me, it's almost like it is a point of war at this point. Generals do a lot of things that maybe aren't extremely fair, or aren't, you know, a hundred percent the best decision, but they just have to be done, and this is what I feel we're facing right up to now with the fisheries issue. As far as my own license is concerned, I probably would be eligible for a type of gear license, although as Phil has pointed out, I'd simply ^{lose} out on most of the other fisheries, which I have a high degree of past experience at, such as crab fishing and every other type of fishing in Alaska, except for scallops. However, I'd certainly be willing to take that in order to save the resources as we've talked about here, but if we don't do something right now and do it fast, why, we're just literally going to completely lose the resource. I certainly wish I was in a position, or all of us were, of willing this landfall, as you guys call it, to the legislative retirement fund or some such thing, to try to help this thing through, because if we don't do it and do it right now in this session, it's--there's no question, I think, in any of our minds that it's all over with, and we're still grappling with these problems about, you know, whether it's fair or just or who's going to get this big landfall. I fail to see, you know, this type of reasoning at this point in time.

UNIDENTIFIED SENATOR: Mr. Chairman. If you'll do it my way we'll have no problem.

(Laughter)

SENATOR RADER: Well, I don't know what your way is either,

that's why I don't know what your saying, because I'm not against what you're saying, but the difficulty here is just exactly that. It's not that we don't have the same desires here. It a question that we have a lot of people involved, and it's more difficult than just taking care of the guys in this room, or one bunch of people, you know.

JIM: Well, yes, I'm sorry. I should have--I should have--I didn't quite get the--just from your stand there, just what you're-- maybe we came up a day and a half (indisc.) because we don't really know really what your position is or anything is. Well, Phil had elaborated that we could live with this type of a thing as was put out, and House Bill 126, I listened to your dissertation there, and I never did quite get exactly what you were in favor of. Maybe we didn't have a starting point to begin with, and I mean, are you in favor of a lottery, or a free transferability, or a commission to completely controlling it or what. I guess I maybe missed your...

SENATOR RADAR: Well, I haven't made my mind up as to what position I want to go on. The only thing I was talking about, though, in this particular instance, was if you^{do} have free transferability, and if you do sell the license, then the question is, to what portion of what you sell it for belongs to you, and what portion of what you sell if for belongs to the State, because it is a share of the State's resource, and that's the difficulty here. Certainly, part of yours because you will have put money into it and investment into it. Part of it belongs to the people in the State, though, because it's their resource, and if you're selling an exclusive right to harvest, or a franchise, so to

speaking, the second generation of fishermen really should not have to pay for what you're receiving for free. That's really the basic point.

CHAIRMAN: Let me make this one, too, if I may, before we go on, and that is that, for instance, Jim, we're not--this is not slowing things down at all. I figure that we've got, oh, till probably Monday or Tuesday of next week before the House bill gets over here, and so we've got that amount of time to have this kind of discussion and make our decision on what we're doing, what we're going to do, and it doesn't affect the ultimate timing at all, because we're still going to take that House bill when it gets here and work on it, and so, we're using that time to get ours into shape so--to substitute for theirs when it gets here, and so, this kind of a discussion doesn't slow us down at all. Our bill is close enough to the goal, and as soon as we solve this kind of a problem, and perhaps the other one on initial entry, why, we go right on.

(End of one side of tape)

MR. DANIELS: I'm curious whether there's any possibility of talking about some of the alternatives that might be under consideration on transferability, because I think this is what's got everybody curious, because we don't know, really--many of the fishermen may not know how to react until they understand what you and I have under consideration.

CHAIRMAN: Fine. Okay.

JAY STEVENS: I just wanted to say--comment on Senator Radar's statement there. I think it might have many good merits, but I do know, sitting through many committee meeting with U.F. of A., the delegate from Yakutat, that we have seriously gave

thought to future investment in this fishery ourselves, as farmers, you might say, like buying the seed and the fertilizer and tilling the ground. We do realize that the State hasn't been able to put a lot of money back into this industry to develop it and manage it and possibly it has been so called rape instead of perpetuated by reinvestment, and we didn't want to dwell into it too heavy right now because of limited entry, but I think it's one of the subjects that will come up in the future years, and any fishermen is in disagreement with me that we do feel a responsibilities to our fisheries, then I would like for them to say so here.

SENATOR RADER: Well, Mr. Chairman, let me make something...

CHAIRMAN: Wait a minute, John. Just for the purpose of the tape and the record again, can we get you name on the...

MR. STEVENS: Jay Stevens from Yakutat, Alaska.

CHAIRMAN: Alright. Thank you.

SENATOR RADER: Mr. Stevens, I want you to make something real clear to me. I'm not opposed to limited entry.

MR. STEVENS: No, I realize that.

SENATOR RADER: The problem is how to do this to be fair to everybody, and how to make it an acceptable bill not only to fishermen, but to the other people in this State who have an equal ownership in this resource, see. That's the difficulty.

MR. STEVENS: Well, the point I was bringing out, we kind of feel possibly that we're going to get something for nothing, but in talking ^{with} ~~from~~ the fishermen from the different organizations, we do hope to perpetuate this industry through our own money in the future, like taxing ourselves, to make this industry a

strong industry again so that we can pull a full living out of it, so actually, we're not going to be gaining anything for nothing if we put money back into it, is what I'm trying to say, sir.

SENATOR RADAR: You understand, also, that I'm saying that under any circumstances it's agreed that whatever you put into the fishery you get back. We're talking about what if you--what you should get back in addition to that if you sell a permit or if it's saleable and has a value in addition to that. If this is a billion ^{dollar} resource, and if we divide it between ten thousand people, you see, should you be able to sell that to the next generation of fishermen? That's the question, see. You certainly should be able to get your money back that you put into it. We don't argue about that, but the question is, how-- what should you get in addition to what the money you put into it, should you get back. See, that's the difficulty.

MR. STEVENS: Course, if you're going to have a rise in the dollar all the time, how are you going to determine how much is really-- can come back to the fishermen? What ^{is really} ~~(indeed)~~ his?

SENATOR RADAR: Take your assessments and interest on it the same way you do any other debt. It's the best you can do, I think.

CHAIRMAN: Okay. Further in the back, and would you identify-- no, that's right, and would you identify yourself.

RON BALANGER: Ron Balanger, Petersburg.

CHAIRMAN: Balanger?

MR. BALANGER: Balanger.

CHAIRMAN: Balanger.

MR. BALANGER: Petersburg Fishermen's Union.

CHAIRMAN: Okay.

MR. BALANGER: Now, we're going to add one thing here. What you're talking about, Senator, is going to be completely in my favor. I'm a deck hand. I'm, you know, work on--as a crewman. Now, we've been talking about 10,000, 20,000, 30,000 dollar value of our license. Now, if these boat owners had to sell that license--I mean, had to pay 90 percent back to the State or 75 percent if the State buys the license--I mean, the permit, don't you think it's going to keep the value of that license way down? About a thousand dollars maybe? Because somebody will not like paying, you know, \$9,000 out of \$10,000 or ^{eighteen} ~~any thing~~ ~~out of twenty~~ ~~on the point~~. They'll just say, well, heck then, I'll sell it for a thousand dollars and you'll only get 900 or--(indisc.) 50 persons.

SENATOR RADAR: I think that you make a real good point, and the point that you also make is that maybe the guy says, well, if you give me ^{fifty thousand} for my boat and I'll give you my license. You know, type of thing. It's going to be pretty hard to regulate, because that's been pointed out to us. It's been suggested that what we're suggesting is not feasible. Then you get back to, then how should it be transferred then? That's where you get into the problem of free transferability. The second thing that's wrong with that suggestion that I made, it's been noted by other people, and that is, the second generation of fishermen are still going to have to pay it even if it goes to the State, which means the only people who are going to be able to get in the fishing business, besides this generation, are going to be rich men. They're not going to be a guy that's a deck hand.

^{They're}
~~He's~~ not going to be a guy who worked his way up, because he's not going to have the 10 or 15 or 20 thousand dollars that it takes to buy his way in, and most of us feel that the fishermen in this industry, most of them are going through their pockets when they went into it, and that doesn't make them bad guys. We're, you know, that's the where most of came to Alaska that way, one way or another. But the problem is, how about the next generation of fishermen? What are we going to do about them? The deck hands, the guys who's in high school now that want to go fishing. How do they get into this fishery? And who do they pay and how much? And that's where you get into the problem of whether or not you should have a lottery or an apprenticeship pool, so that people can get in. The other suggestion is this: that people would use this franchise as long as they could use it. Any human being that's here today and is using the fishing--the fishery can harvest fish, but when they get through using it that that license would go back to the State then, and the State would reissue maybe half of the licenses that came back to it, you know, to cut down the number, but they would reissue them. Then the question is, who gets those new licenses on the second generation of fishermen? How're you going to let a guy get into the industry the same way that you got into it? And then you could say, well, you could either--you could have a lottery or you could sell them if you wanted to, you could bid on them like you would on oil or timber or land, State land or something, or you could have an apprenticeship pool and try to give them back to somebody who ^{had} had an interest in the fishery someway, had some experience

with it, or something like that. But that's a very difficult thing to figure out how to do that. So, you ~~have to~~^{ask me} what I'm for, I'm very much for limited entry, but I'm convinced we have to solve these problems or else we're all going to be sick of limited entry in three or four years, and it's going to work to benefit of a very few people and to the detriment of a great many.

UNIDENTIFIED SPEAKER: Senator, I've been saying the same thing the whole week.

CHAIRMAN: Well, that's a perfect example. It depends upon whose ox it is being gored. We find that (indisc.) we're going to do.

SENATOR RADAR: That's pretty human. I don't--I'm not mad at anybody for wanting to protect their own situation. I want to protect mine, too, you know. That's perfectly human, but there's-- as senators, we're here, really, to protect the interests of the guys in this room, but also the guys that aren't in this room.

CHAIRMAN: Alright. Next in line, and again, if you'd identify yourself for the tape.

MRS. CLAUSON: (Indisc.) Clauson from Pelican. Well, in the first place, I think maybe to answer the first part of Senator Radar's reservation argument would be that this permit is not really selling the resource, it's a permit to fish for it and at the beginning it wouldn't have a great deal of monetary value, nor should it. It may require--it may become valuable. So, if it becomes valuable through a man's efforts, then when the man that does buy it, he is buying something of value, ^{whereas} ~~where~~ at

the beginning it's--we don't know the value until it's determined by the market. Now, I don't see how that is unfair or that it gives a man a right to a specific part of the resource.

SENATOR RADAR: Well, Mr. Chairman, if ^{you... I} I have the right to harvest the crops on a piece of land, I don't care who owns it. If I have the right to graze cattle on that land, I don't care who owns it. If I have the right to fish the free fishery, I don't care who owns the fish when they're swimming free. The only valuable thing on the resource is he who harvests it, no matter who owns it, and if you give the exclusive right to harvest it, you have effectively divided up that resource among those people who have the exclusive right to harvest, see. Which is ^{all} right. You know, we're not complaining about that, but we're only saying that....

UNIDENTIFIED SPEAKER: ^(indisc.) ...monetary value to begin with, though.

SENATOR RADAR: Well, now, I'm not sure that's true. If we cut out half the people the moment we go into a fishery this year,.. if we gave a fishery permit to everybody who wanted one, they'd have no value, but if we cut out 50 percent of the people who have applied for licenses this year--who have taken out licenses, as we've hoped to do, it's going to have a value the day that this thing goes into--the law is enacted. There's going to be an immediate value to that thing. I don't know what it's going to be.

UNIDENTIFIED SPEAKER: Without seeming to argue, I mean, 'cause this is kind of an argument, this thing, this type testimony, it would be open to speculation on whether it would have a value because in some fisheries, you can cite examples, it has become

a thing of no value, because the fishing time, ⁱⁿ this fishery has gone, ~~cause~~ this is why the problem of limited entry comes apart. It comes up. That was really all I meant to comment on it, on that one thing. I'd like to comment on your second point.

SENATOR RADAR: Well, let me comment on that. If you have two thousand people apply in Bristol Bay for licenses and you issue a thousand of them, don't you think that license is going to have a value? There's going to be a thousand guys there that's going to be wanting to buy a license from somebody, and they're going to buy them from the guys that's got them. If they--I don't know what the value's going to be, and it's going to be hard for either the seller or the buyer to know, because the value of that thing is going to depend upon what the State does in the future, whether or not they really limit the resource. If they don't limit entry in the future, it isn't very valuable. But if you cut out half of the guys that are ~~there~~ ⁱⁿ standing line for a license, half of them get a license, half of them don't, the guy that's got a license can walk to the guy that didn't a license and say, what'll you give me for my license if you want to fish this year? And he's going to get a...

UNIDENTIFIED SPEAKER: The bill that we've approved in concept would neither be that theory or...

SENATOR RADAR: Well, that's what we hoped to do. If we don't do that, why, it won't have a val.

UNIDENTIFIED SPEAKER: But my only comment was on the--you know, we've analyzed it, ^{gone to} ~~on the~~ hearing, and so on, and so have you, of course, that possibly that monetary value would just amount to later transferring it, the thing that does become valuable.

On the business of--I don't quite remember how you stated it, but--the second part, but it amounted to saying that, well, the fish belong to everyone in the State, which, of course, they do, or even everyone in the country. The economists' argument, as I understand it, on this is that--now, most people aren't fishermen, especially ^{if you look at (?)} ~~across~~ the whole country, and they have a right to this fish, just as we have to an oil resource, and all--you stated this. Now, the argument from the point of the economy, as I see it, is none of this value is accruing to the State simply because the fishermen are putting into equipment and gear just to gouge each other and the devil takes the hindmost, because of this wide open situation, and the thing is designed to alleviate that.

SENATOR RADSR: I agree with that point. You're right.

CHAIRMAN: Mr. Clauson, then it doesn't really make any difference to you whether you get a permit or not?

MR. CLAUSON: Doesn't make any difference to me? Well...

CHAIRMAN: ...has no value. If it has no value, then it doesn't make any difference to you whether you get one or not.

MR. CLAUSON: Well, I didn't...

(Laughter)

CHAIRMAN: Well, how much are you willing to give for one then?

MR. CLAUSON: Okay. You've made this...

CHAIRMAN: How much are you selling yours for today?

MR. CLAUSON: Now, wait a minute...

(Laughter)

MR. CLAUSON: He's playing with words now. Things are wide open now.

CHAIRMAN: No, no, I just...

MR. CLAUSON: No. I said that the permit itself wouldn't have a monetary value that I could sell--it may have, but it wouldn't be--it certainly would increase as it got more valuable to me. In other words, it--presumably if this program worked, and if it didn't you might as well repeal it later on, but if it worked, then unless that permit becomes more valuable to me, and unless other than fishermen benefit slightly from my contribution to the State as a result of it, then it--you know, it's value wouldn't increase. Presumably it would. That's what the program is designed for.

CHAIRMAN: Oh, I have no argument with you at all. I agree with you a hundred percent, that if we succeed at all then the value will increase, but I do think that probably it has some value the first year, too.

MR. CLAUSON: Well, I think your point was apt ^{and humorous,} ~~in humor,~~ but it's distracting, you know...

CHAIRMAN: Well, I don't think it was humorous at all. I think it does have value now and I think that your reaction proved that.

MR. CLAUSON: No, I won't accept that (indisc.). After all, we're serious about this. It isn't a battle of wits, although it is entertaining.

CHAIRMAN: Alright. Then we'll start back again. Phil.

MR. DANIELS: I was curious. I've heard the--heard reference made about giving away the resource several times, and I've always felt a little reservation about that. It seems to me you're regulating a person's ability to enter the fishery and no one's giving away the resource, and again I'd like to refer back to the decision made by--in the Holland versus Missouri case where

it was pointed out that wild game belongs to no one until it's actually in someone's possession, and I think it does maybe prejudice the situation a little bit when you talk in terms of actually giving it away. In this respect, that it seems to me that it's very parallel to what you do in liquor license and also in insurance. When you ~~are~~ issued those, ^{you're} ~~your~~ issuing a license that allows a person the right to earn a livelihood and it seems to some of the fishermen, perhaps, that this is parallel to what ^{you're} ~~your~~ doing when ^{you're} ~~your~~ talking in terms of limited entry, and I think what we're curious about, I don't know what type of tax structure you have in mind, what type payment. I know the analogy was used the way ~~was used the~~ way the oil companies operate. I think they pay a 12 percent severance tax. I have heard cost figures on the license that were way in excess of that. I just wondered whether there was any justification, if you are going to draw that parallel between what the oil companies pay and what the fishermen would be doing, whether there's a justification for talking on one term of a 90 percent tax or a 75 percent tax, and then on the other term of a 12 percent tax, say, on the oil companies. Would anybody have a comment?

SENATOR RADAR: Mr. Chairman. First of all, the idea that nobody owns the fish is true in the situation where everybody has an equal right to catch the fish, and you say that all the public has an equal right to go catch the fish. Nobody owns them until their caught.

MR. CLAUSON: You're not quoting me, are you? That isn't what I said.

SENATOR RADAR: No, I was just trying to go with what Phil's saying

here, but the sense that no one owns the fish ~~is~~ presupposed that everybody has an equal access to it. Once you decide that only certain people have the right to that fish, then you're taking the fish that were owned by all the people and you're letting ^{only} certain people harvest them, and there you are giving something, you are giving a franchise. And again, I'm not objecting to that, but I think that that factually is what it is. And we're not talking about a 90 percent tax. The only thing we're talking about is, after you, as a fisherman who have used this resource for your lifetime, and you get back the money that you've put into it in terms of assessments plus interest on that, that if there is something else left over there, that that is really the resource, and that's the public's right and the public's interest. And you should no more have the right to sell that nor the next generation of fishermen have to buy it from you than we should today. If you're going to do that then we should sell it to you today. If we're going to do that we've got to put up 10,000 fishing licenses and sell them to the highest bidder.

MR. CLAUSON: Well, Senator Radar, everybody can't be fair...

SENATOR RADAR: And then when you get through with that you can sell it to the highest bidder. But if we're going to give it to you...

MR. CLAUSON: Everyone can't be fishermen, though. Everyone can't be fishermen, and if the rest of the people are to benefit then there has to be something in it, so that the fishermen's profit ~~is going to~~ ^{can} accrue to the State also. Otherwise, we'd all have to take turns being fishermen.

SENATOR RADAR: Well, let me ask you this. What's wrong with my theory that says you get to use the resource and we're going to limit the entry into it and you get back all the money you've put into it? What's wrong with that? Why do you think that you should be able to get, not only all that you put into it and the exclusive right to fish for 20 years, but also the value of the resource when you get ready to sell that to the next guy that's coming along?

CHAIRMAN: Let's wait a minute. Let's go through the chair now, and we've got several people that haven't been heard so we'll let them answer the question if they'd like to. And we'll start over here.

UNIDENTIFIED SPEAKER: Can I answer that one?

CHAIRMAN: Yes. That's what I'm asking you to do.

UNIDENTIFIED SPEAKER: ...testify later.

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: What's wrong with it is that you do not do this in any other license or franchise that you issue. We feel that we're being discriminated by--against by this proposal, and that's what--the basically is that the animosity generated on this. That--since then you don't do this in other fields of business when you sell a law, then, to transfer their license from one person to another and don't tax such transfer and whatever money they've made off it, capital gains or whatever else you want to call it. When you don't tax that why should you put a charge on our transfer?

CHAIRMAN: Go ahead.

SENATOR RADAR: Because you're using our resource. It isn't your

resource. It's the public's resource. That's what...

UNIDENTIFIED SPEAKER: ^(indisc.) ...liquor license people are the resource.

CHAIRMAN: Wait a minute. We're going to go through the chair.

SENATOR RADER: You're right, and I suspect that that's a mistake, the liquor license, but I want to say this. I'm a lawyer. I don't have any right to sell my license. When I die that license dies. The next guy gets one and he gets it independently of that. Most of the things of your license to do are like that, but when you're going to give someone a resource for property, the use of it, you're into a different ball game. Then you're into grazing land. Why don't we do this grazing land and the rest of our resources, see? We're not talking about harvesting people or lawyers' licenses or doctors' licenses, you're talking about using the greatest natural resource this State's got. The most important one in my view.

CHAIRMAN: Let's answer Phil, too. Phil said, why 90 percent on this versus 12 and a half percent on oil. You've said that you don't do this, or the State doesn't do it, on any other resource. Well, I think that's probably mistaken, because, for instance, where did the 900 million come from? I think the 900 million is a much better, and the oil leases are a much better example of this same type of thing than a liquor license, though we use that so often. In each case, with the oil and the fish, it's the State's resource. In the case of the oil we have said to companies, you bid on the privilege for using that land to drill on. If you strike something, fine. If you don't, that's too bad. So, the bonus bids, when we lease land, I think, is rather a good analogy of--same thing holds true, I think, to

the--for the timber. We've put a certain tract of timber up for lease to a company, and the guy that bids the most is the guy that has the opportunity to use that timber. Now, after that lease bid for the oil has been accepted then they turn around and pay 12 and a half percent use tax for the oil that they take out, 12 and a half percent royalty, and another about eight percent severance tax, or about one-fifth of the total. And that's on top of the original permit to go in and use it. So I think if you want to use a comparison of oil and fish, you'd better take--that's a more accurate comparison.

UNIDENTIFIED SPEAKER: It isn't a renewable resource...

CHAIRMAN: Wait a minute. We're going to go one at a time now.

MIKE GROSS: My name's Mike Gross and I'm from Sitka.

CHAIRMAN: Okay.

MR. GROSS: Personally, I don't think that they can gain on this (indisc.). What I do want to see is, since more than likely I'll be eligible for one permit only and one (indisc.) in several fisheries, that I will be able to--through my ability, get a hold of one of these other permits some way, and I guess it's going to take a dollar value to do it, and I want to be able to bid competitively, or what have you, to be able to get a hold of one of those permits, and I don't want to get a landfall gain in my pocket.

CHAIRMAN: Mike, I think that we could say that the committee is pretty well in agreement that the advantages of transferability, as far as the kind of thing you're talking about and the other people have talked about, are substantial enough that we favor this, too. The question is, whether or not the individual should

or shall have the total value when he is through using it, or whether he should share that value with the rest of the people. I think that's the real question that we're asking, primarily. Okay, next.

BOB BISHOP: I'm Bob Bishop from Ketchikan. I think we more or less asked Phil to represent our feelings on limited entry. I'd like to say, as far as my group is concerned in Ketchikan, that we feel that anything that is fair and equitable that can be worked out, would be satisfactory. We'd like to see it as uncomplicated as possible, and especially we want to see it legal. I don't think anybody really wants ~~it~~ ^{a big} the windfall gain at the end of their fishing time, although if we could realize some gain to pay us back for, especially the expenses of limited entry which are going to be considerable on the fishermen themselves, but what we want to see is limited entry, and we want to see it this session and we'd like to see it as simple and as fair and as workable and as legal as possible.

CHAIRMAN: Alright. Thank you very much. Alright.

UNIDENTIFIED SPEAKER: (Indisc.) from Petersburg. That's one thing I cannot, you know, swallow, I mean--your comparison between oil companies...

CHAIRMAN: Okay.

UNIDENTIFIED SPEAKER: And I mean companies, and us single fishermen. This 20 and a half percent you're talking about--royalty and severance, this--that doesn't bother me. They just turn around and pass it on to the public. That power, you know...

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: ...what we have to (indisc.). We can't pass

it on to nobody.

CHAIRMAN: You're not paying it either.

UNIDENTIFIED SPEAKER: Well, you're talking that you want us to pay it.

CHAIRMAN: No. No, I was--I was trying to make a comparison between what the State sells the privilege, the permit, to oil companies to go and drill, comparing that with the State having some value in this permit for you to go out and fish it. That's the comparison I was trying to draw. Okay. And maybe it's not valid either, and please believe me, we're--there's no decision here. We have not made any decision. We're trying to explore this with you. That's the reason I called this today, to get your viewpoints on these things, and any new ideas that we hadn't already heard. That's what we're here for. Sincerely.

SENATOR RADAR. Jim, let me ask you a question here. If we have free transferability, ten years from now who do you think's going to own the permits? What do you think the fishery will look like ten years from now? You know, things going as they do, and let's assume we keep cutting it back, who are they going to be, where are they going to live, what are they going to do? I'm interested in what you think about that.

CHAIRMAN: Okay, we'll start here again.

UNIDENTIFIED SPEAKER: The answer for that...

CHAIRMAN: Identify yourself...

UNIDENTIFIED SPEAKER: ^(Indistinct) The best answer for that, and the only example that we have, is what's happening in Canada, and I believe Phil can elaborate on that a lot better than I can. I'd appreciate it if you would tell the group what's happening in the fishery

there.

CHAIRMAN: Well, let's go to Mr. Clauson and then back to...^{Ph.I.}

MR. CLAUSON: You asked what the fishery would look like, and I certainly (indisc.) look better, but I don't think anybody proposes to make a fishery better by limited^{ing} the entry. I mean, ^(indisc.) if we could bring it back to anything near what it was, for instance. And, this is going to take money, and it's going to come from everyone in the State, you might as well say, and ^(indisc.) ~~the same~~ you have an orderly way without everything wide open and an oil analogy has been made in that, too, and you know, the leases were so small that they had to harvest-- or drill wastefully, and this (indisc.) renewable resource. Well, certainly we wouldn't be sitting around just cutting down the fishermen every year. ^{We'd also} Certainly assume that the State would then better be able to manage the fisheries, and I belong to several organizations who have recommended and urged and put money into salmon rehabilitation, so that's just as important a factor, but the two go together.

CHAIRMAN: Well, let me ask you this. Is that any reason to think that many of these permits, or more of these permits, won't be held by Seattle fishermen than by Alaska fishermen ten years from now?

UNIDENTIFIED SPEAKER: Well, I don't know about more of them. Course, there are--we did talk earlier there. There are ways that we feel--for instance, the loan program, that possibly eventually it would end up with more resident fishermen and thus advance the State and so on. Of course, non-resident fishermen that have fished have the same right as everyone. We all belong

to the same country, but either way it was done for the State, and with limited entry and with rehabilitation and enhancement programs it would improve the fisheries, you know, ten years from now.

SENATOR RADAR: Well, to be more specific, we have a great number of fishermen in different parts of the State who fish with a skiff and, you know, maybe only a couple of thousand dollars worth of gear or something other, you know. And do you think that in ten years they'll still have their permits? Do you think those permits will have gone to the hands of guys that live in Anchorage or Petersburg or Juneau or Seattle or some place else?

UNIDENTIFIED SPEAKER: It depends on whether they want to hang on to it, or transfer (indisc.), system used to transfer.

SENATOR RADAR: What do you think would happen if they were freely transferable?

UNIDENTIFIED SPEAKER: Well, I don't know--now, I fished, you know, I'm a troller, too, although I fish with a conventional troller. I don't know why their permit would be any different than mine if they--you know, it would be whether they wanted to keep it or not. Maybe I don't understand your question.

SENATOR RADAR: Well, you're right.

CHAIRMAN: Let's go to Phil and let's just talk about that.

MR. DANIELS: I would say that what the fishery's going to look like depends a lot on how seriously the State of Alaska were to take the idea of trying to make this fishery into an Alaskan fishery, and the only way I've understood so far that that might be done is completely out from the--from out from under

the context of the limited entry bill by way of providing loans. If the State of Alaska says we recognize that it's in our long term best interest make these licenses end up in the hands of Alaskans and provide them low interest loans, I think you could see that transition take place. Right now the fishery is in many areas in trouble simply because the only possible source of funding has to be the canneries, and you go to the canneries and get that funding and they've got you from the standpoint of price negotiations, they've got you from a number of other points of view, and I haven't understood yet, by way of a lottery or an apprenticeship pool or any of these other alternatives, how that's going to work to benefit the Alaskan resident, so I don't see that free transferability is necessary the--necessarily the evil influence ~~is~~ ^{that's} going to end up putting the (indisc.) in the hands of the outside fisherman, but I do say that without the loan program you might have trouble, or (indisc.).

CHAIRMAN: Let's make sure that we consider this. Suppose you're from Anchorage and Fairbanks and you really don't have much interest in fish and you ~~are sure~~ ^{hear far} ~~though~~ more about it than you want to hear anyway. Now, assuming we go ahead and limit the entry so that the guy from Anchorage and his constituents can't get into the fishery anyway, not only that, but we give them a property right which he's going to characterize as a windfall, and now we're also going to put money in Finance Committee in a loan program to help somebody buy these things and provide that property right, knowing that historically fishing loans have been very high risk loans. Now, my only thought is

that you ought to consider how willing these people may be to do that. We don't have a very good history of fishermen from the fishing areas winding up as chairmen of finance committees. Usually it's an Anchorage or Fairbanks man that winds up as chairman of the Finance Committee, and he's the one that's going to have to approve that loan program and putting the several millions of dollars into it, so you have to ask yourself how reasonable this expectation is, that all three of these things will happen and it's just a thought for you.

MR. DANIELS: Well, may I respond to it?

CHAIRMAN: Yes.

MR. DANIELS: We had--this came up over in the House in the Resources Committee and we talked with several of the people who are in--some of them have been in influential positions in the Finance Committee, they had suggested that we might be able to amend the loan act that was passed last year, the advantage of it being, of course, that you can specify Alaskan residency and also economic qualifications can be built in there. Now, I grant you that we realize the State's problem as far as money's concerned, but we would also want to argue, and I think we can argue legitimately, that people--when those licenses end up in Alaskan fishermen's hands, that money goes back into the State, into the local economy. They pay the income tax, and I think the State's going to benefit tremendously.

CHAIRMAN: Oh, I'm sure they would.

MR. DANIELS: And I grant you that it's not simply saying to convince people of this, but it seems to me a legitimate argument.

CHAIRMAN: I'm sure it is. Very legitimate argument. The question

sometimes is getting legitimate arguments listened to. That's pretty difficult.

MR. DANIELS: Could I comment on that?

CHAIRMAN: You're making an awful lot of comments, but go ahead.

MR. DANIELS: This is one of the things that worries me about what's done with transferability because right now I think we can have the fishermen behind something in context of free transferability. I think if there's anything that could defeat this bill, it could be this problem, because if it's changed enough so that it paralyzes the fisherman, or even let's say we talk about a tax on the permit. Sure, we might be able to touch bases with everybody in this room, but whether we can touch bases with the fishermen all across the State of Alaska in time to get them also in agreement is another question. This really does worry me from the practical point of view.

CHAIRMAN: Okay. Clancy.

CLANCY HINKINS: Clancy Hinkins from Douglas.

CHAIRMAN: Okay. Thank you.

MR. HINKINS: I would like to make a comment. I think that this question that Mr. Rader^{asked} and I don't think it was that clarified on. This loan thing we're talking about is being pretty broad and what we were talking about was a revolving fund in the already existing loan program to buy permits only for Alaskans, and not sponsor a bunch of vessels or this type of thing. I mean, this is not our intent here in this loan program we're talking about. It's to make money available which is unavailable to canneries, banks or anywhere, to buy permits.

CHAIRMAN: You mean the buy-back program.

MR. HINKINS: No.

CHAIRMAN: To retire permits?

MR. HINKINS: To buy permits for Alaska fishermen, to be able to get money in a revolving fund. It isn't a thing where ~~you're~~ ^{you're} going to put up millions of dollars. It's just a revolving fund and I think this is where this loan thing got out of hand here.

CHAIRMAN: Well, let me raise a problem, and I do this because, again, I want the benefit of your answers, not that I'm opposed to it at all. In fact, I think this idea of the loan program came up in our committee. But the question has been raised since then, and I don't have an answer to it at this point, and I hope that you do. If the loan were to buy the permit, what--and we've already said in House Bill 126, and we see it in ours also, that a permit cannot be attached, is not for security, et cetera, et cetera, et cetera, et cetera. This is almost a necessity that we say these things about that permit, then what does the lending agency have if it loans money to buy a permit? What does it have for security? ~~This~~ is true and this is one of the reasons we thought that the State itself might be able to carry and hope to recover it's amount this way, where you would never get it through a cannery or a bank or any other way, and we're not proposing that this same person borrow money from this same thing to buy a boat and all the rest that goes with it, but if he comes to the point of needing a permit and can't produce the money because he doesn't have the collateral and this and that, this is one way to keep Alaskans in there fishing, and as Mr. Rader says, not all to go to somebody ~~moneyed~~ moneyed in the State. This was

CLAWCY. This

our hope anyhow.

JAY STEVENS: Jay Stevens from Yakutat. I'd just like to comment on the point that if a past fisherman haven't paid their loans back very well. One of the main reasons, there hasn't been any fish and through limited entry we hope to see some money back in this game to where we can become businessmen again instead of paupers, and I don't feel any problem in that, that we couldn't repay our loans.

CHAIRMAN: I didn't say...

MR. STEVENS: That's all I'd like to say.

CHAIRMAN: Yeah. Okay. I think my statement was that they are high risk loans, and we have a lot of them. I mean, not fishermen, but a lot of others.

MR. STEVENS: Yeah. I've had this problem, but I think that this problem would decrease with limited entry.

UNIDENTIFIED SPEAKER: Mr. Chairman?

CHAIRMAN: Yes.

UNIDENTIFIED SPEAKER: If you had a \$10,000 license, I need the money to, you know, to borrow for this license. It's worth \$10,000. It might even be worth more. Maybe I've made a deal of my own where I can get one for \$10,000 without anybody else bidding for it. If the State gets that license they could put it on a big--put a minimum on it.

CHAIRMAN: No, but my point was that both of these bills have said that the license itself and a permit itself cannot be used, cannot be restrained, cannot be used as collateral, and there's some very good reasons for that. That's the way it appears in both bills, and if it's not used for collateral then what security

does a lending agency have? Maybe it can be boats, other equipment, that's put as as security against the loan for the permit. That's a possibility.

UNIDENTIFIED SPEAKER: Well, you of course, answered part of that question yourself there. ^{Secondly,} ~~Say on the~~ as far as to what to secure that loan with, being that it cannot be attached or anything else it would seem obvious ^{there'd} ~~it~~ have to be some type of guidelines built in to where a person did at least something on it or pay it back after a given period of time. It would probably fall into delinquency to the point where you'd have to take it ^{back} and reissue it ^{to} somebody else with the idea of getting money out of it eventually. I mean, like you sold to a person, say, it had a monetary value of \$5,000 or whatever, for a ten-year period of time, they'd obviously have to start making some type of payments on that thing to the State, you know, if it was issued over--through a loan-type operation. Hopefully you could recover your money that way. You know, have an incentive to get them to paying you something anyway, or if they just completely ignored you on everything, take it back and reissue it to somebody else who would pay better. But that wasn't the question I was going to bring up anyway. I'll make a brief statement about this flexibility bit to Senator Radar there. I think I understand where he's at now and I just wanted to reiterate where I'm at ^(indisc) As far as flexibility, He's very concerned with the windfall aspect of this or the State literally giving the fishermen something for nothing or however you want to put it, but--and I'm not at all concerned with that because I'm not interested in getting something

for nothing. I really don't care what you do along the lines of assessing me or anything else for my right to enter this fishery in the first place, but the transferability part of it that allows me to be flexible is the thing I'm really vitally concerned with. I have aspirations of changing into different fisheries from time to time and different areas from time to time, and I feel ^{that with the} ~~it would be~~ ambitious intent ^(?) involved here that this is good. If I want to go into crabbing or anything else, I should have an avenue open to me to do that. Now, if you freeze yourself into this category whereby you are reviewed by a commission and whatnot, it becomes very unpalatable to most fishermen who think in those terms that the commission can literally control your life. You could be froze off the mouth of the Taku River literally for the rest of your life, so to speak, and that doesn't smack much of professionalism which I'm vitally interested in in the fishery. So, as far as what you people, this i personally speaking, not through U.F.A or anything, it's my personal position. I really don't care that much about what you do as far as getting this--getting value back. If you want to assess me or charge me a thousand bucks a year or whatever, I don't really care. I just want to be able to be flexible enough to go into other fisheries in other areas and the whcle bit and be a professional, which I am.

SENATOR RADAR: Mr. Chairman. I think that from your point of view you're exactly right. The basic thing here is not that little bit that we're quibbling about there, and yet, that's pretty important in developing something that you can sell statewide here. It's--what we're doing there, if you have a right to go

in, if you have that flexibility, if you have a right to use this as long as you want to, you're absolutely assured that when you sell that thing you're going to get back every assessment you put into it, plus interest. Then it seems to me ^{like} ~~that~~ you've got most of what you want there.

UNIDENTIFIED SPEAKER: But the problem is and the real crunch as I see it, though, is this thing about the flexibility bit. Without a monetary value of it, I don't see how I'm going to be able to do that. That's my switch. I don't care what the State wants to assess and everything. I just want to be flexible and monetary seems to be the only standard we can go by here. That's my whole point of this thing.

CHAIRMAN: Well, suppose you had a program that would do what you want to do as far as being able to buy from somebody else, it would have this flexibility you're talking about, but again, it did have a declining percentage that was shared with the rest of the citizens of the State? And we've talked about ten percent a year, starting at a hundred percent and going down to ten percent. We could even change that. Suppose you had a program that said, alright, if you go to sell out, Jim, to Phil, and and if you do it the first year after you receive your permit, you'd get a hundred percent of the value. A hundred percent for two reasons. First of all, you're in in the first place because of hardship. That's the only basis for grandfather rights, is hardship. Secondly, the price is low these first years. It is not appreciated. So the first year if you sell to Phil you get a hundred percent of whatever the price is. The second year the State gets ten percent of

that and you get ninety percent. The third year the State gets 20 and you get 80 and we drop it ten percent a year till we get down to the 40 or 50 percent mark, so that the State and you are sharing about equally with the appreciated value of that permit. On the other hand, if you sell the first year back to the commission, we'll pay you a hundred percent, the second year back to the commission, and the third year, also. You still get a hundred percent. So after the first year there's an incentive to sell to the commission and get you out of the fishery and reduce gear. In the next three years we'll--the commission that you sell to the commission is 75 percent, the next three years after that, 50 percent, always providing some incentive to ^{sell to} the commission instead of to an individual, but leaving you the flexibility to sell to an individual if you desire to do so. So now we're down to the point where whatever this windfall gain is, it's shared about equally between the individual fishermen and the rest of the citizens.

JIM: Well, yeah, you--I think I followed you on that as far as-- in other words the State itself would literally get this thing that Senator Radar and I were talking about, back out of--on these terms. I mean, there would be this initial thing in the beginning there where if you want to get out of it, of course, you could sell right back to the State, but I mean, in a sense they would be sharing this resource with you along in terms of what you're talking about there. It--well, you were kind of flashing on me pretty heavy there right in the beginning, and I've never really heard this concept in detail like that, so I couldn't give you a real qualified answer. I'd have to

digest it for awhile, but as I stated, flexibility is kind of a 54-40-or-fight. With me that's the one thing that I have to stick with and that's one thing that all the members in my organization and whatnot, can't, you know, lose, and that is the fact that they're negotiable and being flexible.

CHAIRMAN: Well, the only loss in flexibility that you have under this, as I can see it, is that the commission would have to be involved in such a way that they knew that they were getting market price and it wasn't an under the table deal. Now, you might lose a little bit of flexibility there in justifying the figures that were involved in the sale price, so they knew the thing was a fair arms-length transaction and not a sweetheart contract. But except for those complications, and I don't think they have to be that significant, you'd still have all the flexibility you're talking about under the previous thing. I think we're in essential agreement on the need for flexibility and free transferability. ^{The} ~~You~~ only question, again, is whether the fisherman gets it all or if he shares part of the windfall with the rest. Phil.

MR. DANIELS: One of the things that concerns me about that formula is that it's going to produce just the opposite of a flexible system for at least ten years, if everybody's honest and if everybody likes money. They're going to sell their boats, or until you reach optimum levels anyway, they're going to sell their boats to the commission. That means there will be no licenses available. I can't imagine a fisherman taking a 15 or 20 or whatever percent loss and selling to an individual when he could sell to the commission and get that much more for

his permit, so you're going to produce a situation, and correct me if I'm wrong. It seems to me you might produce a situation where for a number of years there would be no licenses available for anyone.

CHAIRMAN: Well, except that it would allow you--the guy that is real hung up about being able to transfer this on to his family, his son, he would take advantage of the ten percent differential and keep it in the family.

MR. DANIELS: Could do that, but I'm talking about somebody like Jim who wants to change fisheries and he'd like to go to Kodiak and get a license out there and that license is not going to be available to him as long as he's honest and the other guy's ^{honest,} _^ the guy's going to sell to the commission.

CHAIRMAN: That's right, and you're correct, I suspect, that until you got down to these optimum or maximum levels, yes. But that overall, I think, would be a relatively small price to pay for everything else that is gained.

MR. DANIELS: Could I ask one more question?

CHAIRMAN: Yeah.

MR. DANIELS: How would you hold these people at arms-length from one another, because I think that's one of our big concerns. We don't want to be put into the position where, by way of being enterprising, we might have to be dishonest. You know, some people are worried about that.

CHAIRMAN: Well...

(End of one side of tape)

MR. DANIELS: ...like to get into that fishery. It seems to me it might provide an enormous incentive for someone to go under the

table if it's at all possible, and I really would be concerned about that because what you might end up with is fishermen getting caught as they might or might not get caught, or being dishonest, which I don't think is necessarily a virtue, but I do think people when looking at that kind of a price tag, back to the State, would have a tendency, if possible, to abuse it.

CHAIRMAN: Kind of like leaving your keys in the car, isn't it, on certain streets?

SENATOR RADAR: Sir, well, let me ask you another question. Is anybody here not in favor of free transferability? Have we reached a consensus ^{here} that--I see Mr. HERNSTEIN and some other people that have been testifying ^{here} on this in the past. Have you changed your views on that or what are you....?

MR. HERNSTEIN: I'm not in favor of free transferability.

UNIDENTIFIED SPEAKER: I'm not in favor of free transferability, and (indisc.).

CHAIRMAN: Wait a minute. We've got too much noise out here. Let that be (indisc.) and then repeat. Alright, try it again.

UNIDENTIFIED SPEAKER: I'm not in favor of free transferability or ^{lottery} (indisc.), either one.

SENATOR RADAR: Well, then let me ask you this. How would you--how would the next generation of fishermen get the license, then?

UNIDENTIFIED SPEAKER: Well, as far as we're concerned, unions, we turn it to the State and let them ^{bid} ~~beg~~ for it.

CHAIRMAN: Do what?

UNIDENTIFIED SPEAKER: Let us ^{bid} ~~beg~~ for it. Qualify--you know, your qualifications.

CHAIRMAN: Bid to buy the license, in effect. Bid to buy the license.

Do you think we ought to use the same method right now to determine who gets a license?

UNIDENTIFIED SPEAKER: Well, I could answer that but I'd ^{get} be in trouble.

(Laughter)

CHAIRMAN: I don't think either one of us would get out ^{of} here. But that's the problem, see. You know, why--what are we doing here? Are we going to make that generation ^{of Fishermen} bid to buy in, is that right, too? I don't know. I really don't know. I don't want anybody to misunderstand. I'm pretty flexible on this, although I've argued pretty strongly a particular point of view. I recognize very well that there are a lot of unanswered questions in what I could say.

UNIDENTIFIED SPEAKER: I'm not representing the new generation.

(Laughter)

CHAIRMAN: I'll get back to you. Your name, again, please.

MIKE McNIVEN: Mike McNiven. I'm from Juneau. It seems to me that all points of view expressed so far, that the fishermen that these permits are going to be running out ^{and trading them} ~~on trade in~~ like Persian rugs or something. I don't quite see it that way. I think we're all interested in the fishery, and without a permit the fishery, of course, is of no value to anyone. Also, I think the second generation and also the third generation, should they be so lucky to have any fish left, are also going to want to eventually sell these permits or retire out of the fishery. I really think that if we're talking ^{about} investments and being reimbursed for investments, I think this follows on down the line. Unless you're going to presuppose that ~~it's~~ ^{at} some date in the future this whole thing will come to a screeching

halt. The fishermen who initially gets ^a permit under free transferability is going to sell it, the person that buys it, it is also conceivable that he will also sell it, eventually. I really don't see any value of this permit as far as trading stock. It seems to me that Mr. Rader here takes the opinion that ^{as soon} as a fisherman gets this permit he's going to run around and see how much he can get for it. I don't really see this as being a valid argument, because if a person is going to go to the trouble to get one in the first place, why would he turn around and sell it?

SENATOR RADER: Mr. Chairman. There's one thing I'm absolutely sure of--absolutely sure of, and that is that everybody that ever gets one of these permits is going to want to transfer it sometime. 'Cause he's going to die, and he's going to get out of the fishery. And without exception, everybody who has a permit is going to want to transfer it sooner or later. Some guys are going to want to do it today and some guy's ^{are} going to want to do it tomorrow, and that's the problem, though. And it is a problem. If it's not a problem, let's just say it's not transferable and it goes back to the State when you're through with it, if you don't think it's a problem. You know. You see that it's a problem and you know good and well it's a problem, and I do, too.

MR. McNIVEN: I can understand the situation here, but I feel as far as this windfall thing being kicked around, you seem to place the windfall in the arms of the first holder, and I don't necessarily see that as being true.

SENATOR RADER: The second guy has to buy it and pay full value, see?

MR. McNIVEN: Yeah.

SENATOR RADAR: The only way that would--if we were to apply the same rule on the first group that we apply on the second group, the first group would have to buy them also, see?

MR. McNIVEN: Well, it seems to me that in essence through a seven percent assessment, I'm going to be buying that permit.

SENATOR RADAR: Well, you may view that, but if you think so then why don't we just buy it by putting them up for auction, then? Right now, see? If it is. It really isn't that. It's a different thing. The guy who follows you is going to be paying the seven percent, too, perhaps, but in addition to that he's going to have to buy his permit from you, or somebody, you see? That's the difficulty.

CHAIRMAN: Alright, let's go on back here with our questions. ^{Yeah?}
~~You~~
~~know.~~

UNIDENTIFIED SPEAKER: Part of my question was asked--answered already. What about, then, you say the man that buys it the second generation, he will in turn, when he sells it there'll be money coming back to the State again from him, too. Right? That's what I was wondering.

SENATOR RADAR: Well, he's going to have the--he'd be under the same conditions that you're under. He'd get only back what he paid for it or what he put into it in cash, and the rest of it, that overage, would go back to the State as the State's interest in the resource.

UNIDENTIFIED SPEAKER: I, personally, I'm like Mike. I'm not looking for anything extra than what I put into it. I want the flexibility like Jim to be able to move around in a monetary value ^(indisc.) but I

do want free transferability.

CHAIRMAN: Did you still want to--^{yeah?}~~you know~~.

PHIL STORMICK (sp): Phil Stormick from Douglas. I am for free transferability on licenses. As far as the State, for the people in your area, like Senator Radar's case, getting anything out of this renewable end source, or resource, I just wonder if the raw fish tax, if that is not enough ^{return} (~~income~~) for your constituents, or would you want more for every pound of fish that I catch on this renewable resource?

SENATOR RADAR: My difficulty is, and it really isn't just my constituents, but the difficulty is that we have the same problem here as if we turned ^{over} the oil resource or the timber resource to somebody, and only charged them a royalty, and didn't charge them to go into it, see? Or if you turned over the land and when you sold the land you didn't charge anybody for it some way or another. It's just--as long as everybody can go into the resource, there isn't any problem with that, but that's what we're trying to prohibit, is everybody going into the resource, and the moment you start stopping people from going into the resource, then it seems to me like that you have this difficulty we're talking about here.

MR. STORMICK: I don't think we've stopped anybody from going into it. We've put a limit on who can go into it, and how many can go into it, and then another thing is, by buying these permits and paying an annual fee on these permits, plus up to seven percent of your catch ^{each} year assessments for buy-back and so forth, I think we are paying adequate amounts for the use of this--for fishing on this resource, plus the fact that everybody in the State gains from this raw fish tax when you catch a fish and take it to market.

CHAIRMAN: You know, the Legislature...

SENATOR RADER: You've got a good point. You've got a good point, a good argument.

CHAIRMAN: The Legislature did do almost exactly this same thing with a group of people a few years back that were trying to get the value of oil leases for practically no input themselves, and I don't know how many of you remember, I think about 1968 when we went through the dirty oil bill, and here a group of people had put in ten dollars apiece per lease simply on the speculation that they'd be given the lease then, that they could turn around and sell for literally hundreds of millions, the group of them would have had at least that, and that certainly to them would have been a windfall, and the Legislature said no, that is a resource that belongs to all of the people and we're not going to let you have those leases. You're not validly entitled to them. Now, don't get me wrong. I'm not making a flat-out, across-the-board comparison here. I realize it's not a comparison, but in that case there was an opportunity for those people to get a windfall in a State resource, and we said no, we're going to save it for everybody, and there's a little bit of comparison here as far as the ultimate value of the permit itself, and that being shared with the rest of the State.

UNIDENTIFIED SPEAKER: We would not have to drill, have a permit to drill and drill themselves.

CHAIRMAN: Alright. Let's start back over here again.

MIKE GROSS: This is Mike Gross from Sitka again.

CHAIRMAN: Yes, Mike.

MR. GROSS: Mr. Rader, if we took your route and only gave the permit over--back to the value that we had in the permit, be it 500, 10,000, what have you. For example, if Phil had a permit and had \$800 invested in it, and that's all he could realize on the sale, and Jim and I both wanted that permit, how would we bid back and forth for it? How would Phil determine who he was going to give it to?

SENATOR RADER: Well, I assume that we've--the proposal that Senator Palmer made was that the--you'd be able to keep a certain percentage of that and only a certain percentage of it would go to the State, so you'd have some interest in maximizing that.

MR. GROSS: So Phil could realize a gain on...

SENATOR RADER: So he could realize some gain on it. He wouldn't realize a hundred percent of what he got on it, though, see? A portion of that would go back ^{to the State.} ~~for (indisc)~~. He would still, even under the--what I've been arguing here, he would still recognize some benefit and some gain on it. I have to admit to you that that is--that's not a satisfactory solution to me. It only gets around the one argument that was presented to me by some people, and that is, if you're going to give away the resource you're going to have to charge somebody for it like you do any other resource, or if you're going to give away or whatever you want to call it--the right to harvest it, you see? And it's only trying to handle that argument that we came up with this as being a reasonable way of doing it that would not hurt the fishermen. You know, it wouldn't take a lot of money out of their pocket, and if the thing ever gets to be worth something, why, they get what they get out first and the rest

of it can go back to the State, but I agree with you that it's got real problems in making it work.

MR. GROSS: You'll have to come up with how much it's worth ^{right} ~~is~~ now to start with.

CHAIRMAN: Phil.

MR. DANIELS: One of the considerations. It's very likely that I'm going to switch areas, and I have no ^{history of} ~~(indirect)~~ participation in another fishery, so it would end up that I'll have to buy a permit, and I don't mind buying that permit because I think it's the best investment I ever made in the fishery in my life, and I figure if that limited entry bill does work, and you do have reduced gear through buy-back and initial reductions in areas, then I'll make that money back in about two years, and I think this is something that a lot of people haven't kept in mind. If you're talking about doing all these things to enhance the fishery, plus the person, of course, as has already been pointed out, is going to get that--the money for their permit back when they do all it, so I just wanted to throw that in, and I also was curious, are you getting a lot of reaction? I was just curious if anybody is getting a lot of mail on this problem and the idea that we are giving away a resource supposedly here. I--we're having a hard time getting letters from fishermen just supporting limited entry or supporting free transferability, so I was just curious whether much is happening on that level.

CHAIRMAN: John.

SENATOR RADAR: I haven't received a great deal of--because people don't understand what's going on, you know. You're quite right, but I'm certain of this, that once this is done people are

going to understand what happened, and...

(Laughter)

CHAIRMAN: Alright. Dave has been trying to get the floor. Dave.

DAVE: I just wanted to speak very briefly about the point that the seven percent assessment would be in a way paying for the permit because that seven percent assessment is very likely, almost absolutely, going to come out of the crewman's pocket as well as the skipper's pockets.

CHAIRMAN: The who's? The consumers?

DAVE: The crewmen.

CHAIRMAN: Oh, the crewman's.

DAVE: The crewman's pocket. In other words, you don't tax seven percent of your gross stock without the crewman paying part of it, even though the law says the permit holders pays that. It's just like when unemployment came down on fishermen in Kodiak this year for the first time. Not only does the crewman pay his share, but the skippers raised the boat share one percent to compensate for what they had to pay. So in other words, you know, even though we would be benefiting from the limited entry insofar as we would have better earnings, we would also be chipping in on inflating the value of these permits that later we're going to have to buy if we want to have them. And so, there is that--I don't want any misconception that this seven percent is totally different and he's paying for his permit that way.

JAY STEVENS: I'd just like to--Jay Stevens from Yakutat. I'd just like comment on that point that the chair made earlier about us and the dirty oil deal. I know you weren't really comparing

us, but I'd like for us--for the Senators to realize that we didn't come into this fishery for a gain. We've been here for quite a while and we've been taking a lot of abuse and some of us even became moonlighters so we could feed our families.

CHAIRMAN: I understand that very well.

MR. STEVENS: I didn't come fishing--I came fishing because I love the ocean and I love that way of life, not so that I can get a gain.

CHAIRMAN: My only point was that at that time the Legislature said no, we're not going to give away that resource, and as far as the permit, there is a similarity. Now, as far as the limited entry, there is no similarity. I understand that. Yes.

UNIDENTIFIED SPEAKER: Well, I would like to say that right now we have the right to fish, so you're not giving us that right now, and the people in the future who are not getting this right to fish are being paid to be bought out of this fishery, so they're receiving a compensation, and you will have some areas where there are people literally being kicked out, but this law that you're passing here is for the whole State, not just these areas where there are people being forced to be eliminated, so in effect you're penalizing everybody throughout the State because of these other areas, and this also creates a hardship on us.

CHAIRMAN: How are we penalizing? I don't understand.

UNIDENTIFIED SPEAKER: Well, in many fisheries right now it's wide open. There aren't enough fishermen...

CHAIRMAN: Okay. There's no need for limited entry?

UNIDENTIFIED SPEAKER: No need for limited entry.

CHAIRMAN: Yeah.

UNIDENTIFIED SPEAKER: And yet when somebody gets into this gear and area he's going to have to pay through the--permit, and it's going to be an inflated price because the original owner is going to jack up his price that much to get what he thinks his speculative value is worth in that permit.

CHAIRMAN: If there's not enough permits yet to reach the optimum level, then he can go to the commission for a permit. He doesn't have to buy from somebody else, and the initial entry permit would be issued at no charge. He's not going to...

UNIDENTIFIED SPEAKER: Well, for \$50.

CHAIRMAN: Well, \$50 for the permit, but it wouldn't be a...

UNIDENTIFIED SPEAKER: Okay, what about the next man down the line, though?

CHAIRMAN: Well, again, you said somebody was being penalized. Who is it that's being penalized? The next man down the line?

UNIDENTIFIED SPEAKER: The way I feel is the people in other, in the depressed areas, are being penalized to pay the right to enter--these few people in Bristol Bay and Cook Inlet and that are--pay to kick them out of the fisheries is what it amounts to. In most circumstances, everybody who now has the right to fish will in the future still have the right to fish, so you're not giving them something new, and only in these depressed areas will you be kicking somebody out of the fishery who is not being compensated for being--no longer have the right to fish.

CHAIRMAN: Okay. Yes, sir.

MIKE McNIVEN: Mike McNiven from Juneau. Mr. Radar, well, arguing against the free transferability on the grounds that it would be giving a windfall to present fishermen hasn't offered any

alternatives as to how these permits are going to be transferred.

I would be receptive to some other type of transfer if I understood exactly what it was. I don't really feel that it's going to be easy for me to get into some other fishery, particularly let's say a king crab fishery where we're talking about a good deal of money changing hands, a good deal of investment. Under the free transferability clause right now I can see how I can do it--get a lot of money. Under what Mr. Rader is suggesting I'm not really sure how he's going to allow me to enter this fishery. Is he going to do it by putting my name in a hat? Is he going to do it by requesting that I work on a crab boat? Is he going to use some other criteria for this? I'd be interested to know.

SENATOR RADER: Mr. Chairman. First of all, I'm not at all certain that we shouldn't have free transferability, but I'm pretty certain, I believe, that if we do have free transferability that the value of that license, over and above what the fishermen put into it, probably would end up ^{as} a percentage of that going back to the State, so don't have this argument of the windfall, you see? I don't know if you get that or not, but you can have free transferability and still have the portion of the license which exceeds the assessments that you put into it paid back to the State when you sell it, when you get through with it. That'd still be free transferability. It has been suggested, and as I say, I'm not--don't put me in a position of being against free transferability, but ~~it's~~ ^{we're} only talking about the windfall aspect of that, and we can handle that in the manner we suggested here today. The other suggestions were

that--the other testimony that we've heard is that you should try to limit the fishery when a guy--when a license turns up, when a man gets through with his license because he gets sick, or he dies, or he wants to retire, or he wants to go do something else, or just tired of fishing, and his license goes back to the State, but then the State could issue that, it's been suggested they could issue--try to issue to people on an apprenticeship program, people that have been in the fishery, crewmen or something like that, and try to--but you'd have--that's very difficult, too. Who you going to really give it to, you know? What if you've got a whole lot of crewmen? ^{What if} ~~Suppose~~ you have five licenses and 50 crewman that want them.[?] Well, then I supposed you'd have to draw names or something to see which one of the 50 crewmen got the five licenses and they'd get them free just exactly in the same way that the guys today are getting it free. The disadvantage of that, of course, is that you can't necessarily insure that your son's going to get ^{it} _^ for example, if you want to, but a lot of licenses are not connected by blood anyway. You know, that's a medieval guild really, where if your father was a carpenter you can be a carpenter and your son can be a carpenter, but nobody else can be a carpenter. It was inherited so to speak, and you can turn fishing into a guild in this State if you wanted to to where, you know, if you were one of the families that had a license, why, it could be passed from father to son or something like that, but other people couldn't get into it.

MR. McNIVEN: Not by law you couldn't.

SENATOR RADAR: Well, it's very difficult to figure out whether or

not you can do it by law. That's right. I think that the only way that you could--I agree with you. You couldn't do that, and therefore, the argument that we're doing this so that you can pass them onto your son, you can't make a law that'll do that in this country, as where you can't pass it on to anyone else. I don't believe you can. But you could--if there were 50 crewmen that wanted to get the licenses and five licenses, you could draw ~~one~~ ^{it} out of the hat, or you could bid for it if you wanted to. You could sell it ~~then~~ ^{to them (?)} if you wanted to. I don't know, there's a lot of other things that have been suggested here.

MR. McNIVEN: One thing that bothers me is that when I came into fishing I did it because that's what I wanted to do, and I was able to, through my own initiative, gather about me the equipment that I needed to go into this fishery. I was able to do that unhampered, relatively speaking. A lottery would cause me, if I wanted to move from one type of gear and expand it to another type of gear, possibly a complimentary types of gear, ~~or~~ ^{one} where seasons wouldn't overlap, something that would get me broader employment, I would be pretty much at the mercy of luck as to whether I would be able to enter into this or not, and the question would arise in my mind whether I had more rights to enter into this particular gear than a person that's working as a crewman in this type of gear. I feel that because I've fished one type of gear doesn't necessarily indicate that I have absolutely no knowledge of any other types of gear.

SENATOR RADER: I think--I think you make good points. I'm not really--I don't have a satisfactory answer for those--those

points.

CHAIRMAN: Phil, and then this gentleman, and then we're going to talk a little bit.

MR. DANIELS: I just wanted to say that I think that some of the fishermen have testified that they don't mind so much seeing that they are paying back to the State something by way of acknowledging their use of the permit, or however you want to put this thing, by way of getting the fishermen to put something back into the State coffers. Many of the fishermen, when we were having these meetings all over the State, indicated they wouldn't mind seeing themselves taxed somewhat more heavily if they could see that go back by way of improving this very sick industry, but I think one of the things that really concerns me in my mind is the nature of the tax. If the tax is at that very high level, it's the fear that it'll be abused, and if you're asking for a reasonable recompense to go back to the State, then I would say this is something the fishermen might very well adjust to, so it's not so much that ^{They} we're not willing to pay. It's a matter of that we don't want to be forced to be dishonest.

JAY STEVENS: I'd just like to comment--Jay Stevens from Yakutat. I'd like to comment again on the free transferability. I don't see how--any other way we could have professionalism in the industry if we don't have this right of free transfer, because, such as the gentleman here beside me stated, he might be kept out of utilizing a full year or a half of year because he couldn't pick up another type of gear, and I think this is part of what the Governor was looking for, was for a greater

professionalism in the industry to where we could be more competitive with other nations and states.

CHAIRMAN: Okay. Let me try to pose a couple of problems. Alright, I'll take you since you haven't had an opportunity, and then I want to talk--pose a couple of problems and get a response from you.

NICK GREGORY: Well, I'm Nick Gregory. I represent the (indisc.). I'm not much ^{on} talk here, but I'd like to have the Senators and yourself read what the people up in Bristol Bay, want me to deliver these personally to you.

CHAIRMAN: Alright.

MR. GREGORY: After listening to all these fishermen here, I know several of them, I still take this stand I have here on these papers. Thank you.

CHAIRMAN: Incidentally, you might tell your people in Bristol Bay that just before I came into this meeting I was at a Finance Committee meeting dealing with the budget, and we were dealing with the public protection source--or section of the budget, and we added a footnote to the weights and measures section. I added it, the Committee approved it, saying that the Weights and Measures Division budget included two men being in Bristol Bay from June 23rd to July 23rd to travel around those tenders and the rest--wherever you find a scale with 50-pound weights adding up to two thousand pounds, so they could load a scale up with two thousand pounds of lead and check those scales out. I fished Bristol Bay for a couple of years myself. I know what some of you are going through there, so your drift fishermen out there might be interested in that.

MR. GREGORY: Yeah, thank you. I'll talk to them about it.

CHAIRMAN: Alright, apparently, from what everyone has said, that the majority opinion of the U.F.A. is in favor of free transferability with a hundred percent--excuse me, with a hundred percent of whatever windfall--call it whatever you will. I use that word because you all know what I'm talking about that way. With a hundred percent of that going back to the fishermen. Now, is that correct? Is that the majority opinion of...? Alright. Now, let me ask a second one. If that is unobtainable, then would you be willing to take a program that did work as we've tried to indicate earlier, and let me run through it again. Say that...

SENATOR RADER: Mr. Chairman, I have to leave...

CHAIRMAN: Alright, fine.

SENATOR RADER: I think I know what you're going to say.

CHAIRMAN: Alright. If Jim were going to sell out, and if he sold to Phil the first year, he'd keep a hundred percent of it. If he sold to the commission the first year, he'd keep a hundred percent of whatever the price of his permit was. If he sold the second year to Phil, he'd keep 80 percent--I'm sorry. The second year, let's add another factor in, if he has paid any assessments then he is able to keep 90 percent above whatever assessments he's paid so that he's not being penalized for those assessments. The--if he sells out to an individual the third year he gets to keep 80 percent, and you reduce it ten percent a year, but again, it's what's left after the assessments, so that he doesn't have to take the assessment out of his pocket. On the other hand, if he sells to the commission,

there's an incentive for the first few years, maybe it doesn't have to be five or ten, but an incentive the first few years to reduce gear by being able to keep more of it if he sells to the commission. And again, we'll put a ceiling on this, ^{down} ~~down~~ at 50 percent, so he'd always be able to keep at least 50 percent of the value of the permit, and the other 50 percent shared with the people of the State. My question is then, under that kind of an arrangement, if you understand it now, if that's the best we can do, is this acceptable to you? And I think what--alright, let's have some talk about it, and then we'll have a show of hands. Jim, go ahead.

JIM: I was like to see if that's the case, that that money went back to the State it would go ~~back~~ into the buy-back program.

CHAIRMAN: Alright, good. I'm glad you brought that ^{up}. Your buy-back assessments would be reduced by whatever did go ~~back~~ into the State, yes. This is one other advantage of that system. It might tend to keep the values down a little bit, plus it would certainly keep your buy-back assessments down.

UNIDENTIFIED SPEAKER: Personally, if I want to gain another permit within a five-year period and it would severely limit me, in fact I would probably be financially bankrupt, so on that point I would have to argue against it.

CHAIRMAN: You say another one. Does that mean that you would one and you wanted to go get into another fishery?

UNIDENTIFIED SPEAKER: Right.

CHAIRMAN: In addition to or instead of?

UNIDENTIFIED SPEAKER: In addition to.

CHAIRMAN: And staying in the one fishery for that period of time

would bankrupt you?

UNIDENTIFIED SPEAKER: If we had some way to get free transferability there the first year so that I'm not having to--under this program a man would be crazy to sell it to me. It'd be money out of his pocket.

CHAIRMAN: No, the first year is not. It's a hundred percent either way.

UNIDENTIFIED SPEAKER: One year grace.

CHAIRMAN: Yeah. Alright, Mr. Clauson.

MR. CLAUSON: It seems like that any money accrues to the State, if accrues the right word, should come from normal taxation of the industry, and I don't understand why would it maybe necessary to have this other program rather than just free transferability? I mean, who would insist on that?

CHAIRMAN: Well, as Senator Rader, I think, has made very obvious, there's a large number of the people who are not involved ~~at all~~ in the fishery that do see this as a giveaway of a state's resource when they've created that property value.

MR. CLAUSON: He also said that they didn't understand it, and of course, like he's says, he's ^{raising} ~~raising~~ these questions to feel out how it would work. And, of course, we've done the same thing for weeks now, and we always come back to free transferability.

CHAIRMAN: Well, that's what I'm doing. I'm say if that's the only thing you could get, or the best you could get, is that better than nothing at all?

VOICES: Yes, Yes.

MR. CLAUSON: We don't want to see this die because of this.

CHAIRMAN: Well, let's have some other questions, first discussion before we...

UNIDENTIFIED SPEAKER: This still doesn't answer a question that

bothers me. I don't mind paying--it doesn't bother me to pay a portion or whatever type of assessment the State feels it must have from these permits in order to take away what we've been calling a windfall. That doesn't bother me at all. That's not my primary interest. One of my primary interests is, however, how I am going to diversify, and so far this hasn't been answered. All--it doesn't bother me if I have to--if I'm taxed on my permit, that isn't the point. The point is, how do I--how do I spread ^{myself} out into another area, or how do I change areas, or how, if I'm not a fisherman now, do I enter the fishery? This is what I'm curious about.

CHAIRMAN: Well, and again, the first year it would be equal. There would be no incentive to sell to the State because the individual selling out would get the same amount whether he sold to an individual or the State. Now this is not time for you to buy into a another fishery?

UNIDENTIFIED SPEAKER: What I'm getting at is this. If I make a deal with Joe Dokes who wants to retire, am I going to be able to make that deal personally, am I going to have to go through a lottery, or a list of priorities?

CHAIRMAN: No. No lottery, no priority involved. No. You can make it personally.

UNIDENTIFIED SPEAKER: And the amount of money that must exchange hands here, is that governed?

CHAIRMAN: The commission would have the authority to determine that it was a true arm-length transaction and not a sweetheart deal. Of course again, the first couple of years they wouldn't have

any concern about it, because it's going to be a hundred percent going to the seller, regardless, of the first year.

MR. McNIVEN: I understand.

CHAIRMAN: So, the only privisos that we we're considering here, or at least I was, would be that of giving the commission the authority to make sure that it was not an under-the-table deal, that it was the true price that was involved in the sale.

MR. McNIVEN: And this you feel can be done and still maintain this freedom of negotiability?

CHAIRMAN: Yes.

UNIDENTIFIED SPEAKER: I'd like to speak again to the fact that I want to be able to diversify, and like Mike, I'm concerned--you say, well, if only one year it'd be a hundred percent, but I don't--probably couldn't come up with that money maybe that first year, so then if I can't come up with it the first year, then I'm going to be jeopardized for the next three or four years until that reaches the optimum level. Financing isn't that easy to come up with right now as a fisherman.

CHAIRMAN: Well...

UNIDENTIFIED SPEAKER: Unless we have a loan program.

CHAIRMAN: Yeah, I agree.

MR. BALENGER: Why don't you simplify the whole thing and make it easy, down to 50 percent and State get in the bidding themselves?

CHAIRMAN: So the State gets in the bidding? Well, of course, then you're back to the same thing, aren't you?

UNIDENTIFIED SPEAKER: You're bidding against yourself.

MR. BALENGER: Well, I'd be willing to bid more than \$5,000 for a license, and ^{don't} ~~not~~ forget ^{that} ~~this~~, if ^{they're} ~~you're~~ buying him out of the

business ^{they} you'll have to buy the boat, also, so maybe the State will be very reluctant...

CHAIRMAN: Yeah, right. Newt?

NEWT: (Indisc.) interesting (indisc.) of that boat on it, but I don't believe in that game, also, and a decision of this type, I'd like a chance to kick ^{it} around.

CHAIRMAN: Fine. I have no problem, but I think we would like to...

NEWT: Hypothetically, now, if this--excuse me for my inability to speak, but if this one solution is worth putting other solutions (indisc.), what are you basing this on? Do you think this could possibly happen if we wouldn't get the free transferability any other way, what would cause this?

CHAIRMAN: Well, very often when we get to the floor with bills, we find that they have to be amended before they get up enough votes to get passed. For instance, I'm simply saying if, for instance, this went to the floor and it's free transferability, and there were enough of the type of debate that you've heard here this afternoon so that it became obvious that the bill wasn't going to pass that way, then if we ^{had} have an amendment prepared to go the other direction, or even if happens in this Committee, that we couldn't get out of this Committee, without that kind of an arrangement, so this...

NEWT: I think we should have a debate and roll this around... (indisc.)

CHAIRMAN: But when you do, why, be sure that you're getting both sides of the ramifications.

NEWT: We have been.

CHAIRMAN: Yeah. Floyd.

FLOYD: I don't know how I could even think of (~~indisc.~~) ^{voting on it (?)} because I

was ^(indisc.) told me that it definitely ~~happened~~ (indisc.) free transfer, so I couldn't make a decision because this is all up and down the Cook Inlet.

CHAIRMAN: Well, I would...

NEWT: ^(Indisc.) I don't think there's any problem with them wanting to pay something for that, but they'd rather do it some other way than have that item (indisc.) again. Transferred. (Indisc.)
^{I'd rather be (?)}
~~get~~ taxed some way or other.

CHAIRMAN: How do you see that this would not be able to be transferred freely?

NEWT: Well, I don't know. I wouldn't want to make a decision for them.

CHAIRMAN: Well, I wouldn't be asking you to make a decision for the rest of your people, only you felt about it personally. Jim.

JIM: I don't know. I certainly don't want to get too deep in this either, because it's awfully hard to make a statement off the top of your head like this, as you well know, but it would appear to me, you know, that it would be in order that who (indisc.) endorse the concept at least, in House Bill 126. Now, if, in fact, we have another type alternative solution to it, I'd certainly like to look at it in depth, think about it awhile and say I endorse one, or I endorse the other, or I endorse a marriage of the two, which I married myself, and tell it to you in that fashion, and then if you don't want to take, you know, either mine or ^{the} U.F.A or any individual groups or whatever, if you want to say well, I don't get it, we don't think that's in line with what's good for the State and us--and you Senators have decided, why, that's your perogative. And as far as input

I think that that's--that would be kind of the type of determination that we would make, it would appear to me. Maybe I'm ^{clear out} sort of line there, or something, but I mean, we like one or, you know, the other, or a combination of the two, which we would determine, and then if you didn't want to take that as input I guess, why, we'd ^{just} have to settle with whatever happens. We don't make the laws, we realize that.

CHAIRMAN: I think exactly the same thing has happened to the State employees' pay bill. Their first choice was 14 percent, the pay raise. It became obvious, I guess, that they couldn't get that, so they went down to eight. They didn't get that, so now they're willing to take an \$85 across--per month across-the-board raise. And that's all--this is the ^{kind of} thing I'm trying to put to you. What are your first, second and third choices, for instance, you see? What are your fall-back positions if the best won't fly, what's next best, and so on and so forth...

UNIDENTIFIED SPEAKER: What is the alternate of the first best? I mean, is it something other than--I don't see anything in writing.

CHAIRMAN: Well, I just tried to lay it out for you here, with this package deal we were talking about.

JIM: My guys told me, is all I'm saying, they were a hundred percent behind this deal. They were a hundred percent behind the transferability bit. They liked the whole package so to speak and everything, and then, I guess they didn't realize...

CHAIRMAN: Well, as a fisherman I think I would, too, and I am... Well...

JIM: I realize your position. I not trying to begrudge you your share.

CHAIRMAN: Well, hey, I didn't mean that the way it might have sounded, as if I had been a fisherman. I think we've probably got about four of these licenses and these permits in our family, and I said eight to Phil the other day, but we got to figuring up a little bit, and I'm not sure some of those people are going to qualify, so that's--that's immaterial.

JIM: I just meant that some people might feel that it would ^{at least} weaken their stand. It's obvious that they've all stated they want something. I mean, this is pretty much common knowledge, but, you know, I don't know, it's a question sometimes of weakening your position.

UNIDENTIFIED SPEAKER: If you really think something's right, too.

UNIDENTIFIED SPEAKER II: Didn't you give us an alternate earlier, that was another one earlier, besides this one that came up here just at the last?

CHAIRMAN. I don't think so. I think ~~it~~ ^{that} was the same thing I was talking about earlier, except that I made it a little bit better this time when I said it would be over and above whatever you'd paid in in assessments. I hadn't considered that the first year the license, or first couple of years, the value of the license might not be any greater than the value of the assessments you'd already paid.

UNIDENTIFIED SPEAKER II: I thought I heard--I thought I picked up something completely different from this a little earlier than that.

CHAIRMAN: Well, you may have. I'm not aware of it. I don't remember it at this time. Let's go back in the back. We haven't heard from you.

SIG McGESSION: Yes, I'm Sig McGesson from Petersburg.

CHAIRMAN: Yes.

MR. McGESSION: And the way I see it, if I want, say, 10,000 for my permit under this second situation that you discussed, well then I'll have to sell it for 20,000, because if I sell it after a certain number of years, because I'll be paying 10,000 in taxes. So the person that's going to want to buy a permit from me is going to have to pay twice as much as ~~they~~^{he} should have in order for me to get my 10,000 out of it, or whatever I want.

CHAIRMAN: Well, that's assuming that what you want will set the market price, and I'm not sure that's a valid assumption.

MR. McGESSION: Well, whatever it is. I'm not--I don't--I'm not particularly for the speculative prices anyway, but if that is the case and I want to sell a permit and 30 or 40 people are waiting around wanting to get one, well, I'm certainly going to think about selling it for what I can get for it.

CHAIRMAN: Now wait a minute. If there were 30 or 40 people waiting around wanting to buy that thing and you could get 20,000, even though you were going to get all of it and weren't going to pay any in taxes, why would you go ahead and get the 20?

MR. McGESSION: Why wouldn't I?

CHAIRMAN: Yeah. Why is it that you would only want ten in the first place if you can get 20?

MR. McGESSION: If I could get 20, well, that'd be a different thing, too, but the--I think that what's going to happen is there will be a set price on what a permit is worth, and it won't be because of one guy wants more and one less. It's going to average out

that a halibut permit is going to be worth so much and a seine permit is going to be worth so much, and if you want the amount of money that you're--you feel that it's worth and the buy--or this tax program is set up so you only get 50 percent, well--that's what I think.

CHAIRMAN: Yeah. Well, okay, I... Alright, and it's getting--it's almost 5:30. We've been here for a long time so we'll take a few more here and then cut her off for this time.

UNIDENTIFIED SPEAKER: Now, I was going to say one thing there. The value of the permit is more than likely, you know, some ratio, the value of it will correspond directly with the earning value of that permit.

CHAIRMAN: (Indisc.)

UNIDENTIFIED SPEAKER II: We're talking about the...

UNIDENTIFIED SPEAKER I: We don't know, you know. With the limited entry and a good rehabilitation program the price could step higher up, but without that rehabilitation program it might not. But what I wanted to ask you was, it goes here seven years under this last little deal you placed down before us. I could bid competitively against the State, like ^{sit(?)} ~~seven~~ for the first year.

CHAIRMAN: Well, we might even sweeten that up and make ^{it} first two years.

UNIDENTIFIED SPEAKER I: First two, huh?

CHAIRMAN: There's lots of arrangements that can be made. It's the concept that we're talking about.

UNIDENTIFIED SPEAKER I: I'm just like Jim. As long as I can bid against Jim and in some (indisc.) way get a hold of that permit

I'll go for it:

CHAIRMAN: Well, you see, you're concerned about being able to transfer into another area, but other guys that are not fishing at all but want to get in, they might be concerned about trying to get in at all, you see?

UNIDENTIFIED SPEAKER I: Right. They have the same problem I would.

CHAIRMAN: Exactly.

UNIDENTIFIED SPEAKER: If you wanted in ^{and he wanted in and wanted my} ~~and want to buy~~ permit, you have to have some way to convince me to sell to one or the other of you.

CHAIRMAN: Which only gets down to the point that if this thing is to be effective at all, well, I'd be hurt a little bit, probably. And that might be the price that you have to pay. You might have to delay for two or three years ^{your} ~~or~~ transfer into another area.

(End of one side of tape)